

# Amahoro-at-Scale project

An integrated approach towards improved tenure security and land governance in Burundi



Report of the baseline study conducted in the Commune Nyanza Lac

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## Key findings and areas of attention

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Cover photo : Palm oil plantation, Nyanza-Lac, © RC, April 2022



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## 1. Introduction

In Burundi, ZOA Burundi is one of the key-supporters of land governance in general, and of the design and implementation of mechanisms of land tenure registration (LTR) at the commune level in particular. In the province of Makamba, it has so far supported 5 out of 6 communes with the implementation of Services Fonciers Communaux (SFC). The remaining and last commune in Makamba province is Nyanza-Lac, the subject of this baseline study.

The context of land and its governance in Nyanza-Lac is particularly complex and challenging. With more than 400,000 inhabitants and a density of over 1,000 inhabitants per square kilometre, the commune has an exceptionally high concentration of people in comparison to other communes of Burundi, including those comprising big cities such as Bujumbura, Gitega and Ngozi. People from other areas have been attracted by demands for wage labour in the vast oil palm plantations, possibilities for fishing, and opportunities for commercial agriculture. Nyanza Lac is also known for polygamous relationships, which are claimed to substantially impact population growth.

Nyanza-Lac was significantly affected by the 1972 crisis. Since the exile of many of its inhabitants to neighbouring Tanzania, people from other parts of the country moved in spontaneously or with the help of the State, and occupied the land of those in exile. Over time, the land question polarised along ethnic lines. With the massive return of refugees since the beginning of the new millenium, intervention efforts by the Government have only further complicated the situation as the state is seen as part of the problem. Nyanza-Lac has maybe seen the toughest opposition to efforts of the CNTB (the *Commission Nationale des Terres et autres Biens*, established in 2006 to deal with land and property conflicts in the context of massive return of refugees at that time). It should be highlighted though, as also appeared in this study, that the binary reading of the land problem in Nyanza-Lac as a Hutu against Tutsi issue does not hold; there are many returnee-related cases opposing Hutu against Hutu. Finally, the area is rapidly urbanising, and offering opportunities for small and medium-size businesses. The arrival of migrants adds to pressure on land and feeds speculation.

Building on experiences and knowledge acquired in the other communes of Makamba province, ZOA and its partners MiParec and VNG intend, through the Amahoro@Scale project, to address the complex land governance and land security issues that prevail in Nyanza Lac.

The baseline study aims to generate the baseline data on the project's main indicators, which will serve as reference for the mid-term and final evaluation. The baseline study should help set more realistic targets for the indicators. Complementary to our work are a conflict mapping by MIPAREC and a legal framework analysis by VNGi, the latter of which should enable the development of a business model for a *Service Foncier Communal* (SFC) to be adapted countrywide.

In conducting the baseline study, we considered that effective LTR requires attention to the socio-political foundations of land ownership and land claiming practices in the area. LTR can only be effective if it resonates with how legitimate land claims are understood by family members, the community and institutions involved. Effective LTR relies on conforming to prevailing, context-specific norms and practices of land governance. Moreover, assumptions about LTRs impacts on people's lives, notably through enhancing agricultural investment and access to credit, cannot be taken for granted by need to be explored in practice.

From earlier experience and interactions, we know that within ZOA there is substantial reflection and discussions about such dynamics and challenges. By conducting the baseline and reflecting together on the key assumptions underlying the project, we hope to expand the scope and quality of reflection and action both within and beyond the Amahoro@Scale project.

## 2. Methodology

The baseline study was conducted following a mixed quantitative and qualitative methodology.

A **survey** was developed, inspired by the project proposal, logical framework, and baseline and impact studies carried out as part of previous land certification projects. The survey covered the following themes:

- land possession, land access mechanisms and experienced tenure security;
- land governance responsibility, capacity and appreciation/legitimacy of land services provision;
- awareness of the population on LTR, women rights and local conflict resolution;
- inclusive land services delivery;
- expectations of certification.

To measure land ownership and levels of perceived tenure security, we tried as much as possible to conform to the integrated approach to data collection for SDG indicator 1.4.2 developed by the World Bank, FAO and UN-Habitat;<sup>1</sup> and the PRIndex on perceptions of land tenure security.<sup>2</sup> Yet, we substantially simplified the procedure, by not asking details of all land possessed, but of just two plots per respondent.

The target group of the survey was the population of Nyanza Lac in general. 435 households were surveyed, which is well above the ideal sample size, in terms of precision/reliability of the findings versus costs, of 384 surveys,<sup>3</sup> which enabled us to leave out surveys if wrongly filled out. It should be noticed though, that sampling was not entirely random, but clustered.

The selection of *collines* took into account the density of the population, the number of households, geographical distribution of the population, gender representativity, and specific land peculiarities as much as possible. The survey was conducted in all the five zones of the commune of Nyanza-Lac, with 3 *collines* covered in each of the most populated ones, i.e. Muyange and Nyanza-Lac (See annex 1).

The particular *sous-collines* and households covered in the survey were randomly selected: two *sous-collines* were picked randomly (except in Kabondo which has small *sous-collines*) on the spot. Surveyors would then walk in opposite directions, approaching every third household along the road for taking a survey. They would move to the next homestead if nobody was at home, or if residents refused to respond to the survey (the consent of the respondents was required). We ensured an alternate choice of male and female respondents all along the process.

This report mainly includes descriptive statistics, including frequencies and percentages of certain responses to questions in the survey. At points, we compared frequencies of responses to particular questions (eg. on tenure security), with characteristics of the respondent (e.g. gender) or other responses (e.g. number of plots rented). In some instances, we conducted a chi-square test to assess whether striking differences in observed frequencies were indeed significant. Reference in the text to 'significance' implies a p-value below 5 percent.

The survey was conducted by Dieudonné Nzeyimana, Christine Ntabareha, Jean-Claude Nduwimana, Prosper Nduwimana, Michael Nyandwi, and Jean Claude Bizindavyi. In the recruitment of the surveyors, we took into consideration their experience in similar studies in Makamba and elsewhere. In this way we were able to take advantage of their knowledge of the area.

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<sup>1</sup> The World Bank, FAO, UN-Habitat (2019) 'Measuring Individuals' Rights to Land; An Integrated Approach to Data Collection for SDG Indicators 1.4.2 and 5.a.1', <https://gltn.net/2019/08/27/measuring-individuals-rights-to-land/>

<sup>2</sup> GALLUP (2016) 'Global Property Rights Index (PRIndex); Testing of a New Survey Module on Perceptions of Land Tenure Security in Nine Countries', <https://landportal.org/library/resources/global-property-rights-index-prindex>

<sup>3</sup> The population of Nyanza Lac is 416,000 people. With an average rural household size of 5,94, these are roughly 70,000 households. According to Cochran's formula for sample size, taking into account a margin of error of 5%, and a confidence level of 95%, this would require a sample of 384 people.



To assure that the surveyors had a shared understanding of the questions and themes, we organised a two day workshop, in which we extensively discussed the survey and spent time in the field together to test the questions. On the basis of this experience, some questions were substantially revised (hence, the surveys conducted in the test phase have not been included in the analysis). Also in the following days, we had a debrief with the surveyors at the end of the day, and on the basis of this, some additional changes were made.

The **FGDs and key-stakeholder interviews** were conducted by René Claude Niyonkuru and Camille Munezero. These complemented and triangulated information obtained from the survey in a qualitative manner. The FGD and interviews addressed the following themes (see annex 3 for some guiding questions):

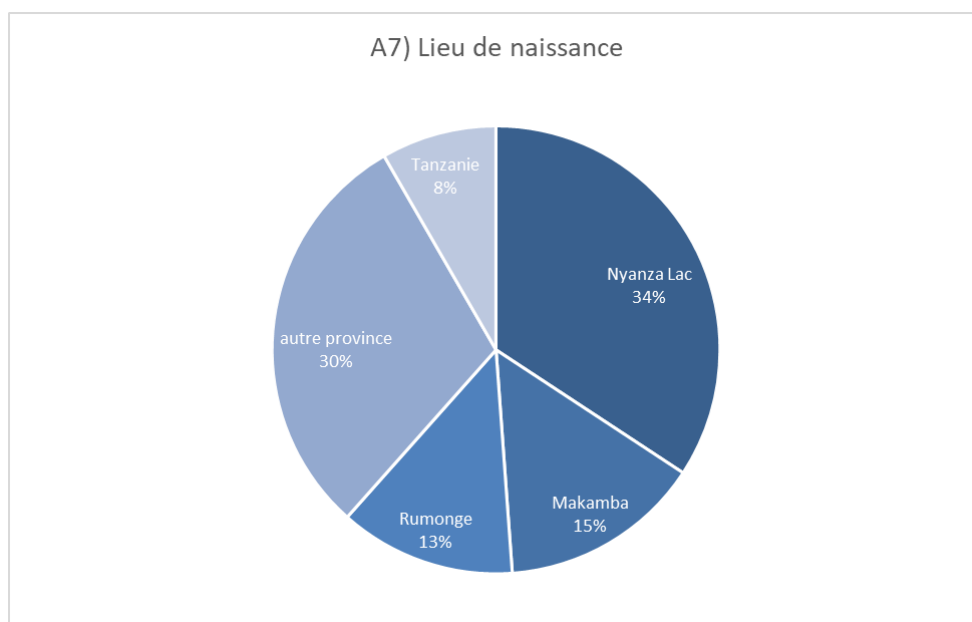
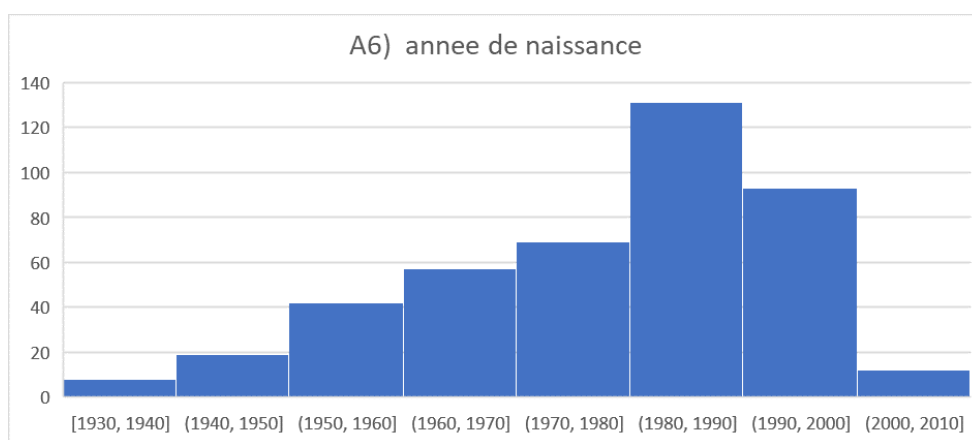
- roles, responsibilities, capacities and legitimacy of local (land) governance;
- experiences of Land Tenure Security;
- Land rights of women and other vulnerable groups;
- capacities and legitimacy of Alternative Dispute Resolution Mechanisms (ADRM)/formal judicial institutions; and
- expectations of a LTR programme.

12 FGDs were conducted (see annex 2). They covered a total of 120 people: including representatives of the local administration (*colline* councillors, *sous-colline* chiefs, *Nyumbakumi*, etc.), the Bashingantahe, women leaders (*Forum des femmes*) and youth associations, and religious leaders. In some *collines*, members of the CRCs and of the communal council took part in the discussions. We had interviews with key stakeholders in the Commune, such as the President of the Local Court (Tribunal de Résidence), representatives of the Service Foncier Communal, the Chef de Cabinet and the Advisor in charge of Development.

Furthermore, a working meeting was organised with the team of MIPAREC to discuss the focus and the modalities of each of our studies regarding the mapping of land conflicts and their resolution. It needs to be highlighted that we could not find other NGOs active in land governance at the communal level, as initially expected.

### 3. Basic information on the respondents of the survey

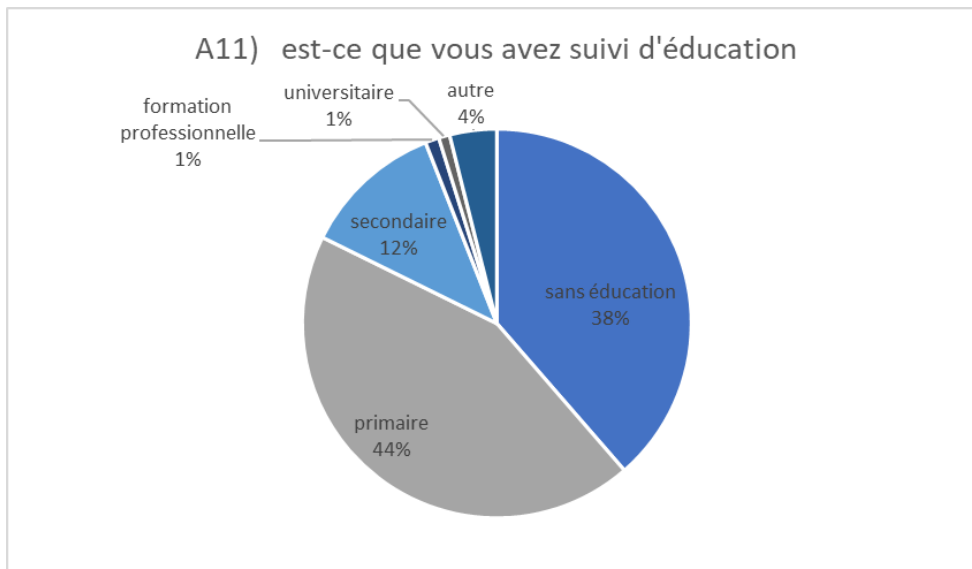
- 435 surveys were filled out.
- 226 (52%) of the respondents were women; 209 (48%) were men.
- Among those, 193 (92,3%) of the men interviewed considered themselves as the head of the household, and 16 (7,7%) considered themselves not head of the household.
- Of the women, 72 (31,9%) indicated they were not the head of the household; 53 (23,5%) considered themselves as head of the household; an additional 101 (44,7%) reported that “their husband was somewhere else”. The latter did not mean that their husband was totally absent, but rather that they were in a polygamous relationship and that their husband lived not always with them, or were in a relationship but not married, or had divorced. This implies that 154 of the 435 households interviewed (35%) are effectively female-headed.
- The below graph illustrates the distribution of respondents over different age categories, which shows that roughly half of the respondents were below 40 years of age.



- Nyanza Lac appears to be a **community with many immigrants**. 148 out of 432 respondents (34%) were born in Nyanza Lac, while 63 (15%) were born in another commune of Makamba province. 185 respondents were born in another province, among which 55 respondents (13% of the total survey population) were born in Rumonge, which is the commune directly neighbouring Nyanza Lac

(and which was clearly over-represented in relation to other provinces; hence we mention this province explicitly here); and 130 (30%) were born in another province of the country; and 36 respondents (8%) were born in Tanzania.

- Due to the sensitivity of that topic, we did not ask for ethnic identity of the respondents.
- Respondents are largely agricultural producers: 383 out 435 respondents (88%) identified agriculture as their main economic activity, 44 (10%) people identified 'commerce' as main economic activity. There were no significant differences between men, women, and female headed households regarding their main sources of living.



- 168 out of 435 respondents (39%) do not have any education, 190 have primary education only (44%)
- of the 55 respondents that have secondary (51) or university (4) education, 30 do have agricultural production as their main livelihood.
- 63 (14%) of the respondents are members of institutions themselves, mainly *nyumba kumi* (literally (chief of) 'ten households', the lowest de facto administrative authority in Burundi) (36 out of these 63, or 57%)

## 4. Major land issues in Nyanza Lac

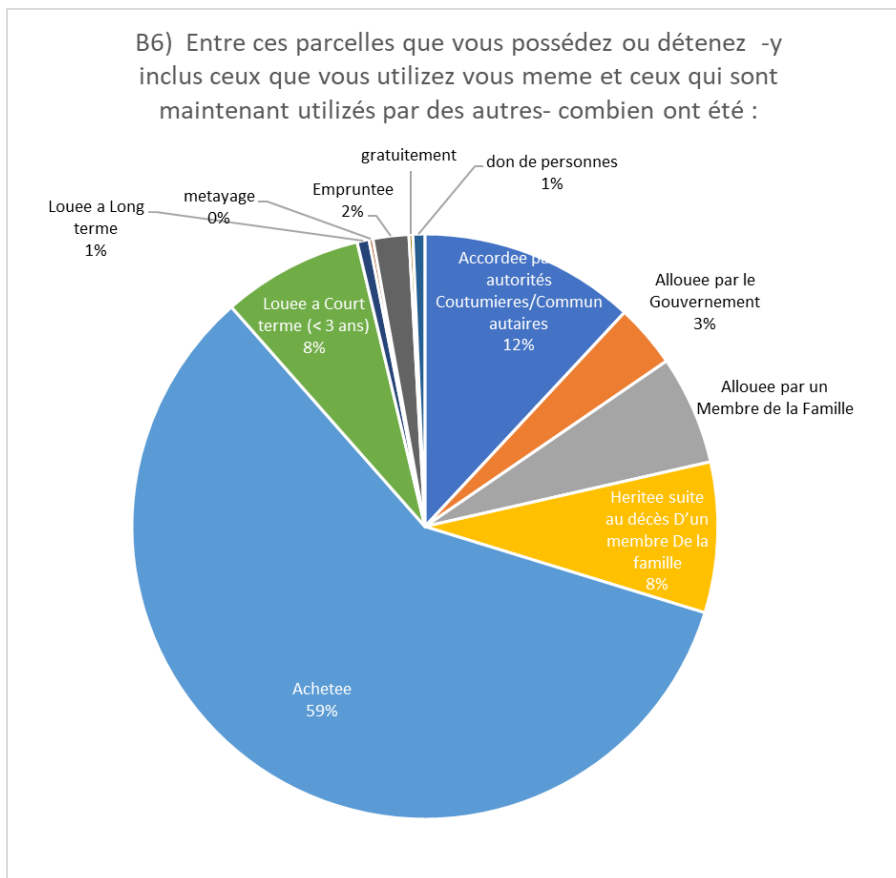
### 4.1 Land ownership and acquisition

- In the survey, 432 out of 435 of respondents claim to have access to land. The survey identified a total number of 1,272/1,295 plots,<sup>4</sup> that all respondents together claim they have access to. This implies that the **average number of plots that respondents claim to have access to is 2,92**. This includes all types of land access - land that has been bought, rented, inherited, borrowed, including land used by the respondents themselves, and land that is currently used by others.
- When exploring 'access' in more detail, it appears that respondents claim to possess 1,96 plots of land on average (851 plots in total). In addition, on average, respondents access 0,97 plots that belong to others (418). That implies that **about one third of plots of land are not owned by the person using or cultivating them**. These plots are accessed through renting, sharecropping, borrowing, or other arrangements.
- 397 respondents (91%) claim they possess land of their own; **232 respondents (53%) state that they access land that belongs to others**. When organising these findings differently (see table below), it appears that 202 respondents (46%) only possess land themselves and do not access land that belongs to others; 195 respondents (45%) do both possess land themselves and access land of others; 37 respondents (8%) only access land of others and do not possess land themselves.
- A small group of 20 people (4,5% of interviewees) also owns plots that are currently used by others. In total, this latter category states to own 29 plots only that are used by others. This stands in stark contrast to the 418 plots which respondents to the survey claim to access through renting/ share-cropping/ borrowing, and raises the question who are the actual owners of these plots. Unless these landowners were missed in the sample, this suggests that a **substantial part of landowners may reside outside the community**.
- There are interesting differences between men and women in how land is accessed: men are overrepresented in the group of people that possess land themselves and do not access land of others; while women are slightly overrepresented in the group of people that depend on others for getting access to land. **Women that state that their husband is somewhere else do rely even more on the land of other people than men and other women**.

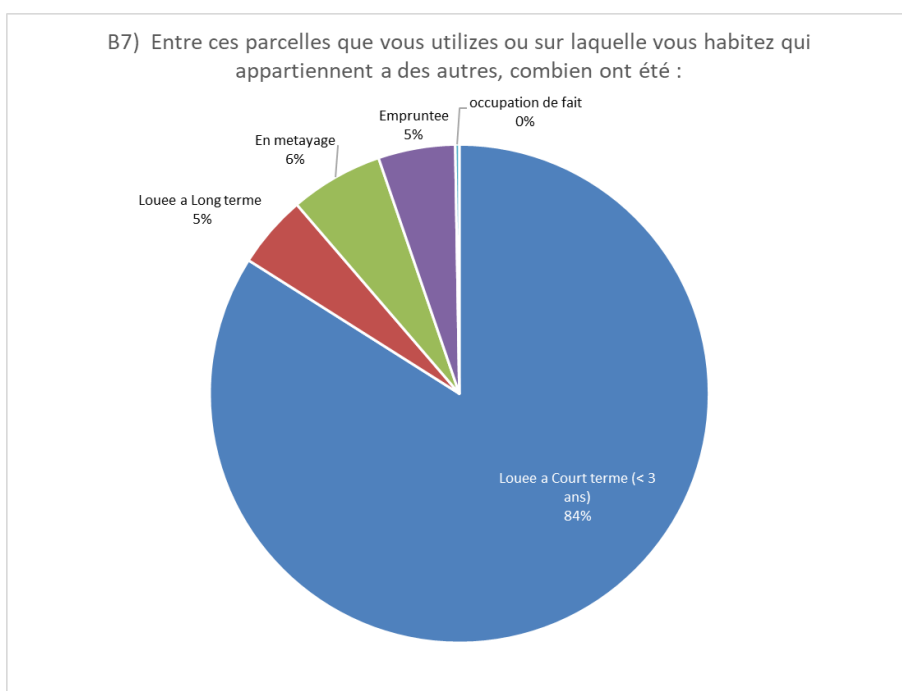
	only possesses land her/himself; does not use land belonging to others	only accesses land belonging to others, does not possess land	both possesses land her/himself; and accesses land of others	totals
women	90 (40%)	27(12%)	108 (48%)	225
“my husband is somewhere else”	36 (36%)	17 (17%)	47 (47%)	101
head of household	26 (49%)	3 (6%)	24 (45%)	54
not head of household	28 (39%)	7 (10%)	37 (51%)	73
men	112 (54%)	10 (5%)	87 (42%)	210
head of household	104 (54%)	10 (5%)	79 (41%)	194
not head of household	8 (50%)	0 (0%)	8 (50%)	17
<b>Grand Total</b>	<b>202 (46%)</b>	<b>37 (9%)</b>	<b>195 (45%)</b>	<b>435</b>

<sup>4</sup> Depending on which responses in the survey are considered: the plots mentioned in response to question B5), or the sum of the responses to questions B6) and B7)

- Amongst the plots that respondents consider as belonging to themselves, the larger part has been bought (59%) (n=914).



- Amongst the plots that respondents describe as belonging to others, the larger part are hired for a short period (less than 3 years) (84%, n=381). Those include both plots used for cultivation only, and plots on which the house is built.



- Among 395 respondents in the survey, 76 (19%) indicated that also adult children live on or use these plots they own or use; 29 (7,3%) shared (some of) their plots with their parents; 22 (6%) mentioned that also brothers or sisters lived on or used these plots; 18 (4,6%) had also other users living/residing on their plots (of which in 10 cases renters)

In the survey, we collected more specific data on two plots, how they were acquired, and what kind of evidence respondents have that the land belongs to them: the plot on which the house of the respondent is located; and the plot that -after the plot on which the house is located- respondents consider as the most important for their livelihood.

Regarding the plot on which the house is located, we found the following:

- 263 out of 432 respondents (**61%**) **bought the plot on which the house is located**; 48 (11%) were granted this plot by customary authorities. 44 respondents (**10%**) **rented this plot for a short time (less than 3 years)**. All these findings seem to be striking, and point to population increase and/or in-migration.
- Interesting to notice is that:
  - Among people that were born in Rumonge, the percentage of plots bought is exceptionally high (70% as compared to 60% on average).
  - Among those that were born in Tanzania, the percentage that bought the land on which their house is built is lower (53%) than average; the percentage that received their land from customary authorities was higher (19%) than average. This could mean they benefited from land allocation by the local authorities and land sharing upon their return.<sup>5</sup>
- Regarding evidence that the land belongs to them, 96 respondents (22%) state that they do not have any evidence of this (see below table).
- When comparing the ways in which land is acquired and the evidence of ownership, it is particularly striking that 271 respondents (**63%**) **claim that the status of their land is full ownership ('pleine propriété')**. **Yet, only 4 people had a title**. 206 of these 271 respondents (76%) have as evidence only a '*petit papier*'; 83 respondents (30% of these 271) claim 'customary ownership'; 38 respondents (14% of these 271) do not have any evidence, while 37 (again 14%) state that the neighbours are aware of their ownership. These findings suggest that respondents consider all these categories to mean 'full ownership' (see table on the next page).
- Regarding the extent to which respondents think they can sell the land on which their house is located, 261 (60%) believe they can sell, while 154 (35%) believe they cannot sell. However, this latter figure includes rented land. If we only consider land that has been bought, the percentage of those responding 'yes' is 86%; if we look at land allocated by local/customary authorities, the figure is still 50%. This again seems to confirm the above observation that many people believe that they have full ownership of their land (even if this might not be the case...)
- When taking into account the way in which this land is accessed, 50% of the respondents that were allocated the land by customary/community authorities consider they can sell (24 out of 48); while 18 out of 26 (69%) think they can sell land that they inherited; and 225 out of 263 (86%) respondents think they can sell the land that they bought.

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<sup>5</sup> although it might be that those repatriates refer to the origin of the land they occupied before their exile: upon their return they recovered land allocated to them or their parents by local authorities before their departure.

The ways in which the land on which the house is located is acquired (columns), compared to the type of evidence of ownership that is available (rows).<sup>6</sup>

	differe nt	leased	custo mary	comm unal	state	paysan nat <sup>7</sup>	full owner ship	Total
act by the notary			1		1		5	7
different		1	1		2	1	26	31
rental contract	2	22						24
no evidence	6	27	38	1	1	2	21	96
'petit papier'		7	4			1	206	218
Decision by the CNTB	1		1		1		1	4
decision by the Court			1				2	3
testimony: 'the neighbours know'	3		37			1	7	48
Land title		1					3	4
<b>Grand total</b>	<b>12</b>	<b>58</b>	<b>83</b>	<b>1</b>	<b>5</b>	<b>5</b>	<b>271</b>	<b>435</b>

About 374 respondents also responded to questions about a second plot, namely the plot which -after the plot where the house is located- they considered as the most important for making a living:

- Out of these 374 respondents, 130 respondents (35%) consider to have full ownership, 120 (32%) leased, 84 (22%) customary; 32 (9%) other, 12 (3%) sharecropping ('metayage'), and 8 (2%) borrowed.
- **168 out of 373 respondents (45%) do not have evidence of ownership of this second plot**, which is substantially higher than the 96 out of 435 (22%) respondents that stated that they do not have evidence that the plot on which their house is located does belong to them.
- Regarding the extent to which respondents think they can sell this second property, 194 out of 339 (57%) believe they cannot sell; this is largely explained by the fact that many second plots are rented (108 cases, 32%).<sup>8</sup> Even then, 38% (18/47) of land allocated by customary authorities as well as 17% (17/103) of land that has been bought can also not be sold, according to respondents.

<sup>6</sup> Based on the question B12) and B16)

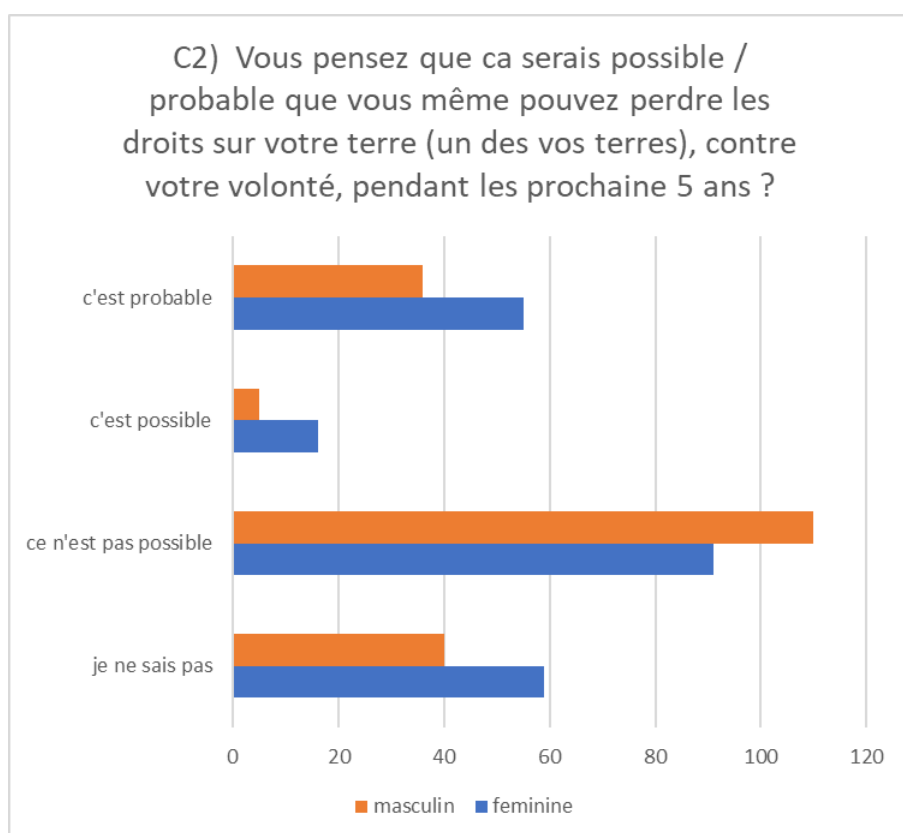
<sup>7</sup> Land settlement plan introduced in the colonial period, through which settlers from elsewhere were allocated strips of land for housing and cultivation, which has disintegrated since decolonization. The Burundian state claims that the land concerned has always remained property of the state.

<sup>8</sup> comparison of questions b21 and b29

- At first sight, regarding the plot that after the house is the most important for making a living, there is a significant difference in the extent to which women and men believe they can sell or not: more women than men think they cannot sell: while more men think they can sell but need permission from the spouse; yet, this difference disappears when we take into account the way in which the land is acquired (hired or bought).

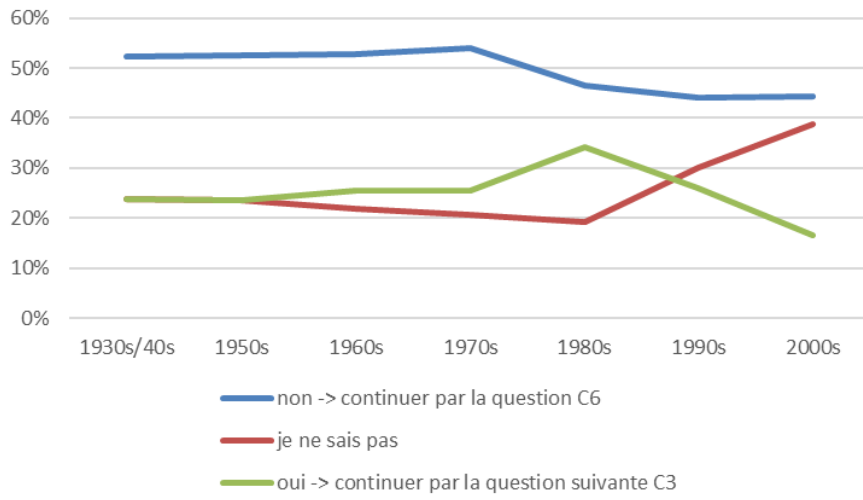
## 4.2 Perceptions of tenure insecurity

- When asked about tenure security in their community, 158 out of 435 (36%) consider it possible that the majority of people on their hill might lose their land in 5 years. 144 respondents (33%) think that this is not the case, while 133 (30%) responded that they do not know.
- When asked about their own situation, **112 respondents (25%, n=412) consider that it is possible that they will lose their land themselves in the next five years; 91 out of these consider it even probable that they will lose their land.** 201 out of 412 respondents (=49%) do not fear to lose their land within the next 5 years. 99 (24%) do not know how to answer this question.
- The difference between men and women is striking and significant, with **women more often responding that it is possible and even probable that they might lose their land within the next five years** (see below figure).
- the difference between different age groups is significant but difficult to interpret, with both a decrease in the percentage of respondents that consider it possible that they will lose their land in the next five years; and a decrease in the percentage of those that do not fear; but a stark increase in the percentage of those responding 'I do not know' (see below figure)





C2) Vous pensez que ca serais possible que vous même pouvez perdre les droits sur votre terre (un des vos terres), contre votre volonté, pendant les prochaine 5 ans ?



- If we compare fears for losing the land with how the land has been acquired, we see interesting differences: **for inherited and bought land, respondents have limited fears that they will lose their land; for rental land they have more fears** (these differences are significant) (see below table)

**The ways in which the land on which the house is located is acquired and the extent to which people consider they might lose their land in the next 5 years.<sup>9</sup>**

	allocated by customary authorities	bought	allocated by state authorities	allocated by a family member	Borrowed	Inherited	Rented for a short period (<3 yrs)	Rented for a long period	Totals
<b>This is not possible</b>	19	140	5	7	1	17	7	3	<b>199</b>
<b>This is possible</b>	2	15	1	0	0	0	3	0	<b>21</b>
<b>This is probable</b>	18	46	1	2	1	3	18	1	<b>90</b>
	39	201	7	9	2	20	28	4	<b>310</b>

- These findings resonate with the reasons why people fear they might lose the land. **34 out of 122 respondents (28%) indicate that they fear that if the land is rented, the rental agreement might not be continued**; 30 (25%) fear losing the land because they do not have documents; 18 (15%) fear conflicts; 17 (14%) fear land grabbing; 18 (15%) fear other reasons.
- Of those that do not fear losing their land shortly, 113 out of these 212 respondents (53%) point to respect of neighbours for borders, 72 (34%) have trust in the elders; 48 (23%) in local authorities, 68 (32%) other have other reasons not to be afraid (many of this latter group actually claim to have 'papers')
- In the FGDs, it was also pointed out that land tenure insecurity results from the fact that land management is in transition. Most of the land in and around the centre of Nyanza-Lac now falls into the urban area, governed by other laws and regulations than the ones followed for rural land management. Hence, **many people fear losing their land rights because of the implicit ambition by the Government and local elites to urbanise and modernise the Commune of Nyanza-Lac and the surrounding rural areas**. It was also mentioned that there are business companies coming to Nyanza-Lac, whose investment requires land; but that expropriation does not necessarily follow legal requirements.
- Finally, in the FGDs it was mentioned that there is a **high proportion of landless people** in the commune of Nyanza Lac. These people exploit several portions of land with temporary, unclear and unprotected rights.
- As earlier mentioned, 37 respondents (8%) only access land of others and do not possess land themselves. In the survey, we met 3 people that stated they do not have access to land at all.

<sup>9</sup> Based on the question B10 (about the land on which the house is situated) and C2)

### 4.3 Land rights of women and other vulnerable groups

- From the FGDs it becomes clear that, **like in most other parts of the country, women do not inherit land in Nyanza Lac, they benefit from *Igiseke***: the right of (married) daughters to cultivate in common a portion of their father's land, usually equalling one son's share regardless the number of daughters. However, even land rights granted to women in the form of *Igiseke* are sometimes subject to restrictions: the beneficiaries cannot sell them, much less bequeath them to their children without the agreement of their brothers or their uncles. This often brings endless disputes at the level of families and before the local courts.
- When asked about possibilities to sell the land on which the house is located, **the large majority of respondents of the survey think they cannot sell without consultation with their husband/wife (59%).**<sup>10</sup> Interestingly, there are hardly any differences here between men and women: more women tend to say 'no' in response to whether they can sell (39% women; 31% men); but more men say 'yes, but only in consultation with wife/family' (64% men; 55% women). Yet, women are slightly more likely to consider that they cannot bequeath the land than their husbands (35% of women against 25% of men).
- Regarding the second plot, the percentages are slightly more diverging, with 66% of women against 48% of men thinking they cannot sell (Again, both women and men that think they can sell the land consider that they need to consult their wife/husband in that case). 60% of women against 45% of men think they cannot bequeath the land.
- Participants to the FGDs pointed out that there is a **high proportion of landless women** in Nyanza-Lac. Participants stated that many women are abandoned by their husbands, particularly following the government's decision to regularize marriages (there are many 'polygamous' or de facto unions within the commune).
- The presence of a high number of single women seems to be confirmed by the survey. As already stated above, 53 (23,5%) of 226 female respondents considered themselves as head of the household; an additional 101 (44,7%) reported that their husbands were "somewhere else". This would imply that 154 of the 435 households interviewed (35%) are effectively female-headed.
- If we compare the amount of plots owned with sex, **women that state that they are head of household and women that state that their husband is somewhere else have significantly less plots of land than the average (2,92)**. Female heads of household have 2,57 plots on average; women whose husband is somewhere else have 2,64 plots on average.
- Some of the initiatives that have promoted access to land for vulnerable families, such as the 'peace villages' have not promoted women's access to land.
- **Women also seem to experience higher levels of tenure insecurity than men.** FGD participants pointed out that the few women who have acquired land by purchase have difficulty in obtaining formal proof of their land rights.
- Above we mentioned that, 25% of respondents consider that it is possible or probable that they will lose their land in the next five years. The difference between men and women is striking and significant, with **women more often responding that it is possible and even probable that they might lose their land within the next five years.**
- As demonstrated systematically in our FGDs, **women's inheritance of land is still hotly debated**, and a majority of participants questioned the inclusion of the name of women. On the question of whether women/wives should be registered as co-owners on the land certificate, the answers thus vary. Some support this, while others find this impossible in the context of Nyanza-Lac where there are many polygamous unions. There was however a high proportion of people who argued that the children should be listed on the certificate as land rights holders, to protect them against future conflicts.
- Furthermore, FGD participants indicated that there are exceptional cases in which local authorities and Bashingantahe circumvent agreements already made within the family regarding the division of family land. This happens, for instance, when the head of family has decided to equally treat daughters and sons, while the local authorities wish to resort to customary rules.

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<sup>10</sup> This is the case for both questions B18 and B29.

- Interestingly, in contrast, in the survey, **asked about the need to include the name of the wife on the certificate: 416 out of 435 respondents (96%) said 'yes'**, and the difference between men and women is minimal here. This finding firmly contradicts the data we got from the FGD, where a majority of people seemed to question the need of including the name of the wife on the certificate.
- Regarding a scenario on how on their hill, normally, land would be distributed at the moment of divorce, 218 respondents **(50%) consider that both man and woman would receive a part**; while 147 (34%) highlight that the children would receive a part. Women slightly more often mention that both man and woman would benefit; while men slightly more often mention that the children would be included (these differences are not significant).
- It is worth mentioning that it was even a challenge to openly debate women's land rights. Particularly in the surveys, we observed that women had difficulty talking about land issues, especially in the presence of their husbands.<sup>11</sup> Some believe that this is a domain reserved for men. Some married women did not want to respond to the surveys; others did so with great reluctance. We see large differences here between the FGDs/individual interviews and the surveys.

Next to women, FGDs and surveys also brought out the **particular challenges of youth regarding land possession and tenure security**.

- The FGD pointed out that, next to a high proportion of women that do not possess land, there are also many young people in Nyanza-Lac that do not own land.
- Regarding the need to include the names of the children in the certificate, 413 respondents out of 435 (95%) state that this should indeed be the case. Differences between men and women are minimal.
- However, when asked about a scenario on whether, normally, both sons and daughters would inherit land in their community, 223 respondents (51%) expect that only the sons would inherit; while 206 respondents (47%) think both children will inherit. Here, we see a striking difference between men and women: men expect that the son would be more likely to inherit (128 out of 209 male respondents, 61%), while women expect both children to benefit (126 out of 226 female respondents, 56%)

Finally, participants of the FGDs pointed to another vulnerable category: that of **migrants**, people who moved into Nyanza-Lac in search for better life. In chapter 3, we mentioned the high number of people that according to the survey were not born in Nyanza Lac. The FGD participants stated that migrants regularly arrive in the community without financial means to buy land and live from wage labour (e.g. in palm plantations) and in rented houses. While local authorities are aware of the hardship such people are confronted with, they admit that they can do little to help them.

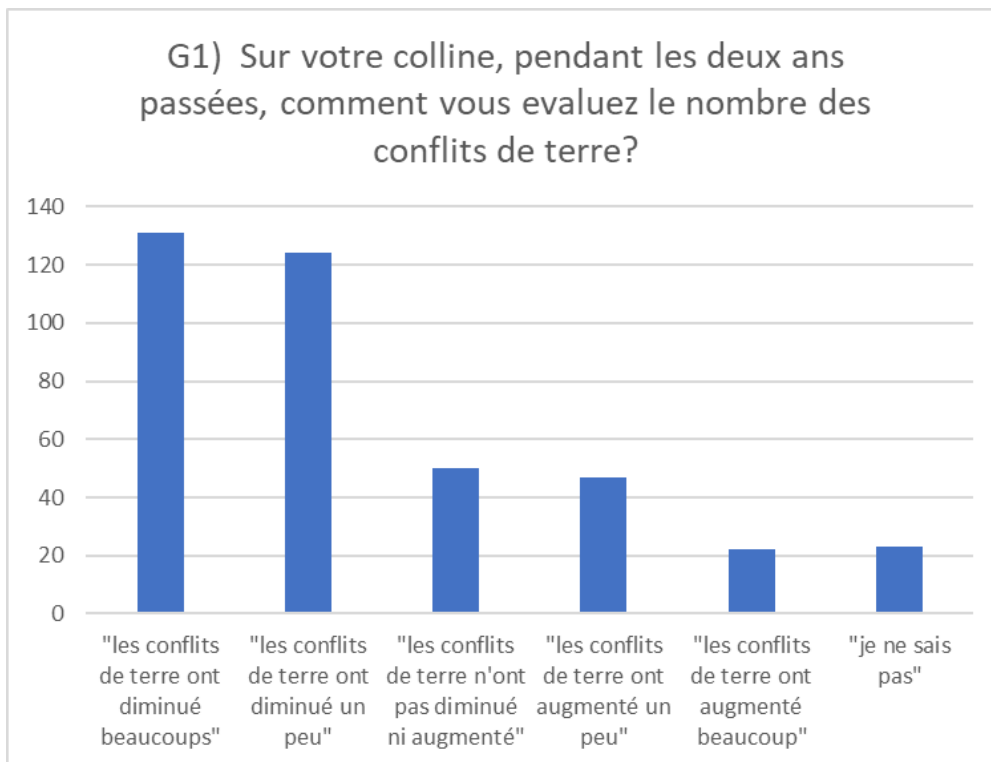
The survey did only identify a few cases of people that do not have access to land at all, but this might be due to selection bias.

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<sup>11</sup> women were reluctant to respond without the permission of their husbands. Some women stopped answering the questions when their husbands showed up during the interviews. In the FGDs, women were more on the defensive when talking about inheritance issues.

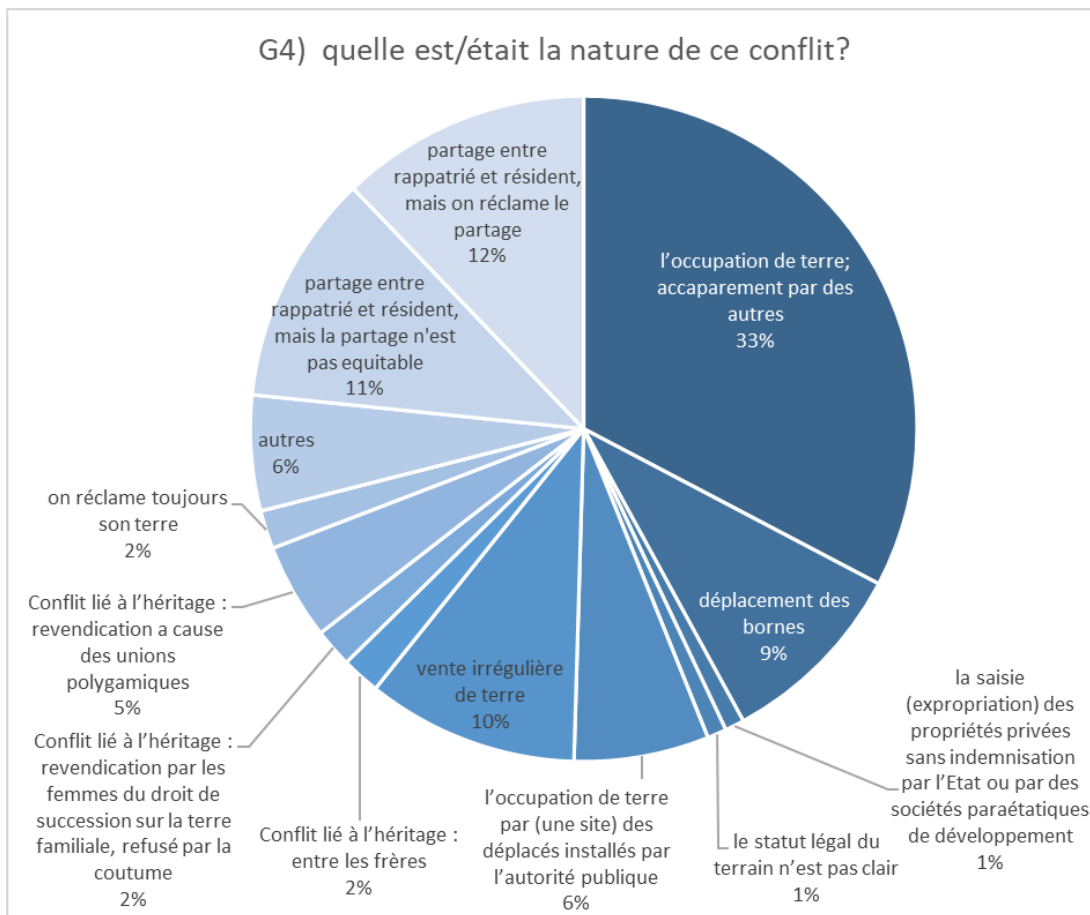
#### 4.4 Land conflicts

- Nyanza Lac is generally known in Burundi for the high number of returnees, and the numerous land conflicts related to the return process. According to the President of the Tribunal de Residence, for instance, Nyanza-Lac would have 20 times more conflicts than other tribunals in Makamba. According to him, the tribunal has 600 pending land conflicts that require some field work, while in other tribunals, there are sometimes less than 20 pending cases.
- Interestingly, when asked about the development of land disputes on their hill, most respondents consider that land disputes have reduced a bit (124, 31%) or a lot (131, 33%, n=397); which means that in total that **64% of respondents consider that conflicts have decreased**.



- 101/430 (31%) of respondents mention that they have been touched by conflict themselves over the last two years.
- When exploring the nature of conflict that respondents experienced themselves, 33% of conflicts concerned occupation of land by others; 23% concerned conflicts about dividing land between residents and repatriates; 10% of conflicts concerned irregular sales of land; 9% of conflicts were about the displacement of boundary markers.
- When exploring with whom the conflict took place, the following scores were given: **29% with returnees or residents; 29% with neighbours; 22% with other family members; 17% with other community members.**
  - Considering that the percentage of disputes involving returnees and residents is higher than the 23% of conflicts about dividing land between residents and repatriates, we might assume that some of the other conflict types also involve residents and repatriates as contesting parties. Indeed, when exploring in detail the parties involved in conflicts about "the occupation of land by others", 9 of these cases also involve returnees and residents.

#### G4) quelle est/était la nature de ce conflit?



- In the FGDs, **conflicts between returnees and residents were often presented as the major and most persistent type of disputes**. In most of these disputes, residents claim (and in some cases with evidence) to have received land from state authorities in the past, while returnees claim that the land was originally theirs. Several past and current disputes have emerged from attempts and action by the returnees to recover their land after decades of occupancy and use by residents. This issue persists despite attempts at solutions by local authorities and the various commissions set up by the central government.
- **Land sharing has been utilised as a solution to the issues between returnees and residents, but is contested**. Oftentimes, some years after sharing, returnees have questioned and sought to cancel the agreements reached. Returnees claim that the complete property should return to them instead. Such claims are often made, and these situations are difficult for local authorities to deal with. Most returnees have proved uncompromising about this: “We share the country (Burundi), not our land”, do they reiterate as one respondent specified.
- Many speculations are observed today where returnees integrate into the shared lands parts that do not belong to them, with the complicity of the neighbours who do not denounce such cases. When the real owners arrive (from exile), the problems resurface.

In addition to disputes between repatriates and residents, the FGDs also identified:

- **Conflicts between the State and (individual) land owners** In these disputes, the state claims the land is state land ('terre domaniale'). This situation is made more difficult by the existence of a legal vagueness around several categories of land, notably land in the *villages de paix* (settlements for returning refugees, established at the beginning of the millennium), which are still deemed to be state lands, whereas they have been exploited for generations by families or individuals on a private basis. Difficulties also arise due to weakness and inefficiency of official arbitration mechanisms (existence of corruption, use of force and power abuse, etc.). Finally, there is persistent speculation on land, both within the population and among local elites (Nyanza-Lac attracts both the elites and the population as an area for cash crops, especially due to the cultivation of palm oil);
- Participants to FGDs pointed to cases of **military and police officers that prevented land sharing** arrangements within their families, even if both families had consented to end their dispute in this way.
- **Conflicts related to illegal (unofficial) land sales** The commune of Nyanza – Lac also experiences a high proportion of illegal land sales. The occurrence of many of such disputes fuels great insecurity of land rights and a growing number of conflicts, between the residents and new settlers; especially those who come from other parts of Burundi in search for fertile and profitable land;
- As mentioned before, the FGDs highlight the importance of land disputes between residents and repatriates. Indeed, the survey shows that 29% of the conflicts involved residents and repatriates. Yet, the survey also shows that the amount of **disputes involving neighbours or family members** is also substantial (29% and 22% respectively). We can imagine that **conflicts between returnees and residents are indeed considered urgent and very 'visible', but this does not reduce the importance of other types of disputes.**
- Moreover, a statement that regularly came back in many of our FGD was that many of the land conflicts in Nyanza-Lac were between Hutu and not between Hutu and Tutsi, and this was contrasted to the situation in the past.

## 5 Capacities and legitimacy of local (land) governance

### 5.1 Institutions, roles & responsibilities

Traditionally, at *colline* level, land administration and dispute resolution was the responsibility of the *Bashingantahe*. Yet, over time, in many localities, their role in land administration diminished and was sometimes taken over by other institutions. With the establishment of the *conseils de colline*, *Bashingantahe* got elected into those. In many of the *collines* of Nyanza Lac, research participants were not able to make a clear distinction between the *Bashingantahe* and the *élus collinaires*.

In principle, in every commune there should be a Service Foncier Communale, and so there is in Nyanza Lac: the SFC here was established 8 years ago. As was mentioned by participants to the FGD, the SFC had begun activities of land rights certification. Some people even have been issued certificates, as was also confirmed by the SFC office and representatives of the communal administration.

In some *collines*, CRC (*Commissions de Reconnaissance Collinaire*) were established, and some FGD participants were members of these, but it seems they had not been involved yet in identifying land plots. Moreover, the services of the SFC were suspended a few months ago in anticipation of the ZOA project.

In the period 2016-18, with help of MiParec and ZOA, the *comités de paix* were established. These often included representatives of the *élus collinaires*. In several FGDs participants referred to work done by these committees in relation to the reconciliation of returnees and residents. Yet, none of the survey respondents referred to them as important actors in land governance.

- The ***Nyumbakumi* and *sous-colline* chief were identified among key-actors in land transactions** (purchases). According to the participants in the FGDs, the most common land-related transactions actors of land governance participate in are: purchases, and the sharing of family land among legitimate offspring.
- Land purchasers are often migrants attracted by those who have come to the region before, but also include wealthier residents. In principle, the local administration does not help in the identification of land for arriving migrants, and migrants tend to simply approach residents themselves. The municipality of Nyanza Lac instructed the population to ensure that all land sales are known by the local administration. The task of local officials, starting with *Nyumbakumi* and *sous-colline* chiefs, is then to investigate and check whether the land sold is not subject to conflicts; and that other family members, including wives and children, are aware of the transaction. Neighbours help to make sure that existing boundaries are respected. Sales are concluded with the signature of an agreement ('petit papier'), which is endorsed by the involved local officials.
- It needs to be highlighted that **not everyone takes care to involve local authorities when selling/buying land**. Some prefer to keep land transactions secret, and these then happen within the involved families. Reasons mentioned include escaping taxation at the district level.<sup>12</sup> Secondly, parties try to circumvent additional payments to local authorities for witnessing the transactions and co-signing the contracts. As land is considered to be expensive in Nyanza Lac, local authorities ask significant remuneration for witnessing land transactions (the so-called 'agatutu', boisson) which people are not eager to pay. Below, we also touch upon a third reason: as local authorities often fail to defend the interests of local people before higher level conflict resolving institutions, this reduces eagerness to have recourse to these local authorities.
- Many people in Nyanza Lac rent land. There are also cases where land is handed over as guarantee for informal credit, acquired from other community members. FGD participants highlighted that

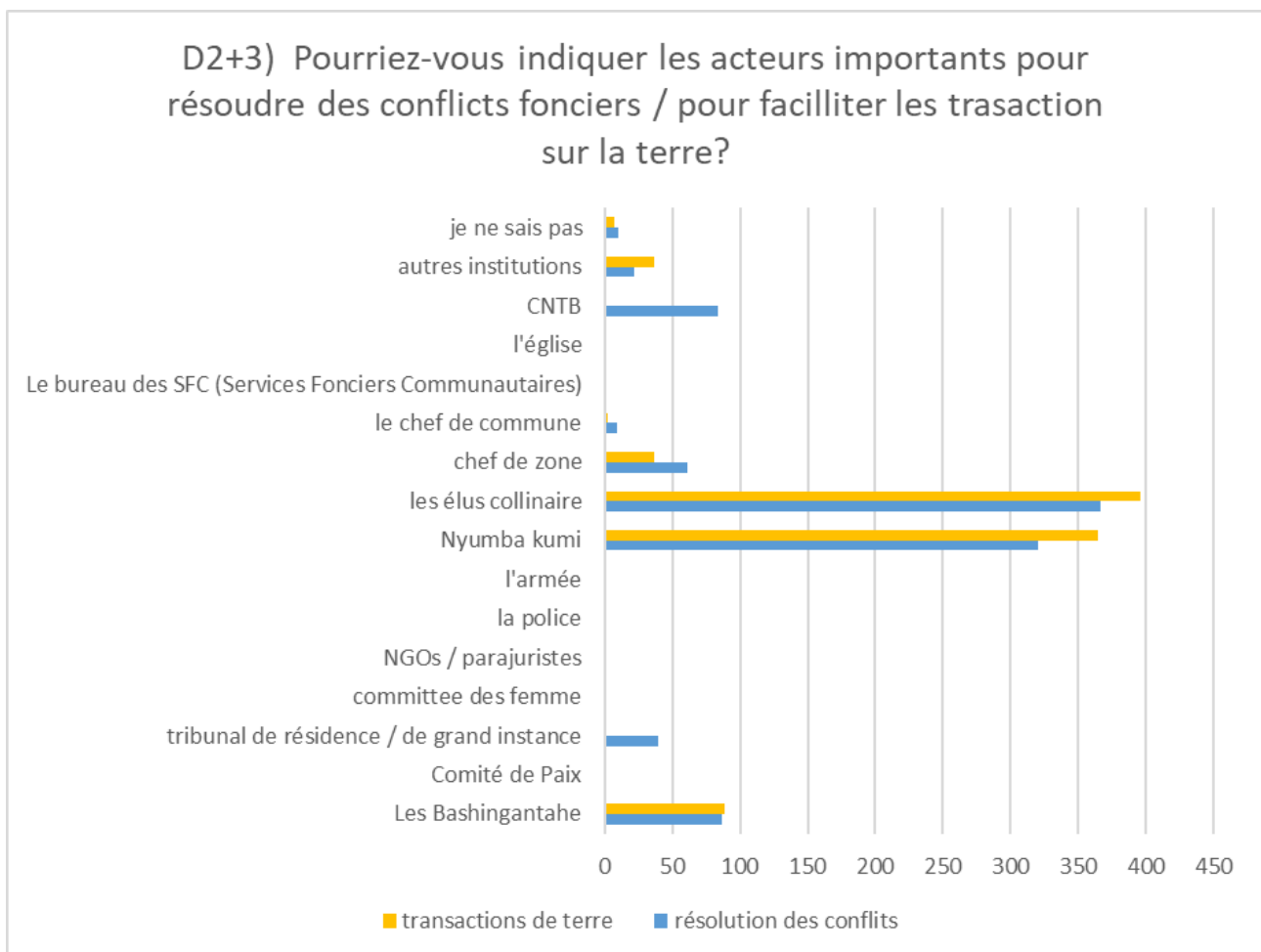
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<sup>12</sup> even if such taxes have been suppressed by the law No 1/31 du 4 du 4 novembre 2008, and the minister of Interior instructed the provincial authorities to ensure that the communes stop demanding the taxes, they were reported to be still in use in Nyanza Lac



local authorities and the Bashingantahe are generally not involved in such transactions, unless conflicts arise.

- **With regard to land leasing, parties usually negotiate among themselves without involving the local authorities or the Bashingantahe.** The only cases that reach these land governance structures are those that turn out problematic and lead to conflicts (e.g. refusal to pay all or part of the price, double sales).
- Things are different when it comes to dividing the family land among family members. **The local authorities give a helping hand when dividing the family property**, called upon by the head of the family who needs to make sure that the division is not contested later onwards. In principle, the head of the family decides on the division, but is accompanied by the authorities for the implementation of this decision. Since the family members discuss these modalities in advance, the local authorities do not encounter particular problems in relation to the division of family land. In their intervention, the local authorities seek the support of other structures such as the Bashingantahe, members of religious confessions, and leaders of the ruling party.
- **For family land sharing, local and communal authorities in principle act in accordance with the decision or agreement reached by family members.** FGD participants indicated that exceptionally there are cases where local authorities and Bashingantahe manage to circumvent this rule and decide against the family will. Thus, practices of land sharing vary significantly in function of the family organisation and will, and it might be difficult and counterproductive to seek generalisation.
- These findings were also confirmed in the survey. **When asked about the actors that respondents consider most important for land transactions, highest scores were given to: élus collinaires (396 or in 91% of the responses); nyumbakumi (365 or 84%); Bashingantahe (89 or 21%).** (n=434)



## 5.2 Dispute resolution

- According to participants in the FGDs, most of the land disputes arising at the local level are currently settled by local elected councillors, in collaboration with the Bashingantahe and other community leaders at the *colline* level. At the *colline* level, the *Nyumbakumi* plays a preeminent role as the first instance for any attempt at land dispute mediation & resolution.
  - These are all disputes for which the parties have not seized other mechanisms such as the CNTB or the local court (tribunal de residence). This thus largely excludes conflicts between returnees and residents, most of which are more likely to be brought before the CNTB.
  - This is confirmed in the survey. **When asked about the institutions that respondents consider most important for resolving land disputes, highest scores were given to: élus collinaires (367 or in 85% of the responses); nyumbakumi (320 or 74%); Bashingantahe (87 or 20%), and strikingly: CNTB (84 or 19%).** (n=434). Here, it is striking that the *Comités de Paix* -which were established in 2016-18- are never mentioned as important institutions for dispute resolution. (this in contrast to the FGD, where their role in resolving disputes between residents and returnees was mentioned).
- The *Nyumbakumi* and *sous-colline* chief thus play an important role in land conflict resolution at the *colline* level. However, these actors are generally not part of the CRC while they appear to have a clear knowledge of land issues within the community. It may be of interest to include these in one way or the other in the certification process, for e.g. by making sure that they systematically be consulted during the *reconnaissance collinaire*.
- Issues related to inheritance are more often settled at the family level, while a certain proportion of them are brought before the conflict resolution authorities.

## 5.3 Appreciation of land governance institutions

- The FGDs bring out that these local elected councils, which often include the Bashingantahe, maintain a certain level of legitimacy among the population.
- This is confirmed in the survey. **287 (74%) out of 386 people appreciate the work of the élus collinaires and Bashingantahe.** Appreciation results mainly from their capacities to listen (166) and effectiveness (152).
- 48 out of 386 survey respondents (12%) expressed low levels of appreciation of locally elected councils. When specifically asked for this, appreciation of the Bashingantahe seems to be slightly lower, with only 206 out of 290 appreciating them positively (72%).<sup>13</sup> Reasons provided were: lack of transparency in decision taking (25); fact that those leaders are only interested in themselves or corrupt (28); that those leaders are not honest (13)
- Likewise, the FGDs brought out that there are **more and more complaints about bribes by locally elected councils**. Moreover, many of these authorities are often seen to act in disregard of the law. When the disputes they have handled are brought before the court and the latter settles otherwise, their entire legitimacy is called into question in the more or less long term. The local administration officials regret that, due to a misunderstanding, people hold them responsible for decisions made by other institutions.
- It should also be noted that these bodies do voluntary work, and are therefore irregular; **they are considered unrepresentative, and are unable to overcome certain socio-cultural considerations that discriminate against women with regards to access to land.** During the interviews and the FGDs, most of the elected local councillors and the *Bashingantahe* at the *colline* level affirmed loud and clear that women and men cannot have equal land rights.

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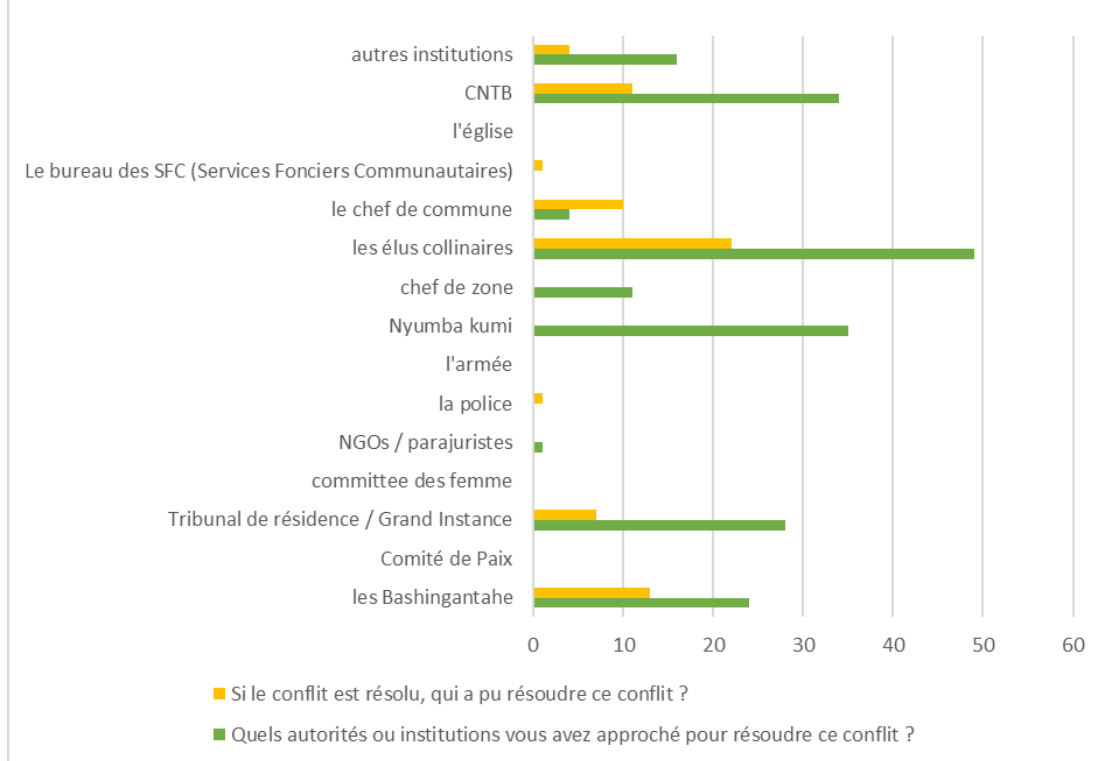
<sup>13</sup> Please note that question D5 included both élus and *Bashingantahe*; while many people do not see the difference, and thus likely responded 'do not know' for this reason.

- In the FGDs it was noted that **repatriates are poorly represented in the local land governance bodies**. The consequence of this is that many repatriates do not trust the decisions taken by local authorities. In some areas, the community appears divided along those returnee-resident features. This is noticeable in everyday life, where for instance each category attends events such as mourning or funerals on its own. These are ceremonies that call for the participation of all members of the community, regardless of their differing or conflicting backgrounds.
- Sometimes, **women find it difficult to discuss land issues they experience before the body of local councillors or *Bashingantahe* for fear of unfair treatment**. They can thus have recourse to the Forum des Femmes (FF) hill subdivision. The latter does not however have the power to decide on such cases, which end up eventually before the same authorities. Only, the FF leaders closely follow the case as witnesses. In the survey we did not encounter respondents that indeed approached the FF with their conflict.
- It should be noticed though, that while the survey included a number of questions in which respondents were asked to rank performance of the locally elected councils and *Bashingantahe* along various criteria, the findings turned out not to be very distinctive. This might be because we asked respondents to score particular authorities on a five point scale, rather than compare them; and that we only asked to evaluate two institutions, the *élus collinaires* and the *Bashingantahe*. To recall, in the communities few people distinguished between *élus collinaires* and *Bashingantahe*.
- Regarding the assessment of the appreciation of the work of the local administration and the *Bashingantahe*, some notes of precaution are necessary anyway. Nowadays, in the political context of Burundi, it is not common to question the work of (local) authorities, as people fear reprisals. In FGDs, especially those in which ordinary people were allowed to participate, though, we came across some complaints that are worth highlighting. **The local administrators were openly accused of helping the wealthier in poor people's land takings**. This is after they turned their back on them, when their cases unexplainably were reviewed at higher administrative and/or judicial hierarchies. Despite our repeated attempts to let them know that our aim was not to find solutions to personal issues, with the help of the local officials, they did not stop talking of their own experiences. Things looked like people had planned in advance to gather and use the encounter as a way to make their complaints known.

#### 5.4 Practices of dispute resolution

- Appreciation of institutions corresponds to practices of approaching certain institutions. When asking for the authorities that had been approached to resolve the dispute, the *élus collinaires* were most frequently approached (49 cases), followed by *nyumbakumi* (35), CNTB (34), the tribunal (28), and *Bashingantahe* (24) (see graph below);
- It is interesting to compare these figures with the figures of disputes resolved, and who was responsible for this: again the *élus collinaires* are important (22 cases); *Bashingantahe* (13); CNTB (11) and chef de commune (10). (please, notice that the graph represents absolute numbers and not percentages!)

## Quels autorités ou institutions vous avez approché pour résoudre ce conflit ? Si le conflit est résolu, qui a pu résoudre ce conflit ?



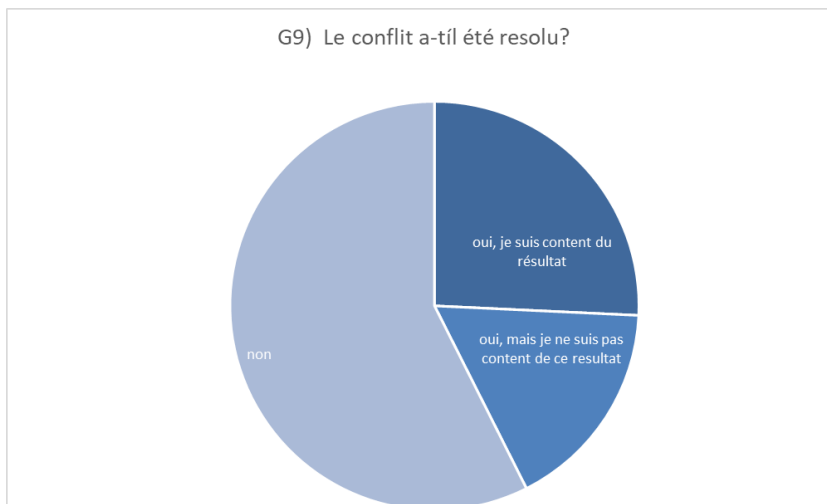
- Regarding the actual situation of these disputes, in 23 of the 101 cases, the conflict was not discussed at all; in 31 cases the authorities had been approached; and 30 cases had been resolved.

In the FGD we explored a bit further what happened to particular types of disputes:

- **Most disputes between returnees and residents have been brought before the CNTB.** This commission has been accused, especially in the recent past, of favouritism towards returnees, corruption, and even complicity for baseless claims. It is also accused of lack of collaboration with other conflict resolution bodies, in particular the *colline* authorities. Most of the time, CNTB officials have bypassed or completely ignored local authorities, even though they were the ones in touch with the reality on the ground. The general assessment is that the commission has failed to independently and efficiently arbitrate these various conflicts. The population is delighted with the suspension of the CNTB even if there are serious questions about the future of the cases that are still pending before this commission.
- There is currently a **high level of frustration and complaints from people and families who have lost the lawsuits because they did not have the (political and financial) means to defend themselves** before a commission that they consider did not even carry out serious investigation on land rights owned or claimed by the litigants prior to making irrevocable decision. It is to be feared that these dormant conflicts will again come to the surface with the land recognition process planned under the project;
- At the level of the Nyanza-Lac local court, they receive cases of land disputes that have not been resolved at the *colline* level or have not been brought before the CNTB. **The work of the court is variously appreciated**, some speak of corruption or influence peddling (especially by powerful

elites) while others (especially residents) speak of fair treatment and strict application of the law. However, the court is faced with many limitations, including a glaring lack of staff (even though we are in an area with a high rate of land disputes) and material and financial resources. It is also confronted with the problem of legal illiteracy by the population and the local authorities; as well as the lack of formal proof for real or potential land rights.

- Earlier it was pointed out that disputes involving women's claims to land, women rights are often not respected, while *Igiseke* is sometimes not acknowledged. **However, FGD participants observe some positive developments within the formal justice mechanisms.** Courts are increasingly granting the same rights to brothers and sisters, they most often decide according to the requests expressed by the litigants. When girls claim the *igiseke* there, it is granted to them; when they claim an equitable share, it is the same thing. This does not however guarantee strong and peaceful land rights; there are many cases of violence at the intra-family level.
- Regarding the effectiveness of resolution, according to the survey, out of 101 conflicts, 43 (43%) had been resolved; and 58 (58%) were not resolved. This is not a surprising finding, considering that we asked for disputes that were experienced over the last 2 years, and many of them might still be ongoing. What is interesting is the findings on disputes that were resolved: **of disputes resolved, in 17 cases (29%) respondents complained they were not happy with the results.**



- When exploring who was in charge for resolution, and the result so far, it is striking that CNTB and the tribunal feature prominently regarding cases that have not been solved yet (with 17 and 8 mentions respectively as the institution that had been approached). This probably evidences the long time they take to solve cases (rather than their capacities in dispute resolution).

## 6. Expectations from and concerns about the project

Both respondents to the survey and participants of the FGDs have expressed legitimate and well-articulated expectations from the programme.

- **FGD participants believe that the implantation of an SFC and the ensuing certification of land rights is a good initiative.** Likewise, the survey shows that 121 out of 165 respondents (73%) believe a document could protect them against losing their land.
- According to participants in the FGDs, **land certification has the potential to prevent and reduce conflicts** by allowing the population to prove and register their land rights. Land certification could equally have a deterrent effect on potential unfounded dispossessions and/or dilatory tactics before the court. It will be difficult for potential grabbers to claim land that does not belong to them when neighbours have participated in the demarcation process and signed the related documents.
- **Certificates are seen to have a comparative advantage over the *petits papiers*** as their issuance is conditioned on the resolution of all related conflicts. Opposing parties testify to the end of the conflicts and acknowledge the rights of the former adversary, which strengthens the certificate delivered. Unlike the certificates, people consider that the *petits papiers* can easily be fraudulent.
- Particularly, **women think that land certification would protect** them from dispossession in case their husbands died.
- With regard to the way local administrators usually settle land issues, the certification may have an added value since the process leads to the issuance of a written document when it involves the mediation of conflicts. Such a written document is not in use for the other conflict resolution processes in the hands of local officials.
- Some respondents have seen or heard of the experience of land registration in the neighbouring communes (Vugizo, Mabanda) and find that, as there, **land certificate holders may be able to access credit and run development projects.**
- Such assessments are also reflected in the outcomes of the survey. Regarding expectations of the certificate, many respondents expect it will prevent conflicts (239 out of 434 responses, or 55%); or will reduce conflicts, particularly with neighbours (184 or 42%), within the family (103 or 24%); or will provide access to credit (44 or 10%)

Participants have also mentioned some issues that they consider as **disadvantages and risks associated with the project**:

- As from the survey, 252 (58%) respondents of the survey think there aren't any disadvantages. 90 respondents (21%) fear the costs; 65 respondents (15%) fear that those that do not have money will not benefit.
- Disadvantages and risks were also extensively discussed in the FGDs. For instance, representatives of the youth fear that **land certification will prioritise old people** whereas they need to be involved in the process so as to get familiar with land governance practices.
- For some participants, the certificate should be drawn up in the name of the head of household, while also mentioning the beneficiaries (in particular the children); for others, the women should also be mentioned, especially for land purchased together. It should be highlighted that **the possibility for women to inherit land is still strongly contested.** During FGDs, heated discussions opposed (old) men supportive of the customary *igiseke* to women for whom families should allow daughters to inherit land at the same footing as sons, if not, at least, give them full ownership over *igiseke*. There is such a big divide about this issue that whenever it was raised no compromise could be reached.
- Furthermore, FGD participants fear that the recurring land issues opposing returnee people and residents, as well as the already experienced speculations and frauds that occur on purchased lands could complicate the process of land certification. **Land purchases may be particularly problematic when parties have not taken care to involve the local authorities.** Transactions of such a kind are regularly subject to contestations.

- There are **still many refugees in exile whose lands are occupied by others, but due to the complicity of other community members in these cases, it may prove difficult to bring such cases into the open during land certification.**
- FGD participants feared that certification might not work efficiently due to the numerous cases pending in court, or that were appealed for with the CNTB, before the commission ended its mission. Given that in Nyanza-Lac some sort of “land conflict business” has developed, FGD participants fear that such cases could be drawn out endlessly and so prevent involved people from certification. Strategies should be discussed prior and during the certification process to find solutions to such cases.
- FGD participants **fear that the cost may be high, which would prevent vulnerable people from being included**; hence FGD participants underlined the need to consider supporting the vulnerable to obtain their certificates;
- FGD participants also highlighted that it will be **difficult for women to register their *igiseke/ikivi***. This is because brothers or uncles object to their claims to land, even if granted by their parents.
- People along the Tanganyika lake, within a distance of 150m from the waterfront, reject the claim of the authorities that this land is terre domaniale. They have lived there for long, and claim that ‘new’ regulations do not affect them. Nevertheless, they fear it might be difficult to get certificates for such lands.
- During a FGD, a lady exclaimed as she questioned the intent of the many and successive land registration initiatives. She mentioned that instructions for the registration of land at the municipal and provincial level were given in the 1990s. Her problem is knowing whether people will be asked to record land endlessly. Especially since, even in this case, the SFC activities started and were suspended without them knowing the reason.
- In areas with extremely exiguous lands it becomes difficult to think of land certification. People do not have enough land to engage in the certification exercise. FGD participants recounted anecdotes of disputes about tiny land plots that have ended up unresolved. Thus the problem is not per se securitizing their land rights but securing spaces sufficient for their survival.

Finally, the survey and FGD identified a number of challenges or limitations

- First, the survey explored **existing knowledge of recording land rights.**
  - 41 out of 435 respondents (9,4%) think they know the difference between a title and a certificate
  - 35 out of 435 (8%) think they know how to get a title
  - 48 out of 435 (11%) think they know how to get a certificate
- As mentioned before, in Nyanza Lac, the SFC was established 8 years ago and CRC (*commissions de reconnaissance collinaire*) set up.
- The survey makes clear that **many people are not aware of the existence of the SFC.** 53% of respondents do not know whether there is a service foncier in their community (37% of respondents think there is a service foncier). Likewise, 66% do not know whether there is a Commission de reconnaissance (17% think there is a commission de reconnaissance)
- This raises the question why this is the case: does the SFC fail to communicate about its presence and activities? Is there a lack of real interest from the local population? Is there lack of support from the communal administration?



## 7. Final comments and suggestions for the project

To start with, the base-line study identified some very striking particularities of land possession that make Nyanza Lac stand out in comparison to other places. A **large part of plots of land is bought**, rather than acquired through customary ownership. Then, a **large percentage of the plots used by the survey respondents belongs to other people** (and is accessed e.g. through renting). **Women, and notably women that state that their husband is somewhere else, seem to even rely more on land belonging to others for their livelihood.** It appears that **many land owners reside outside Nyanza Lac**, as they could not be identified in the survey nor FGD. At the same time, investors from outside the community are looking for land, e.g. in the context of a new project for the cultivation of patchouli.

- it is difficult to say what might be the implications of this for the project. It could imply that it might be more difficult to identify actual landowners. It might imply that people might be more eager to register their land. Yet, if state legislation indeed requires that land can only be sold if the certificate is transformed into a title, this might disincentivize registration. It might even imply resistance from elites against registration, as this might strengthen the position of local land holders in negotiations for selling land.

It is striking that **many respondents consider themselves full owners of the land**, even if the survey demonstrates that the land is still under customary tenure. This may imply that customary tenure is actually rather secure. It may also imply that few people know the differences between different tenure systems.

- this implies that the project should give substantial attention to civic education on land tenure, but also carefully identify actual sources of tenure security and how to prevent that land tenure registration actually undercuts these prevailing mechanisms for protecting land access.

Nyanza Lac has a reputation of a **high level of disputes between returnees and resident population.** Findings from the FGD and survey indeed confirm the seriousness of the issue. At the same time, findings also underscore the importance of disputes between neighbours and relatives, while FGD participants also emphasised that many disputes are between people from different ethnic communities, but instead observed a high frequency of disputes between Hutu. Moreover, if indeed the ethnic sensitivity of the land question in Nyanza-Lac is decreasing, this might open larger avenues for consensual and less (ethnically /politically ) polarised solutions.

- Such returnee-resident issues require a dialogue that also involves state representatives, as both categories consider the state as responsible for this task, given that it directly or indirectly played a role in the occurrence of the problem.

**“Pleine propriété” or state land?** In the context of Nyanza-Lac, there is a high proportion of people who have inherited their land from their (grand-)parents, and hence consider themselves as full owners. Yet, many of these lands (e.g. in the *paysannat*) have been “granted” by the State or its local representatives, without clarification of the status of the land. Conflicts frequently arise between the State and the citizens, in which the state argues that the then occupants had only received a temporary concession, while citizens defend themselves by evoking the ‘prescription trentenaire’ (reverse possession) in their favour. Communal authorities and the SFC have shown hesitance to provide certificates for such lands, including the so-called ‘villages de paix’, even those acquired a long time ago (during the Second Republic). Occupants, in contrast, do emphasise the need to have these recognized as fully owned.

- It might be important for the project to push the communal authority to engage into a dialogue with the central government in order to find a consensus on this issue, clarify different statuses regarding state-originating lands and decide which can or cannot be certified. This dialogue should be started as soon as possible, since the inventory of ‘terres domaniales’ is underway in Nyanza-Lac as pre-condition for land certification.



- The project should also advocate and provide support to the central level for a participatory clarification of the legal status of the many lands that have become too contentious between the State and individuals over the years (the *paysannats* & *villages de paix* for instance).
- Likewise, ZOA will need to invest in facilitating dialogue around what to do with lands that are claimed to have been illegally expropriated by individual people or private companies. Respondents suggest their recuperation, prior to the certification. Such is the case in (old) villages where public spaces have been squandered.
- The recent state inventory of terres domaniales supported by ZOA might pave the way for a participatory clarification of land status. Of course, this needs to move away from practices of some of such inventories elsewhere, in which participation was highly unequal, and the inventory was guided by the assumption that all *paysannats* or past concessions to people and families are in fact State land, regardless of some time-bound rights that people might have acquired.

**How to deal with secondary land rights?** The survey brought out that many people in Nyanza Lac access their land through rental agreements, particularly in case of secondary plots. At the same time, the survey shows that those who rent land have more fears of losing access than others. Those renting land might unexpectedly end the agreement, while rental agreements may be unclear and unfair. FGD participants highlighted that local authorities and the *Bashingantahe* are generally not involved in such rental agreements, unless conflicts arise. Moreover, to envisage a business model SFC requires that any land claims are considered. These arguments also count for land under sharecropping and land that is handed over as guarantee in informal credit arrangements (from individual people).

- The project should identify strategies to help protect other types of land rights, short of full ownership, notably renting. To do this, the project would need to engage in discussion with partners at the local level and relevant actors at the central level. In addition to the usual interlocutors of LTR interventions (SP/CFN, ministry of Aménagement du Territoire) and other donors, it might be important to also involve the MPs from Makamba and relevant commissions in the parliament.
- In addition, the project could consider how to improve existing rental contracts, as these are often incomplete and ambiguous.
- This also implies that the project should support community education, motivate the population to seek the support of local authorities in land transactions so as to prevent potential conflicts, and disseminate the use of written documents for renting land.

Finally, most of the land in and around the centre of Nyanza-Lac now falls within the urban area, or are in an area of **transition from rural to urban status**. The question is to what extent it will be possible for rural lands that are or will become subject to urban land management schemes to be registered.

- The project might stimulate debate and support strategies aimed at putting in place -in collaboration with communal authorities and other key national land institutions and stakeholders-, ad hoc and flexible mechanisms for the transformation of land certificates into land titles. This should result in a simplification of procedures, and removal of additional fees.

**Regarding registration of the names of both husband and wife** The registration of land ownership in the name of both husband and wife is an important and innovative step towards the improvement of women's access to and control of land. Elsewhere, the possibility to mention *igiseke* on certificates issued on undivided family land has slowed down the registration of this category of land. Family members, specifically brothers and uncles, feared that such an operation would change the nature of *igiseke* from temporary to definitive. As demonstrated systematically in our FGDs, women's inheritance of land is still hotly debated, and a majority of participants questioned the inclusion of the name of women. Several women were reluctant or refused to respond to or withdrew from the survey because they considered land issues a matter of their husbands. Convincing them takes time. Furthermore, interveners need to remain cautious: including women's names does not by itself improve access to and control of land for women, and women rights to land might still be ignored, even with the inclusion of their names on the certificate.

- ZOA already noted in the project proposal that there is still the need to improve acceptance of women's rights and envisaged to work on this through community dialogue.<sup>14</sup> Our findings suggest that this is indeed important, and that discussion should be devoted to: the shared responsibility vis a vis land management *within* the household, participation in land products allocation, and consolidation of rights to *igiseke*.
- The question of whom to include on the certificate (head of the household, both husband and wife, children in addition) needs also clarification with the Commission Nationale Foncière from the beginning, to avoid that different standards are used in different localities.

**Regarding capacities and appreciation of land services provision** Survey and FGDs brought out that the *nyumbakumi* and *sous-colline* chief were identified among key-actors in facilitating land sales, and also played an important role in land dispute resolution at the *colline* level. While these actors appear to have a clear knowledge of land issues within the community, they are generally not included in the CRC. The project will need to work on this particular issue through a sustained inclusion of the *nyumbakumi* and *sous-colline* chief in the certification process, e.g. by making sure that they are systematically consulted during the *reconnaissance collinaire*.

There is also a clear need for the project to work with other stakeholders at the communal level :

- Support (financial, material, capacity building,...) could be extended to the Communal Land Services and to the Tribunal de residence, as they are likely to play a key role in land registration and land conflict mitigation and resolution prior, during and after the project phase
- There are many irregularities in birth and marriage registration, which have direct repercussions on land administration. The Communal administration could benefit from support for better managing the Civil Registry (Etat civil). This support could also help in the better control and regulation of population movements in Nyanza Lac.

**Regarding expectations of land certification** while respondents to the survey have mostly positive expectations of certificates, the survey also brought out limited understanding of what the certificate legally means; as well as of the legal status of actual landholding.

- Training activities on the land code, conflict management, etc. are also needed. The various commissions have often made decisions (for example the sharing of land) without necessarily explaining the law to the protagonists or without raising their awareness for peaceful cohabitation;

**Regarding local expectations of the project** During FGDs, people persistently referred to the current intervention as "the return of ZOA", after previous, but failed, attempts to register the land in their community. In reality, ZOA only supported dispute resolution, as earlier mentioned through *comités de paix*. Moreover, many respondents consider the project as an initiative taken by ZOA, that is independent of the communal SFC processes. Likewise, the fact that in *collines* where certification had already been started by local authorities but has been suspended awaiting the ZOA project, is understood again as a sign that ZOA is taking over responsibilities from the local authorities. During the baseline survey, some respondents expressed their fears that the project might result in large-scale land redistribution, or the facilitation of land acquisition by foreigners. Finally, several respondents questioned the focus of the project on land certification; "people will not eat certificates", was for instance the comment of a representative of the local authorities in Mugerama.

- The project should carry out sensitization of the population to further clarify its objectives, and approaches, paying particular attention to the fears and reluctance of the population. Rather than trying to refute rumours and inexact statements about the project's aim, the project will need to convince people of its good intentions by providing answers through open community meetings and

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<sup>14</sup> See the Amahoro@scale project proposal

participatory land rights recognition. The roles of ZOA vis a vis local government in land certification should clearly be specified.

- It should be explored how land certification could be accompanied by activities aimed at improving land management and increasing agricultural production (training, distribution of livestock and intra-agricultural animals) at the household level, and so also help prevent the impression that land certification is an end in itself.

**Regarding the political context in which the project takes place** the project is likely to be implemented in a context characterised by a rapidly-changing governance landscape, with the ruling party investing much in expanding its control and influence. While the project aims at enhancing local tenure security and sustainable livelihoods, government discourse is veering towards agribusiness development, and elites are busy investing in land acquisition throughout the country, especially in locations that are deemed to have a high potential both for agriculture and urban transformation. This restricts space and opportunities for consensual deliberation and decision at the community level. As a result of this, the project might be pushed to accommodate competing demands and conflicting interests between the local populations and national/local (party) elites while struggling to keep its standards regarding project management (budget, time, professionalism, do-no-harm principles).

- ZOA and all partners will need to regularly assess the project objectives and strategies against key evolutions, both in politics and policy, at the national and local levels, and hence avoid/mitigate risks of politicisation. ZOA will for instance need to pay attention to and anticipate the possible implications of the projected “administrative reform” ( aimed at redrawing the new provincial and communal borders and jurisdictions ) over the course of the project.

Regarding contradictions between the survey and FGDs Data collected from the survey in several instances contradicted findings from the FGDs, notably concerning the extent to which respondents claim to respect the rights of women and children, while being not very distinctive regarding the appreciation of local institutions. Our attempts in this document to nuance the survey findings on these particular points is not intended to question their significance. Yet, we consider the responses from the FGD on these topics important, since they were provided by respondents that are in direct touch with land governance issues on a regular basis. Moreover, while survey respondents talk about their own experience, FGD participants might have a more overarching perspective of the nature of land issues in their community. We consider that fears for potential repercussions might have contributed to politically correct answers. Even if the survey was conducted in private, the names of the respondents were recorded. Moreover, in some instances, local authorities accompanied the surveyors in the sous-collines. For the FGDs, people may have benefitted from being in a group, and may have counted on each other’s support, which may have helped overcome fears of future consequences of critical observations.

- in the follow-up of monitoring and evaluation, explicit attention could be given to identifying methods and questions that better bring out how people look at sensitive or politically charged topics; and that provide a safe environment for voicing critical observations.

**Regarding the midterm and final evaluation** First of all, sampling for the survey study was not entirely random, but clustered. For comparability, it might be wise to select the same *collines* for follow-up studies.

In the design of the survey, we considered that people might have many plots, and that questioning them on all these plots would take a lot of time. As the survey showed that on average respondents accessed 2,92 plots of land, in the next version maybe all plots could be covered.

In a next round of surveying the population of Nyanza Lac, it might be interesting to collect information on the following as well:

- Number of people in the household; taking also account of the fact that sometimes several households share plots
- Land use of the plots assessed in the survey: as tenure insecurity and eagerness for certification might be related to this (eg in the case of land used for the cultivation of oil palm trees, rice, or patchouli)
- not just assess ownership of land, but also role-divisions within the household, and land use by men and women.
- assessment of credit opportunities
- perceptions on tenure security and investment in land
- perceptions on land fragmentation
- To assess appreciation of land governance institutions, rather than scoring these individually, it would be better to ask respondents to compare a range of institutions, to get a clearer picture of differences in appreciation, and to prevent 'safe' answers.

In this study, we conducted 12 FGDs only. Considering the number of topics that deserved further exploration, a higher number of more specialised FGDs is recommendable. Moreover, we realised that in the FGD people were very eager to express themselves openly (e.g. expressing dissatisfaction with the chef the *colline* in his very presence), while respondents to the survey might at some points have restrained themselves.

In the proposal for this baseline, the team suggested developing a longitudinal case study, involving a panel of 20 households, to help identify upcoming issues about land tenure security and strengthening SFCs that have not been taken into account in the baseline. The panel could be regularly interviewed and participate in focus group discussions to trace developing notions of tenure security, dynamics of land disputes and their resolution, functioning and legitimacy of the SFCs, and the impact of the project on these; as well as to collect local reflections on ongoing legislative reforms and political developments around land. Furthermore, regularly reflecting with the panel will help to better attribute observed changes to the project activities.

## Annexes

### Annex 1: Areas covered by the survey

Zone	Date	Colline	Sous-collines
Kazirabageni	16 April 2022	Kiderege	1. Kiderege 2. Nyakabuye 3. Muzingati
	20 April 2022	Kazirabageni	4. Kazirabageni 5. Buheka 6. Nyabitaka
Nyanza-Lac	21 April 2022	Kabondo	7. Bogogwa 2 8. Bogogwa 1 9. Kigembezi 10. Nyamirongo 11. Kabondo 1
	22 April 2022	Bukeye	12. Mayengo 13. Econet 14. Kibuga
	15 April 2022	Mugerama	15. Gifuruzi 16. Cogercoco 1
Muyange	18 April 2022	Kabo	17. Kabo Centre 18. Mwoga 19. Kigoma
	23 April 2022	Muyange	20. Kibakure 21. Karubanga 22. Muyange 1
	27 April 2022	Ruvyagira	23. Gitutuma 24. Kirira 25. Gitobogoro
Kabonga	25 April 2022	Kabonga	26. Nyabihwa 27. Kabonga 28. Kiriri
	19 April 2022	Nyabigina	29. Karaheba 30. Murinda 2 31. Burambira
Mukungu	26 April 2022	Mukungu	32. Kabwari 33. Bwiza 34. Mukungu 1

## Annex 2: Areas covered by the FGDs

<b>Zone</b>	<b>Date</b>	<b>Colline</b>	<b>Number of participants</b>
Kazirabageni	16 April 2022	Kiderege	11
Nyanza-Lac	21 April 2022	Kabondo	9
	22 April 2022	Bukeye	10
	24 April 2022	Mugerama	11
Muyange	18 April 2022	Kabo	12
	23 April 2022	Muyange	7
	27 April 2022	Ruvyagira	13
	23 April 2022	Nyabutare	12
Kabonga	25 April 2022	Kabonga	12
	25 April 2022	Nyabigina	6
Mukungu	26 April 2022	Mukungu	7
	26 April 2022	Rubindi	10
<b>TOTAL</b>		12	120

## Annex 3: FGD Themes & Questions

### Capacities and legitimacy of local (land) governance

- What do you consider as the main land governance tasks that need to be taken care of on the *colline* ? (if needed, mention: facilitating land access e.g. for people arriving from outside the community, facilitating land transactions, land dispute resolution)
- Who is responsible for which tasks?
- What are their strengths and weaknesses in fulfilling these tasks?

### Experiences of Land Tenure Security

- ‘Pensez-vous que la majorité des personnes qui vivent sur cette *colline* pourraient perdre leurs droits sur leurs parcelles dans les 5 prochaines années ?’
- Why is that the case?
- How do they define tenure security / what is needed to protect people’s rights to land on the *colline*?
- What practices exist in the *colline* (both of local citizens and of their authorities) to assure continued access to land (to protect tenure security)?

### Land rights of women and other vulnerable groups

- What are the particular challenges of women, children/orphans, youth in accessing land?
- What is done in the *colline* to protect the rights of women, children/orphans, youth?
- What community mechanisms (customary rules and conventions) exist that protect women, children/orphans, and youth?
- To what extent land governing authorities (discussed under 1) protect women, children/orphans, youth?
- What is practically done to help migrants coming from other communities to access land?
- Are there any women ‘land rights champions’ on the *colline*?

### Capacities and legitimacy of ADRM/formal judicial institutions

- How have you seen the amount of land disputes change over the last 2 years? Has it increased/decreased? What explains this?
- What are the main land disputes affecting people on the *colline*?
- To what extent land governance institutions can deal with these disputes, why or why not?

### Expectations of a programme that would bring certificates

- How will such a programme be received?
- [If not yet discussed: what is done by people and authorities in the *colline* to assure continued access to land?]
- What is the added value of such a programme to what is already done in the *colline* to protect land rights?
- In addition to providing certificates, what other options are there to further protect people’s access to land (e.g. which of the existing practices could be further enhanced and how)?

**Annex 4: survey**



# enquete baseline Amahoro@Scale

Je m'appelle [nom] Nous vous demandons de participer à une enquête dans le cadre de l'étude de base du projet Amahoro@Scale. Cette étude vise à recueillir des données de base sur la terre et la gouvernance foncière à Nyanza Lac, en préparation d'un projet de ZOA/MIPAREC/VNG International pour aider à permettre l'enregistrement foncier local. Nous partagerons les résultats avec ZOA/MIPAREC/VNG International. Ils les utiliseront pour s'assurer que le projet qu'ils commenceront fonctionnera si efficacement et équitablement que possible. Votre participation dans l'enquête est entièrement volontaire. C'est votre choix d'y participer ou non. Il n'y a pas es bons/faux réponses, donc il soyez a l'aise L'étude est un des activités du projet, vous serez informer a la suite des activités précise dans le future L'information enregistrée est confidentielle. vos réponses ne seront pas partager avec des autres Si vous avez des questions, vous pouvez les poser maintenant ou plus tard. Si vous ne comprenez pas certaines questions, nous serons bien disponibles pour les expliquer. Vous pouvez poser des questions à tout moment. Vous avez des questions maintenant?

OK

Vous n'avez pas de problemes avec les précisions qu'on viennent de vous donner ?

OK

## A1) Nom de l'enquêteur

---

## A2) Localité de l'entretien (colline)

---

## A3) Record your current location

---

breedtegraad (x.y °)

---

lengtegraad (x.y °)

---

hoogte (m)

---

nauwkeurigheid (m)

---



## A4) Nom et prénom de l'enquêté

---

## A5) sexe

masculin

feminine

## A6) annee de naissance

si on donne l'age, faut verifier l'annee de naissance

---

## A7) lieu de naissance

si c'est une autre colline, faut spécifier province et commune

---

## A8) Vous-êtes chef de famille ?

en case d'une femme: est-ce que vous vivez avec votre mari

oui

mon mari est quelque part d'autre

non

## A9) Fonction, activité économique principale

Producteur agricole

Pecheur

commerce

chauffeur, cycliste, motocycliste

fonctionnaire: enseignant

fonctionnaire: infirmier

fonctionnaire: administration

fonctionnaire: pensionnaire

autre

## A10) si autre: specifier

---

## A11) est-ce que vous avez suivi d'éducation

sans éducation

primaire

secondaire

formation professionnelle

universitaire

autre

si autre: specifier

---

## A12) Est-ce que vous participez vous-même dans un institution public/governmentale, ou des structures de paix/sécurité ?

oui

non

**A13) si oui, dans quelle structure?**

- Les notables/ Bashingantahe
- Comité de Paix
- Tribunal de résidence / Grand Instance
- comité des femmes
- ONGs / parajuristes
- la police
- l'armée
- nyumba kumi
- le chef de colline
- chef de zone
- le chef de commune
- Comité de Reconnaissance Collinaire / Services Fonciers Communautaires
- l'église
- autres institutions

**A14) si 'autres institutions', le(s)quel(s)?**

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**B) LES PARCELLES DE TERRE DE L'ENQUÊTE**

OK

**B1) Utilisez-vous, possédez-vous ou détenez-vous des droits d'utilisation sur des parcelles de terre ? Nous sommes intéressés à tous vos parcelles : y compris parcelles d'habitation, agricoles, pastorales, forestières et commerciales; y compris des parcelles sur des autres collines**

- oui
- non -> continue à la section suivante: capacités en gouvernance foncière

**B2) combien des parcelles possédez vous et utilisez vous vous-meme?**

---

**B3) possédez-vous ou détenez-vous des parcelles qui sont maintenant utilisées par des autres? Combien de ces parcelles?**

---

**B4) Est-ce que vous utilisez ou habitez sur des parcelles qui appartiennent à des autres ? Combien de ces parcelles?**

---

**B5) Veuillez confirmer le nombre totale de tous ces parcelles, donc y inclus les parcelles qui appartiennent à des autres.**

	1	2	3	plus
<b>B6) Entre ces parcelles que vous possédez ou détenez -y inclus ceux que vous utilisez vous même et ceux qui sont maintenant utilisés par des autres- combien ont été :</b>				
<b>Accordée par les autorités Coutumières/Communautaires</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Allouée par le Gouvernement</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Allouée par un Membre de la Famille</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Héritée suite au décès D'un membre De la famille</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Achetée</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Louée à Court terme (&lt; 3 ans)</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Louée à Long terme</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>metayage</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Empruntée gratuitement</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>don de personnes ne faisant pas partie du ménage</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>occupation de fait</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>B7) Entre ces parcelles que vous utilisez ou sur laquelle vous habitez qui appartiennent à des autres, combien ont été :</b>				
<b>Louée à Court terme (&lt; 3 ans)</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Louée à Long terme</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>En metayage</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Empruntée</b>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

occupation de fait

**B8) À côté de vous même ou de vous et votre épouse/mari, est-ce qu'il y a des autres adults que habitent ou utilisent vos parcelles?**

- Non, seulement moi / moi et mon mari / moi et ma épouse
- Oui, aussi des parents
- Oui, aussi des frères ou des seures
- Oui, aussi des enfants adults
- Oui, autre

**B9) si autre, specifier**

---

**B10) Si possible on voudrais parler de deux parcelles spécifiques. On commence par la parcelle ou vous residez - Comment la parcelle ou vous residez a-t-elle été acquise?**

- Accordée par les autorités Coutumieres/Communautaires
- Allouée par le Gouvernement
- Allouée par un Membre de la Famille
- Héritée suite au décès D'un membre De la famille
- Achetée
- Louée a Court terme (< 3 ans)
- Louée a Long terme
- Metayage
- Empruntée
- Gratuitement
- Don de personnes
- Ne faisant pas partie du ménage
- occupation de fait (à préciser)

**B11) si la réponse est "occupation de fait" - comment?**

---

**B12) Cette parcelle ou vous residez relève de quel Système foncier ?**

*la réponse résulte de la historique de acquisition*

- Coutumier
- Pleine propriété
- Bail
- Etat
- Droit communautaire/de Groupe
- Cooperatives
- paysannat
- autre

**B13) si autre, specifier**

---

**B14) Quelle est la principale utilisation actuelle de cette [parcelle] ?**

*on peut choisir tous ce qui est applicable*

- résidentielle
- agricole
- pastorale
- forestière
- entreprise/commerciale
- ne sait pas
- autre

**B15) si autre, specifier**

---

**B16) Est-ce que vous avez preuve que cet parcelle pertienne a vous?**

- pas de preuve
- titre foncier
- acte de notoriété
- petit papier
- plan d'arpentage des bornages
- contract de location
- testimoniale: les voisins le savent
- PV délivrée par le CNTB
- suite au processus au Tribunal
- autre

**B17) autre: specifier**

---

**B18) Avez-vous le droit de vendre cette parcelle ou vous habitez, seul ou conjointement avec quelqu'un d'autre?**

- oui, seul et sans consultation
- oui, mais seulement en consultation avec mari/épouse ou famille
- non
- je ne sais pas

**B19) Avez-vous le droit de léguer cette parcelle, seul ou conjointement avec quelqu'un d'autre?**

- oui, sans consultation
- oui, mais seulement en consultation avec mari/épouse ou famille
- non
- je ne sais pas

**B20) est-ce que vous avez des autres parcelles?**

- oui, continue par question B21
- non, continue par section C

**B21) entre ces autres parcelles on voudrait discuter celui que vous considerez le plus importante pour votre sursistance. Cette parcelle, comment a-t-elle été acquise?**

- Accordée par les autorités Coutumières/Communautaires
- Allouée par le Gouvernement
- Allouée par un Membre de la Famille
- Héritée suite au décès D'un membre De la famille
- Achetée
- Louée a Court terme (< 3 ans)
- Louée a Long terme
- Metayage
- Empruntée
- Gratuitement
- Don de personnes
- Ne faisant pas partie du ménage
- occupation de fait (à préciser)
- autre

**B22) si la réponse est "occupation de fait" - comment?**

---

**B23) Cette parcelle qui est le plus importante pour votre sursistance relève de quel Système foncier ?**

*la réponse résulte de la historique de acquisition*

- Coutumier
- Pleine propriété
- Bail
- Etat
- Droit communautaire/de Groupe
- Cooperatives
- autre

**B24) si autre: spécifier**

---

**B25) Quelle est la principale Utilisation actuelle de cette parcelle qui est le plus importante pour votre sursistance ?**

*on peut choisir tous ce qui est applicable*

- résidentielle
- agricole
- pastorale
- forestière
- entreprise/commerciale
- ne sait pas
- autre

**B26) si autre: laquelle?**

---

**B27) Est-ce que vous avez preuve que cet parcelle appartient a vous?**

*plusieurs réponses possibles*

- pas de preuve
- titre foncier
- acte de notoriété
- petit papier
- plan d'arpentage des bornages
- contract de location
- testimoniale: les voisins le savent
- suite au processus au Tribunal
- PV délivré par le CNTB
- autre

**B28) autre: spécifier**

---

**B29) Avez-vous le droit de vendre cette parcelle qui est le plus importante pour votre subsistance, seul ou conjointement avec quelqu'un d'autre?**

- oui, seul et sans consultation
- oui, mais seulement en consultation avec mari/épouse ou famille
- non
- je ne sais pas

**B30) Avez-vous le droit de léguer cette parcelle qui est le plus importante pour votre subsistance, seul ou conjointement avec quelqu'un d'autre?**

- oui, seul et sans consultation
- oui, mais seulement en consultation avec mari/épouse ou famille
- non
- je ne sais pas

C - SECURITE FONCIER

- OK

**C1) Pensez-vous que la majorité des personnes qui vivent sur cette colline pourraient perdre leur droits d'utilisation sur leurs parcelles dans les 5 prochaines années ?**

- oui
- non
- je ne sais pas

**C2) Vous pensez que ca serait possible que vous même pouvez perdre les droits sur votre terre (un des vos terres), contre votre volonté, pendant les prochaine 5 ans ? [contre votre volonté veut dire que vous n'auriez pas le choix et vous devrez partir de ce terre]**

- oui -> continuer par la question suivante C3
- non -> continuer par la question C6
- je ne sais pas

**C3) Si oui, vous pensez que ca passera probablement, pendant les prochaine 5 ans ? [contre votre volonté veut dire que vous n'auriez pas le choix et vous devrez partir de ce terre]**

- oui -> allez a question C4
- non -> allez a question C4
- je ne sais pas

**C4) sur quelles parcelles vous avez peur de les perdre?**

- j'ai une seule parcelle et j'ai peur de la perdre
- j'ai plusieurs parcelles ; j'ai peur de perdre la parcelle où se trouve la maison
- j'ai plusieurs parcelles ; j'ai peur de perdre une autre parcelle que celle où se trouve la maison
- j'ai plusieurs parcelles ; j'ai peur de perdre toutes les parcelles

**C5) Donc, vous pensez que ca serait possible que vous pouvez perdre les droits sur votre terre. Pourquoi en serait-il ainsi?**

*plusieurs raisons possible; faut pas lire les reponses; faut vérifier avec enquête que la réponse corresponde a son perspective*

- Nous n'avons pas de titre/des documents officiels
- Nous ne savons pas si nous avons des droits légaux sur ces terres
- Nous craignons que d'autres personnes viennent prendre la terre
- Il y a un conflit au sujet de cette terre, et nous pourrions la perdre.
- Nous craignons que les autorités s'emparent de la terre
- Nous ne sommes pas née ici
- Nous sommes des occupants temporaires
- Nous devons peut-être vendre la terre pour manque d'argent
- Il pourrait y avoir de la violence et nous pourrions devoir fuir
- En cas de location : les propriétaires voudraient récupérer leur terre
- autre

**C6) si 'autre', pourquoi?**

---

**C7) donc, vous ne pensez pas que ca serait possible que vous pouvez perdre les droits sur votre terre. Pourquoi en serait-il ainsi?**

- les voisins respectent les bornes
- Les autorités savent les dimensions, les réclamations correctes
- Les sages savent les dimensions, les réclamations correctes
- Le tribunal a posé des bornes
- autre

**C8) si 'autre', pourquoi?**

---

**C9) Pensez-vous que, si vous auriez un document officiel de les autorités, ça pourrait prévenir ce perdre ?**

- oui -> continuer par question C10
- non -> continue par question C12
- je ne sais pas

**C10) Si oui, pourquoi**

- Possibilités de prouver mes droits en cas d'un conflit
- autre

**C11) si autre, spécifier**

---

**C12) si non, pourquoi?**

- J'ai une petit papier
- J'ai des bonnes relations avec les autorités
- J'ai d'argent
- J'ai déjà participé dans la reconnaissance de terre
- autre

**C13) si autre, specifier**

---

**D - CAPACITES DE GOUVERNANCE FONCIERE**

OK

**D1) Pourriez-vous indiquer les acteurs importants pour résoudre des conflits fonciers ?**

- Les notables/ Bashingantahe
- Comité de Paix
- Tribunal de Résidence / Grand Instance
- committee des femme
- NGOs / parajuristes
- la police
- l'armée
- Nyumba kumi
- les élus collinaires
- chef de zone
- le chef de commune
- Le bureau des SFC (Services Fonciers Communautaires)
- l'église
- CNTB
- autres institutions
- je ne sais pas

**D2) si autres: lesquels?**

---

**D3) Pourriez-vous indiquer les acteurs importants pour faciliter les transaction sur la terre?**

- les Bashingantahe
- Comité de Paix
- tribunal de résidence / de grand instance
- committee des femme
- NGOs / parajuristes
- la police
- l'armée
- Nyumba kumi
- les élus collinaire
- chef de zone
- le chef de commune
- Le bureau des SFC (Services Fonciers Communautaires)
- l'église
- autres institutions
- je ne sais pas

**D4) si autres: quels?**

---

**D5) Comment appréciez vous le travail des autorités collinaires y inclus les Bashingantahe?**

*Veillez indiquer sur un échelle de 1 a 5*

- manque de appréciation
- peu de appréciation
- pas mal, pas très bon
- font de bonne travail
- font un très bonne travail
- je ne sais pas

**D6) Si la réponse est 'ils font un bon travail' : quel est la raison la plus importante pour la appréciation ?**

*d'abord, faut pas lire les réponses! plusieurs options possibles*

- font un travail effective
- leurs capacités de écouter
- proximité
- transparence dans leurs décisions
- Ont d'autorité /poix/ pouvoir
- font confiance
- font quelque chose avec les plaintes
- ont les mêmes priorités pour le développement que la population
- collabore avec la population ; c'est possible de participer dans les procédures
- défendent les intérêts de la population
- sont juste/honnête
- autre

**D7) si autre: spécifier**

---

**D8) si la réponse est : "pas/peu d'appréciation", quel est la raison la plus importante pour la manque d'appréciation ?**

*d'abord, faut pas lire les réponses! plusieurs options possibles*

- Ne font pas assez
- leurs manque de capacités de écouter
- distance
- manque de transparence dans leurs décisions
- manque d'autorité /poix/ pouvoir
- font peur
- font rien avec les plaintes
- ont des autres priorités développement que la population
- Ne collaborent pas avec la population
- sont intéressés de leur propres intérêts seulement : sont corrompu ou s'intéresse seulement a leur re-élection
- ne sont pas juste/honnête
- autres

**D9) si autre: spécifier**

---

**D10) Comment appréciez vous le travail des Bashingantahe?**

*Veillez indiquer sur un échelle de 1 a 5*

- manque de appréciation
- peu de appréciation
- pas mal, pas très bon
- font de bon travail
- font un très bon travail
- je ne sais pas

**D11) Si la réponse est 'ils font un bon travail' : quel est la raison la plus importante pour la appréciation (plusieurs options possibles)**

- font un travail effective
- leurs capacités de écouter
- proximité
- transparence dans leurs décisions
- Ont d'autorité /poix/ pouvoir
- font confiance
- font quelque chose avec les plaintes
- ont les mêmes priorités développement que la population
- collabore avec la population ; c'est possible de participer dans les procédures
- défendent les intérêts de la population
- sont juste/honnête
- autre

**D12) si autre: spécifier**

---

**D13) si la réponse est : 'pas/peu d'appréciation', quel est la raison la plus importante pour la manque de appréciation (plusieurs options possibles)**

- Ne font pas assez
- leurs manque de capacités de écouter
- distance
- manque de transparence dans leurs décisions
- manque d'autorité /poix/ pouvoir
- font peur
- font rien avec les plaintes
- ont des autres priorités développement que la population
- Ne collaborent pas avec la population
- sont intéressés de leur propres intérêts seulement : sont corrompu ou s'intéresse seulement a leur re-élection
- ne sont pas juste/honnête
- autres

**D14) si autre: specifier**

---

E - CAPACITÉS AUTHORIÉS

- OK

**E1) Comment vous appréciez la mesure dans laquelle les autorités collinaires sont accessibles ?**

*( = on peut les approcher, ils ne sont pas loin, ils vous prennent au sérieuse, on ils vous attendent)*

- ils sont tres accessibles
- ils sont un peu accesibles
- pas mal, pas bon
- ils ne sont pas accessibles
- ils ne sont pas du tout accessibles
- je ne sais pas
- 
- 

**E2) Comment vous appréciez la mesure dans laquelle les Bashingantahe sont accessibles ?**

*( = on peut les approcher, ils ne sont pas loin, ils vous prennent au sérieuse, on ils vous attendent)*

- ils sont tres accessibles
- ils sont un peu accesibles
- pas mal, pas bon
- ils ne sont pas accessibles
- ils ne sont pas du tout accessibles
- je ne sais pas
- 
- 

**E3) Comment vous appréciez le respecte des autorités collinaires vis a vis les droits des femmes a la terre?**

*lire les réponses*

- ils les respectent beaucoup
- ils les respectent un peu
- pas mal, pas bon
- ils ne les respectent pas
- ils ne les respectent pas du tout
- je ne sais pas
- 
- 

**E4) Comment vous appréciez le respecte des Bashingantahe vis a vis les droits des femmes a la terre?**

*lire les réponses*

- ils les respectent beaucoup
- ils les respectent un peu
- pas mal, pas bon
- ils ne les respectent pas
- ils ne les respectent pas du tout
- je ne sais pas
- 
-



**E5) Comment vous appréciez la mesure dans laquelle les autorités collinaires prennent en considération les préoccupations des jeunes pour les droits à la terre ?**

*lire les réponses*

- ils les prennent en considération beaucoup
- ils les prennent en considération un peu
- pas mal, pas bon
- ils ne les prennent en considération
- ils ne les prennent en considération pas du tout
- je ne sais pas
- 
- 

**E6) Comment vous appréciez la mesure dans laquelle les Bashingantahe prennent en considération les préoccupations des jeunes pour les droits à la terre ?**

*lire les réponses*

- ils les prennent en considération beaucoup
- ils les prennent en considération un peu
- pas mal, pas bon
- ils ne les prennent en considération
- ils ne les prennent en considération pas du tout
- je ne sais pas
- 
- 

**E7) Comment vous appréciez la mesure dans laquelle les autorités collinaires respectent les droits à la terre des retournés?**

*lire les réponses*

- ils les respectent beaucoup
- ils les respectent un peu
- pas mal, pas bon
- ils ne les respectent
- ils ne les respectent pas du tout
- je ne sais pas
- 
- 

**E8) Comment vous appréciez la mesure dans laquelle les Bashingantahe respectent les droits à la terre des retournés?**

*lire les réponses*

- ils les respectent beaucoup
- ils les respectent un peu
- pas mal, pas bon
- ils ne les respectent
- ils ne les respectent pas du tout
- je ne sais pas
- 
- 

**E9) Comment vous appréciez la mesure dans laquelle les autorités collinaires respectent les droits à la terre des résidents?**

*lire les réponses*

- ils les respectent beaucoup
- ils les respectent un peu
- pas mal, pas bon
- ils ne les respectent pas
- ils ne les respectent pas du tout
- je ne sais pas
- 
- 

**E10) Comment vous appréciez la mesure dans laquelle les Bashingantahe respectent les droits à la terre des résidents?**

*lire les réponses*

- ils les respectent beaucoup
- ils les respectent un peu
- pas mal, pas bon
- ils ne les respectent pas
- ils ne les respectent pas du tout
- je ne sais pas
- 
-

**E11) Comment vous appréciez la mesure dans laquelle les autorités collinaires ont accédés au bureau?**

*lire les réponses*

- ils ont accédés dans leur fonction d'une manière totalement régulier
- ils ont accédés dans leur fonction d'une manière assez régulier
- pas mal, pas bon
- ils ont accédés dans leur fonction d'une manière un peu irrégulier
- ils ont accédés dans leur fonction d'une manière totalement irrégulier
- je ne sais pas
- 
- 

**E12) Comment vous appréciez la mesure dans laquelle les Bashingantahe ont accédés dans leur fonction?**

*lire les réponses*

- ils ont accédés dans leur fonction d'une manière totalement régulier
- ils ont accédés dans leur fonction d'une manière assez régulier
- pas mal, pas bon
- ils ont accédés dans leur fonction d'une manière un peu irrégulier
- ils ont accédés dans leur fonction d'une manière totalement irrégulier
- je ne sais pas
- 
- 

**E13) Comment vous appréciez la mesure dans laquelle les autorités collinaires sont juste? (= conforment a les normes locales)**

*lire les réponses*

- ils sont très juste
- ils sont un peu juste
- pas mal, pas bon
- ils ne sont pas juste
- ils ne sont pas du tout juste
- je ne sais pas
- 
- 

**E14) Comment vous appréciez la mesure dans laquelle les Bashingantahe sont juste? (= conforment a les normes locales)**

*lire les réponses*

- ils sont très juste
- ils sont un peu juste
- pas mal, pas bon
- ils ne sont pas juste
- ils ne sont pas du tout juste
- je ne sais pas
- 
- 

**F - CONNAISSANCE**

- OK

**F1) Est-ce que vous savez la différence entre un titre et un certificat ?**

*c'est pas nécessaire que l'enquête peut reproduire ces différences*

- oui
- non

**F2) Est-ce que vous savez quoi faire pour avoir un titre sur votre terre?**

- oui
- non

**F3) Est-ce que vous savez quoi faire pour avoir un certificat sur votre terre?**

- oui
- non

**F4) Est-ce qu'il y a un Service Foncier Communale dans votre commune ?**

- oui
- non
- je ne sais pas

**F5) est-ce qu'il y a un Commission de Reconnaissance Collinaire sur votre colline**

- oui
- non
- je ne sais pas

**F6) quelles sont vos attentes a rapport a le programme de certification foncier ?**

*plusieurs réponses sont possible*

- le frais bas des papeirs/certificats
- La proximité du bureau CFS
- Réduise les conflits familiales
- Réduise les conflits des voisins
- Réduise les conflits avec les autorités
- Réduise accaparement de terre
- va prévenir les conflits
- renforce la cohésion sociale
- facilitera accès au crédit
- facilitera accès a la terre pour les femmes
- facilitera le partage de terre familiale
- autre

F7) si 'autre': specifier

---

**F8) Selon vous, quelles sont les désavantages du certification de terre ?**

*plusieurs réponses sont possible ; faut pas lire les réponses !*

- il n'y en a pas
- Le certificat coute cher
- ceux qui n'ont pas d'argent n'en profitent pas
- ca resultera en des autres impôts
- Je crains les risques : specifier
- autre

si "je crains les risques" : specifier

---

F9) si 'autre': specifier

---

**F10) Pensez-vous qu'il faut inclure le nom de la épouse sur le certificat d'enregistrement du terre familiale ?**

- oui
- non

**F11) Supposons qu'un mari et sa femme possèdent tous deux une propriété sur la colline où vous vivez. Ils l'ont acheté ensemble et cette propriété est la seule chose que cette famille possède. Si le mari et la femme divorcent, qui est le plus susceptible d'avoir les droits sur la propriété? Le mari, la femme ou les deux?**

- le mari
- la femme
- les deux
- les enfants
- je ne sais pas

**F12) Pensez-vous qu'il faut inclure les noms de tous les enfants sur le certificat d'enregistrement du terre familiale ?**

- oui
- non

**F13) Supposons qu'il y ait deux enfants dans une famille - un fils et une fille. Les enfants sont adults. Le ménage possède une propriété sur la colline où vous vivez. C'est la seule chose que cette famille possède. Qui est le plus susceptible d'hériter des biens que cette famille possède si les parents sont mort? Le fils, la fille ou les deux ?**

- le fils
- la fille
- les deux
- je ne sais pas

G - CONFLITS FONCIERS

- OK

**G1) Sur votre colline, pendant les deux ans passées, comment vous evaluez le nombre des conflits de terre?**

- les conflits de terre ont diminué beaucoup
- les conflits de terre ont diminué un peu
- les conflits de terre n'ont pas diminué ni augmenté
- les conflits de terre ont augmenté un peu
- les conflits de terre ont augmenté beaucoup
- je ne sais pas

**G1) Pendant les deux ans passées, est-ce que vous avez été touché par un conflit de terre vous-même ? Oui**

- oui
- non -> fin de la enquete
- je ne sais pas

**G2) Si oui, le conflit est/était avec qui ?**

- des autres membres de la famille
- des voisins
- d'autres membres de la communauté
- des agents de l'Etat (à titre personnel)
- les institutions étatiques : colline / commune / cadastre (au nom de l'institution, par personnel)
- (des représentants de) l'Eglise
- autre

**G3) si 'autre': spécifier**

---

**G4) quelle est/était la nature de ce conflit?**

*faut pas poser la question, mais anticiper la réponse a base de la discussion et le confirmer avec l'enquêté; plusieurs réponses sont possibles*

- l'occupation de terre; accaparement par des autres
- déplacement des bornes
- la saisie (expropriation) des propriétés privées sans indemnisation par l'Etat ou par des sociétés paraétatiques de développement
- le statut légal du terrain n'est pas clair
- l'occupation de terre par (une site) des déplacés installés par l'autorité publique
- vente irrégulière de terre
- Conflit lié à l'héritage : entre les frères
- Conflit lié à l'héritage : revendication par les femmes du droit de succession sur la terre familiale, refusé par la coutume
- Conflit lié à l'héritage : revendication a cause des unions polygamiques
- on réclame toujours son terre
- partage entre rappatrié et résident, mais la partage n'est pas equitable
- partage entre rappatrié et résident, mais on réclame le partage
- autres

**G5) si autres: spécifier**

---

**G6) Quel est la situation de ce conflit?**

*lire options, plusieurs réponses sont possible*

- c'est une conflit non-résolu ; mais on ne le discute pas, on ne fait rien
- on le discute régulièrement en privé en famille ou avec les amis
- on a approché l'autre parti pour le discuter
- on est en cours de traitement en conciliation à l'amiable en famille, avec les voisins
- on a approché les autorités ou institutions
- on a expérimenté de violence a cause de ce conflit
- on a résolu le conflit: il y a eu une décision d'une autorité
- je ne sais pas
- autres

**G7) si autres: spécifier**

---

**G8) Quels autorités ou institutions vous avez approché pour résoudre ce conflit ?**

*(lire options, plusieurs réponses sont possible)*

- les Bashingantahe
- Comité de Paix
- Tribunal de résidence / Grand Instance
- committee des femme
- NGOs / parajuristes
- la police
- l'armée
- Nyumba kumi
- les élus collinaires
- chef de zone
- le chef de commune
- Le bureau des SFC (Services Fonciers Communautaires)
- l'église
- CNTB
- l'état civil
- autres institutions

**G9) Le conflit a-t-il été résolu?**

- oui, je suis content du résultat
- oui, mais je ne suis pas content de ce resultat
- non
- je ne sais pas

**G10) Si le conflit est résolu, qui a pu résoudre ce conflit ?**

*choisir un!*

- Les notables/ Bashingantahe
- Comité de Paix
- tribunal de résidence / de grans instance
- committee des femme
- NGOs / parajuristes
- la police
- l'armée
- le chef de colline
- le chef de commune
- les services foncier du gouvernement
- l'église
- le CNTB
- autres institutions

**commentaires finales**

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