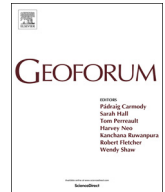




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Intricate links: Displacement, ethno-political conflict, and claim-making to land in Burundi

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ABSTRACT

This paper explores claim-making to land in Burundi, where civil war and multiple waves of displacement and return have resulted in complex disputes over land. Zooming in on two different regions, the paper shows that, as people articulate their claims and defend their interests in land disputes, they strategically draw on a diversity of arguments, related to legal categories, notions of belonging and citizenship, social categories derived from (land) policy, but also victimhood, security concerns, and political loyalty. Post-peace agreement land policies play an important role in this, as they instrumentalise war-based categories of identity and victimhood, privileging certain groups of displaced people for political purposes. As we show in two case studies, claim-making tactics follow shifting political discourses and policy changes, as people seek to secure the support of (powerful) allies. A perspective on processes of making claims to land allows us to explore the entanglements between multiple waves of displacement, policy implementation and the instrumentalisation of identities in conflict-affected settings.

1. Introduction

With a demographic pressure of over 350 inhabitants per square kilometre, and more than 90% of the population involved in subsistence farming, land constitutes a key determinant of local livelihoods, social status, identity and belonging in Burundi. Post-independence ethno-political turmoil, violence, and displacement have contributed to widespread tenure insecurity and land disputes (International Crisis Group, 2003; Kohlhagen, 2012; Purdeková, 2016; Sinarinzi and Nisabwe, 1999; Zeender and McCallin, 2013). This paper focuses on claim-making to land in settings where multiple waves of (forced) displacement and (partial) return have led to overlapping, competing claims that lead to tensions and animosity at the local level. Drawing on land dispute cases in two displacement-affected rural provinces in Burundi, this paper illustrates how social actors make, support and legitimise claims to land, and the different frames of reference around property and belonging they engage. It shows that, as people articulate their claims and defend their interests in land disputes, they strategically draw on ethno-political identity categories shaped by the war, and give new salience to these. We show that post-peace agreement land policies play a role in these processes as they instrumentalise war-based

categories of identity and victimhood, privileging certain groups of displaced people for political purposes.

A focus on processes of claim-making to land allows us to explore the entanglements between multiple waves of displacement, policy implementation and the instrumentalisation of identities in conflict-affected settings. In situations of competing claims, people may exploit a diversity of arguments, related to local conventions and legal categories, belonging and citizenship, social categories derived from (land) policy, but also victimhood, security concerns, and political loyalty. As we will show in the cases, claim-making tactics follow shifting political discourses and policy changes, as people seek to secure the support of (powerful) allies.

Data for this paper were collected in rural areas in Makamba province in the south, and Ngozi province in the north of Burundi, between June 2013 and November 2014. Both areas exhibit different historical trajectories of conflict-induced displacement and land disputes that continue to pose great challenges to peace-building and political stability. Makamba experienced a high influx of Hutu returnees from Tanzania between 2002 and 2012 who found their lands, which they left behind since their departure in the early 1970s, largely occupied by Tutsi migrants. In Ngozi, settlements of internally displaced people

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(IDP) of Tutsi origin continue to occupy land that is also claimed by other people who consider the IDPs no longer have the right to stay. Dynamics in these two regions provide insights into the linkages between long-term situations of conflict, displacement and return, contested land occupation, and the emergence of different claim-making repertoires. In both cases, competing claims become embedded in larger dynamics of ethno-political conflict. Most Hutu 1972-returnees in Makamba found support for their claims with the national land commission, created in 2006 to deal with displacement and war-related land issues. This posed a severe threat to the Tutsi occupants of their former properties who feared dispossession and a loss of relative safety. In Ngozi, long-term Tutsi IDPs resisted government calls to return to their pre-war settlements. They were backed by politicians from opposition parties who strategically endorsed their worries about their security. The IDPs unwillingness to vacate the lands fuelled confrontation and instability as their local opponents denounced them as illegitimate settlers and troublemakers.

Field research was of an ethnographic nature, and included 110 extended semi-structured interviews, non-participant observation, focus group discussions, meetings and workshops, and informal conversations. Informants included returnees, IDPs, and land occupants, as well as local and traditional authorities, government officials, and representatives of community-based organisations and of (inter-) national non-governmental organisations.

This paper is structured as follows. The following section presents our approach to exploring processes and challenges of claim-making to land in Burundi. The third section provides a historical background to the case studies, and highlights how different waves of displacement and changes in ethno-political leadership have resulted in multiple and overlapping claims to land at the local level. The fourth section explores processes of claim-making in Nyanza-Lac district in Makamba province and in Ruhororo district¹ in Ngozi province, and shows how land claimants navigate the political landscape, adopting, combining and adapting several arguments to make their claims and oppose others' claims. The conclusion discusses the role and consequences of historical ethno-political cleavages and people's diverse and shifting tactics in claim-making processes, and how these feed into notions of victimhood.

2. Analysing claim-making, displacement, and land disputes in conflict-affected settings

Conflict-related displacement and return processes tend to involve complex contestations over land that are not easily settled (Joireman and Meitzner Yoder, 2016; Kobusingye et al., 2016; Pantuliano, 2009; Tchatchoua-Djomo, 2018), and reveal long-term social and political controversies (de Waardt, 2013; Justin and van Leeuwen, 2016; McEvoy and McConnachie, 2012). Especially when displacement has been long-lasting, returnees often find the land they left behind occupied by people who argue that they also hold legitimate (sometimes even legal) claims. Return processes thus imply that both returnees and the occupants who have settled in their absence must (re-) negotiate their place, access to and control of productive resources, and (re-) organise their livelihoods in a context that differs from the one before their departure (Cassarino, 2004; Eastmond, 2002; Ranger, 1994). Likewise, contestation about land rights may arise when internally displaced people search for a permanent settlement in host territories, rather than return home. In the resulting land disputes people try to legitimise their claims drawing on multiple notions of entitlement: local conventions and legal entitlements, historical rights, and notions of belonging and citizenship. Claim-making in these situations often involves the renegotiation of social identities, but also of the political relations associated with these identities (Amanor, 2001; MacGaffey, 2015; Peters, 2004). People adopt, customise, highlight or downplay

particular attributes, depending on the prevailing situation. In displacement-related land disputes, people often mobilise narratives from their displacement experiences and from the social and political context upon return as they seek to validate their claims (Kobusingye et al., 2016; van Leeuwen, 2010).

Post-conflict scenarios typically involve policies of land and property restitution. Processes of making claims to land are closely tied in with such land-related policies. Categories of legitimate claimants featuring in these policies feed into local strategies and shape local frames of reference. What claims are formally validated, and on what grounds, shape people's perceptions and representations of belonging, victimhood and political subjectivity. In other contexts, it has been shown how actors' ability to manipulate certain identification attributes plays a crucial role in (de-) legitimising individual or collective claims to land and ultimately in determining the outcome of land disputes resolution processes (Justin and van Leeuwen, 2016; Lund and Boone, 2013; Madlingozi, 2010). The validation of certain claims rather than others may become highly politicised, and may provide opportunities for violent mobilisation, as has been illustrated in South Sudan (Hirblinger, 2015; Justin and van Leeuwen, 2016), Rwanda (Hintjens, 2008) and Uganda (Kandel, 2016; Kobusingye et al., 2017).

Policies of land property restitution often prioritise the claims of some groups of people over those of others. This may bring a great sense of uncertainty and resistance among the targeted populations (de Waardt, 2013; Peters, 2004; Unruh and Williams, 2013). Land policies establish and legitimise categories of 'victims' and 'perpetrators', indirectly distinguishing between 'worthy and unworthy citizens' and asserting a logic of suffering and blame upon targeted actors (Madlingozi, 2010; McEvoy and McConnachie, 2012, 2013; Tilly, 2008). Based on these policies, different groups affected by the conflict may advocate for restitution and compensation, and social justice for those 'who endured the most'. As discussed by McEvoy and McConnachie (2012, p. 532), in transitional settings, the controversial notion of the 'innocent victim' may be placed at the apex of a hierarchy of victimhood and therefore may become a symbol around which contested notions of past violence and suffering are constructed and reproduced.

We argue in this paper that the entrenchment of identity categories in repatriation and land restitution policies needs to be problematised. As we will see in the cases of Makamba and Ngozi, the strategic role of the central government in favouring some claims at the expense of others, based on a hierarchy of victimhood, has contributed to complex land disputes in which different categories of refugees and displaced people articulate competing claims to land. Competing claims, as to which actors are formally legitimised as 'genuine owners' on (pre-war) land, involve controversies over representations of belonging and victimhood. Individuals and groups strategically mobilise specific identity-related repertoires, political discourses and displacement trajectories to articulate and defend their claims, which further complicates the resolution of the land disputes concerned.

3. Ethno-political conflict, land and forced displacement in Burundi

The continuous and complex interplay between contestation around land, ethnic identity, political violence, and long-term displacement and return processes in Burundi needs to be placed in historical perspective. During the German and Belgian colonial periods (1888–1962), fluid and dynamic relations between Hutu and Tutsi ethnic groups were solidified and institutionalised, and became more polarised (Chrétien, 1997, 2002; Ndarishikanye, 1998; Oketch and Polzer, 2002). Colonialism also radically transformed the Burundian rural economy, which was based on subsistence farming and the transfer of agricultural produce and livestock within a discriminatory system of patronage, into a centralised and export-oriented agrarian economy. The production of export crops became an important source of revenue for the (post-

¹ Part of this case study appears in a different form in Tchatchoua-Djomo (2018).

independence) elites, while unequal access to and control over land occurred largely along ethnic identity lines (Ndarishikanye, 1998; Oketch and Polzer, 2002; Uvin, 1999).

After independence in 1962, princely lineages factionalised, and rivalry evolved between Tutsi and Hutu elites in relation to political leadership, power and control over the country's resources. This ultimately led to the rise of a new Tutsi political and military elite not affiliated with the clans related to the monarchy, commonly known as the Bururi group/lobby (Ndarishikanye, 1998, 1999; Oketch and Polzer, 2002). In 1966, after only a few months as the Burundian Prime Minister, Captain Michel Micombero, a native of Tutsi origin from Bururi province, overthrew the King and became the president of the first of three successive military regimes. The imposition of new administrative structures and territorial divisions (Oketch and Polzer, 2002), and the increase in the cadastral fees for registering land rights led to growing grievances and grudges at the local level. The parallel 'Tutsification' (Oketch and Polzer, 2002, p. 96; Prunier, 1994, p. 4) of the army and the single political party, the *Union pour le Progrès National* (UPRONA), and the persecution of Hutu political leaders accused of plotting a failed coup forced many Hutu elites to migrate to Zaire and Tanzania.

In 1972 a group of exiled Hutu insurgents killed about 2000–3000 military officers, local administrative authorities and civilians of Tutsi origin in Nyanza-Lac and Rumonge, two districts in Makamba and Bururi² provinces respectively (Oketch and Polzer, 2002). This uprising resulted in severe retaliation by the armed forces and the youth branch of the UPRONA in the southern provinces of Burundi, resulting in the death of an estimated 200,000 people. About 300,000 Hutu people went into exile (International Crisis Group, 1999). In the following decades, the ruling elite developed a social, political and economic system that almost totally excluded Hutus (Uvin, 2009). Since then, the return of these refugees and the restitution of their properties turned into a highly controversial issue. Many of the lands and other properties of the 1972 Hutu casualties and refugees have been redistributed to Tutsi and Hutu civilians affiliated with the ruling UPRONA party (Ndarishikanye, 1998, 1999). In this period, the majority of Hutus got excluded from social, political and economic power (Uvin, 2009). While the regimes of Michel Micombero (1966–1976) and Jean-Baptiste Bagaza (1976–1987) officially invited the 1972 Hutu refugees to return and regain ownership of their land, ongoing (ethnic) violence and political persecution did not encourage such return. Moreover, rather than facilitating the return of the exiles, policies and laws effectively legitimised and formalised acquisitions of land previously belonging to the refugees (Bigirimana, 2013a; International Crisis Group, 2003; Sinarinzi and Nisabwe, 1999; Tchatchoua-Djomo, 2018), thereby strengthening Hutu self-identification as victims (Daley, 2006; Lemarchand, 1994).

Between 1973 and 1991, many Hutu refugees in Rwanda and Tanzania gathered within the *Parti pour la Libération du Peuple Hutu* and its armed wing, the *Forces Nationales de Libération* (PALIPEHUTU-FNL). They organised several incursions into Burundi to chase away the new occupants of their land and to fight the government, but were always repelled by the Tutsi-dominated armed forces and militias. It was only until 1988, when skirmishes between Hutu and Tutsi in northern Burundi resulted in mass killings by the military that the international community intervened and pressured the regime for reforms and a transition to a multiparty democracy (Daley, 2006; Oketch and Polzer, 2002). This led to the formal recognition of the mainly Hutu party *Front pour la Démocratie au Burundi* (FRODEBU), the return of nearly 40,000 Hutu refugees, and the organisation of elections in 1993 (International Crisis Group, 1999).

² At the time of the fieldwork, Rumonge was still a district (or *commune*) of Bururi province. In March 2015, prior to the presidential election, Rumonge was upgraded to a province of Burundi.

The issue of the restitution of the land to the 1972 Hutu refugees was a core theme in the political campaigns of the FRODEBU and UPRONA. Hence, the 1993 electoral victory of the FRODEBU and its President, Melchior Ndadaye, resulted in widespread fears among the Tutsi population of losing the lands and properties that formerly belonged to the 1972-refugees (Kamungi et al., 2005; Sinarinzi and Nisabwe, 1999). Some observers have suggested that these fears were actually one of the main triggers for the outbreak of violence that followed the coup d'état and assassination of President Ndadaye a few months after the elections (International Crisis Group, 2003; Kamungi et al., 2005). These events evolved into a civil war that has cost nearly 250,000 lives (Oketch and Polzer, 2002). Next to the Burundian army, major fighting forces were PALIPEHUTU-FNL and the armed wing of the *Conseil National pour la Défense de la Démocratie*, the *Forces pour la Défense de la Démocratie* (CNDD-FDD), a 1994 split-off by hardliners of FRODEBU, led by Pierre Nkurunziza.

The civil war generated new waves of refugees to neighbouring countries, as well as an unprecedented internal displacement, and again reshuffled land occupation. Many Hutus, including the 1972-returnees of the early 1990s, were forced into exile again. Many Tutsi people fled from their home hills to resettle in IDPs camps close to local administration offices, and under the protection of the national army. In total, the civil war resulted in more than a million refugees and IDPs (Chrétien, 2002; International Crisis Group, 1999).

In the first ten years of the new millennium, relative security and peace gradually returned with the signing of the Arusha Peace Agreement (APA) in 2000, a cease-fire agreement with the CNDD-FDD in 2003, the election of Pierre Nkurunziza as the new President in 2005, and cease-fire agreements with and demobilisation of the PALIPEHUTU-FNL since 2006. In this period, most refugees and IDPs returned to their home hills. Yet, there were important differences in the extent to which returnees managed to reclaim their pre-war lands. The majority of Tutsi refugees and displaced of the civil war returned early and managed to recover their landholdings through local arrangements sanctioned by hill chiefs and traditional elders (*Bashingantahe*) or through arbitration by the judicial authorities. In contrast, most of the 1972 Hutu refugees returned relatively late, and found their houses and land occupied either by government officials, army or police officers, civilians from other regions of the country, or by early returnees (International Crisis Group, 2003). As stipulated in the 2000 APA, the houses, land and other properties of refugees and IDPs held before the conflicts should be returned, or the pre-war land owners should receive due compensation from the state, either in cash or in the form of another vacant piece of land. However, very little funds were available to the state to make any compensation possible. It should be noted that several returnees managed to reach informal compromises themselves with land occupants, and agreed to share the land. Yet, in a great number of cases, the restitution of their pre-war lands to the 1972-returnees was highly contested by the occupants, after nearly four decades of absence of the original owners. Many occupants considered themselves to have legitimate rights to these lands, having bought them from others, or having put them to value through their labour and investments, e.g. by planting perennial crops.

While many IDPs agreed to return to their pre-war landholdings, thereby enabling the original occupants to retrieve their land, in several localities IDPs were reluctant to go home. In 2011, for instance, there were still 78,800 IDPs in 120 IDP settlements across Burundi, 40% of which were located in the northern provinces (Zeender and McCallin, 2013). During the civil war, despite ongoing violence, many displaced had managed to continue cultivating their land, under protection of the national army (APDH & Global Rights, 2005). This situation also enabled some IDPs to encroach upon the lands left by the refugees, and to legalise these acquisitions (Bigirimana, 2013a, 2013b).

The opportunities and constraints to recuperating former properties need to be understood in the context of ongoing political developments. Initially, power-sharing principles and ethnic quota – among others that

every central and decentralised government structures should include 60% Hutu and 40% Tutsi – stipulated by the 2000 Arusha Peace Agreement and the 2005 Constitution defused ethnicity-based politics (Lemarchand, 2006; Reyntjens, 2005). However, since the electoral victory of President Pierre Nkurunziza in 2005, the state has become increasingly authoritarian, and seen to favour those well-connected to the CNDD-FDD (Vandeginste, 2015). This has consequences for the ways in which the government deals with local land claims in the aftermath of the 2000 APA. For instance, one of the core commitments of the peace agreement was to establish a national land commission. The *Commission Nationale des Terres et autres Biens* (CNTB) was therefore created under the Nkurunziza government (2005–present) with the mission and power to enforce restitution policies and settle displacement-related land disputes. However, the CNTB has become controversial due to its connections with political leadership and the partiality of its judgements. Land policy analysts have noted that the CNTB has come to privilege the claims of Hutu returnees at the expense of the claims of occupants, without providing resettlement or compensation to the latter (Bigirimana, 2013a; International Crisis Group, 2014). These different dynamics are reflected in the land dispute cases from the provinces of Makamba and Ngozi discussed in the following section.

4. Land disputes and claim-making in practice

4.1. Returnees' land disputes in Nyanza-Lac district, Makamba province

'If we consider land disputes, it is only those who have fled in 1972 who are considered as *rapatriés* [returnees] by state authorities; and those are the ones that get back their land plots. And those who fled in 1993 are not considered as *rapatriés*. For example, I fled in 1997 and returned in 2003. Hence, [...] I am not considered as a *rapatrié*, but as a *résidant* [occupant]. I am involved in a land dispute against a former refugee who went into exile in 1972 [...]. A *résidant* is identified as a person who fled any other year than 1972, who was displaced within the country, or who never left the country. When the CNTB officials come to listen to land claimants, they ask when people left the country. If you reply you left in 1993, you directly become an occupant, according to them... If you fled in 1993, but have occupied the land of a person who fled in 1972, the land will automatically be returned to the person who fled in 1972.'³

The interviewee, Denis, a Tutsi farmer born in the late 1950s, was angry and nervous during the interview from which this quote was taken. Land disputes involving former refugees in Nyanza-Lac are complex and, as evidenced in several interviews, sensitive. Denis' account of the land disputes in which his family is involved (as are many other Burundians) illustrates the complex local reality of competing claims and the predicament experienced by different parties in land disputes. Denis made the above comment as he assessed the current dilemmas and tensions generated by the radical shifts, which occurred when the CNTB changed its policy on the restitution of (pre-war) land and other possessions claimed by refugees returning to the south of Burundi after nearly four decades of absence. Many Hutu civilians had left Nyanza-Lac district due to the 1972 outbreak of violence and went into exile. In the years thereafter, a great number of families, mainly of Tutsi origin, from other provinces and districts responded to the invitation of the UPRONA central and local governments to repopulate the area and revive agricultural production. The official discourse in the 1970s was that the Hutu refugees had turned down the invitation of the UPRONA-led governments to voluntarily return to their home communities.

Nyanza-Lac is located in the Imbo plain, which comprises the most fertile land of the country. Its soil is suitable for growing oil palms, an

important source of income to the local households. Moreover, thanks to its proximity to the Tanzanian border and growing transnational markets, Nyanza-Lac is a strategic location, which offers good economic prospects. Like many others, Denis' parents took advantage of the situation and responded to government appeals in the 1970s and 1980s to resettle in this area, migrating from their place of origin to Nyanza-Lac district, where local authorities assigned them landholdings. These land transfers were formalised through occupancy attestations given out by the local authorities after the payment of a symbolic sum of money representing the administrative fees, but not the real value of the land.

The boundaries of pre-existing landholdings gradually disappeared in favour of new reconfigurations as the repopulation progressed. After a few years of occupation, many of the new occupants sold their properties in their places of origin in order to extend their landholding and local businesses in Nyanza-Lac. Gradually, some refugees started to return. Some of them were able to reclaim their previous landholding from former neighbours or family members who had occupied their land in their absence. Others managed to reclaim only part of their land and had no other choice than to accept sharing arrangements enabled by local authorities (Sinarinzi and Nisabwe, 1999). At the time, most returning refugees were hesitant to contest this land sharing, fearing to be suspected of opposing the regime, or even to be identified as 'insurgents', and being chased away.⁴ Others could not reclaim their properties, as the new occupants had bought them from the first post-1972 occupants.

The situation became even more complicated as the region was targeted for the development of oil palm plantations under President Jean-Baptiste Bagaza's government. The 1986 Land Code facilitated that most expropriations of lands of the 1972 Hutu refugees were legalised, and nearly 5000 ha of land in Nyanza-Lac and Rumonge districts were redeveloped for improved oil palm production. Existing plantations were reconfigured, land redistribution was imposed upon local farmers, causing grievances as many smallholders received back smaller plots and were not compensated (Sinarinzi and Nisabwe, 1999; Tchatchoua Djomo, 2014). These transformations sparked new land disputes between post-1972 occupants and the OHP (*Office de l'Huile de Palme*, the government agency responsible for the oil palm development scheme) and between returning refugees and OHP, and further complicated contestation between returning refugees and different groups of post-1972 occupants (see also van Leeuwen, 2010).

The years that followed the 1993 outbreak of violence were chaotic. Many former 1972-refugees and post-1972 occupants were displaced inside or outside the country. New people occupied their land. Early returnees infringed upon others' properties, and some displaced people moved back and forth to maintain and/or (re-) claim access to land in Nyanza-Lac. This required careful navigation. For example, in some places young adults of the community of 1972 Hutu refugees in Tanzania would temporarily return to check on their (grand) fathers' land, but they had to disguise themselves, operate furtively, or adjust their way of talking to avoid being identified or accused of being 'insurgents' by local partisans of the UPRONA party.⁵ They would visit informants recommended by their parents to show them their former family property during the night-time.

Denis and his family also fled in the 1990s. After nearly five years of exile in Tanzania, they returned to Burundi in 2003. Their prior ownership rights were recognised and they easily regained possession of their oil palm and food crop plantations. In 2008, however, a family that had fled in 1972 returned and claimed Denis' family land, turning to the local hill authorities in the first place. By that time, the CNTB had come to play an important role in settling land disputes involving displaced populations. Under the leadership of Abbot Aster Kana, its first

³ Interview, Denis (anonymous name), Makamba, 11 June 2014.

⁴ Interview, former 1972-refugee, Hutu, Nyanza-Lac, 12 February 2014.

⁵ Interview, former 1972-refugee, Hutu, Nyanza-Lac, 12 February 2014.

chairman (2006–2010), the CNTB had been in favour of land-sharing arrangements between the opponents in land disputes. Although the CNTB legal guidelines aligned with the 2000 APA recommendations for the restitution of land, housing and properties of refugees and displaced, the CNTB leadership considered that in many cases both the occupants and the returnees held legitimate rights, while no land was available to compensate *bona fide* occupants if they were to be sent away. In most actual cases, claimants were inclined to (at least temporarily) accept such sharing arrangements facilitated by hill authorities and traditional elders. For the majority of interviewees, these decisions were motivated by their need to access and provide a shelter for their large families and dependents. Earlier field research in Rumonge showed how many returnees thought that current occupants could not be blamed for the acts of their parents in the 1970s, while occupants also pointed to the unfairness of legislation that acknowledged persons as rightful owners if they had cultivated plots for more than 30 years (Kohlhagen, 2010; van Leeuwen, 2010). This was the case between Denis's family and the former 1972-refugees family.

Following the death of Abbot Aster Kana, leadership of the CNTB moved to Monseigneur Serapion Bombanani (2011–2015), and the enforcement of the CNTB policy turned from favouring land-sharing arrangements to full restitution to the 1972-returnees. This shift, which implied the eviction of any post-1972 occupants regardless of previous legal reforms and their displacement trajectories, was popularised in the media and backed by powerful political leaders from the ruling party. This represents a particular interpretation of the 2000 APA, the reference policy document in the enforcement of the housing, land and property restitution. While the 2000 APA stipulates that all people affected by previous conflict are entitled to the restitution of their housing, land and property, it does not mention which specific periods of conflict are considered. Further, the 2000 APA is ambiguous about which people are actually *affected* by conflicts. It highlights six 'conflict-affected' social categories in relation to (forced) displacement and land dispossession, and (post-conflict) land and property restitution, namely: refugees (*réfugiés*), repatriates (*rapatriés*), displaced (*déplacés*), regrouped (*regroupés*), dispersed (*dispersés*) and occupants (*résidents*).⁶ The first five categories are roughly clustered under the exclusive term *sinistrés* that could be translated into 'war victims'. This category of 'war victims' is considered in opposition to the category of 'occupants'. In this sense, occupants supposedly include people who infringed upon the land rights of 'war victims'. This ambiguity allows for self-interpretation and manipulation, and has the potential to reactivate unresolved issues.

Since 2010, the CNTB leadership tends to consider the category of former 1972-refugees as the 'legitimate and genuine war victims', thereby polarising the debate, as this interpretation prioritises one group of claimants over others.⁷ On many occasions, the CNTB chairman accused the post-1972 occupants of being illegal settlers, loyal to and condoned by the former Tutsi and UPRONA dominated regimes, who should voluntarily or by force return to the lands they occupied before migrating to Nyanza-Lac. From 2011 onwards, the CNTB leadership enforced the cancellation of previous land sharing arrangements, granting land rights to the 1972-returnees, arguing that the former CNTB leadership and administration had misunderstood and misinterpreted the 2000 APA guidelines. Unsurprisingly, an increasing number of former 1972-refugees—including the returnees' family claiming the land on which Denis' family have settled—seized the opportunity to bypass local authorities and to introduce new claims directly to the CNTB officers. But this preference for arbitration by CNTB officers is not the result of mere opportunism. It could be explained partially by a notion shared among many 1972-refugees that, in this way, injustices from the past were corrected. This notion was also

promoted by the CNDD-FDD regime. As a growing proportion of CNTB staff was pro-Hutu partisans and local hill authorities were excluded from mediating land disputes involving returnees, the authority and legitimacy of the CNTB among the 1972-returnees' community increased,⁸ as did their confidence in getting their claims acknowledged.

Many post-1972 occupants, however, continued to challenge the decisions of the CNTB officers at the communal level, and resorted to its central office and other higher-level institutions (whenever possible) in the capital city. Most occupants interviewed pointed out that after all their ownership had been sanctioned by the previous UPRONA regimes. Besides, they considered themselves to be legitimate owners for having increased the value of the land through their labour and investments in the establishment of oil palm farms and small-scale processing units. In the case of Denis, after losing his case against the 1972-returnees' family at the communal level, he filed an appeal against the decision of the CNTB communal officers at the CNTB central office. In his appeal, Denis emphasised that his family had originally relocated to Nyanza-Lac out of poverty and famine, that he was a legitimate land occupant, that he had no other place to relocate in case of eviction, and that he was in fact falling within the official category of *sinistrés*, as he had been forced to go into exile because of the civil war in 1993. Therefore, he believed he deserved the same rights to remain on the land as the 1972-refugees. By the end of the fieldwork period, the CNTB authorities had not yet issued a decision on Denis' case, nor for many similar cases in Nyanza-Lac.

On the ground, the situation became increasingly tense and volatile. Many 1972-returnees claimed to be genuine war victims, and thus legitimate owners of the disputed land. They have come to identify themselves as *Abahungutse* or *Yuweni*—the degeneration of the acronym 'UN'—to highlight that they had received humanitarian aid from UN-agencies during the conflicts, which to them implied that their victimhood had been recognised internationally. Such self-identification allows them to invalidate the claims of anyone who settled in the area from 1972 onwards, identifying those as illegitimate settlers that should return the land and everything found on it (houses, oil palms, food crops). The 1972-returnees often label occupants as *Abasangwa* (singular *Umusangwa*), which means 'those who have been found here or those who reside here', regardless of their experiences and trajectories during the conflict. Usually, the 1972-returnees mistrust local hill authorities of Tutsi background when they conduct local (land) dispute mediation. They accuse them of partiality and favouring the interests of fellow occupants in local land arrangements. Such local beliefs were sustained by similar allegations from the CNTB against local hill authorities in Nyanza-Lac, and an official statement to exclude them from formally participating in the resolution of disputes involving returnees.⁹

Tutsi occupants, on the other hand, have a different perspective on the legitimacy of the land claims of 1972-returnees. Some Tutsi occupants label the returnees as *Sabini* or *Abasabini* (Swahili) meaning 'those of seventy'; or *Abarinindwi na kabiri* (Kirundi), which means 'those of seventy-two'. The implicit meaning of these labels is that the 1972-returnees participated in the insurgency against the Micombero regime or even in the atrocities against the Tutsis in April 1972. Most Tutsi occupants interviewed positioned themselves as obedient citizens who had taken the risk of leaving their home communities and giving up their customary entitlements to duly make the vacant and bushy land in Nyanza-Lac productive. To some extent, they perceived continuity between the return of refugees and their favouring by the CNTB, which to them revealed a (hidden) political agenda to dispossess and impoverish them. Such sentiments are reflected in this following statement from Anna, a widow of Tutsi origin, born in the early 1930s, who originates

⁶ Government of Burundi, Arusha Agreement for Peace and Reconciliation in Burundi (2000), pp. 22, 85, 119.

⁷ Interviews, CNTB chairman, Bujumbura, 20 June 2014, 10 November 2014.

⁸ An analysis of the politics of the CNTB operations is provided in another paper by the authors (forthcoming).

⁹ Interviews, local hill chief, post-1972 occupants, *Bashingantahe's* spokesman, 07 January 2014; local leader, 26 February 2014.

from the neighbouring district of Vugizo in Makamba, who came to Nyanza-lac in the 1970s, and was internally displaced during the 1972 and 1993 conflicts:

‘Returnees are bad persons: “*Uko bagiye niko bagarutse*” [Kirundi, meaning “they are still as they were before leaving”]. These people, before they left, they killed people. And now they come back, they expel people from their land, saying that these plots belong to them. They even manage to lie that they are the ones who exploited the land while they had left nothing. Moreover, they claim large areas that did not belong to them, land that is occupied by many households. What I dislike is that the authorities in charge of solving such conflicts do not even investigate such claims before issuing their judgements. They attribute land plots to returnees that do not belong to them or expel the occupants in favour of the returnees. There are people who know the truth but they are not consulted. Their testimonies are not taken into consideration because they want to give the contested land to returnees anyway.’¹⁰

Because of their Hutu ethnic background and the political circumstances surrounding their exile, occupants consider 1972-returnees as ethnically biased and loyal to the CNDD-FDD by definition. For this reason, they often consider Hutu repatriates as spies of the ruling political party, even though there is no evidence to support such allegations. In localities where 1972-returnees were elected into the hill councils in the 2010 local elections, they are portrayed as profiting from their new social status, privileges and political connections to support their own land claims and favour those of fellow 1972-returnees when mediating local land disputes. Such perceptions created tensions and competition around land dispute mediation also within local hill councils.

The case of land disputes in Nyanza-Lac district illustrates how ethno-political antagonisms and shifting local and national power relations have come to play an important role in claim-making around land of different social groups. While the 2000 APA addressed the claims of both returnees and displaced, it provided little guidance for cases in which both claimants held legitimate rights. In the communities, this resulted in some compromises, based on local understandings of what was fair and possible. A national context of successful de-ethnicising political competition (see Vandeginste, 2015) was also favourable to local compromising. The recent reframing and manipulation of categories of victimhood by CNTB and the state has polarised and fuelled claim-making strategies in ethno-political terms.

4.2. The land dispute in Ruhororo IDP settlement, Ngozi province

Despite the 2000 APA recommendation that war victims should return to the territories they occupied before the conflict, in the northern provinces of Burundi, a large number of Tutsi IDPs continue to reside in IDP settlements. They resist the closure of these settlements, in which the Pierre Buyoya government (1996–2002) initially installed them in order to guarantee their protection during the civil war. The Ruhororo camp in Ruhororo district is one of these settlements. It comprises over 9500 people distributed over 2300 households. As mentioned in earlier sections, during the civil war, many IDPs managed to maintain regular access to their family land for farming and this continues until today. When the civil war ended, competing claims on the land on which the IDP camp is located started to emerge, as neighbouring communities and local government urged the displaced persons to return to their communities of origin, but the displaced resisted doing so. This has resulted in a complex conflict, which eventually got highly politicised.

Some people from neighbouring communities claim that the camp infringes upon their lands, whereas the local district authorities claim

that this land was owned and lent out to the displaced populations by the former local administration. Although the IDPs interviewed recognised that the land they occupied belonged to the state and to the neighbouring communities, so far they have refused to return to their communities of origin, which are located in the same province. The IDPs argue that their communities of origin are still not safe, despite the end of the civil war. For instance, when asked why he did not return to his home village, one interviewee answered:

‘This question is difficult to answer. But in a few words: we want to stay here because we do not feel safe in our hills of origin. What happened in 1993 could happen again; who knows? Even in 1993, we did not see the war coming; it hit us like that. We want to stay here, that’s all.’¹¹

Such fears and concerns for safety resulting from personal experiences and shared memories of violence during the civil war are reflected in claims by IDPs to keep Ruhororo camp in operation. Yet, neighbouring communities were less and less convinced by this argument about insecurity. Between 2009 and 2014, a number of violent confrontations took place between IDPs and neighbouring communities.¹² In 2009, a group of households neighbouring the Ruhororo camp, labelled by the IDPs we interviewed as Hutus and as belonging to the so-called ‘Kayanza family’,¹³ tried to evict some IDP households located at the border of the camp, claiming that the houses of these IDPs were located on their land. Actually, members of the ‘Kayanza family’ do not belong to the same lineage, but instead comprise several households originating from Kayanza, a province neighbouring Ngozi to the west. It is believed that these households migrated into Ruhororo district after being forced to relocate from Kayanza province during the civil war. Anyhow, Kayanza is one of the most populated provinces of Burundi and has for long suffered from hunger and a decline in agricultural production caused by growing political instability and violence, and it already experienced substantial outmigration since the 1980s. The ‘Kayanza family’ in Ruhororo district might therefore fall within the category ‘dispersed’ described in the 2000 APA policy document. Their interests in fostering claims on the IDPs land could thus be interpreted as opportunistic behaviour, in the sense that, in the understanding of most IDPs, they did not ‘belong’ to the area initially. Furthermore, the fact that they are identified in these terms by the IDPs could also be attributed to their (presumed) affiliation with the CNDD-FDD, which has been very popular in Kayanza province during the civil war and its aftermath.

In response to the eviction notice from members of the ‘Kayanza family’, IDPs leaders requested proof of their claim of original ownership. When the members of the ‘Kayanza family’ failed to provide such proof, the IDPs leaders brought the land dispute to the attention of the district authorities and provincial CNTB officers. However, as indicated by the IDPs interviewed, these authorities undertook no action to sort out the ownership claims. In the media, IDP leaders and political leaders from the opposition parties alleged that the CNTB administration, the communal and provincial government and police failed to legitimise their claims in this case, because they were biased.¹⁴ IDPs

¹¹ Interview, Maurice (anonymous name), youth IDP, Ruhororo, Ngozi, 08 July 2014. See also Iwacu, ‘Ruhororo: “On ne rentre pas tant que la CVR n’est pas là”’, 05 May 2013, < <http://www.iwacu-burundi.org/ruhororo-on-ne-rentre-pas-tant-que-la-cvr-nest-pas-l/> > (18 February 2018).

¹² Other violent events continue to be reported in this area by local media and civil society organisations. For analytical purposes, we choose to limit our observations to the end of the fieldwork in Burundi.

¹³ Interview, Maurice.

¹⁴ Iwacu, ‘Site Ruhororo: bras de fer engagé entre la CNTB et les déplacés’, 04 May 2012, < <http://www.iwacu-burundi.org/site-ruhororo-bras-de-fer-engage-entre-la-cntb-et-les-dplacs-2/> > (08 August 2016). Burundi MegaInfo, ‘Burundi : Ruhororo sous tension: l’administration, la CNTB, Bonaventure Niyoyankana cités’, 18 May 2013, <https://burundi-megainfo.blogspot.ca/2013/05/burundi-ruhororo-sous-tension.html> (18 February 2018). Interviews, IDPs, Ruhororo, 8 July 2014.

¹⁰ Interview, Anna (anonymous name), Nyanza-Lac, 24 July 2014.

interviewed pointed out that, despite constitutional requirements for ethnic and political proportionality in government administration,¹⁵ the majority of CNTB officials, the provincial governor and its counsellors, and the heads of the provincial and communal police forces were mainly Hutus (with only a few Tutsis) appointed from within the ruling party (OAG, 2003). Moreover, they accused some of these authorities of mobilising local youth supporters of the CNDD-FDD to infiltrate and attack the IDP camps.

While initially the CNTB was not very much involved in the resettlement of IDPs, since 2012, the institution began to address IDP-related land disputes more directly. Like in the case of Nyanza-Lac, the CNTB's reinterpretation of the categories of '*sinistrés*' enshrined in the 2000 APA policy guidelines contributed to shifting the land dispute in Ruhororo District into the political arena. On 18 April 2012, the CNTB chairman addressed the IDPs of Ruhororo in a public gathering, urging them to leave the IDP settlement and to return to their villages of origin; otherwise, they would be evicted by force. He emphasised that this would happen irrespective of support they might receive from the first vice-president's office.¹⁶ The governor of Ngozi complemented the speech by the CNTB chairman, emphasising that the 'local people' claiming part of the land – i.e. the 'Kayanza family' – should be restored in their rights, whereas the state authorities should recover full control over the land that was lent to the IDPs during the civil war. Later, in response to these speeches and the accusation by the CNTB chairman of political interference, in a newspaper article, the UPRONA president discussed and underlined the vulnerability of the Tutsi IDPs and how their relocation to their home areas presented a threat to their security. He reiterated the need to bring to justice 'the people responsible for the murders of Tutsi civilians' during the civil war. Further, he pointed to the predisposition of the Hutu CNTB chairman towards the 'Kayanza family'.¹⁷

In this highly sensitive political context, the conflict between the 'Kayanza family' and the IDPs escalated into open violence. On the night of 4 November 2012, members of the 'Kayanza family' armed with guns, machetes and clubs entered the IDP settlement, and destroyed four houses. Despite the presence of a police post near the IDP camp, the shouts of IDPs failed to attract the attention of the police officers. From that event, most IDPs deduced that the 'Kayanza family' might have allies within the local government and the police forces. A few days later, youth IDPs armed with machetes, clubs and stones attacked the 'Kayanza family' settlement, destroyed five houses and severely injured civilians. This violence compelled the district and provincial administrative authorities, the police and the army to intervene. Many IDP youths were arrested while others temporarily hid outside the IDP settlement. In response to these events, the governor of Ngozi appointed a commission to reflect on the conflict and propose a durable solution. At that point, grudges against the local government were running high, however, and resulted in grenade attacks on some members of this local commission. In response, police arrested several IDP youths, and a major clash occurred when youths armed with clubs, machetes and stones tried to prevent the police from entering the IDPs camp. From a dispute between the residents of the IDP settlement and those claiming the land on which it was located, the land conflict turned into a political conflict, not just involving IDPs and other community members, but state officials, politicians and even civil society activists at different levels.

¹⁵ The 18 March 2005 Constitution, Art. 129, 143, 164 and 168; The handbook of administrative and financial procedures of communes, section II.1.1.

¹⁶ At that time, according to the 2005 Constitutional principle of power sharing and ethnic proportionality in main government structures, a Tutsi representative from UPRONA automatically held the position of first vice-president. See also Marc Niyonkuru, '*Bras de fer entre déplacés et la CNTB sur le retour vers leurs collines d'avant 1993*', 19 April 2012, *Isanganiro*, < <http://www.isanganiro.org/spip.php?article1457> > (18 February 2018).

¹⁷ Iwacu, '*Site Ruhororo: bras de fer engagé entre la CNTB et les déplacés*', 04 May 2012, < <http://www.iwacu-burundi.org/site-ruhoro-bras-de-fer-engage-entre-la-cntb-et-les-dplacs-2/> > (08 August 2016).

In the month following these events, more than fifty IDPs were arrested and put into prison. Most IDPs that were employed in government refrained from going to their offices for fear of being arrested. The independent national commission for human rights got involved and requested President Nkurunziza to denounce the IDPs' arrests and to plead for their release. Yet, district and provincial authorities alleged that UPRONA leaders were responsible for the unrest caused by the IDPs from Ruhororo, whereas IDPs claimed that local government authorities were responsible for the escalation in the land dispute. The situation intensified further as many IDPs insisted they would not consider leaving the IDP settlement as long as transitional justice institutions have not rendered their judgements on the crimes committed during the past civil war.¹⁸

At the end of fieldwork, the conflict about the land of Ruhororo camp had transformed into a complex political battle that remained unresolved. One interviewee explained the 'deadlock' that had come about as follows:

'It is in the interest of Tutsi political leaders that the displaced remain in IDP settlements, to be able to find them gathered at the time of electoral campaigning. They are easy votes to win. These politicians manipulate these IDPs so that they remain in the camps. They are told that if they go back to their hills, they will be killed [by Hutu and political opponents who took part in the previous civil war]. They are told that if they remain in the camps they will be protected. These discourses are not openly made. These are national political issues. Locally, there are cases where leaders are organising the youth of the ruling party to attack the youth in the IDP settlements. In Ruhororo it is even worse. [...] There are political leaders who [try to] raise resentment around past grudges. There are attacks [...] Political opposition leaders [in their turn] use these to manipulate others IDPs. It is chaos...' ¹⁹

The case of the conflict about land in Ruhororo IDP camp illustrates how claims on land build on different registers, rapidly shifting from arguments on the need for restitution, on prior land ownership, and the need for safety, to political antagonism. This shift seems related to the opportunistic behaviour of the so-called 'Kayanza family', as well as a changing political climate. The promotion of CNTB of a particular interpretation of peace agreement guidelines on the restitution of properties to displaced and refugees, provided opportunities to reframe land claims in ethnic terms and enable political manipulation and violence. Finally, the appropriation of this dispute in national political debate instigated yet another register of claim-making. From a local dispute over land, the wish of IDPs to remain in the Ruhororo camp developed into a paradigmatic example that politicians used to strengthen their support basis, by variously interpreting the motives behind IDPs claims. This evolving 'alliance' between local groups claiming land and powerful political actors, however, turned against the IDPs and their claims to land (van Leeuwen and van der Haar, 2016). The involvement of national politicians nurtured local, negative perceptions about the IDPs and the role of government officials, and local understanding of displacement-related land disputes as new manifestations of ethno-political struggle.

5. Displacement, identity and claim-making: Conclusion

The two cases of displacement-related disputes over land in Makamba and Ngozi provide critical elements for understanding the complexity of contestations in conflict-affected settings. The cases show the different and changing repertoires that people use when claiming

¹⁸ See Iwacu, '*Ruhororo: "On ne rentre pas tant que la CVR n'est pas là!"*', 05 May 2013, < <http://www.iwacu-burundi.org/ruhoro-on-ne-rentre-pas-tant-que-la-cvr-nest-pas-l/> > (18 February 2018).

¹⁹ Interview, representative of a peace organisation, Ngozi, 14 May 2014.

land, related to local conventions and legal categories, belonging and citizenship, social categories derived from (land) policy, and security concerns. In particular, the cases underline the instrumentalisation of identity-related arguments and perceptions of victimhood and 'justice' in the process of making claims to land. Although the 2000 APA recommended that former refugees and IDPs should recover their land rights, or be compensated if they could not repossess their pre-war land, the situation on the ground is more complex, as different groups hold claims to the same land and restitution to some would imply dispossession of others.

The policy of restitution has complicated rather than resolved local disputes. As we demonstrate, it also shapes the repertoires used by different actors in claim-making processes, increasingly highlighting ethnic and political identities, and victimhood. While displacement-induced land disputes are increasingly framed as being between returnees, displaced and non-displaced, the situation in Nyanza-Lac and Ruhororo reveals that such disputes may also develop between different categories of 'victims' and so-called 'perpetrators', resulting from consecutive waves of displacement and return. The boundaries between those categories are ambiguous, and these categories are purposefully reframed and mobilised by opponents in ongoing disputes over land, who all claim victimhood and the need for justice regarding past experiences of displacement and dispossession. Likewise, local perceptions about refugees and displaced people may differ from the formal categories depending on personal experiences, competing claims on contested land, and the perceived causes of displacement and land occupation. Whereas restitution policies assume pre-defined categories of returnees, our cases show that such policies in turn are productive of identity categories and reshape local negotiations over entitlement and belonging. The interpretation and manipulation of victimhood by powerful political and institutional actors in relation to displacement-related claims in Nyanza-Lac and Ruhororo districts have constructed sharp lines between the 1972 returnees and other claimants, and between Tutsi IDPs and other claimants respectively. While the 2000 APA gives the state and the CNTB the authority to regulate displacement-related claims over land in rural areas, it does not clarify how competing and overlapping claims should be addressed.

Where competing claims are politically sanctioned, connections are made in social imagination between ethnic identity and political loyalty: between Tutsi displaced (in Makamba and Ngozi) and previous UPRONA governments, on the one hand, and among the 1972-Hutu returnees, the 'Kayanza family', the CNTB and the CNDD-FDD government, on the other hand. CNTB actors, most government authorities and Hutu civilians reproduce and consolidate an image of displaced Hutu as lawful 'war victims' and legitimate claimants; and of Tutsi displaced as illegitimate settlers and encroachers on the properties of Hutu displaced. They perceive Tutsi displaced as crucial agents of an ongoing (and now disclosed) UPRONA agenda to deprive Hutu displaced from their land rights. In contrast, the Tutsi displaced and UPRONA political leaders identify Hutu displaced as accomplices in the violence against Tutsi people during past conflicts, while they view themselves as victims of a (hidden) political agenda of the current CNDD-FDD government to marginalise them and to dispossess them of their legitimate rights to land and safety through favouring the claims of Hutu displaced.

As we have shown, competing claims over land in the framework of the restitution policy harness ethno-political oppositions. In the process, the role of institutions in charge of land dispute resolution becomes politicised. This seems to compromise their ability to accommodate conflicting interests, to settle land disputes in a durable manner, and to craft solutions that are acceptable to both sides. Instead, the ways in which restitution policies address these competing claims might play a critical role in the continuation of instability within local communities, as they bring national level ethno-political conflict to bear on local land disputes.

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