Scientific Research Publishing

Open Journal of Social Sciences, 2024, 12, 42-65
https://www.scirp.org/journal/jss
ISSN Online: 2327-5960
ISSN Print: 2327-5952

Between the Institution of the Notables and That of the Bashingantahe: Conflict or Complementarity in the Service of the Independence of Local Justice in Burundi

Prime Niyongabo

Doctoral School, University of Burundi, Bujumbura, Burundi
Email: pniyongabof@gmail.com, isinda1986@gmail.com

How to cite this paper: Niyongabo, P. (2024). Between the Institution of the Notables and That of the Bashingantahe: Conflict or Complementarity in the Service of the Independence of Local Justice in Burundi. *Open Journal of Social Sciences, 12,* 42-65.
https://doi.org/10.4236/jss.2024.123005

Received: January 8, 2024
Accepted: March 10, 2024
Published: March 13, 2024

Abstract

The question of the rights and freedoms respect of every person is always raised in all corners of the world. It is best dealt with in legislation that emphasizes human rights principles. The latter is, among other things, guaranteed by justice, a keystone in the prevention and repression of the violation of human rights. To achieve this, the justice institution must be independent and accessible, especially for the local population. At the base of the judiciary power, Burundi has always had traditional conflict resolution mechanisms. This article highlights the complementary role that the institution of the Council of Notables and the Bashingantahe institution must play in promoting the independence of local justice in Burundi.

Keywords

Notable, Bashingantahe, Judicial Independence, Local and Trust Justice, Burundi

1. Introduction

Although international human rights instruments (Deschutter, Tulkens, & Van Drooghnebroeck, 2005) began to echo the general principle of the right to an effective remedy before the courts around 1948, the question of the administration of justice is as old as the hills. Indeed, all societies in the world in general, and African societies in particular, have always had respectful people who are the guarantors of social order, peace, justice, and harmony (Niyongabo & Sindayigaya, 2023; Sindayigaya, 2023b). In some civilizations, these people have gradu-

ally come to occupy a special place because of their mission and, above all, their values. In Burundian tradition, these people have sometimes been called notables, a generic term found in other civilizations, and sometimes Bashingantahe, a cultural term specific to Burundi that refers to conciliators (Deslaurier, 2003; Nindorera, 1998). Burundian justice has been dealt with the Bashinantahe value that was used to peacekeeping and conflict resolution (Cadinot, 2021; Ingelaere & Kohlhagen, 2012).

This article looks at the relationship between these two institutions, analyzing the role each can play in promoting the independence of local justice.

As well as reading the various documents relating to the subject, we paid particular attention to the points of view of some of those involved in local justice.

The demarcation between the institution of the notables and that of the Bashingantahe is not automatic, as little research has been done on the institution of the notables as such, whereas the institution of the Bashingantahe remains one of Burundi's prestigious institutions with a rich history of failures and successes. This is what Charles de Lespinay emphasizes when he states: "while certain customary jurisdictions and procedures may inspire new judicial structures, a typically Burundian institution that often recurs in debates cannot be classified in one power rather than another: it transcends them" (De Lespinay & Mworoha, 2000: p. 187).

What is indisputable is nothing less than the place of these two institutions, which were the same during some periods of Burundi's history and different during others, in guaranteeing local justice. Local justice has always been one of the priorities of Burundian President Evariste Ndayishimiye. According to the study carried out by RCN Justice & Démocratie in 2006, local justice is made up of all the conflict-regulation mechanisms to which litigants can have recourse in their immediate environment (RCN Justice & Démocratie, 2006: p. 11). When speaking of local justice, some might think of the geographical aspect alone, but the point of view of Pierre Vincke, former director of RCN Justice & Démocratie, is clear. He points out that local justice is often understood as "access to justice", rather than proximity between institutions and citizens in the sense of a bond of trust, awareness, temporality, and place (RCN Justice & Démocratie, 2006: p. 8).

No one is unaware of the advantages that litigants can enjoy when judicial services are close to them, but beyond the distances involved, there is one aspect that must be taken into consideration if the population is really to enjoy a fair trial. This is when the administration of justice is good, which is impossible if the latter is not independent, a sine qua non if it is to attract the confidence of the population (Jonya et al., 2024; Nyabenda & Sindayigaya, 2024; Sindayigaya, 2024). Legal specialists are unanimous: according to Charles de Lespinay, from a judicial point of view, "justice (...) must absolutely be brought closer, geographically and morally, to the litigant, so that the latter knows both that it is easy to act and prompt to investigate, arbitrate and punish" (De Lespinay & Mworoha, 2000: p. 187).

This point of view suggests that the concept of community justice is valid at all levels of the justice system, but in this paper, particular emphasis will be placed on justice delivered at the grassroots level, i.e. at the hill or district level, and to a lesser extent at the level of the court of residence. This level is of interest to more than one author. The Observatoire de l'Action Gouvernementale (OAG) has pointed out that talk of local justice brings to mind, on the one hand, residential courts, at least in the formal justice system, and, on the other, informal conflict resolution mechanisms, in particular the Bashingantahe and the Hill or Neighborhood Council, as well as, to a lesser extent, the Family Council (OAG, 2007: p. 2).

This contribution aims to analyze the factors that justify the ups and downs that have characterized the institution of the notables and that of the Bashingantahe, the links between the two and their place in the promotion of the independence of justice, to provide relevant proposals for establishing community justice in Burundi. As the foundation is the keystone of any construction, the choice of this basic level is not a matter of chance. In the above-mentioned analysis, the OAG (2007) points out that when local justice is well delivered, it contributes to social peace, national reconciliation, and good governance, whereas when it malfunctions, the entire justice system suffers and social peace is compromised.

2. Methodology

We used documentary technique in data collection which consists of consulting works that have focused on this topic of the works related to justice systems, justice courts, and juridical procedures. We proceeded with the exegetic method in data analysis, which consists of interpreting legal texts collected with the documentary method. Once we had gathered the relevant information, we had to turn to a comparative method.

Throughout this paper, the Zotero tool has been used in reference and biography.

3. Results

Results show that activities realized by notables appear as a customary conflict resolution mechanisms in whole Africa considering the contours of the concept of notable and its links with that of the Bashingantahe, the notable from other corners of the world and in regard to the success factors in the role played by notables/Bashingantahe. Results confirm the institution of notables/Bashingantahe coveted by the Burundian politician existed since the Monarchical regime and was used as a pillar of the kingdom power even during the colonial period and due over it till Republic period. The social crises that have plunged Burundi into mourning showed a blow to the Bashingantahe institution by the time and the solution was that Burundi needs to implement rebirth of the Bashingantahe institution with external help in its rehabilitation referring to its enshrinement in

modern Burundian law. Otherwise, the abolition of the Council of notables in Burundian law on local justice witnessed a negative impact of which the solution is to promulgate the law to innovate it what is the Act No. 1/03 of January 23, 2021, supplementing the provisions of the Code of Civil Procedure relating to the reinstatement of the Council of Hill Notables determining the Bashingantahe institution' attributions, the composition of the Board and Seat and their role.

4. Discussion

4.1. Customary Conflict Resolution Mechanisms in Africa

As in all human societies, conflict resolution mechanisms have existed in Africa since time immemorial. Traditional African societies relied heavily on the palaver as a mode of governance or management of public affairs. According to Diangitukwa (2014), the African palaver is the traditional gathering place where citizens freely express themselves about life in society, village problems, politics, and the future. This place was therefore a school par excellence, as children and even adults took great advantage of it to learn how to listen, question, and settle disputes by imitating the traditional elders in their mission as guarantors of customary justice.

In Nigeria, for example, according to the Constitution, customary courts are considered an integral part of the state judiciary with jurisdiction to hear personal and family matters, including marriages, divorces, guardianship and custody of children, inheritance as well as land and commercial transactions (United Nations, 2016: p. 36). In sub-Saharan Africa, in general, people in need of justice and seeking to assert their rights first try to reach an agreement in the privacy of the family sphere before resorting, possibly, to a mediator (Niyongabo & Sindayigaya, 2023).

In the Kidepo valley between Uganda and Sudan, traditional leaders and elders have long played a key role in resolving frequent community conflicts. This is what Ofuho (1999) affirmed in his article prepared for the African conference on the principles of conflict resolution and reconciliation, when he spoke of conciliation meetings: "But for such meetings to bear fruit, the role of what may be called opinion leaders and council of elders is crucial" (Brock-Utne, 2001: p. 3). Researchers Saidi Alo-I-Bya Sango and Nelson Bya'ene Esongo have carried out investigations on the Babembe, Bafuliiru and Bahavu peoples in the Democratic Republic of Congo, formerly Zaire, in the south-eastern part of the country close to Burundi and Rwanda, where traditional methods of conflict resolution have been set up. These modes are known as Lubunga, i.e. the hut where people gather to discuss social issues, including palavers among the Babembe and Bafuliiru, and Ngombe among the Bahavu and Bashi (Muchukiwa Rukakiza, Bishweka Cimenesa, & Kapapa Masonga, 2015: p. 18).

This Ngombe reflects the same reality as the aforementioned Lubunga. The Bashi and Bahavu organized a council known as Ihano led by the sages (Muchukiwa Rukakiza, Bishweka Cimenesa, & Kapapa Masonga, 2015: p. 19). To put an

end to persistent conflict, they encouraged a voluntary agreement (Bunvikane) or blood pact (Cihango) between clans. To ward off conflict and perpetuate peace, parents gave their children the names Bafunyembaka, Mufungizi, Ntambaka, etc. (Muchukiwa Rukakiza, Bishweka Cimenesa, & Kapapa Masonga, 2015: p. 18). Blood pacts and anthroponymy are common practices among the Babembe, Bafuliiru, Bavira and Bahavu (Muchukiwa Rukakiza, Bishweka Cimenesa, & Kapapa Masonga, 2015: p. 20). Speaking of the use of Bashingantahe in Burundi, Kohlhagen indicates that it represented 80% in 2008 (Kohlhagen, 2011: p. 12). Moreover, since the adoption of the 2005 Code of Judicial Organization and Jurisdiction, judgments in matters of unregistered land ownership in rural areas are enforced by judges of the Tribunaux de Résidence assisted by a court clerk, with the assistance of Notables or Bashingantahe (article 178).

In Rwanda, in the neighboring territory of Burundi with a similar culture and tradition, a renowned customary institution whose aim was the search for truth to reconcile disputing parties by dealing with minor local civil and criminal disputes (land, grazing, family, contracts, etc.) is known as gacaca (De Lespinay & Mworoha, 2000: p. 198). Initially, Gacaca was a family or interfamily institution made up of men only, like the Bashingantahe institution in Burundi. Bakunda (2007: p. 2) points out that, originally, Gacaca was considered a popular jurisdiction made up of village assemblies at which the wise men decided disputes while seated on the grass. Despite this traditional conception of the Gacaca institution, as part of the repression of the genocide committed in Rwanda and as part of the reconciliation of Rwandans, Gacaca has changed form.

In his article entitled "Les juridictions Gacaca et la poursuite des présumés auteurs du génocide et des crimes contre l'humanité au Rwanda", Stef Vandeginste points out that Gacaca will be called upon to apply the law and written law, in particular the penal code and the organic law in question, whereas traditionally, the decision of a Gacaca should not necessarily conform to written law (Vandeginste, 1999: p. 12). For Professor Charles Ntampaka, the former family court has become a new body, neither traditional nor state-run, linked to the basic unit (hill) that manages social relations, thus becoming an ad hoc administrative jurisdiction under the direction of those in charge of the administrative unit or administrative sector (De Lespinay & Mworoha, 2000: p. 192). However, after the genocide of 1993, the Rwandan government, realizing its inability to try all the defendants, preferred to transform the Gacaca into a national popular jurisdiction (judges elected by the population) to rule on certain crimes and misdemeanors relating to crimes against humanity, and this time the Gacaca comprised four levels: hill gacaca, commune gacaca, prefecture gacaca with a gacaca jurisdictions department at the supreme court (De Lespinay & Mworoha, 2000: p. 232).

Throughout sub-Saharan Africa, the cult of the palaver tree as the place par excellence for peaceful conflict resolution through dialogue and reconciliation was widespread (Mianzema, 2004: p. 136). Even in West Africa, justice was dispensed by traditional chiefs through the conciliation process, because in lineage

societies such as the Diola in Senegal, where one could not speak of judicial organization per se, justice was ensured by a joint decision of the lineages concerned (Nambo, 2002: p. 5). In Cameroon, the Arrêté of October 9, 1925, sets out the establishment of the Council of notables as a new colonial institution implemented by Commissaire Théodore Paul Marchand (Tchoungui Oyono, 2018). The change in question was aimed at establishing an institution loyal to the colonizers, who were unsure of being able to subject the indigenous chiefs to their policies. Thus, the institution of notables, whose work was similar to that of parliamentarians, was intended to annihilate the power of these indigenous chiefs, who represented a threat and could greatly limit the scope of French influence thanks to their power founded on legitimate customary bases (Tchoungui Oyono, 2018).

The situation is similar in South Africa, where the Traditional Leadership and Governance Framework Act, passed in 2003, legitimized traditional leaders and ordered the state to support them (United Nations, 2016: p. 31).

Generally speaking, researchers point out that most other Central African societies also lacked figures comparable to the Bashingantahe. The main reference there was custom, i.e. "ways of doing", and not, as in Burundi, habitus, a "way of being" (Pohu & Klimis, 2013).

4.2. The Contours of the Concept of Notable and Its Links with that of the Bashingantahe

In much of the research carried out on Burundian tradition, only the term Abashingantahe has received much attention due to its cultural character. Abashingantahe (Umushingantahe in the singular), comes from the verb gushinga (to plant, fix, establish) and the noun Intahe (spectrum of wisdom) (Manirakiza, 2005). Speaking, this concept means those who pronounce the law, i.e. who settle disputes. While the authors see the Ubushingantahe concept in a similar light, translating it into other languages is no easy task. For his part, Dominik Kohlhagen points out that translating the term bushingantahe raises several difficulties (Kohlhagen, 2010: p. 3). Christine Deslaurier notes that "it is difficult to find an appropriate French translation of the term bushingantahe, which covers moral, cultural, social and legal dimensions for which there is no real equivalent, even in neighboring countries" (Deslaurier, 2003: p. 401).

Charles de Lespinay points out that "bushingantahe is an example of a legal term that cannot be translated [...] into simple terms or French legal language, as [the concept] remains foreign to our culture" (De Lespinay, 2003: p. 58).

This researcher's point of view speaks for itself and is similar to that of many analysts. It is in this sense that jurist Gacuko (2012) recalls that traditional judicial organization in Burundi was pyramidal, with the councils of notables or tribunal du Tertre, intahe yo kumugina, at the base (De Lespinay, 2003: p. 105).

According to this researcher, the Council of Notables is a rough translation of the Bashingantahe Council, which François Nyamoya has described as a hill

court (Nyamoya, 1990: p. 19). The point of view expressed above is much closer to that of other researchers, despite the difference in specialization. According to linguist Philippe Ntahombaye, bushingantahe is a quality of a well-rounded personality, with a high sense of honor, a man of moderation and measure, experience and wisdom, self-control and social compromise, who uses fair and measured expression (Ntahombaye, Ntabona, Gahama, & Kagabo, 1999: p. 14). These qualities, on which this researcher insists, testify to the exceptional character of a true Mushingantahe. According to Professor Ntabona (1985), the noun Intahe in this context as elsewhere, is used in a metonymic and symbolic sense to mean Ingingo (equity, justice). This researcher adds that it comes from the verb gutaha, to return things to where they should be. This brings to mind the principle of Roman law: "res clamat ad dominium" everything claims its master, and consequently, according to this researcher, Umushingantahe means the man of justice and equity (Umuntu w'ingingo) (Ntabona, 1985: p. 2).

This traditional and cultural figure of the Bashingantahe was difficult to acquire. Ntabona does not hesitate to say that to be a true Mushingantahe is to reach a certain pinnacle of Ubuntu/Humanity, for this author makes it known that a Mushingantahe was a living landmark and the pole of reference of Ubuntu/Humanity, sought after as an ideal of life in Burundi: a guardian of the ecology of morals and ecology in general (Ntabona, 2020: p. 129).

This Ubushinngantahe cultural model was passed down from generation to generation, but despite the ups and downs, the characteristic values and mode of operation remained unchanged. Indeed, historian Gahama (1983: p. 300) speaks of an institution unique of its kind in interlacustrine Africa, dating back to the earliest days of kingship and admitting only men of integrity whose conduct was beyond reproach. Joseph Ntamahungiro, who describes a Mushingantahe as an extraordinary person, also shares this view. In the study commissioned by RCN Justice & Démocratie in 2002, it was concluded that the Conseil des notables de la Colline was an offshoot of the Bashingantahe institution (RCN Justice & Democratie, 2002: p. 10).

From all the research carried out in Burundi, one thing is certain: there is little talk of notables, despite the close links this term shares with the concept of Ubushingantahe, to such an extent that some authors are unable to establish the exact boundaries between the two. While the Bashingantahe were to be found at all levels of the traditional judicial system, the council of notables was made up of the Bashingantahe who sat on the hill to say that these notables were recruited from among the Bashingantahe of the hill. In common parlance, despite different considerations in different eras, confusion has arisen between the concept of Abagabo, a man (as opposed to a woman in the common sense), and that of Abashingantahe. Nevertheless, in Burundian tradition, Abagabo is synonymous with Bashingantahe. There are many examples, but these two proverbs speak for themselves: *Umwami agirwa n'Abagabo* and *Kananira Abagabo ntiyimye* translated respectively as there is no king without Bashingantahe and the king cannot

be enthroned without the agreement of the Bashingantahe. This raises the question of the contours of the notion of the Bashingantahe.

Zénon Manirakiza gives us a definition taken from RODEGEM's Dictionnaire Rundi-Français, where the term Umushingantahe is translated as "magistrate, notable, advisor, arbitrator, assessor, judge. One who is vested with judicial authority and who has the wand (intahe), insignia of his authority" (Manirakiza, 2005). If this concept has been sufficiently analyzed by Burundian anthropologists, they are not the only ones to be surprised by the values embodied by a notable Mushingantahe. Political scientist Julien Nimubona sums up this specificity when he writes that "the Ubushingantahe label applies less to a physical person than to an anthropological and sociological concept. It evokes both a belief in the superiority and transcendence of social values, an object (the Mushingantahe) and a practice (the function of embodying and living values or of settling conflicts and advising in the name of wisdom)" (Nimubona, 1998: p. 282).

Despite all this debate, law No. 1/023 of January 23, 2021, supplementing the provisions of the code of civil procedure relating to the reinstatement of the Council of Hill Notables indicates that the members of the Council of Hill or District notables bear the title of: Abahuza bo ku mutumba cake bo muri karitiye to mean hill or district conciliators (article 1), a major innovation as this law makes no mention of Bashingantahe or Bagabo.

4.3. The Notable from Other Corners of the World

Depending on the culture and civilization, a concept may have a slightly different meaning. This rule applies to the concept of "notable", even though it has almost identical representations in all civilizations. In West Africa, researcher Yonaba (1997) has reported that during the colonial period, the justice system in force in Burkina Faso and other neighboring colonies was a family-type justice system, i.e. a judicial organization in which justice was dispensed by a family delegation or council of notables recognized as being qualified to settle disputes (on account of their age, wisdom, knowledge of tradition).

In France, for example, a notable has an immeasurable place alongside other authorities such as prefects. It's in this sense that Worms Jean-Pierre (Jean-Pierre, 1966) rightly notes that while the image of the prefect appears abstract, due to his remoteness that of the notable is concrete, almost physical (Sabiraguha et al., 2023; Sindayigaya, 2020, 2023a, 2023b).

As Burundian anthropologists understand it, the notable is known for his values, and Worms Jean-Pierre points out that the concept of notable evokes a character, a behavior, a style. This author also adds that the presence accorded to him is that of stoutness (the double meaning of the expression: "he's an important gentleman"), with emphasis on gesture, speech, and dress (Jean-Pierre, 1966: p. 6).

So, functionally speaking, it's clear that the Umushingantahe concept is closely linked to that of the notable, with a mission to advise and arbitrate, underlin-

ing their role in dispute resolution. This shows that there is no reason to confuse the qualities of this French notable with those of a Mushingantahe.

4.4. Success Factors in the Role Played by Notables/Bashingantahe

The Bashinganathe's mission was a demanding one. Success undoubtedly stemmed from their values, which made them worthy and rigorously attached to their obligations and responsibilities. These obligations were moral, social, and political, as Susan Muchiri, Jacqueline Murekasenge, and Serges Claver Nzisabira have pointed out (Twikirize & Spitzer, 2019: p. 197). Some analysts claim that the Bashingantahe distinguished themselves from ordinary citizens by their character. They were the image and symbol of people of dignity and integrity with a high sense of responsibility. Deslaurier (2003), who sees the Bashingantahe as a popular counterweight to the potential excesses of the political authorities, notes that the Bushingantahe enjoyed its golden age before the arrival of the colonizers. These values are no accident, as they are virtues courageously acquired as a Mushingantahe candidate had to undergo training sessions to earn his place in society.

Despite the complexity of his mission, the true Mushingantahe was at ease in its accomplishment thanks to his solid competence and his strategy for settling disputes. It should be pointed out that the Bashingantahe were better suited to the task, as they dealt with the problems of those around them, which currently coincides with the philosophy of community justice.

Zénon Nicayenzi specifies that Mushingantahe means a man who derives his responsibility, not from an administratively attributed power, but from his very being, from his quality of life, which society wanted to recognize in his person by conferring an investiture (Deslaurier, 2003: pp. 76-79). As can be seen, Burundi is an exception, since the legitimacy and decision of the mushingantahe was based solely on the quality of the mushingantahe. With this in mind, Kohlhagen emphasized that, in all likelihood, the quality of those pronouncing the law took precedence over its normative content—a fundamental difference from European-inspired law, where, conversely, it is the norm that determines the judge's action (Kohlhagen, 2010: p. 83). Worms Jean-Pierre also supports this view when he describes the notable as having "solid common sense", the "popular wisdom" that makes up for a lack of competence, and all the rustic qualities that the prefect recognizes in the notable (Jean-Pierre, 1996: p. 10).

4.5. The Institution of Notables/Bashingantahe Coveted by the Burundian Politician

The Bashingantahe institution has always been regarded in all circles for its influence on the life of the country. Since the monarchical period, it has been an institution that has never ceased to be solicited by politicians, until its intervention was legally recognized. Vandeginste (2009) points out that before and after

independence, the institution was weakened for political reasons, sometimes annihilated and oppressed, and sometimes instrumentalized and recuperated, notably under the one-party regime.

4.5.1. The Bashingantahe Institution and Monarchical Power

The monarchical period in Burundi, as elsewhere, has always been considered a time of reign by a true father of the nation "SEBARUNDI", even if abuses of power could not be ruled out. However, the particularity of this period lies in the unanimous recognition of the authority of the Bashingantahe, who was at the same time well-organized, exemplary, and independent judges, advisors, and ambassadors. Some analysts point to the strength and bravery of the Bashingantahe even in the face of the highest authorities, where the council of notables did not hesitate to speak out against the king's position. It was A. Nsanze who reported a case in Mbuye, in the center of the country, where King Mwezi was confronted by a certain Murima (a neighbor of King Mwezi). After the latter protested, the matter was referred to the king, who wanted to expel him from the land. MURIMA fled to Vyamo (Mwezi's mother) and asked to be heard by the council of notables. After listening to both sides, the council ruled in Murima's favor (RCN Justice & Démocratie, 2002: p. 12).

This decision by the notables reflects their sense of justice and independence, which was based solely on their personality. The latter was built on the values of a true Mushingantahe, as Burundian tradition also recognizes certain notables who acted according to the will of the prince. As a result, certain decisions or negative attitudes of the Bashingantahe were observed: criminals went unpunished, certain people were mistreated, excluded, or robbed of their property unjustly in full view of the so-called Bashingantahe.

Regarding this inertia, Laurent Kavakure explains that the Bashingantahe had no means of opposing the arbitrariness of power. They had no means of opposing certain injustices committed by the Baganwa (chiefs) and the King, such as kwomora or kwanza (forced exile) or kunyaga (cow raiding) (Kavakure, 2002). Wasn't it this situation, among others, that prompted the colonizer to doubt the uprightness of this institution, which turned a blind eye to the flagrant violation of human rights, and thus began its downfall? Despite this state of affairs, it would not be honest to overlook certain just positions taken by the notables' counsels, who decided in their soul and conscience. With this in mind, Christine Deslaurier reminds us that, in the past, the Bashingantahe were independent of political power, and a large part of the authority and respect they enjoyed derived from their autonomy of action vis-à-vis the rulers (Deslaurier, 2003: p. 11). Testifying to the greatness of the true Bashingantahe despite the fragility of some of them, especially during the crises the country has experienced, Professors Philippe Ntahombaye and Liboire Kagabo affirm that wherever the Bashingantahe have played their role to the full, crises have been avoided or the consequences/damage limited.

4.5.2. The Bashingantahe Institution during the Colonial Period

Before the arrival of the colonialists, all analysts were convinced that the Bashingantahe were the guarantors of justice and social peace. Professor Ntabona points out that these tasks were performed based on cultural codes that were abused by the colonial regime and the post-colonial regimes that succeeded one another in power, leading to a certain partial disempowerment of the institution (Ntabona 2010: p. 134). If this author questions the effectiveness of this institution during this critical period of domination, the focus is on the way its members lost the right to act in conscience and were demoralized to the point of submission. Nindorera (1998) deplores the sudden collapse of Bashingantahe honor following the colonial invasion. In 1917, the colonizer introduced customary courts in order to suppress the institution of the Bashingantahe, and Dominik Kohlhagen reports that at this point, officially recognized justice was reduced to its institutional aspect, and the principles of the Bushingantahe were relegated to the background (Jacques, 1965: p. 4). On the subject of customary law in the colonial situation, Jacques Maquet notes that from the creation of the independent state of Congo (1885) to the end of Belgian tutelage over the territory of Rwanda-Urundi (1962), customs constituted a very important part of the law to be applied by the courts of Congo, Rwanda and Burundi (Jacques, 1965: p. 4). However, between these two periods (in 1926), a decree established a complete judicial organization, the "indigenous jurisdictions", charged exclusively with judging people of customary status, as this author also points out (Jacques, 1965: p. 4). The establishment of statutes was a strategy to gain control over the population, as the colonizer had already noticed that without the collaboration of the native authorities, the occupying power would be absolutely powerless (Nyabenda & Sindayigaya, 2023; Sindayigaya, 2023a; Sindayigaya & Nyabenda, 2022). This is how the white man created a social pyramid, with himself at the top the peasantry at the bottom, and the "evolved" class, auxiliaries to the colonial administration, in the middle (Nsabimana, Bigirumwami, & Rineze, 1994). While the notables were specialists in customary law, the indigenous courts were made up of administrative officials from the district coinciding with the court's jurisdiction, chiefs, or administrators, whether African or European (Jacques, 1965).

With this composition, a question automatically arose concerning the independence of these judges, especially as the setting up of these administrative bodies was in the hands of the colonists, who, we believe, had adopted a means of preparing the legal transition to establish their written law later on (Niyongabo & Sindayigaya, 2023; Sindayigaya, 2023b: p. 817). Rightly or wrongly, this customary justice was directly criticized for its impartial and inhumane character by the colonizer, who did not hesitate to reform judgments in the interest of preserving equitable justice, and practices incompatible with the ideal of "civilization" were simply forbidden (Gahama, 1983: p. 302). Moreover, during the colonial period, apart from the fact that Bashingantahe were humiliated by the chicote like other ordinary citizens, their role was weakened because even inves-

titure was distorted (Sindayigaya, 2020, 2022; Sindayigaya & Hitimana, 2016). Thus, from 1945 onwards, all new civil servants were systematically invested as Bashingantahe (Laely, 1997: p. 3). When the colonial administration and its Burundian auxiliaries began to steer the investiture of the Bashingantahe, the latter automatically lost their values. It is in this sense that Laely reports that the favorites with the political authorities and those who knew how to woo them, including by corrupting them, had privileged access to the Bushinganatahe (Laely, 1997: p. 6).

4.5.3. Bushingantahe and the Republic Period

Except for the Third Republic, the First and Second Republics were characterized by the pre-eminence of the single party, as the President of the Republic was automatically President of UPRONA. Under the First Republic, Bashingantahe investitures were led by the communal administrator and took place as a group in the UPRONA communal palace. Whereas before, ceremonies were opened and closed with the formula: "Long live King Mwambutsa: Tugire Umwami: Long live the King", this time it was: "Long live President Micombero and the peace he has given us: Tugire Amahoro na Micombero yayaduhaye" (Laely, 1992). Under the Second Republic, nothing changed except for the ceremonies (for the investiture of the Bashingantahe), which were forbidden, but with the restructuring of UPRONA, the entire mission of the Bashingantahe reverted to the party committees, which were perceived more as organs of the State than of the community (Laely 1997: p. 7). Only the members of these committees had the right and duty to preside over these legal bodies and to submit a written report to the higher authority, containing proposed solutions and decisions, and, if necessary, to refer the case to it. The Bashingantahe so named were less and less embodying an ideal of virtue and good conduct but were instead identified as sympathizers of the single party (Kohlhagen, 2007).

In 1987, the Third Republic came into being. A new change of regime brought about a turnaround that allowed the Bashingantahe to regain a place in the state judicial system. The Code of Judicial Organization and Jurisdiction promulgated in 1987 conferred on the Bashingantahe the competence to issue a preliminary opinion on most civil cases and the award of damages resulting from certain criminal offenses (Niyongabo & Sindayigaya, 2023). In the years that followed, numerous proposals were put forward to further strengthen the role of the Bashingantahe. As early as the 1990s, with the return to democracy 30 years later (Jonya et al., 2024; Nyabenda & Sindayigaya, 2024), Burundi's constitution promulgated in March 1992 gave pride of place to the institution of the Bashingantahe, specifying that "the election of the commune's governing bodies (communal assembly, communal council, and administrator) shall be based on the Ubushingantahe, outside political party competition" (article 178).

With this historic constitutional provision, Laely (1997) indicates that the institution of the Bashingantahe constituted a form of legal-moral authority whose importance lay primarily at the local level, even if its weight at higher political

levels should not be overlooked. The same Constitution provided for candidates for the presidency of the Republic to be sponsored by a group of two hundred people, and the Kirundi translation of this article, instead of referring to two hundred people (men and women), spoke only of two hundred (Bashingantahe and women) (art. 67).

4.6. The Social Crises that Have Plunged Burundi into Mourning: A Blow to the Bashingantahe Institution

Burundi has been shaken by repeated crises, but the most serious are those that occurred especially after independence, and Joseph Gahama emphasizes three periods (Gahama, 2005: p. 106): the post-independence period, characterized by the assassination of heroes and ethnic cleavages; the second period, from 1965 to the end of the 1980s, saw the institutionalization of one-party military and authoritarian regimes, during which political leaders called on the army and ethnic and regional solidarities to establish and consolidate their powers. Finally, the third period covers the whole of the 1990s and the early 2000s and is characterized by internal conflict. It comes as no surprise to some that since the death of Burundi's independence hero, Prince Louis Rwagasore, the country has been in the throes of a leadership crisis (Ndayisenga & Sindayigaya, 2024a; Nduwimana & Sindayigaya, 2023a; Niyongabo & Sindayigaya, 2023).

Even before, not everything was rosy. Ntamwana (1996) also refutes the propaganda that would have us believe that Burundians lived in harmony before colonization. For him, the assertion that "the Barundi have lived in peace for a very long time" seems false to say the least, since "tragic events as penetrating as the massacres currently taking place in Burundi have punctuated our history". This point of view is to be taken seriously since the praise bestowed on the Bashingantahe by certain authors is motivated solely by their successes at certain moments in history, which is justified. At other times, however, their weaknesses should not be overlooked, to the point of being involved in tragedies such as massacres and the like, willingly or unwillingly. Consequently, analysts have repeatedly pointed out that the impoverishment of society during these crises has meant that the Hill's Council of Notables is no longer the true cream of society, the image of yesteryear: polygamy, the exaggerated obligation of "agatutu", the creation of two blocs at the time of trials, etc. (RCN Justice & Démocratie, 2006: p. 66).

4.7. Towards the Rebirth of the Bashingantahe Institution

Despite the multitude of unfortunate events the country has experienced, a commendable effort to revive the institution of the Bashingantahe could be observed in the political machinery before the crisis of 1993, but it became more pronounced with the peace process begun in 1997, culminating in the signing of the Arusha Agreement for peace and reconciliation in Burundi in 2000. In this agreement, especially in Article 7, two cultural principles and measures were highlighted as solutions to the Burundian conflict. These are the education of the

population, particularly young people, in positive traditional cultural values such as solidarity, mutual aid, forgiveness and mutual tolerance, patriotism, Ibanga (secrecy and a sense of responsibility), Ubupfasoni (dignity or respect for others and oneself) and Ubuntu (humanism and personality), and the rehabilitation of the Ubushingantahe order.

As long ago as 1988, a year, after Major Pierre Buyoya took power following the overthrow of Colonel Jean Baptise Bagaza, the issue of national unity, was front-page news, and according to the regime in power, the only way to ensure peace, security, and development in Burundi was to answer this question. A commission was therefore set up to study the issue in depth, and according to Nindorera (1998), one of its recommendations was to rehabilitate the Bashingantahe institution. Despite criticism that the institution was in cahoots with the powers that be, some Bashingantahe did not fold their arms, and to restore their institution's image, commendable initiatives were launched on all sides, and some results were achieved.

4.8. External Help in Rehabilitating the Bashingantahe Institution

The decision to return to the traditional values of Ubushingantahe to rebuild the country was undoubtedly a wake-up call for the Burundians, but the support of external players was also very decisive.

For some politicians, especially from UPRONA and members of the commission set up to prepare the 1992 constitution, Burundi's entry into a multiparty system could not be based on the multiplication of political parties, but on a return to the institution of the Bashingantahe (Ntamahungiro, 2007: p. 5). Is this not an expression of the political class' fear of losing their positions, which have long been a factor of life and death?

For the opposition in the making at the time, mainly within the FRODEBU party (Front pour la Démocratie du Burundi), it was not a question of favoring the speculation of UPRONA, which was reluctant to embrace a multi-party system, but of joining the movement for a return to democracy to enable citizens to freely choose their leaders. Thus, this party took issue with the rehabilitation of the Bashingantahe institution, not because it disagreed with the principle and importance, but because the approach was tendentious. In 2002, the party declared: "The Bashingantahe order in Burundi today, as in the past, must first and foremost flourish at the terroir (kumugina) level. A movement in the opposite direction, as prevails today, conceals other ambitions". Moreover, as in the days of colonization and the one-party system, during this period of rehabilitation of the Bashingantahe institution, their investiture continued to lose its meaning, as wealth and political influence gradually replaced the traditional values of wisdom and righteousness.

With the accession to power of the CNDD-FDD (Conseil pour la Défense de la Démocratie Forces de Défense de la Démocratie) party in 2005, instead of dwelling on useless reflections and criticisms, according to most of its members, it was time to cut the crap and talk about the Abagabo and not the Bashingan-

tahe. This approach has been adopted, but the party has never ceased to insist on the values of the citizens, to the point of setting up structures and an entire patriotic training program. Despite this divergence, whatever the political tendency, the values of a true mushingantahe have always been held in high esteem by all. This is what motivated the project to rehabilitate the institution of the Bashingantahe and the reinstitution of the Council of Hill Notables shortly afterward. This project was financed by the European Union and the PNUB and led, among other things, to the establishment of Bashingantahe councils at the communal, provincial, and national levels, the investiture of new elders, the drafting of an anthem and a charter, the establishment of a national intahe day and the training of various stakeholders to promote human rights and duties (Deslaurier 2003: p. 3). This council was a beacon of hope for the project's managers, who saw the institution as an order in due form (Ntabona, 2002a: p. 34).

4.9. The Council of Hill Notables and Its Enshrinement in Modern Burundian Law

In the history of Burundi, only the institution of the Bashingantahe is as old as Burundian society itself, and despite the political and social changes that took place in the country before 1987, no initiative was ever taken to have it governed by a legal or regulatory framework. It was therefore a consideration that drew, and continues to draw, its strength from customary law.

Nevertheless, with the evolution of written law, without breaking with the institution of the Bashingantahe, which was fully rooted in Burundian tradition, another institution, that of the hill notables, came into being through law n˚1/004 of January 14, 1987, reforming the code of judicial organization and jurisdiction. Under this law, a Council of Hill Notables was set up throughout the Republic, at the level of the census hill, with responsibility for conciliating parties in dispute. The question of why the legislator at the time opted for the terminology Council of Notables of the Hill and not that of the Bashingantahe also arises here. In practice, however, it was the Bashingantahe who sat on the hill counsels until 2005 (Nsanze, 1980). This date is underscored by the promulgation of law No. 1/08 of March 17, 2005 on the code of judicial organization and jurisdiction and law No. 1/016 of April 20, 2005 on the organization of communal administration, which instituted a hill council distinct from the Bashingantahe council.

On this subject, Kohlhagen (2010) points out that the eviction of the Bashingantahe from positive law, in turn, may have more to do with ideological considerations than with the desire to develop a legal system in tune with social realities. On the other hand, some analysts, such as those who advocate the Bashingantahe institution, see political factors in the retreat of the term Bashingantathe. They see the change in terminology as being dictated by a desire to innovate while criticizing and remembering some of the traces and effects of the traditional institution. Much of the criticism is due to certain Bashingantahe who went astray by behaving in an undignified manner (Ntabona 2002a, 2002b).

However, in practice on the ground, only the invested Bashingantahe was entitled to make up this council of notables, to emphasize that this traditional institution kept its mission until the adoption of law n˚1/08 of March 17, 2005, on the code of judicial organization and competence.

4.10. The Impact of the Abolition of the Council of Notables in Burundian Law on Local Justice

Since the 2005 legislature, which was seen as a new page in the return to democracy after the crises triggered in 1993, the hill elections have led to the establishment of the hill council. According to article 19 of law No. 1/016 of April 20, 2005, on the organization of communal administration, the hill council is supervised by the hill or district chief, who is the driving force behind social peace and development in his district. As for the missions of this hill or district council, the aforementioned law specifies that under the supervision of the hill or district chief, the hill or district council has the following mission (article 37):

1) to determine, in consultation with the Communal Council, the measures and conditions for carrying out development actions and safeguarding social peace on the hill or in the neighborhood;

2) to ensure arbitration, mediation, conciliation, and neighborhood settlement with the Bashingantahe of the entity, on the hill or within the neighborhood;

3) to advise on all matters concerning the hill or neighborhood;

4) to monitor, on behalf of the population, the management of affairs on the hill or in the neighborhood.

In the context of the application of this law, neutral observers in certain parts of the country have not hesitated to point out the problems of collaboration between the elected representatives and the Bashingantahe, to the point of conflict itself, which has disrupted service seekers in certain localities (Jonya et al., 2023). On the other hand, in other areas, especially urban ones, the two institutions ended up collaborating and the elected representatives took the lead, as their powers were recognized by communal law (Ciza & Sindayigaya, 2023; Niyongabo & Sindayigaya, 2023; Toyi & Sindayigaya, 2023). As Dominik Kohlhagen explains, in January 2010, the reform of Burundi's communal law completed an evolution that had been in the pipeline for several years. Traditional Bashingantahe notables, whose role as customary conciliators had previously been recognized by state law, were definitively banned from Burundian legislation at that time (Kohlhagen, 2010: p. 1). Despite amendments to the communal law in 2010, 2014, and 2020, the spirit remained unchanged, as it was not until the law of 2021 that the Council of Hill Notables was reinstated.

4.11. Innovation of Act no. 1/03 of January 23, 2021, Supplementing the Provisions of the Code of Civil Procedure Relating to the Reinstatement of the Council of Hill Notables

On closer analysis, this law only aimed to revive the Hill's Council of Notables.

Nevertheless, a question may arise as to its nature, insofar as the 1987 legislator considered the matter to fall within the scope of judicial organization and jurisdiction, whereas the 2021 legislator considered it to fall within the scope of civil procedure. The confusion stems from the fact that the legislator of 2021 would have liked to combine aspects of judicial organization and procedure, as this new law speaks of both the composition and operation of the council of notables. However, the new law introduces several clarifications and innovations. These include the board's remit, composition and seat, the procedure to be followed, and how members are to be encouraged.

4.11.1. Attributions

Under the 1987 law on the judicial organization and jurisdiction, the Conseil des Notables de la Colline could, among other things, give its opinion on the awarding of damages resulting from an offense, provided that the related civil action fell within the jurisdiction of the court of residence. However, the Conseil des Notables de la Colline will not, under any circumstances, make arrangements relating to repressive judicial jurisdiction (article 211). However, with the 2021 law, the Council of Notables of the Hill is given the task of conciliating the parties when the dispute is not a matter of public order or morality. Under no circumstances may it pronounce on penalties (art. 6). It can also settle a dispute arising from an offense by deciding on the award of damages, provided that the related civil action falls within the jurisdiction of the court of residence (art.5). What's more, whereas the council set up in 1987 could only authorize referral to the court of residence in the event of unjustified failure of one of the parties to appear on two occasions, the 2021 legislator has given the council the power to draw up a report of non-appearance and to give its opinion on the dispute submitted to it (Article 5 paragraph 2).

4.11.2. Composition of the Board and Seat

Under the 1987 law, the composition of the Council of Hill Notables and the procedure followed before it was determined by local custom, subject to compliance with the rules on recusal, professional secrecy, and public order (article 2012). By contrast, under the new law of 2021, the collegiate council is made up of fifteen members elected by the collegiate assembly, who take office only after taking an oath in the terms specified in the law, and before the collegiate assembly. This oath is received by the seat of the court of residence of their jurisdiction, and the seat is composed of a college of at least five members (articles 7 and 8). These members are elected by universal, direct, and secret suffrage. By decree no. 100/188 of July 29, 2021, governing the election of members of the Council of Hill Notables, the first and second members become respectively chairman and vice-chairman of the council, and both choose from among the elected notables a secretary who can read and write (article 12). From our analysis, it is imperative that in the first moments (before thinking about the whole board afterward), all the board's officers have certain abilities, notably those of reading

and writing, because the board's work is always sanctioned by signed minutes (Niyongabo & Sindayigaya, 2023). In this way, it would be foolish to sign a document whose meaning and scope you don't understand (Mpabansi, 2023; Ndericimpaye & Sindayigaya, 2023; Niyongabo & Sindayigaya, 2023).

4.11.3. Encouraging Members

The successful execution of the mission entrusted to any organization depends, among other things, on how its staff are motivated. Of course, motivation can be of several kinds, and the two laws under analysis, while recognizing the free nature of the mandate of the members of the Council of Notables of the Hill, of 2021 emphasize that its members benefit from an incentive, the amount of which is determined by regulation (article 218). This innovation is to be welcomed, even if it needs to be concretized and reinforced by other measures to improve the independence of the members of this council. In particular, the ethics and deontology of council members need to be strengthened, because with unemployment affecting many Burundians, some may seek to join the council of notables to find work and gain access to this incentive, or to benefit in some way from the work of the council of notables (Ntahombaye & Kagabo, 2003).

This is also the view expressed by some analysts after the election of certain members of this council thanks to a campaign similar to the electoral campaign conducted to gain access to political posts (Mpabansi, 2023: p. 283). This communication comes just a few days after the establishment of this institution, but it is already necessary to determine this incentive and why not plan other benefits to motivate its members. This approach could reduce bribe demands by some conciliators and compensate for the time they devote to conciliation (Nduwimana & Sindayigaya, 2023a, 2023b). This proposal is dictated by the fact that this institution risks being considered as "suis generis" insofar as its operation is particular. It is an auxiliary body of justice, like the 1987 law, but it differs in certain respects, notably in that its members are elected and sworn in by the court of residence while working in much the same way as the Bashingantahe institution (Ndayisenga & Sindayigaya, 2024a, 2024b; Nduwimana & Sindayigaya, 2023a, 2023b; Sindayigaya, 2023b).

4.11.4. Force of the Decision of the Council of Hill Notables

Under the provisions of article 216 of the above-mentioned 1987 law, the court is not bound by the settlement proposed by the Council of Notables of the Hill, except to verify the value of the parties' statements and witnesses' testimony (Niyongabo & Sindayigaya, 2023; Nyabenda & Sindayigaya, 2023; Sindayigaya & Nyabenda, 2022). The arrangement of the Council of Notables of the Hill is not res judicata and cannot be enforced by compulsory execution (article 217). In contrast, under the 2021 Act, subject to consent defects, the parties' agreement is homologated, at the request of one of the parties, by the court of residence in their jurisdiction (article 12). The agreement reached and approved at the end of the conciliation procedure becomes enforceable and has the value of a final

judgment. Enforcement is carried out by the notables who took part in the conciliation, in the presence of the parties and witnesses (article 13). The court is not bound by the opinion of the Council of Notables, but reasons are given for rejecting the council's opinion (article 16). This reasoning reflects the consideration given by the Law of 2021 to the decision taken by the Council of Notables (Ouguergouz, 2006; Sindayigaya & Hitimana, 2016). Despite the innovations of this law and the decree of 2021, which have been slow to be applied because the council of notables was set up more than a year after the promulgation of the law and the signing of the decree relating to it, we believe that accompanying measures will follow their implementation, especially in terms of capacity building for this council as soon as it is set up (Bududira, 1995).

5. Conclusion

Since man is a social being, there is no need to demonstrate that he is and will be in conflict with his fellow man, but the important thing is for this conflict to be resolved peacefully and correctly. This is only possible when there are competent and dignified bodies to conduct the proceedings fairly. As far as possible, these bodies should be close to the people they are intended to help so that they can enjoy their rights without getting tired of them. This is in line with the philosophy of local justice, a fundamental characteristic of which is the trust that people have in it. Since time immemorial, all over the world and particularly in Africa, neighbor disputes have been settled by traditional elders, and in Burundi, the role of conciliator has been played by the Bashingantahe, whom analysts have often confused with traditional notables at one time and distinguished from them at another. The instrumentalization and manipulation of these stakeholders in social justice have led to the loss of their sacrosanct values of wisdom, righteousness, and protector of all. These flaws are eloquent signs of the loss of independence that has led to their downfall, caused by their discredit.

Following the consensus on the importance of the values that should characterize these players in social justice, despite the ups and downs, there have been efforts to rehabilitate these institutions, culminating in the establishment of the Council of Hill Notables as an auxiliary of justice called upon to collaborate with the court of residence. This initiative, which dates back to 1987, when the Bashingantahe were confused with the hill notables, was abolished in 2005, when only the hill notables were recognized as conciliators, but was resurrected in 2021. This time, despite the persistence of some criticism and concern, the conflicts between the Bashingantahe and elected officials observed in certain localities from 2005 onwards have been put aside, as conciliators are freely elected by the population based on values such as a sense of truth, justice, good morality, honor, responsibility, neutrality, impartiality, empathy, community good and the abandonment of personal gain.

Even if the effective application of this new law is slow in coming, its spirit is in line with the wishes of neutral analysts who, appreciating the role of the Bu-

rundian conciliator in general, have long wished for its rehabilitation, not as this or that institution but as its spirit. Nevertheless, the nature of this law may be confusing to jurists, insofar as it forms part of the Code of Civil Procedure. Given that its purpose was to re-establish a body capable of conciliating litigants at the Community level, it was necessary, according to our analysis, to adopt it as a complement to the Code of Judicial Organization and Jurisdiction. In this way, the intention of the 1987 legislator who introduced it among the auxiliary institutions of justice would have been maintained, and this body would have able to relieve the congestion of the courts of residence, which suffer from a notorious shortage of magistrates, as many of them have only five to six magistrates.

For the law's objective to be truly achieved, it remains essential to prepare and supervise these conciliators by educating all Burundians in their noble mission, starting with young people and those involved in the legal system, with particular attention to magistrates, the guarantors of the independence of local justice. It is this education that will nurture the seedbed of grassroots conciliation institutions, whether formal or informal. Adapting the legal and regulatory framework that sets them up, and adopting measures to support and supervise their members to avoid any conflict, overlap, or slippage, are undoubtedly among the factors promoting their sense of responsibility and independence. Consequently, counsel endowed with these qualities will work in symbiosis with other institutions, both state and customary, such as the Bashingantahe, and will be a cornerstone of community justice in Burundi.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

References

Bakunda, P. C. (2007). Les mécanismes de résolution des conflits en Afrique: Le cas de "Gacaca".

Brock-Utne, B. (2001). *Indigenous Conflict Resolution in Africa*. University of Oslo.

Bududira, B. (1995). La dimension morale de la crise burundaise. In *Au cœur de l'Afrique* (No. 1, pp. 99-110). Bujumbura.

Cadinot, C. (2021). Bashingantahe Traditional Justice (Burundi): A Necessary Recognition? *Les Cahiers de la Justice, 1,* 67-79. https://www.cairn-int.info/revue-les-cahiers-de-la-justice-2021-1-page-67.htm https://doi.org/10.3917/cdlj.2101.0067

Ciza, D., & Sindayigaya, I. (2023). The Repression of the Solicitation of Children for Sexual Purposes Online (Grooming) in Burundian Positive Law. *Applied Mathematical Sciences, 17,* 461-467. https://doi.org/10.12988/ams.2023.917445

De Lespinay, Ch. (2003). Le Bushingantahe au Burundi. De l'institution locale au patrimoine institutionnel national. In C.-H. Perrot, & F.-X. Fauvelle-Aymar (Eds.), *Le retour des rois. Les autorités traditionnelles et l'État en Afrique contemporaine*. Karthala.

De Lespinay, Ch., & Mworoha, E. (2000). *Construire l'Etat de droit, le Burundi et la région des grands Lacs*. L'Harmattan.

Deschutter, O., Tulkens, F., & Van Drooghnebroeck, S. (2005). *Code de droit international des droits de l'homme*. Bruylant.

Deslaurier, C. (2003). Le "bushingantahe" peut-il réconcilier le Burundi? *Politique Africaine, 92,* 76-96. https://doi.org/10.3917/polaf.092.0076

Diangitukwa F. (2014). La lointaine origine de la gouvernance en Afrique: L'arbre à palabres. *Revue Gouvernance, 11,* 1-20. https://doi.org/10.7202/1038881ar

Gacuko, L. (2012). *La mise en oeuvre de l'article 40 de la Convention relative aux droits de l'enfant*. Thèse de doctorat, Université de Namur.

Gahama J. (2005). Les causes des violences ethniques contemporaines dans l'Afrique des Grands Lacs: Une analyse historique et sociopolitique. *Afrika Zamani, 13,* 101-115.

Gahama, J. (1983). Le Burundi sous l'administration belge, période du mandat (1919-1939). Karthala, Imprimerie Ch. Corlet.

Ingelaere, B., & Kohlhagen, D. (2012). Situating Social Imaginaries in Transitional Justice: The Bushingantahe in Burundi. *International Journal of Transitional Justice, 6,* 40-59. https://doi.org/10.1093/ijtj/ijr033

Jacques, M. (1965). Droit coutumier traditionnel et colonial en Afrique centrale. Bibliographie commentée. *Journal de la Société des Africanistes, 35,* 411-418. https://doi.org/10.3406/jafr.1965.1472

Jean-Pierre, W. (1966). Le préfet et ses notables. In *Sociologie du travail, 8e année No. 3, Juillet-septembre L'administration face aux problèmes du changemen* (pp. 249-275). https://doi.org/10.3406/sotra.1966.1274

Jonya, J. C., Sindayigaya, I., Toyi, O., & Ndendi, A. (2023). Qualification and Employability of Women in Burundian Public Industrial Tea and Energy Companies. *Applied Mathematical Sciences, 17,* 445-452. https://doi.org/10.12988/ams.2023.917425

Jonya, J., Toyi, O., Ndendi, A., & Sindayigaya, I. (2024). Qualifying and Supporting Women in Industrial Tea and Energy Production Enterprises. *Open Journal of Social Sciences, 12,* 498-509. https://doi.org/10.4236/jss.2024.122029

Kavakure, L. (2002). *La réhabilitation de l'Ubushingantahe: Une fausse réponse*. Genève.

Kohlhagen, D. (2007). *Le tribunal face au terrain, les problèmes d'exécution des jugements au Mugamba dans une perspective juridique et anthropologique*. Bujumbura.

Kohlhagen, D. (2010). Les Bashingantahe écartés de la loi: La place de la justice traditionnelle burundaise après la loi communale de 2010. In F. Reyntjens (Ed.), *L'Afrique des Grands Lacs: annuaire 2009/2010/*(pp. 19-32).

Kohlhagen, D. (2011). L'activité judiciaire au Burundi: Données quantitatives. In *L'Afrique des grands lacs: Annuaire 2010-2011* (pp. 65-84).

Laely, T. (1992). Le destin du "Bushingantahe". Transformations d'une structure locale d'autorite au Burundi. *Genève-Afrique/Geneva-Africa, 30,* 75-98.

Laely, T. (1997). Peasants, Local Communities and Central Power in Burundi. *The Journal of Modern African Studies, 35,* 695-716. https://doi.org/10.1017/S0022278X97002590

Manirakiza, M. (2005). Nation-Building in Burundi. History and Its Impacts on the Future. *Conflict Trends, No. 2,* 44-48.

Mianzema, A. D. (2004). *L'éducation pour la paix en Afrique subsaharienne, enjeux et perspectives*. L'Harmattan.

Mpabansi, P. (2023). The Extent to Which the 1969 Organization of African Unity Convention Is Used Concerning the 1951 Geneva Convention in Determining the Status of Refugees in Burundi. *Applied Mathematical Sciences, 17,* 281-287.

https://doi.org/10.12988/ams.2023.917385

Muchukiwa Rukakiza, B., Bishweka Cimenesa, A., & Kapapa Masonga, C. (2015). *L'Etat africain et les mécanismes culturels traditionnels de transformation des conflits*. Globethics.net.

Nambo, J. J. (2002). Quelques héritages de la justice coloniale en Afrique noire. D*roit et Société, No. 51-52,* 325-343. https://doi.org/10.3917/drs.051.0325

Ndayisenga, J., & Sindayigaya, I. (2024a). The Implementation of the Child's Right to Participation in the Context of a Student-Centered Education System in the Pedagogy of Integration and Decision Making. *Open Journal of Social Sciences, 12,* 317-327. https://doi.org/10.4236/jss.2024.121021

Ndayisenga, J., & Sindayigaya, I. (2024b). The Pedagogy of Integration, the Child in the Center of Education: Participation of the Child in the Schooling Program. *Applied Mathematical Sciences, 18,* 27-34. https://doi.org/10.12988/ams.2024.917431

Ndericimpaye, V., & Sindayigaya, I. (2023). Applicability of International Refugee Law to Quality Education for Congolese Children in Burundi: A Human Rights and Refugee Perspective. *Applied Mathematical Sciences, 17,* 245-254. https://doi.org/10.12988/ams.2023.917368

Nduwimana, S., & Sindayigaya, I. (2023a). Entry and Mobility in Technical and Vocational Education in Burundi. *Open Journal of Social Sciences, 11,* 11-20. https://doi.org/10.4236/jss.2023.117002

Nduwimana, S., & Sindayigaya, I. (2023b). Establishing Quality in Technical and Vocational Education in Burundi: Contribution of the National Education Forum, Edition 2022 and in Employability in Burundi. *Open Journal of Social Sciences, 11,* 142-153. https://doi.org/10.4236/jss.2023.119010

Nimubona, J. (1998). *Analyse des représentations du pouvoir politique*. Le cas du Burundi.

Nindorera, L.-M. (1998). Keepers of the Peace: Reviving the Tradition of Bashingantahe in Burundi. *Track Two: Constructive Approaches to Community and Political Conflict, 7,* a7.

Niyongabo, P., & Sindayigaya, I. (2023). The Perception of the Independence of the Judiciary Power in Burundian Law: Crossed Views. *Applied Mathematical Sciences, 17,* 391-398. https://doi.org/10.12988/ams.2023.917163

Nsabimana, T., Bigirumwami, J., & Rineze, R. (1994). Les écrits coloniaux sur le Burundi et leur impact sur les mentalités. https://repositories.lib.utexas.edu/bitstream/handle/2152/5231/2532.pdf

Nsanze, A. (1980). *Un domaine royal au Burundi: Mbuye (env. 1850-1945)*. Société Française d'Histoire d'Outre-Mer, Nouvelle Série, 92 p.

Ntabona, A. (1985). *Le concept d'Ubushingantahe et ses implications sur l'éducation de la jeunesse d'aujourd'hui au Burundi, au cœur de l'Afrique*. T. XXXV No. 5.

Ntabona, A. (2002a). Les enjeux majeurs de la réhabilitation de l'Institution des Bashingantahe. *Au cœur de l'Afrique, 1-2,* 3-21.

Ntabona, A. (2002b). *L'institution des Bashingantahe et la modernité*. Presses Lavigerie.

Ntabona, A. (2010). *Les Bashingantahe à l'heure de l'inculturation*. Collection culture et inculturation.

Ntabona, A. (2020). *L'UBUNTU/Humanité réussie, ses roses et ses épines au Burundi.* Bujumbura.

Ntahombaye, P., Ntabona, A., Gahama, J., & Kagabo, L. (Dir) (1999). *L'Institution des Bashingantahe au Burundi: Etude pluridisciplinaire*. Presses Lavigerie.

Ntahombaye, Ph., & Kagabo, L. (2003). *Mushingantahe Wamaze Iki? The Role of the Bashingantahe during the Crisis*. University of Burundi, 211 p.

Ntamahungiro, J. (2007). *Burundi: Les Bashingantahe au service de la paix*. Bruxelles.

Ntamwana, S. (1996). Le Burundi, un autre Rwanda: Pourquoi? Que faire? In *Conférence organisée par l'ACAT*. Fribourg.

Nyabenda, A., & Sindayigaya, I. (2023). The Child's Rights to Quality Food for Children Residing with Their Mothers in Prison: Case of Mpimba Prison, Burundi. *Open Journal of Social Sciences, 11,* 32-40. https://doi.org/10.4236/jss.2023.1111002

Nyabenda, A., & Sindayigaya, I. (2024). The Child's Rights to Clothes for Children Residing with Their Mothers in Prison: Case of Mpimba Prison, Burundi. *Beijing Law Review, 15,* 102-113. https://doi.org/10.4236/blr.2024.151007

Nyamoya, F. (1990). *Les conflits de lois en matière de statut personnel au Burundi, au Rwanda et au Zaïre*. Thèse de Doctorat, DRT.

OAG (2007). *Analyse critique du fonctionnement de la justice de proximité au Burundi*. Bujumbura.

Ofuho, C. H. (1999). Community Conflict Resolution and Reconciliation in the Kidepo, Valley of Eastern Equatoria, South Sudan: Some Lessons from Grassroot Practices of Peacemaking. In *All-Africa Conference on African Principles of Conflict Resolution and Reconciliation*.

Ouguergouz, F. (2006). La Cour africaine des droits de l'homme et des peuples—Gros plan sur le premier organe judiciaire africain à vocation continentale. *Annuaire Français de Droit International, 52,* 213-240. https://doi.org/10.3406/afdi.2006.3928

Pohu, A.-A., & Klimis, E. (2013). Présentation de RCN Justice & Démocratie. In *Justices Transitionnelles. Oser un modèle burundais* (pp. 17-18). Presses Universitaires Saint-Louis Bruxelles. https://doi.org/10.4000/books.pusl.25637

RCN Justice & Démocratie (2002). *Etude sur l'harmonisation du rôle des Bashingantahe avec celui des instances judiciaires de base (tribunaux de résidence) dans les provinces frontalières avec la Tanzanie*. Bujumbura.

RCN Justice & Démocratie (2006). *La justice de proximité au Burundi, réalités et perspectives*. Bujumbura.

Sabiraguha, A.-E., Sindayigaya, I., Niyonsaba, T., Havyarimana, V., KalaKamdjoug, J. R., & Niyongabo, P. (2023). Digital in Higher Education in Burundi. *Open Journal of Social Sciences, 11,* 284-297. https://doi.org/10.4236/jss.2023.1111019

Sindayigaya, I. (2020). *Du respect des droits du nourrisson pendant la vie carcérale de sa mère au Burundi: Cas des prisons centrales de Mpimba et Ngozi-femme.* Mémoire soutenu et défendu publiquement en vue de l'obtention du grade de Master complémentaire en Droits de l'homme et résolution pacifique des conflits, Université du Burundi. https://rgdoi.net/10.13140/RG.2.2.23023.51361

Sindayigaya, I. (2022). Analysis of the Child's Right to Housing Implementation for Street Children in Burundi: Case of Kirundo City. *Applied Mathematical Sciences, 16,* 465-472. https://doi.org/10.12988/ams.2022.916819

Sindayigaya, I. (2023a). Problems Related to the Implementation of Child's Right Birth Registration in Burundi: Proposing Their Remedies. *Open Journal of Social Sciences, 11,* 41-56. https://doi.org/10.4236/jss.2023.119004

Sindayigaya, I. (2023b). The Overview of Burundi in the Image of the African Charter on Rights and Welfare of the Child. *Beijing Law Review, 14,* 812-827. https://doi.org/10.4236/blr.2023.142044

Sindayigaya, I. (2024). The African Charter on the Rights and Welfare of the Child, an

Instrument Based on African Socio-Cultural Realities: Truth or Utopia? *Open Journal of Social Sciences, 12,* 510-532. https://doi.org/10.4236/jss.2024.122030

Sindayigaya, I., & Hitimana, B. (2016). *Problématique de la repression du crime de viol: Cas de la province judiciaire de Ngozi de 2010 à 2013*. Mémoire soutenu et défendu publiquement en vue de l'obtention du grade de Licence en Droit, Université de Ngozi. https://www.researchgate.net/publication/369537718_Problematique_de_la_repression_du_crime_de_viol_Cas_de_la_province_judiciaire_de_Ngozi_de_2010_a_2013#fullTextFileContent

Sindayigaya, I., & Nyabenda, A. (2022). Infants Residing with Their Mothers at Mpimba Prison, Burundi: Do They Have Rights to Be Protected? *Applied Mathematical Sciences, 16,* 555-563. https://doi.org/10.12988/ams.2022.916865

Tchoungui Oyono, L., Pascoe, M., & Singh, S. (2018). The Prevalence of Speech and Language Disorders in French-Speaking Preschool Children from Yaoundé (Cameroon). *Journal of Speech, Language, and Hearing Research, 61,* 1238-1250. https://doi.org/10.1044/2018_JSLHR-L-16-0400

Toyi, O., & Sindayigaya, I. (2023). Sociability Networks in the City of Bujumbura. *Open Journal of Social Sciences, 11,* 218-231. https://doi.org/10.4236/jss.2023.118016

Twikirize, J., & Spitzer, H. (2019). *Social Work Practice in Africa. Indigenous and Innovative Approaches*. Fountain Publishers. https://doi.org/10.2307/j.ctv2tp73vt

United Nations (2016). *Droits de l'homme et systèmes de justice traditionnelle en Afrique*. New York et Genève.

Vandeginste, S. (1999). Les juridictions Gacaca et la poursuite des présumés auteurs du génocide et des crimes contre l'humanité au Rwanda. *L'Afrique des Grands Lacs: Annuaire, 2000,* 97-140.

Vandeginste, S. (2009). Le processus de justice transitionnelle au Burundi. *Droit et Société, No. 3,* 591-611. https://doi.org/10.3917/drs.073.0591

Yonaba, S. (1997). *Etude sur l'Indépendance de la justice et droits de l'homme. Le cas du Burkina Faso*. PIOOM; Centre for the Independence of Judges and Lawyers.