

Republic of Burundi Fiscal Decentralization and Local Governance:

Managing Trade-Offs to Promote Sustainable Reforms

OCTOBER 2014

WORLD BANK



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Republic of Burundi
Public Expenditure Review
Fiscal Decentralization and Local Governance

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ABBREVIATIONS AND ACRONYMS

| | |
|-----------|--|
| ABELO | <i>Association Burundaise des Elus Locaux</i> (Association of Burundi' s Locally Elected Officials) |
| ADLP | <i>Association pour le Développement et la Lutte contre la Pauvreté</i> (Association for Development and the fight against Poverty) |
| APDH/ICCO | <i>Association pour la Paix et les Droits de l ' Homme</i> (Association for Peace and Human Rights)/International Coalition |
| CAS | Country Assistance Strategy |
| CCDC | <i>Comité Communal du Développement Communal</i> (Committees on Communal Development) |
| CDC | <i>Conseil de Développement Collinaire</i> (Colline Development Council) |
| CDD | Community Driven Development |
| CDPs | Communal Development Plans |
| CEM | Country Economic Memorandum |
| CENI | <i>Commission Electorale Nationale Indépendante</i> (National Independent Electoral Commission) |
| CIOPD | <i>Comité Interministeriel d'Orientation et de pilotage de la décentralization –CIOPD</i> (Interministerial Steering and Orientation Committee on decentralization) |
| CNDD-FDD | <i>Conseil National Pour la Défense de la Démocratie–Forces pour la Défense de la Démocratie</i> (National Council for the Defense of Democracy–Forces for the Defense of Democracy) |
| CNTB | <i>Commission Nationale des Terres et Autres Bien</i> (National Commission on Land and Assets) |
| CSLP | <i>Cadre Stratégique de Croissance et de la Lutte contre la Pauvreté</i> (Strategic Framework on Growth and the fight against Poverty) |
| CSO | civil service organization |
| CTB | <i>Coopération Technique Belge</i> (Belgian Technical Cooperation) |
| DRC | Democratic Republic of Congo |
| DTF | <i>Direction des Titres Fonciers</i> (Land Titling Directorate) |
| EAC | East African Community |
| ESW | Economic Sector Work |
| EU | European Union |
| FAO | Food and Agriculture Organization |
| FBu | <i>Franc Burundais</i> (Burundian Franc) |
| FNL | <i>Forces nationales de libération</i> (National Forces of Liberation) |
| FONIC | <i>Fonds National d'Investissement Communal</i> (National Investment Funds for Communes) |

| | |
|----------|--|
| GDP | Gross domestic product |
| GIS | Geographic information system |
| GIZ | <i>Gesellschaft für Internationale Zusammenarbeit</i> (German Agency for International Cooperation) |
| GoB | Government of Burundi |
| ICG | International Crisis Group |
| ICT | Information and communication technology |
| IDPs | Internally displaced persons |
| IE | Impact Evaluation |
| IGEBU | <i>Institut Géographique du Burundi</i> (Burundi Geography Institute) |
| ISTEEBU | <i>Institut de Statistiques et d'Etudes Economiques du Burundi</i> (Burundi Institute of Statistics and Economics Studies) |
| LC | Land code |
| LGAF | Land Governance Assessment Framework |
| MDGs | Millennium Development Goals |
| MEEATU | <i>Ministère de l'Eau, de l'Environnement, de l'Aménagement du Territoire et de l'Urbanisme</i> (Ministry of Water, Environment, National Planning and Urbanism) |
| NDS | National Decentralization Strategy |
| NGO | Nongovernmental organization |
| OBR | <i>Office Burundais des Recettes</i> (Burundi Revenue Authority) |
| ODA | Official Development Assistance |
| OGR | <i>Opération Groupée de Reconnaissance</i> (Organized Grouped Titling) |
| PAF | Poverty Alleviation Fund |
| PB | Participatory budgeting |
| PCDC | <i>Plan Communal pour le Développement Communautaire</i> (Communal Development Plans) |
| PNF | <i>Programme National Foncier</i> (National Land Program) |
| PRADECS | <i>Projet d'Appui au Développement Communautaire et Social</i> (Social and Communal Development Support Project) |
| PRODEMA | <i>Projet de Productivité et de Développement des Marchés Agricoles</i> |
| PCCD | Provincial committee on communal development |
| PS | Permanent Secretary |
| REGIDESO | Régie de Production et de Distribution d'Eau et d'Electricité |
| SA | social accountability |
| SDC | Swiss Agency for Development and Cooperation |
| SDV | social development |
| SEGOM | World Bank Oil, Gas and Mining Unit |
| SFC | <i>Service Foncier Communal</i> (Communal Land Service) |
| UNDP | United Nations Development Programme |
| UPRONA | <i>Union pour le Progrès national</i> (Union for National Progress) |
| VAT | Value added tax |
| WB | World Bank |
| WDI | World Development Indicators |

GLOSSARY OF KEY TERMS

| | |
|---|--|
| <i>Administrateur communal</i> | Councillors (and/or a mayor) elected to lead at the commune level |
| <i>Autorités collinaires/ chef collinaire</i> | Person or group of persons in charge of administrating the colline |
| <i>Bashingantahe</i> | Customary institution, the “men of integrity”, responsible for settling conflicts at all levels in society and can be requested to mediate land disputes |
| <i>Commune</i> | Administrative unit of decentralization according to Burundian Constitution and other legal texts. Councillors and mayor (administrateur communal) are elected |
| <i>Colline</i> | “Hill,” an administrative subunit under the commune; can be translated as a “ward” |
| <i>Domaine de l’Etat Privé</i> | Public lands that can be allocated by authorities to private parties |
| <i>Domaine de l’Etat Public</i> | Public lands, such as protected forest lands and parks, that cannot be allocated |
| <i>Mairie</i> | “City hall”. The french term used only for Bujumbura City |
| <i>Marais/Bas-Fonds</i> | Marshland, parts of which are cultivable (bas fonds) |
| <i>Paysannats</i> | Annual leaseholds on public lands that are part of government schemes for cash crops (for example, cotton, palm oil, rice), located in the fertile plains |
| <i>Service foncier communal</i> | Commune-level department in charge of land registration in rural areas and mandated to issue land certificates |
| <i>Sous-colline</i> | The third level of administrative subunit under the commune |
| <i>Tutelle</i> | Supervisory relation between the commune and the central government |
| <i>Villagisation</i> | The development of villages that bring together dispersed rural populations and allow the resettlement of returning refugees |

EXECUTIVE SUMMARY

Rationale and Objectives

1. **Despite the remarkable progress achieved since the end of the conflict, Burundi still faces significant development challenges.** Prior to the conflict, the percentage of people living below the national poverty line was 36.4 percent (1990). During the conflict, this increased to 68 percent (by 1998). As of the most recent household survey, the rate was still high: 67 percent of the population was living below the poverty line in 2006.¹ Although education and health outcomes have improved significantly over the past few years (life expectancy rose from 43 years in 2000 to 50.4 years in 2011), access to basic services and infrastructure such as potable water and electricity remain limited (for example, less than 3 percent of the population has access to electricity). Meanwhile, high population density and growth rates—about 90 percent of the population lives in rural areas—increase competition for scarce resources, especially land. As a result, Burundi still ranks low in the UNDP’s Human Development Index (178 out of 187 countries in 2013) and is unlikely to meet most of the MDGs by 2015.

2. **Given the historical legacy of conflict, strengthening both national and subnational institutions has emerged as a national priority, with the aim to improve stability and service delivery.** In 2000, peace accords were signed by opposing political parties. In the context of the 2000 Arusha Peace Agreement, a consensus emerged among national and

international policy makers that the exclusion and deprivation of the rural masses was one of the driving forces of war. In this context, decentralization (together with the inter-ethnic power sharing mechanisms enshrined in the 2005 constitution) emerged as a key strategy for opening up space for citizen participation in local development, improving access to basic services and—by doing so—strengthening the social contract between the state and its citizens.² As in other countries of the region, decentralization was also seen as a way to improve the institutional capacity of weak postcolonial states and move toward more open societies.³

3. **Since 2005, the Government of Burundi has embarked on a potentially transformative process of decentralization, with the aim of strengthening social cohesion, improving local governance, and promoting access to basic infrastructure and service delivery.** Since the promulgation of a new constitution and the installation of a democratically elected government in August 2005, the government has made a number of important steps forward, including revising the electoral code prior to communal elections, and

1 The results from the latest household poverty survey will be available end-2014 and provide updated poverty figures.

2 The main goal of decentralization in Burundi is “to help communes to be the foundation of development and to decentralize government institutions. The government will transfer resources to the communes, so they can plan development projects in domains, such as education, public health, roads and water supply. To transfer this development means, injustice should be avoided” (Arusha Accords, 2000: 171).

3 The content and direction of this policy debate is not unique to Burundi and resembles the historical experience of other postconflict and fragile states, including Sierra Leone (Larizza and Glynn 2013) and the Democratic Republic of Congo (Keefer 2011).

later adopting a new Communal Law governing the main level of devolved entities at the municipal level, in the form of 129 communes (116 of which are outside the capital and thus mostly rural). These communes are broken down further into zones (administrative, deconcentrated units) and collines, which have an elected council but no autonomy or budget. The process of political decentralization was also launched with the first communal elections in June 2005. The government commitment to decentralization reform was further bolstered by the adoption of a “Policy Letter on Decentralization and Community Development (2007) and the publication of the new National Decentralization Strategy (NDS) in 2009.

4. Since 2010, however, Burundi’s decentralization experience has confronted a number of challenges, and many issues remain to be addressed before the reform agenda can move forward. Since 2010, when a few amendments to the 2005 communal law were introduced, there has been little progress toward decentralization in Burundi. The law on the new responsibilities of communes remains to be adopted, as the parliament rejected the current proposal, given the lack of information on its financial implications (i.e. amount of fiscal transfers to communes necessary for the proper implementation of the proposed new devolved functions). A separate law on communal finances is under discussion and has not been submitted to parliament yet, while the law on a territorial civil service is not much more advanced and the law revising the role of local administrators is on hold. Finally, the law on revising the legal status of Bujumbura *Mairie* is also under discussion.

5. The weakness of the communal tax system, coupled with low mobilization of local revenue and nonexistent (current) or negligible (capital) transfers from the national budget threaten the financial viability of communes, which struggle to support even basic operating costs. In 2012 total communal revenues reached FBu 16 billion, with almost 25 percent from the city of Bujumbura (Mairie)

and the second-largest share, at 5 percent, from Gitega.⁴ The average annual communal revenue outside Bujumbura is FBu 103 million, equivalent to \$68,000 or somewhat less than \$1 per capita. Overall, communal revenues remain low and in decline, down to 2.7 percent of total internal revenues in 2010. Resources to finance the execution of Communal Development Plans are therefore largely insufficient, with the result that available social infrastructure, as well as the maintenance and operations of service delivery points (health clinics, primary and secondary schools, and water distribution points), remains limited to address citizen needs and improve access to social services.

6. Given the fiscal fragility of the country and its structural vulnerability to external shocks, the central government has little fiscal space to improve the fiscal viability of communes. As indicated in the recent PER (2013), the government continues to struggle to create fiscal space and reduce debt from its currently high level. Although the government is expected to limit current expenditures growth in real terms, unless additional revenue measures are introduced to offset the falling grants, it will struggle to reduce its deficit. Under these structural constraints, the financial implications of proposed legislation need to be carefully considered. Other options currently debated among policy makers—including the proposal to reduce the number of communes—are also associated with potential risks. The government is aware of such trade-offs and has requested the assistance of the Bank and a group of donors to assist ongoing efforts to identify feasible options to manage the reform process and improve the medium-term sustainability of the current system, under conditions of macro-fiscal fragility.

7. Addressing a specific government request, the present study aims to provide

⁴ Data provided by the *direction des finances communales, Ministère de l’Intérieur*.

concrete policy recommendations to help the Government of Burundi improve the financial and institutional sustainability of the decentralization reform process, while enabling communes to address popular demands and deliver better services. Specifically, the study will focus on two main challenges: (i) how to put in place a sustainable, predictable, and transparent inter-governmental fiscal framework able to meet the financial needs of the communes and improve access to basic services, taking into consideration macro-level fiscal constraints; and (ii) how to promote effective strategies to increase citizens' participation in local governance and other measures of social accountability. Both topics are at the core of the national decentralization strategy. The report will also look at the implications of these macro-level challenges at the sectoral level, through a case study of the recent experiences of decentralized land administration services, whose responsibilities were recently transferred to communes (Land Code 2011). The in-depth focus on land tenure security reflects a service delivery area of high policy relevance for its potential contribution to the prevention of conflict and promotion of local investment.

8. **To avoid replication of previous analysis,⁵ the present study is highly selective and organized into four thematic chapters.** Specifically, chapter 1 provides a snapshot of Burundi's political and macroeconomic context, and reviews the evolution of the decentralization process to better understand how institutional, political, and bureaucratic dynamics have shaped the historical trajectory of decentralization and generated the outcomes observed today. Chapter 2 provides a systematic investigation of

5 A wealth of analytical work and advisory services have recently been conducted by the government and other donors active in the decentralization sector, notably: (i) a review on "the Senate and the Politics of Decentralization in Burundi"; (ii) a recent Swiss-funded study on the fiscal viability of municipalities (covering a small sample of communes) and options for effective decentralization reform; (iii) a recent UNDP-funded study on FONIC.

the status of fiscal decentralization in Burundi, and identifies key policy issues to be considered to ensure the medium-term sustainability of the reform process while at the same time addressing the short-term financial needs of communes. Chapter 3 provides an in-depth diagnostic of a key service delivery responsibility recently devolved to communes—the provision of land registration services—and discusses the challenges and opportunities related to ongoing efforts to scale up access to these land services across 116 rural communes and Bujumbura. Chapter 4 shifts the focus to the nature of state-citizen relations in an effort to better understand how citizen engagement in the decision-making process may be improved and local authorities held accountable for the provision of basic services.

9. **The report is based on results from interviews, fieldwork research, and qualitative focus group discussion, combined with existing administrative data and secondary sources on decentralization in Burundi.** The fieldwork research was carried out in 16 communes (representing all provinces but Bujumbura). A multisector team prepared the report in close coordination with government officials and in joint collaboration with a group of key donors active in the sector.

Key Policy Issues under Investigation

Understanding the Context of the Decentralization Process

10. **At the end of the conflict, the Arusha Peace Agreement and the 2005 Constitution laid the political foundations for decentralization reforms.** In 2005, the Communal Law and Electoral Code further confirmed the central government's commitment to open the way for more direct participation and accountability at the local level. The law recognizes communes as autonomous and decentralized entities managed by communal council members. It also recognizes the

communes' deliberative and decision-making powers by allowing them to adopt economic and financial measures, including the preparation of the communal budget and the communal community development plan (*Plan Communal du Développement Communautaire*, PCDC). The 2005 Electoral Code, amended in 2009, established the number of communal council members to be elected through direct universal suffrage within each commune, and regulated the election of the communal administrator among the councilors (via secret ballot) and nomination by a presidential decree.

11. To a large extent, the design of decentralization in Burundi addressed the political concerns of the central government and ruling elite. The ruling elite perceived decentralization as a good opportunity to establish and maintain political control in the countryside, thereby strengthening political stability. Promoting decentralization was also seen as a conflict-mitigation strategy in the context of the broader peace-building agenda: a key source of popular discontent prior to the war was the marginalization of rural communities and the centralization of economic and political power in the hand of urban elites.

12. Improving and encouraging state-citizens interactions also emerged as a clear policy objective of the new decentralization process. As enumerated in the government's new decentralization policy (2009), citizens are no longer considered "subjects" but "partners" in governance. According to the new framework, there is a clear division of responsibilities among the communal council, the administrator, and the hill council (*conseil de colline*), as well as a balance between opportunities for participation and greater communication. In practice, evidence suggests that various factors act as binding constraints on citizens' effective participation and the accountability of administrators.

13. As previously noted, despite ambitious goals, little progress has been made toward effective decentralization in Burundi since

2010. This can be explained by a combination of institutional constraints, as well as political and bureaucratic incentives:

- At the *institutional level*, the lack of a strategic vision is reflected in a fragmented legislative process. Several actors within and outside the government (including members of parliament, local actors, and civil society organizations) lament a piecemeal approach to legislative initiatives, which in turn makes difficult for national policy makers to influence the overall direction and coherence of the decentralization program. Moreover, ongoing competition between central ministries and vice presidencies over the political leadership of the reform causes blockages and mutually reinforcing deadlocks during the processes of analyzing and adopting legal texts.
- In terms of *political incentives*, ruling elites continue to perceive decentralization as an opportunity to establish power and control at the local level, thereby resisting efforts to increase communes' administrative and financial autonomy from the center. In particular, uncertainties arising from political crises (such as the crisis in early 2014) and the subsequent remapping of political loyalties at the local level suggest that effective decentralization poses risks the ruling government might not be ready to take in the short-term — likely not until electoral outcomes in 2015 clarify which party coalitions will be in control of the local administrations.
- In terms of *bureaucratic incentives*, among civil servants prospects of decentralization create fears about the security and location of employment. In particular, civil servants are reluctant to leave their civil service positions to join communal administrations without assurance that they will retain full status. Furthermore, most civil servants have no intention to be posted outside urban centers and seem to be especially reluctant to be accountable to under- educated

local executives. This in turn undermines the availability of (already scarce) human resources, thereby reinforcing the belief that communes are not prepared to fulfill their new mandates.

14. **Going forward, the analysis suggests that—at least in the short term and until the 2015 national and local elections—key political and bureaucratic incentives are unlikely to change significantly.** Opportunities exist, however, to unlock major institutional constraints. This implies the need for development partners to lower expectations and set realistic targets for support. That said, it might still be possible (and strategically meaningful) to focus efforts toward addressing institutional constraints that may not necessarily reflect a well-defined political strategy and instead be the undesired effect of poor coordination across ministries. In particular: (i) efforts are needed to reach a consensus on the strategic direction of reform; (ii) a coherent vision needs to be developed as the foundation for a comprehensive and coordinated legal and institutional framework; and (iii) a presidential decree should clarify the power and competencies of the steering committee (CIOPD) to better signal to the government’s political will and long-term vision for decentralization reform.

Managing Fiscal Decentralization: Context, Policy Issues, and Possible Changes

15. **Despite its importance, fiscal decentralization represents the weakest link in the overall decentralization framework.** An adequate transfer system for current expenditures is yet to be defined: to date, there is no mechanism in place to ensure that communes receive equitable and transparent transfers for current spending. This is unusual as territorial inequalities make this necessary in most countries of the world and—in the case of Burundi—the uneven distribution of resources might contribute to subnational inequalities. For capital expenditures, FONIC provides some support with an equal transfer that does not

take into account communes’ taxable capacity or needs.

16. **In the absence of a predictable and transparent intergovernmental transfer system, most communes struggle to remain fiscally viable and to finance even basic operating costs.** Communes’ socioeconomic diversity (in terms of size and economic potential) represents yet another technical challenge to the equitable distribution of public resources across the national territory, in a context where local revenues represent only a small fraction (2.7 percent) of total government revenues and remain largely concentrated in Bujumbura (generating alone 25 percent of total local revenues).

17. **Given the existing assignment of functional responsibilities, the current territorial organization of Burundi is reasonable, and there is no need to reduce the number of communes.** Moreover, regrouping communes as such does not necessarily alleviate an overall lack of resources, and surveys suggest it may limit peoples’ access to services. Compared with other African countries, Burundi—and its 116 rural communes, with an average population of roughly 90,000—is not an outlier. Given that communes mainly provide local services with little technical content (high technical content is associated with services such as water treatment or composting, for example) or fixed costs (similar services), the case for a national consolidation policy does not seem to be justified. Meanwhile, the legal status of the communes of Bujumbura should be clarified.

18. **General responsibilities assigned to communes should be clarified before finalizing more robust financing arrangements.** The absence of clear and specific mandates reduces communes’ capacity to play a key role in improving local service delivery. The draft law on communal competencies under preparation represents a step forward toward addressing uncertainty and improving the institutional viability of communes. At the

same time, its financial and human resource implications have not been adequately assessed.

19. **On average, communal revenue collection practices are weak and there is scope for significant improvement.** The legal framework needs to be updated to ensure that local revenues are adjusted by inflation. At the same time, efforts are needed to strengthen local tax administration systems, improve tax compliance, and strengthen the link between improved revenue collection and better services for citizens. Collaboration with OBR should be promoted to share information on taxpayers—in line with the recent experience of other countries, such as Rwanda—and/or use OBR as tax collection agent for the communes.

20. **The introduction of a recurrent expenditure transfer scheme seems appropriate.** The optimal degree of deconcentration and devolution in Burundi is not clear. Burundi is a small country, characterized by a common language and is not divided geographically into linguistic or ethnic groups. Thus many of the typical reasons for devolution do not hold. At the same time, there is a need to address inequalities across communes and their need for more resources, in particular given the provision of important basic services now held at the communal level. Specifically, generalizing the communal land service (Service Foncier Communal; see chapter 3) requires financial resources that fees alone are unable to cover. Also, the expected increase in FONIC capital transfers will create greater demand for recurrent spending that will remain unfulfilled.

21. **Given the expected increase in the importance of large-scale mining activities and their geographic concentration, it may be important to consider a revenue-sharing arrangement across provinces and communes.** There is an opportunity to integrate both decentralization and mining through a mechanism that: (i) compensates

communes for the environmental degradation that accompanies mining-related activities, (ii) sets aside some resource revenues for future generations, and (iii) shares some of the resource revenues between producing and nonproducing communes.

Securing Land Rights through Decentralized Land Administration: Challenges and Opportunities

22. **With the Arusha Peace and Reconciliation Agreement, signed in 2000, land restitution and land governance reform emerged as key priorities in efforts to address the root causes of conflict.** The Arusha agreement proposed a set of measures connected to (i) the restitution of land to citizens affected by violent conflict, and (ii) the reform of land governance. Given the large number of refugees and internally displaced people in Burundi, it is not surprising that land issues are a key element in the Arusha accord and a focus of postconflict donor and nongovernmental organization (NGO) programs, such as mediation and conflict resolution. With the establishment of the CNTB in 2006,⁶ a procedure for land restitution to refugees and displaced people was developed, while the land governance reform and the revision of the 1986 Land Code took longer to materialize and is only just beginning (ICG 2013).

23. **A mountainous, landlocked country, Burundi has one of the highest rural population densities in Africa** (276 people/square kilometers [km²] on average); 90 percent of the total population lives in rural areas. There is significant variation in population density across regions, especially when excluding Bujumbura Mairie.⁷ The amount of arable land is estimated at 35.8 percent, and cultivated land

6 With financial support from the UN Peace Building fund.

7 Bujumbura, the only city of significant size, has fewer than 1 million inhabitants, making it relatively small for a country whose population currently stands at nearly 10 million inhabitants. The country second city, Gitega, has fewer than 50,000 inhabitants.

at 15.6 percent in 2011 (a marked increase from 14.0 percent in 2000). Farming is the main livelihood for most of Burundi's rural households, making land the main economic asset for the majority of the poor.

24. A combination of increasing demand for land, growing land scarcity, and ambiguous land rights undermines stability and acts as a driver of conflict at the local level. Moreover, settlements carry high costs for those engaged in land disputes. Communal officials are frequently requested by the involved parties to act as mediators in land conflicts.⁸ Improved land administration can reduce the burden on scarce human resources by mitigating conflicts and speeding up dispute resolution.

25. With the approval of the new Land Code (2011), the land certificate has been introduced as an alternative way to record land rights in rural areas. Investments are being made to improve capacity and strengthen the land administration system (through archives, digitalization, training, and so on) which is important for urban areas where informality may concern 60 percent of properties. But overall capacity remains insufficient to serve rural areas, where most land conflicts are found and where policy concerns are focused. To address this challenge, the Land Policy Letter (LPL 2010) and Land Code (LC 2011) introduced the establishment of decentralized, communal land services (the Service Foncier Communal, SFC) for the registration of existing land rights, land transactions, and other mutations.

26. The establishment of the SFC is coordinated by a special government unit and has been largely funded by donors. This innovation in service delivery is the result of the work of several donor-supported pilot programs working closely together with the *Unité de*

coordination de program foncier national, an interministerial body located under the MEEATU (*Ministère de l'Eau, de l'Environnement, de l'Aménagement du Territoire et de l'Urbanisme*). The aim of the pilot programs was to design and test land administration service-delivery systems for the registration of land rights that are trustworthy, transparent, accessible, and legal. The first pilot programs started in 2007 mainly with support of the European Union (EU) and the Swiss Agency for Development and Cooperation (SDC) in six communes.

27. The provision of communal land registration services raises important sustainability and financing issues, strengthening the case for a recurrent grant to cover operating costs. The 28 communal land services currently operating are primarily funded by donors. Unless fiscal-administrative aspects of decentralized governance are clarified, the SFCs will continue to depend on development partners to finance their operations. Consequently, achieving the goals of generating useful information and reducing conflict through land registration would be difficult and dependant on user fees in a demand-based system. Instead, a recurrent transfer to communes might be considered to cover recurrent costs of communal land registration services, while set-up costs can be addressed by donors (when available) and/or covered by the annual FONIC grant⁹. Increasing the financial resources of communes should take into account their location and topography, two factors that impact the costs of a communal land registration office.

28. Plans for scaling up decentralized land services require the availability of reliable and regular statistics and administrative data to monitor results and processes. Currently, monitoring is weak with

⁸ The mayor (*administrateur communal*) in Ngozi estimated that she spent two days a week, on average, in the mediation of conflicts often caused by land disputes (interview, June 2013).

⁹ To this end, the FONIC grant would be targeted in the same way as past grants were targeted to primary schools – with national priorities overriding communal investment priorities for one year.

respect to outputs, costs, quality, and so on, and land data are scattered and not aggregated at the central level. Supervision seems to be irregular while progress assessment and learning seems to depend on donor initiatives for self-assessment and external evaluations, which also seem insufficiently coordinated. For example, the cost per certificate can probably be reduced even more by streamlining procedures and enhancing efficiency, but this requires regular monitoring and testing, and comparing of alternatives.

Promoting Social Accountability through Decentralization

29. **Although the nature of the state-society relationship in Burundi has significantly improved since the government embarked on an ambitious decentralization process in 2005, political realities and the legacy of conflict persist.** After decades of conflict, the severity of violence observed across Burundi has been markedly reduced. However, the root sources of the conflict (such as exclusion—social, economic, and political) remain largely intact. Even as social cohesion is being rebuilt across local communities, the persistence of a neo-patrimonial system of governance is blocking state reform, constraining improvements in social service delivery at the local level.

30. **Recent political reforms have created some opportunities for communes to play an important role in building social cohesion at the local level, in particular through the direct election of communal councils.** Due to growing support from the Bank (the Community and Social Development Project, PRADECS) and the donor community at large, communal administrations have become increasingly able to manage funds for small development projects. This included formulating the first Communal Development Plans, identifying priority subprojects through participatory community meetings, managing the procurement process, monitoring subprojects, and guaranteeing the maintenance of newly built communal

infrastructure. By facilitating open dialogue and the inclusion of vulnerable groups, these interventions made a significant contribution toward social cohesion and conflict mitigation.

31. **Despite this recent progress, accountability relationships remain weak, with limited opportunities for citizens and communities to engage in the decision-making process and hold local authorities accountable.** Several “entry points” for interventions can nevertheless be identified, particularly on the side of the state. Citizen engagement in local decision-making and participation in local development remains limited, undermining the potential benefits of decentralization reform as a vehicle to improve accountability and strengthen local governance. Yet, given culturally embedded obstacles to citizen participation, the accountability of state actors is recommended as an area of initial focus.

32. **Another key message that emerged from the focus group research was the need for more transparent and systematic mechanisms to collect revenues and prepare/execute communal development budgets.** Specifically, there is a willingness and openness from local officials to communicate more effectively with citizens to increase communal tax revenues. On the flip side, citizens are eager for greater transparency around local resources and to better understand the use of tax revenue by local officials.

Main Messages: Cross-Cutting Issues

A number of cross-cutting issues emerged from the study as critical to moving the decentralization process forward:

First, there is a strong linkage between the usefulness of a country-wide communal-level land titling process and the need for central government support of communal spending. The importance of securing land rights to

preserve peace and improve security in Burundi (discussed in chapter 3) strengthens the “public good” aspect of land ownership policies. This in turn makes funding these activities through the existing fee-based model inappropriate and unsustainable. As an alternative, the proposed current expenditure transfer (discussed in chapter 2) would allow communes the necessary resources to operate communal land services, while linking central spending with a key national priority.

Second, there is a need to improve social accountability and local revenue generation—in step with each other. There is a clear need to improve communes’ own revenues through an updated communal tax code, but the communal population is currently not convinced that communal spending is relevant to their welfare. Changing the tax code should thus be accompanied by concurrent changes in social accountability mechanisms to promote transparency and accountability in the use of public resources, including local taxes. The recommendation to post information on planned and actual budget expenditures in the local language (Kirundi) illustrates this point.

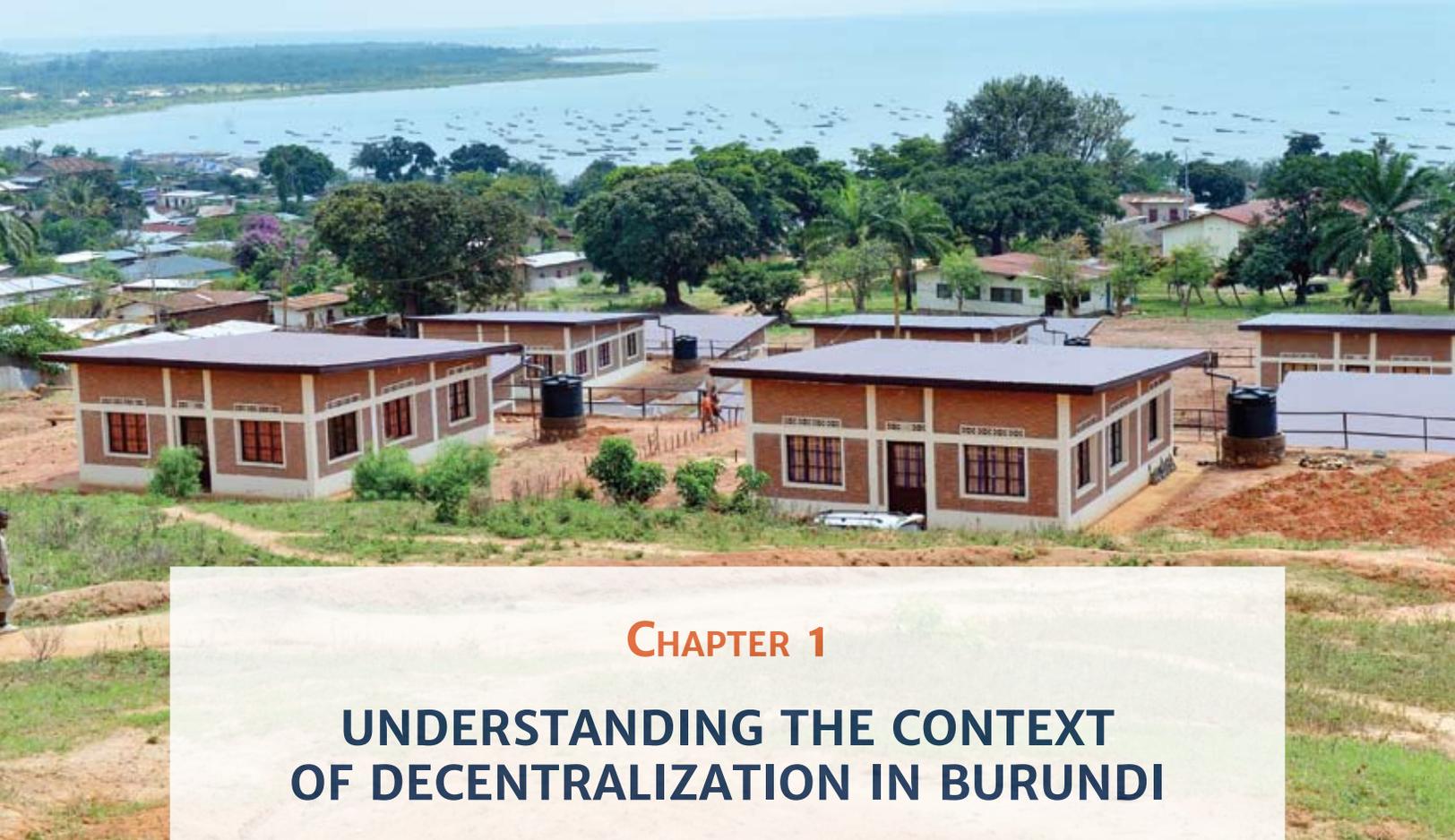
Third, the likely increase in large-scale mining calls for improved security in land ownership, strengthened communal finance,

and stronger social accountability. Large-scale mining is often disruptive of communal life as it leads to new use of land, demand on communal services, and the perception that opportunities and risks are shared unequally across local communities. Securing land titling can make it easier to adapt to mining, while better social accountability and citizen engagement in the decision-making process will facilitate acceptance of mining-related communal spending. At the same time, the provision of revenue-sharing arrangements for natural resources at the communal level will reduce the perception that resources belonging to the community are being shared unjustly.

Last, the need for coordination between ministries and agencies at the central level—as well as between central and local authorities—is clear from the three previous points. To ensure that the various concerns discussed above are put forward in an integrated, coherent, and well-sequenced fashion requires a strong coordinating mechanism. This is a tall order for a country where institutional capacity is weak and few incentives exist to promote interministerial coordination. Targeted technical assistance from the donor community will be critical to facilitate the process and move the reform agenda forward.

ES.1 Key Policy Recommendations

| Objective | Policy area | Proposal for priority actions | Timeline |
|---|--|---|-------------|
| 1. Clarify the strategic direction of decentralization reform | a. Territorial organization | Settle the number of communes. | Short term |
| | b. Territorial organization | Settle the legal status of communes in Bujumbura. | Medium term |
| | c. Central leadership and organization | Clarify the power and responsibilities of the national Interministerial Steering and Orientation Committee on decentralization (CIOPD). | Short term |
| 2. Create a predictable and transparent intergovernmental financial system | a. Communes' responsibilities | Settle the functional responsibilities of communes. | Short term |
| | b. Communes' own revenues | Adopt the new law on communal financing. | Short term |
| | c. Transfer revenues for communes | Introduce an equitable and transparent, formula-based transfer scheme for recurrent expenses. | Medium term |
| | d. Mining sector development | Integrate decentralization and mining sector development through the design of revenue-sharing arrangements across communes. | Medium term |
| 3. Promote social accountability at the local level | a. Communes' own revenues | Harmonize tax-collection methods and develop an information campaign for citizens and local CSOs. | Short term |
| | b. Budget transparency | Harmonize and disseminate simplified budget information (planning and execution) in Kirundi. | Short term |
| | c. Communes' responsibilities | Reinforce citizen engagement mechanisms at the local level. | Medium term |
| 4. Scale up the decentralized land management system | a. Legal framework for decentralized land administration | Adopt the draft decree on the certification of land rights, to codify the results emerging from the pilot programs and harmonize the approach across communes. | Short term |
| | b. Financial sustainability of land services | Introduce a transfer scheme for recurrent spending that could be used to cover operating costs for land services (including SFC staff). | Short term |
| | b. Quality of land administration services provided by communes | Develop standard procedures and guidelines for SFC guidance, supervision, and oversight. | Medium term |
| | c. Human resource management | Establish institutionalized mechanisms for the capacity building and training of public servants, councilors, and private parties engaged in decentralized land administration. | Medium term |
| d. Land information statistics | Establish an integrated land information system to be used to track progress, inform policy dialogue, and improve accountability. In this regard, collaboration with central government agencies (ISTEEBU) should be promoted. | Medium term | |



CHAPTER 1

UNDERSTANDING THE CONTEXT OF DECENTRALIZATION IN BURUNDI

Introduction: The Political and Macroeconomic Context

1. **Since the 2000 Arusha Peace Agreement, Burundi has made progress toward restoring peace and political stability.** The Peace Agreement initiated the end of hostilities and helped launch democratic election processes. From 2000 to 2005, Burundi made a transition to a multiparty system of government as well as a transitional government to share power between the country's two main ethnic groups. Peace agreements have been signed with all the rebel movements, respectively by the end of 2003 (with CNDD-FDD) and in 2007 (with the FNL). In February 2005, the country approved, by referendum, a new constitution emphasizing power sharing and the protection of minority rights. Multiparty competitive democratic elections have been organized in 2005 and 2010.
2. **Despite significant progress in the consolidation of peace and stability—including**

ing the demobilization of former combatants, rehabilitation of security services, improved public financial management, and establishment of elected communal officials—Burundi remains one of the poorest and most fragile countries in the world. Even though the security and macroeconomic environment has improved significantly in recent years, the situation remains fraught with difficulties. In the past decade economic growth has been slow, averaging about 3 percent in the first eight years but increasing to 3.9 percent in 2010 and 4.5 percent in 2013. Burundi's gross domestic product per capita of \$280 in 2013 is still far below the gross domestic product (GDP) per capita of \$286 before the crises in 1993. Even though the country is endowed with natural resources and a large network of rivers, economic growth is held back by several factors including poor diversification, lack of adequate infrastructure, an unattractive business climate, and a low-capacity labor force. The increasing cost of living, triggered by recent volatility in fuel and basic commodity prices,

have placed severe strain on the poor. Furthermore, there is pressure on land and natural resources due to a high population growth rate (2.6 percent in 2011) and high population density (300 inhabitants per square kilometer). In particular, scarcity of land and competition for land ownership under conditions of weak land rights is a continued underlying driver of conflict and fragility at the local level.

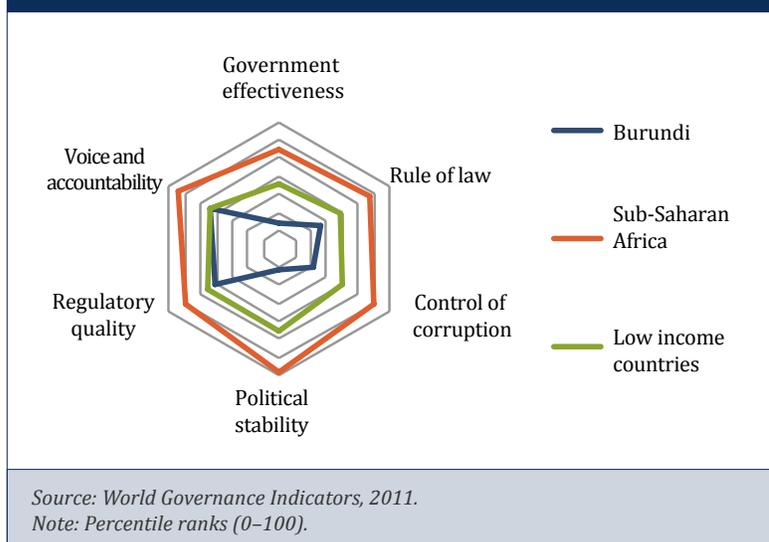
3. Burundi still faces significant development challenges, and is unlikely to meet most of the Millennium Development Goals (MDGs) by 2015.

Prior to the conflict, the percentage of people living below the national poverty line was 36.4 percent (1990). During the conflict, this increased to 68 percent (in 1998). By 2006 (last household survey) the rate was still high: 67 percent of the population was living below the poverty line.¹⁰ Education and health outcomes improved significantly over the past few years. Life expectancy rose from 43 years in 2000 to 50.4 years in 2011. But access to basic services and infrastructure such as potable water and electricity remain limited (for example, less than 3 percent of the population has access to electricity). Moreover, high population density and growth rates—with about 90 percent of the population living in rural areas—increase competition for scarce resources, especially land. As a result, Burundi still ranks low in the United Nations Development Programme’s (UNDP’s) Human Development Index (178th out of 187 countries in 2013) and is unlikely to meet most of the MDGs by 2015.

4. The lack of progress on several dimensions of governance has constrained

¹⁰ The results from the latest household survey will be available end-2013 and provide updated poverty figures.

Figure 1.1 Burundi Governance at a Glance, 2012 Data



the Government of Burundi (GoB) from effectively reducing poverty and improving human development. The 2012 World Governance Indicators (figure 1.1) provide a quick snapshot of the challenges confronting Burundi. The country lags well behind the African regional average on most dimensions of governance. In particular, Burundi ranks in the lowest tenth percentile on government effectiveness, the rule of law, regulatory quality, and control of corruption. The country, however, performs relatively well on Voice and Accountability, in itself a major achievement in a fragile post-conflict setting. This is also in line with the average performance of low-income countries.

5. A recent Public Expenditure Review (2013) emphasized the fiscal fragility of the country and its structural vulnerability to external shocks. Burundi is one of the most vulnerable countries in the world to external shocks, including food and energy prices fluctuations as well as aid inflows variations. This fragility has been exacerbated by a number of domestic factors such as the lack of transparency in some government spending, the high level of tax exemptions—counting for as much as 3

percent of GDP—and limited option to absorb any fiscal shocks outside of external assistance and/or Central Bank’s financing. As indicated in the report, the government will continue to struggle to create fiscal space and reduce debt from its currently high level. Although the government is expected to limit current expenditures growth in real terms, unless additional revenue measures are introduced to offset the falling grants, it will struggle to reduce its deficit. While the deficit is expected to be largely financed by external concessional loans, debt will remain high as a share of GDP, and will likely keep the country at a “high risk of debt distress.”

6. Within this context, the GoB has embarked on a potentially transformative process of decentralization, with the aim to strengthen social cohesion, improve local governance, and promote access to basic infrastructure and service delivery. The process initiated with the Arusha Peace Agreement was successfully concluded in February 2005 with the promulgation of a new constitution and the installation of a democratically elected government in August 2005. The newly elected government revised the Electoral Code prior to communal elections, and later adopted a new Communal Law governing the main level of devolved entities at the municipal level in the form of 129 communes (116 of which are outside the capital and thus mostly rural), with the first communal elections taking place in June 2005.¹¹

7. Despite these ambitious goals, Burundi’s decentralization experience has confronted a number of challenges, failing to meet popular expectations and substantially improve access to basic social services at the local level. As a result, the institutional reform process has proceeded less quickly than in other

postconflict countries in the region (including Sierra Leone and Rwanda, among others), where significant portions of public resources and responsibilities have been transferred to subnational governments. Previous studies have focused on technical and structural factors in attempting to identify obstacles that have prevented decentralization from unfolding more successfully in Burundi. Some explain delays in transferring competencies as the result of insufficient institutional capacity, arguing that communes are simply unable to offer the types of services that might be assigned to them under new legislation. Others have emphasized the low tax base and weak financial viability of communes, which denies subnational authorities the resources required to generate economies of scale that would enable them to provide goods and services more effectively (Nihangaza 2011). Others focus on the lack of clarity in the assignment of expenditure responsibilities and the absence of an effective system of public financial managements (EU report; Senate Report 2011).

8. To complement previous analytical efforts, this chapter shifts the focus toward an analysis of the key institutional and political drivers underlying the design and adoption of decentralization reform in Burundi. Drawing upon a background paper on the “Political Economy of Decentralization in Burundi,” the chapter will review historical and recent developments and map the key actors and institutions to better understand the main drivers of decentralization in Burundi, as well as their impact on the specific “trajectory” by which it unfolds. Specifically, the chapter seeks to provide an overview of the development of the decentralization process since the end of the civil war and clarify (i) why a decentralization program has been adopted in the first place, (ii) how it has been designed, (iii) what might prevent it from achieving its stated policy objectives, and finally (iv) what opportunities exist to “unlock” the reform agenda and move the process forward. This overview will set the stage for the analysis of the fiscal sustainability of the current system

11 In 2005 the first postwar elections were held, which were won by CNDD-FDD. Other big parties were FRODEBU and UPRONA (Uvin 2008). People elected the Colline Councils, the commune council, and the national parliament.

(chapter 2), the opportunities and challenges to provide land registration as key public service for the rural communities (chapter 3), and the most effective strategies to promote citizens' engagement and social accountability through decentralization (chapter 4).

1.1 The Decentralization Process since the End of the Conflict: An Overview

9. **Despite early efforts to establish a decentralized model of governance, little progress was achieved in the early 1990s, given endemic political instabilities.** During the late 1980s, several decentralization laws and decrees¹² confirmed government efforts to move on with the reform agenda. But the period was marked by waves of ethnic-political violence that undermined the reform agenda and eventually led the country to a civil war. In 1993 the first democratically elected president (Melchior Ndadaye) was assassinated by high military officials. It took one year to form a new government; then, tragically, the new (Hutu) president (Cyprien Ntaryamira) was killed in a plane crash in Kigali. This event fueled increased ethnic violence between the Burundian Armed Forces and numerous armed (rebel) groups. Patterns of exclusion and interethnic competition over control of state resources acted as the main driver of violence and war. (Insight on Conflict, 2010)

10. **At the end of the conflict, the Arusha Peace Agreement and the 2005 Constitution laid the foundations for an ambitious decentralization program as a national**

12 The decree-law No. 1/017 of June 1988 to transfer certain administrative revenues to communes as amended to date; the decree-law No. 1/026 of 21 July 1989 to transfer property taxes collected in the territory of Burundi to the communes and the Mayor of Bujumbura; the decree-law No. 1/027 of 21 July 1989 to transfer tax on rental income (*impôts foncier*) received in the territory of Burundi to the communes and the Mayor of Bujumbura; and the law No. 1/004 of 23 March 1994 on the general organization of the communal administration.

priority to promote social cohesion and deliver a “peace dividend” to the poor. The political economy of the civil war—with its deep-rooted urban-rural divide, as well as inter-elite divide coupled with an interethnic political struggle—deeply affected the collective memory of the population, generating large popular demands and pressures to the postconflict government for defusing social tensions by reestablishing the state presence in rural areas. This urgency to deliver a rapid “peace dividend” throughout the country implied that effective state-capacity would have to be built in parallel at the central and local level. It was within this context that the GoB launched a decentralization process to empower communes to improve local governance and social cohesion. The view of decentralization as a national priority for Burundi peace-building efforts was also widely shared among the international community, with several donors providing technical and financial support to launch the process.

11. **The promotion of a new legal framework confirmed the government commitment to the reform process.** In 2005 the Communal Law and Electoral code further confirmed the commitment of the Central Government to open the way for more direct participation and accountability at the local level. The law recognizes communes as autonomous and decentralized entities managed by communal council members. It also recognizes the communes' deliberative and decision-making powers, by allowing them to adopt economic and financial measures, including the preparation of the communal budget and the communal community development plan (Plan Communal du Développement Communautaire, PCDC). The 2005 Electoral Code established the number of communal council members (25—changed to 15 in 2009)¹³ to be elected through

13 The Electoral Code was amended in 2009 with the introduction of several changes, notably the reduction in the number of the Communal council members from 25 to 15 to better balance the cost of financial incentives—*jetons de presence*—given to council

Box 1.1 Key Legislation

The Arusha Accord for Peace and Reconciliation in Burundi indicates (Art. 8, al.2 IIème Protocole) that: *“La commune forme l’unique collectivité territoriale décentralisée”* (communes are the only decentralized entity) while Art. 20, al. 13 of the same *Protocole II* stipulates that communes (municipal entities) and collines (hills which can be seen as wards) are administered by councils (*conseils communaux and conseils collinaires*), with both elected by direct voting.

The 2005 Constitution of Burundi lays the rules for the decentralization process in its title XI *“Collectivités locales”* (local communities) where the organization of the central and local administrations are described. Title XI in its section on Communes recognized the Commune as a decentralized body and states that: *“the Commune is a decentralized administrative entity and is divided into entities provided by an organic law.”* Moreover, the Constitution states the organization of the communes as: *“the commune is to be administered by the Communal Council and the Communal Administrator.”* Title XI also include another important provision (article 267) stating that: *“L’État veille au développement harmonieux et équilibré de toutes les communes du pays sur base de la solidarité nationale”* (the Central Government is responsible for the development of all communes within a context of national solidarity; could be interpreted as justifying some form of equalization).

Source : Le Sénat et la Politique de décentralisation au Burundi août 2010 partie IV.

direct universal suffrage within each commune, and regulated the election of the communal administrator among the councilors (via secret ballot) and nomination by a Presidential decree.

12. In 2007 the government created the National Fund for Communal Investment (FONIC) to address the resource constraints of communes. The decree that established FONIC stated that 15 percent of the national budget should be transferred to the institution to channel funds to the communal level, but no analytical reasoning seemed to underpin this percentage. Moreover, these transfers have not been realized and FONIC remained until recently an institution with little means to function as designed. As a result, communal budgets remain very limited, and investment resources are mainly channeled via donor-funded grants and projects. In part as a consequence of persistent funding gaps from the central government, the

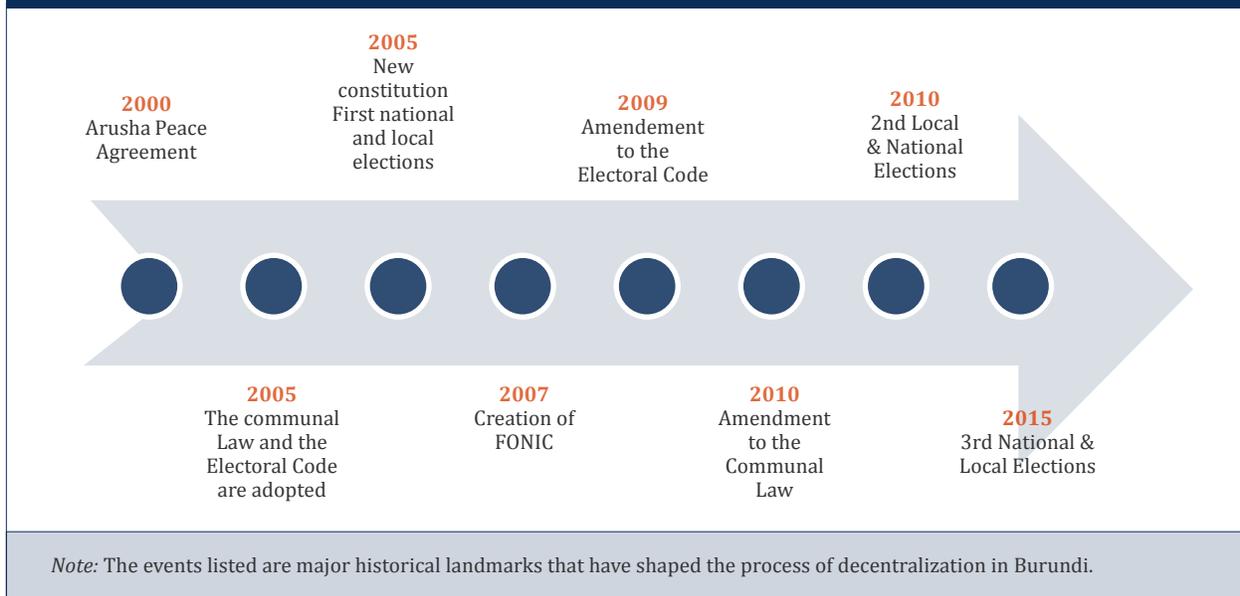
members with the poor financial resources of communes. A gender dimension has also been streamlined into the revised law requiring 30 percent of the 15 council members to be women.

implementation of decentralization reform has also been shaped by the constant—and increasingly coordinated—technical and financial support received from key players within the international community, namely from the World Bank, European Union (EU), German Agency for International Cooperation (GIZ), and Swiss Agency for Development and Cooperation (SDC).¹⁴

13. In 2009 a National Decentralization Strategy (NDS) was approved, providing the basis for the institutional and regulatory framework guiding the decentralization reform process. This policy framework was

¹⁴ In particular, the Bank’s CDD and decentralization project, PRADECS (2007–12) represented one of the key instruments of the coordinated donor response to support decentralization, with a key focus on social service delivery, capacity-building of communal level officials, and support to develop the first communal development plans in the country. GIZ provides support to the Ministry of Communal Development and decentralization in key provinces, as well as taking the lead on the FONIC reform process. Swiss Cooperation provides similar support, as well as taking the lead on land issues. The EU, through their project *Gutwara Neza* (“good governance” in Kirundi) focuses on capacity building and technical assistance to communal officials, particularly around themes on accounting, budgeting, and procurement.

Figure 1.2 A Timeline of the Decentralization Process in Burundi, 2000–15



then operationalized the same year through the creation of a three-year action plan by the Ministry of Communal Development. The action plan focuses on five pillars, including: (i) strengthening the legal framework for decentralization; (ii) strengthening the institutional framework; (iii) capacity building of actors in the sector and the articulation of a communication policy; (iv) the effectiveness of local government in promoting local economic development, poverty reduction, and the provision of social services; and (v) fiscal decentralization.¹⁵ In April 2012 an overall review of the decentralization process was conducted to assess the achievements of the first action plan and lay the groundwork for a second set of action plan for 2012–14. The new action plan adopted by the government was grounded in the previous National Policy Document and proposes new strategies to advance the decentralization policy on the five

pillars identified.¹⁶

1.2 The Decision to Decentralize: Understanding Key Incentives

14. Standard, normative arguments about the benefits of decentralization focus on issues surrounding the efficiency of service delivery. The basic idea is that decentralization, by making representatives closer to the people they serve leads to socially more desirable service provision, either because local politicians are more accountable or because they have better information about what needs to be done or what people's preferences are. Arguments that link decentralization with better service delivery may be particularly compelling in situations where there are ethno-regional divides over which policies to follow or public goods to supply (see Robinson [2010b: 1–2]; Bardhan [2002]; and Eaton, Kaiser, and Smoke [2010] for a review of this argument).

15 République du Burundi, Ministère de la Décentralisation et du Développement communal, *Document de Politique Nationale de la Décentralisation du Burundi*, Bujumbura, mai 2009.

16 République du Burundi, Ministère du Développement communal, *Plan d'action triennal 2012-2014 de mise en œuvre de la politique de décentralisation*, Bujumbura, Septembre 2012.

15. **In the case of Burundi, however, the role played by standard normative arguments was probably marginal and subordinated to political objectives.** More likely, the political interests of national politicians in the ruling coalition government did more to determine the government's decision to decentralize. To some extent, those interests might have been the result of pressures from the donors, who pushed for decentralization to enhance political stability, promote state building, and ultimately address the root causes of the war. But there are reasons to believe that the interest of national government in decentralization was equally strong—although shaped by different incentives.

16. **The national government seems to have perceived decentralization as a good opportunity to meet popular expectations while—at the same time—establishing and maintaining political control in the countryside.** This is not surprising, given that a key source of popular discontent prior to the war was the marginalization of rural communities and the centralization of economic and political power in the hand of urban elites. Another potential motivation—decentralization as a strategy of political survival at the local level¹⁷ (O'Neill 2003, 2005)—does not seem to be relevant in the context of Burundi. Historical evidence suggests that the ruling coalition when decentralization was introduced did not fear to lose power in the next (2010) national and local elections, and was instead confident of winning.

17. **Recent political developments might change the balance of power and shift central government incentives relevant to decentralization.** In Burundi, like in other countries, the political struggle is also the

17 For instance, O'Neill (2005) argues that in Bolivia the ruling party, anticipating that it would lose power at the national level, but confident of doing better in local elections, introduced local elections and decentralized resources as a way of maintaining some amount of power and control.

struggle for control and access to economic resources and maintenance of networks of clients. The events associated with the recent political crisis have created some splits within the ruling coalition and have somehow remapped the political configurations at the local level. This might contribute to explain the resistance of central government to further devolve power and delay the approval of key pieces of legislations to promote fiscal decentralization (see chapter 2 for technical analysis), likely after the 2015 elections.

1.3 Institutional Design: Mapping Key Actors

18. **The territorial organization of Burundi is two tiered. There are 129 communes that are formally divided into the 13 communes of Bujumbura—capital and the largest city in Burundi— and the 116 communes outside Bujumbura.** The population of Bujumbura is about 650,000 (average commune = 50,000) while communes outside Bujumbura have on average 90,000 inhabitants in 2014. The communes of Bujumbura have less autonomy than the other communes. We thus distinguish between them in our analysis. There are also 17 provinces¹⁸ which host deconcentrated entities of various ministries and a governorate at the provincial level. One of them, Bujumbura—Mairie, is both a province and a municipal body acting as a commune. Table 1.1 presents information on the size of communes by province outside Bujumbura.

19. **Each commune has a deliberative body (the communal council), elected through direct universal suffrage by its citizens; an executive body (the communal administrator), elected through indirect**

18 Bubanza, Bujumbura Mairie, Bujumbura Rural, Bururi, Cankuzo, Cibitoke, Gitega, Karuzi, Kayanza, Kirundo, Makamba, Muramvya, Muyinga, Mwaro, Ngozi, Rutana, Ruyigi.

universal suffrage by and among the municipal councilors; and administrative services provided by two technical advisors.

Communes are then divided into administrative units known as “zones”; these are a grouping of collines (hills) in rural parts of the country (neighborhoods in urban areas). These hills are the basic natural grouping in Burundi. They have a five-member council elected directly by the population; the councillor with the largest number of votes becomes the local chief (*chef de colline*). Moreover, colline councillors run as independents (they are on no party list). Tasked to represent their residents and voice their concern, councillors do not deliver public services but their head may act as a tax collector.

20. The current organizational structure of communes reflects their weak administrative capacity.

The current organizational structure (see figure 1.3) does not have a top communal civil servant that would be the Chief Operation Officer of the commune. This function is carried out by the communal administrator,¹⁹ who is simultaneously an elected official, the top local civil servant, as well as the representative of the central government in the commune. This person receives a base salary from the central government and a supplement from the commune. Two technical advisers are selected by the communal council among central civil servants paid and made available by the central government to the commune.²⁰ The communal

19 Loi 1/02 2010 portant sur l'administration communale art 25 et 30.

20 In 2009 the cost of the two technical advisers and the mayor is reported at 420 million FBu; p6 *Mécanisme de Transferts Financiers Aux Communes (Fonds National d'Investissement Communal)* by

Table 1.1 Information on the Size of Communes, Rural Provinces, Burundi, 2008

| Provinces | # communes | Average area (km ²) | Standard deviation (km ²) | Average Population | Standard deviation population | Smallest population | Largest population |
|-----------------|------------|---------------------------------|---------------------------------------|--------------------|-------------------------------|---------------------|--------------------|
| Bubanza | 5 | 21 070,2 | 7 559,8 | 6 7604,6 | 14 071,2 | 55 344 | 83 678 |
| Bujumbura rural | 11 | 10 382,2 | 2 877,8 | 50 539,4 | 19 402,8 | 24 660 | 78 823 |
| Bururi | 9 | 26 608,1 | 6 028,4 | 63 779,2 | 33 824,1 | 29 685 | 145 074 |
| Cankuzo | 5 | 37 855,2 | 13 933,8 | 45 774,6 | 9 505,7 | 32 458 | 57 322 |
| Cibitoke | 6 | 26 103,7 | 6 264,4 | 76 739,2 | 8 228,6 | 66 367 | 88 451 |
| Gitega | 11 | 17 285,8 | 6 533,5 | 65 094,9 | 36 134,2 | 32 714 | 155 005 |
| Karuzi | 7 | 20 200,3 | 3 313,8 | 62 349,0 | 16 324,6 | 41 476 | 81 938 |
| Kayanza | 9 | 13 145,4 | 3 698,7 | 65 045,8 | 162 61,6 | 39 633 | 97 252 |
| Kirundo | 7 | 25 448,4 | 11 818,3 | 89 750,9 | 28 618,6 | 57 326 | 145 424 |
| Makamba | 6 | 31 521,3 | 8 395,4 | 71 816,5 | 30 103,1 | 44 978 | 112 752 |
| Muramvya | 5 | 13 341,4 | 4 684,9 | 58 517,8 | 15 662,4 | 41 170 | 81 257 |
| Muyinga | 7 | 25 679,1 | 9 296,0 | 45 231,1 | 11 637,3 | 27 954 | 60 311 |
| Mwaro | 6 | 13 700,0 | 2 350,7 | 98 155,7 | 39 037,9 | 54 482 | 151 230 |
| Ngozi | 9 | 15 698,4 | 4 454,8 | 73 413,0 | 20 964,1 | 57 086 | 120 557 |
| Rutana | 6 | 30 865,3 | 12 785,2 | 55 585,0 | 19 936,2 | 35 471 | 93 365 |
| Ruyigi | 7 | 32 216,3 | 9 630,7 | 57 218,6 | 20 754,0 | 37 502 | 99 461 |

Source : Author's compilations, using data from IGEBU and ISTEEBU.

staffs paid through communal revenues comprise zonal leaders (chefs de zone), one communal secretary, one civil registrar, and one communal accountant. A problem often cited by central government officials is that the quality of the personnel varies between communes. In particular technical advisers are often local teachers not trained for the duties of technical advisers.

21. Communes in rural provinces are governed by a communal council of 15 members elected by direct universal suffrage, based on a list of candidates from different political parties (block list approved by the party) reflecting a gender balance (set at 30 percent by the Electoral code) and the ethnic balance within the represented commune. The national independent electoral commission (CENI) can intervene ex post to ensure gender and ethnic balance on the council.²¹ Council members serve a five-year term. Within a week after the elections, the newly elected commune council must have its first meeting, during which its president, its vice president and its secretary, and the communal administrator (that is, the mayor), are elected through secret ballot. The communal council regulates all the internal affairs of the communes including local development. For instance, it sets the community development program, monitors its implementation and ensures evaluations are carried out. Moreover, through its administrative branch, it promotes employment and handles personnel recruitments as well as all transactions pertaining to the operation of the commune. Oversight authority over the Council is exercised through a tutelle system by both the provincial authorities (through the Governor) and the central government (through the Ministry of Interior).

Mohamed El-Mensi and Déo Banderembako LDi/UNCDF 2009.

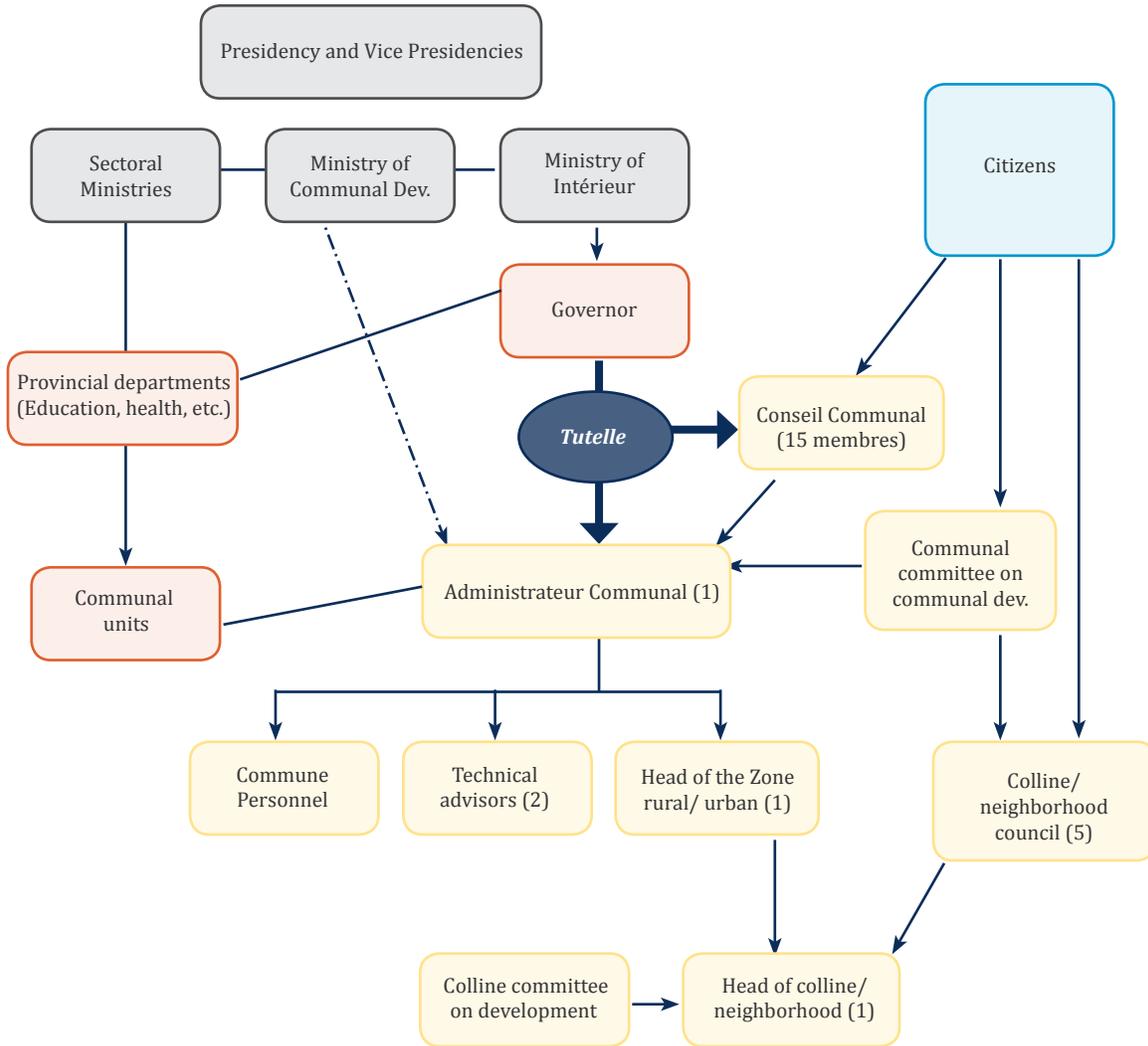
21 Plus a councillor from the Twa group if one ran but was not elected.

22. The communal administrator—hereby referred to as the administrator—is appointed by presidential decree before taking office, although he or she is elected among the communal councilors through a secret ballot within the council.²² The administrator is the legal representative of the commune and its population. As a civil servant working fulltime and remunerated by the state (base salary) with communal supplement, the administrator is responsible for the management and administration of the communes, the application of laws and regulations, public security, domain management, and the preparation and execution of the budget. In terms of local development, the Communal Law assigns to the administrator the task of preparing “the communal development plan and community development” (PCDC) and managing its implementation process while consulting with the local population. He regularly reports to the Communal Council as well as the respective tutelle authority. He is also mandated to submit an annual report on the management of his/her commune to the communal council and to the governor of the province, which will be made public after adoption by the communal council. The administrator delegates some of his/her power to the zone manager. The zone is a decentralized administrative district between the commune and the collines/neighborhoods.

23. To support the overall management of the communes, the administrator and the commune council are assisted by two technical advisors. These are central government employees seconded to the commune (détaché auprès de la commune). They are selected by the communal council. One advisor is in charge of local development, while the other is in charge of social issues (health,

22 The communal law provides for cases in which an administrator may be removed from office or suspended by the central government or the commune councilors for valid reasons including incompetence, corruption, misconduct, or misuse of funds.

Figure 1.3 Institutional architecture of decentralization in Burundi



Legend :

- Designates the “*tutelle*” role of the Ministry of Interior
- Designates the policy oversight and coordination role of the Ministry of Communal Development
- Designates (hierarchical) relationships of accountability.

Note: The chart above (figure 1.3) identifies the institutional architecture of decentralization in Burundi, mapping all key actors, institutions and relationships between central government, deconcentrated structures and decentralized authorities. The black borders identify central government agencies in charge of policy oversight, coordination and *tutelle* over the communal administration. The red borders identify deconcentrated structures of the central public administration. The yellow borders represent decentralized actors and institutions at the communal and colline level.

Box 1.2 Legal Provisions Regulating the “Tutelle” System

Control over communal decisions (“mise sous contrôle” or ‘tutelle’) is already reflected in Articles 96, 98, and 99 of the Communal Act of 25 January 2010: *“The Minister in charge of territorial administration in its attributions may cancel any regulations or resolutions of the communal authorities which is beyond their duties or are contrary to law or to the public interest. The cancellation must be made within thirty days after the date on which the Minister became aware of such resolution.”*²³

Moreover, Section 100 of the communal law reiterates that: *“When Local authorities are failing to perform the duties bestowed upon them under the laws and regulations, the Minister in charge of territorial administration, the provincial Governor or the Mayor may, after two warnings, take any actions to replace them.”*²⁴

education, assistance for the poor, and so on) as well as cultural and sporting activities. In the case of the absence of the Administrator, these advisors can step into his/her role.

24. The Committees on Communal Development (CCDCs) are formed on a sectoral basis and include representatives of decentralized government entities to the communes. The CCDC is an advisory body composed of individuals involved in community development and established by the communal council based on a request by the administrator. Its role is to provide technical expertise to local authorities. The CCDCs are usually involved in the planning of community development.

25. The colline, or the neighborhood, is the basic entity of territorial administration. Similar to the communal level, the Collines/neighborhood council is supported by an advisory body, which, however, is not recognized by the law: the Conseil de Développement collinaire (CDC). It is composed of all five members of the collines council, as well as seven persons selected by the communal general assembly for their commitment to community development activities and conflict resolution. CDC has among others mission the role to participate in the development of collines/neighborhood community development plans which establish the priority needs of the collines/neighborhoods and are to be integrated into the PCDC.

26. The provincial government is headed

by a governor, who is supported by three councilors (appointed by decree) and is responsible for the design, coordination, and monitoring of development activities at the provincial level and who also holds an administrative and financial *tutelle* over communes (see box 1.2). A provincial committee on communal development (PCCD) is also established. Chaired by the Governor who is supported by a principal advisor, the PCCD consists of two representatives per communes appointed by the Minister of the Interior to support the provincial administration in providing advice on administrative and policy issues including those relating to decentralization and the development of communes.

27. Key sectoral departments such as agriculture or education have both provincial and communal decentralized branches (*direction provinciale and direction communale*). Their activities vary across sectors. For example, in education the communal branch supervises the schools offering primary education (*école de base et fondamentale*) and plays a role in the recruitment of teachers and the nomination of principals while the provincial branch acts more as an interface between the central departments and the communal branches. In both cases, they are assisted by an advisory council.

23 La loi communale du 25 janvier 2010, Art.99, p.25.

24 Ibid p. 26.

1.4 Institutional Design: Promoting Citizens' Engagement to Strengthen State–Society Relationships

28. **The first defining design feature of the new legal framework was the promotion of an open partnership and collaboration between the state and citizens.** The 2005 decentralization initiative does hold some similarities to former historical attempts. For example, locally elected councils led by administrators who, although now elected by and amongst the councilors themselves, continue to be accountable to the Provincial Governor and central authority.²⁵ However important differences also exist. These relate to the overall aims and aspirations of the new power-sharing arrangements, and are clearly articulated in the National Policy on Decentralization adopted in 2009 (Government of Burundi 2009). Two key aspects in this regard are worth noting. The first is the fundamental change in the political culture required wherein elected and appointed state officials begin to work in open partnership and collaboration with local citizens rather than exercising centralized control as in the past. This is described as requiring nothing less than a “silent revolution”—a complete bouleversement of traditional relations (revolution) in the absence of violent conflict (silent).²⁶

[La Décentralisation] favorise une « révolution silencieuse » qui engendre un changement qualitatif de la société.

25 See OAG (2007), OAG (2009), and Gouvernement de Burundi (2009) for more on this point.

26 As indicated in Gaynor (2011): “the term “silent revolution”, when cited during the research feedback presentation generated a lengthy debate as to what this meant and whether the word “revolution” was appropriate in the Burundian context. It was noted that this was the state’s own wording (appearing as it does in the Government’s National Policy) and that the use of the word reflected the enormity of the political, attitudinal and behavioral changes required in how local state and civic actors relate to each other and conduct affairs in an open, transparent and participatory manner.”

La Décentralisation exige une nouvelle culture étatique, un nouvel état d’esprit politico-administratif... Tout le monde, pas seulement les élus locaux comme on a tendance à le croire un peu partout, est acteur de la Décentralisation.

[Decentralization] favors a “silent revolution” which brings about a qualitative change in society. Decentralization demands a new state culture, a new politico-administrative spirit within the state . . . Everybody, not just locally elected leaders as we all are inclined to think, is an actor within Decentralization.

(Government of Burundi 2009: 56—translation and emphasis by Gaynor [2011])

29. **A second design feature that departs from the ethos, policy, and practice of decentralization in the pre-war history of Burundi is the active role accorded to citizens in the process.** Given that the decentralization process aimed at the interconnecting areas of governance and development, citizens now have a role to play in both determining development priorities and overseeing initiatives to address these priorities. According to the government’s texts:

La Décentralisation vise l’objectif de la participation active de l’ensemble de la population à la définition et à la mise en œuvre des politiques de développement économique et social de leur localité. Les résultats attendus d’un processus de Décentralisation sont d’une part le développement local et communautaire, et d’autre part la démocratie locale et la bonne gouvernance.

Decentralization aims at the active participation of all the population in defining and implementing economic and social development policies in their localities. The envisaged outcomes from a process of Decentralization are, on the one hand, local and community development

and, on the other, local democracy and good governance.

(Government of Burundi 2009: 10—translation and emphasis by Gaynor [2011])

30. **There is a radical shift in state-citizen engagement, from consultation to active participation.** Within the national policy, it has been emphasized that citizen participation is not merely about consulting local citizens on their views and ideas but instead moving toward the higher end of the participation spectrum, where citizen participation within local governance in Burundi involves shared decision-making between state officials and citizens in relation to development programmes and interventions within their localities.

Le Gouvernement de la République du Burundi a pris l'option politique de rapprocher les services publics de la population et d'impliquer cette dernière dans la prise des décisions et le choix des programmes et projets de développement de leurs collectivités.

The Government of the Republic of Burundi has taken the political option of bringing public services closer to the people and of involving the people in decision-making and choice in relation to development programmes and projects in their localities.

(Government of Burundi 2009: 61—translation and emphasis by Gaynor [2011])

31. **The call for a “silent revolution” in the way state and citizens interact emerged as a clear policy objective of the new decentralization process.** As enumerated in the Government’s new decentralization policy, decentralization within Burundi today represents a fundamental shift from previous attempts to this process. This transformation embodies a shift from top-down to bottom-up planning where citizens are no longer considered subjects but partners in governance and where the societal divide between the ruler and the

ruled no longer consist of ruling over but ruling with. These transformations, as clearly set out in the Government’s 2009 National policy, certainly require nothing less than the “silent revolution” called for in the same policy.

32. A review of the structures and procedures as they are set out in the relevant legislation of 2005 and 2010, as well as within the Manual of Administrative and Financial Procedures published by the government in 2011 and found in box 1.3, highlights the current design to strengthen state-society relationship at the local level.

33. **While several opportunities exist for accountability and participation, these legal provisions fall short of shaping daily practices on the ground.** The current decentralization framework as enumerated in box 1.3 offers numerous opportunities for citizen oversight and engagement in the process. Figure 1.4 gives a clear picture of such process as envisioned by the state. At the local level, opportunities for both accountability from state actors (highlighted in red), as well as openings for participation from civic actors (highlighted in blue) exists. In theory and institutionally, a sound structure has been devised. In practice however, these opportunities are not exercised. For example, the two public consultative meetings chaired by the communal council each year focus on accountability—literally referred to in Kirundi as “accountability meetings”—do not garner wide participation. The framework below, in theory, could be very effective at bolstering social accountability at the local level. There is a clear division of mechanism among the communal council, the administrator, and the hill council (conseil de colline), as well as a balance between opportunities for participation and opportunities for greater communication. The main question worth investigating is how does this policy translate into procedure and practice on the ground in the communes and *collines* throughout the country? In practice, evidence suggests that various factors contribute to act as binding constraints to mobilize effective citizens’

Box 1.3 Current Decentralization Procedures in Burundi

The larger objectives and purposes articulated in the 2009 policy document find more concrete expression in the associated texts produced over the last few years—notably the Decentralization Law of 2005 and the Manual of Administrative and Financial Procedures of 2011, both produced by the Government of Burundi (Government of Burundi 2005b, 2011). A number of the key features of both the commune and hills councils (conseils de colline), deriving from these associated texts, are outlined below:

Procedures for commune councils

- The commune council comprises 15 members elected through proportional representation from party block lists of candidates.
- Co-options are permitted to achieve power-sharing quotas—no more than 67 percent from any one ethnic group; no less than 30 percent female representation.
- The role of the commune council is to ensure that public services respond to the needs of the population (Article 5*).
- The commune council meets three times a year in ordinary session where a quorum of 10 or more members is required (Article 10).
- These meetings are public (Article 19).
- Before March 31st each year, the communal administrator presents a progress report to the council. The report is sent to the Provincial Governor and is made publicly available following validation by the communal council (Article 31).
- Decisions at council meetings are by simple majority, public voting or, for sensitive issues, by secret ballot of all members (Government of Burundi 2011: 15).
- A record of deliberations of each meeting is kept and extracts from all deliberations are posted on the public notice board at the commune offices (Government of Burundi 2011: 15).
- Twice a year, the council holds open information sessions with hill council members and members of local associations. Participants at these meetings may pose questions and propose ideas and solutions to the commune council (Article 15).
- The commune council is responsible for appointing a consultative committee (following propositions from the Administrator) to advise on priorities for the communal community development plan (PCDC) (Article 38).
- The Administrator presents a bimonthly progress report to the commune council on implementation of the PCDC (Article 39).
- The annual budget is adopted by the council and transmitted to the Governor for approval, at the latest by October 31st (Article 58).
- The transfer of responsibilities is accompanied by a transfer of the necessary financial and human resources to carry these out (Articles 77 and 71).

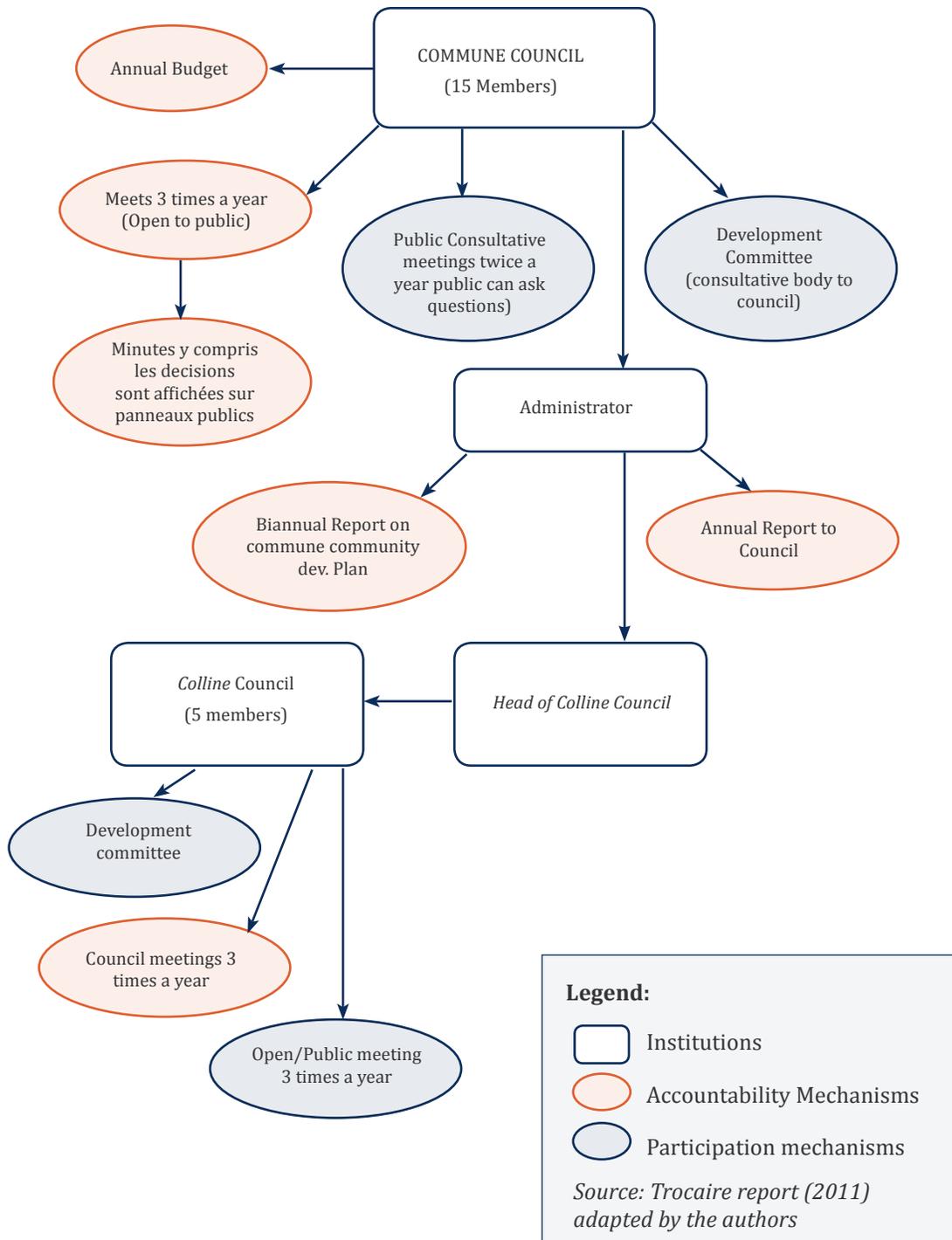
Procedures for hill councils

- The colline council comprises five members elected on an individual first-past-the-post basis. The candidate with the most votes is the head of the council / chef collinaire (Article 34).
- The colline council meets three times a year following notification from the council head (Article 35).
- The role of the colline council is . . . (Article 16):
 - to propose to the commune councils actions leading to development and the preservation of peace;
 - to mediate / arbitrate on conflicts between neighbors;
 - to advise the commune council on possible projects for the colline;
 - to monitor the implementation of commune activities on the hill.
- At least three times a year, the head of the council organizes an open meeting for all colline residents to analyze the political, social, economic, and security situation on the colline (Article 37).

Source : Trocaire Report 2011.

* All articles cited in this section refer to articles from the relevant law (Government of Burundi 2005).

Figure 1.4 Opportunities for Engagement at Different Levels of Burundi's Decentralization Process



participation and downward accountability. (The main factors accounting for the observed situation are analyzed in chapter 4.)

1.5 Obstacles to Moving the Reform Agenda Forward: Understanding Institutional Constraints and Political Incentives

34. **Since 2010, when a few amendments to the 2005 communal law were introduced, there has been little progress toward effective decentralization in Burundi.** On the one hand, the Government has recently adopted important legislative documents such as the Decree on intercommunality; the Decree on Burundi's decentralized cooperation; the Decree establishing the Interministerial Orientation and Steering Committee for Decentralization in Burundi and the Technical Monitoring Committee; the Decree on the Reorganization of the FONIC; the Order establishing a Technical Monitoring Committee of the *Comité Interministeriel d'Orientation et de Pilotage de la Décentralisation* (CIOPD). On the other hand, many basic legal texts to support the decentralization process have yet to be adopted. Notably, the law on the responsibilities of communes remains to be adopted since parliamentarians deplore the lack of transfers,

human and financial, to communes necessary for its proper implementation. The law on communal finances has not been submitted to parliament (still being prepared by the Ministry of Interior) while the law on a territorial civil service (defining the legal status of communal staff) is not much more advanced and the law revising the role and of local administrator is equally on hold. Finally, the law on revising the legal status of Bujumbura *Mairie* is also under discussion. In addition, all these texts will need to be harmonized and made consistent with other legislation governing local development and planning (Environmental Code, Land Code, Forest Code, and so on) as well as legislation governing deconcentrated administrative unites.²⁷

35. **Institutional constraints combined with political and bureaucratic incentives are critical obstacles to significant progress.** In fact, the uncertain political dynamics may suggest that the introduction and implementation of some of the new legal provisions might now be perceived as politically risky by central authorities, as it might strengthen the autonomy of communes and reduce their dependency on

27 This is the case, for examples, of bills that have been initiated by the Ministries of Education and Health and created new local structures (departments of health districts, municipal departments of Education).



the center. The section below reviews these incentives and further articulates on the effects that a changing political environment might have in reshaping the institutional framework of decentralization.

1.5.1 Institutional Constraints

36. **Institutional factors seem to have played a key role in the delays, hesitations, and contradictions that characterize the process of promoting the legal framework for decentralization.** At the institutional level, the lack of a strategic vision is often reflected in the fragmented legislative process, with several actors within and outside the government (including parliament, local actors and civil society organizations), lamenting the “piecemeal approach” to legislative initiatives, which in turn makes difficult for national policy makers to understand the overall direction and coherence of the decentralization program. Moreover, ongoing competition between central ministries and vice presidencies over the political leadership of the reform causes blockages and mutually reinforcing deadlocks during the processes of analyzing and adopting legal texts.

37. **The institutional architecture of the reform process remains to be clarified, undermining efforts to clarify political leadership and define responsibilities across ministries.** Since 2005 the reform process has been housed in changing departments and ministries, fragmenting reform plans and eventually undermining the overall coherence of the whole process. It started within the Ministry of Interior and Public Security (2005–07) later reorganized as Ministry of Interior and Communal Development (2007–09). It then moved to the Ministry of Planning and Communal Development (2009–11), and was finally given to the Ministry of Communal Development (2011–13). According to the latest Decree on the issue (No. 100/323 of December 27, 2011) the mission to lead the decentralization process is now under the Ministry of Communal Development.

28 However, currently the Communes are expected to fulfill the missions of multiple ministries. Moreover, as discussed above (para 21 and 22), the communes fall under the *tutelle* of the Ministry of the Interior as well as the provincial authorities (Governor). This “fragmented accountability” and overlapping oversight creates a functional duplication, which in turn generates rivalry and competition over leadership between ministries. For example, while the National Policy Strategy assigns a leading role to the Ministry of Decentralization and Communal Development,²⁹ in practice the Ministry of the Interior plays a leading role in regulating the competition among communes on local development projects. In particular, the daily management of communes and participation in initiatives of political nature once called “party works” and now “community works,” depends largely on the relationship of the communal administrator with central government officials. This relationship is more political than technical in nature and shaped by partisan relationship (see section below).

38. **The National Interministerial Steering and Orientation Committee on decentralization (Comité Interministeriel d’Orientation et de pilotage de la decentralization –CIOPD) has yet to act as an effective coordinating body and provide leadership of the reform process.** The decentralization policy is transversal and involves

28 To achieve its mission, the Ministry in charge of decentralization has created offices namely the Direction Generale de la Décentralisation and the Mobilisation pour l’Auto-développement. General Directorate on Decentralization and the Mobilization for Self-development. These offices have specialized technical directions. In addition, the ministry has a funding mechanism or transfer of funds to communes through the Fonds National d’Investissement Communal (FONIC) which was created in 2007 to replace the Fonds de Développement Communal.

29 Specifically, the Ministry has the mandate “to ensure the coordination of all activities related to decentralization, monitoring and evaluation of local communities’ development, to develop and implement the national policy on community development, design and implement government policy on decentralization and Communal development and contribute to the mobilization of resources to implement the policies advocated and so on.”

Box 1.4 Sectoral Ministries Involved in the Decentralization Process

- Ministry to the Presidency in charge of Good Governance and Privatization, within the framework of the implementation of the National Strategy for Good Governance and Fight against Corruption under the aspects of control and inspection of the communes, and the development of standards to improve the management, promotion of ethics of good governance;
- Ministry of Interior through the Decree of December 27, 2011, Section 1, Art.13, which assigns the role of designing and implementing the national policy of territorial administration while ensuring the supervision of the decentralization process and monitoring of territorial administration, as well as all services under its jurisdiction, to ensure, in collaboration with relevant ministries, the coordination of territorial technical services and decentralized government services.
- Ministry of Public Security with a mission to execute the national policy on public security must collaborate with local communities, and especially because the Communal Law provides that the communal administrator practices in the territorial limits of its jurisdiction a general police power. The law provides that the administrator has direct line authority over the police jurisdiction assigned in his commune.
- Ministry of External Relations and International Cooperation, which helps in the pipeline projects of decentralized cooperation.
- Minister of Finance and Economic Development Planning intervene to ensure support for joint planning and the financing of communal projects, particularly through the FONIC.
- Ministry in charge for public works and equipment involved in the planning and supervision of rural development in the context of the design and implementation of government policy on road infrastructure and housing.
- Ministry in charge of environment and spatial planning in its duties as a direct manager of the Land Code, the Code of Environment, and Forest Code which important steps are involved in the transfer of skills.
- Ministry of Energy and Mines, which intervenes in the planning and supervision of rural development in the context of hydraulic and electrification.
- All departments with decentralized services in particular the ministries of agriculture and livestock, health, and education.

two main ministries (Interior and Communal Development) while being also fragmented across several sectoral ministries engaged in local development (box 1.3). It involves the first vice presidency on one hand and the second vice presidency on the other. This poses a huge problem of overall strategic orientation and undermines coordination efforts, since not all ministries involved in decentralization reform are within the same vice-presidency. To address this problem, in 2011 the Government established the CIOPD, through the National Policy Paper on Decentralization. This mechanism failed to play an effective role so far, for at least two reasons:

first, it has been established by a Ministerial Order to involve actors from the Presidency and other ministries, which raises issues of lack of authority and “inverse accountability.” Second, the CIOPD has no real decision-making powers and its meetings often turn into opportunities for sectoral ministries to push for their own agenda.

1.5.2 Political Incentives

39. **Decentralization has been perceived by national elite as an opportunity to establish and maintain political control at the local level.** As indicated above, the

political motivation to establish control and power at the local level acted as a key driver in the politicization of the deconcentrated and decentralized administration, particularly with regard to key decision-making figures (governors, administrators, and so on). The primary interests of national elite to use decentralization as a system to establish and maintain political control at the local level helps to make sense of specific design features of the decentralization process, as well as resistance to proposals that might change the current political equilibrium. In particular, incentives have shaped and are reflected in (i) choices in the electoral law (proportional system with a 'blocked' lists of candidates approved by political parties) as a means to strengthen electoral support and loyalty to the national party leadership; (ii) the tendency to reward party supporters to fill out civil service positions at the provincial or communal level; (iii) the resistance to change the status of the Communal administrator; and (iv) the delays in approving the draft laws on the transfer of competences and resources to communes.

i. **The choice of the electoral law governing local elections is likely to favor party activists at the expense of independent candidates outside the control of national party leadership.** Despite the democratic elections of 2005 and 2010³⁰ marking a turning point in political decentralization and empowering local authorities with legitimate power before local communities, communal councilors are elected via a proportional system in a "blocked list" of candidates presented by political parties. Focus group research has confirmed that this mechanism tends to produce a sharp politicization of local elites, since the

30 The 2010 elections were characterized by a high turnover of local elites, undermining capacity building efforts supported under several donor-funded initiatives and contributing to the erosion of previously acquired skills in development planning and management.

selection of candidates has been controlled by national party leadership, which favors party activists able to mobilize votes rather than independent candidates running their campaigns around local development issues. This in turn risks undermining downward electoral accountability, reducing local politicians' incentives to address popular needs.

ii. **Human resource management has been politicized, undermining the institutional capacity of local state actors.** As indicated above, national political parties still consider that locally elected officials (communal agronomists, teachers, principals and inspectors of primary schools, nurses, and so on) are effective intermediaries in mobilizing voters. In this context, requests for transfer of local public officials are often addressed more as a mechanism to reward political supporters than as a management tool to initiate a genuine policy of redeployment of competent officials of the public administration to the communes. Overall, this approach has favored political loyalty over competence and merit, undermining the institutional capacity of local authorities to deliver.³¹

40. **Resistance to changing the status of the local administrator illustrates this point.** As discussed above, the communal administrator is currently stuck between the status of an elected official and the manager of the commune as a civil servant who represents the central government, while the commune

31 Lack of technical capacity, however, is not only the result of calculated political choices, and seems also to be the by-product of poor human capital across rural communities. Technical and financial partners have supported the government in this issue, including the establishment of a *Centre National de Formation des Elus Locaux* (CNFEL) National Training Centre for Elected Officials. But a better coordination with the National School of Administration (ENA) and other institutions specialized in training of civil servants seems urgently needed.

does not have the equivalent of the chief executive officer. Moreover, the administrator is subject to the control of the commune councils and acts under the supervision of the provincial authority, the governor (the authority of the tutelle), who represents the interests of the central government. The political proximity between the two levels of authority shapes the party allegiances of the administrator, who might act in the interest of the Governor rather than promoting the interests of the commune.³² It is therefore not surprising that demands expressed by several interests groups (including ABELO and representatives of local communities) to change the status of the administrator, making it an elected (by direct universal suffrage) have been blocked. According to some observers, it is feared that this proposal—by granting the administrator greater legitimacy and autonomy to exercise his power—might open the way for greater autonomy of the local authorities from the center.

1.5.3 Bureaucratic Incentives

41. **Among civil servants prospects of decentralization create fears about the security and location of employment.** In particular, civil servants are reluctant to leave their civil service positions to join communal administration without assurance that they will retain full status. (While the center guarantees secure employment, it might not be the case at the level of most of the rural communes, depending on their fiscal situation). Furthermore, most civil servants have no intention to be posted outside main urban centers and seem to be especially reluctant to be accountable to poorly educated local executives.

32 This explains why for example, even after the new manual of administrative and financial procedures has abolished the 2 percent “tax levies” by provincial authorities on communal budgets, some governors continue to benefit from this practice based on the political affiliation of their communal administrators.

1.6 Recommendations for Policy Dialogue: “Unlocking” the Reform Agenda

42. **The analysis discussed above suggests that—at least in the short term and up till the national elections—key political and bureaucratic incentives are unlikely to change significantly.** This implies the need for development partners to lower expectation and set realistic targets for support. That said, it might still be possible (and strategically meaningful) to focus efforts in addressing the institutional constraints that might not necessarily reflect a well-defined political strategy and instead be the undesired effect of poor coordination across ministries.

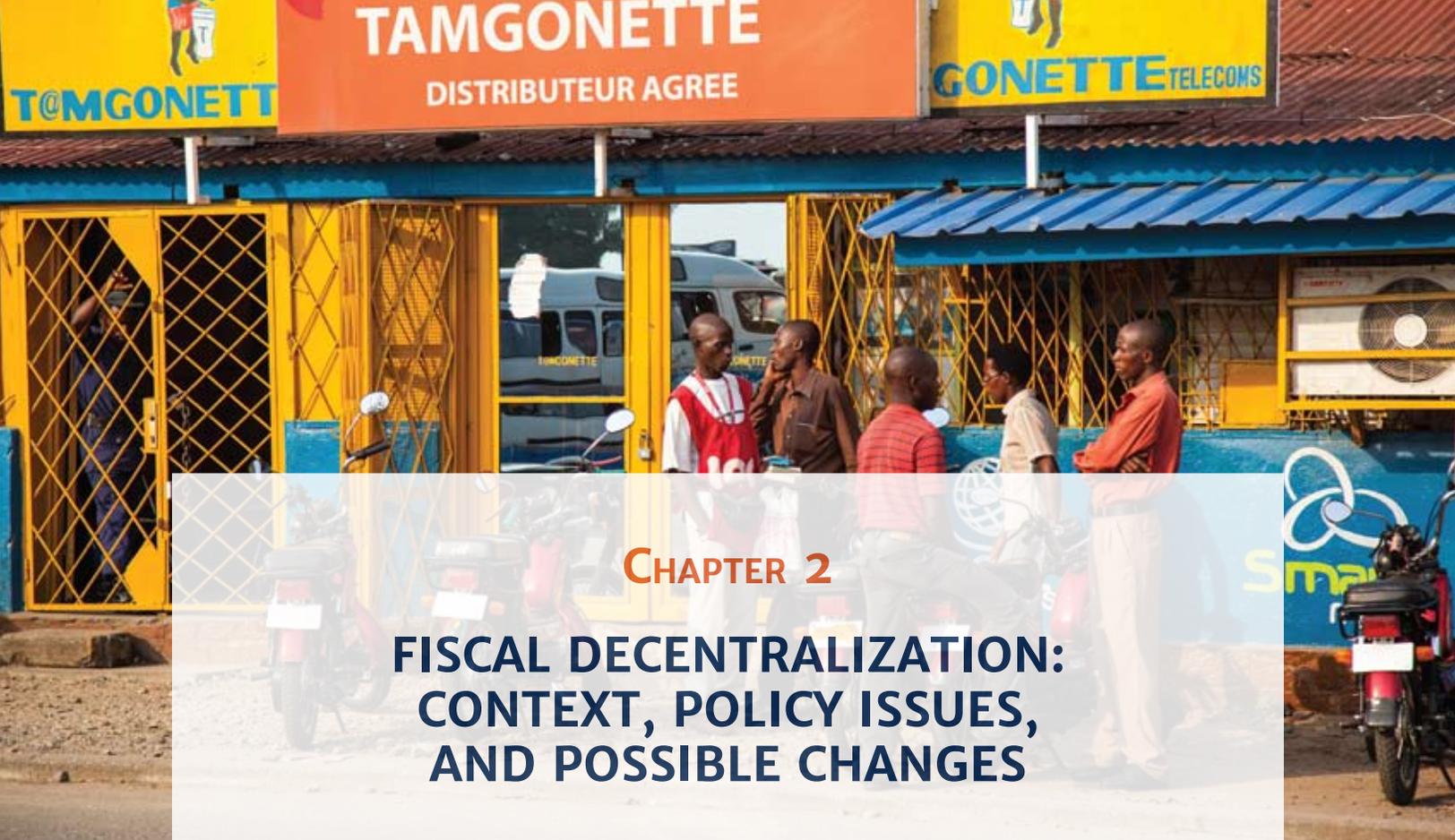
43. **Efforts are still needed to reach a consensus on the strategic direction of the reform.** As discussed above, the time taken to achieve consensus on the decentralization framework is explained not only by the technical complexity of the issue, but also by the inherently political nature of the reform progress. In this perspective, the frequent changes and amendment in the legal framework taking place since the early 1990s³³ also reflect the difficulty of reaching a consensus among decision makers on the overall strategic direction of a reform that has important political and institutional consequences.

44. **A coherent vision needs to be developed as the foundation for a comprehensive and coordinated legal and institutional framework.** After almost a decade of efforts, it has become clear that the sectoral approach to pilot the decentralization reform through two ministries is not performing as desired given the transversal nature of decentralization as well as the lack of a conflict regulation mechanism to resolve interministerial rivalries, or “by-pass”

33 The list of the legislative acts (decrees and enacting regulations) is available from the authors upon request.

sectoral resistances to push decentralization forward. It is equally clear that decentralization can no longer be presented as a series of texts or isolated actions as done in the recent past (“piecemeal legislation”). This comprehensive and systemic approach should include a robust legal framework governing the reform. These legal texts should be consistent and harmonized with other existing laws governing decentralization.

45. **The Presidential decree should clarify the power and competencies of the steering committee (CIOPD)**, to better signal to the government’s political will and long-term vision vis-à-vis decentralization reform. The CIOPD could be under the supervision of the second vice president . The CIOPD should then adopt an action plan and report its achievements periodically (once per semester) to the head of the government.



CHAPTER 2

FISCAL DECENTRALIZATION: CONTEXT, POLICY ISSUES, AND POSSIBLE CHANGES

A Summary of Main Arguments and Key Findings

1. **Despite its importance, fiscal decentralization represents the weakest link in the decentralization framework so far.** An adequate transfer system for current expenditures is yet to be defined: to date, there is no mechanism in place to ensure equitable and transparent transfers for current spending by communes³⁴ in Burundi.³⁵ This is unusual as territorial inequalities make this necessary in most countries of the world and—in the case of Burundi—the uneven distribution of resources

34 *Au Burundi les communes vivent seulement de leurs ressources propres ; il n'existe pas de ressources transférées ni par le Gouvernement, ni par les Bailleurs de fonds. Les communes collectent leurs ressources en appliquant en particulier l'OM N°530/540/312 du 04/08/1997*

35 *Portant sur les taxes des communes. ETUDE SUR LA VIABILITE INSTITUTIONNELLE ET FINANCIERE DES COMMUNES RURALES AU BURUNDI, p. 39.*

might contribute to increase subnational inequalities. For capital expenditures, *Fonds National d'Investissement Communal* (National Investment Funds for Communes, FONIC) provides some support with an equal transfer by communes that does not take into account their taxable capacity or needs. Moreover, while incentive mechanisms exist in the FONIC allocation formula, they are not applied given the limited envelope available.

2. **In the absence of a predictable and transparent intergovernmental transfer system, most communes struggle to remain fiscally viable and finance even basic operating costs.** The socioeconomic diversity of communes (in terms of size and economic potential) represents a technical challenge for an equitable distribution of public resources across the national territory, in a context where local revenues represent only 2.7 percent of total government revenues and remain largely concentrated in Bujumbura (25 percent of total

local revenues). The average annual communal revenue outside Bujumbura is FBu 103 million; equivalent to \$68,000 or somewhat less than \$1 per capita. Resources to finance the execution of Communal Development Plans (CDPs) are therefore largely insufficient, with the result that available social infrastructure, as well as the maintenance and operations of these facilities (health clinics, primary and secondary schools, and water points) remains limited to address citizen needs and improve access to social services.

3. Given the fiscal fragility of the country and its structural vulnerability to external shocks, the central government has little fiscal room for maneuver to improve the fiscal viability of the communes. Under these structural constraints, the financial implications of proposed legislation to increase the functional responsibilities of communes need to be carefully considered. The government is aware of such trade-offs and has requested the assistance of the Bank and a group of donors to provide technical assistance in identifying feasible options to manage the fiscal decentralization process and the policy actions needed improve the medium-term sustainability of the current system, under conditions of macro-fiscal fragility. Specifically, this chapter aims to review the current status of fiscal decentralization in Burundi and directly address a series of *five key policy questions* that have been raised by the national stakeholders and currently are at the center of public debate surrounding fiscal decentralization in Burundi.

4. Policy issue #1: Given the existing assignment of functional responsibilities, the current territorial organization of Burundi is reasonable, and there is no need to reduce the number of communes. Moreover, regrouping communes as such does not necessarily alleviate the lack of resources and survey results suggest it may have costs in terms of accessibility of services for the population. Compared with other African countries, Burundi—and its 116 rural communes, with an average population of roughly 90,000—is not an outlier. Given

that communes mainly provide local services that require proximity to residents with little technical content (high technical content is associated with services such as water treatment or composting, for example) or high fixed costs (similar services), the case for a national consolidation policy does not seem to be justified. Meanwhile, the legal status of the communes of Bujumbura should be clarified.

5. Policy issue #2: General responsibilities assigned to communes should be clarified, given possible changes before finalizing more robust financing arrangements. Also, the proposal for transferring competencies (draft law) should be accompanied by a clear assessment of the required financial and human resources required. These current responsibilities include maintenance of communal roads, provision of official documents for residents; preparation of communal development plans; provision of sport and cultural activities; and playing a role in education, health, and social services at the local level. This approach is less precise than in other countries where communes either have a specific list of responsibilities or a general competence in local matters.³⁶ The absence of clear and specific mandates reduces the scope for communes to play a key role in improving local service delivery. The new draft law currently under preparation is a step forward to address current uncertainty and improve the institutional viability of communes. However, it might also represent a potential trap since the financial and human resources implications have not been adequately assessed.

6. Policy issue #3: On average, communal revenue sources barely cover the existing responsibilities of communes. The legal framework for local tax collection needs to be updated to ensure that local revenues are

36 Mécanisme de Transferts Financiers Aux Communes (Fonds National d'Investissement Communal) Mohamed El-Mensi Déo Banderembako, 2009 UNCDF.

adjusted by inflation. At the same time, efforts are needed to strengthen local tax administration system, improve tax compliance and strengthen the link between improved revenue collections and better services for the citizens. Collaboration with the Office Burundais des Recettes (Burundi Revenue Authority, OBR) should be promoted to share information on tax payers—in line with the recent experience of other countries such as Rwanda—and/or use OBR as a tax collection agent for the communes.

7. **Policy issue #4: In contrast to some of its neighbors in the region, communes do not receive any central transfer to finance recurrent spending, indicating the need for a current expenditure funding transfer scheme.** The lack of such scheme is unusual as territorial inequalities make this necessary in most countries of the world, and has major implications for the efficiency and the effectiveness of the services provided by communes. For example, generalizing the communal land service (*Service Foncier Communal*—see chapter 3) requires financial resource that fees alone are unable to provide. Also, the expected increase in FONIC capital transfers will create greater demand for recurrent spending that will remain unfulfilled. A current proposal is under discussion, but does not specify the allocation criteria. Simulations presented in the chapter suggest that a more equitable recurrent transfer system is quite feasible and appropriate, and would produce on average a 45 percent increase in total communal revenues.

8. **Policy issue #5: Given the expected increase in the importance of large-scale mining activities and their geographic concentration, it may be important to consider a revenue-sharing arrangement across communes.** There is an opportunity to integrate both decentralization and mining through a mechanism that: (i) compensates communes with mining related activities for environmental degradation, (ii) sets aside some resource revenues for future generations,

and (iii) shares some of the resource revenues between producing and nonproducing communes, according to different scenarios.

2.1 Fiscal Decentralization Today

Important note for the reader:

Data limitations hamper the scope of the analysis. There are no recent comprehensive fiscal data for communes in Burundi. For older years (2000-2010) the team was able to obtain information from ISTEEDU for almost all communes, but for recent ones, data is either completely missing (2011) or partial both in terms of geographical coverage or itemized coverage, at least when in electronic form. In close collaboration with the *Observatoire sur les finances communales* located in the Ministry of Interior – and operating under the EU-funded Gtwara Neza Project – the team has collected data for a large set (100 or so) of communes for 2012 on top level line items for expenditures (organized by economic classification) and aggregate revenues. However, there is also no data on expenditures by functional classification.

9. **The current legal framework indicates that communes have general responsibilities for local affairs.** The first conceptual pillar of fiscal decentralization is the assignment of functional and expenditure-related responsibilities. The functional responsibilities of communes in Burundi are set out in the Law on Communal Administration (Law 1/02 2010). Most pertain to public services that are not of a national scale or already assigned by law to the central government. But the law does not explicitly assign functions or responsibilities. Instead, Article 76 enumerates items to be covered by communal spending: salaries, recurrent costs, development plans, maintenance costs of infrastructure belonging

to the commune, annuities for loans, waste and wastewater removal, help to the poor, and spending on transferred responsibilities. Articles 91–95 cite local road maintenance. Furthermore, from the description of the tasks of the two top civil servants (conseillers techniques), one infers that communes also prepare official documents (such as birth certificates, Article 51), prepare the communal development plan (PCDC; Article 52), and promote sport and cultural activities and play a role in education, health, and social services (Article 53). An overall lack of detail in the legal framework has advantages as well as disadvantages: whereas in principle the broad assignment of responsibility for local affairs allows communes considerable leeway to contribute to a broad range of local services, at the same time, the absence of clear and specific mandates reduces the scope for communes to play a key role in improving local service delivery. As a result, in practice, the central government plays a leading role in the provision of many “local” services.



10. **The role of communes is limited; many local services are provided by deconcentrated branches of the central government.** The provision of basic education and health services, two activities that are devolved to the communal level in some countries, are carried out by deconcentrated branches of the education and health ministries in Burundi, with few contributions (if any) from the commune level (but local input may be obtained through, for example, parents’ committees for primary schools). The responsibility for road maintenance is shared by communes, central government agencies, and the private sector, with instances of national agencies (for example, those for coffee and tea) carrying out some maintenance work to ensure that relevant products can gain market access. The provision of electricity and piped water (when available) is carried out by a national agency (Regideso) with direct payment by households. The provision of police and civil protection (including firefighting) services is national in nature.

11. **The limited role of communes in public service delivery is reflected by the small share of public expenditures that are devolved to the commune level.** In the absence of detailed expenditure data for all communes, it is difficult to determine the relative importance of commune-level expenditures with precision. Given that essentially all commune expenditures are funded from own-revenue sources, total commune expenditures can be estimated based on the level of communal revenue collections. In 2012 communes accounted for about 3 percent of public revenues and expenditures in Burundi. This percentage is derived from financial information for the city (*Mairie*) of Bujumbura (comprising 13 “communes”) and for 94 of the 116 communes outside of Bujumbura for which financial information is available. For the 107 communes for which data are available, revenues amount to FBu 15.4 billion. Adding an estimated FBu 600 million in additional revenue for the 22 missing communes yields a total of FBu 16 billion or 2.9 percent of total public revenues

for that year.³⁷ From our analysis of communal budget data, it appears that communes tend to spend more or less what they collect in a given year (especially since they do not receive any intergovernmental fiscal transfers). For example, in 2012, the ratio of total spending to total revenue was 1.04, a result consistent with the presence of communal arrears.

12. Devolved public spending is one element of local public spending. Traditional measures of fiscal decentralization measure only devolved expenditures and revenues that run through the accounts of the communes, which, in the case of Burundi, would suggest a limited level of decentralization in terms of expenditure responsibilities. One can argue, given international evidence (see figure 2.1), however, that looking at devolved expenditures alone provides an incomplete picture of Burundi's ongoing decentralization process. As elsewhere, central line ministries continue to play an important role in the financing and delivery of local services. Most importantly, all sectoral staff posted at the local level in Burundi continues to be employed and financed by their respective central line ministries. Likewise, central line ministries continue to be responsible for an important share of sectoral development expenditures relevant to local public services. In sum, devolved communal expenditures alone do not accurately convey the magnitude of public services, infrastructure, and government activities that takes place at the local level.

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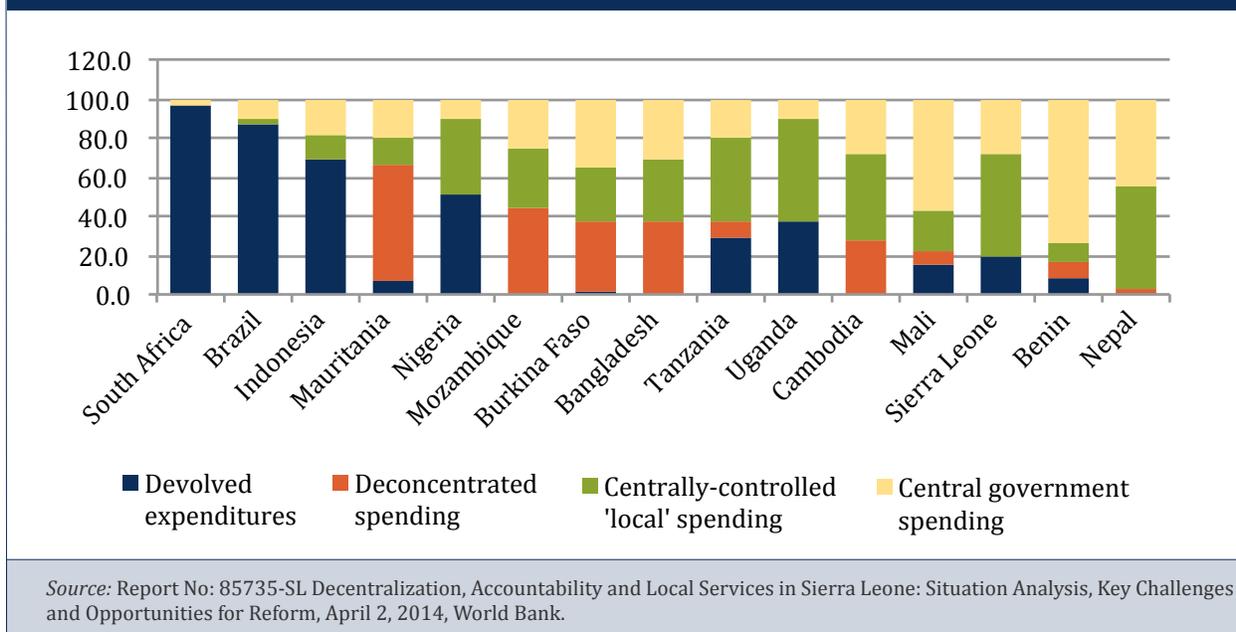
37 It is worth noting that this picture does not change much even if we take into account the in-kind transfers (for example, construction materials) that communes received from the FONIC prior to 2013, which were worth FBu 460 million in 2009 and FBu 934 million in 2010. Adding the FONIC contributions in 2010 increased the revenues of communes by 10 percent. As of 2013, these contributions should appear as increased communal revenues. Cash transfers by FONIC should be about FBu 8 billion, increasing communal revenues by about 50 percent in 2014 (or by about 1 percent of all government revenues).

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13. As a next step, a comprehensive analysis of fiscal decentralization in Burundi ought to look at all funding that flows to the local level, including both devolved and deconcentrated spending. Measures to capture the geographic distribution of expenditures in the central national budget should also be promoted. The current level of communal expenditures does not reveal the amount of deconcentrated spending that takes place at the local level for the delivery of key local services, such as education and health service. Although preparing a complete expenditure profile for the local public sector falls beyond the scope of this study, a partial analysis was carried out covering only the education and health sectors to ascertain the size of the "local public sector."³⁸ This analysis suggests that central funding of local public services is important: central government

38 The concept of a "local public sector" has recently come to the fore as a complement to standard decentralization measures. See <http://www.localpublicsector.org/> for more details.

Figure 2.1 La composition du secteur public local dans 15 pays, 2010–12 (%)



spending—whether deconcentrated or centrally controlled—on education and health accounts for 40 percent of total public spending.³⁹ More systematic work can be proposed as part of ongoing analytical work on decentralization and public financial management in Burundi. In this context, government might consider the need to introduce geographic monitoring of subnational public expenditure in the central budget—on a provincial and communal basis—so as to permit better monitoring of expenditure executed by sector and its financing source.

14. Revenue sources assigned to communes in Burundi yield limited communal revenue. The second pillar of fiscal decentralization is the assignment of revenue sources to the local level. The main revenues assigned to the communal level include a local property tax, business taxes, taxes on bicycles and motorbikes, taxes on cattle, and a variety of

other minor taxes.⁴⁰ As already noted, in 2012 communes in Burundi collected only about 3 percent of total government revenues. Indeed, analysis of revenue collection data over a longer time span (2000–10) confirms that the relative and absolute revenue importance of communes in Burundi is small. While communal income increased in nominal terms from FBu 3.6 billion in 2001 to FBu 4.5 billion in 2005 and 9.9 billion in 2010, much of this nominal increase was the result of inflationary pressure. Since inflation was 225 percent over the period,⁴¹ in real terms, the amount of revenue collected in 2010 was actually only 4.4 billion, as expressed in 2001 FBu. Furthermore, when communal revenue is expressed as a share of total government revenue (see figure 2.2), the trend shows a drop in the relative importance of communal revenues between 2000 and 2010. The population of Burundi grew by 52 percent in the 18 years

39 Results from the analysis are available from the authors upon request.

40 A complete overview of communal revenue sources is available upon request from the authors.

41 Annuaire statistique du Burundi janvier 2001-janvier 2010 table 11.01 Indice général.

between the 1990 census and the 2008 census; thus, for the years since, we assume a growth rate of 25 percent. Therefore, in real terms, corrected for population growth, the financial resources of communes in Burundi remained essentially unchanged between 2001 and 2010.

15. The size of devolved revenue collection in Burundi is small by international standards.

Further confirmation of the limited role that communes play in government revenue collection is provided when devolved revenue collections in Burundi are compared to revenues collected by other countries in the region. Figure 2.3 indicates the size of devolved revenues in various African countries; Burundi would have ranked fifth from last if it had been included in this figure.

16. Communal revenues vary by commune. Even though communes collect only roughly 3 percent of government revenues overall (thus limiting their ability to deliver public services from own-source revenues), this statistic understates the revenue potential of many rural communes. In fact, there is considerable variation in revenue potential across communes (see figure 2.4), with many lacking meaningful revenue potential. In fact, 40 percent of communes collect no more than FBu 1,326 (less than \$0.90) in revenues per capita. The northeast of the country appears to contain better-performing communes in terms of per capita revenue. A similar pattern can be observed looking at the expenditure side (see figure 2.5).

17. Communal revenue collection practices are weak. The main sources of communal revenues are taxes and fees levied by communes. A recent study⁴² notes several

Figure 2.2 Communal Revenue as a Percentage of Total Government Revenue, Burundi: 2001, 2005, and 2010



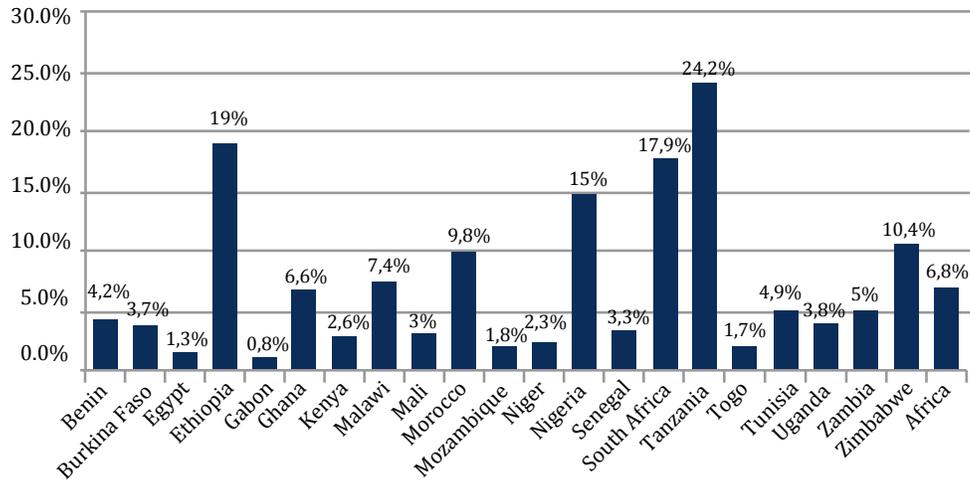
weaknesses in communal tax collection such as the lack of lists of taxpayers, the lack of a tax identifier for taxpayers used for various taxes, the poor knowledge of tax laws by tax collectors, and poor enforcement of penalties against tax delinquents. This has also been confirmed by the focus group discussions undertaken for this study (see chapter 4) and suggests that there is scope for improving communes' revenue yield by improving local tax administration practices, and by strengthening the link between revenue collection and local services.

18. The central government provides no recurrent intergovernmental fiscal transfers. In many countries, intergovernmental fiscal transfers (considered the third pillar of fiscal decentralization) are an important source of funds for communes. In contrast to some of its neighbors in the region (for example, Rwanda, Tanzania, and Uganda), Burundi does not supplement communes' own source revenues by transferring additional funds for recurrent commune expenditures (except for the salaries of three commune officials). This lack of central government support for recurrent expenditures has major implications for the efficiency and efficacy of the intergovernmental fiscal system:

42 *Étude Sur La Viabilité Institutionnelle et Financière Des Communes Rurales Au Burundi* Swiss Cooperation 2012 Charles

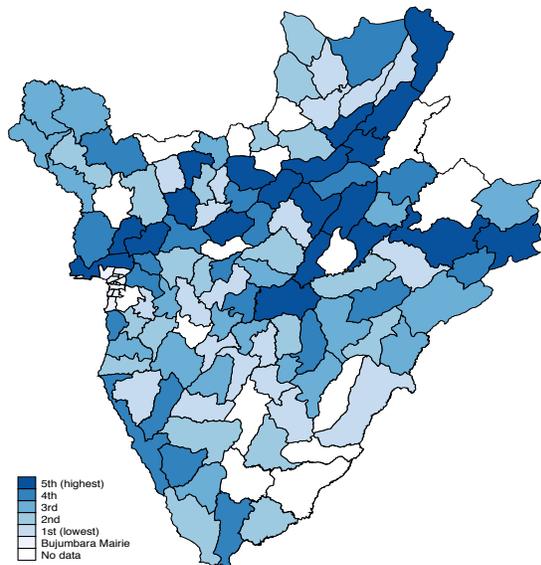
Nihangaza.

Figure 2.3 Local Revenue as a Share of Total Public Revenue in 22 African Countries: 2006–08



Source : figure 3, p. 25 l'Afrique (avec François Yatta) in *Local Government Finance: The Challenges of the 21st Century* (United Cities and Local Government Ed) (GOLD II 2010). Barcelone : Edward Elgar, 2011 : p. 25–59.

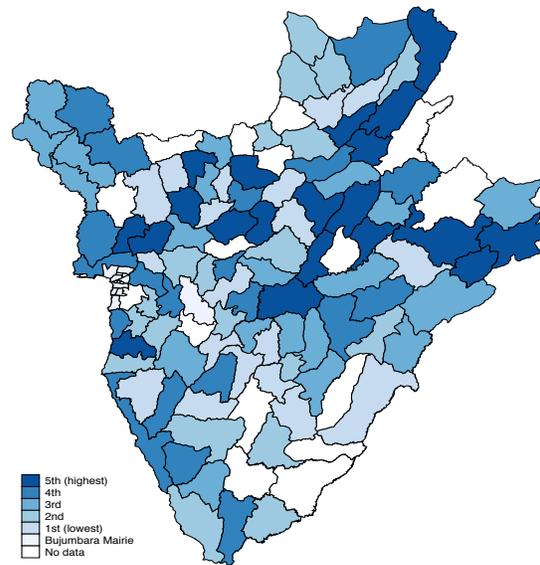
Figure 2.4 Fiscal Revenue of Communes, by Quintile, 2012



Note:
 1st quintile: 395-1050
 2nd quintile: 1051-1326
 3rd quintile: 1327-1948
 4th quintile: 1949-2931
 5th quintile: 3067-30344

Source :Burundi 2012 Execution Budget

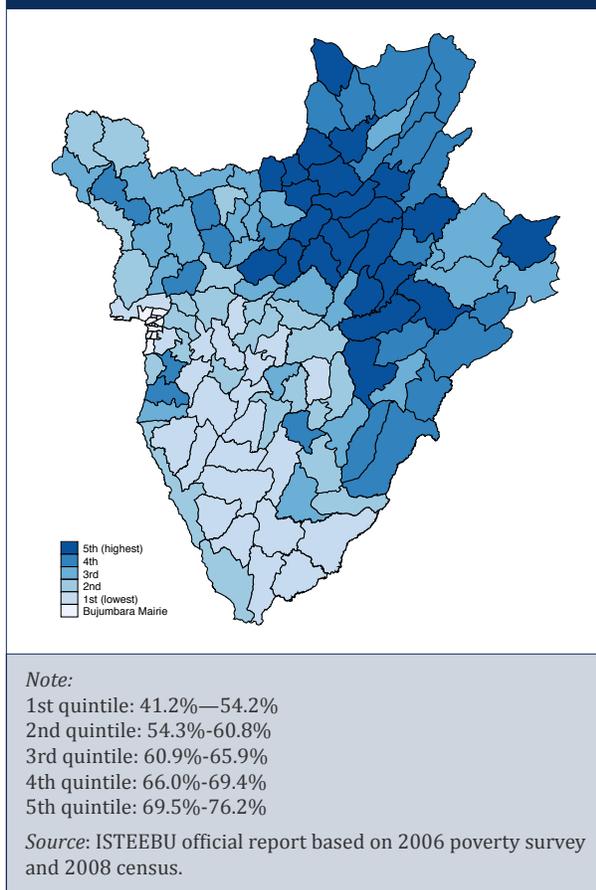
Figure 2.5 Fiscal Expenditures of Communes, by Quintile, 2012



Note:
 1st quintile: 168-958
 2nd quintile: 959-1306
 3rd quintile: 1307-1922
 4th quintile: 1923-3629
 5th quintile: 3630-30283

Source : Burundi 2012 Execution Budget

Figure 2.6 Poverty Rates (%) Burundi Communes, by Quintile, year 2008



- Poor communes are unlikely to be able to provide all basic services to their residents, since supplementary tax revenues—while needed—are difficult to obtain.
- FONIC transfers offer an incentive to use subsidized capital spending rather than proper maintenance spending.
- Complementary spending to make full use of communal capital will be underfunded. As the FONIC funded capital increases, it will create a demand for recurrent spending that will either crowd out other spending or remain unfulfilled.⁴³

⁴³ The exact relationship varies by type of project; assuming a .05 ratio (that is, FBu 50,000 per 1 million) is probably reasonable.

- Generalizing the communal land service (*Service foncier communal, SFC*, discussed in chapter 3) requires financial resources that fees for land services are incapable of providing.
- The national goal of equitable regional development—as enshrined in the constitution—is unlikely to be achieved without an equalization transfer.

19. **Communal investments are supported by communal savings and by transfers from the central government, both in kind (materials) and in cash.** The main capital transfer mechanism for supporting communal investments is FONIC, created in 2007 following the merger of two preexisting funds. In 2013 the role of FONIC was changed from being a distributor of building materials and an agency supervising construction activities to a financing agency that provides cash capital grants to communes. It is expected that communes now supervise their own building activities.⁴⁴

20. **Looking at the FONIC budget for 2013 and 2014, we first note projected growth in the size of the total FONIC grant pool of 12 percent for national resources allocated to FONIC and 26 percent for overall FONIC resources (see table 2.1).** The most important budget line is a transfer of an equal amount to each commune. That budget line represents 70 percent of the total in 2013 and 77 percent of Burundi FONIC financing and 80 percent of total FONIC financing in 2014. Financing for performance and “*villagisation*” increased between 2013 and 2014 while that for building primary schools dropped.

Thus a typical FONIC project worth FBu 50 million in 2014 generates a 2.5 million need for recurrent spending in all future years until the capital is no longer useful. For more information, see: *Recurrent Expenditure Requirements of Capital Projects Estimation for Budget Purposes*, Ron Hood David Husband Fei Yu, 2002, World Bank Policy Research Working Paper 2938.

⁴⁴ A description of the FONIC transfer rules and formula is available upon request from the authors.

2.2 Managing Fiscal Decentralization under Fiscal Constraints: Key Policy Issues

22. **After almost 10 years of effort to achieve greater fiscal decentralization, a number of issues still require strategic policy decisions to be made.** The way in which these policy questions are addressed will have a considerable impact on the ability of Burundi's public sector to achieve greater efficiency and improve access to basic public services. Responding to a specific request of technical assistance, this section will address policy questions that have been raised by the authorities and currently are at the center of public debates surrounding fiscal decentralization in Burundi: *(i) is the existing number of communes appropriate, or should the number of communes be reduced; (ii) exactly which functional responsibilities should be assigned to communes; (iii) how can communes increase their own-source revenues; (iv) how to put in place pro-poor transfer schemes that can supplement commune revenue collections; (v) how to improve the efficiency of capital transfer mechanism (FONIC); and (vi) what are the potential impact of mining revenues for communes finances.* The following sections address each issue in turn.

2.2.1 Policy Question 1: Is the Number of Communes in Burundi Optimal?

23. **The number (and average size) of communes is an important policy issue.** As noted in chapter 1, the number of communes in Burundi has evolved over time. It is not unusual for countries to align the structure of local governance with two competing needs: on the one hand, to ensure that local officials are close to the communities that they serve, and on the other hand, to ensure that commune jurisdictions are sufficiently large in scale that they are able to perform their functions effectively and efficiently. Whether the number of communes ought to be reduced has recently received some attention in policy circles in Burundi.

24. **There are various drivers behind the interest in reducing the number of communes.** One reason for a reduction is financial viability (or, more exactly, its lack). Some communes have small budgets. One study argues that—even that considering communes' functional responsibilities are few in number—the minimum annual budget for an effective and efficient rural commune is FBu 600 million.⁴⁵ Others compare Burundi with Rwanda, where the number of districts has been reduced to 30 since 2006, with a mean population of 400,000 and responsibilities in the delivery of education and health services.

25. **The communes of Burundi are not that small in population terms, given their responsibilities.** Table 1.1 (chapter 1) presents information on the size of communes by province. It shows variations in population size that may warrant some mergers, but given that communes mainly provide local services that require proximity to residents with little technical content (high technical content is associated with services such as water treatment or composting, for example) or high fixed costs (similar services), the case for a national merger policy is not easily made. Table 2.2 presents data on 17 African countries. Compared with them, Burundi—and its 116 rural communes, with an average population of roughly 90,000—is not an outlier.

26. **There is no stable or natural number of communes.**⁴⁶ In 1960 there were 18 provinces and 181 communes. But in 1965 the number of communes dropped to 79. In 1981 there were 15 provinces and 114 communes; 10 years later, in 1991, there were 113 communes outside Bujumbura. Finally, in 1998, 3 new communes were created and Bujumbura was divided into

45 *Étude Sur La Viabilité Institutionnelle Et Financière Des Communes Rurales Au Burundi Swiss Cooperation* 2012 Charles Nihangaza.

46 Details from *Le sénat et la politique de décentralisation au Burundi* août 2010, partie II.

Table 2.1 FONIC Budgetary Summary, 2013 and 2014

| Items | 2013 | 2014 | Observations |
|------------------------------------|---|---|--|
| Equal transfers to communes | Primary schools 5,160 million | Investments in communal plan (PCDC) 6450 millions | 40 million per commune in 2013; 50 million in 2014 |
| Bonus for performance | 90 million thus 5 million to each of 18 communes | 200 million for 65 communes (63 regular + 2 Bujumbura); amount varies between FBu 2,370,000 and 3,863,000 | Amounts per commune in 2014 are in proportion to the score obtained at the annual evaluation of communes |
| Finishing abandoned schools | 728 million | 607 million | Remainder of 2013 budget to be spent in 2014 |
| Project villagization | 341 million | 500 million | For housing |
| Building classrooms | | 501 million: 3.9 for each | |
| GIZ/ADLP | 0 | 1 020 millions | New in 2014 |
| Total | 7 417 million (sum of items above–our calculations) | 9 358 million or 8,338 without GIZ | |

Source: 2013 Plan d'action du FONIC révisé 9 juillet 2013; 2014 Budget d'investissement du FONIC, 16 janvier 2014. The equal amount to each commune of 40 (in 2013) and 50 (in 2014) million are a drawing right paid against proof of disbursement by communes; the total is broken down between spending on manpower and materials. Communes who spent less than 40 million in 2013 see the remainder made available in 2014. GIZ in 2014 made available €500,000 to FONIC to provide FBu 60 million to each of the communes in the provinces of Gitega and Monoro. FONIC has chosen not to reduce funding of communes from Burundian revenue in these provinces so they will have access to 110 million.

a further 13, yielding the current number of 129. There is no evidence to suggest that these changes in commune numbers had a meaningful impact on service delivery outcomes. This point may be used to argue against a change in the number of communes (unless accompanied by a major change in the functional responsibilities of communes).

27. Intercommunal groupings are almost nonexistent. The National Policy on Decentralisation of 2009 argues for the use of intercommunal groupings (collaborative arrangements between two or more communes) as a means of achieving development goals. The emergence of such groupings has been slowed by the lack of a clear legal framework. A decree aimed at facilitating progress in this area was adopted by the Government of Burundi in October 2013,⁴⁷ along with one on international cooperation between communes of Burundi

and of other countries.⁴⁸ As a result, voluntary, intercommunal collaborative arrangements may well emerge as an alternative to mergers.

28. Regrouping communes does not necessarily alleviate an overall lack of resources and may create intracommunal tensions. Merging three communes with the same population and each with a budget of FBu 200 million would increase the absolute budget size to FBu 600 million but would have no impact on the per capita amount of resources. Unless accompanied by more far-reaching administrative reforms, it is unlikely that the consolidation of communes would create more fiscal space for local services through cost savings in local administration. While it could be argued that regrouping communes might reduce some of the fiscal inequalities between them, such mergers would not be without social and political costs. For example, consider

47 DECRET N° 100/ 243 DU 06 OCTOBRE 2013 PORTANT REGLEMENTATION DE L'INTERCOMMUNALITE AU BURUNDI <http://www.presidence.bi/spip.php?article4118>.

48 DECRET N° 100/ 244 DU 06 OCTOBRE 2013 PORTANT REGLEMENTATION DE LA COOPERATION DECENTRALISEE AU BURUNDI <http://www.presidence.bi/spip.php?article4119>.

Table 2.2 Number of Local Governments (Lowest Tier) and Average Populations in 17 African Countries, 2006–08

| Country | Number of local governments | Average local Population units 000 | Population country 000 |
|---------------|-----------------------------|------------------------------------|------------------------|
| Algeria | 1 541 | 21 | 33 800 |
| Bénin | 77 | 120 | 9 300 |
| Burkina Faso | 351 | 43 | 15 200 |
| Côte d'Ivoire | 987 | 20 | 19 600 |
| Malawi | 40 | 330 | 13 200 |
| Mali | 703 | 18 | 12 700 |
| Maroc | 1,497 | 21 | 31 478 |
| Mauritania | 216 | 14 | 3 200 |
| Mozambique | 43 | 477 | 20 530 |
| Namibia | 54 | 33 | 1 830 |
| Niger | 265 | 55 | 14 700 |
| Rwanda | 30 | 310 | 9300 |
| Sénégal | 431 | 29 | 12 700 |
| South Africa | 283 | 172 | 48 687 |
| Tunisia | 264 | 39 | 10 326 |
| Togo | 354 | 19 | 6 800 |
| Zimbabwe | 90 | 129 | 11 631 |

Source : Preliminary unpublished work for "Africa" (with Francois Yatta) in *Local Governance Finance: The Challenges of the 21st Century* (United Cities and Local Government Ed) (GOLD II 2010) Barcelona: Edward Elgar, 2011: p25-59.

merging three communes: all have the same population, but one has a budget of FBu 800 million (a “wealthy” commune) and two “poor” communes have only 200 million each. This merger would theoretically double the per capita resources available to the “poor” communes. In practice, however, such mergers often create social and political tensions since, to achieve intracommunal equalization, the majority of voters in the new jurisdiction (located in the poor parts of the commune) would have to reduce (by half) the resources available to the minority of voters residing in the richer part of the commune.

29. **Regrouping affects residents’ access to services.** Increasing the size of communes may yield little in terms of financial gain but increase the time or monetary costs required to access these services—and even reduce their use

at the household level. This issue has not been studied by the Government of Burundi. Data were gathered in 2013 by the World Bank for an analysis of the benefits and costs of a plausible reduction in the number of communes outside Bujumbura, and the findings from the fieldwork conducted at that time suggest that a reduction in the number of communes is not justified (see box 2.1 and annex 5).

30. **The legal status of the 13 communes of Bujumbura is under discussion.** The communes of Bujumbura have an elected council but do not have financial powers, which are instead exercised by the province/municipality of Bujumbura. A proposal was put forward in January 2014 to transform the communes of Bujumbura into full communes. Some argue that this proposal is a step toward a merger into three communes; others believe that it is an attempt

Table 2.3 Boroughs Around the World: Strengths and Weaknesses in Three Areas

| | Legal status | Political status | Budgetary Autonomy |
|------------------------|--------------|------------------|--------------------|
| Montréal | Strong | Strong | Strong |
| Toronto | Weak | Strong | Weak |
| New York | Strong | Strong | Weak |
| Los Angeles | Weak | Weak | Weak |
| Mexico | Strong | Weak | Weak |
| Bogota | Strong | Weak | Weak |
| Buenos Aires | Weak | Strong | Weak |
| Paris, Lyon, Marseille | Strong | Strong | Weak |

Source: *Gouvernance urbaine, mégavilles et décentralisation sous-locale : un tour d'horizon des Amériques*, Jean-Philippe Meloche 2014, Mimeo.

Note: Legal status is considered “strong” where boroughs’ number, borders, and powers are protected by law and weak otherwise; political status is considered “strong” where borough politicians are elected directly by the population, and weak otherwise; budgetary autonomy is considered “strong” if the borough has a substantial budget under its control, and weak otherwise.

Box 2.1 Assessing the Costs and Benefits of Reducing the Number of Communes: An Empirical Analysis with Unchanged Services

To establish the benefits and costs of reducing the number of communes in Burundi, the following steps should be used:

- Establish the annual number of interactions between the residents of communes and the communal office: 157,500 (for the communes outside Bujumbura)
- Establish the cost in time and money of these interactions: FBu 1 billion (again, for the communes outside Bujumbura)
- Establish a plausible, reduced number of communes (for example, 40)
- Calculate the reduction in costs linked to this reduction in commune number: communal wage costs could drop by about FBu 200 million and central wage costs by about 400 million, for a total of 600 million
- Calculate the impact of a reduced number of communes on individual access costs: accessing centralized communal headquarters would cost residents FBu 1 billion more

The question then becomes what can be done with only the authorization of either communal administrators (*l'administrateur communal*) or advisers (*conseillers techniques*), and what can be done in their absence. If they need not be present, then services may be maintained in their existing locations, at a reduced cost of about 5 percent of communal revenues (even if some of this is saved centrally). The answers gathered in community focus groups carried out by the World Bank and discussed in chapter 4 indicated that people are concerned about access to the *administrateur communal*. In a survey of the staff of 16 communes, interviewees indicated that some services required the intervention of the *administrateur communal* and that increased distance between administrative offices and the communities they serve could reduce the demand for services.

If the number of politicians is reduced but not the number of other related employees, a reduction in the total number of communes is not financially justified.

to formalize equal treatment of all communes in Burundi.

31. International experience indicates that designating Bujumbura’s communes as “boroughs” may be more appropriate.

Subunits of large urban areas typically operate under one of the following two legal statuses: independent cities, such as those of Brussels or London, and boroughs (see table 2.3). Because Bujumbura’s communes are part of an integrated urban area, it seems appropriate to consider formally treating them as boroughs.

2.2.2 Policy Question #2: Which Functional Responsibilities Should Be Assigned to Communes?

32. Amid the policy debate surrounding the optimal number of communes, there is an ongoing process of transferring responsibilities from the central to the commune level. Since 2009 the exact responsibilities of communes have been under review. A draft law long under discussion on the *transfert des compétences de l’État aux communes* du Burundi was presented to a parliamentary commission in the spring of 2013—and its study was suspended soon after. A new version was prepared during the summer of 2013, to be submitted to parliament in 2014. In the areas of infrastructure and services, as far as we know - since the official version has not yet been made public - this draft law specifies commune responsibilities as the following:

- Build, equip, and maintain primary and secondary communal schools
- Build public health centers, maintain them, and provide nonmedical equipment
- Build and maintain communal water outlets
- Build and maintain public toilets, sewer and wastewater plants, and incinerators
- Build and maintain communal roads
- Build, equip, and maintain cultural, sport, and touristic communal infrastructure

- Equip, and maintain local tribunals and jails
- Build centers for play or professional training for vulnerable groups (within their budgetary means)
- Build, maintain, and manage markets
- Provide welfare services for poor students (within their budgetary means)
- Provide medical services for vulnerable groups (within their budgetary means)
- Manage waste
- Prepare and deliver land titles⁴⁹
- Manage communal land and forests

33. The current draft law includes a list of transferrable competencies in infrastructure and services. If implemented, the transfer of responsibilities would place communes in charge of basic communal services (roads, sports, waste) and would give them partial responsibility for the delivery of local education and health services (facility construction, equipment, and maintenance). Also, and not necessarily common internationally, the commune would have a role in the construction and maintenance of local tribunals and jails. What is surprising is the lack of explicit competencies in the provision of some typical community services, such as community development and youth activities or sports. Even though communes are assigned responsibility to build, maintain, and manage (*gérer*) sports facilities, they need not provide services in this area.

34. While the draft law is a step in the right directions in terms of clarifying responsibilities of communes, it needs to be accompanied by a plan of how the required financial and human resources will

⁴⁹ It is important to observe that the responsibility to provide land certificates is already devolved to communes under the new land code (2011, article 384). This recognition reflects efforts to repeal old legislation and harmonize the provisions of the Land Code with the provisions under the 2005 communal law. This is not an unusual process and reflects the recent shift of responsibilities to communes.

be transferred. How will the communes be staffed to take on their new responsibilities? For example, to remain revenue neutral, by how much will the health ministry's budget be reduced if some health competencies are transferred to communes? These are all important questions (with both political and technical implications) that would be best addressed before the passage of a law. Also of concern is a lack of connection to the laws of the relevant ministries. For example in primary education a law was adopted, in 2013, with one goal: to “decentralize” education services to deconcentrated communal education directorates.

2.2.3 Policy Question #3: How Can Communes Increase their Own Revenues?

35. **The existing legal framework of local taxation is responsible for considerable erosion of the tax base, with the tendency of communal councils to increase local tax rates.** Own-revenue sources are currently the main funding source for communes (together with FONIC and donor-funded projects)⁵⁰. In most cases, tax rates are set in nominal terms (that is, a fixed amount per item such as a certificate, a head of cattle or per square meter (m²) of property); this was accomplished in 1997 by an *ordonnance*. Since then inflation has been 500 percent but local tax rates were never legally changed, resulting in the considerable erosion of the local tax base. To by-pass this problem, communal councils have increased local tax rates with the implicit/complicit agreement of the Ministry of Interior—based on the argument that if the population agrees to pay the new rates, then the tax rate hike is legitimate. This relies on an interpretation of the communal law that allows communes to overrule the *ordonnance*.⁵¹

50 The structure and rates of the revenue sources to which communes have access is available upon request from the authors

51 Voir Étude sur la viabilité Institutionnelle et financière de communes rurales au Burundi. Coopération suisse 2012, Charles Nihangaza

36. **A new communal finance law is currently under study.** Naturally, a more appropriate solution to the erosion of the local tax base is a formal revision of the structure and rates of local taxes. Communal taxes included in the proposed revised local tax structure include the following:

- *L'impôt sur le gros bétail*: tax on large cattle
- *La taxe sur la vente de bétail*: tax on the sale of cattle
- *La taxe d'abattage*: slaughtering tax
- *La taxe sur les cycles et cyclomoteurs*: tax on bikes with/without engines
- *L'impôt foncier*: property tax
- *L'impôt sur les revenus locatifs*: tax on rental income
- *La taxe sur les pylônes*: tax on cellphone antennas
- *La taxe forfaitaire sur les activités (patente)*: lump sum tax on businesses
- *La taxe sur les cultures industrielles*: tax on industrial agriculture

The tax on cell-phone antennas (towers) is a new tax, whereas the other communal taxes are already in existence. The proposed commune finance law includes significant changes to both the existing tax structure and rates.

37. **The proposed legislation incorporates a number of important changes to communal taxes and to the tax environment of communes.**⁵² The most common proposed change in the communal tax system is an increase in the taxes on various items. For example, the rate per head of cattle—now at a fixed amount of FBu 300—would be set between FBu 500 and FBu 1,500, to be determined by the communal council. In addition, the draft legislation includes a promise to regularly (periodicity not stated) update rates using a joint decree

52 These comments draw on NOTE SUR L'IMPACT DU PROJET DE LOI SUR LA FISCALITE COMMUNALE mai 2013 Charles Nihangaza.

from the ministries of finance and the interior.⁵³ Additional proposed changes to the communal tax system include:

- A clarification of the role of communes and the national tax office (*Office Burundais des recettes, OBR*), by which communes are stated to have the same powers over their taxes as does the OBR for its taxes (Article 3).
- The possibility for the communal council for some taxes to choose a rate within an interval rather than use a single centrally set rate.
- Important increases in the rates of the property tax. The rate on buildings goes from a fixed 36 FBU/m² to between 0 and 500 FBU/m² bracket with the rate linked to the type of services available to the property while for land attached to buildings it goes from 4 FBU/m² to a 0–50 FBU/m² bracket.
- The highest marginal rate for the rental income tax drops from 60 percent to 30 percent, while an annual exoneration for the first FBU 1.800.000 of rental income is introduced, both changes creating a loss in revenue.
- The lump sum business tax is limited to businesses with a turnover below FBU 24 million. This means large businesses no longer contribute to the financing of local public services, thus segmenting businesses between OBR and communal taxpayers. It is not clear how information on change of size will be collected/handled.

38. One key challenge will be to overcome some communes' general lack of interest in collecting taxes. Our survey of 16 communes indicates that as of August 2013 only six communes collected rental income tax (*impôt sur le revenu locatif*) and four, property tax (*impôt foncier*). Reasons given for not collecting

⁵³ The legality of using a decree to change rates set by law may be an issue.

these key revenue sources included (i) lack of information about the property tax; (ii) lack of knowledge of the legal provisions allowing communes to collect property tax; (iii) conflict of interests of the collectors (owners of properties); and (iv) resistance of local population to comply with the legislation and pay.

39. The role of the OBR in local taxation needs to be clarified to avoid perception of overlaps and double taxation. There is some confusion as to the role of the OBR in communal taxation; some communal and national officials believe that the OBR collects communal taxes. In reality, however, OBR representatives confirmed that they do not collect communal taxes. The perception by some who intervene in communal finances that the OBR is present in this field appears to be due to two facts. First, the existence of two lump-sum taxes on small merchants (one national and one communal) may lead some to believe that the OBR is involved in local taxation. This confusion is fueled in part by the fact that the national income tax in some cases can be calculated using a formula similar to that of the local *taxes communales sur les activités économiques (patente)*.⁵⁴ Some merchants argue with officials that the payment of one tax (either to the OBR or to the commune) covers the obligation for both. While that is incorrect as of now, this (perceived) double taxation may change under the proposed revision of communal taxes, as discussed above.⁵⁵ A second reason for the confusion over the OBR's role in communal taxation is that in some policy discussions OBR representatives have argued that the rental income tax (*l'impôt sur les revenus locatif*) given to communes at the time of decentralization

⁵⁴ Article 40 of the *Loi relative aux impôts sur les revenus* (2013) allows this for businesses with an annual turnover less than FBU 24 million with the following form, http://www.obr.bi/images/stories/download/Formulaire_dclaration_Prlevement_IR_new.pdf.

⁵⁵ In other cases, it appears that some border communes want to charge taxes or market fees on transit goods (sealed trucks), which they are not entitled to do.

should be centralized.

40. The OBR has a potential role to play in the collection of local taxes, and can help communes to strengthen the current system.

in so far as the *Impôt sur les revenus locatifs* is one schedular tax among others applied to various types of income, it would be normal that it be collected by the OBR to ensure a coherent treatment of individual and corporate income taxation. Under this scenario, the OBR could act as a collection agent for communes, while amounts collected could be paid back to communes on a derivation basis. This is apparently argued for by the OBR as part of an effort to harmonize with the East African Community (As a counterargument, it should be noted that this tax is collected by districts in Rwanda until 2015). This debate does not apply to the property tax—also ceded to communes at the time of decentralization—which remains an appropriate tax for communes to collect.

2.2.4 Policy Question #4: How Can a Pro-Poor Funding Transfer Scheme for Current Spending Be Established to Complement FONIC?

41. An unusual feature of Burundi's intergovernmental fiscal system is that communes do not receive any transfers to finance recurrent spending. One explanation offered for the absence of a recurrent transfer system by finance officials is that the central government ceded two tax fields to communes to fully pay for their spending needs: the property tax and the rental income tax (*l'impôt foncier et l'impôt sur le revenu locatif*). But the concentration of these two tax bases in Bujumbura and a few urbanized communes means that the revenue yield from these two taxes is inadequate to ensure a minimum level of basic local services for most communes.

42. The reform of communal taxes under consideration includes a proposal to create a recurrent transfer scheme. In the proposed law, there is the intent to pay out 0.5

percentage points of value added tax (VAT) (out of an 18 percent rate in 2013) to communes, to be distributed on the basis of their official population. This would represent about 2.75 percent of VAT receipts. Although the proposed introduction of a recurrent grant is a welcome development, the population-based allocation formula limits the ability of the proposed grant to support poorer communes. One refinement would be to make the allocation formula pro-poor and thus help those communes in need of greater help. Table 2.4 presents an example of a more pro-poor transfer scheme currently used in the region.

Table 2.4 An Example of a First-Generation Transfer Formula: Kenya

| Parameter Weights (%) | |
|-----------------------|--------------------------------|
| Parameter | Formula Approved by Parliament |
| Population | 45 |
| Equal share | 25 |
| Poverty | 20 |
| Land area | 8 |
| Fiscal responsibility | 2 |
| Total | 100 |

Source: Commission on Revenue Allocation, Government of Kenya, 2013, <http://www.crakenya.org/information/revenue-allocation-formula/>.

Note: This formula was implemented as of 2013; the fiscal responsibility share is currently also allocated as an equal share as data to be used in assessing fiscal responsibility is not available given the recent creation of counties (March 2013).

43. A more equitable recurrent transfer scheme is quite feasible in Burundi. By way of illustration, box 2.2 presents a possible formula for a communal transfer system for current expenditures. The proposed formula contains four allocation factors: an equal amount per commune (10 percent); land area, adjusted for topographic conditions (20 percent); population below the poverty line (30 percent); and population (40 percent). The simulations

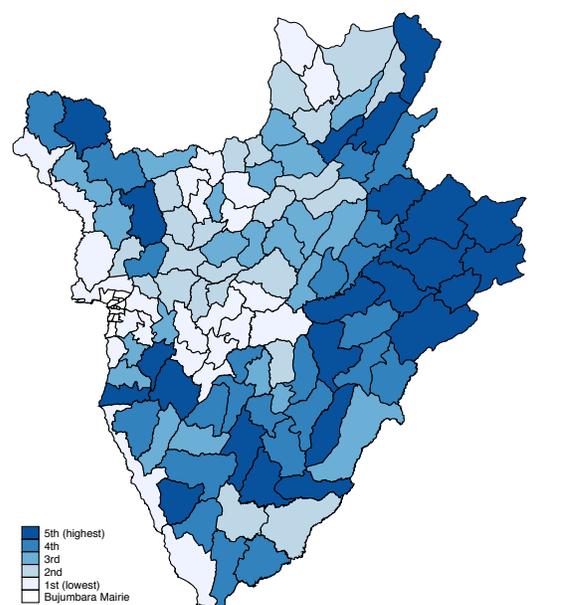
based on the allocation formula⁵⁶ show that the importance of such transfers for communes would be quite significant in relative terms: for 2010—the last year for which data are available for almost all communes—such a transfer scheme (with the envelope adjusted down to 2010 VAT revenues) would have meant a 45 percent increase in total communal revenues or one-third of total communal revenues, post transfer.

44. **The relative ease with which a more equitable, formula-based grant can be simulated suggests that, in the planning of a future recurrent grant scheme, further consideration should be given to allocation.** For illustrative purposes, simulated transfers were computed according to the proposed allocation formula. Figure 2.7 shows variations in the levels of simulated grants, ranging from FBu 558 to FBu 1,330 per capita; the communes most favored by the formula are concentrated to the east of the country.

45. **In addition to the possible introduction of a recurrent grant system, the capital grant scheme (FONIC) will continue to play an important role in Burundi's system of intergovernmental finance.** In fact, FONIC quickly grew in importance from 2010 to 2012 (see figure 2.8). As such, the various reforms in its governance—implemented in 2010–13 with support from the Gesellschaft für Internationale Zusammenarbeit (German Agency for International Cooperation, GIZ) and United Nations Development Programme (UNDP)—are most welcome.

46. **To ensure a robust capital grant system, some FONIC choices need to be reexamined.** An objective and transparent formula-based grant mechanism loses credibility if it does not operate in accordance with its own formula and operating procedures.

Figure 2.7 Projected Per Capita Transfers to Rural Communes, Using Hypothetical Allocation Formulation



Source: Authors' own calculations using the transfer formula discussed above.

Note: Quintile boundaries (FBu) 1st: [558, 704] 2nd: [704, 738] 3rd: [738, 798] 4th: [798, 889] 5th: [889, 1330].

For example, paying a bonus to the best-performing communes in 2013 and 2014 does not respect the FONIC internal procedures but is justified by FONIC management as ensuring the continuity of past policies (PRADECS program). Such deviations from FONIC's own operating procedures are best avoided since they offer possibilities for potential abuse and institutional conflicts of interest.

47. **Increasing transfers to communes should be accompanied by better public financial management practices.** Recent diagnostic work undertaken by technical partners has highlighted difficulties in both the management of public procurement and in the management of local funds.

⁵⁶ The formulas used for the simulations are available upon request from the authors.

Box 2.2 Establishing an Equitable and Transparent Transfer System for Communes: A Proposal with Simulations

To implement a transparent and equitable transfer system for communes in Burundi policy makers must: (i) identify eligible communes, (ii) establish the resource envelope for transfers, and (iii) determine the allocation formula.

1. Identify eligible communes

We exclude the 13 communes of the capital (Bujumbura Mairie) as transfer recipients, given that poverty is much less prevalent there than in the rest of the country. Given Bujumbura's role as a capital city, these 13 communes both have special needs and special access to the central government.

2. Set the envelope for transfers

As noted earlier, there is a policy reform under study that would allocate 0.5 percent points of VAT (18 percent rate in 2013) to communes, according to their official population. This is about 2.75 percent of VAT receipts, and is the transfer envelope used here. This is not a judgment on the adequacy or inadequacy of the proposed amount but simply reflects that it seems indicative of the evolving policy of the Government of Burundi. In the 2013 national budget VAT receipts comprise FBu 192.1 billion⁵⁷ while for 2014 the predicted amount is approximately FBu 221.2 billion.⁵⁸ It thus seems reasonable to use FBu 210 billion, which—multiplied by 2.75 percent—yields an estimate transfer pool of FBu 5.8 billion to allocate across communes. This is about 1 percent of expected tax receipts of the central government for 2014. Since some calculations are based on 2010 data, we note that the grant pool for that year would have been FBu 2.7 billion.⁵⁹

Two additional items that need to be clarified before implementing such a scheme are, first, whether to rely on budgeted VAT revenues or realized VAT collections, and second, which entity will be the transferring agency:

- Using the budgeted amount implies that all the macroeconomic fluctuations (either up or down) are supported by the central government. Using the collected amount shares the impact of macroeconomic fluctuations between the central government and the communes.
- If one uses collected amounts, OBR lagged data could be used to set the monthly transfers. OBR could make the payments directly to communes or they could transit through the ministry of interior or finance.

3. Allocation formula

A pro-poor, equitable distribution formula must account for:

- Differences between communes in terms of expenditure needs (for example, differences in demand for public services caused by demographic factors)
- Differences between communes in unit costs resulting from factors such as topography or climate
- Differences between communes' tax potential

One could add incentives to improve performance in the supply of public services or tax collection; we suggest holding off on these items until the transfer of responsibilities and tax reforms discussed elsewhere have been implemented.

For Burundi we have no indicators of tax capacity at the communal level, such as the value of properties; discussion with the OBR indicates that there are no indicators of tax capacity for national tax available at the communal level. In addition, communes in Burundi currently carry out municipal-level functions such as birth and death registry, local road maintenance, garbage removal, and cultural and sports activities but do not provide health or education services. Against this backdrop, the following points should be noted:

57 FBu 192 088 819 724, to be exact; Loi 1/13, 30 juillet 2013, Budget révisé, p16.

58 Fbu 221 776 438 178; Projet de loi, Budget 2014, article 1, p 23

59 Tableau A, loi 1/31 31 décembre 2009.

- The weight for the fixed amount was derived using information from the survey of 16 communes on the wage costs of the compulsory employees of communes. This came out to FBu 475 million. Taking into account a 20 percent overhead yields FBu 570 million, or about 10 percent of the envelope noted above. The equal share window results in a lump-sum allocation of about FBu 5 million per commune. In the follow-up work on the formula to be implemented, care should be given to measure this with a larger data set.
- The impact of topography is taken into account by weighting the size of each commune’s land area equally by two indicators: the degree of “slopiness” and the highest elevation in the commune.
- The impact of poverty is taken into account by introducing the poor population into the formula. We use both monetary and nonmonetary poverty.

| <i>Weight of Four Items in Allocation Formula</i> | | | | |
|---|-------------------|-------------------------------|---------|------------|
| Criteria for allocation | Equal per commune | Area corrected for topography | Poverty | Population |
| Weight | 10% | 20% | 30% | 40% |

Note: Area and topography data are from the Institut de Géographie; population data are from the Burundi Statistical Handbook; poverty data are calculated by the Burundi statistical office (ISTEEBU) using data from a poverty survey for 2006 and the 2008 census.

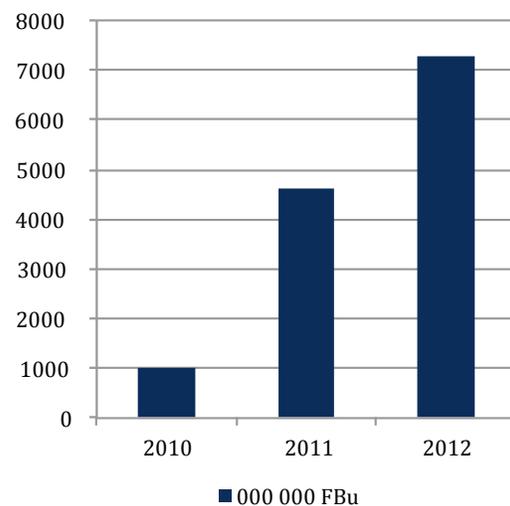
In the case of public procurement, one possible approach to improve procurement practices is to use intermediate structures grouping several communes. These could be inter-communal bodies. In the case of local funds, evidence is less conclusive but for one market, one finds increasing arrears and some figures hard to reconcile.⁶⁰ Accordingly, it would be appropriate to reinforce the audit capacity of central bodies both at the provincial level and at the central level using the auditor general office (*cour des comptes*).

2.2.5 What Are the Potential Implications of Mining Revenues for Communes Finances?

48. **The mining sector promises to be an important driver of economic growth in Burundi in the next 10 years.** As such, the impact of mining expansion on commune finances merits some discussion in the context of the country’s fiscal decentralization strategy.

60 See AUDIT DU CONTRAT D’AFFERMAGE DU MARCHÉ DE MATANA, FenRaj conseil s.a.2013

Figure 2.8 FONIC Investment Funds, 2010–12



Source: Authors’ own calculations using BOOST data.

Burundi is believed to have considerable mineral resources, with the most important potential in nickel, gold, and coltan. In particular, the country has considerable potential in nickel exploitation. Musongati, the main laterite nickel deposit in the

country, is among the 10 largest undeveloped laterite deposits known, with an inferred resource of approximately 180 metric tons.⁶¹ National reserves are estimated at 285 million tons, and over the past five years a number of international companies have expressed interest in commercial exploration of these resources.⁶² Best-case scenario analysis (undertaken in the Country Economic Memorandum for Burundi, CEM, in 2011) estimates tax revenues from industrial-scale exploitation of Musongati alone to range from \$50 million to \$233 million (2 to 10 percent of 2011 gross domestic product [GDP]), depending on global nickel prices. Accordingly, the Government of Burundi has identified mining as a potential source of growth and income creation in its Second Poverty Reduction Strategy Paper. As part of its efforts to develop the sector and attract investment, Burundi passed a new mining code in October 2013. The mining sector is also at the heart of the first and third pillars of the World Bank's FY13–16 Country Assistance Strategy (CAS). The CAS identified mining as an opportunity to further diversify the Burundian economy and yield significant revenues for the country.

49. Today the mining sector consists of some 20,000 artisanal miners and contributes minimally to GDP. Available production and export data may not accurately reflect minerals actually produced in and exported from Burundi. The World Bank's Oil, Gas and Mining Unit (SEGOM) is finalizing a study of Burundi's artisanal and small-scale mining sector, which, among other things, aims to verify mineral export and production data.⁶³ Data for gold

are particularly unreliable. It is estimated that export data represent less than 20 percent of the quantities actually exported. Available estimates place the value of gold exported from Burundi at \$400 million.⁶⁴ With an ad valorem tax of 2 percent on the artisanal mining of gold, the Burundian government could be entitled to receive up to \$8 million in 2014, without including other fees and charges due, if collection and declaration mechanisms were strengthened.⁶⁵

50. Mining activities are concentrated in several communes. Ongoing mining activities in Burundi target gold, Coltan, Cassiterite, and Wolframite and are concentrated in the north of the country in the provinces of Cibitoke, Kayanza, Bubanza, Ngozi, Kirundo, and Muyinga as well as Ruyigi to the east. Most recently, a mining site was opened in Gitega (see figure 2.9). Mining exploration is concentrated in the north of the country and also along the shores of Lake Tanganyika (see figure 2.10).

51. The geographical concentration of potential large-scale mining may exacerbate intercommunal differences in the distribution of costs and negative externalities. Large-scale mining is likely to be more geographically concentrated than small-scale mining, given the need for larger deposits to make the activity viable. This means that certain communes and communities will bear the brunt of the negative environmental impacts of large-scale extraction. Currently, a large number of communes bear the costs of small scale unregulated mining activities. Exploitation activities may require additional investments in the construction and maintenance of infrastructure such as roads, schools, or hospitals, and additional costs in education, health, and other social services that the producing area

61 The World Bank. (2011). Republic of Burundi-Country Economic Memorandum (CEM): The Challenge of Achieving Stable and Shared Growth. Washington, D.C.: The World Bank, Report No. 51880-BI.

62 African Development Bank. (2009). An Infrastructure Action Plan for Burundi: Accelerating Regional Integration.

63 See Exploitations Minières Artisanales du Burundi sur la Période 2009-2013: Rapport en relation avec l'Etude Diagnostique de l'Initiative pour les Industries Extractives au Burundi ("Burundi

Artisanal Mining Study, forthcoming").

64 Ibid.

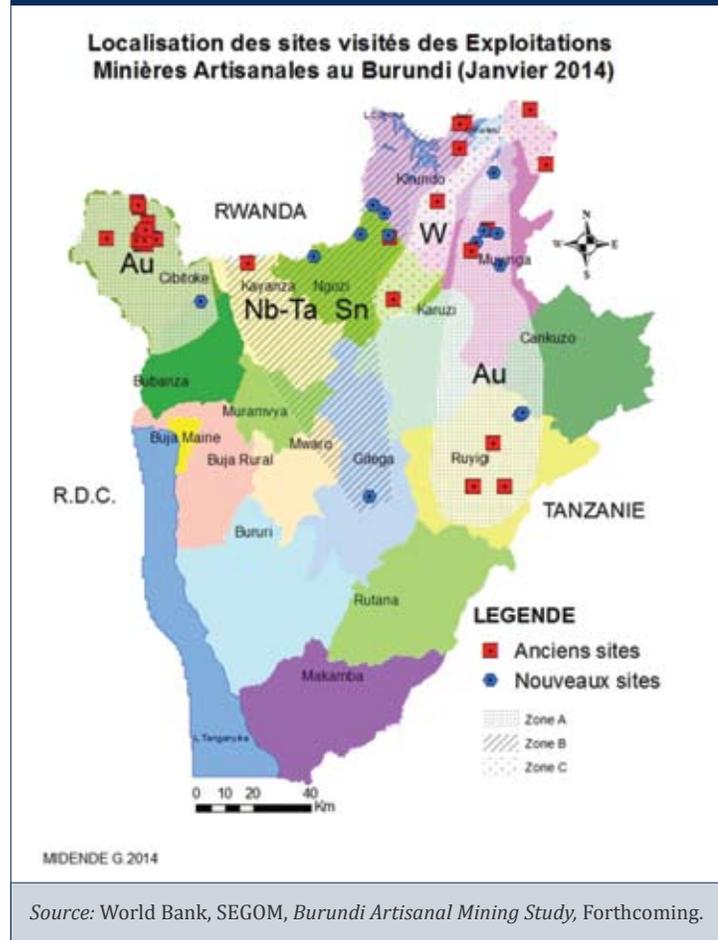
65 Ibid.

would not otherwise have borne. For example, the transport of minerals may accelerate wear and tear of roads, while an influx of workers attracted to the area may require expanded provision of services. The costs of environmental damage caused by extraction should also be considered. Other considerations may include the costs of resettlement of communities affected by extraction activities, the costs of additional strain on water sources, and the costs of general disruption of livelihoods.

52. **For the high-impact activity of large-scale mining to gain social acceptance, it may be necessary that mining firms offer and finance needed local services.** Often companies voluntarily enter into agreements with local communities in areas where extraction is taking place to avoid conflict and obtain a “social license” to operate. Such agreements may involve services such as building roads or schools or health centers. A number of countries require companies to enter into agreements with local communities for community development or to submit community development plans as a condition to receiving an exploitation license.⁶⁶ Burundi might consider a legal mandate for companies to contribute to development in communities affected by mining activities (*local content*). Such laws should be designed to ensure that companies do not undertake wasteful projects that are not in line with communities’ development needs and goals. One possibility is requiring that companies’ community development projects be aligned with communes’ development plans. Systems for monitoring the implementation of community development agreements should

66 See, for example, the principal mining laws of Central African Republic, Equatorial Guinea, Ethiopia, Guinea, Nigeria, Sierra Leone, and South Sudan.

Figure 2.9 Active Mines

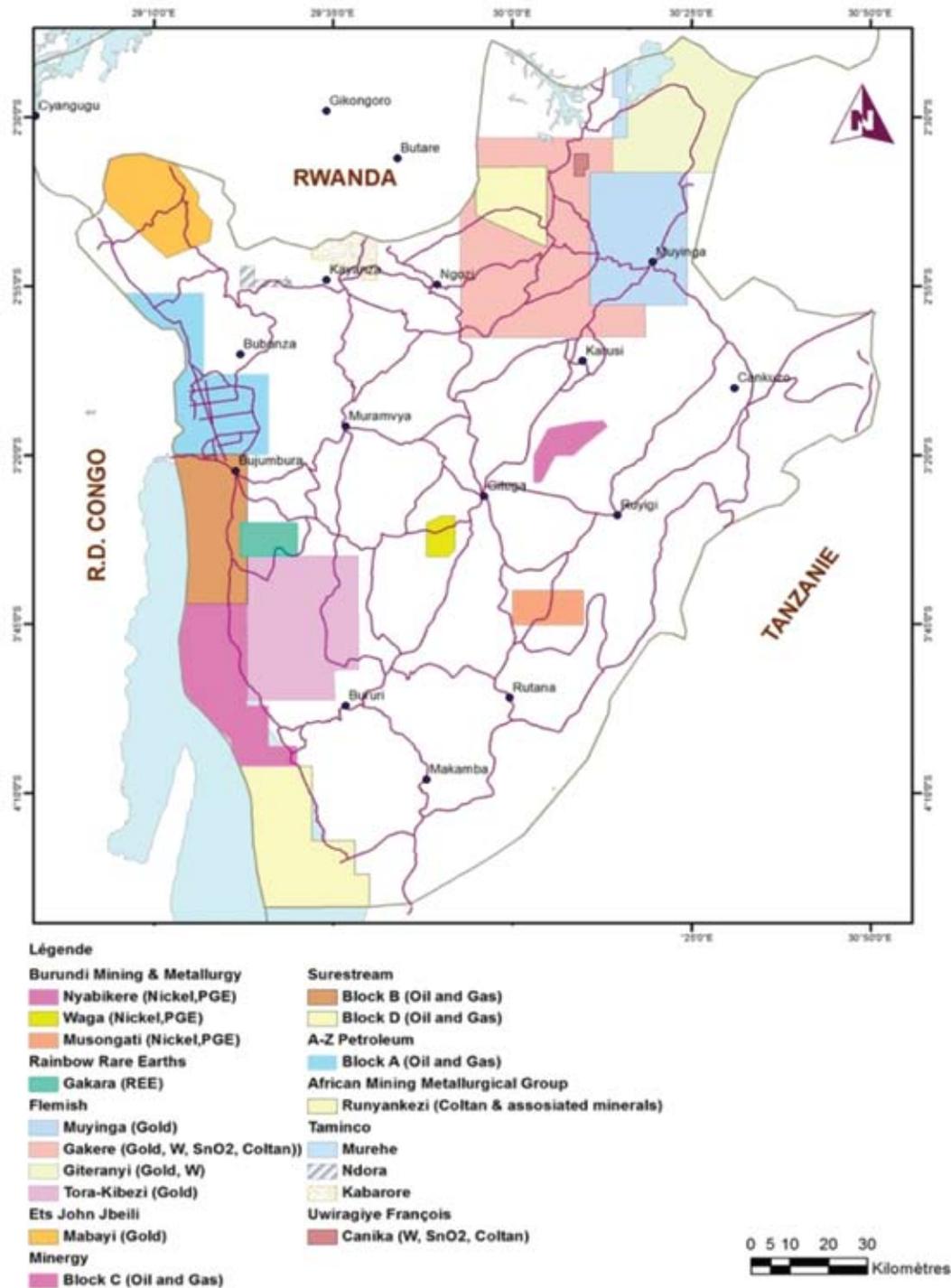


Source: World Bank, SEGOM, *Burundi Artisanal Mining Study*, Forthcoming.

also be considered.

53. **Communes adjacent to mine sites may also be affected.** The main site of a mine will normally be located in one commune, but if it is an open-pit mine it could overlap communes. If the subsoil deposit extends across several communes, then those without the main site will see “their” resources extracted without any benefit, particularly if community development obligations are not designed to cover all affected communes. Also, while mining may be carried out in one commune, the refining of the mineral may take place in another commune, while transportation for export purposes may take the metal through

Figure 2.10 Mining Exploration Activities, as Indicated by Claim Area



Source : World Bank, SEGOM, *Burundi Artisanal Mining Study*, Forthcoming.

several communes (whether by road, pipeline, or, potentially, train).

54. **Given the potential impacts of mining and the potential magnitude of mining revenues, it may be important to clarify revenue-sharing arrangement outlined in the mining code.** As previously noted, the 2011 CEM estimates tax revenues from industrial-scale exploitation of Musongati alone at \$50 million to \$233 million (2 to 10 percent of 2011 GDP), depending on nickel prices. Artisanal mining revenues for Burundi could amount to at least \$8 million in 2014. Revenue sharing, in addition to community development agreements with companies, may help to compensate affected communes for the costs of mining activities. Revenue sharing across provinces and communes more broadly—even those not directly affected by mining—could serve as an important additional source of budget financing for communes and prevent wide fiscal disparities

from appearing across communes as revenues from mineral extraction increase. While the 2013 mining code refers to this possibility, the actual revenue distribution mechanisms remain to be specified.

55. **An integrated approach to decentralization and mining could be implemented.** There is an opportunity to integrate both decentralization and mining through a mechanism that: (i) compensates communes with mining related activities for environmental degradation, (ii) sets aside some resource revenues for future generations, and (iii) shares some of the resource revenues between producing and nonproducing communes. There are examples of revenue-sharing arrangements (i) with producing areas only and (ii) with producing and nonproducing areas alike (see boxes 2.3 and 2.4 for details).

56. **Burundi may consider sharing mining**

Box 2.3 Scenario 1: Mining Revenues Shared Across Producing Areas

Under a system that shares revenues with producing areas, revenues from natural resources are collected centrally, but then a portion is shared with producing areas, either based on the contribution of that area to the total revenues collected (by derivation) or based on a formula or percentage. In many cases, the revenues are shared both at the state or provincial level and at the municipal or district level.

In Ghana 80 percent of resource revenues are retained by the central government, while 20 percent is shared with producing areas: 10 percent goes to a Mineral Development Fund for redistribution to mining communities and the other 10 percent is distributed to the Office of Administration of Stool Land, which then distributes the funds among producing districts, and traditional councils and customary land title holders (“stools”) in producing areas (Morgandi 2008; Revenue Watch Institute 2013).

Indonesia distributes its resource revenues to producing areas and areas affected by resource exploitation only. Whereas oil and gas revenues are largely retained at the central government level, most mining revenues are retained at provincial level.

| Resource Revenue Distribution in Indonesia | | | |
|--|--------|-------|-------|
| | Mining | Oil | Gas |
| Central Government | 20% | 84.5% | 69.5% |
| Producing Provinces | 16% | 3.1% | 6.1% |
| Producing Districts | 32% | 6.2% | 12.2% |
| Districts Adjacent to Producing Districts | 32% | 6.2% | 12.2% |

Source: Morgandi 2008; Agustina and others 2012.

Note: The central government general revenue grant to provinces is reduced as provincial revenues increase.

Box 2.4 Scenario 2: Mining Revenues Shared Across Both Producing and Nonproducing Areas

Under this system, revenues are generally collected by the central government, and both producing and nonproducing areas receive a share of resource revenues. In these cases, however, producing areas often receive a larger share than nonproducing areas. Generally, it appears that countries in which resource revenues represent a large share of the budget may be more likely to redistribute some of the revenues to all regions (Morgandi 2008).

The 1999 constitution of Nigeria stipulates that 13 percent of resource revenues must be allocated by derivation. After “first-line charges,” including cash calls to finance the national oil company, 13 percent of oil revenues are paid to producing regions by derivation. The rest is divided among the federal, state, and municipal levels (local government areas), based on a formula that takes into account factors such as population size, revenue-raising effort, and social development efforts (Ahmad and Mottu 2003; Morgandi 2008).

| Distribution of Nigeria’s Oil Revenues (%) | |
|--|--------|
| Central government | 45,83 |
| All 36 states (based on a formula) | 23,25 |
| All municipalities (based on a formula) | 17,92 |
| 9 producing states (by derivation) | 13,00 |
| Total | 100,00 |

Source: Morgandi 2008.

Note: Under Venezuela’s hydrocarbon law 25 percent of royalties and petroleum taxes must be transferred to state and local governments (Revenue Watch Institute 2013).

revenues with producing communes only, or sharing across all communes. An estimated minimum of \$8 million in gold revenues in a given year to the Burundian government is used as an estimate of total mineral revenues in the illustrative simulations discussed below.

57. **In one possible scheme, revenues are shared only with producing communes. The political feasibility of such scheme needs to be carefully considered.** Capacity constraints at the local level and budget constraints at the central level may make a model like Ghana’s (or Indonesia’s)—in which 80 percent of revenues are retained at the central level—most practical for Burundi. In other words, 20 percent of revenues would be allocated to producing communes (see table 2.5).⁶⁷ Currently, provinces with producing communes include

Cibitoke, Kayanza, Bubanza, Ngozi, Kirundo, Muyinga, Ruyigi, and Gitega, containing a total of 61 communes. If revenues were to be shared not only with producing communes but also with those that experience an impact from mining, communes in other provinces would need to be included in this list. It is advisable that a transparent procedure be developed to identify all potentially affected communes, given the potential for conflict over revenues. For example, some communes in a producing province may not be affected, while communes in nonproducing communes experience impacts. The overall political feasibility of such scheme needs to be carefully considered by the national authorities, and a more equitable scheme (see above) might be preferred given the Burundi context.

58. **In the second scenario, revenues are shared across both producing and nonproducing communes.** As indicated in table 2.6, a simplified version of the Venezuela

⁶⁷ Of course, the sharing ratio could evolve as the central government transfers more responsibilities to communes.

Table 2.5 A Simulation of Revenue Sharing with Producing Areas Only

| Entity | % | Amount (\$US) |
|--|--|---------------|
| Central government | 80 | 6 400 000 |
| Communes with direct/indirect producing activities | 20 | 1 600 000 |
| All eligible communes (61 communes) | Assumed equal here but share could vary with status of commune: producing (10/20), impacted (6/20), neighboring (4/20) | 26 230 |

Source: Authors' own compilation.

Table 2.6 Simulating Revenue Sharing with Producing and Nonproducing Areas

| Entity | % | Amount (\$) |
|--|--|-------------|
| Central government | 70 | 5 600 000 |
| All communes | 10 | 1 800 000 |
| Communes with direct/indirect producing activities | 20 | 1 600 000 |
| All communes (129) | Could be population based or equal per commune. Here the communes of Bujumbura are treated as ordinary communes | 9 302 |
| Communes with direct/indirect producing activities | Assumed equal here but share could vary with status of commune: producing (10/20), impacted (6/20), neighboring (4/20) | 26 230 |

Source : Authors' own compilation

and Nigeria model might also be imagined, in which, again, the majority of revenues are retained at the central government level (70 percent), and the balance is shared equally between all (10 percent) and producing communes (20 percent). Note that under either scenario, the division between amounts going to the central government, and communes should be determined based on a variety of factors, including the capacity and division of responsibility for the provision of services and infrastructure.

59. **To determine the “right” revenue-sharing mechanism, if any, a number of factors should be considered.** The immediate impact of small-scale and artisanal mining may be a pertinent issue to consider when planning mineral revenue sharing. How does ongoing small-scale mining activity impact the local tax potential? Does it reduce it by taking land out of agricultural production, or does it enhance

it by creating locally taxable economic activity that would not occur otherwise? If local tax capacity is indeed created, then how should it be accounted for in a transfer formula? If there are costs created by small-scale mining—such as a need for more police, water, or garbage removal services—how should these be handled? Also, projections based on industrial-scale mining should be taken into consideration. As mineral revenues increase, the capacity of provinces and communes to handle large mineral revenue flows has important policy design implications. Public investment capacity, as well as capacity to handle mineral revenue volatility, needs to be considered and managed.

2.3 Future Fiscal Decentralization Reforms in Burundi: Possible Paths and Recommendations

60. **There are two possible paths in the near term for communes in Burundi.** The

first trajectory for fiscal decentralization in Burundi is that of the *status quo*. In this scenario nothing (or little) changes in terms of the number of communes and their legal status and responsibilities, while their tax powers remain largely unchanged. In the second scenario, *there is a significant reform of the intergovernmental (fiscal) structure*. The responsibilities of communes—both rural and in Bujumbura—and their number are settled by the passage of one or more laws in parliament. For instance, Burundi could opt for a Rwanda-inspired reform that reduces the number of communes while considerably increasing their service delivery responsibilities.

61. In the short-term (up to the 2015 elections) the most likely path is the maintenance of the status quo. If reforms were to be undertaken, their likely shape is uncertain. Since 2010, when a few amendments to the communal law were introduced, there has been little progress toward effective decentralization in Burundi. The law on commune-level responsibilities has yet to be adopted since parliamentarians deplore the lack of appropriate transfers, human and financial, to communes. The laws on communal finances and on changes to the status of Bujumbura's communes have also not been adopted. As discussed in chapter 1, various factors are relevant, such as the division of ministerial portfolios between two vice presidents and the anticipated elections of 2015. These and other factors suggest that no major reforms are imminent; meanwhile, policy in this area remains uncertain.

62. For both paths, the introduction of a recurrent expenditure transfer scheme is appropriate. The appropriate degree of deconcentration and devolution in Burundi is not clear. Burundi is a small country, and thus the span of control by the central government can easily cover it. It uses a common language and is not divided geographically into linguistic or ethnic groups. Thus many of the typical reasons for devolution do not hold.

At the same time, there is a need to address inequalities across communes and their need for more resources, in particular given the provision of land services is now a responsibility of communes (see chapter 3).

63. Several reforms proposed above require more central-communal interactions. Reforms in the collection of communal taxes involving more activity of or interactions with the OBR, the introduction of a transfer system or the sharing of natural resource wealth will all require more interaction and more integration between the central government and the communes. Thus it may be appropriate to examine how to establish more formal consultative mechanisms between the central government and communes. Such a body could for example be set up along the line of a bipartite consultative committee. One may also want to add one communal representative to the seven member board of the OBR should it now collect taxes for communes.

64. To address the particular needs of Burundi's communes and manage fiscal decentralization reforms, the following seven policy actions are recommended:

- 1. Clarify the functional responsibilities of communes in the long term.** It is not possible to decide on the proper size of communes—and thus on their number or financing—until their responsibilities are clearly ascertained. Adding responsibilities—as envisaged in the transfer of responsibilities law currently under study—is one option, but their financial implications need to be carefully considered (see # 3 below). Not adding responsibilities is another, and equally reasonable, option. But it is advisable that, either way, the responsibilities are clarified in the short term (2014–16)—preferably before the elections of 2015—either by: (i) adopting in parliament and promulgating the law now under study for implementation in 2016, or (ii) stating explicitly that existing

responsibilities will be unchanged during the medium and long term.

2. **Settle the number of communes—and thus their boundaries—for the long term, and allow intercommunal collaborative arrangements to maximize economies of scale.** Unless accompanied by more far-reaching administrative reforms, it is further unlikely that the consolidation of communes—under existing responsibilities—would create more fiscal space for local services through costs savings in local administrations, and may actually raise additional costs for residents of communes. Moreover, a comprehensive infrastructure plan is needed to ensure complementarities between the delivery of important services—for example, the road network and health services. A more viable alternative for the short term (one to two years) would be to take advantage of the new decree adopted by Government in October 2013 and start the implementation of intercommunal schemes of various dimensions according to the level of economy of scales associated with various services.
3. **Settle the status of the communes of Bujumbura, taking into account their location in a large metropolitan area.** There are three options at this time: making these full communes, with a status similar to those of communes in the rest of the country, keeping their status unchanged, or designating them as boroughs (*arrondissements*). Meanwhile, the boundaries of Bujumbura's *Mairie* need to be examined to see if they should be expanded to account for the transformation of neighboring communes into suburbs. One may want to examine the creation of a Bujumbura urban community grouping both Bujumbura *Mairie* and some communes of Bujumbura rural. Any decision on the status of Bujumbura communes can be taken in the short term (one to two years). Changing the boundaries of Bujumbura's *Mairie* or
4. **Revise existing tax parameters to take inflation into account and establish a more effective approach to local taxation, in collaboration with OBR.** The tax potential of communes may also be evaluated, *after* setting the new parameters. At the same time, efforts are needed to strengthen local tax administration system, improve tax compliance and strengthen the link between improved revenue collections and better services for the citizens. This could be facilitated by an exchange of information between OBR and communes regarding the lists of taxpayers, as a first collaborative step to facilitate collection of local taxes related to economic activities. (A similar example of collaboration between the central tax agency and the local ones can be found in Rwanda, where the last reform of the District tax law introduced the requirement that RRA provide information on one category of taxpayers—VAT taxpayers—to districts). The changes in the tax parameters can be introduced in the short term—by or before 2015—by adopting and promulgating the relevant law. The partnership with OBR can also be implemented in the short term through policy directives. A revaluation of communes' tax potential could be carried out in the medium term, also to take advantage of an expanded land register (on this, see chapter 3).
5. **Introduce a scheme for funding current expenditures that complements the existing capital funding transfer scheme (FONIC).** This requires examining the balance between communes' own revenue potential and their expenditure needs. It is important that the maintenance of capital is not neglected while new capital is funded. The first priorities are to increase own-source revenues and introduce a general transfer scheme. Also, the existing capital transfer scheme (FONIC) can be improved

in the short term. Before these items are implemented, the financial capacity of communes will be in flux and thus their repayment capacity hard to establish. Then, a lending mechanism could be implemented in the medium term (fewer than five years), once these other issues are clarified. A transfer scheme for current expenditures could be introduced in the short term, through the 2015 budget and separate from the law changing the tax parameters. A medium-term review of this scheme should be carried out in 2017 for implementation in 2018.

6. **Introduce a monitoring mechanism permitting to better capture the geographic distributions of subnational expenditures in the central budget, to improve budget transparency and effectiveness of public spending.** There is currently no mechanism in the national budget for systematically identifying the distribution of public expenditures, both in the case of deconcentrated and decentralized spending. Hence, while it is possible to learn the overall budget ceiling for a given sector, it is difficult to obtain its disaggregation at the subnational level. A mechanism permitting the monitoring of the subnational allocation of expenditure in the central budget would

provide the authorities with an effective steering tool, while also contributing to strengthen transparency and accountability in the use of public resources.

7. **Undertake a systematic investigation of the one-off, recurrent costs, and service delivery costs of communes' current and new responsibilities, to properly understand the long-term fiscal sustainability of the decentralization reform process.** This follow-up analytical work can focus on (i) costing the existing staffing norms, institutional arrangements, and prevailing unit costs for key services; and (ii) estimating options for consideration in terms of factors/variables that Government should consider in order to ensure fiscal sustainability, should new service delivery responsibilities be devolved. It might be advisable to start with sectors that have a major contribution to local service delivery (including health, education, agriculture). The key issue at stake is the proper use and remuneration of human resources in a decentralized setting. In this regard, a more extensive analysis of local public sector expenditures would be helpful in determining the optimal contribution of communes to public service delivery outcomes.



CHAPTER 3

DECENTRALIZED LAND ADMINISTRATION: CHALLENGES AND OPPORTUNITIES

Summary of the Main Arguments and Key Findings

Moving from an analysis of macro-level institutions to the local service delivery responsibilities of communes, this chapter reviews the experiences of decentralized land administration services, and discusses the challenges and successes of the government's ongoing efforts to scale up access to these land services across all the communes in Burundi. To this end, this chapter builds on the results of the land sector review undertaken in 2013 for the World Bank's *Projet de Productivité et de Développement des Marchés Agricoles* (PRODEMA Report 2014) as well as the cost-benefit analysis of selected communal departments of land registration (the *Service Foncier Communal* or SFC) undertaken with financial and technical support from the Food and Agriculture Organization (World Bank/FAO 2014), and other recent studies (Habwintaha

and others 2013) and results from interviews and fieldwork visits to SFCs in Ngozi province. The main policy innovation discussed is the introduction of a more relevant, accessible, and cost-effective way of registering rights to rural land than the prevailing land titling system. This innovation builds on the broad presence and authority of communes and introduces the certificate as a legal alternative to the title (a certificate can later be converted into a title, if desired). To this end, this chapter will:

- **Identify the main obstacles to land tenure security and their implications for conflict and violence in Burundi.** This will set the stage for a discussion of the rationale to promote land governance reforms and a review of the key innovations introduced in the post-conflict period.
- **Present the results, strengths, and weaknesses of the new land certificate** and demonstrate that the combination of a decentralized system of land administration

and a new document to record rights (the certificate foncier) have the potential to improve land tenure security in Burundi and minimize conflicts over land and investments.

- **Discuss the outcomes of pilot operations in establishing SFCs, with a focus on results and pending challenges.** The aim is to allow for land tenure registration—at scale—that is accessible, less costly, uses a faster procedure, and is embedded in a communal process to ensure transparency and to contribute to dispute resolution/prevention. In particular, the analysis suggests that an impact evaluation exercise is urgently needed to rigorously assess potential household benefits. To date, there is limited quantitative evidence of how communal-level registration of land rights and issuance of land certificates affect (i) the long-term prevention of disputes and the efficacy of conflict resolution mechanisms across social groups, (ii) investments, (iii) land markets, and (iv) transformation of rural livelihoods.
- **Define the sequence of reform solutions needed to improve land tenure security and ensure the sustainable and efficient scale up of current reform efforts.** These questions are at the forefront of the national land policy debate. The government is keen to obtain technical support from the Bank and those donors active in the sector, as it aims to decide the most effective and sustainable mechanisms to strengthen land governance in rural areas, as well as the actions needed to successfully prepare for the scale up of ongoing pilots to all rural communes. Specifically, the long-term sustainability of SFCs (in terms of ensuring the quality and integrity of records, sustaining the requisite human resources and technical skills, and financing) has to be addressed. Scaling up requires investments in capacity-building initiatives and improvements in accountability and transparency in

decentralized land services, combined with strategies to ensure the financial sustainability of SFCs and the efficiency gains of communes, as well as to contribute to efforts to mobilize revenues through local taxation, land-use planning, and better information.

3.1 Land Scarcity and Tenure Insecurity as Drivers of Conflict in Burundi

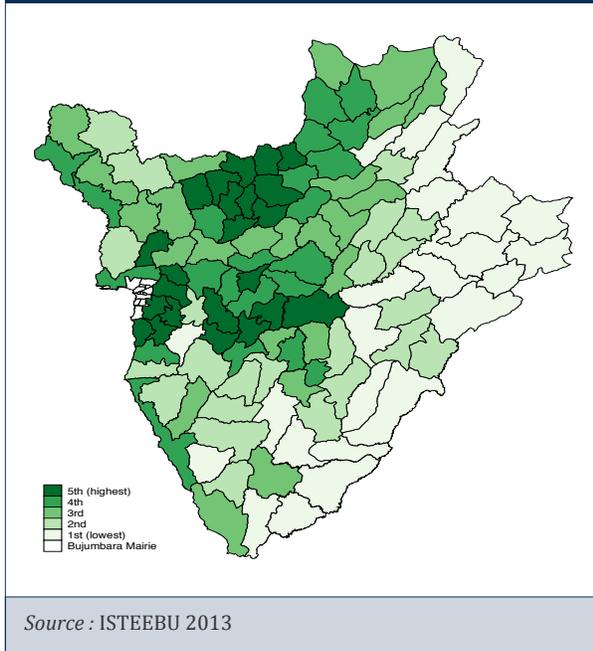
1. **A mountainous, landlocked country, Burundi has one of the highest rural population densities in Africa** (310 people/square kilometers [km²] on average); 90 percent of the total population live in rural areas. There is significant variation in population density across regions (see figure 3.1), especially when excluding Bujumbura-Mairie.⁶⁸ The amount of arable land is estimated at 35.8 percent, and cultivated land at 15.6 percent in 2011 (a marked increase from 14.0 percent in 2000; World Development Indicators [WDI]). Farming is the main livelihood for most of Burundi's rural households, making land the main economic asset for the majority of the poor.

2. **In Burundi small landholders dominate the agricultural sector.** In recent years most farmers have experienced both a reduction in crop area and productivity;⁶⁹ the average farm is around 0.4 to 0.5 hectares (ha; 0.1 ha per person in 2011; WDI) and is only shrinking as a result of subdivision law (PRODEMA Report 2014). Meanwhile, the waves of violent conflict undermined the crop rotation of bananas and livestock, as the loss of livestock

68 Bujumbura, the only city of significant size, has fewer than 1 million inhabitants, making it relatively small for a country whose population currently stands at nearly 10 million inhabitants. The country second city, Gitega, has fewer than 50,000 inhabitants.

69 Government of Burundi. Second Strategic Framework for Growth and the Fight against Poverty (Cadre Stratégique de Croissance et de Lutte contre la Pauvreté II (CSLP-II), p. 16–17. 2011.

Figure 3.1 The Population Density of Communes, by Quintile



affected soil fertility management strategies. The growing pressure on land⁷⁰ also reduced the possibility of using fallow to restore soil fertility, while the spread of annual grain crops, such as maize, on the commonly steep slopes increased soil erosion. Bare slopes are prone to erosion, which can in turn exacerbate flooding in valleys and plains, as happened in February 2014.⁷¹

3. The demand for land (for farming, urban expansion, investments, environmental protection, and so on) continues to rise. A combination of increasing demand, growing land scarcity, and ambiguous land rights undermines stability at the local level.

70 Burundi's population density has changed significantly in recent years, going from 144 inhabitants/km² in 1979 to 310 inhabitants/km² in 2008. This tremendous increase is due to the high population growth, spurred by high fertility rates.

71 Forest management on hill tops, multiannual crops (bananas, coffee, and tea), combined with terracing and other forms of erosion protection, require that farmers have tenure security and the capacity to invest, supported by (enforced) land-use regulations for fragile areas.

Moreover, settlements carry high costs for those engaged in land disputes. Commune officials are frequently requested by the involved parties to act as mediators in land conflicts.⁷² Improved land administration can reduce the burden on scarce human resources by mitigating conflicts and speeding up dispute resolution.

4. Conflicts and disputes over land are widespread. Land disputes may be linked to political and ethnic divides, but the majority involves members of the same family or long-time neighbors. Conflicts may be divided into two categories: (i) structural conflicts, prompted simply by scarcity and demand, and (ii) conflicts due to political crises and associated displacement and violence. So-called structural disputes are usually over boundaries, transactions (of family land,⁷³ multiple sales of the same plot, and so on), rights to land, and inheritance. As shown in table 3.1, disputes over "inherited plots" are the most frequent (58 percent) and the most difficult to resolve. More than 500,000 refugees who left in the 1970s have returned to Burundi over the past several years and are seeking to regain ownership of their land, now used by others (PRODEMA Report 2014). But disputes that are due to the political crisis involving returnees are relatively few in number in most areas, except in *paysannats* schemes; 20.6 percent) and in urban areas (see table 3.2).

5. The majority of pending cases in Burundi courts are related to land conflicts. It is estimated that about 72 percent of civil court cases are linked to land issues; meanwhile, land disputes are often behind criminal cases.⁷⁴

72 The mayor (*administrateur communal*) in Ngozi estimated that she spent two days a week, on average, in the mediation of conflicts often caused by land disputes (interview, June 2013).

73 Land sales can be a source of conflict, especially when one individual makes the sale without the consent of the spouse and family.

74 Bigirimana, Gilbert. "Étude sur la situation des conflits fonciers au Burundi." (In Ngozi province, interviews were conducted with

Table 3.1 The Frequency of Land Disputes, Ranked by Household Type and Method of Acquisition

| % | Rural Households | Urban Households | Marshland (marais) Households | paysannats Households | Households near Protected Areas |
|---|------------------|------------------|-------------------------------|-----------------------|---------------------------------|
| <i>N</i> = 2257 | <i>N</i> = 1047 | <i>N</i> = 385 | <i>N</i> = 306 | <i>N</i> = 299 | <i>N</i> = 220 |
| Inherited plots | 57,9 % | 53,4 % | <i>N</i> = 306 | 34,2 % | 36,9 % |
| Purchased plots | 25,6 % | 30,8 % | 69,8 % | 27,4 % | 20,9 % |
| Plots attributed from public domains | 3,7 % | 3,8 % | 21,4 % | 11,0 % | 20,9 % |
| Plots claimed by returning refugees | 6,4 % | 5,4 % | 3,2 % | 20,6 % | 9,7 % |
| Other | 6,1 % | 6,6 % | 0,4 % | 3,9 % | 10,8 % |

Source: PRODEMA Report 2014: 77.

Note: Ranking provided by participants in focus group. Percentages indicate how frequently risks were ranked as either first or second in order of importance.

The mandatory engagement of the traditional conflict mediators, the *bashingantahe*, before referral to a court was abolished in 2005 even though in practice they are still being consulted. To date, the only way for Burundian courts to resolve land conflicts is to rule in favor of one of the parties involved. But difficulties with corroborating evidence, coupled with suspicions of judicial bias make such resolutions particularly difficult to achieve. The current legal framework was identified as a major obstacle to conflict resolution during consultations conducted in 2011 by the Ministry of Justice. Moreover, the judicial system lacks a formal mediation mechanism (ICG 2013).

6. Systematic discrimination against women exacerbates tensions over land ownership. Gender equity receives surprisingly limited attention in land policy and legislation (ICG 2013). Unlike countries such as Rwanda and Ethiopia (see box 3.1), there is little effort in

Burundi to promote joint titling, which requires the registration of both the husband's and wife's names on the land certificate—even though this is legally possible. Few women own land; within customary laws women are denied rights to land ownership through inheritance. Widows do not inherit land from their husbands but are mere caretakers of their sons' inheritance. Family law does not acknowledge equal rights, and the parliament has several times rejected proposals to change the law in this respect (most recently in 2013). According to Burundian law, women will only inherit their parents' land when there are no sons. Meanwhile, under customary laws brothers have an obligation to support their sisters in times of hardship by providing access to land (*igiseke*). Women may also farm part of their husband's land, but without rights over it, and may not be consulted when these plots are sold, leased out or used as collateral (Habwintahe and others 2013).

7. The Batwa represent a category of citizens without land. They are an ethnic minority group that composes about 1–2 percent of the total population, lacks secure rights to land. This is exacerbated by their weak social status in Burundian society (even though

240 individuals, analyzing more than 1,600 court judgments as well as collected opinions from about 230 administrative, judicial and customary) in "Les Terres de la discorde: la reforme fonciere au Burundi (Field of Bitterness I: Land Reform in Burundi" ICG Report, 2014.

they are acknowledged as the first inhabitants of the region). Batwa have forest-based livelihoods and are affected by centuries of deforestation aimed at creating more farmland. The total forested land left in Burundi is estimated at 6.6 percent (WDI 2011). The limited rights of

the Batwa are acknowledged problems, and governments have on occasion allocated public land to some groups of Batwa (PRODEMA Report 2014: 47–50), although the documentation proving these allocations may be lacking or incomplete (Habwintaha and others 2013).

Box 3.1 Gender Equity and Land Ownership: Learning from Ethiopia and Rwanda

In Ethiopia gender equity in land rights was improved when, during land redistribution, in the 1990s unmarried adult women were allocated land. Women's and men's land titling rights was fully recognized under the 1997 Federal Proclamation. Through the Land Certification Program that started in the late 1990s and lasted until the mid-2000s, efforts were initiated to strengthen women's rights to land by formally recognizing married women's rights to land, which was now registered jointly with spouses. Under this program, women received land certificates either jointly or singly, with certificates that carried the names and photos of both husband and wife (Deininger, Ali, and Alemu 2011a; Bezabih and Holden 2010; Securing Land in Africa, box 3.4). This initiative required active support from decision makers, active facilitation, and the representation of women on the committees accompanying the registration and rights recognition processes (Teklu 2005).

Rwanda addressed gender discrimination on land rights through a comprehensive land sector reform, backed by extensive legal and institutional policies—initiated at the end of the 1994 genocide—in support of a nationwide land certificates registration program. Subsequent amendments to the national land policy in 2004 coupled with the Organic Land Law in 2005 further elaborated the governing land laws and established several new clauses, notably: (i) the equal rights of daughters and sons to inherit their parents' properties, (ii) the protection of women's property rights when in legally registered marriages, and (iii) the mandated consent of both spouses in case of sale or mortgage of the property by one party (Government of Rwanda 2005). An evaluation of the pilot program in preparation for its expansion showed, however, that most marriages were not formally registered, and as a result, women were losing out. This was corrected in the rollout of the program, when informal marriages were included in the appropriate provision. Recently, a study analyzing the short-term impact of the land registration programs demonstrated that married women's access to land had improved. The recording of inheritance rights has become more gender neutral, and most important, investment in and the upkeep of soil preservation methods has increased, specifically among households headed by women.

The land registration program in Rwanda also demonstrates that the systematic registration of all rural land parcels is feasible if well prepared (with a legal and institutional framework in place before rollout). But although contested plots will not be registered, any latent conflicts—such as those involving returning refugees—may go unmentioned at the time of registration. As of now, there are 11,809 parcels recorded as under dispute, representing only 0.1 percent of all land registered in Rwanda—a figure that seems far too low to be accurate. Another issue is keeping the registry current; registered transactions number 10,535 out of a total of 10.6 million, or only 0.1 percent. Finally, the government's use of the land registration database to direct land use (farmland consolidation and *villagization*) has generated controversy.

Sources: Ali, Deininger, and Goldstein 2011; Byamugisha (2013: box 3.4).

3.2 Background: Types of Tenure and the Institutional Setting

8. **The institutions in charge of land governance in Burundi fall under the presidency and two vice presidencies.** Burundi has a National cadastre Department with offices in Bujumbura, Gitega, and Ngozi. This semi-autonomous department is under the *tutelle* of the Ministry of Water, Environment, Land Use and Urbanism; (*Service national du cadastre—administration personnalisée sous la tutelle de MEEATU—Ministère de l’Eau, de l’Environnement, de l’Aménagement du Territoire et de l’Urbanisme*) as well as a land titling registry under the *tutelle* of the Ministry of Justice (*Direction des Titres Fonciers sous la tutelle du Ministère de Justice*). The General Directorate of Land Use (*Direction Générale de l’Aménagement du Territoire, et la Gestion du Patrimoine DGAT*) in the MEEATU is responsible for the management of rural public land (*Terres domaniales en milieu rural*), while the General Directorate of Urban Planning (*Direction Générale de l’Urbanisme, DGU—MEEATU*) manages urban public land. The MEEATU is represented at the provincial level, and is also the *tutelle* for the National Land Policy Program (*Unité de Coordination du Program National Foncier, PNF*)⁷⁵, which is responsible for coordinating donor engagement and coordinating and monitoring (*suivi opérationnel*) land policy reform, such as decentralized land administration. An interministerial Steering Committee for Land Sector Reform (*Comité de pilotage de la réforme du secteur foncier*) also includes the Ministry of Justice, under the first vice presidency as well as a National Land Commission. The National Commission on Land and other Properties (*Commission Nationale des Terres et autres Biens, CNTB*) was created in 2006, to serve three years under the Ministry of National Solidarity, Human Rights, and Women’s Rights (*Ministère de la Solidarité Nationale, des*

75 Ordonance ministérielle No:1218/du 12-8-2010.

Droits de la Personne Humaine et du Genre) also under the first vice presidency. The mandate for the CNTB was renewed in 2009, and in 2010 it was placed directly under the Office of the President of the Republic.⁷⁶ Its judiciary powers were increased substantially in 2013.⁷⁷

9. The main types of tenure are private lands (*terres des personnes privées physiques ou morales*) and **public (state land)**. Most smallholders farm private lands (*terres privées non-titrées*) under a status that is recognized by the government although not formally registered, or deriving from customary rights. These private landholdings evolved from customary holdings; user rights may exist but are not recorded, and are mainly held by women on the land of their husband, father, or brothers.⁷⁸ According to the law, ownership rights may be acquired after having been used for more than 30 years without this use being challenged. But this legal clause in the land law is controversial: most refugees who left in the 1970s did not return within the 30-year period.⁷⁹ The PRODEMA study found that one-third of households interviewed use plots that are leased from other private holders, are leasing public land (such as *marais*) or are in *paysannats* and holding annual renewable leaseholds (PRODEMA Report 2014).

10. **Public land was created when colonial authorities expropriated all nonpermanently farmed land (forested, fallow, and grazing), which remained state land after independence.** Public or state land can be owned by the central government or communes (*terres du domaine de l’Etat—Les terres du*

76 Projet de loi y relatif a été adopté par l’Assemblée Nationale ce 24 décembre 2010.

77 Loi N°1/31 du 31 décembre 2013 portant révision de la loi N°1/11 du 4 janvier 2011 portant missions,

78 *Igiseke* is the term for user rights in local language.

79 About 500,000 people (or 5 percent of the population) fled the country around 1972, and many did not return to Burundi until after 2002 (over 30 years later, meaning that formally they could lose claims to their land).

domaine des Communes et des autres personnes morales de droit public). Public land consists of two types: (i) *the Domaine de l'Etat Public*—protected forest areas, parks, and marshlands (*marais*), which cannot be privatized; and (ii) *the Domaine de l'Etat Privé*, which is state land that can be allocated by authorities to private parties. This latter category includes fertile lands such as the marshlands (*bas-fonds*) and the agricultural schemes (*paysannats*) in the fertile plains, where cash crops (cotton, rice) were cultivated during colonial times, as well as the palm oil plantations. There are only a few public lands and they are unregistered; neither the government nor the commune has a complete overview of all its lands which may be encroached on by smallholders (PRODEMA Report 2014: 38). The lack of accurate maps hinders the management of public lands. But the key governance issue surrounds the procedures for official attribution of public lands to private parties, a process that is not always transparent, respecting procedures or serving the public interest (PRODEMA Report 2014). State land is becoming scarce. For instance, inventories in a few communes near Gitega found that only 8 percent⁸⁰ of total land area is public. An inventory of all public lands is planned with the support of the European Commission and *Gesellschaft für Internationale Zusammenarbeit* (German Agency for International Cooperation, GIZ).

11. **The marshlands are the last agriculture frontier in Burundi and cover about 120,000 ha.** Parts of the marshlands (*marais*) are protected areas according to the code de l'eau, but the distinction between protected *marais* and cultivable *bas-fonds* can be difficult to ascertain (Habwintaha and others 2013). Despite the risk of flooding and other difficulties surrounding their cultivation, these fertile lands have been increasingly sought after since the 1980s. As demand increases,

the initial government practice of rewarding rights to those who clear plots and make them productive has been gradually abandoned. The *marais* and *bas-fonds* are also the focus of agricultural investment projects and donor interventions. In the case of investment projects, the risk is that plots' current occupants will be displaced without recognition of their rights or any type of compensation (PRODEMA Report 2014: 50–52). As a result, tenure insecurity is high in these areas (Ouédraogo and others 2007; 2010), and the new land law (2011) has not resolved the issue of many plots' ambiguous status. In addition, the *marais* are public lands that legally belong to the central government, yet some communes also claim ownership over the *marais* and collect rents (PRODEMA Report 2014).

12. *The registration of land rights is not common practice.* Of the urban households interviewed for the PRODEMA study, only 40 percent reported having a title. Other documentation included a purchase contract—not necessarily officially validated (29.4 percent)—an affidavit (*acte de notoriété*; 16.7 percent), and an attribution note for former public land (4.3 percent) to sustain their claim (PRODEMA Report 2014: 83–84—draft version).⁸¹ In rural areas titles are very rare; but the trend is to record transactions at least informally (*petits papiers*). The PRODEMA (2014) study, using a small sample, found that 58 percent of buyers did not register the transaction formally, 29 percent registered with the *autorités collinaires*, and 15 percent registered at the communal level, confirming the transaction via the *acte de notoriété*.

13. **Tenure insecurity stems from multiple risks, both real and assumed.** According to the PRODEMA study (2014), a primary source of perceived tenure insecurity is government

80 Interview, PNF, June 2013.

81 Survey covering 159 households and 211 parcels—which is 67 percent of all households in the sample. The others did not reply to the question.

Table 3.2 Perceived Risks to Land Rights, Ranked by Household Type and Source

| % | Rural Households | Urban Households | Marshland (marais) Households | "paysannats" Households | Households near Protected Areas |
|--|------------------|------------------|-------------------------------|-------------------------|---------------------------------|
| <i>N = 2257</i> | <i>N = 1047</i> | <i>N = 385</i> | <i>N = 306</i> | <i>N = 299</i> | <i>N = 220</i> |
| Court case by a family member | 25,6 % | 15,8 % | 25,0 % | 5,7 % | 7,5 % |
| Court case by a neighbor | 14,3 % | 8,3 % | 11,0 % | 4,1 % | 4,3 % |
| Court case from a returning refugee | 3,7 % | 0,8 % | 5,0 % | 10,7 % | 3,2 % |
| Court case from other residents | 0,3 % | 0,0 % | 2,0 % | 7,4 % | 0,0 % |
| Questioning of rights by a third party | 13,7 % | 18 % | 16 % | 24,6 % | 16,1 % |
| Expropriation by the state | 10,4% | 9,0 % | 9,0 % | 10,7 % | 26,9 % |
| Expropriation by the CNTB | 9,1 % | 22,6 % | 8,0 % | 23,8 % | 2,2 % |
| Other | 14,0 % | 15,8 % | 18,0 % | 8,2 % | 11,8 % |

Source: PRODEMA Report 2014.

Note: Ranking provided by participants in focus group. Percentages indicate how frequently risks were ranked as either first or second in order of importance.

intervention. Study respondents reported fear of (i) expropriation or eviction by the state, as in cases of land allocation to companies like the Imbo Regional Development Corporation (Société Régionale de Développement de l'Imbo, SRDI) or—in Gihanga and Mutimbuzi—for sugarcane, palm oil, and the creation of military camps, (ii) withdrawal of paysannats' rights to land sought after by investors, (iii) rezoning of land use (that is, the creation of protected areas such as marais), and (iv) land confiscation by the CNTB or other state authorities. In addition, standard expropriation procedures were not respected, with the result that compensation was delayed or not paid at all. A second source of tenure insecurity is found at the community and family level. For example, property rights may be challenged by well-off neighbors, forcing smallholders to defend their rights in court at great costs. The PRODEMA study reported that, of the households interviewed, 33 percent expressed interest in the possibility of documenting their rights, and 20 percent in

documenting transactions (2014: 86).⁸²

3.3 Promoting Land Governance Reforms: Rationale and Policy Objectives

14. **With the Arusha Peace and Reconciliation Agreement signed in 2000, land restitution and land governance reform emerged as key priorities in efforts to address the root causes of conflict.** The Arusha agreement proposed a set of measures connected to (i) the restitution of land to citizens affected by the violent conflicts, and (ii) the reform of land governance. Given the large number of refugees

82 In the wake of expanding land markets, semi-formal initiatives to record land transactions emerged (petits papiers) or buyers of land also applied for an affidavit (acte de notoriété) to the municipality, for which a percentage of the transaction value had to be paid (10 percent, reduced to 3 percent by most communes following a declaration by the president of the republic).

Box 3.2 Land Governance: A Definition

Land governance is defined as the process by which decisions are made regarding rights over land, the access to and use of land and natural resources, the manner in which those decisions are implemented, and the way that conflicting interests are reconciled. Characteristics of land governance are: (i) the legal and institutional framework for rights recognition and enforcement; (ii) land-use planning, land management, and taxation; (iii) management of public land; (iv) public provision of land information (registries, cadasters, and so on); and (v) dispute resolution and conflict management.

Source: Palmer and others 2009; Deininger and others 2011.

and internally displaced people in Burundi, it is not surprising that land issues are a key element in the Arusha accord and a focus of postconflict donor and nongovernmental organization (NGO) programs, such as mediation and conflict resolution. With the establishment of the CNTB in 2006⁸³ a procedure for land restitution to refugees and displaced people was developed, while the land reform and the revision of the 1986 Land Code took longer to materialize and is only just beginning (ICG 2013).

15. Several donors have partnered with the government on the land governance reform process, culminating in the approval of the Land Policy Letter (2010) and Land Code (2011). The policy dialogue centered on developing a land policy, the revision of the 1986 land code, and developing innovations in land administration to facilitate securing rural land rights as a strategy to reduce land-related conflicts. In this context, the adoption of the letter on land policy and land code reform was the result of several years of participative

consultations - both at the central and provincial levels - which have received ODA financing and technical support.⁸⁴ The land code (2011) lays out the procedure for registering property rights using either a title or a certificate.

16. Current land titling procedures have their origins in colonial times and were continued after independence. The land title (*titre de propriété*) is issued by the Registrar of Land Titles (*Conservateur des titres fonciers*) of the Directorate of Deeds (*Direction des titres fonciers, DTF*) within the Ministry of Justice. It cannot be challenged in courts unless the title issued is a product of fraudulent acts⁸⁵. Almost all land titles concern urban lands (residential, business); holders of large tracts of rural land also have titles. The DTF estimates the total number of titles in Burundi at 62,000, of which 58,000 are issued in Bujumbura and most others in the cities of Gitega (854 titles in 2013) and Ngozi. The DTF estimates that only 1 percent of rural land is titled (PRODEMA Report 2014: 75–76). Titling via the classic land administration system tends to be a long and expensive process, particularly due to requirements for precise surveying processes, as well as the lack of human and material resources of the administration. This procedure is unaffordable for the majority of the population—even in urban areas, let alone in rural areas (Gapin 2011).⁸⁶ Accordingly, titling is neither appropriate nor affordable for

84 Les principaux financements ont été assurés par la coopération suisse, l'Union européenne, USAID, les Pays-Bas et le Fonds international de développement agricole (FIDA).

85 But the registry is prone to irregularities.

86 Before submitting their demand to one of these offices (Bujumbura, Gitega, Ngozi), applicants must hire a geodetic surveyor from Bujumbura, report the precise land limits to the national cadastral services, and demarcate the land boundaries with stones made of imported concrete. The majority of people in the countryside, accustomed to marking land boundaries at the most with perennial border plants, are totally unfamiliar with these procedures. In addition, for most of them, the price they would have to pay for the concrete is already higher than the market price of their land plots, not to mention the cost of the surveyor and the taxes for cadastral services (Kohlhagen 2010: 4).

83 With financial support from the UN Peace Building fund.

smallholders, as the costs are high compared to the value of the land. The number of parcels to be registered is at least 8–9 million.⁸⁷

17. Improving capacity of the state's registration authorities could help improve tenure security in urban areas and for the private sector but not in rural areas in the short to medium term. Investments are taking place to improve capacity and strengthen the land administration system (archives, digitalization, training, and so on), which is important for urban areas where informality may concern 60 percent of the properties. The capacity will remain insufficient to serve rural areas where most land conflicts are found and which is the focus of most policy concerns. A study conducted in 2003 pointed to the urgent need to address rural land governance issues to prevent future outbreaks of violence (*bombe foncière*) (ICG 2003). Several international organizations then commissioned research to identify key land issues and to establish priorities for action.⁸⁸ The problems identified included: widespread, long-lasting land conflicts—intensified by the reintegration of refugees seeking the return of their properties—the weak capacity of local mediation and dispute resolution mechanisms, inequality in access to land, the weak oversight of public authorities, perceived land grabbing, and an overall lack of agrarian policy. One priority for action identified was that an alternative to the titling system was required.⁸⁹ Making the registration of rural land rights feasible and affordable for the poor has been identified as a key strategy for reducing land-related conflict. Burundi is not unique, as the need for reform of land registration systems is widely acknowledged

87 At least 1.6 million rural households with on average two plots of land.

88 Notably, several detailed field studies have been conducted by mostly NGOs and UN agencies (RCN Justice & Démocratie 2004; Ntampaka and Mathieu 2009).

89 CED-caritas 2005; Global Rights; Kamungi and others 2005; Van Leeuwen 2004; Ntampaka 2005.

and implemented in many countries (Deininger and others 2003; Byamugisha 2013).

18. The central government has established a second, alternative way to record land rights: the land certificate (*certificat foncier*). The central government has decided to establish a second, alternative way for recording land rights in rural areas only, which will serve the demands for boundary and rights registration (through the certificate) and will be accessible through communes.⁹⁰ The innovations consist of two key elements: (i) *establishing land administration services at the commune level, delivered by communes*; and (ii) *introducing an additional document—for rural lands only—to register interest*. The Land Policy Letter (LPL 2010) and Land Code (LC 2011) introduced the establishment of *decentralized land administration services*, by creating communal land services (the Service Foncier Communal, SFC) for the registration of existing land rights, land transactions, and other mutations.

19. Land administration has been decentralized to help reduce land disputes, and improve tenure security. The new certificates for rural land offer almost the same security to full land titles, but at significantly less cost to rural landholders. The certificate is accepted as evidence in courts and carries more weight than informal documentation and witnesses (Habwintahe and others 2013).⁹¹ The

90 Article 313 code foncier (Loi n°1/13 du 9 août 2011 portant révision du code foncier) states : Le droit de propriété foncière peut être établi : soit par un titre foncier établi par le Conservateur des Titres Fonciers ; soit par un certificat foncier établi par le Service foncier communal reconnaissant une appropriation régulière du sol se traduisant par une emprise personnelle ou collective, permanente et durable, selon les usages du moment et du lieu et selon la vocation du terrain. (Land ownership may be established: either by a land title issued by the Registrar of Land Titles; either by a land certificate issued by the Communal Land Service recognizing acquisition of land personally or collectively in a permanent and sustainable way, according to the custom of the time and place and in the use of the land.)

91 In addition, the process for converting a certificate into

Box 3.3 Decentralizing Land Management: The Experience of Madagascar

The Madagascar National Land Program (Programme National Foncier) was formally initiated by the Government of Madagascar in 2005—supported by donors—to modernize land governance through the decentralization of land administration. The program design included the introduction of land certificates (certificats fonciers), the establishment of communal land offices to oversee local-level land administration (a newly introduced service provided by communes), alongside the modernization and computerization of existing land and surveying services, the renewal of land laws and regulations, as well as the training of decentralized land management personnel (Byamugisha 2013: 62). This new procedure for the local recognition of untitled private property rights has dramatically reduced the time and cost for individuals to obtain full legal documentation proving their ownership.

The land reform process changes the concept of public land and the principle of presumption of state ownership of land to enable the formal recognition of what is de facto private land, even although it is not titled. The reform process included the introduction of land certificates as well as the establishment of a “local government land office” as a legally competent service provided by elected local governments that deal with terre privée—non titrée—that is, private landholdings without a land title. The legal value of the land certificates is almost identical to that of land titles. Most transactions permissible with land titles are also possible with land certificates, such as sale, lease, partition, and inheritance.

The decentralization of land management has greatly increased the number of actors involved in the national task of registering land rights. Since 2006, 546 of 1,550 local governments have established their own land office, which employs at least one land officer. Each local government has set up a Rights Recognition Committee (Commissions de Reconnaissance Local). On average there are 10 such committees in each local government with at least 3 members, or about 15,000 people, in the 546 communes, who are involved from time to time in vetting land rights (World Bank 2014: 10).

The average cost of a land certificate has been drastically reduced to around \$14, with an average processing time of about seven months. (Byamugisha 2013: 62). Since 2005 local government land offices have registered more than 170,000 applications and issued 96,000 land certificates (Byamugisha 2013; World Bank 2014: 10). This is compared to the previous system, which produced 2,000–3,000 land titles per year, in a process that involved 24 steps, and took 6–10 years on average, at an estimated \$500 per title. Madagascar started with an on-demand approach and is now experimenting with the systematic first-time registration of rights to improve access to certificates by reducing their cost.

two systems of rights registration are not in competition but in fact complement each other and incremental (PRODEMA Report 2014). Transactions permissible with land titles are also possible with land certificates, such as sale, lease, partition, and inheritance, and a certificate can be converted into a title, if so desired. To mitigate overlapping claims, the first step of an SFC is to make a georeferenced inventory of all public and titled land in a given commune.

a title, if desired by the landholder, is laid out in a new decree draft decree on the certification of Land Rights (Projet de Décret portant Certification des Droits Fonciers) that is to be approved by the council of ministers.

Inspired by experiences in Madagascar (see box 3.3), the issuing of certificates by local governments follows a clear process that is codified in the Land Code of 2011; special decrees to further guide implementation are in preparation (2014).

20. Using the certificate to document land rights is also expected to facilitate land transactions or markets (rental, purchase).

Rural land markets are expanding, particularly in the provinces near Bujumbura, where prices are relatively high compared to farmers’ revenues (Wennink, Lankhorst, and Irutingabo 2012). According to the PRODEMA study, 14.9 percent

of the rural households interviewed had sold land. Those interviewees who were asked how plots were acquired indicated that, on average, 47.8 percent of plots were inherited and 41.2 percent purchased (PRODEMA Report 2014: 80). Habwintahe and others (2013) report that 5 percent of the plots that were documented on maps as part of a systematic registration effort (but for which no certificate had yet been issued) were sold in a period of about 12 months. Purchasers of land have demonstrated their readiness to pay for securing land transactions by applying for an affidavit (*acte de notoriété*) from the commune, and are certainly most interested in obtaining certificates. A study in a commune near Gitega found that 39 percent of the plots being registered were purchased (Gutwara Neza [2010], as reported in Teyssier and others [2011]). Habwintahe and others (2013) counted 12,957 certificates in the registry in six SFCs, of which 86 percent concerned purchased plots (7 percent by women). The certificates will offer a less expensive approach to formalize transactions.

21. Land transactions are an important source of revenue for communes. Land sales may be accompanied by affidavits (*actes de*

notoriété), issued by communes, that provide a quasi-legal status to purchases (Leisz 1996), as mentioned earlier. The cost of an *acte de notoriété* was once 10 percent of the value of the transaction; this was reduced to 3 percent by many communes following a presidential declaration before the senate in 2008 (to facilitate access to returning refugees). The costs are generally paid for by the buyer of the land. The legal basis for an *acte de notoriété* differs from that of a tax on land and property transfers. Also in 2008, the senate issued a law abolishing taxes on sales of land and other property (*Loi no1/31 du 4 novembre 2008 portant suppression de la taxe de transaction des propriétés foncières et d'immeubles*) (Habwintahe and others 2013: 17). But some communes do not differentiate between the *acte de notoriété* and the tax; practices vary across communes. In a study of five communes with a SFC, it was found that one no longer charged for an *acte de notoriété*, three charged 3 percent, and the fifth continued to charge 10 percent. In one commune, payment for an *acte de notoriété* to the commune was even made a condition for receiving a certificate from the SFC (Habwintahe and others 2013: 60–61). Even though the sale price tends to be undervalued, the *actes de notoriété* are a

Table 3.3 The Acquisition of Plots in Rural Areas, Ranked by Method and Type of Household

| Acquisition Mode | Rural Households | | Marshland (marais) Households | | "paysannats" Households | | Households near Protected Areas | | Total/Average | |
|--------------------------------------|------------------|------|-------------------------------|------|-------------------------|------|---------------------------------|------|---------------|------|
| | # | % | # | % | # | % | # | % | # | % |
| Inheritance | 1 340 | 50,0 | 412 | 43,4 | 175 | 31,4 | 282 | 64,1 | 2 209 | 47,8 |
| Purchase | 1 161 | 43,4 | 364 | 38,3 | 260 | 46,7 | 122 | 27,7 | 1 907 | 41,2 |
| Grant/gift | 108 | 4,0 | 44 | 4,6 | 48 | 8,6 | 12 | 2,7 | 212 | 4,6 |
| Attribution | 39 | 1,5 | 110 | 11,6 | 55 | 9,9 | 21 | 7,4 | 225 | 4,9 |
| Exchange | 8 | 0,3 | 3 | 0,3 | 1 | 0,2 | 1 | 0,2 | 13 | 0,3 |
| Abolishment of « Ubugererwa » | 6 | 0,2 | 2 | 0,2 | 0 | 0 | 0 | 0 | 8 | 0,2 |
| Judicial/CNTB order | 5 | 0,2 | 0 | 0 | 8 | 1,4 | 1 | 0,2 | 14 | 0,3 |
| Total | 2 678 | | 950 | | 557 | | 440 | | 4 625 | |

Source: PRODEMA Report 2014.

Note: Ranking provided by participants in focus group. Percentages indicate how frequently risks were ranked as either first or second in order of importance.

Box 3.4 Securing Land Rights in Burundi: Why Does It Matter?

The policy objectives guiding investment in securing land rights in Burundi have a basis in global impact evaluations and other research (Deininger and others 2011; Binswanger and others 1995; Banerjee and Iyer 2005; Iyer 2010; Nugent and Robinson 2010; Naritomi and others 2009; Rajan and Ramcharan 2011):

- The primary aim is to reduce and prevent conflict. The interest in formalizing rights grows as (i) competition over land increases, (ii) land conflicts become more entrenched and vicious, or (iii) fear of expropriation. Land security is a special need in a post-conflict setting, as refugees reclaim land with the help of (external) mediation and would benefit from formal evidence.
- Where there is widespread insecurity of land rights, clarifying such rights through systematic adjudication and registration can be a cost-effective way to increase tenure security and improve the effectiveness of dispute resolution. In particular, the documentation of rights and transactions is considered instrumental to resolving conflict and enhancing tenure security, as the process of publicly recognizing and recording rights—as well as mapping boundaries—can be used to resolve disputes and prevent future conflicts, while records and maps should help speed up court cases and will also help ensure the acknowledgement of rights in expropriation and compensation procedures.
- Another policy rationale behind rural land registration is to encourage investments in land by reducing sources of land tenure insecurity due to disputes over rights and boundaries. The potential advantages of registration include more medium- to long-term investments in land (improving soil quality, planting trees, mitigating erosion) and property. Formal documentation of land rights is less important when there is sufficient trust in local land institutions and customs' capability to protect rights—and no fear of expropriation.
- A growing body of literature points out the importance of facilitating rental markets (Baland and others 2007; Deininger and others 2008a). Clear, accepted, and accessible land records contribute to solving disputes and enhancing readiness to engage in land transactions, particularly the leasing out of land. It is a low-cost and flexible mechanisms to bring land to its most productive use can generate opportunities in the context of structural transformation of rural economies and increase welfare (de Janvry and others 2001). High transaction costs, caused by unclear rights or institutional inefficiencies, can reduce the incidence of such transactions, with far-reaching impacts in the long term (Libecap and Lueck 2011). Institutions that allow the leasing out of land at low costs and allay fears that those who transfer their rights will not be able to reclaim their land may help respond to this demand. It may also allow labor to move out of agriculture without foregoing the benefits of for example, the social safety net function of land ownership.



significant source of revenue for communes. According to our mini-survey of public finances in 16 communes (see chapter 2), the reported revenues from the *acte de notoriété* varied from 2 to 80 million FBu for 2013. This was, on average, 4.8 percent of the total revenue (ranging from 0.6 percent in Giteranyi to 24 percent in Mutimbuzi [a commune near Bujumbura], while one commune—Mbayi—reported 0 percent).⁹²

3.4 Piloting Decentralized Land Administration: Results and Challenges

22. **The Land Policy Letter of 2010 (Decret No 100-72 du 26.04.2010), introduced a system for land tenure to facilitate and speed up first-time land registration.** By introducing an alternative approach to titling, the new process—available at the communal level—is more accessible and less costly (given that surveying requirements have changed). This process is embedded in a local, public process to ensure transparency and to contribute to dispute resolution/prevention. The Land Code of 2011 provided the legal framework and formalized the land policy letter (2011 Loi no 1/13 du 9 aout 2011). Detailed procedures and accompanying manuals (on legal implications, staff recruitment, working procedures, fee structures, and so on) were developed by the government in consultation with the implementers of pilot programs. Moreover, procedures for the establishment of an SFC are being codified in the Draft Decree on Land Rights Certification (*Projet de Décret portant Certification des Droits Fonciers*) but are not yet approved by government. Specific steps such as starting a registration request, verifying the request at the communal level (through a

site visit, *comité collinaire de reconnaissance*), recording land information, publicly displaying a request, setting up contests, setting procedures for dealing with opposition to claims, and the issuance of certificates are all described clearly. In addition, the decree clarifies the procedures for updating records (mutations like transfer, subdivision, or consolidation of plots). The decree also clarifies the responsibilities of the administrator, the SFCs, the line ministries, and—at the local level—the mayor (*administrateur communal*), the *commitee de reconnaissance*, as well as the *chef collinaire*.

23. **Under the new land code (2011), communes play a central role in the administration of rural land and land transactions.** Communes have acquired the instruments for decentralized land administration, and could use the information generated for planning purposes and taxation. Certificates are issued by the SFC, located in communal offices—an arrangement that brings service delivery closer to farmers. The SFC is established by the communal administrator and council, and issues certificates for parcels (rights recognition), records land sale agreements and other transactions, and manages the records archived at the communal level. Currently, revenues to cover SFC operational costs are generated through fees for registration, transactions and the costs of certificates. SFCs' mandate is limited to rural land that is privately owned but not yet titled (*terre—privée—non titrée*). SFCs have no mandate to issue certificates in urban areas or register leases for public land (such as *marais*) or government leaseholds (such as *paysannats*) that have not yet been privatized.⁹³

24. **The establishment of the SFC is**

92 In the SFC pilot areas, administrators expressed concern that certificates would replace these *acte de notoriété*, which is not the case as a transaction is not involved. Administrators seem disinclined to make revenues from land transactions available to cover the costs of SFC operations. Another obstacle is that the issuing of an *acte de notoriété* is not automatically accompanied by an update to the registry, which must be changed.

93 The new land code introduces the possibility that farmers' annual leaseholds of public land in government schemes (the *paysannats*) may become private land. The nonprotected areas of the *marais* (the *bas-fonds*) can also be privatized; however, the required decrees are not yet available.

coordinated by a special government unit and has been largely funded by donors.

This innovation in service delivery is the result of the work of several donor-supported pilot programs working closely together with the *Unité de coordination de program foncier national*, an interministerial entity operating under the tutelle of the MEEATU. The aim of the pilot programs was to design and test land administration service-delivery systems for the registration of land rights that are trustworthy, transparent, accessible, effective and legal. The first pilot programs started in 2007 mainly with support of the European Union (EU) and the Swiss Agency for Development and Cooperation (SDC) in six communes. Currently, there are 28 communes (of which 3 are starting up) with an SFC, supported by 5 different donors (SDC, EU, International Fund for Agricultural Development (IFAD), Programme Post-Conflict de Development Rural (PPCDR), *Association pour*

la Paix et les droits de l'Homme APDH/ICCO), with some differences in approach and resource base). An additional seven SFCs are planned for 2014, while the remaining communes do not yet have such a service. One of the SFCs - set up with Belgian Technical Cooperation (BTC) support - no longer benefits from donor funding.

25. **The first activity of a new SFC is the inventory and mapping of public lands and titled lands**, including lands already in use or set aside for residential areas (lotissements and terres loties). The communal land map (plan foncier communal) is therefore an essential instrument for an SFC to prevent any overlap as it presents all public, private, and titled lands (also see para 19). It enables the SFC to check if the request is not in contradiction with other claims and to properly map the certificated plot. This task has become much easier for a SFC since 2013, as detailed georeferenced maps have become available for each locality (EU funding).

Box 3.5 Principles for First-Time Registration Systems

- Land registration systems must be set up carefully to prevent negative outcomes. The literature (Colin and Ayouz 2006; Fenske 2010; Benjaminsen and Sjaastad 2002; Peters 2004; Berry 2009; Lavigne-Delville 2000; Meinzen-Dick and Mwangi 2008) documents instances where efforts for rural land registration either failed to achieve their stated objective or had the opposite effects of reducing access to land and increasing tenure insecurity because of: (i) neglect of the distributional impacts, (ii) unsuccessful efforts at wholesale “replacement” of existing rights, and/or (iii) a focus on high-cost technology that undermined broad access and affordability and could not be sustained.
- Systematic documentation of existing rights on an area-wide basis in a way that links with land use planning will not only be more cost-effective, transparent, and in line with criteria for proper land use than a sporadic approach but also allow better functioning of markets and reduces risks of encroaching on existing rights or interacting with individuals or groups who are not true right holders.
- Speed, outreach, and equity impact of systematic first-time registration can often be enhanced by starting with communal land boundaries first and focusing on cheap image-based approaches, to be supplemented by more precise surveys on owners’ demand (and at their cost), which will allow for achieving scale quickly.⁹⁴ Service delivery by land administration institutions can also be improved, for example, by replacing analog paper-based methods with modern technology, using common base maps, sharing data among government departments, publicizing service-delivery standards, and

94 Even in South Africa, a country that has more than 500 qualified surveyors, high-precision surveys of the estimated 20 million informal parcels will be very time consuming, implying that a more expeditious approach will be needed.

institutionalizing customer feedback to increase the quality and accessibility of land information.

- Ideally, registration should include a record of secondary rights, such as user rights—but this is often missing. Those holding so-called secondary rights (user rights, leaseholds, sharecropping, and so on) are at a particular risk, as are users of common lands who do not reside in the community (for example, pastoralists), or those with a weak social position (Batwa). Another risk is that group rights (family, clan) managed by customary authorities on behalf of all members, are registered in the name of the chief or clan head—although they are custodians only.
- A careful first-time registration of rights, combined with boundary demarcation, contributes to tenure security and conflict prevention. It requires a cautious and high-quality process in public and in the presence of witnesses, with mechanisms to contest or redress within a reasonable time period (and no record of contested land). Fraudulent records undermine tenure security, contribute to weak governance, and prompt conflict. Key steps toward enhancing the transparency of the registration process are (i) informing all potential claimants about the processes and criteria used to decide between competing rights, (ii) requiring claimants to come forward, and (iii) adjudicating rights at one point in time and in public. These steps are essential to preventing the loss of rights in the process and the creation of new land disputes.
- The registry should be trustworthy. Distrusted registries have a limited role to play in solving disputes or for due diligence in transactions and for credit operations. Robust procedures should be in place to ensure the reliability of the system, and it should be possible and also easy to cancel fraudulent titles and mutations. Another risk is the alteration of records.
- The utility of a registry for conflict prevention and resolution, and for economic development, depends on its completeness and whether it is up to date. Holders of certificates should subsequently report and register changes such as transactions (sale, mortgage, leases, and so on), subdivision, and plot consolidation. This is a major challenge for registries and depends on the adherence of right holders, the costs of transactions and changes, and the ability of the registry to record, among other obstacles. If registries are not maintained, land registration systems return to informality. There are examples of such deregularization due to a registry could not be maintained, even where land titling had generated significant investment benefits (Galiani and Schargrotsky 2010; Galiani 2011; Barnes and Griffith-Charles 2007).

Land registration structures and registry operation are not without costs. First-time registration of rural farm land is labor and resource intensive (many plots, distances) and a carefully designed process to prevent loss of rights in the process, and the resolution of disputes, also requires human and financial resources.

The following section discusses key challenges such as constraints on women’s access to land, resource mobilization for the systematic land recording, as well as communal land tenure services including local taxation, the sustainability of the SFC and their implementation to ensure a national coverage.

Key challenge 1: Gender imbalances in land registration remain

26. What is not owned cannot be registered; land registration, as such, cannot improve the land tenure security of women or of other vulnerable groups without land.

There is little effort in Burundi to promote joint titling, even though this is legally possible. Some women do hold land singly. In the systematic registration operation in Ngozi, approximately 10 percent of the 71,168 registered plots were registered in the names of women. In urban areas 11.6 percent of the plots, on average, were registered by women. Among the plots recorded as a result of “on demand” registration in Ngozi (see para 27 below), only 3 percent were recorded in the name of women and concerned mostly purchased land; this figure was 7 percent, on average, in five other SFCs. An SFC starting up in Makamba province (in

the communes of Mabanda and Vugizo, with the support of the NGO ZOA and the Embassy of the Netherlands) will explore the possibility of registering women's secondary rights (igiseke) on certificates (ZOA 2013: 14). This step could prevent the weakening of such rights upon land registration.

Key challenge 2: On-demand registration is not an effective option in Burundi; communes cannot finance the start-up costs of systematic registration with their own resources

27. **In Burundi all pilot programs initially offered registration only on demand.** On-demand or sporadic registration implies that a landholder puts in a request for registration, which is put on a list by the SFC to be addressed in the future (either in order of arrival or grouped by zone to reduce travel time) of SFC staff. Sporadic, on-demand, first-time registration benefits those who are prepared (and can afford) to pay for such services, but may leave out the more vulnerable. Systematic registration implies that all plots in a given area are surveyed and recorded. When subsequent updating of records and reporting of transactions are on demand, however, this requires that landowners commit to report changes and to pay for the update of records. In 2011 SDCs' changed its approach from providing on-demand to systematic registration when results showed that the number of plots registered was very low compared to the total number of plots, that most of such plots had been purchased, and that it would take decades to reach full coverage. A study calculated how long it would take to certify all parcels in the commune, taking into account SFC productivity, and found that it would take from 11 to 240 years (World Bank/FAO 2014; see table 3.4). An approach to systematic registration was designed and tested in 2011 (*opération groupée de reconnaissance*, OGR), and applied in all communes supported by the SDC in 2012 in the province of Ngozi) with dramatic effects on number of plots registered. In March 2014 the total number of plots registered using

the "on demand" approach stood at 23,019 in 19 SFCs; In the six SFCs supported by the SDC, 10,731 parcels were registered "on demand" and 96,955 through the systematic registration covering about 20 percent of the total commune area. However, 22 percent already had a printed certificate issued requiring an application and payment by the land owner.

28. **Evidence suggests that on-demand registration is less effective than systematic registration in reducing conflict and promoting investment.** Full coverage of all parcels—via systematic registration—can prevent conflicts from emerging, facilitates dispute resolution, and also reduces negative distribution effects. Finally, a complete land information system is a "public good" that can be used for planning and tax collection (internal revenue generation).

29. **A well-designed process for systematic registration, with broad community involvement, contributes to dispute resolution.** In Burundi the systematic registration of rights followed by mediation and adjudication—with the involvement of local authorities, both formal and informal—developed in the SDC pilot resulted in a decrease in the number of land disputes, both open and latent. It even resulted in the withdrawal of court cases. During a first-time systematic registration, many disputes—over boundaries, rights, or transactions—that can be mediated come into the open. The approach used includes the possibility for mediation by a hillside recognition committee. The registration process creates a sense of urgency among the parties involved to resolve their differences, since rights over the parcel will not be recorded when there is a conflict or when there is opposition.⁹⁵ In Ngozi, for example, 25,400 parcels were measured and

95 In around 2,600 cases opposition were noted in five SFCs, although records are not complete (see Habwintaha and others 2013)

Table 3.4 Estimating the Timing of On-Demand Registration

| Communes | No. Of Population | No. Of parcels (if 1 household = 2 parcels)* | Capacity of demand instruction per year | If CF demand hits 40% | No. Of years necessary to process 40% of parcels | No. Of years necessary to process all parcels |
|--------------------|-------------------|--|---|-----------------------|--|---|
| <i>Giheta</i> | 93 560 | 37 424 | 288 | 14 970 | 52 | 130 |
| <i>Gitega</i> | 123 811 | 49 524 | 206 | 19 810 | 96 | 240 |
| <i>Bugenyuzi</i> | 72 621 | 29 048 | 719 | 11 619 | 16 | 40 |
| <i>Kigamba</i> | 43 000 | 17 200 | 698 | 6 880 | 10 | 25 |
| <i>Nyabitsinda</i> | 58 004 | 23 202 | 1 338 | 9 281 | 7 | 17 |
| <i>Gashikanwa</i> | 72 621 | 29 048 | 2 648 | 11 619 | 4 | 11 |
| <i>Ngozi</i> | 127 000 | 50 800 | 765 | 20 320 | 27 | 66 |
| <i>Ruhuroro</i> | 75 429 | 30 172 | 579 | 12 069 | 21 | 52 |

Source: World Bank/FAO 2014.

Note: *Assumption: one household is composed of five members; the average number of plots per household is 2.

recorded, of which 1,681 (6.6 percent) were contested, but opposition to issuing a certificate was in the end waived for 1,496 cases (89 percent), implying that an agreement was found with help of the local committee (Habwintahe and others 2013). Most entrenched conflicts were related to inheritance. In the first round of OGR for all SFC in 2012, 71 percent of the conflicts were resolved; the following year the number of land cases in the courts dropped from 70 percent to 45 percent, and the time that local officials spent on mediation was considerably reduced (Ferrari 2014). Such effects can only be achieved when systematic registration is available to all.

30. **Although systematic registration is the preferred option, most SFCs cannot offer this service, due to a lack of resources.** Due to economies of scales, systematic registration is cheaper per plot (where 50 percent will be paid for by the landholder for issuing of the certificate; see World Bank/FAO 2014) and achieves full coverage much faster, since it concerns many plots in one round. The systematic registration therefore requires up-front funding for the operation and a well-organized campaign. The

central government agrees that systematic registration is the preferred option.

Key challenge 3: The business model proposed in the pilots for SFC funding may weaken its function as a public good, and cannot be supported by the small number of printed certificates being requested

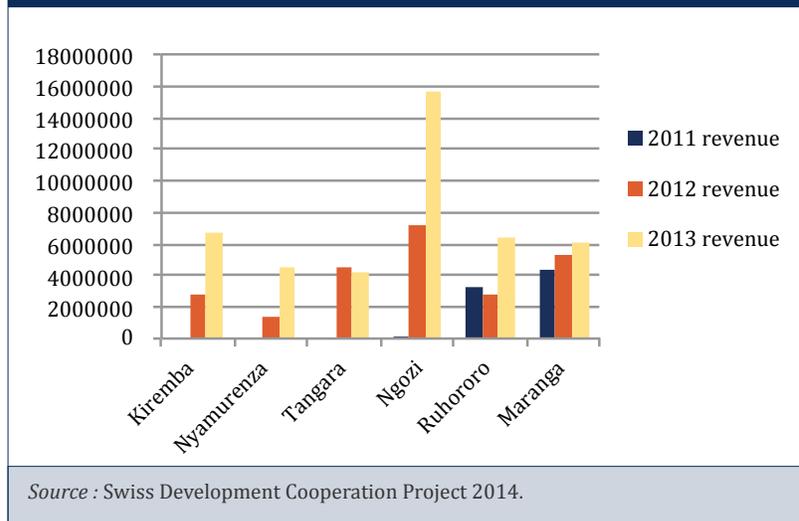
31. **There is full participation in systematic registration campaigns, but the request for printed certificates is low.** The SDC pilot reported active participation in the systematic registration program (OGR), with nobody opting out, but a printed certificate was collected for only 19 percent of the parcels. This percentage was higher in peri-urban and urban communes, such as Ngozi (38 percent; see table 3.5). An overall low level of certificate collection has also been observed in Rwanda, Uganda, and Madagascar. The hypothesis is that those who have their parcels mapped and names registered perceive their rights as secure—even without an actual certificate—since they know that the certificate can be requested (and paid for) whenever the need arises (for example, during the rental or sale of land, the use of the land as collateral, or in case of a dispute). The limited request for

printed certificates, however, undermines the business model of the SFC, although data for the SFC in the city of Ngozi and other communes in the province show that revenues are increasing over the years, sometimes significantly so (figure 3.2).

32. The government and donors have chosen to recover costs with fees to ensure the financial sustainability of SFC registries, but this approach may undermine its contribution to the public good.

The cost of a certificate depends on the methodology used for recording land rights and the costs for the establishment of the required offices, equipment, and staff—as well as the productivity of the staff. For all existing SFCs, donors paid start-up costs (building, equipment, transport, and training) and covered first-time registry operations. An SFC is expected to break even on the basis of fees paid for services. Its running costs include salaries, materials, transport costs, and so on. The rationale of the current approach is that a low-cost registration coupled with high numbers of beneficiaries will keep fees low while generating sufficient total revenues to operate the SFC. The revenue sources for an SFC are fees for the various services set by the commune. For example, for the (EU-funded) SFC working with Gutwara Neza, fees are voted on by the communal as set up as it follows: 1000 Fbu at the time of certificate withdrawal; 2000 Fbu for plots between 0 and 30 acres; from 3500 to 5000 Fbu for plots between 31 and 60 acres; from 7000 Fbu to 10000 Fbu for plots between 61 and 100; and 10,000 Fbu for each additional acre. The registration of a mortgage or a lease is 2,000 Fbu per parcel. Finally, a copy of the certificate costs 2,000 Fbu. Habwintahe and others (2013) found significant fees variation exists across communes, as well as a tendency to increase fees over the years to ensure SFC cost recovery.

Figure 3.2 SFC Revenues over Time (2011–13)



33. In principle, Efficient working procedures, combined with a growing volume of transactions, could turn an SFC into an additional source of revenue for communes.

An SFC can generate revenues when the costs for issuing certificates and recording transactions and mutations is lower than the fees that are charged, and when more transactions are registered—assuming that this can be taxed, as the request for the more expensive acte de notoriété is likely to drop when the change can be noted on the certificate instead. But as of now all such investments are covered by donors, with the intention that costs for maintaining the SFC will be covered through fees. An analysis of the costs per certificate under an “on-demand” approach found much variation across SFCs (World Bank/FAO 2014). The differences are caused by the procedures used, the type of equipment, and the type of transport (car, motor). This study also found large differences in the productivity of SFC staff members. Such differences in staff productivity and even in the quality of service delivery were also found by another study of seven SFCs. The issuance of certificates was slower in some SFCs than others. Staff turnover was found to be high (66 percent); staff members interviewed considered their responsibilities—

Table 3.5 Plots Registered and Certificates Issued by the SFC in Ngozi Province (SDC Pilot)

| Commune SDC | Colline (no.) | Sous-Collines (no.) | Households | Plots Measures (no.) | Average Plots/ Household | Plots for Which Certificate was Paid (no.) | Certificates Paid (% of Plots) |
|--------------|---------------|---------------------|------------|----------------------|--------------------------|--|--------------------------------|
| Ngozi | 8 | 27 | 3 761 | 17 949 | 4,8 | 6 745 | 38 % |
| Marangara | 7 | 29 | s.o. | 11 574 | | 2 197 | 19 % |
| Ruhuroro | 8 | 23 | 3 792 | 12 069 | 3,2 | 1 409 | 12 % |
| Tangara | 6 | 26 | 3 186 | 11 231 | 3,5 | 1 612 | 14 % |
| Nyamurenza | 3 | 13 | 2 805 | 9 956 | 3,5 | 598 | 6 % |
| Kiremba | 6 | 15 | 2 418 | 8 389 | 3,5 | 743 | 9 % |
| Total | 37 | 133 | | 71 168 | | 13 304 | 19 % |

Source: SDC pilot administrative data, June 2013.

Table 3.6 Costs of First-Time Registration (On-Demand) for 8 SFCs

| Communes | Cost of the procedure (forms used) | | Procedure + operation | | Procedures + operations + work tools | | Procedures + operations + work tools + motorcycle | | Demand /month | Applied CF Price | |
|--------------------------|------------------------------------|-----|-----------------------|------|--------------------------------------|------|---|------|---------------|------------------|-----|
| | BIF | \$ | BIF | \$ | BIF | \$ | BIF | \$ | | BIF | \$ |
| Giheta—UE | 6,737 | 4.3 | 23,353 | 15.1 | 27,115 | 17.5 | 30,877 | 19.9 | 24 | 3,000 | 1.9 |
| Gitega—UE | 6,737 | 4.3 | 29,923 | 19.3 | 35,172 | 22.7 | 40,420 | 26.1 | 17 | 3,000 | 1.9 |
| Bugenyuzi—UE | 2,280 | 1.5 | 16,227 | 10.5 | 16,593 | 10.7 | 16,960 | 10.9 | 60 | 3,000 | 1.9 |
| Kigamba—PDDRC | 6,401 | 4.1 | 11,562 | 7.5 | 13,043 | 8.4 | 14,525 | 9.4 | 58 | 5,000 | 3.2 |
| Nyabitsinda—ancienne CTB | 6,448 | 4.2 | 8,541 | 5.5 | 9,659 | 6.2 | 10,777 | 7.0 | 112 | 7,500 | 4.8 |
| Gashikanwa—SDC | 1,895 | 1.2 | 5,765 | 3.7 | 5,864 | 3.8 | 5,964 | 3.8 | 221 | 6,000 | 3.9 |
| Ngozi—SDC | 3,463 | 2.2 | 4,714 | 3.0 | 6,705 | 4.3 | 8,696 | 5.6 | 64 | 4,000 | 2.6 |
| Ruhuroro—SDC | 3,463 | 2.2 | 6,283 | 4.1 | 7,205 | 4.6 | 8,127 | 5.2 | 48 | 6,000 | 3.9 |

Source : World Bank/FAO 2014.

Note: BTC = Belgian Technical Cooperation; EU = European Union; PPCDR = Programme Post-conflit de Développement Rural; SDC = Swiss Development Cooperation.

which involve a lot of field work—as relatively heavy compared to other communal functions. Other challenges to staff productivity relate to cash flows at the commune level, which affect the resources available for transport and the presence of local committees for on-demand approaches (Habwintahe and others 2013).

Key challenge 4: Limited results have been achieved by communes using SFCs to generate local revenues

34. Communes could, in theory, increase tax revenues using the information generated by the surveying of parcels, recording of landholders, and from expansion of land markets. In other countries, information

on land and property collected as a result of first-time registration is also the basis for taxation. In the Philippines, for example, local governments themselves are funding the costs of tenure regularization (also using a type of certificate), after which the information is used to prepare a tax map (and are recovered within a few years by increased tax collection). In Madagascar a pilot conducted in five local government areas also showed that improved information used to collect taxes was a key motivator for local governments to increase the coverage of certificates, although some people, in their quest to evade taxation, also missed out on enhancing tenure security. But transaction taxes also undermine landholders' willingness to register any changes formally, undermining the update process of the registry. Moreover, Burundi has no land taxation system, and tax on land transactions was abolished in 2008. Property taxation in urban areas is possible, although the fee is low (see chapter 2) and may not compensate for the costs of tax collection.

Key challenge 5: Sustainability requires leadership in the land sector and more devolution of resources to communes

35. **Sustainability issues need to be addressed first before scaling up to make the SFC service available in all 116 rural communes in Burundi.** Scaling up requires that all citizens in rural areas have access to an SFC and that SFCs have the capacity to service all inhabitants within a reasonable period. Although the costs per parcel for systematic registration are relatively low and can be expected to go down as experience is gained. The total costs of establishing an SFC and complete registries by a systematic registration cannot be carried out by communes with their own resources and are likely to require noncommunal funding. (This issue has been addressed in chapter 2.) The key issue for sustainability is to move away from a near-total reliance on donor funding and toward an increased central government transfer to communes as well as local resource mobilization through taxation—in addition to landholders'

fees. The 28 communal land services currently operating are primarily funded by donors.

36. **Political support for SFCs varies across national stakeholders.** At the national government level there is some interest in land reform—as previously noted, the land code was expedited and approved in 2011—but support for a more comprehensive land reform is probably lower. Key political issues seem centered on the role of the CNTB in the institutional landscape, villagization, and the allocation of fertile public land to private investors, including marais and paysannats. There is some interest in land tenure security: promises of land titles were used in the 2010 political campaigns. But communes are more interested in land reform than the central government, though not all SFCs are fully integrated in communes' plans and budgets. It is reported that, locally, the population perceives some SFCs as donor projects and not a government service (Habwintahe and others 2013). Civil society organizations (CSOs) are supportive of the reform agenda and supported decentralized land administration and SFCs from the start. Their main concern is sustainability, quality of service delivery, and ensuring transparency.

37. **Coordinating two systems is needed for managing land information.** The title and land certificates systems for property rights registration are complementary, not competing. They should continue to coexist for at least a decade. Although the conversion of certificates into land titles is possible, it is probably not a priority for most homeowners in Burundi. Land information management and sharing mechanisms will avoid any overlapping of rights (Report PRODEMA 2014).

38. **Line ministries are interested in land reform, although engagement is not constant.** Multiple line ministries play an important role in the establishment of a sustainable land administration system (institutionally, technically, and financially) and maintaining quality standards, land information, training

for land administrators as well as the correct application of procedure and integrity of the system to ensure efficient and appropriate service delivery. Initially not all staff in the line ministries and departments in charge of land administration (*titres fonciers, cadastre, aménagement*) welcomed the development of the SFCs and certificates. Reasons included professional differences over the minimum precision standards for surveying, and doubts about the capacity of communes. Another factor was competition between decentralized agencies and, perhaps, efforts to protect a “monopoly” around land titling. In Burundi much care has been taken from the start to associate the line ministries and also attend to their constraints around titling (archiving, digitalization, and so on) with project resources for the modernization of the registry and cadastre included in the support programs. Representatives from these ministries and departments are also members of the steering committee for the pilot programs. Given concerns over the financial sustainability of the current approach (full-cost recovery by the SFC alone), a draft interministerial decree on land reform (currently under discussion within government) proposes⁹⁶ to fund SFC staff from central government resources.

Key challenge 6: Scaling up requires data on performance, outcomes, and impacts

39. **Plans for scaling up SFC in all communes require the availability of reliable and regular statistics and administrative data for monitoring progress and impact.** Currently, data on monitoring is weak or unavailable with respect to outputs, costs, quality, and so on, and land data are scattered, not digitalized and not aggregated at the central level. Supervision seems to be irregular while progress assessment and learning seems to depend on donor initiatives for self-assessment and external evaluations, which also seem

96 The second vice president is knowledgeable on the matter, since there is an SFC in his commune.

insufficiently coordinated. For example, the cost per certificate can probably be reduced even more by streamlining procedures and enhancing efficiency, but this requires regular monitoring and testing and comparing of alternatives.

40. Impact evaluation (IE) is required to assess the outcomes of first-time registration.

IE is needed to assess outcomes and causal relations, such as around conflict prevention, changes in costs due to land-related disputes and conflicts, changes in investments, sustainable land use and land markets, and their impacts on people’s well-being (food security, livelihoods, economic development, empowerment of vulnerable groups, and stability). IE research may be instrumental in justifying the mobilization of additional donor funding. IE using international standards is lacking, and most research efforts on outcomes seem limited to focus groups and rapid appraisals. But the systematic registration work in Ngozi (2012 round) has sufficient scale and can be evaluated, with a baseline reconstructed using the sampling approach developed by the World Bank for Rwanda; and would take about 6 months to complete (Ali, Deininger, and Goldstein 2011). In addition, household surveys need to integrate a module with question on land tenure, which has not yet occurred.

3.5 The Way Forward: Actions Needed to Scale Up Land Governance Reforms in Burundi

41. **Since 2005 Burundi has made remarkable progress in making rights registration a prospect for rural landowners,** by developing a new product (*certificat*), delivered by local governments, and which are currently part of the legal and institutional framework for land governance in Burundi. The pilot programs designed a land governance system that is trusted by the local population and can be implemented by communes. The SFC staff has shown that issuing certificates is technically possible and that, when a systematic

registration approach is used, cases of conflicts are reduced (those that can be resolved more easily). These achievements are the result of considerable investments and sustained support of key development partners working in close collaboration with the PNF as well as CSOs. The result is a land administration service that is both accessible and cost-efficient for the majority of farmers.

42. Land administration services provided by the SFC should be permanent; sustainability is therefore essential. Land certificates document rights, and are thus a key aspect of an institutional system and rule of law. Currently all SFCs are adopted by donors, which bring approaches of their own and also decide when funding stops. The sustainability of SFCs is discussed regularly in Burundi, with a focus on finances and the aim to achieve self-sufficiency through full cost-recovery at the SFC level. But an SFC is providing public goods (in addition to private goods), such as contributing to conflict prevention and speeding dispute resolution, providing a basis for facilitating land markets (including rentals), collecting land information that can be used for planning and taxation, and so on. Moreover, the service should be available to all, and not only those with the capacity to pay. Land registration will have the highest value as a public good when local government areas are fully covered and all transactions are regularly reported to the SFC, ensuring that public information on landholdings remains current. The full registration of transactions and subdivisions is particularly important for the quality of the registry. How transactions are taxed influences landholders' willingness to formally report transactions. Therefore, systematic registration of land is superior to on-demand registration—but the total up-front costs are relatively high, because so many more parcels are included, although the amount per parcel is much lower. Central government transfers to cover basic costs (such as the salaries of SFC staff) are required. Taxation is another aspect—but high fees or transaction taxes, resulting in nonregistration of transactions, can undermine

the registry.

43. Decentralized land administration is a key element in improving land governance, but other issues remain, to be addressed by a comprehensive land reform program. Issues such as the accessibility, effectiveness, and transparency of the judiciary system; the transparent and efficient management of public lands and procedure for privatization of these lands; rural land use and urban land use planning (for example, to prevent soil degradation and flooding); women's land rights issues; and reducing urban informality which requires are also important land governance issues. The implementation of the Land Governance Assessment Framework (LGAF) is therefore urgent for a more comprehensive assessment and will provide both a benchmark and basis for a monitoring system and performance indicators for tracking progress on land governance reform. The LGAF can help to establish support and prioritization for the institutional and financial audit for the land reform and a participatory process to plan land reform policy as recommended by the PRODEMA study.

3.5.1 Short-Term Priorities for Reform (1–3 Years)

44. Adopt the pending decrees on certification and decentralized land administration. The proposed draft decree on the certification of Land Rights (*Projet de Décret portant Certification des Droits Fonciers*) lays out the steps for the certificate application process, for the OGR (systematic registration), and for the conversion of a certificate into a title. Through these decrees, the results of the approach emerging from the pilot programs will be codified. This decree's adoption has been postponed by the council of ministers, due to concerns over financial sustainability. The proposal is that these costs will be included in the proposed draft decree and paid through central government transfers, while the communes remain responsible for the SFC, which is in line with the conclusions of this ESW. The use of FONIC as a fund for SFC start-up costs should

be considered to make it possible for local governments to request the establishment of an SFC even when there is no donor directly active in the area.

45. Develop a national land reform program. This land reform program is expected to guide the implementation of the 2010 land policy letter as well as the land code (2011). In particular, it should lead to the institutionalization of decentralized land management at both the central and local levels, and enhance sustainability by integrating the SFC in the operating structure of communes, and linking it with local taxation. Moreover, the program should include an assessment of the resources, operational procedures and timeline needed to achieve national coverage of SFC and massive recording of land rights.

46. Development of standard operating procedures and guidelines for the supervision of SFC. Burundi has now established a model for SFC based on the donor supported pilot initiatives, which is adopted by the MEEATU. To ensure quality of SFC, performance standards and operating guidelines have to be developed, which is a shared responsibility of the Unite de coordination of the Programme National Foncier, local authorities, CSOs and other institutions currently supporting the SFC initiative. The PNF could coordinate this process and also support the start-up of new SFC and design capacity building mechanisms. Ministries in charge of tutelle also play a key role in supporting and providing guidance to SFC, as well as maintaining land information databases.

47. Test various approaches to increase productivity and reduce costs of SFC installation and operation. National coverage requires that the process is as efficient as possible without losing the quality of the process and trust in the system. Financial assessments on costs of starting up an SFC and the process of first-time registration and maintenance of the registry need to be refined and discussed. The 2014 FAO/World Bank report can be used

as a basis. As this report indicates, costs can be brought down and capacity be increased by better streamlining procedures, improving efficiency, and making more effective use of human resources, according to the work load. Cutting down costs, however, should not be at the expense of building local understanding and engagement, transparency, and the system's capacity for addressing pending conflicts. Moreover, an impact evaluation on land tenure is desirable in the short term and can be undertaken relatively quickly with technical assistance from the World Bank.

48. Reinforce monitoring and evaluation (M&E) of performance and impact that can evolve in a multistakeholder land observatory. Monitoring is also important as an early warning mechanism for problems that may arise, given the sensitivity of land governance. Plans for scaling up require the availability also of solid monitoring data on process, output, costs, and quality. Regular monitoring of impact is also important as a mechanism for early warning of emerging problems, given the sensitivity of land governance.

49. Use FONIC grant and donor resources to address set-up costs of communal land registration services, while the recurrent costs can be addressed by the proposed recurrent grant (see chapter 2). The 28 communal land services currently operating are primarily funded by donors. Unless fiscal-administrative aspects of decentralized governance are clarified, the SFCs will continue to depend on development partners to finance their operations. A recent study shows that the set-up costs of an SFC range between FBu 20.6 million and 59.3 million; a reasonably equipped office averages FBu 40.9 million.⁹⁷ Such set-up costs could potentially be covered by the annual FONIC grant; to this end, it would be targeted in

⁹⁷ Analyse financière de la gestion foncière décentralisée Expertise complémentaire à la Revue du Secteur Foncier au Burundi Rapport Version du 11 février 2014 Zo Ravelomanantsoa, table 5, p 6-7.

much the same way as past grants were targeted to primary schools—with national priorities overriding communal investment priorities for one year. The recurrent costs of an SFC range from FBu 2.8 million to FBu 10.3 million in a demand-driven environment.⁹⁸ This implies a per-certificate cost of between FBu 6,000 and FBu 17,000.⁹⁹ The study estimates the costs of a certificate in a supply-driven environment at FBu 17,000.¹⁰⁰ Thus the recurrent costs of an SFC are most likely around FBu 15 million a year, gross of any revenue generated. The proposed recurrent grant covers this additional cost.

50. Develop an effective taxation strategy for rural land, in addition to urban land.¹⁰¹

The abolishment of the taxation of transactions needs to be lifted, and a local government tax needs to be set. The revenues from transfer taxes¹⁰² would compensate the income from *acte de notoriété* for local governments, but they should not be so high as to discourage the formal registration of changes, thus undermining the registry. The option that local governments in rural areas of Burundi will invest in land registration to enhance tax collection is unlikely at the moment, as rural land is exempted from tax collection, while they already capture taxes on land transactions.

51. Promote awareness campaigns to ensure the registration of all land transactions.

The value of a land registry depends on whether it remains current and up to date. Keeping the registry current may also require information and awareness campaigns. For example, it is

reported that certificates are handed over during a sale to the buyer, but without awareness that this transaction also needs to be reported at the SFC level (Habwintahe and others 2013).

3.5.2 Medium-Term Priorities for Reform (3–5 Years)

52. Strengthen the institutional framework, including communal engagement, relations with decentralized services, and national-level support for the land rights registration process. Setting performance standards and supervising their achievement, (to avoid erroneous certificates) are important for maintaining a reliable system that is trusted.

53. Establish permanent structures for capacity building and training for decentralized land administration. Improving local tenure security on a massive scale requires support from line ministries and the full capacity of communes, such as SFC agents and the local committees that are fully engaged in first-time registration. A dedicated cadre of career civil servants in the decentralized human resources/staff structure is needed to provide Burundi with the skills required for maintaining land administration services. Decentralized land administration staff should also be trained in land administration along with general commune staff and administrators, and so on. The Land Coordination Unit (*Unité de Coordination Foncier*) is developing training modules for SFC staff for the National Training Center for Local Actors of Decentralization (*Centre National de Formation des Acteurs Locaux de la décentralization*), but funding for implementation has not yet been secured. There are plans, too, for a university program focused on land tenure.

54. Establish an integrated land information system. The digitalization of records for certificates is not considered a priority in the short term. The focus of the national land information system, which would

98 Ibid, table 6.

99 Ibid, table 10.

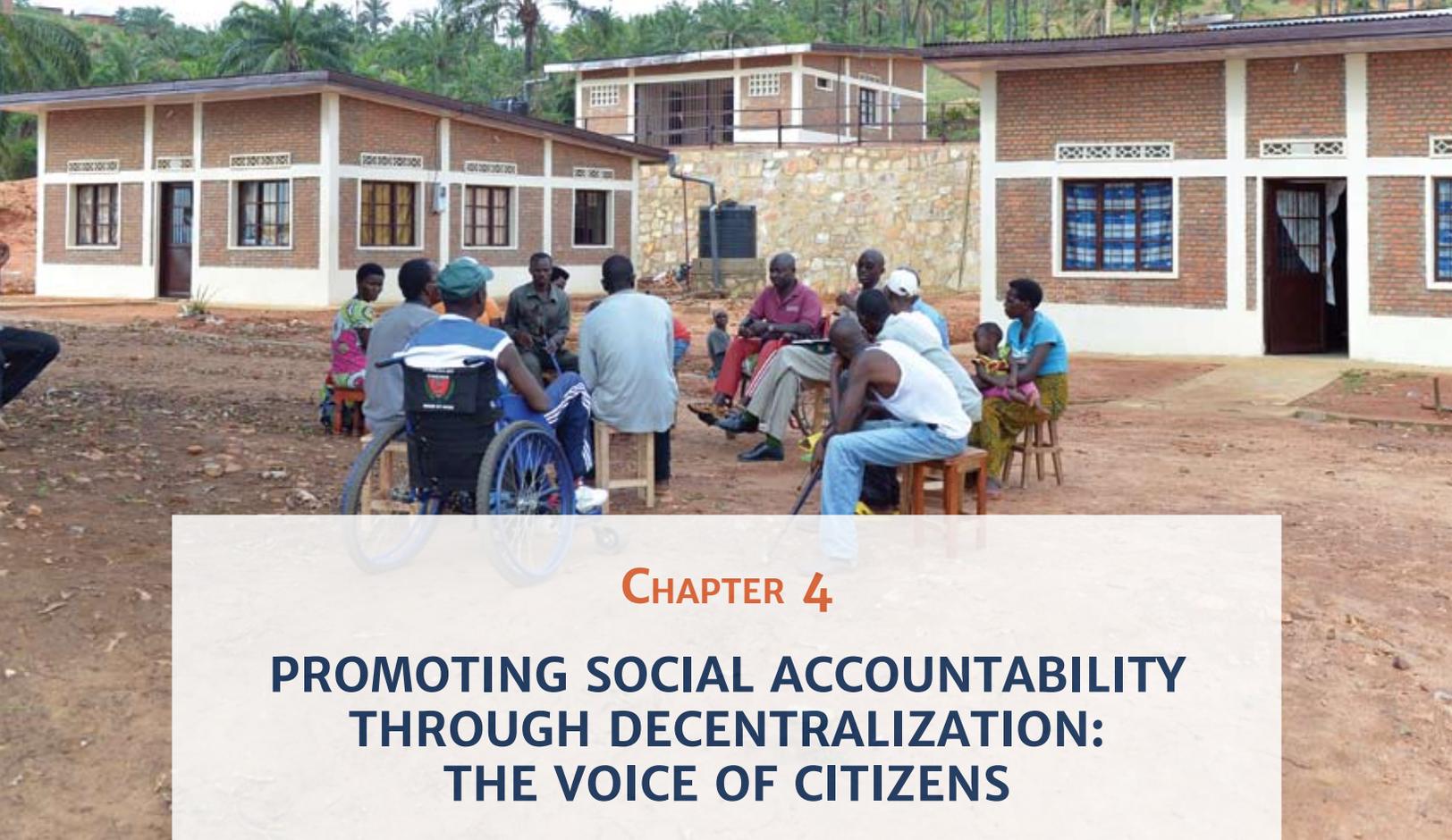
100 Ibid, table 11.

101 Another source of revenue is the rental of public lands by communes. Some communes charge land rent for public land (*redevances marais*).

102 A possibility would be to introduce a tax of FBu 2,000 per plot in 2016, going up FBu 100 per year over the following 20 years.

bring together all land records and spatial information, will be first on spatial information (and inventory public land, locating titled land and land with certificates, and so on). In the medium term the information produced by SFCs will need to be made available in a digital form and reported regularly to a central

monitoring unit, disaggregated by gender. Other departments and the courts will also report to this land information system on property titles, transfers, mortgages, land-related disputes, and taxation. These data can be used by a land observatory to track progress, to inform policy dialogue, and to improve accountability.



CHAPTER 4

PROMOTING SOCIAL ACCOUNTABILITY THROUGH DECENTRALIZATION: THE VOICE OF CITIZENS

Important note for the reader:

The team wishes to note that the findings illustrated in this chapter are based on various focus groups held in 16 communes across 8 provinces in Burundi. The fieldwork activities were undertaken by Burundian consultants, in close coordination with the Bank team. The assessments of state-citizens accountability relationships directly reflect the point of view of more than 300 local residents and elected communal officials who participated in the qualitative surveys. They are intended for illustrative purposes only, and do not claim to systematically capture national patterns.

Summary of Main Arguments and Key Findings

1. **The objective of this chapter is to investigate the context of social accountability, including openings for social action and the nature of state-society relations in Burundi today.** Embracing the idea that “context matters,” this chapter discusses the opinions of Burundian citizens on key issues such as the use of tax revenues, tax collection, the formulation of communal development plans,

the dissemination of the communal budget, and social service delivery at the local level.

2. **To collect the opinions of Burundian citizens, a series of 16 focus group discussions were conducted in eight communes across the country.** In each of these communes discussions were held with two separate groups, one of citizens with no connection to public office, and the other of local officials. The citizen group included members of local development committees, local associations,

and representatives of vulnerable groups, including youth and women. The group of local officials included communal administrators and technical staff (advisors to the administrator), members of the communal council, elected hill council members (conseil de collines), and local officials of deconcentrated services such as education, health, water, and justice.

3. **The macro framework employed to guide this analysis and present key findings is the “Conceptual Framework of Constituent Elements of Social Accountability.”** This framework was developed as part of the 2014 World Bank Flagship Report on Social Accountability (World Bank 2014b). It presents five constituent elements for a contextual analysis of social accountability: (i) citizen action, (ii) state action, (iii) information, (iv) mobilization, and (v) the citizen-state engagement interface.

4. **The main finding that emerges from research on the social contract at the local level in Burundi is that the state has more opportunities to promote social accountability than do citizens.** In other words, the supply side rather than the demand side of social accountability provides more potential entry points at this time. In employing the conceptual framework of constituent elements, it became apparent during focus group discussions that there are critical obstacles to citizen action: namely, a lack of efficacy among citizens (meaning the self-perception that citizens can bring about change), a lack of collective action, and limited intrinsic motivation (as in a limited sense of moral responsibility to address a given problem). The state, too, has limitations—the most obvious being a substantial rise in political tension in the run-up to national elections in June 2015.

5. **Recent political reforms, meanwhile, have created some opportunities for communes to play an important role in building social cohesion at the local level,** in particular the direct election of communal administrators and local councils. Due to

the recent support of the Bank (through the Community and Social Development Project, PRADECS) and the donor community at large, communal administrations have become increasingly able to manage direct responsibility over funds for small development projects. This included the formulation of the first communal development plans; the identification of priority subprojects through participatory community meetings; as well as support in several key areas, such as managing the procurement process, monitoring subprojects, and guaranteeing the maintenance of newly built communal infrastructure. By facilitating open dialogue and the inclusion of vulnerable groups, these interventions made a significant contribution toward social cohesion and conflict mitigation.

6. **Despite this recent progress, social accountability in Burundi remains weak, with limited opportunities for citizens and communities to engage in the decision-making process and hold local authorities accountable.** Citizen engagement in local decision making and participation in local development remains limited, undermining the potential benefits of decentralization reform as a vehicle to improve accountability and strengthen local governance. Given that in Burundi the majority of citizens access their basic services at the communal level, it is essential to better understand what works well and what does not, and how social accountability interventions could be promoted to improve the quality of service delivery and strengthen local governance.

7. **A key message that emerged from the focus group research was that social accountability may be immediately strengthened by making tax collection frameworks and communal budgets more transparent and systematic.** Based on discussions held during the focus groups, local officials are open and willing to communicate more effectively with citizens to increase communal tax revenues. On the flip side, citizens are eager for greater transparency around local

resources and to better understand the use of tax revenues by local officials.

8. **Although the nature of the state-society relationship in Burundi has significantly improved since the government embarked on an ambitious decentralization process in 2005, political realities and the legacy of conflict persist.** After decades of conflict, the severity of violence observed across Burundi has been markedly reduced. But sources of the conflict (such as exclusion—social, economic, and political) remain intact. Even as social cohesion is being rebuilt across local communities, the domination of a neo-patrimonial system of governance is blocking state reform, constraining improvements in social service delivery at the local level. This chapter explores the local context in Burundi and how the endogenous processes of state reform are affecting social accountability, providing recommendations on a way forward.

4.1 Social Accountability and Local Governance: Their Connection and Importance

9. **How social accountability is defined varies around the world, as do interventions meant to improve it.** Although there is no universal consensus on the definition of social accountability or the range of actions that fall within its realm, several key characteristics may be discussed. Social accountability typically involves a process of engagement, dialogue, and negotiation between citizens and the state, with the goal of influencing the broader development agenda. It is also a process by which citizens hold the state to account for commitments made to them as part of a governance compact.¹⁰³ Moreover, it applies to contractual situations where demand interacts with supply, creating accountability relationships, including in

the nonprofit and private sectors. Through various dimensions—such as transparency, participation, and accountability—social accountability empowers citizens by giving them a greater voice in governance and policy-making processes, enhances transparency, and strengthens the environment for civic engagement. Such processes, in turn, inform and strengthen social accountability interventions.

10. According to the literature, the success or failure of social accountability interventions is highly dependent on context. Experiences from previous social accountability interventions have shown successes as well as failures where results were not only negative for the poor but also to overall development goals. As a result, evidence found that: “context shapes the form and effectiveness of social accountability, but often in unpredictable and complex ways” (World Bank 2013). Moreover, evidence found that some contexts are more enabling of social accountability than others and the context will influence (although not necessarily determine) the form social accountability will take and the probability of achieving its objectives. Comprehensive analyses of operational contexts are therefore essential before social accountability interventions.

11. **Although it is clear that context is critical in shaping, making, and breaking social accountability interventions—and their outcomes—it is still difficult to determine how.** Knowledge of how context shapes the outcomes of interventions remains limited. A World Bank report, *Mapping Context in Social Accountability*, provides an analytical framework across six contextual domains—civil society, political society, interelite relations, state-society relations, intrasociety relations, and global dimensions. These domains feed into the Conceptual Framework of Constituent Elements of Social Accountability developed by the World Bank Social Accountability team for the Flagship Report on Social Accountability (World Bank 2014b).

103 World Bank, “Flagship Study on Social Accountability,” Draft Concept Note 2013.

12. Existing literature on the relationship between social accountability and context points specifically to the importance of citizen engagement. Findings from the literature suggest that the willingness of citizens to pursue social accountability goals and to challenge the state is a key factor, often shaped by citizens' historical experiences of state-citizen relations. Although evidence highlights the importance of state capacity in social accountability outcomes, there is no evidence that social accountability cannot be achieved even in low-capacity environments (Gaventa and Barrett 2010). On the one hand, evidence suggests that the level of state democratization does influence the emergence and effectiveness of social accountability. McGee and Gaventa (2011: 12, as quoted in World Bank SDV 2013) state that: "in a regime lacking the essential freedoms of association, voice or media, citizen-led TAIs (transparency and accountability initiatives) do not have the same prospects for success as in societies where these conditions exist." On the other hand, evidence suggests that state democratization alone does not decide state-citizen relations. Specifically, Crook and Booth (2011) found that: "the presence of formal democratic institutions and frameworks reveals only part of the picture in many contexts as it is informal institutions and the underlying political settlement that explains what happens and why." In addition, Stasavage (2005) found that "different forms of social contract or developmental accountability can emerge within weakly democratic or semi-authoritarian regimes as in the case of primary education in Uganda." In sum, and as previously noted, how context influences social accountability remains unclear.

13. Citizen engagement in fragile and conflict states (FCSs) is in particular need of support. Given the weak sociopolitical environment of FCSs, social accountability interventions to support stronger state-citizen relationships need to be explored. This will not only result in improved service delivery in areas where it is most needed, but

can also help these societies avoid and withstand conflict and rebuild in a postconflict scenario.¹⁰⁴ Overcoming obstacles to citizen engagement and the possible limitations of state responsiveness are areas to be further explored, especially in fragile contexts where institutional capacity and state legitimacy are weak.¹⁰⁵ Where roles and responsibilities are not clearly delineated across institutions and influence of authorities is unclear, bolstering social accountability is an especially daunting task.

14. Given Burundi's status as an FCS, the critical assumption that low levels of accountability endanger peace is a salient aspect to explore. If social, economic, and political exclusion are sources of conflict, then social cohesion is a worthy goal. To this end, how can social cohesion be furthered by accountability and, in turn, positively impact the nature of the relationship between the citizen and the state?

4.2 Analytical Framework, Data, and Methodology

15. This report aims to fill the evidence and knowledge gap on social accountability. The concept of social accountability is currently under review by both policy makers and academics. The possibility that greater social accountability fosters more state-society interactions, promoting stronger and more open states, is an exciting promise that has yet to be bolstered by concrete data. To further research in this important area, the World Bank Social Accountability Team has developed a conceptual framework to assist practitioners working in the field. This framework was designed to be used as a tool to assess which elements of social accountability have the most potential influence

104 For example, see World Bank (2012), which suggests that fractured social relationships and citizens' relationship with the state underpin situations of fragility and conflict.

105 See World Bank (2012) for an interesting literature review on social accountability in fragile states.

each constituent element is accompanied by a diagnostic checklist to guide contextual analysis in the field. The framework was specifically employed in Burundi to research the roles of state action and citizen action through focus group discussions. Information was assessed as a cross-cutting element affecting the state and citizens alike, and pointing to the need to bolster the citizen-state engagement interface.

18. **Research in Burundi may help clarify the link between state fragility and social accountability (or, more precisely, its lack).** In Burundi research was motivated by the question, “What is the nature of the social contract at the local level in Burundi?” This question specifically refers to the mutual expectations of entitlements, roles, and responsibilities between the state and citizens in Burundi. It is hoped that answers gained through field work will help clarify how state-society relations and societal dynamics influence social accountability. The *2011 World Development Report* highlighted the link between fragility and a lack of accountability, stating that, “periods when states or institutions lack capacity, accountability, or legitimacy to mediate relations between citizen groups and between citizens and the state, making them vulnerable to violence.” The argument that a lack of accountability is a fundamental characteristic of fragility necessitates specific attention on how accountability can be improved to foster state-society relations and promote stability.

19. **The research completed for this chapter includes three aspects of original data collection and qualitative analysis.** The primary research includes the completion of 16 focus group discussions in 8 communes, in-depth data collection from 4 of these communes, and further qualitative analysis for 2 of these communes. This was conducted using the macro conceptual framework explained above.

20. **A series of 16 focus group discussions were conducted in 8 communes across the country.** The eight communes were selected (i) to represent a geographical spread across the

Table 4.1 List of Communes Where Focus Group Discussions Were Convened

| Commune | Province |
|------------|-----------|
| Mutimbuzi | Bujumbura |
| Rutegama | Muramvya |
| Makebuko | Gitega |
| Gisozi | Mwaro |
| Mabayi | Cibitoke |
| Gihanga | Bubanza |
| Busoni | Kirundo |
| Butaganzwa | Ruyigi |

Source: Authors' fieldwork data collection 2013.

country, (ii) to align with the same communes visited by colleagues who completed chapter 2 on fiscal decentralization (and thus reinforce points of comparison), (iii) to assess the urban-rural split among communes, and (iv) to identify differences between communes with lesser and greater resources. The selected communes are listed in table 4.1.

21. **To better understand the local context, information was gathered from both local citizens and communal authorities.** In each of the eight communes two different focus group discussions were held—one with a group of individuals comprised of commune officials, and one with a separate group comprised of citizens. Two different focus group guides were prepared. Each focus group lasted approximately two hours, and all of the questions from the guide were covered in each of the eight communes, using a semi-structured discussion approach. One international researcher and one Burundian researcher completed each of the 16 focus group discussions. Each focus group discussion collected the names of those interviewed, and no less than 250 people took part in these discussions across the 16 groups. To confirm and further understand the information received through the focus group discussions, further data were collected on four of the eight

Table 4.2 List of Communes Where Additional Data Was Collected Beyond the Focus Groups

| Commune | ProvinceS |
|-----------|-----------|
| Mutimbuzi | Bujumbura |
| Rutegama | Muramvya |
| Makebuko | Gitega |
| Gisozi | Mwaro |

communes (table 4.2).¹⁰⁶

22. **Data collection paralleled the topics in the focus groups guide and focused principally on availability of social services, budget data and local taxes.** Communal budgets (including donor support for specific investments), tax revenues, and availability of social services and infrastructure by major sectors (health, education, water) were reviewed, using communal records alongside communal officials.

23. **Two communes among the eight, Rutegama and Makebuko, were further analyzed to be used as examples for the process chain on communal investments.** Specifically, to review citizen participation within the context of social accountability, four social infrastructure projects financed by the World Bank’s CDD project, PRADECS, were reviewed in terms of citizen participation in decision making and project monitoring. The data were collected through qualitative, semi-structured interviews with citizens who had participated in the social infrastructure projects.

4.3 Empirical Analysis: Key Findings

24. **The main finding that emerges from research into the nature of the social contract**

at the local level in Burundi is that the state has more opportunities to bolster social accountability than do citizens. In other words, the supply side, rather than the demand side, of social accountability provides more potential entry points at this time. In employing the Conceptual Framework of Constituent Elements of Social Accountability, it became apparent during focus group discussions with citizens that critical obstacles within the citizen action cluster exist, namely, lack of efficacy among citizens (meaning the perception among citizens that they can bring about change), a lack of collective action, and limited intrinsic motivation (as in a limited sense of moral responsibility to address a given problem). Within the state action element there are of course clusters that are limited, but these are more operational. The limitations within the citizen action constituent element are more profound in Burundi and as such activities employing the use of a social accountability tool in a given community will gain limited impact on creating change. The conclusion provided by Fox (2014) on the importance of maintaining a “sandwich strategy,” meaning the coordination of both the supply and demand sides, is a more useful approach to promoting a theory of change.

25. **Four areas of interaction between citizens and the state were continually emphasized during focus group discussions.** These were: (i) the role of participation in society, (ii) the preparation of communal development plans (CDPs), (iii) budget preparation and fiscal transfers through *Fonds National d’Investissement Communal* (FONIC, National Investment Funds for Communes), and (iv) tax collection. Taken together, patterns emerge that lead to the conclusion that communes in Burundi are not only a space for development, but rather a domain for control by central state authorities. This control extends not only over territory, but also the population. This conclusion corroborates the findings from the political economy analysis emerging from this study. How, then, can social accountability

106 Full tables with all data collected for the four communes are available from the authors upon requests.

be better understood in Burundi to augment, in the first instance civic engagement and participation, and subsequently influence the state-society relationship to effect meaningful change in local communities? The next four sections articulate the views expressed during the focus group discussions in eight communes across Burundi, along with evidence from data collection from the four communes among the eight.

4.3.1 Obstacles to Participation at the Local Level

26. **The political participation of citizens in Burundi is characterized as nominal rather than substantive.** There are multiple opportunities for participation at the local level. A plethora of acronyms account for local development committees at the village and commune level, and school committees. There is also a prominent culture of social participation in Burundi. Local communities demonstrate strong social capital in organizing important events such as weddings, graduations, and funerals. The mobilization of friends and families into planning committees for these events, with detailed calendars, responsibilities, and the necessity to mobilize resources shows the capacity of Burundian citizens to participate, plan, and execute. Groups of citizens within local communities in Burundi (extended families and networks of neighbors) account for a high degree of social participation, but have very low levels of civic participation (civic engagement). Why then is participation characterized as nominal, with little openings for a transformative process to take root?—for two reasons: exclusion (often self-imposed) and stigmatization.

27. **Social exclusion in Burundi is widespread, and many respondents conveyed a sense of being automatically excluded from civic life.** In all of the eight communes surveyed, both the groups of local officials and of citizens raised the same issue: achieving more meaningful participation is blocked by a pervasive problem of social exclusion in Burundi,

most often linked to extreme poverty. Several respondents spoke of their own distancing from the local administration, with one woman summarizing the sentiments of all the focus groups: “These questions you are asking—on the development of the budget, tax collection, prioritizing the communal development plan—these questions and issues are for ‘them.’ ‘They’ are the ones to make decisions and tell us. It is not my place to discuss these issues and make decisions.” Others echoed the same sentiment, arguing that the time of the most poor and vulnerable is wasted in endless local meetings that do not provide any immediate benefit and only take away from valuable work in the fields and managing the household.¹⁰⁷

28. **For some local officials, citizen participation is considered a means to gather information at the communal level without necessarily engaging citizens in decision making.** The vertical political culture in Burundi was confirmed through feedback in the focus groups. Citizens reported the existence of different meetings, mostly around security-related themes, where local officials provided information to citizens. The only meetings more substantively focused on development issues were those financed by donors to develop the new series of CDPs. These participatory meetings were held in every hill (*Colline*) within a commune that received support from a donor to develop a new five-year plan.

29. **Although local authorities have been organizing numerous meetings at the communal level, citizens still lack opportunities to actively engage and discuss local needs.** The government organizes multiple meetings at the hill (*Colline*) and communal level throughout Burundi. Hill chiefs (*Chefs de Colline*) are expected to organize a weekly security meeting, and then ad-hoc meetings on development issues. The majority of citizens

107 Quote from focus group, Commune of Rutegama.

reported that these meetings are being used as a vehicle to spread political messages.¹⁰⁸ Additionally, meetings to discuss relevant issues, such as security concerns or a new initiative in the commune, are dominated by local elites. One respondent stated, “There are no formal invitations or notices for meetings. Everyone just knows who is supposed to go and who is not invited.” He continued: “The two mandated meetings for social accountability are controlled by the elite from our community and are held simply because it is a criterion now for the performance indicators of the commune.”¹⁰⁹

30. **A long tradition of the “tyranny of participation” is culturally rooted, particularly among the rural population.** Demand-side governance in Burundi is very weak. During focus group discussions it emerged that even where some communal officials attempted more interaction with citizens (for example, in the Commune of Rutegama), obstacles remained—namely, self-exclusion (described above), poverty (as manifested by lower education levels), and a dominant perception among citizens that the state is not genuinely interested in open dialogue (this last point was most strongly voiced regarding politics and the central level, while participants cited more interaction with communal administration officials). There is a proverb in Kirundi that exemplifies a cultural norm—*Nta muntu vitumira mu rubanza*—“everyone knows exactly who is invited and who is not to any given forum.” Therefore, a major obstacle to fostering greater social accountability in Burundi is not only institutional constraints, but the existence of cultural norms limiting entry points for more transformative engagement of citizens into civic affairs. This reality is compounded by the deterioration of trust during cycles of violence ongoing since the 1960s.

108 The rural communes in Burundi are largely dominated by the ruling party, including the eight communes for the focus groups. Pockets of opposition areas in more urban settings would have a different perspective, perhaps, on security.

109 Quote from focus group, Commune of Gihanga.

4.3.2 Preparation of Communal Development Plans

31. **The government-initiated decentralization reform process may be further supported through community-driven development.** In 2005 the Government of Burundi (GoB) embarked on a decentralization program with the stated goals of strengthening social cohesion, improving local governance, and promoting access to basic infrastructure and service delivery. The World Bank responded by supporting a request by the GoB to initiate a large-scale, community-driven development initiative that responded to this notion of building social cohesion at the local level through PRADECS. In 2007 the GoB, supported by the PRADECS team, launched the first CDPs in all 126 communes across the country for a period of five years. In 2012–13 second-generation CDPs were developed in Burundi for another five-year period.

32. **Focus group discussions revealed the success of the CDP planning process in significantly augmenting participation of citizens in the identification of priority needs in local communities.** The process for the development of the CDPs demands community meetings at the hill (*Colline*) and commune level, and sector input by local officials working on health, education, agriculture, water, and so on. All focus group participants confirmed the open process undertaken to hold public consultations in the CDP process, which was, however, largely driven by donors. External facilitators were engaged to work in communes alongside local officials to hold meetings with community groups. In one focus group (Makebuko), citizens reiterated that because of the *Gesellschaft für Internationale Zusammenarbeit* (German Agency for International Cooperation, GIZ) they received regular information on where and when meetings would be held.¹¹⁰ It would seem that the mechanics of holding participatory meetings,

110 Focus group discussion, Commune of Makebuko.

identifying and including vulnerable members of the community, and providing feedback along the process fell mostly to external actors engaged on donor-funded projects. This process did, however, mobilize communal planning teams that prepared a local prioritization and planning document for the first time in Burundi. The development of new CDPs was largely donor funded, with the process managed and coordinated by the Ministry of Communal Development.

33. The process of developing CDPs encouraged participation in the identification of priorities upwards, but little or no information trickled back down the chain. Citizens confirmed their engagement in planning meetings, but not one person in all eight focus group discussions with citizens reported having seen the final version of the CDP document. There seems to be no restitution of the content of the CDPs back to citizens. One communal administrator stated, “We can only inform citizens of specific investment projects when the financing is identified. We cannot tell them the full plan as this would be political suicide—our population would consider the dissemination of the plan as a promise that I know we certainly cannot keep.”¹¹¹ The CDPs are positively viewed by citizens as well as communal administration officials; however, it is evident that due to limited resources the dissemination of the plan is rarely achieved. Although the dissemination of the CDP would be useful in terms of information sharing, the major constraint of a lack of realism within the plan, leaves little possibility of it being achieved. Therefore, for the time being, the dissemination of the existing plans to augment communication with citizens is not a benefit.

34. Furthermore, many citizens stated that they receive specific information on the financing of a priority in the CDP only

111 Quote from one communal Administrator during a focus group discussion with communal administration officials.

when commune officials require informal contributions. Information on the realization of any element of the CDP usually takes the form of a request for a voluntary financial or material contribution. “We find out about the building of a new school or a new road when someone from the commune comes to our house to ask for money as a contribution and also wants volunteer labor and materials like sand and rocks for the construction.”¹¹² The process for developing the CDPs therefore lacks downward accountability and does not empower the population. The mechanical participation at the front end legitimizes the process as participatory, but in the end the final document and the actual selection of investments financed are removed from the citizens

4.3.3 Budget Preparation and Execution

35. There are no practical links between the CDPs and the communal budgets. The development of five-year CDPs do not relate to any budget-planning exercise. The CDPs are essentially a list of all the needs in the commune, in a prioritized way. The needs in Burundi are overwhelming, creating a disconnect between the CDPs and communal budgets. This disconnect is further compounded by the fact that all CDPs seem unrealistic—there is no possibility that a commune would ever be able to achieve, within the five-year period, the realization of the plan. For example, the recent CDP for 2013–17 for the Commune of Rutegama requires \$9.5 million for all identified investments—that is, close to \$2 million per year to achieve the plan, when the annual budget for the Commune of Rutegama is currently only \$182,000. Even when external funding - by either FONIC or donors - is taken into account, the resouces gap between the plan and the annual budget is still significant.¹¹³ Therefore, the CDP cannot yet serve the

112 Quote from focus group discussion, Commune of Mutimbuzi.

113 Data collected from the communal accountant, Commune of Rutegama.

Box 4.1 GoB Performance Evaluation of Communes

In Burundi the Ministry of Decentralization and Communal Development has established a performance evaluation of communes on the basis that communal authorities have transparency and accountability obligations under the Communal Law. The performance evaluation process aims to enhance the quality of governance and management of each commune. Conducted on an annual basis, this practice is based on a number of objectively verifiable and easily measurable criteria. With 20 criteria subdivided into 3 assessment areas—(i) administrative governance of the communes (10 criteria), (ii) management of budgetary resources of the communes (6 criteria), and (iii) social inclusion and gender (4 criteria)—all criteria are weighted at 100 points. Thus, all the communes of Burundi, after evaluation, are classified according to their scores.

Based on the evaluation results, an additional financial allocation above the equal 50 million per commune is made by the National Communal Investment Fund (FONIC) to communes deemed successful, meaning those which earned 60 or more points out of 100.

Source: Government of Burundi, Manual of Performance Evaluation 2010.

purposes of a budget planning document and rather reflects a “shopping list” of all commune activities that ought to be implemented.

36. The communal budget has been publicly disseminated in all communes since 2011, but this is either not known or cannot be accessed by the public. In all communes visited we confirmed by visual inspection that the communal budget is indeed posted publicly at the communal administration office for the public to review, as a requirement in the communal performance indicators (see box 4.1). The dissemination of this information is, however, not understood as the budget is written in French and most local citizens do not read French. Also, the format is complicated and covers multiple sheets of paper with different line items and amounts—there is no simple budget summary posted in an easy-to-read format in Kirundi for citizens to review.

37. The budget information posted is of the annual budget, but there is no public posting of actual expenditures. The communes in Burundi do not provide information on actual expenditures and yearly reconciliations to the public. One respondent during a focus group discussion stated that providing

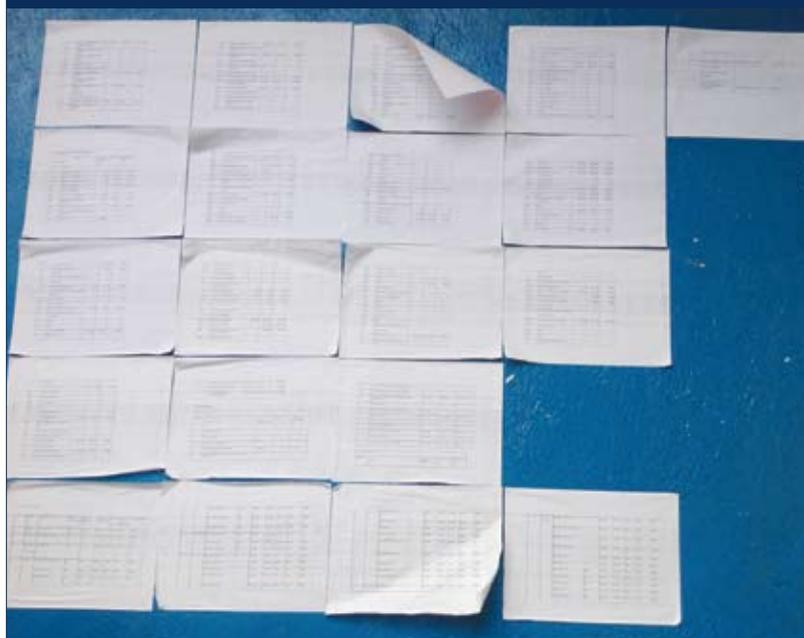
information on expenditures requires too much transparency for local officials to share this information.¹¹⁴ This contradicts the goals of the new decentralization process noted above. Also, although every commune visited had the budget physically posted, some had sheets missing or torn down because of wind and rain, and others were posted up too high on the wall to be read. Thus, meaningful communication of the budget to citizens is lacking (see figure 4.2).

4.3.4 Central Transfers: The Case of FONIC

38. Local administration officials have a strongly negative perception of FONIC due to low levels of decision making on the use of funds. Local citizens hold limited knowledge of the work of FONIC, and other than knowing that it exists and finances the construction of schools, there was little citizen feedback regarding FONIC. But this was made up for by the overwhelming views of local officials. Globally, a strong negative perception emerged on three issues: (i) a total lack of decision making in the use of funds locally, (ii) partial payments and late payments

¹¹⁴ Feedback from citizen during the focus group in the Commune of Gihanga

Figure 4.2 Public Posting of Communal Budget



Source : Fieldwork visit to the Commune of Makebuko undertaken by the authors, September 2013.

(which created problems in implementation and completion of projects), and (iii) materials delivered in kind (as opposed to cash) from Bujumbura rather than purchasing materials locally. These three issues solidified the view of local administration officials that they have little input into the use of funds transferred from the central to the local level in Burundi. Several communal administrators voiced the concern that they are not able to finance their priorities, but must follow a standardized plan for the construction of primary schools. From these views, two important issues emerge. First, there is little to no citizen participation in the investments financed by FONIC, or the monitoring and oversight of funds received. Second, there is no scope for either citizens or local officials to engage in the decision-making process of which investments to finance with support from the central level. It is expected that the recent FONIC reform (2014) will help transform this negative perception. This reform is to provide funds to the communal accounts

and each commune will be responsible in managing its own budget.

4.3.5 Tax Collection

39. **There is no uniform way that tax collection is carried out at the communal level in Burundi. In each commune visited the team queried local officials on the method used for local tax collection, and it emerged that each commune develops its own system.** One commune cited the requirement to follow the communal guidelines outlined in the Administrative and Financial Guide developed by the Ministry of the Interior, though in practice this was not applied.¹¹⁵ Most communes employed, until recently, the

elected hills chiefs (*chefs collinaires*) to oversee tax collection. The hill chiefs worked in a team with the other members of the hill council to collect taxes, providing the “*quittance*” (receipt) to citizens who paid, and depositing the funds with the communal accountant. Ten percent of the amount collected is kept by the tax collectors as payment. In the last year, there has been a shift by communes to either hire all tax collectors on contract, or use hill chiefs and contracted tax collectors jointly. Only one commune out of the eight visited used solely contractual tax collectors.

40. **A lack of incentives leads to widespread leakage. All focus groups, both citizens and public officials, spoke about the high level of leakage of tax funds collected.** Two main reasons were advanced: first, the remuneration is so small for tax collectors,

¹¹⁵ Data collected from the four communes available upon request.

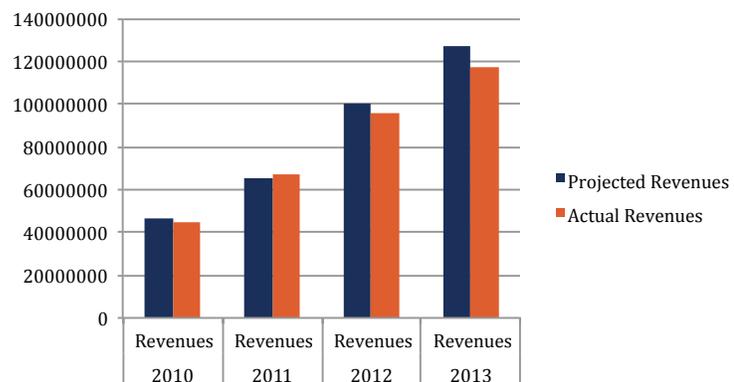
that the temptation to steal funds is overwhelming. For example, in the Commune of Rutegama a tax collector is paid after five receipt books (quittanciers) are submitted. The payment for the tax collector is 10 percent (FBu 5,000), with a value of FBu 50,000 collected on each book. It can take almost two months to collect all five receipt books, meaning that a tax collector is unable to maintain a stable income, and when paid the amount is equivalent to only \$17. The second reason put forward is the personal web of hillside connections that places sharing goods higher over payment in cash. This informal system is deeply embedded in local communities in Burundi. Several focus groups spoke of the traditional system of sharing banana beer and brochettes with the hill chief as a form of tax payment. One woman stated, “When the hill chief, who is my neighbor, collected the taxes he always told me in advance when I needed to prepare my money. He also let me pay him in-kind. Now that the commune has hired tax collectors that I do not know, they show up at any moment demanding payment in cash.”¹¹⁶

41. **Deep mistrust over the use of tax revenues is a disincentive for citizens to pay.** An overwhelming view emerged from all citizens’ focus groups—they do not understand the method of tax collection, they do not understand where the money goes or its use, and there is no public accounting of funds collected. None of the communes visited publicly post the amount of taxes collected, and there is a strong sentiment and perception of high levels of corruption around tax collection.

42. **Because of a deep sense of mistrust**

116 Quote from focus group, Commune of Gisozi.

Figure 4.3 Rutegama Commune Revenues, Actual and Projected (2010–13)

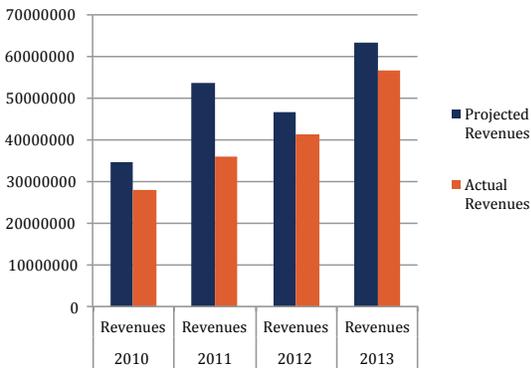


Source: Fieldwork data collected by authors, September 2013.

over the use of tax funds collected, citizens are more willing to contribute with nonfiscal contributions for local investment projects. Traditionally, when the commune embarks on an investment project linked to the CDPs, all households that will benefit from the project contribute in cash. There is a formalized structure around this process where local representatives are elected to collect the cash, and account for its use in the project. Many citizens stated that because they can visibly see the development of the project, combined with the knowledge of the amount that was collected locally, they are more willing to contribute.

43. **The willingness of citizens to pay a nonfiscal contribution points to an entry point for social accountability to augment the capacity of communes to generate more revenue through tax collection.** We analyzed two communes more in depth. One commune, Rutegama, had embarked on a process of fostering greater social accountability with the explicit goal of increasing tax revenues. The new communal administrator elected in 2010 set about local reform by (i) revising the mechanism for tax collection, hiring both elected hillside officials and contracted tax collectors; (ii) revising the system for funds to be deposited

Figure 4.4 Makebuko Commune Revenues, Actual and Projected (2010–13)



Source: Fieldwork data collected by authors, September 2013.

in the communal account and oversight of these funds; (iii) hiring a local civil society organization (CSO) to work in partnership with the commune to explain to citizens the purpose of paying taxes and their use; and (iv) inviting local CSOs to meetings to discuss the budget and tax collection. The evolution of tax collection in the Commune of Rutegama is outlined in figure 4.3. The interesting element here is that one of the best-performing communes is collecting more revenues than expected—they are outpacing their projections, which they have been increasing year after year since a new communal administrator took over.

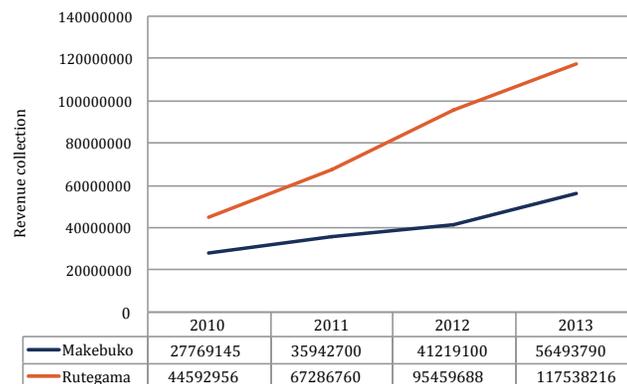
44. Increasing transparency may also increase communal revenue collection. During the focus group discussion in the Commune of Rutegama, the representative of a local CSO was consulted on the process of budgeting and tax collection. The most salient aspect of success in Rutegama may be summarized as

transparency. The communal administration, since 2010, has allowed local CSOs to monitor tax collection and review the use of funds toward the communal budget. Citizens in Rutegama have access to the same information, but are largely unable to read the documents in French and decipher the long budget format. The local association acts as a bridge between citizens and the administration, explaining to citizens during church services and community meetings the content of the documents (communal budgets, revenues collected and method used, use of taxes within the commune, and so on).

45. Political discords undermine social accountability mechanisms within the commune. A second commune reviewed in depth did not achieve the same results. Makebuko was reviewed because of a known problem between communal officials and the former administrator and allegations of corruption. Review of tax revenues (figure 4.4) collected in the same period from 2010 indicates that Makebuko achieved much less progress. Although revenues are mostly increasing (aside from 2012), there is a larger discrepancy between the projected and actual revenues.

46. Focus group discussions varied across

Figure 4.5: Comparison of Revenue Collection Efforts in Makubeko and Rutegama (2010–13)



Source: Fieldwork data collected by authors, September 2013.

communes, with some being tenser than others. One citizen left the focus group meeting stating, “You are asking me about use of public funds and the administrator is right next door. I don’t want to be in prison tomorrow.” In terms of revenue mobilization, one commune (Rutegama) demonstrated a willingness to engage with civil society actors and citizens, and focused its efforts on raising communal revenues, while the other commune (Makebuko) has been plagued

by corruption allegations and a rotation of administrators. Figure 4.5 shows the results over time, indicating a significant “performance gap” between Makubeko and Rutegama in collecting revenues. The two communes are geographically close, they both have administrations from the ruling party, while the commune of Makebuko has a larger population, and there are no significant commercial activities in either commune to account for the gap in revenues.

Box 4.2 Participatory Budgeting (PB) in South Kivu, DRC: Supporting Decentralization and Empowering Citizens to Participate in the Budgetary Process through ICT

In the Democratic Republic of Congo, the first cycle of the Participatory Budgeting (PB) initiative took place in the province of South Kivu (population: 4 million) in 2011, and targeted eight subprovincial decentralized entities including the capital (population: 250,000). The project helped address a major bottleneck in the country’s recent decentralization agenda, a high priority reform enshrined in the DRC constitution given the dysfunctional transfer of funds between different territorial entities; as well as the promotion of good governance—a top priority action of the DRC 2008–11 Country Assistance Strategy (CAS)—through effective decentralization (to bring the government closer to its citizens) and local governance.

Through the World Bank Institute (WBI) diagnostics and studies in 2010, a series of challenges that needed to be addressed were identified to improve governance and service delivery at the local level, such as asymmetry of information between stakeholders and low levels of understanding of budget procedures and engagement with civil society. These diagnostics indicated that PB as a social accountability mechanism could be a promising entry point for a potentially broader governance reform in the country. The province of South Kivu was considered the most promising area, as there was an interest on the part of the communities to participate in a PB process. The findings in the diagnostics also pointed to the possible leverage effect the use of ICT could have in terms of enhancing the process through engagement, information distribution, monitoring, and follow up.

The project mobilized a reform coalition of civil society, private sector, IT experts, and both the provincial and local governments to work on using ICT to engage citizens on local budgets. As the mobile phone penetration is relatively high in the country (estimated to reach 47 percent in 2013, with 55 percent of the population residing in areas currently covered by mobile networks, including most rural areas in the eastern province of South Kivu), the precondition for successfully applying an ICT component in the project existed. Utilizing mobile phones would therefore contribute to creating a more inclusive (women, minorities), transparent, and participatory decision-making process on budget allocations and monitoring of public spending. Mobile phones were integrated in the process in the following ways: (i) citizens living in a given area were informed via SMS about the next meeting, (ii) citizens on a trial basis could vote via SMS on which public works they wanted to be addressed, (iii) citizens were informed on the outcome of the vote via SMS, and (iv) citizens could provide feedback on the quality of projects under implementation, or those already implemented projects by SMS.

For the first time, the PB process allowed citizens to determine how public funds should be spent while establishing their priorities. Moreover, an equal “first” was the decision by the provincial government to transfer funds to the local governments. Although this is required by law, it has been

ignored in the past. As a result of the process, the ministry of budget has also institutionalized the PB process in South Kivu, mandating all local governments to start following the PB principles while drafting their budgets. Also the quality of the budget-drafting process has improved. Rather than ending up being a wish list, budgets are now formulated in a more realistic manner with expenditures better aligned with the revenue side.

With the increased transfer of funds from the provincial level to the local level, local governments began allocating part of their budgets to investments, rather than to funding salaries and equipment only. Some communities have gone from having no budget for investments to having a 40 percent budget allocation. With more budget resources available, they are also having more resources to deliver services to the poor. In Luhindja the process has resulted in the repairing of 54 classrooms and a bridge, in Bagira a health center has been established and the sewage system has been repaired, and in Ibanda water fountains and restrooms are being built.

One of the more encouraging results connected to the project is a fairly substantive revenue increase at the local level. More citizens seem to be willing to comply with their tax obligations, as they associate the improved service delivery with government spending. There is evidence that since the process started, local tax revenues have increased up to 20 times. Another important achievement of the project was that, strong country ownership was built leading to the institutionalization of the PB process. Following an executive Government Decree, a law was passed by the Provincial Parliament in 2012 to institutionalize the practice in the province. In South Kivu the PB process is now locally sustained with local actors taking strong ownership and extending subsequent cycles to the entire province on their own. Other provinces in the country are following suit and starting to replicate and adopt PB processes.

Source: World Bank, WBI 2012.

47. The communal administrator in Rutegama acknowledged that they are starting a reform process by hiring new tax collectors, creating a new payment system, and revising the mechanism for monitoring of tax collection. The data collected from the Commune of Rutegama confirms the incremental, but steadily increasing, revenue collection. This finding is consistent with similar experiences in other fragile setting contexts, where innovative reform initiatives to involve the citizens in the decision-making process act as a key driver to improve revenue collection. In the South Kivu region of the Democratic Republic of Congo (DRC), for example, the establishment of the participatory budgeting (PB) through information and communications technology (ICT) mechanisms—mainly mobile phones—was instrumental in significantly increasing local tax revenues up to 20 times in 2012 (box 4.2).

4.3.6 Monitoring Project Execution: A Case Study from the Communes of Makebukoko and Rutegama—The Experience of the World Bank's CDD Operation in Burundi

48. The World Bank–financed community and social development project (PRADECS) was developed following the civil conflict and in the midst of a major political transition in Burundi. The decentralization process initiated by the government in 2005 aimed to empower communities to improve local governance and social cohesion, and to improve access to socioeconomic infrastructure. The five-year, \$40 million project was designed as a community driven development (CDD) project with a two-pronged approach to support the new national decentralization strategy, and to ensure improved and more equitable access to local socioeconomic infrastructure and service

delivery in rural areas where over 90 percent of the Burundian population live.

49. **The overall objective of the project was to establish and operate a decentralized, transparent, and participatory financing mechanism that empowered local governments and communities to ensure improved and more equitable local service delivery.** The project consisted of two major components: (i) capacity building of both local officials at the commune level, as well as training of officials within the central government working on decentralization; and (ii) the financing of demand-driven subprojects within most rural communes of the country. The bulk of the financing, \$30 million, went toward the realization of 1,067 subprojects.

50. **PRADECS closed in December 2012, as both the Bank and the GoB concluded that the project was successfully implemented.** For the Bank, there was recognition that PRADECS benefitted from government ownership and leadership. Furthermore, through PRADECS, the communal administrations were able, for the first time, to take direct responsibility over funds for subprojects. This included the development of the first CDPs, the identification of priority subprojects through participatory community meetings, management of the procurement process, monitoring of the subprojects, and finally guaranteeing the maintenance of the newly built communal infrastructure. But a major drawback was that although the government demonstrated strong performance with PRADECS, there was still no operational mechanism for financial transfers from the central government to the communes. There were limited transfers from FONIC, but the perception of local administrations is that these transfers lack both a transparency and a participatory element. As PRADECS was positively evaluated, primary research for this chapter included the review of four PRADECS subprojects to illustrate the role of participation and monitoring by citizens. Box 4.3 captures this analysis.

51. **The research team completed focus group discussions in eight communes across Burundi.** Two of these communes, Rutegama and Makebuko, were chosen for further in-depth follow-up to qualitatively assess the role of citizen participation in the selection and implementation of PRADECS subprojects. In each commune, two subprojects were reviewed. This analysis is therefore based on the review of the:

1. Commune of Rutegama, construction of a new primary school
2. Commune of Rutegama, construction of a communal college (akin to secondary school)
3. Commune of Makebuko, procurement of school furniture to various schools
4. Commune of Makebuko, construction of a new health center

52. **The objective of this analysis was to concretely tie similar questions that were posed during focus group discussions to concrete projects in local communities.** This then provides an illustration to further analyze the key findings of this chapter. The main questions asked to local citizens who were somehow involved in the subproject were: (i) who identified the subproject, (ii) how were you informed of the subproject, (iii) what was your contribution toward the subproject, (iv) were you involved with or informed of the procurement process, (v) as a citizen what was your role in subproject monitoring, and (vi) how was the maintenance of the subproject organized. The detailed matrix showing feedback on each of these questions by project is available, but, globally, a trend emerged from all four projects that parallels feedback from the focus groups discussions. These findings include:

53. **The identification and selection of subprojects financed through PRADECS was affected by elite capture—and this extended into project implementation to include**

Box 4.3 Balancing Short-Term Needs with Long-Term Goals: Findings on Community Driven Development (CDD) Projects from the 2013 IEG Report

Community-driven development (CDD) projects supported by the World Bank have evolved over time from the initial aim of providing a safety net toward multiple objectives relevant to the FCS context. CDD projects emerged initially in the form of social funds during the 1990s, as a safety net to offset the adverse impacts of structural adjustment loans. When the social development, agriculture and rural development, water, and urban sectors adopted CDD modalities, their scope expanded considerably. Within the FCS they have had three different objectives involving various forms and degrees of collective action, the emphasis varying across different projects: providing public goods and services to local communities, building local institutions, and enhancing downward accountability to citizens. In FCS, when implemented well, they have proved to be efficient vehicles for expanding the reach of the state and building state legitimacy. Several country directors have argued that CDD projects are quick-disbursing projects that are crucial to maintaining a good disbursement ratio and, for that reason, have been reluctant to allow their design to evolve over time.

CDD projects have grown by number and commitment volume much faster in FCS than in IDA countries that were not FCS. In several conflict-affected states, these projects have been the principal means of state engagement with distant communities. They have served to establish the presence of the state, and besides their short-term contribution to local economies, they have contributed to state legitimacy. These projects cover a considerable range of demand-driven projects across many sectors. Most of them finance local infrastructure subprojects or service delivery subprojects; although some of them, like the Nepal Poverty Alleviation Fund (PAF) include a mix of subproject financing and micro-lending to local communities. They have three common features: they are typically demand driven; involve some form of community organization and community participation, and are administered by a special entity established by the government outside the structure of line ministries.

Afghanistan, Nepal, and the Republic of Yemen have well-established, large-scale CDD programs functioning efficiently for more than a decade and reaching out to distant rural communities. Haiti too has relied on CDD to provide services to urban slum dwellers. One noteworthy feature has been their outreach to women and their ability to involve women in decision making, as evidenced by impact evaluations from all three countries. But the reliance on project financing remains the Achilles heel of CDD programs, and without institutional evolution the second and third objectives of building sustainable local institutions and promoting downward accountability may not be achieved.

Despite its wide use, CDD projects remain controversial. One aspect of controversy is whether CDD projects undermine local government by creating parallel structures. The other aspect is the extent to which these projects lend themselves to elite capture. A recent policy research report concludes, “Only when projects explicitly link community-based organizations with markets, or provide skills training, do they tend to improve group cohesiveness and collective action beyond the life of the project” (Mansuri and Rao 2012). The report finds that community participation programs are most effective when they are systematically linked to state institutions: “Most successful programs tend to be those implemented by local governments that have some discretion and are downwardly accountable Local participation appears to increase, rather than diminish, the need for functional and strong institutions at the center.” Mansuri and Rao conclude that local participation does not work when it is merely the ad hoc creation of a project.

CDD programs involve institution building at two levels—the community level and the program level. The FCS case studies show that it is relatively easy to form ad hoc, informal community organizations when they are the conduit for receiving development grants. Their sustainability depends on the sustainability of the program and continuity in the stream of benefits. As in the case of microfinance,

the support structure at the program level needs to be sustainable to sustain community involvement. Alternatively, the program can be linked to local government structures with regular fiscal transfers from the annual budget, as is the case in Bangladesh and Indonesia. Such a link between CDD programs and decentralized local government structures has not been established in any of the FCS. On the contrary, they appear to compete for the local governance space. Nor has any alternate institutional structure been established for these programs in FCS, even though viable apex organizations—microfinance in Afghanistan and Bangladesh and the PAF in Pakistan—have been established in fragile situations.

The consequence is that CDD programs have not joined up with local governments, nor do they have any alternative system of ensuring institutional sustainability; as a result, they remain completely donor dependent. The National Solidarity Program in Afghanistan is the largest CDD program in FCS. It has been very successful in sponsoring the CDPs across the entire country, financing local subprojects, promoting local governance, empowering women, and, in turn, enhancing the writ and legitimacy of the Afghan state. Its financing model, however, is unsustainable and depends on large injections of donor financing for one-off grants to local communities. In FY2014, more than a decade after its inception, the program is reported to be undertaking a set of studies to develop a more sustainable model, but with the 2014 transition fast approaching there is very little time left to test out and institutionalize an alternate model. Programs should start planning for institutional sustainability much earlier.

The experience of Afghanistan's CDD program is similar to that in many other FCS. The programs play an important role in addressing fragility through short-term, intermittent measures to support local communities, when they are originally designed. But their very success as a safety net becomes an impediment to their evolution and institutional sustainability. It would be useful to take stock of this genre of projects to help adapt and institutionalize them within country systems and country budgets over time. The Bank has not instituted alternate mechanisms to ensure their viability beyond the life of the projects supporting them. As a result, CDD projects have been found to be unsustainable.

Source : World Bank IEG Report 2013.

control over implementation by contractors, with little role for citizens to monitor the execution of works. All four subprojects, based on citizen feedback, were selected by a small group of local officials. In each of the four, the communal administrator was the main person to coordinate the selection of the subproject. Indeed, PRADECS was established to principally work with the administrators, through participatory meetings between officials and community members to open up dialogue and decision-making responsibilities. One of the four subprojects, the provision of school furniture in Makebukko, elicited controversial feedback from citizens. The other three subprojects were all similarly acknowledged: they included only a limited participatory element in decision making, but were viewed positively for

contributing to access to social services within the commune. The provision of school furniture was, however, negatively viewed as, essentially, being controlled solely by the administrator with all aspects of procurement hidden, even from other officials working within the commune.

54. **Akin to feedback from focus group discussions, participation by citizens in the subprojects was only in the form of receiving top-down information as well as requests for contribution toward the project both financially and with physical labor and materials.** The construction of the primary school in Rutegama provides a useful example. The citizens interviewed stated that they and the majority of the community were made aware of the financing for the primary school by the

hillside chiefs. This information came through a notification of the project, along with a request for each household to contribute financially (to make up the 3 percent community contribution required under all PRADECS projects) and to help complete the levelling work and deliver rubble to the construction site. The dissemination of the school furniture subproject in Makebuko is even more serious (with respect to a lack of participatory process) in that beneficiaries and school officials were informed of the project at the time of delivery of the furniture. There is speculation by both citizens interviewed as well as other communal officials that the supplier paid the 1 percent communal contribution and a 3 percent community contribution to obtain the order; thus the communal accounting service was never involved in any aspect of this subproject.

55. Although the procurement process and the monitoring of the execution of the subprojects was largely managed by the same individuals who selected the projects, along with the communal engineer and contracted firm, local management committees were allowed limited input. The decision making around the selection of the firm was not known by any citizens across all four subprojects; however, particularly in the Commune of Rutegama, the established management committees were able to modestly influence subproject monitoring and execution. These management committees included many officials from the communal administration, but also hillside chiefs as well as representatives from communal development committees—the latter group being more representative of the local community. The management committees were all formulated by the Communal Administrator, but in Rutegama they were more broad-based and representative. Concretely, during the construction of the communal college (secondary school), the committee discovered that workers were stealing bags of cement at the construction site. The committee then took action and monitored execution of the subproject more closely.

56. Qualitative interviews with citizens to concretely discuss specific subprojects exposed a view held by citizens that demanding more accountability of local officials would appear as “rebellious” in the eyes of those in power. To maintain what citizens referred to as “social peace” the view was not to question too extensively the actions of local officials. More concretely, during interviews it was exposed that among all four subprojects there were significant deficits in the way that local officials included citizens; however, when the projects ultimately provided improved services there was a level of acceptance and status quo was maintained of little social accountability. Anger and strong views emerged around the one subproject in Makebuko (for the provision of school furniture) which the citizens concluded was fictitious, in the sense that the administrator controlled the entire process and delivered furniture that a few months afterwards was broken.¹¹⁷

57. In conclusion, the views that emerged from these interviews, combined with feedback from the focus group discussions, captures a picture in Burundi of extremely low levels of social accountability, an absence in demand for greater social accountability in rural areas, and limited attempts by local officials to foster stronger relations with citizens using social accountability tools. Referring back to the macro framework used in this analysis, the constituent element of social accountability that is noticeably the weakest is the citizen action element. Culturally, the view cited in the paragraph above by citizens regarding an acceptance of the status quo to maintain “social peace” with the local elites will be difficult to overcome. Although the country is currently experiencing political volatility in the run-up to national elections in 2015, the state action

¹¹⁷ A communal official from Makebuko stated during an interview that more than 60 percent of the furniture was broken and damaged a few months following delivery, and even on delivery it was obvious that it was poor quality.

constituent element provides more tangible and immediate openings to foster social accountability, specifically around a desire by local officials to increase tax revenues to gain further autonomy from the center. The following section provides specific recommendations for the road ahead.

4.4 Recommendations

58. **The recommendations for increasing social accountability in Burundi are geared toward state action emerging from the political society domain, and the role of information.** Building citizen demand is an important element in fostering social accountability, but within the Burundi context it appears that this must be done in tandem with encouraging state developmental responsiveness. The argument presented above is that a major obstacle is the lack of demand by citizens (lack of collective action and disengagement among citizens), signaling that a more relevant entry point for Burundi is first within the political society domain.

4.4.1 Support a Comprehensive Communication Strategy

59. **Information is the single greatest entry point for fostering greater social accountability in Burundi. All citizen focus groups spoke about the lack of information regarding communal affairs.** The situation presents itself as either information is posted, but it is neither well communicated nor understood, or there is a complete absence of information and communal affairs continue under a veil of secrecy. Specific recommendations include: (i) increase local citizens awareness of meetings, the venues, and rights to participate; (ii) simplify the communal budget format, to include closing and opening balances of not more than one page; (iii) translate the budget into Kirundi and disseminate it to the hillsides to be read aloud during local development meetings; (iv) post, at least monthly, the tax revenues collected by the commune; and (v) post in a simplified format in Kirundi, at the beginning of the fiscal year, the

actual budget expenditures from the previous year.

4.4.2 Increase Awareness-Raising Efforts Among Both Local Citizens and Elected Officials

60. **Evidence suggests that information alone is rarely sufficient to improve accountability outcomes (O’Meally 2013).** In focusing on a multipronged approach to accountability reform, it will be essential to supplement any information/communication strategy with robust awareness raising efforts to support citizens in an ongoing and sustained engagement with local authorities. Moreover, supporting the awareness of locally elected officials is as important. From interviews with locally elected officials, communal councilors justified their lack of transparency by the fact that they were elected by the population. Since every decision they take is on behalf of the population, no further account to the population should be necessary (communal data collected in Makebuko, p. 24).¹¹⁸

61. **Given the existing role of CSOs at the communal level in disseminating information, specific recommendations are to support CSOs to (i) increase citizen participation through more proactive awareness-raising strategy, (ii) actively support citizens in contributing toward communal projects and activities, and actively demand accountability to local authorities via their contributions, and (iii) actively support citizens in the transformation of traditional political relations.**

4.4.3 Empower Civil Society Actors to Bridge the Gap between Local Citizens and Public Authorities

62. **Greater engagement with civil society actors at the local level has the potential to bridge the gap between citizens and**

118 Full data collected for the Commune of Makebuko available upon request.

administration officials, and foster a culture of greater social accountability. The lack of demand-side accountability in Burundi is striking at the local level. The capital and larger towns have a vibrant civil society scene, but the majority of rural communities have an absence of civil society actors that focus on governance and accountability issues. Local CSOs in rural communities that focus largely on development objectives are technical in nature. Acknowledging the role played by GIZ in the CDP process by disclosing regular information on meetings and their locations to citizens and identifying mechanisms to include vulnerable members of the community, it seems there is an entry point for communal administrations to engage with CSOs to increase awareness of citizens on civic matters. Working through local CSOs will act as a bridging mechanism to enhance a more positive social contract in Burundi. Returning to the conceptual framework, to bolster the constituent element of “information,” the average Burundian citizen requires assistance to understand information that has not been widely discussed in public to date—such as the communal budget and tax revenues collected and their use. Specific recommendations include: (i) communes to develop a partnership with local CSOs specifically around recommendations cited above (which requires training and an awareness on both sides on which issues should be the focus of actions), (ii) CSOs to monitor communal budget planning and tax collection, (iii) civil society to voice problems as they arise and encourage citizens to learn the role of local government and the responsibilities of citizens, (iv) CSOs to encourage citizens to fully participate in local meetings (particularly the twice yearly “accountability” meetings in each commune), and (v) CSOs to advocate for vulnerable groups within society and raise concerns of these groups to local administration officials.

63. The above recommendations rely heavily on communal administrations that are prepared to reform and hold themselves accountable to citizens. Feedback from focus

group discussions point to the readiness of most communal officials, particularly around the necessity to engage more with citizens with respect for increased revenue collection. Communes visited where citizens provided more positive feedback on performance of the commune (namely Rutegama and Gisozi for example) had already commenced with limited reforms. These communes require support to standardize approaches and provide guidance on specific tools that may be appropriate for their use. But communes where leadership was lacking (recent turnover of communal administrators, and more complaints by citizens around high levels of corruption in the focus group discussions) will have a more difficult time accepting reforms that demand greater transparency and open dialogue with CSOs and citizens. Based on the primary research undertaken for this chapter, communes in Burundi have already begun to emerge on two different tracks—those that are working toward citizen participation and more social accountability, and those that are grappling with good governance issues within their internal administration. The latter is required to commence on the first track.

4.4.4 Harmonize Tax Collection across Communes

64. A transparent and harmonized method for tax collection, that acknowledges the prevalence of leakage of funds, should be adopted across communes. During focus group discussions all groups expressed an enormous problem around moving beyond a local tradition of “in-kind” tax payments over cash tax payments. Focus group discussions with communal officials showed that communes are ready to engage in reforms and work with citizens to increase revenues. The example of the Commune of Rutegama demonstrates concretely the possibility of employing a social accountability strategy to increase, in the first instance, confidence among citizens to engage with the state, and subsequently to increase local tax revenues to be used for communal investments. Recommendations

include: (i) linked to the above category, launch an information campaign targeted toward citizens and local civil society actors on the reason for paying taxes, and more importantly the use of tax revenues; (ii) to repeat from above, post on a monthly basis the tax revenues collected by the commune; and (iii) move away from using elected officials, such as hillside chiefs, as tax collectors, and hire and train contracted tax collectors. A reasonable salary scale will need to be instituted to mitigate against leakage of funds.

4.4.5 Support Citizen Engagement and Participation within the Current Decentralization Framework

65. **A thorough review of the existing decentralization framework, and its rules and procedures, provides opportunities for citizen engagement within the current context and process.** For example, the communal law stipulates that: *“Le conseil communal organise au moins deux fois par an des rencontres ouvertes aux conseils de collines [et....], pour les informer de manière transparente sur la situation politique, sociale et économique prévalant dans la commune et ses perspectives”* (GoB Manuel d'évaluation de la Performance des communes), which translates (by author) as: “the communal council is to hold at least twice a year meetings that are open to hillside councilors (*conseils de colline*) [and . . .] to inform them and be transparent on matters

relating to the political, social and economic situation of the commune and its prospects.”

66. **Although interviews with local authorities reveal that they are well aware of communal council meetings and their activities, discussion groups with local citizens reveal the contrary.** Some local citizens stated that: “heads of hillsides (*chefs de collines*) are invited but rarely are hillside councilors (*conseils de collines*) invited”; others think that meeting dates of the communal council are not published or announced; and some are not sure whether they have the right to attend communal council meetings. In practice, the bottom-up approach to the decentralization process does not hold true, and accountability continues to run upward to the center.

67. **Cognizant that the Burundian decentralization process aims to empower and engage citizens through its various texts and procedures, and also that this framework is known by local authorities, it is important to ensure that it is practiced in the field.** Therefore, it is recommended that country partners: (i) be fully aware of the various opportunities available for citizen engagement within the current context, and (ii) support local officials, including locally elected citizens, in abiding by the decentralization rules and procedures in place.

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ANNEXES



ANNEX 1

COMMUNAL MERGER: SUPPLEMENTARY INFORMATION

Data

A survey was carried out in August 2013 for the 16 communes listed in table A5.1. This is a reasoned sample with one commune in each province with diversity in population, area, topography, and urbanization. Availability of information (administrative and financial) was also taken into account.

| Table A1.1 Characteristics of Communes Surveyed in August 2013 | | | |
|--|------------|------------|----------------------|
| Province | Commune | Population | Area km ² |
| Bujumbura | Mutimbuzi | 69 037 | 181,1 |
| Bubanza | Gihanga | 53 222 | 287,3 |
| Cibitpoke | Mabayi | 66 531 | 347,5 |
| Kayanza | Matongo | 70 652 | 167,8 |
| Ngozi | Ngozi | 64 321 | 121,3 |
| Kirundo | Busoni | 146 188 | 420,9 |
| Muyinga | Giteranyi | 152 276 | 397,8 |
| Cankuzo | Mishiha | 49 941 | 381,2 |
| Ruyigi | Butaganzwa | 64 063 | 341,3 |
| Rutana | Rutana | 52 445 | 255,3 |
| Makamba | Mabanda | 44 792 | 294,9 |
| Karuzi | Buhiga | 70 392 | 275,4 |
| Gitega | Gitega | 156 096 | 315,4 |
| Muramvya | Rutegama | 39 896 | 83,5 |
| Mwaro | Gisozi | 27 953 | 118,7 |
| Bururi | Matana | 44 059 | 207,4 |

Source: Rapport Définitif De Collecte Des Données En Rapport Avec Les Frais De Fonctionnement des Communes et la Fiscalité Communale par BUGAFIRO Pascal et MBARUBUKEYE Séverin et données du Recensement 2008. Le travail de cueillette de données a été réalisé de façon efficace par BUGAFIRO Pascal et MBARUBUKEYE Séverin.

The main objectives of the survey were to collect information on the time and expenses spent to acquire a communal service or fulfill a communal legal requirement and on the operation costs of communes (fixed and variable). To achieve the first objective, a sample of 50 bills by commune was drawn and for each the usual time and distance between the communal office and the residence of the payer with it ascertained from communal officials.

Figures A1.1 and A1.2 present information on distance and time walked to reach communal headquarters.

The Annual # of Interactions between Residents of Communes and Communal Headquarters

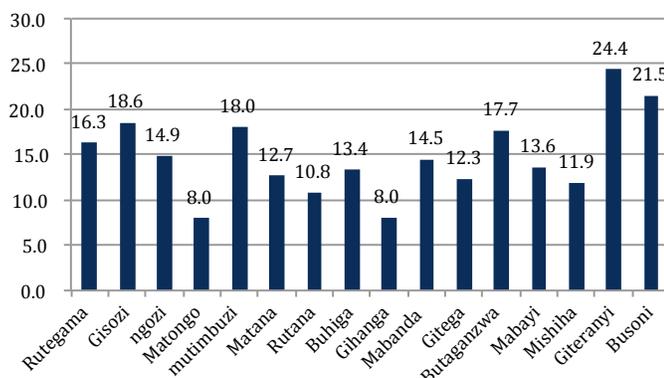
The average # of bills paid annually per inhabitant is 12,5 per hundred inhabitant with extreme values included and 8,3 when we exclude the two extremes at both ends going from 15 to 11 values. Payment of bills is not the sole interaction with the commune. We thus assume 15 interactions par 100 inhabitants. Since the communal population outside Bujumbura is about 10, 5 million this yields 1 575 000 annual interactions.

The Cost in Time and FBU of Interactions

For the 800 bills examined the average return distance is 15 km and the average time 150 minutes. We had in work before this survey computed a plausible distance of 14 km based on the fact that¹¹⁹ a typical commune would be 225 km² and thus a square of 15 km X 15 km. If headquarters are in the centre the maximum distance as the crow flies is 7,5 km and the average, assuming a uniform population density, is 3,75 km. Doubling this to account for the fact that humans do not fly yields 3, 75 * 2=7 km X 2= 14 km return trip.

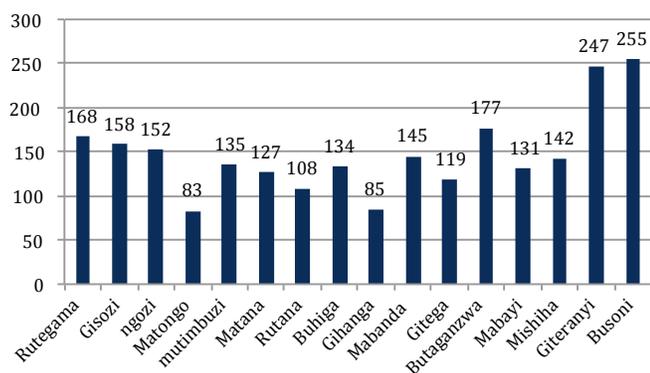
The time required seems a bit low given the topography of Burundi and typical human walking speed¹²⁰ (5 km/h) but not implausible. Multiplying 150 minutes X 1 575 000 yields 236 250 000

Figure A1.1 Distance Walked, 16 Communes, Burundi 2013 (Communes Ranked by Area)



Source: Author's compilation, using survey data.

Figure A1.2 Time Walked, 16 Communes, Burundi, 2013 (Communes Ranked by Area)



Source : Authors' compilation, using survey data.

119 *La décentralisation financière au Burundi: quelques observations* rapport préparé pour la Banque Mondiale Juin 2013.

120 See references cited in <http://en.wikipedia.org/wiki/Walking>.

minutes or 3 937 500 hours or 491 818 days (8 hours day). We were informed that the best way of valuing time in the countryside was to use the wage of shepherds; this is FBu 1,000 per day + food and housing also worth FBu 1,000 per day. Thus rounding we estimate at FBu 1,000 million the value of time allocated to travelling to the communal headquarters.

Establish the Plausible Reduced # of Communes

We have no official information on this; we assume a reduction of two thirds to 40 communes.

Calculate the Reduction in Communal Costs Publics Resulting from the Reduction in the # of Communes

The cost per inhabitant of bonuses paid by communes to mayors (administrateurs communaux) and their two key advisors (conseillers techniques) is FBu 31 per habitant, that FBu 325 500 000 for the 116 communes. Reducing the # of communes to 40 reduces these costs by FBu 215 Million. We must add the salaries paid by the central government to this. The mean annual salary of an advisor is FBu 1.5 million; thus the drop in the number of communes would reduce central costs by 228 million. The mayors cost 1,6 million each or a drop of FBu 122 million.¹²¹ So the plausible minimal reduction in salary costs is 565 million. Other costs could also be reduced if the number of communes was decreased. A communal development plan (Plan Communal de Développement Communal or PCDC costs FBu 27 Million to prepare in 2012¹²² and is valid for five year; thus an annual cost of about FBu 6 Million. A reduction to 40 communes reduces these costs by 456 Million (76 X 6) if the cost of a PCDC does not vary with the area of the commune. This is unlikely given the need for consulting populations. If we assume a 50 percent increase in the unit cost (from 6 to 9 in annual costs) with a doubling of the size of a commune then we have a 336 million reduction. Adding this yields a reduction of 931 million.

The other employees of communes cost FBu 285 per inhabitant that is 3 billion for the 116 communes. If a reduction in the # of communes to 40 means they were dismissed, this would reduce costs by FBu 2 billion. This is not compatible with maintaining old communal headquarters as service outlets. And this does not take into account increasing service provision at the zonal level

The Impact on the User of Communal Services

With 40 communes, their population is about 250 000 and their area 640 km² a square 25 km X 25 km and a maximum straight line distance of 12, 5 km. The average distance becomes 28 km return doubling the time cost of accessing communal headquarters. This increases private costs by FBu 1,000 million.

This assumes no drop in the number of interactions residents-communes. If there is a drop the increase in costs is less but other consequences follow such a drop in the number of registered births or in taxes paid.

121 This number is obtained by combining information from the Ministère de l'Intérieur and from the pay bureau of the Ministère des Finances.

122 Data provided by the World Bank office, Bujumbura.

ANNEX 2

LIST OF PEOPLE CONSULTED DURING THE PREPARATION OF THE STUDY

To ensure effective dialogue with government authorities, and maximize the joint ownership of the study, the Bank Task team carried out six missions to Burundi. Specifically, the consultation process with government and representatives of the donor community started with two subsequent missions in early 2013 (January and March 2013, respectively), which helped to define the scope of the study and leverage donor financing in the context of the “Programmatic PER.” A third mission helped to continue discussions on the draft PCN (May 2013) and was followed by two rounds of data collection (August–September and November–December 2013, respectively), coordinated. Preliminary drafts of the analysis were shared during one subsequent mission (January 2014), to give the authorities the opportunity to react and provide feedback to the team. Moreover, a validation mission was held in June 2014 to share the draft report with government authorities and the donor community where government officials, development partners and civil society organizations provided several comments and feedbacks. While a final mission to present the final draft report incorporating all comments received has been shared with the authorities in the September 2014 mission. The list of people met and interviewed during the missions and their respective institutional affiliation is provided below.

| Table A2.1 Government of Burundi | | |
|--|--|--|
| Name | TITLE | Organization |
| Office of the Presidency and Vices Presidencies | | |
| Ntahiraja, TERENCE | Conseiller | Présidence de la République |
| Nkinahamira, Pascasie | Conseillère Juridique | 1ere Vice-Présidence |
| Nshimirimana, TERENCE | Conseiller | 2eme Vice-Présidence |
| Ministry of Communal Development | | |
| Giteruzi, Dieudonné | Ministre | Ministère du Développement Communal |
| Sindakira, Lazare | Secrétaire Permanent | Ministère du Développement Communal |
| Ntahirageza, Jean-Marie | Directeur Général de la Décentralisation | Ministère du Développement Communal |
| Manirakiza, Léopold | Directeur General | Ministère du Développement Communal |
| Kwizera, Priscille | Agent | Ministère du Développement Communal |
| Njebarikanuye, Spès-Caritas | Directeur Général | Fonds national d’investissement communal (FONIC) |
| Bigirindavyi, Thomas | Département Comptabilité | Fonds national d’investissement communal (FONIC) |

| | | |
|--|--|---|
| Ntahomvukiye, Mathias | Chef Comptable | Fonds national d'investissement communal (FONIC) |
| Manirakiza, Eric | Directeur Administratif et Financier | Fonds national d'investissement communal (FONIC) |
| Ntavyohanyuma, Letitia | Chargée de la Communication | Fonds national d'investissement communal (FONIC) |
| Ministry of Intérieur | | |
| Nduwimana, Edouard | Ministre | Ministère de l'Intérieur |
| Mbonabuca, Thérance | Directeur Général de l'Administration du Territoire | Ministère de l'Intérieur |
| Sindayihebura, Firmin | Directeur du Département des Finances communales | Ministère de l'Intérieur |
| Melchior Gahungu | Inspecteur des Finances | Ministère de l'Intérieur |
| Ministry of National Solidarity, Human Rights and Gender | | |
| Munyaneza, Aline | Cadre | Ministère de la Solidarité Nationale |
| Ministry of Water, Environnement, de l'Aménagement du Territoire et de l'Urbanisme (MEEATU) | | |
| Macumi, Damien | Coordinateur National- Unité de Gestion du Programme National Foncière (PNF) | MEEATU |
| Ndikumana, Ernest | Directeur Général Aménagement du Territoire | MEEATU |
| Ngendabakana, Frédéric | Directeur Bureau Centralisation Géomatique | MEEATU |
| Mboneko, Félix | Directeur Cadastre | MEEATU |
| Ministry of Finance, Planning and Economique Development | | |
| Bigirimana, Immaculée | Secrétaire Permanent | Ministère des Finances et de la Planification du Développement Economique |
| Mushariste, Désiré | Coordonateur des Aides | Ministère des Finances et de la Planification du Développement Economique |
| Kwizera, Christian | Coordonateur Adjoint des Aides | Ministère des Finances et de la Planification du Développement Economique |
| Office Burundais des Recettes | | |
| Holmes, Kieran | Commissaire Général | Office Burundais des Recettes |
| Nzeyimana, Thacien | Directeur | Office Burundais des Recettes |
| Ndayzeye, Avit | Chef de Service Affaires Juridiques | Office Burundais des Recettes |
| Tesfaye Wondim | Directeur Informatique | Office Burundais des Recettes |
| Ministry of Public Services | | |

| | | |
|--|--|--|
| Nderagakura, Janvier | Conseiller du DCAPR | Ministère de la Fonction Publique |
| Batungwanayo, Balthazar | Chef de Service Centre Inter-Ministériel des Ressources « Database of Civil Servants » | Ministère de la Fonction Publique |
| Hakizimana Potame | Secrétaire Exécutif du CERAP | Ministère de la Fonction Publique |
| Esperance Habonimana | Directeur Général | Ministère de la Fonction Publique |
| Parliament of Burundi | | |
| Honorable Nkurunziza, Innocent | Sénateur | Sénat du Burundi |
| Kigeme, Ariane | Conseillère Décentralisation | Sénat du Burundi |
| Honorable Nkurunziza, Aimé | Député | Assemblée Nationale du Burundi |
| Nkuzimana, Tharcisse | Chef de Service Décentralisation | Sénat du Burundi |
| Civil Society Organization | | |
| Nzohabonimana, Alexis | Président | Association Burundaise des Elus Locaux (ABELO) |
| Bikebako, Pontien | Président | ONG Twitezimbere |
| Nihangaza, Charles | Expert en Finances Publiques | |
| Academia | | |
| Banderembako, Paul | Vice-Recteur | Université du Burundi |
| Table A2.2 Development Partners | | |
| NAME | TITLE | Organisation |
| Claudio Tognola | Directeur de Coopération | Coopération Suisse |
| Pitteloud, Alansar Elisabeth | Directrice de Coopération | Coopération Suisse |
| Ndikumasabo, Annonciata | Directrice du Programme | Coopération Suisse |
| Johannsen, Achim | Chef de Coopération | Ambassade d'Allemagne |
| Proehl, Alexander | Coordinateur du Programme ADLP | GIZ |
| | Programme ADLP | GIZ |
| Bafutwabo, Léopold | Programme ADLP | GIZ |
| Nzobambona, Isidore | Représentant Local | KFW |
| Nindorera, Yves | Chargé de Programme | Ambassade de Belgique |
| Hermouet, Murielle | Assistante Technique PADILPC | Coopération Technique Belge (CTB) |
| Corbel, Hervé | Assistant Technique | Coopération Technique Belge (CTB) |
| Tilli Blomhammar, Charlotte | Chargée de Programme | Délégation de l'Union Européenne |

| | | |
|------------------|---------------------|--|
| Charvet, Eric | Responsable | Programme d'Appui à la Bonne Gouvernance |
| Okry, Marc | Assistant Technique | Programme d'Appui à la Bonne Gouvernance |
| Vrijlandt, Anthe | Manager | Trade Mark East Africa |

| Table A2.3 World Bank Staff | |
|------------------------------------|---------------------------------------|
| Alain-Désiré Karibwami | Senior Health Specialist |
| André Teyssier | Senior Land Administration Specialist |
| Aurelien Serge Beko | Economist |
| Mamadou Ndione | Senior Country Economist |
| Nadia Belhaj Hassine Belghith | Senior Economist |
| Rachel Bernice Perks | Mining Specialist |

ANNEX 3

VALIDATION WORKSHOP SUMMARY REPORT

A. Allocutions d'ouverture

Le 2 juin 2014, la Banque mondiale en collaboration avec le Gouvernement du Burundi et ses partenaires techniques et financiers a organisé un atelier de validation du rapport préliminaire de l'étude sur la décentralisation fiscale et la gouvernance locale à l'hôtel Royal Palace de Bujumbura. La cérémonie d'ouverture de l'atelier a été marquée par la présence du Représentant Résident de la Banque mondiale, plusieurs membres du gouvernement, dont le Ministre du Développement Communal, un député de l'Assemblée Nationale, de nombreux hauts cadres de l'administration publique burundaise, ainsi que la société civile.

L'objectif principal de l'atelier était d'ouvrir le débat autour des résultats clés de l'étude ainsi que de recevoir des commentaires et observations constructives du gouvernement et de la société civile.

Compte tenu de l'importance des questions traitées dans ce rapport, le ministre du Développement Communal a félicité l'équipe projet d'avoir fourni des analyses très pertinentes et de répondre aux besoins du Gouvernement Burundais dans la mise en œuvre de son programme de décentralisation tel qu'énuméré dans l'Accord de paix d'Arusha.

Un groupe technique composé de quatre membres du gouvernement a été mis en place afin de donner une position unie et claire des commentaires et observations du gouvernement.

Les discussions de l'atelier ont été organisées autour des chapitres clés du rapport notamment la décentralisation budgétaire qui a traité les questions de fiscalité et des politiques publiques liées à la décentralisation ; la gouvernance foncière décentralisée qui traite des questions de gestion et sécurité foncière, ainsi que le chapitre sur la redevabilité sociale. Un panel de 5 experts dont un représentant du gouvernement (le Directeur Général au Ministère du Développement Communal) ; un représentant du Parlement (un Député à l'Assemblée Nationale) ; un expert en finance publique (Conseiller fiscal agréé) ; un expert en politique foncière (le Coordonnateur national de l'Unité de Coordination du Programme National Foncier, PNF) et un représentant de la société civile (Président de l'ABELO).

B. Commentaires et observations du Gouvernement

| Observations/Commentaires Soulevés | Réponses de l'équipe |
|--|---|
| Observations générales sur le rapport préliminaire | |
| <p>Les observations générales sur le rapport sont les suivantes :</p> <ul style="list-style-type: none"> • Le titre du document de rapport semble un peu flou comparativement au contenu ; • Il n'y a pas un lien dans la succession des chapitres ; • Le document nécessite un toilettage au niveau de la forme car certaines affirmations et chiffres ne sont pas correcte et dans tous les chapitres ; • Certains paragraphes sont à reformuler ; • Il y a certains termes ou vocabulaires qui ne sont pas utilisés au Burundi ; • Les analyses effectuées par cette étude de la Banque Mondiale sont en général objectives, bien fouillées reflétant des observations et recommandations pertinentes mais quelques conclusions ou recommandations sont à reformuler. | <p>En tant que rapport préliminaire le titre n'est pas encore définitif et l'équipe trouvera un titre reflétant mieux le contenu du rapport.</p> <p>L'équipe a réalisé que la traduction n'a pas pu prendre en compte les termes techniques du rapport. Un toilettage se fera sous peu.</p> |
| Chapitre 1 : Comprendre le contexte de la décentralisation au Burundi | |
| <p>Le chapitre titré « comprendre le contexte de la décentralisation au Burundi » a été bien analysé mais il faut ajouter les récentes évolutions du cadre réglementaires par rapport à la décentralisation. Il faut signaler que le Gouvernement vient d'adopter certains textes réglementaires.</p> | <p>Une revue sera effectuée afin de s'assurer que tous les textes réglementaires y compris les nouveaux ne sont pas omis.</p> |
| Chapitre 2: La décentralisation budgétaire- contexte, questions liées aux politiques publiques et possibilités de changement | |
| <p>De manière générale et du point de vue d'un praticien de ce secteur <u>de décentralisation fiscale et budgétaire</u> les analyses effectuées dans le chapitre 2 qui traite de la «Décentralisation budgétaire, contexte, questions liées aux politiques publiques et possibilités de changement » sont réputées objectives, bien fouillées reflétant des observations et recommandations pertinentes. L'état des lieux de la Décentralisation budgétaire actuelle est celui réellement vécu aujourd'hui par les communes. Il est effectivement caractérisé par de faibles transferts de ressources de l'Etat aux communes.</p> | <p>Merci.</p> |
| Chapitre 3 : Gouvernance foncière décentralisée : défis et opportunités | |
| <p>De façon globale, les conclusions et observations du chapitre qui traite la gouvernance foncière décentralisée sont correctes mais dans le développement de ce chapitre les données et les analyses restent à améliorer. A titre illustratif :</p> | <p>Bien noté.</p> <p>L'équipe de la Banque mondiale effectuera ses changements.</p> |

| | |
|--|---|
| <ul style="list-style-type: none"> • l'Unité de Coordination du Programme national foncier, responsable de la décentralisation de l'administration foncière » : cette expression paraît équivoque. On ne décentralise pas l'administration foncière classique (DG cadastre et DG titres Fonciers notamment) mais on crée des services fonciers au niveau des communes qui ont des rapports avec cette administration foncière classique mais n'en sont pas des entités décentralisées. Les procédures utilisées, les documents délivrés, les acteurs intervenants ne sont pas les mêmes. Donc il faut plutôt dire que « l'Unité de Coordination responsable de l'accompagnement du Gouvernement dans la mise en œuvre de la gestion foncière décentralisée » ; • Le nombre de parcelles à enregistrer au niveau national est entre 8 et 9 millions au lieu de 3-4 millions, • Il semble important de rappeler que les Opérations Groupées de Reconnaissance (OGR) n'ont (actuellement) pour résultat direct et automatique « que » la réalisation des reconnaissances collinaires et la production du PV de reconnaissance et non pas le Certificat Foncier, qui n'est lui produit que sur demande et après paiement par l'utilisateur. | |
| Chapitre 4 : Promouvoir la redevabilité sociale par la décentralisation : la voix des citoyens | |
| <p>Les analyses effectuées par cette étude de la Banque Mondiale sont, sur ce chapitre, peu objectives car certaines conclusions sont tirées sur base d'un cas isolé. Les conclusions de ce chapitre sont à améliorer notamment :</p> <ul style="list-style-type: none"> • L'exclusion sociale est un phénomène généralisé au Burundi et de nombreuses personnes interrogées ont donné la sensation d'être automatiquement exclus de la vie citoyenne • La participation citoyenne est généralement considérée comme un moyen de recueillir les informations venant du sommet, des représentants du pouvoir local et non comme un forum de décision et d'échange. • La participation peut être considérée comme un moyen d'élargir le contrôle de l'Etat sur les citoyens et le territoire. • Le Processus d'élaboration des PCDC a encouragé la préparation à l'identification des priorités devant être transmises au sommet mais peu ou aucune information n'est redescendue vers la base • Le processus d'élaboration des PCDC manque donc de redevabilité envers la base et ne permet aucune émancipation de la population • Avant les effets de la réforme récente du FONIC, les représentants de l'Administration locale ont une perception très négative du FONIC, du fait du faible niveau de décision sur l'utilisation des fonds. | <p>L'équipe de la Banque mondiale remercie le gouvernement d'avoir relevé ces commentaires et souhaite rappeler que les conclusions tirées de cette étude sont basées sur les résultats des différents groupes focus organisés dans 16 communes provenant de 8 provinces burundaises. Toutes les informations contenues dans ce chapitre ne relèvent pas du point de vue des consultants internationaux de la Banque mondiale mais plutôt du point de vue des plus de 300 résidents et élus locaux des communes ayant participé dans cette enquête. L'équipe souligne aussi que les équipes de consultants qui ont coordonnées cette enquête étaient composées de citoyens Burundais et non des consultants internationaux.</p> |

| | |
|---|--|
| <ul style="list-style-type: none"> • La redevabilité sociale au Burundi demeure faible et les citoyens et les communautés ont peu d'occasions de s'engager dans le processus décisionnel et de mettre les autorités locales devant leur redevabilité • L'élaboration du plan communal de développement communautaire, outil de la planification ne peut pas s'accommoder avec le budget communal. | |
|---|--|

C. Contributions des panelistes et des participants

| Observations/Commentaires | Commentaire par : | Réponses |
|---|--|--|
| Observations générales sur le rapport préliminaire | | |
| <p>L'assistant technique du projet « Gutwara Neza » indique que le rapport aborde les sujets les plus importants au Burundi dont la décentralisation, la gestion foncière, la redevabilité sociale etc. Les nouvelles modifications de la loi communale n'ont pas toujours été adoptées malgré que le gouvernement ait promis l'adoption de cette loi depuis le début de cette année. Ceci montre un manque de volonté politique de la part du gouvernement face à la question de décentralisation. Sur ce il faut que les représentants du gouvernement clarifient si la décentralisation est une priorité pour le GdB.</p> | <p>Marc Okry</p> <p>Gutwara Neza</p> <p>Honorable Aimé Nkurunziza</p> <p>Jean-Claude Hatungimana MDC</p> | <p>L'assistant du Ministre du développement communal a affirmé que le projet de loi sur le transfert des compétences aux communes est en court et avance et le gouvernement est engagé à l'adopter.</p> <p>Cependant M. le député a l'Assemblée nationale affirme que le 2 juin (aujourd'hui) marque le début de la session de Juin à l'Assemblée nationale, pourtant le projet de loi portant sur le transfert des compétences ne figure pas sur l'agenda des lois qui seront débattues et analysées au cours de cette session. Par contre l'amendement à la loi communale sera traité dans cette session afin que la loi soit en harmonie avec le nouveau code électoral.</p> <p>Il est alors important que le projet de loi portant sur le transfert des compétences aux communes soit adopté de préférence avant la loi communale afin de l'harmoniser avec cette dernière, ou soit que le projet de loi soit adopté ensemble avec la loi communale présentement au parlement. Par conséquent, le bureau du ministre du développement communal doit accélérer le processus d'approbation du projet de loi au gouvernement.</p> |

| Résumé executive | | |
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| <p>Le Directeur général de l'Aménagement du Territoire pose la question de savoir pourquoi à la page 7 du rapport, on fait une référence aux Batwas, ce qui n'a aucun lien au contenu du rapport. Il pense cependant que ce paragraphe devrait être supprimé.</p> <p>Sur la page 5, il se demande si la Banque mondiale recommande le retour des « Bashingantahe » en tant qu'institution reconnue en ce qui concerne la résolution des conflits fonciers.</p> | <p>Ernest Ndikumana/ Directeur Général de l'Aménagement du Territoire</p> | <p>L'équipe de la Banque mondiale a expliqué qu'elle ne fait pas une recommandation du retour des « Bashingantahe » mais que l'on ne peut pas ignorer le rôle important qu'ils jouent sur le terrain en matière de résolution des conflits fonciers malgré qu'ils ne soient plus reconnus par la loi.</p> |
| Chapitre 1 : Comprendre le contexte de la décentralisation au Burundi | | |
| <p>Le Directeur général au Ministère du Développement Communal a passé en revue les avancées de la décentralisation tout en signalant qu'il y a des efforts en appui et des renforcements de capacités à fournir aux élus locaux. Il constata aussi quelques autres défis notamment :</p> <ul style="list-style-type: none"> • Le manque de transferts de certaines compétences aux communes • L'amélioration du cadre institutionnel du processus de décentralisation afin que le gouvernement puisse mieux faire ses transferts de compétences aux communes • La communication a grande échelles du processus de la décentralisation • La coopération décentralisée afin de promouvoir l'intercommunalité entre communes | <p>Jean Marie Ntahirageza/ MDC</p> | <p>L'équipe de la Banque mondiale trouve que ses observations et commentaires sont en accord avec les résultats du rapport préliminaire.</p> |
| <p>Honorable Aimé Nkurunziza à son tour a félicité l'équipe projet pour un rapport de projet bien fait. Il ajoute que le rapport a bien répondu aux demandes du gouvernement. Néanmoins, il souligne quelques observations notamment :</p> <ul style="list-style-type: none"> • La page 17 du rapport explique le processus de la décentralisation jusqu'en 2010 et aurait pu ajouter une analyse sur l'architecture institutionnelle comme étant une entrée à la décentralisation. Il ajoute aussi que le rapport aurait pu aller de l'avant et soulever d'autres questions sur la compatibilité entre l'accord de paix d'Arusha et la décentralisation. | <p>Aimé Nkurunziza</p> | <p>Merci</p> |

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| <ul style="list-style-type: none"> • Une comparaison de la décentralisation du Burundi avec les autres pays notamment le Rwanda n'est pas acceptable car ces deux pays malgré similaires ont de différentes réalités socio-politiques. Il a aussi ajouté que la décentralisation est un choix politique. | | |
| <p>Chapitre 2: La décentralisation budgétaire- contexte, questions liées aux politiques publiques et possibilités de changement</p> | | |
| <p>L'Expert en finances publiques du panel a fait les constats suivants sur la décentralisation notamment :</p> <ul style="list-style-type: none"> • Le revenu faible des communes faute de mobilisation financière sauf les communes qui ont un appui des PTFs • L'analyse sur la mobilisation des ressources propres des communes devrait inclure la société civile et le secteur privé. • Il signe aussi l'anarchie observée dans certaines collines ou certains chefs de collines jouent le rôle de percepteurs d'impôts • La nécessité d'ouvrir un débat avec le gouvernement sur le transfert des compétences et le renforcement des capacités. | <p>Charles Nihangaza</p> | <p>La faiblesse de la décentralisation est due notamment au fait que :</p> <ul style="list-style-type: none"> • Toutes les communes ne maîtrisent pas l'assiette fiscale. • Les exonérations du gouvernement qui ne sont pas bien définies. • La question des passations des marchés • Le manque de communication budgétaire • Le manque de contrôle au niveau comptabilité du fait que le comptable est recruté par l'administrateur. |
| <p>Le Représentant de l'OBR a porté une observation sur l'harmonisation des collectes de recettes communales et aussi l'élimination de la double imposition au niveau communal afin que l'OBR puisse avoir un partenariat gagnant-gagnant avec les communes.</p> | <p>Thacien Nzeyimana</p> <p>OBR</p> | |
| <p>Le Secrétaire exécutif du CERA de la Fonction Publique indique son désaccord avec les recommandations sur la réduction des communes. Il pense qu'un regroupement communal serait plus bénéfique aux communes.</p> <p>Il ajoute que pourquoi ne pas changer la procédure actuelle de transferts de compétences aux communes suivi du financement de FONIC et suggère de transférer les compétences aux communes, une fois ces compétences acquises, le gouvernement devrait lier les exercices de performances des communes à leur financement.</p> | <p>Potame Hakizimana</p> <p>CERA/Fonction Publique</p> | <p>L'équipe de la Banque mondiale a expliqué que le problème de regroupement des communes ne résoudra pas les faiblesses existantes des communes. Le problème le plus immédiat à résoudre est le transfert des compétences, sans lequel les communes ne pourront pas fournir des services à leurs résidents.</p> <p>Un représentant du gouvernement a indiqué que suite aux nouvelles réformes du FONIC, il y a eu notamment des nouvelles avancées dont la contribution du FONIC à la fourniture des matériaux pour la construction des écoles fondamentales.</p> |

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| <p>La Directrice de la Coopération Suisse a apprécié que cette étude sur la décentralisation ait soulevé les questions de la gestion et sécurité foncière ainsi que des recommandations pertinentes pour le futur.</p> <p>En outre elle pense que le rapport aurait pu aborder les questions de gestions et contrôle des finances au niveau communal. Une recommandation axée sur des mécanismes de contrôle aurait été souhaitable.</p> <p>En ce qui concerne la mobilisation des ressources propres des communes elle se demande pourquoi l'équipe s'est-elle focalisée sur l'exploitation minière à grande échelle comme moyen de financement potentiel des communes et s'il y avait d'autres sources de financement.</p> <p>Elle a aussi soulevé les questions sur la gestion faible des marchés publics.</p> | <p>Coopération Suisse</p> | <p>Le GdB est tout à fait d'accord avec les observations sur l'absence de mécanisme de contrôle au niveau communal. Actuellement, il n'existe aucun mécanisme de contrôle interne ni externe pour règlementer les finances communales et ceci est l'une des priorités du gouvernement.</p> <p>Un représentant du programme "Gutwera Neza" a indiqué que le programme avait créé un manuel de procédure pour la comptabilité communale ainsi qu'un projet de loi qui reste à être discuté et approuvé par le gouvernement.</p> <p>L'équipe de la Banque a expliqué que l'exploitation minière a été choisie du fait qu'elle représente l'un des principaux axes prioritaires dans la Stratégie d'aide-pays ainsi que la CSLP II. Le choix sur la gestion foncière est basé sur le fait que la réforme foncière n'avance pas. En outre, puisant des expériences d'autres pays, le coût des certificats devient élevé quand il n'est pas un processus d'enregistrement complet donc ce rapport a trouvé qu'il existe une opportunité de combiner la gestion foncière de la décentralisation.</p> <p>Le gouvernement a répondu qu'un nouveau décret vient d'être approuvé pour mieux répondre à la problématique de la gestion des marchés</p> |
| <p>Le représentant de l'ambassade d'Allemagne a demandé une clarification du terme "basket fund" au gouvernement.</p> | <p>Représentant de l'ambassade de l'Allemagne</p> | <p>Un membre du gouvernement a expliqué que ce terme définit le niveau de fonds commun du gouvernement destiné à l'investissement communal. Ce fonds sera régi par des critères que le gouvernement devrait tenir en considération avant tout transfert au FONIC.</p> |
| <p>Un représentant du gouvernement a suggéré que les textes du rapport en page 40 mettent en exergue les nouvelles réformes du FONIC et ses nouveaux mécanismes de transferts.</p> | <p>MDC</p> | <p>Bien noté. L'équipe de la Banque mondiale modifiera ce paragraphe pour mettre à jour les réformes du FONIC.</p> |

| Chapitre 3 : Gouvernance foncière décentralisée : défis et opportunités | | |
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| <p>L'expert en politique foncière du panel a noté qu'il y a eu des confusions dans la traduction du rapport de l'anglais au français notamment la gestion foncière qui est un système classique et la gestion foncière décentralisée qui sera un nouveau système. Il ajoute que le gouvernement a commencé quelques petites réformes foncières notamment la lettre de la politique foncière de 2010. Malgré qu'il ne soit pas un décret, il contient la vision du gouvernement sur ce secteur.</p> <p>Cependant il a constaté aussi qu'il manque un cadre institutionnel foncier ainsi qu'un programme national foncier, ce qui relève la question d'appropriation du gouvernement vis-à-vis des questions de la gestion foncière.</p> | <p>Damien Macumi/ Coordonnateur National- Unité de Coordination Nationale de la Politique Foncière</p> | |
| <p>Le représentant de l'ambassade d'Allemagne a demandé une clarification sur le rôle de la CNTB par rapport à la gestion foncière au niveau communal.</p> | <p>Représentant de l'ambassade de l'Allemagne</p> | <p>L'expert en Politique Foncière du panel souligne que la CNTB est chargée de résoudre les conflits liés au retour des rapatriés tandis que la gestion foncière communale contribue sur le terrain à la reconnaissance et clarté des frontières des terres ; un rôle souvent joué par les "Bashingantahe".</p> <p>Il a aussi souligné que la CNTB et le service foncier communal travaillent en synergie.</p> |
| Chapitre 4 : Promouvoir la redevabilité sociale par la décentralisation : la voix des citoyens | | |
| <p>Le représentant de la société civile du panel a trouvé ce rapport préliminaire très enrichissant et la définition de la redevabilité sociale compréhensive. Par contre il trouve le rapport un peu trop académique et théorique.</p> <p>L'étude sur les 2 communes (Rutegama et Makebuko), 2 communes de la même province partageant des traits similaires ont bien éclairé la situation actuelle au niveau communal. Cependant, il aurait été souhaitable que le rapport puisse examiner en profondeur la différence entre la performance de ces 2 communes.</p> | <p>Alexis Nzohabonimana</p> <p>Association Burundaise des Elus Locaux (ABELO)</p> | <p>L'équipe de la Banque mondiale explique qu'il est important de rappeler à l'audience la méthodologie suivie dans ce rapport issu d'une étude et donc sa nature académique et théorique.</p> <p>L'équipe a ajouté que le chapitre sur la redevabilité sociale est basé sur les résultats des groupes focus de 16 communes provenant de 8 provinces.</p> |

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| <p>Il souligne alors que l'administrateur communal de Rutegama est un ingénieur agronome alors que l'administrateur communal de Makebuko n'a pas de diplôme universitaire d'où le grand écart dans leurs performances en ce qui concerne la collecte des recettes ainsi que l'application de certains mécanismes de redevabilité sociale.</p> | | <p>Toutes les informations contenues dans ce chapitre ne relèvent pas du point de vue des consultants internationaux de la Banque mondiale mais plutôt du point de vue des plus de 300 résidents et élus locaux des communes ayant participé dans cette enquête. Elle souligne aussi que les équipes qui ont coordonné cette enquête étaient composées de citoyens Burundais et non des consultants internationaux.</p> |
| <p>La recommandation du rapport devrait mettre l'accent sur la nécessité des autorités gouvernementales d'éviter le militantisme en ce qui concerne le choix des candidats sur la liste bloquée de candidature au niveau communal. Plutôt, il faudra sensibiliser les autorités centrales et locales afin de mettre les candidats les plus qualifiés, compétents et mieux éduqués sur les listes électorales.</p> | | <p>Le directeur du département des finances communales du ministère de l'Intérieur est d'accord sur la problématique soulevée par le représentant de la société civile et souligne la nécessité du gouvernement d'organiser un atelier de sensibilisation sur l'importance d'ériger des candidats compétents pour la gouvernance de la commune.</p> |

The Government's decentralization program is an integral part of the Burundi Strategic Framework for Poverty Reduction II. The present study, carried out by the World Bank in collaboration with the Government of Burundi and other development partners, has the objective of providing rigorous analysis to allow the formulation of evidence-based policies and decision-making in this policy area.

The key messages from this study are as follows: First, it is imperative that the general responsibilities devolved to communes be clarified. Second, given the limited fiscal space and fragility of the Burundi economy, the central government has little room to improve the budgetary means of Communes. For this reason, efforts are needed to strengthen both the local tax administration system and the link between improved tax collection and better services to citizens. Related to this is the need to improve social accountability and to promote the creation of more transparent and systematic mechanisms for tax collection and for the preparation or implementation of communal development plans. Finally, improving land management requires the establishment of sustainable systems for issuing titles throughout the country and calls for substantial financial support from the central government, coupled with the creation of a central and integrated coordination mechanism.

While commending the efforts of the national authorities, we hope that this report will provide a useful contribution to help identify priority reforms needed to advance the decentralization and local governance agenda in Burundi.

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