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LAND AND DEVELOPMENT EXPERTISE CENTER
WORKING PAPER:
**LAND REFORM AND DEPENDANCY AMONG TWA IN
BURUNDI**

Ladd Serwat

University of Sussex - International Development

L.Serwat-III@Sussex.ac.uk

In Collaboration with the Land And Development Expertise Center

Séverin NIBITANGA

severin.nibitanga@ladec.bi

1. Introduction

Following the colonial period and independence from Belgium in Burundi, growing restrictions on the forests and marshes forced many Twa to access land through *ubugererwa*, a customary land tenure institution resembling a lord-servant relationship. A landholder, called a *shebuja*, would allow a servant, the *umugererwa*, to live and/or cultivate a piece of their land for an indefinite and revocable period of time in return for labour and goods of the *umugererwa* and their descendants. In 1977, this institution was abolished by President Bagaza as a part of sweeping social, political and economic reforms (Sikuyavuga, 2014). Later land tenure reforms followed the Burundian peace process in 2000. The Arusha Peace and Reconciliation Agreement for Burundi (Arusha) called for changes to statutory land laws and the decentralisation of land administration to overcome the historic challenges of land-related conflict and accommodate returning refugees (Arusha Peace and Reconciliation Agreement for Burundi, 2016). These land tenure reforms followed Arusha included the decentralisation of land governance to the communes, a 2010 Land Policy Letter, a revision in 2011 of the Land Code and land registration to improve service provision, decrease land-related conflicts, improve female land ownership and allow title-holders the benefits of land-related credit (World Bank, 2014). The Burundian economy relies upon land as an asset for agricultural production, with around 90% of the population engaging in farming and only 10% of the population living in urban areas (Ibid).

This paper considers the gendered and varied effects of land reform among ethnic Twa in Burundi. While many Burundians struggle to access land, the situation may be considered the most vulnerable for the Twa. Twa comprise around 1% of the total population of Burundi, which was estimated around 80,000 in the most recent survey (UNIPROBA, 2008). Though Twa reside in every province of Burundi, the largest populations are found in the northern provinces of Ngozi, Kirundo and Cibitoke, near Rwanda and DRC (Ibid). The 2005 Constitution of Burundi incorporated the ethnic distinction by recognising Twa as one of the three ethnic groups in the country, alongside Hutu and Tutsi. The Constitution specifically guarantees representation of three Twa in the Parliament and three Twa in the Senate, co-opted according Article 164 and 180.

While academics and policy makers frequently reference land tenure changes following Arusha in Burundi regarding Hutu and Tutsi ethnic groups, Twa maintain important, albeit different, relationships to land. This paper addresses the specific situation of Twa following the land reform changes since Arusha and asks the following questions: How does the experience with

land certification and registration differ between Twa and other ethnic groups? Why are Twa being included or excluded from land titles, certificates and registration? What do Twa say about their experience with land reform and current land tenure? What is the response from government actors to Twa land tenure? How are outcomes gendered and differ across space?

Using new empirical research in Burundi, this paper argues that the abolition of *ubugererwa* created a critical juncture which shifted the dependencies of Twa from private landholders to the Burundian state. Drawing on feminist institutional literature on power dynamics and critical junctures, attention is given to mapping formal and informal architecture, rules, norms, and practices of particular institutions and the ways these rules affect women in particular (Burns, 2005; Kabeer, 2016; Kenny, 2014). Complex relationships between institutions are “proximate and distant, contemporary and historical” and shape gendered patterns of power (Burns, 2005: 139). Institutions are defined as the “rules of the game” while recognising ways these institutions may create and perpetuate unequal or discriminatory practices against those with less power, often women (North, 1991).

With the decentralisation of land governance, discriminatory land policies become more proximate and local land governance actors continue discrimination towards those less powerful. Specifically, this study highlights the interconnection between political discrimination and gender discrimination of Twa where the limitation of land rights and access for Twa has resulted in increasingly gendered landholdings (Burns, 2005). In previous generations prior to colonisation and independence, female and male Twa could more easily access land and more equal gender relations existed within Twa families than amongst Hutu or Tutsis (IWGIA, 2014). Continued exploitation of the Twa by the State and rejection of their customary social practices of forest and marshland access has altered women’s land tenure patterns, subsequently reducing land holdings among Twa women. This paper finds women’s access to family land amongst Hutu and Tutsi through custom of *igiseke* is notably absent for the Twa. A state-directed process of removing Twa’s customary rights to forests and marshlands and resettlement with limited land rights eliminates the ability for Twa to make claims to land rights based on their own customary laws, eroding land rights among Twa women. Their weak land tenure rights have come about over a long process of exclusion and dispossession in the colonial and post-colonial period which continue into the present. The ongoing treatment of Twa land as ‘vacant’ despite its uses for pottery, hunting and gathering have resulted in increased landlessness and poverty. Harsh social

discrimination has also limited access to integration and opportunities, as well as shaped government administrators positions to limit Twa land rights, registration and certification.

1.1 Methodology

Some studies have considered the situation of Twa land tenure, but this paper moves the conversation forward by using individual surveys instead of interviewing only the head of household, utilizing more empirical approaches with a variety of focus groups and individual interviews and attempts to capture gendered differences between the Twa and other ethnic groups (UNIPROBA, 2008; IWGIA, 2014; Amani, 2018; Couillard et al. 2009). The patchwork of tenure arrangements, political interests and donor support create an opportunity to study variation within Burundi. Provinces and communes provide sub-units of analysis which have undergone varying land registration approaches, such as user-centric registration and collective land registration, supported by a variety of national and international organisations. Some communes and entire provinces have yet to undergo any decentralisation of land administration or registration program. These areas provide an interesting point of analysis to understand the dynamics of land tenure prior to interventions. The chosen provinces include Bubanza, Kirundo, Makamba, Ngozi and Rutana. These provinces were selected due to the geographic differences between the Imbo valley and Rusizi plains (Bubanza and Makamba), the Congo-Nile mountain range (Ngozi), the central plateau (Ngozi and Makamba) and the Kumoso (Makamba and Rutana). Additionally, there are variations in Twa population density, with larger Twa populations in Ngozi and Kirundo and much smaller numbers in Rutana (UNIPROBA, 2009). Land registration approaches and donor technical and financial support to communal land services has varied both within and between provinces, with systematic registration in groups in certain areas of Ngozi and Makamba compared to individual land registration in other provinces. Lastly, historical political interests and patronage between provinces have been found to produce patterned economic differences in the countryside (Ngaruku and Nkurunziza, 2000).

Ethnicity and gender are used as a means of understanding patterned differences between women and men, focusing upon issues surrounding the intersectionality of gender, ethnicity, capitalism, and class (Crenshaw, 1989). Gendered roles, responsibilities and constraints differ among ethnic groups concerning land tenure, subsequently leading to varied outcomes following changes to land tenure regimes (Doss et al 2014). The high prevalence of intra-family disputes

over land requires a gendered analysis to understand these differences in relation to land registration and certification or titling, intra-household bargaining and conflict over the “conjugal contract” (Whitehead, 1984). Thus, instead of using household interviews or surveys, households are viewed and analysed at the individual level.

The empirical research was carried out from September to December 2019 with focus groups and unstructured interviews to develop an understanding of the major topics concerning Twa regarding challenges expressed by women and men over securing land tenure and existing customary land norms. These early interviews and focus groups helped to develop and contextualise the language surrounding this research, develop the survey and the semi-structured interview design. Interviews were conducted with experts working with NGOs and government administrators involved in land governance and affairs concerning Twa.

The information generated by focus groups and unstructured interviews provided a platform to conduct a survey and carry out semi-structured interviews in each of the selected provinces. The research was done by two teams with a Burundian female and male researcher on each team. 804 structured interviews were conducted, divided between the provinces in one urban commune in the provincial capital and 2 rural communes of each province. The hills selected were based on where Twa were living in the commune.

Efforts are made to triangulate data wherever possible to account for potential bias and error between NGO data, government data and interviews. NGOs have provided the majority of statistics and data on land reform in Burundi but suffer from inherent bias, offering favourable data to donors. Many of the available studies lack large-N research necessary to make broader generalisations, but small-N studies provide a further depth of knowledge, which broader studies may neglect (Collier, 1993). NGO data is cross-referenced with monitoring and evaluation documents, government statistics or scholarly articles when possible.

1.2 Terminology

Unlike Hutu or Tutsi, further debate has surrounded the terminology of Twa people (IWGIA, 2014; Lewis, 2000). The term *pygmy* is commonly used as a term to denote forest dwelling people of a short stature engaged in hunting and gathering activities (Dembner, 1996). This broader term grew to include groups from around the central African region, but also become a derogatory term in Burundi and elsewhere (Dembner, 1996). *Batwa* is also used as a common

term, but this does not make sense if one uses the root of other ethnic groups, such as Hutu or Tutsi rather than the plural form, *Bahutu* or *Batutsi*. The term *Twa* is the Bantu language root which lacks the Kirundi prefix in the singular *umu* or plural *aba* to form the singular *umutwa* and plural *abatwa*. The term *Umusangwabutaka* is another word coming from the verb *gusangwa*, to possess, and *ubutaka* meaning property, thus “a person(s) already occupying the land/property” (IWGIA, 2014). *Umusangwabutaka* is also used as the Kirundi equivalent for an indigenous person, yet this word carries politically-charged meaning employed to justify or denounce the rights of Twa (Interview 96). *Abaterambere* is another commonly used term amongst Twa, which means “people who are advancing” (Lewis, 2000). These terms have also been employed by other ethnic groups in Burundi to discriminate against Twa or other ethnic groups which they believe to be exhibiting negative qualities associated with Twa.

Importantly, Twa consider themselves as an indigenous group of Burundi, and others often agree with this accreditation. Many interviewed self-identify as separate from Hutu or Tutsi and frequently employ ethnic language to distinguish between themselves and others. Several Twa rejected being called “Burundian” and some disliked the term *abaterambere*, while others preferred the latter. Twa are legally recognized in the Constitution, yet some do not feel they have been included in the project of the Burundian state and are rejected by people of other ethnicities. Thus, many Twa do not feel they have been “advancing” thus reject *abaterambere* and being called a Burundian. For the purpose of this paper, “Twa” will be used based on self-identification of this term by Twa themselves, the use of this term within the Constitution of Burundi and its widespread usage for the group in academic and media references.

2. History of Land Tenure Amongst Twa

Several academics consider Twa as a broader nomadic group which settled in Burundi, as well as other forested regions of Rwanda, Democratic Republic of Congo, Uganda and Cameroon (Mworoha, 1987; Lewis, 2000; Couillard et al, 2009). Some historical accounts and origin stories find that Twa were the first inhabitants in the forested regions of these countries, including Burundi (Jackson, 2003). Twa often self-identify and share characteristics of indigenous peoples in the region (Jackson, 2003). Hunting and gathering in the forested regions provided an important source of subsistence, along with pottery (Mworoha, 1987). This nomadic lifestyle distinguished Twa from other groups in Burundian society who were more involved in farming or raising

livestock. Prior to colonisation and independence, Twa shifted their location more frequently than others, often due to the death of a family member, insufficient hunting and gathering activities or other social problems (UNIPROBA, 2008, 8). Usually living in groups, Twa would move on to find another suitable location with sufficient animals to hunt and establish a semi-permanent dwelling of grasses and leaves.

Hutu and Tutsi conducted gradual deforestation of Burundi to make room for agriculture and raising livestock, reducing the available hunting, gathering and habitation areas of Twa. Twa did not settle at the same time as other ethnic groups and continued living nomadically in the available forested areas (UNIPROBA, 2008, 8). During this time prior to and during colonisation, Hutu and Tutsi solidified their landholdings and exerted control over the territory under the authority of the king and princes. Some Twa recall acquiring land from the *Ganwa*, or royalty, as noted by an older Twa woman in Gitega.

‘We are originally from Kibira Forest, then we went to Ruhororo in Muramvya. Ganwa [Prince] Bisumbagotira, son of Moya gave land to the Twa when they came from the forest. Mboneko, another prince, took the Twa from the forest, and told them to go and hunt everywhere in the bush. Later, the customary chief Mateka gave them the hill here. Our ancestors were Kanyogombe, Bigoma, Muyuga, Bagere, Budodi Muriho. They were heroes in hunting, and were given land as a reward.’

(Jackson, 2003: 6)

Eventually, the reduction and legal protection of forested areas against hunting or dwellings forced Twa to transition towards more permanent settlement, further reliance upon pottery as an economic resource and agricultural activities (Jackson, 2003). The first of these legal restrictions of Twa came in 1926 with laws brought over by Belgium from the Congo concerning the marshlands, restricting Twa pottery making and marginalising Twa women who often make these pots as a form of income. In 1933, the creation of the Kibira Forest Reserve limited hunting and legally prohibited Twa from living in forested regions in the northwest of the country, despite their high population density in this the area (UNIPROBA, 2008). In 1951, two other protected forest areas were created in Burundi, further restricting Twa access to hunting and gathering activities. The end of the Twa’s forest-based sustenance came in 1966 when the king issued Order No.050/65 of 22 March 1966 which banned hunting across the entire country. Additional restrictions followed this in the 1980s under the direction of the Bagaza regime. In 1980, Bagaza established national

parks and nature reserves with the Decree No. 1/6 of 3 March 1980 which brought protection to these areas and made habitation in these forests illegal. In 1985, the Forest Code, under Articles 45 and 56, banned forest usage rights. These statutory laws and “recognised” customary laws have been blind to the customary land rights of Twa to forests and marshes (Jackson, 2003).

During these growing restrictions on the forests, Twa primarily gained access to land through a system called *ubugererwa* (similar customary institutions called *ubukonde* in other countries), a customary institution resembling a lord-servant relationship (Jackson, 2003). A land owner, called a *shebuja*, would allow someone, the *umugererwa*, to live and/or cultivate a piece of their land for an indefinite and revocable period of time in return for labour and goods of the *umugererwa* and their descendants according to Decree-Law n1/19 on 20 June 1977. Generations of *abagererwa* could continue living and working for the same *shebuja* family. The Twa were not the only group to access land through the institution of *ubugererwa*, but the statistical information today indicates a large number of Twa accessed land through this system (UNIPROBA, 2008, 21). On the 30th of June, 1977, President Bagaza abolished *ubugererwa* as part of wider country-wide reforms. This revoke gave the land to the *umugererwa* in cases where they had worked the land for over seven years, or returned to the *shebuja* if the land was occupied for less than seven years, as long as the *shebuja* paid the *umugererwa* an amount equal to the surplus value invested in the land (Sikuyavuga, 2014).

3. Post-Arusha Twa Land Tenure: The State As The New Shebuja

The state pervades the numerous relationships between Twa and their land holdings. Marshlands where Twa gather clay have become state land, and the forests where Twa historically foraged and hunted have been legally protected and patrolled by state forces which prevent hunting or construction of dwellings. Where Twa and others attempt to continue habitation or activities in the forest, police and military forces intervene to block access. The former ways that Twa accessed land through *ubugererwa* has been deemed illegal and state has withheld alienation rights from Twa on state and private land.

Twa women are doubly marginalised in this process, where both on the basis of their ethnicity they are both socially and politically exploited. On top of this, Twa women are discriminated within Burundian society and within their own families on the basis of gender. This section explores ways in which the government policies on land holding resemble a *shebuja*, withholding

rights and preventing a full bundle of rights over parcels held by Twa.

3.1 State Actors Views of Twa

Interviews with government stakeholders revealed a paternalistic attitude which permeates several areas of land governance. Government officials see Twa as mismanaging their landholdings and not using it to the full potential (Interview 64). A hill chief said, “Pottery is the only thing the Twa know how to do. It seems that cultivating and agriculture is not very interesting for them. They just do it because they need something to do” (Interview 66). There is also a fear of political demands from Twa who may demonstrate for full ownership rights and sufficiently sized landholdings (Interviews 56, 64).

A communal chief said, “Twa have so many problems with land because they don’t have any agricultural interests. Other people (Hutu and Tutsi) want Twa’s land because land is very important for them. Twa have been given lands but because they are not interested in agriculture, they sell them to other ethnic groups. This happens very often. I could give them a whole mountain or hill and because they don’t have any interest, some other ethnic groups could come and trade their land with them for a dead animal or something useless” (Interview 71).

These beliefs are not limited to government administrators, but are widely held across the country. One Twa man shared that, “I’m not very old, but when I was in primary school, I was discriminated. We couldn’t be in the same queue with others. They would say so many bad things about Twa, like that we smell bad. Others would not even eat with us” (Interview 60, 72). During a focus group discussion with Hutu and Tutsi, a young man pointed to another and shouted, “He is a Twa!” The other quickly retorted, “I am not a Twa!” The accuser laughed as the other angrily defended himself as a non-Twa (Interview 78).

One Twa girl from Rutana shared that she dropped out of school following harsh discrimination by teachers and other students. She said that “other students were told by the teacher to bring water to school. Then the teacher told students to dump the water on me because I don’t shower enough at home. Other times if I was late or did not attend class, students and administrators would attack me, throw me to the ground and kick me.” (Interview 92). Another girl in Kirundo shared that she had been poisoned by other students for excelling in school as a Twa and had to transfer to another school to escape the discrimination (Interview 94). A number of negative stereotypes surround Twa concerning their ignorance and stupidity (Interview 58, 64;

both non-Twa). One man said, “Twa are like children, they want everyone else to solve their problems for them” as well as, “Twa do not want responsibilities unlike other Burundians” (Interview 69, non-Twa). Twa women receive less education than Twa men or other ethnic groups and experience pressure to marry early or live in polygamous relationships (UNIPROBA, 2008; PDLE, 2017). Twa women often become widows following the death of their husbands due to violence against Twa, poverty and general low life expectancy (UNIPROBA, 2008). Twa widows face gendered discrimination within their late husband’s family, especially if she has not raised children.

3.2 Land Registration and Certification of Twa Land

This paternalistic, derogatory and superstitious view of Twa shapes land allocation, registration and certification. Government officials often do not allow the registration or certification of Twa landholdings, even where Twa have private tenure (Interview 58; 72; 73). When state land is given to Twa, it is often a very small parcel without sufficient room for subsistence farming. A number of the state-allocated land visited contained hardly enough space for Twa to build their homes out of grasses and leaves. In one area of Rutana, a small, state parcel was allocated by the communal government to a group of Twa. Next to this parcel was a very large state plot designated as grazing land. The expanse of grazing land was large and adjacent to the smaller plot occupied by the Twa, with pastoralists allowing cattle to roam across the green fields. During the interview, a Twa man looked to the grazing land and asked, “Are we not more valuable than cows?” (Interview 92).

Justification for limiting land rights is supported by a view of Twa as nomadic and frequently leaving property due to various superstitions. In Ruhororo commune, Ngozi the communal administration and land agents conducted organized group registration (OGR), gathering the measurements and the demands for certificates systematically plot by plot over an entire hill. When the administration reached the land owned by Twa, they skipped it and did not do conduct registration (Interview 58). A Twa man shared “When they skip the Twa land (during OGR), no person is there to testify when or how the Twa received the land. They do not have any privileges like other ethnic groups, no recognition of their land and a type of fear. In this case, when the land is not registered, and the government does not conduct an investigation concerning how the land was acquired, the issue is brushed aside, but the Twa are left without full rights over

the land. For us, on our national ID it says we were born in Ruhororo. And for our children, it says they were born in Ruhororo. Yet, the government does not recognize that we have rights to land in Ruhororo. Can we say we are from Ruhororo?" (Interview 58). Twa interviewed in other communes covered by OGR recounted similar challenges being included in the registration and certification process, or even denied individual registration.

These policies and actions are often conducted to preserve Twa landholdings by limiting their ability to sell the land, but this subsequently reduces the benefits provided by full land tenure (Interview 56). In Ngozi commune of Ngozi province, Twa had rights to state land, through the abolition of *ubugererwa* and through a gift provided by an Italian NGO in 1998. This area was covered by OGR and some Twa were able to apply for and/or obtain the certificates. However, the communal administration refused to permit certain Twa from obtaining the land certificates. This concerned several Twa interviewed in this area and several shared this was an injustice and caused them to consider their landholdings as insecure (Interview 87). This group shared that following the death of a Twa woman who had land provided to her by the Italian NGO, the communal government came back a few years later to reclaim these lands now held by other Twa in the same family. Those interviewed shared that this was done on the pretext that the land was not sufficiently exploited. They shared, "We have not refused to exploit the land but rather this was exploitation by the administration after realizing the death of our family member". Others said, "Isn't it normal and simple to set land aside? Would following be prohibited only for land held by Twa?" The Twa who were supposed to have rights to these lands feel that it is a serious injustice towards them and that they have simply undergone land grabbing by the commune. "When Burundians steal our wealth, they say we are lazy, and we don't like to work. But we will not leave the land left to us by our family member." They added that, "we have the original documents of land transfer provided by the NGO, we swear to organize in order to recover the lands" (Interview 87).

3.3 Customary Law And Exclusion From Marshland

A major challenge which has confronted Twa since the state consolidation of marshland rights has been the neglect of clay extraction as a form of legitimate and legally recognized 'exploitation'. In both the 1986 and 2011 Land Codes, clay extraction for pottery has not been legally included as a sufficient form of exploitation to retain rights over these parcels. This has legally allowed those involved in agriculture to crowd out and limit the ability of Twa to extract

clay. A group of five Twa families living in Kirundo have occupied the same land for several generations and access a nearby marsh for pottery production (Interview 93). Interviews with this group mentioned the rich marsh had a generous amount of clay which had provided for their family since settling in the area. Recently, a new resident bought some land on the other side of the hill and subsequently took possession of the marsh, not allowing the Twa families to access the clay. The matter was in the local court at the time of the interview.

An older Twa man in Busiga also discussed some of the challenges in clay extraction, “For our pottery activity, we have to go in the marsh lands. The one cultivating the land tries to prevent us from taking the clay. So we try to go on Sundays when they aren’t working and we find some new areas to extract. We do not want people to give us free food but we want them to help us find land to work and we would love if they could open the marsh lands so we can get our clay.” (Interview 67). Another Twa man explained, “When Twa go on the marshland to dig for clay, it is also a fertile area for agriculture. In these cases, other ethnic groups come to the places where Twa are extracting clay to make a plantation, due to the fertility. So Hutu take the land by force and tell Twa that it is no longer theirs. The land may belong to Twa to take clay, but they don’t cultivate anything. So this gives an opportunity for Hutu to take it by force by cultivating the land for crops.” (Interview 58).

Another focus group of five Twa women revealed a vulnerable situation concerning marshland access. They engage in pottery making as an important economic activity, but in order to access the marshes, they must do agricultural labour for those who have usufruct rights in the marsh. The landholders in the marsh require a full day’s labour in exchange for one day’s access to the marsh. Given the low return on pottery at around 400-500 BFU for a pot, or around 15 cents USD, their daily wage was driven very low by the forced exchange of labour for land access (Interview 85). This experience was shared during a focus group of 15 Twa in Ngozi, one older lady commented, “I think the main issue for us is we do not have any place to extract clay. We have to steal clay where it is forbidden to extract it. And mostly on Sundays when there is no one cultivating. Then when we try to sell our pots, no one is interested in buying them.” (Interview 66). Some Twa regard the making of the pots as exclusively a woman’s activity (Interview 67). However, Twa men engage in different parts of the process, such as gathering the clay. One widower, interviewed while forming his own pot, had lost his wife but continued in pottery construction (Interview 67).

4. Contemporary Twa Land Tenure

Since the elimination of *ubugererwa* and government policies restricting forest land access, Twa have largely settled on state land in various parts of the country (Q20; Interview 73; UNIPROBA, 2008).

Size of Twa landholdings (NCA-UNIPROBA, 2015)

The rights over state land vary for Twa depending on the rights allocated by the communal, provincial or national government. During a survey carried out by NCA-UNIPROBA in 2015, the

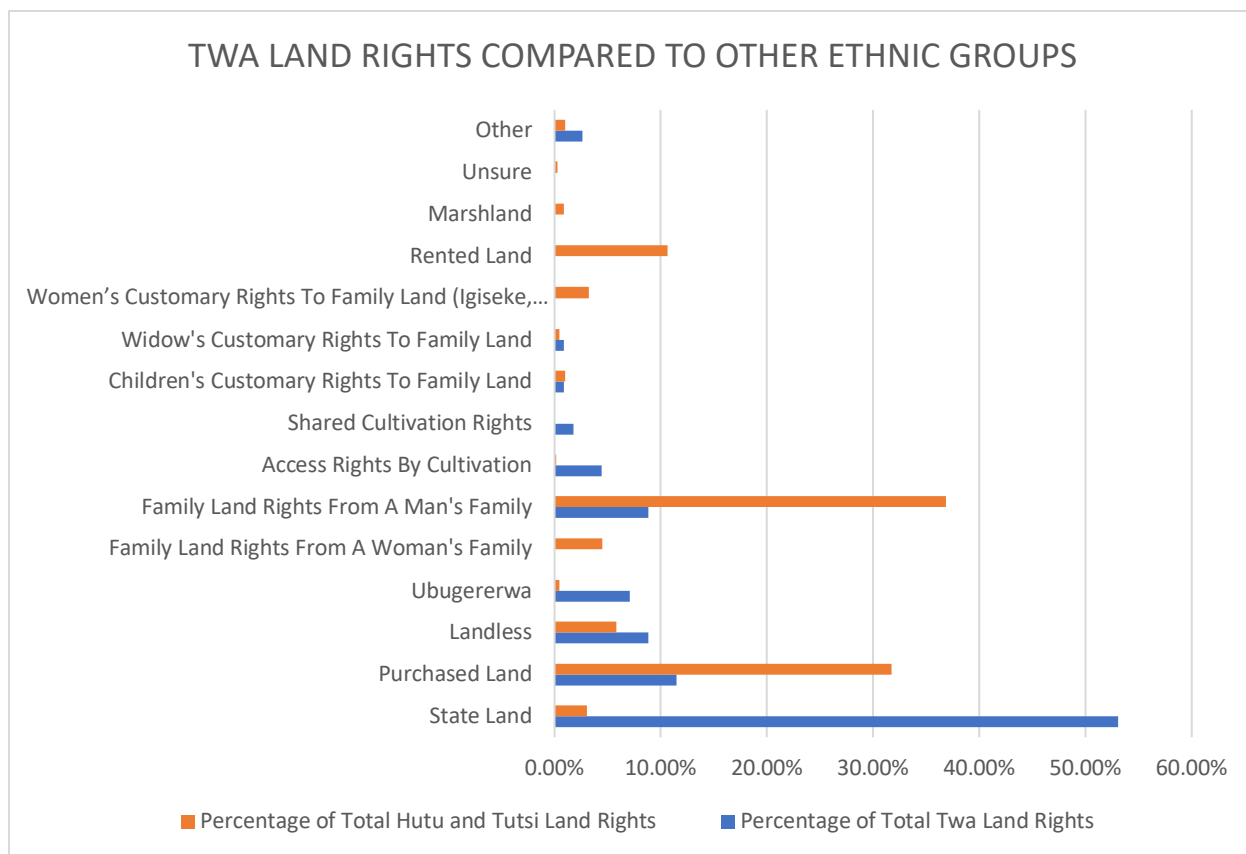
Surface Area of Twa Landholdings	# Surveyed	Percentage
< 1 are (10m x 10m)	163	15
1 – 4.9 ares	472	45
5 – 24.9 ares	315	30
25 – 99.9 ares	81	8
1 ha or more	27	3
Total	1058	100.00

size of these landholdings was primarily reported between 1 and 4.9 ares (.025 to .121 acres). While some reported slightly higher landholdings between 5 – 24.9 ares, only 3% reported having landholdings larger than 1 hectare (NCA-UNIPROBA, 2015). Amongst the Twa interviewed, 53.6% indicated they held rights to land provided by the state. There is a complex arrangement of rights over state land, where some has legitimately been ceded by government actors with a full bundle of rights over alienation and management, others receive very few rights to this land. Some Twa reported stronger decision-making power than others on state land, the majority of Twa interviewed shared they had very weak rights to state land (see table below). Interviews indicated Twa felt they were merely occupants of state land, rather than being landholders themselves. Much fewer Twa indicated they had purchased land, at 11.5%, which varies from other ethnic groups, of which 38.4% had ownership rights to purchased land (Q20). 8.9% of Twa reported they did not have any rights to land, which is close to 7% of non-Twa who claimed they did not have any rights to land (Q20).

The elimination of *ubugererwa* in 1977 allowed some Twa to continue holding these plots if they had lived and cultivated the land for more than seven years. The 11 respondents in this study who reported having land rights under *ubugererwa* were no longer living on the land of a shebuja, but had gained access to these rights at the abolishment of *ubegererwa*. These land rights from *ubugererwa* lacked documented rights, given only one non-Twa had received a land

certificate. The majority of these land rights were negotiated with verbal agreements. Despite legal abolishment, a survey carried out in 2008 by UNIPROBA noted that some Twa continued living within the customary institution of *ubugererwa*. Although these cases were not recorded on our survey, there were a number of Twa who lived in situations very similar to *ubugererwa* where they were granted limited land rights to the edge of a farm in exchange for their labour, some living under this arrangement for several generations.

Twa often struggle to survive due to the small size of these landholdings, often just enough for a small house of grasses and banana leaves or mud bricks. Some choose to find labour cultivating the plots of others who have a larger piece of land, but several instances of exploitation place Twa in a vulnerable position (Interviews 87, 88, 89, 90). Those cultivating may be paid very little for their labour or be charged for using the cultivation tools of the landholder, resulting in even smaller profits (Ibid). A group of six Twa families living on a steep hillside of rocky land in houses made of leaves and grasses shared, “this place where we are living was given to us by the local chief about 50 years ago. We are mostly working on other people’s lands just to get food. We are hard workers, but life is difficult because we do not have anywhere to cultivate for ourselves. And many times, to get rights to a plot to cultivate, we have to agree to share the harvest of the land with the owner. And then if we use someone’s hoe, we have to pay them to use it.” (Interview 66).



I-See Appendix For Further Detail

Agricultural land is an increasingly important resource for those without off-farm employment. Over half of the Twa interviewed, 52.7%, indicated that agriculture was their primary form of employment. While lower than the 67.4% of other ethnic groups interviewed primarily involved in agriculture, these lower figures among Twa are partly due to their continued involvement in traditional pottery making. The construction of pottery creates a direct relationship to land, where Twa require access to clay from marshlands. A common theme in focus groups included challenges surrounding making sufficient profits from pottery and conflicts in the marshes. Many shared that the use of more modern cooking utensils has reduced the demand for clay cooking and storage pots. Some attempt to mix agricultural activities and pottery, but others have decided to give up pottery completely due to the poor returns, conflict over marshlands or inability to find clay (Interviews 80, 81, 84).

A Twa man in Busiga, Ngozi explained, “In the past, the Twa lived by hunting and gathering. Twa did not believe in another life beyond that, we did not engage in agriculture. Now,

we see agriculture is important, because it provides a harvest and we can eat for many days. If we just use money, it is difficult to be able to support a family of seven people always buying things at the market, or for 5000 Bfu we eat just one night. With a parcel of land, we can harvest the crops and eat for at least a month according to our calculations” (Interview 67). Although others continue a stigma of Twa as not involved in agriculture, this does not reflect the current situation of most Twa themselves.

4.1 Conflicting Narratives Surrounding Nomadism

Twa recall the past nomadic era of hunting and gathering as a key part of their history and identity, some remembering this time very positively (Interview 68). Others accuse Twa of continued nomadic practices in order to justify land-grabbing or as a factor in Twa’s limited land holdings. “Twa are superstitious, as they move whenever something happens” (Interview 57, non-Twa). Another said that, “Twa are very superstitious with land. If someone dies on the land or something bad happens, then they have to move away from that place” (Interview 30, non-Twa). Twa themselves admit that a spiritual belief over land existed in former times, but that this is no longer practiced (Interviews 97, 98). This spiritual belief involved moving to a new place after the death of a family member, but they do not have the ability to move so freely any more due to the limited availability of land (Ibid).

Many of the Twa interviewed had lived on the land where the interview was being conducted for several generations, often dating back to either the late 1970s when *ubugererwa* was eliminated which forced them to find a new place to live and cultivate, or even longer for those with landholdings from *ubugererwa* (Q20). One older Twa man living in Busiga, Ngozi poignantly stated, “We came here when they were still making clothes from trees” (Interview 67). The old man explained he had received the land from a person called Ciza, who he had worked for. “This is like my birthplace because I came here when I was so young. I live here with my three boys and their wives. I also have grandchildren. Ciza who gave me this land passed away so many years ago so now I am living with his son and there is no trouble with the land. I think all the people know this is my land because I have been here for a long time and I have children here so I can’t make trouble” (Interview 67).

While other ethnic groups continue to call Twa a nomadic group, Twa themselves point to conflict as a primary reason for displacement. Amongst narratives Twa shared where they moved

to a new place, several pointed to the major conflicts such as 1972 or civil war between 1993 and 2015 as the reason for leaving. Some attempt to return to their previous lands when the violence subsided, only to find others occupying it. An 80 year-old Twa women from Bubanza shared that “When I was a child, my family had land where we cultivated, but due to conflicts, we had to move around a lot. I don’t even remember the exact locations of all the places we had to live due to conflicts. I did have a property in Bubanza, which was granted to us by President Buyoya. Now, I am a widow, and I can’t go there alone due to the security issues. I am afraid people may come to try and take my land, and as a widow, I cannot fight them away” (Interview 61).

Although Twa have been neglected and exploited, there were some instances of access and resistance. Two communes of Rutana province, Rutana and Musongoti, have a Twa woman and man who hold a place on the Communal Council, a five-year elected position supporting the administration of the commune. Another Twa woman had recently been on the Communal Council in Bukemba commune but had recently left the position. Others fight against exploitation by forming cooperative groups and joining with organisations like UNIPROBA to defend their rights. Of the 13 Twa interviewed who had purchased land, five women reported having a communal land certificate (38.5%) and four men held the proof of registration, a document which proves that the land was registered (30.8%) (Q24). While the sample size of Twa who owned land was small, the rate of certification on purchased land is close to other ethnic groups, who reported 32.7% of certification on purchased land (Q24). These cases of certification on purchased land were limited to Makamba and Ngozi provinces, which have undergone systematic land registration. In the 60 cases of Twa interviewed having land rights through the state, 31.7% had a certificate from the commune and one person had a proof of registration (Q594). In these cases where Twa held some form of official documented right, 94.74% were in Bubanza province. A large absence of registration and certification exist on land received following the abolition of *ubugererwa* and received in family succession. One person in Makamba held the proof of registration on a family plot and two others Makamba and Bubanza mentioned having the certificates for land held through family succession. Some Twa interviewed did have registered and certified land rights, but there were no cases found of a Twa holding a land title. Only 14 of 802 people in total interviewed held a land title at all, only one on a piece of land received from the government and none of these 14 title-holders were Twa. In the absence of formal registration and documentation, others mentioned using verbal agreements or informal written documents to confirm the rights held to land.

4.2 Gendered Land Rights And Documentation

The majority of the land documents among Twa are in the name of the male head of household. On state land, 57.58% reported the male head of household was on the documents compared to six female heads of household. Only one plot was jointly held while seven had “other” family members on the documents (Q595). “Other” was fairly common response for Twa, as several families live together on a single plot, which may have been bought or granted by the government to an individual Twa. While this individual could be on the documents or part of a verbal agreement, the entire group living on the land could report various rights to the plot. On purchased land, male heads of household constituted ten cases while female headed households were reported in five cases with no cases of joint ownership (Q25). The rights on state land are limited and nearly all those interviewed shared that they are not able to sell the land (Interviews 97, 98, 99).

Hutu and Tutsi women primarily access land through relationships to their family of origin and through their spouse’s family (Q20). While Twa live primarily on state land, these parcels are often held for several generations and therefore passed down through the family. Across the five provinces surveyed, Twa did not practice the same customary land access for women on the land of her family. One of the most important ways Hutu and Tutsi women can access land rights is through a customary land right to their family land called *igiseke*, *igisimbo* or *ikivi*. This customary right permits married women certain rights to their natal family land, often limited to usufruct access which is revoked upon her death. Amongst all the Twa interviewed, there was not a single report of land holding through the customary norms of *igiseke* or *ikivi* (Q20).

While Twa are aware of these practices, they often gave the same justification for not providing women customary family land access as other ethnic groups provide for giving unequal inheritance. These responses often fall within two lines of thought: women leave to join the family of their husbands or landholdings are too scarce to give anything to women. A focus group of seven women in Bubanza shared, “Twa women do not enjoy *igiseke* because our families do not have land. If the opportunity arises, our mothers may bring us some produce” (Interview 83). Another group of five Twa women in Musigati said, “Twa do not give *igiseke* or *ikivi* to their daughters because of the daughters’ marriage. They give them food if they have any” (Interview 84). The practice of a Twa woman’s family bringing some food to their daughter after her marriage is similar to the practice of other ethnic groups, but the customary land right for women on family

land does not appear to be practiced. A group of five Twa women on another hill in Musigati agreed, “There is no *igiseke* or *ikivi* for Twa girls. When our daughters are married, there are other children who stay at home and need to eat” (Interview 85). The common theme of providing nutrition within the family and its limited availability is apparent. If families have enough to eat, they may bring some food to share with the daughters who have been married, whilst the lack of food limits this practice.

Interestingly, during the survey each respondent was asked how land inheritance would be or has been conducted with their children. Questions included a variety of options such as equal inheritance for boys and girls, equal portion amongst the boys but unequal portion for the girls, etc. However, Twa were much more likely than Hutu or Tutsi to fill in the “Other” option to denote that land would be given only to boys and girls do not inherit any land. Twa used the other option 27.27% of the time when responding to inheritance questions, specifically describing how only boys will inherit land. Hutu and Tutsi responses on inheritance often included unequal inheritance between boys and girls, but only 3.18% used the other option to indicate only boys would inherit land rights. Women were more likely when living on state land to indicate that girls did not have the right to inherit land, whereas men were more divided on the topic (Q605). Both female and male Twa largely agreed that boys could inherit state land (Q603).

There were only a few exceptions mentioned to exclusive male land tenure amongst Twa. These exceptions still have dependencies on the relationships to other men in the family. A woman could access family land when women are the only surviving people within a family (Interview 85). Thus, if a woman has no surviving parents, is widowed from her spouse and does not have any male children, she is entitled to rights over the land. Another exception mentioned was for adult, unmarried women still living with the family having access to a small piece of land, whilst the larger portion was used by the male family members (Interview 85).

In focus groups, women and men interviewed both commented that they work together to make decisions relating to their scarce property rights. However, when interviewed individually, women reported weaker decision making practices over land. These decisions concern renting, use rights and selling the land. Despite the majority of Twa living on land granted by the government, there were no women in the survey that reported alienation rights to this land and only three Twa men reported having the right to sell the land (Q605). However, both women and men felt they were able to oppose a decision by their spouse if they attempted to sell the land (Q606). This was

also true of renting out the parcel, where only one woman shared that she could rent out the land (Q599). Concerning questions of land management on state land, both women and men shared that they could make decisions concerning the use of the land, types of crops planted, use of the harvest, profits.

Land Rights of Twa on State Land	Twa Women			Twa Men		
	NO	YES	YES with discussion with a spouse or family member	NO	YES	YES with discussion with a spouse or family member
Can you decide to rent out the parcel to another?	18	1	0	14	0	0
Can you oppose a decision by your spouse or the family members of your spouse to rent the parcel?	2	10	3	2	11	0
If you sell some or all of the harvest, who decides how to use the money?	2	6	3	1	10	6
Can you oppose a decision by your spouse or the family members of your spouse concerning the use of money earned from the harvest?	3	4	1	0	10	0
Can you give the parcel as inheritance to sons	2	19	2	1	14	0
Can you give the parcel as inheritance to daughters	15	5	0	7	8	0
Can you decide to sell the parcel	21	0	0	14	2	1
Can you oppose a decision by your spouse or the family members of your spouse to sell the parcel?	2	17	0	4	12	0
Can you decide to use the land as collateral for credit?	0	21	0	14	2	0
Can you oppose a decision by your spouse or the family members of your spouse concerning the using the land for credit?	3	16	0	2	10	1
Can you decide how to use the land, such as what to plant?	2	11	3	1	14	3
Can you oppose a decision by your spouse or the family members of your spouse concerning the use of the parcel?	3	11	2	0	1	0
Can you decide how to use the harvest?	3	11	3	3	12	4
Can you oppose a decision by your spouse or the family members of your spouse concerning the use of the harvest?	4	9	1	3	12	0
TOTAL	80	141	18	66	118	15

5. Discussion

Collectively, the land tenure and labour situation of Twa perpetuates the former customary institution of *ubegererwa*, albeit the abolishment in 1977 created a critical juncture to shift the *shebuj*a from private landholders to the State. Since this time, Twa have been resettled and given limited rights to poor quality land by state institutions based on the qualification of their ethnicity. State actors grant usufruct rights on undesirable parcels with steep, rocky or unfertile soil. Due to the miniscule size of these lands, diminished value for traditional pottery and lack of off-farm opportunities, Twa frequently become inexpensive day labourers for Hutu and Tutsi landholders.

The state-directed process of removing Twa's customary rights to forests and marshlands and resettlement with limited land rights eliminates the ability for Twa to make land rights claims based on their own customary access to the forests and marshes. However, customary practices form an important part of claim-making for Hutu and Tutsi, shaping registration and certification on family lands (Tchatchoua-Djomo, 2018). The customs of other ethnic groups are referenced in court cases over land disputes, when justifying inheritance patterns and in formalizing rights in registration and certification (Ibid). The precarious position of Twa in accessing the marshes is also of particular concern for pottery production. Declining returns on these products have diminished the interests in government officials and policy makers to grant Twa marshland access. However, many Twa continue to make pottery both as a socially and economically meaningful activity dating back centuries. The state's failure to recognise these rights to marshes for clay extraction and view of clay extraction as sufficient "exploitation" marginalise Twa. These government policies have effectively permitted those with the most power to control marshland access. Twa face numerous forms of violence for accessing the marshes while others crowd out the Twa.

The government's reluctance to allowing registration and certification on land held by Twa appears to be driven by stereotypes of mismanagement and nomadism. Yet numerous cases in this study run contradict these claims. Twa were consistently found living and cultivating land for multiple generations and capable of adequate farming techniques. In Burundi, the limited secondary and service sectors compounded with the exclusion from traditional forests for hunting and gathering create immense pressure on sufficient and secure land access. The resistance by land administrators to registration and certification may have negative effects such as permitting conflicts, land grabbing, promoting feelings of insecurity and uncertainty, as well as restricting

financial resources such as micro-credit (IDLO, 2017).

Gender dynamics concerning land tenure amongst Twa also vary considerably from other ethnic groups. Twa frequently mention that their limited land access have driven the current gender disparities in land inheritance. During land inheritance in the family, women are not provided access to land of their parents. On plots located in urban areas and purchased plots, women of other ethnic groups are often able to access some rights and numerous cases showed that equal inheritance is provided on these plots. Customary norms on family land also permit Hutu and Tutsi women unequal access to land. However, Twa did not make these distinctions and often specifically mentioned that only boys are provided land tenure. Women's access to land can severely limit economic opportunities and remove subsistence safeguards granted to other women, especially for vulnerable women in marriages unrecognised by the state, divorced women or those in polygamous relationships.

Despite former land practices among Twa which provided women more equitable land access, State policies to restrict tenure among Twa have progressively excluded Twa women from holding land rights. When making choices within the family for which children ought to inherit, Twa frequently gave sole rights to male children due to scarcity. Twa families could make other choices which permit women further rights to land, such as continuing equitable inheritance for girls and boys, but the State has played a prominent role in diminishing these land rights of Twa women.

6. Conclusion

This paper highlights the continued institutional legacy of *ubugererwa*, where through the critical juncture in 1977 legally abolishing the institution, the state has pervaded the roll of the *shebuja*. The weak land tenure rights of Twa have been shaped by a long process of political exclusion and dispossession which continue into the present. Twa women face a double discrimination with fewer opportunities to access land within their family as other ethnic groups, creating even further vulnerabilities. The ongoing treatment of Twa land as 'vacant' by state actors and other ethnic groups despite its uses for pottery, hunting and gathering have resulted in increased landlessness and poverty. Harsh social discrimination has also limited access to integration and opportunities.

Unhealthy stereotypes of nomadism frequently proved out of date among numerous interviews and focus groups. Research in several provinces draw attention to the contradictions to Burundian's stereotypes of land tenure patterns among Twa. Although historically nomadic, Twa are living longer and longer on the same parcel of land. Many Twa interviewed lived on a single parcel for several generations and worked in agricultural activities as a primary form of income. Decentralisation permits policy variation around the country, but also allows some communal administrators and land agents to practice discriminatory policies against Twa. Some communes allowed Twa to register and document land rights, while other communes prevented this from taking place.

These findings collectively call for State and key stakeholders to provide Twa with sufficient and documented land rights. The benefits and rights given to other ethnic groups in Burundi ought to be enjoyed by all people, including the Twa. Further discrimination against Twa women specifically and limitations of their land rights will likely continue without a specific intervention to support their landholdings.

7. Appendix

	Twa	%of Total Twa Land Rights	Hutu And Tutsi	% of Total Hutu and Tutsi Land Rights
State Land	60	53.10%	21	3.06%
Purchased Land	13	11.50%	218	31.73%
Landless	10	8.85%	40	5.82%
Ubugererwa	8	7.08%	3	0.44%
Family Land From A Woman's Family	0	0.00%	31	4.51%
Family Land From A Man's Family	10	8.85%	253	36.83%
Access Rights By Cultivation	5	4.42%	1	0.15%
Shared Cultivation Rights	2	1.77%	0	0.00%
Children's Customary Rights To Family Land	1	0.88%	7	1.02%
Widow's Customary Rights To Family Land	1	0.88%	3	0.44%
Women's customary access to family land (Igiseke, Ikivi, Igisimbo)	0	0.00%	22	3.20%
Rented Land	0	0.00%	73	10.63%
Marshland	0	0.00%	6	0.87%
Unsure	0	0.00%	2	0.29%
Other	3	2.65%	7	1.02%
	113	100.00%	687	100.00%

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