

## Local Juridical Authority as Intangible Heritage Practice : A Case from Burundi

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## Local Juridical Authority as Intangible Heritage Practice: A Case from Burundi

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If the Bushingantahe as an institution of conflict resolution and jurisdiction in the local ambit of the Central East African society of Burundi is little known, with scarce scientific examination outside the country, this situation is not exceptional in the realm of intangible heritage. It is also less controllable and more difficult to grasp. For example, it is more challenging for higher authorities to integrate the Bushingantahe into a superordinate order. Relative to Rwanda's *gacaca* system of community justice (a form of transitional justice), which received significant international attention in coping with the genocide of 1994, the Bushingantahe was denied such attention to a comparable extent. Notwithstanding, the Bushingantahe in its form as restorative and reparative justice in Burundi was also called upon to address the long-running conflicts at the national level, especially in the period after 1993 and in the course of the negotiation of the Arusha Peace Agreement of 2000. In the country, the Bushingantahe is invoked when questions of justice, compensation, and conflict resolution are at stake and legal mechanisms are required, going beyond purely punitive justice. However, it is not always clear whether the Bushingantahe is understood to mean the actual, distinctively formalized institution or the values and imagery associated with it, a point which often remains vague and depends on the people who refer to it and the place and time of reference. As is often the case with intangible heritage, it is considerably fluid and varies per time and situation, as this article will show.<sup>1)</sup>

This study focuses on the connections and entanglements between the local and higher levels up to the national level in political, legal, and social contexts. To what extent is the Bushingantahe to be considered and understood as an expression of societal regulation at the manageable local level (often associated with the “hill” in Burundi), and to what extent can it be interpreted per superordinate levels and interests? The study shows the fate and historical development of the intangible heritage, the attempts to harness it, be it by its abolition, revival, or actualization, over the various periods with their different political regimes and claims to power.

### 1. Introduction: A Judicial System Grounded in the Local Community

Since the mid-1960s, Burundi has been characterized by cycles of great political violence, recurring waves of civil war-like turmoil, and massacres that have claimed

hundreds of thousands of victims. In comparison to its northern “sister state” of Rwanda, whose violent political events at the beginning of the 1990s and especially the genocide of 1994 received broad international attention such that the country’s name remains inextricably linked to it, violence in Burundi has received comparatively little attention outside the immediate region.

The civil war, which keeps flaring up repeatedly for half a century, has had disastrous economic consequences for the country, which still ranks at the bottom of the international poverty scales. There have been numerous internal displacements (Photo 1), especially since 1993, when Melchior Ndadaye, who was voted state president in democratic elections, was murdered along with numerous high-ranking state representatives by the military, until then largely dominated by persons of Tutsi origin. This in turn led to an equally bloody reaction by the Hutu population and a civil war that lasted for one good dozen years. Currently, tens of thousands, if not hundreds of thousands, and many of them of Tutsi affiliation, still live in refugee or displaced person camps. International economic sanctions have further contributed to the precarious economic situation. The sanctions were considered in 2015 against the Burundian regime and the increasingly autocratic Pierre Nkurunziza (President of the Republic 2005–2020) and renewed in September 2020 against the successor regime under Evariste Ndayishimiye because of constitutional violations, political repression, and human rights violations.

Since the end of the 20th century, in the search for a solution via local and international organizations and consultants, the idea of the Bashingantahe council<sup>2)</sup> as a tool to enhance peace and stability in Burundi has been repeatedly and quickly invoked in a utilitarian manner to break the cycles of violence and to have a suitable legal mechanism at hand (cf. Naniwe-Kaburahe 2008: 163; Nindorera 2003: 27). Thus, under the first government of Major Pierre Buyoya, extensive reform measures were introduced in 1988 after the massacres of more than 10,000 people in the two northern communities of Marangara and Ntega. In 1989, President Buyoya appointed a National Commission to study the issue of national unity (Commission nationale d’étudier la question d’unité



**Photo 1** Camp of Internally Displaced Persons close to Gitega, October 2013 (©Thomas Laely)

nationale). With the publication of its report, a broad “Débat sur l’Unité Nationale” was launched, which finally led to the adoption of a new constitution in March 1992, providing for the democratization of the institutions of political life. The transition from the previous single- to multi-party system was one of the mainstays of this reform. However, a multi-party system has not been introduced unconditionally. Political events primarily fueled the associated concerns during the short period between decolonization and the end of the monarchy in the 1958–1966 period when several political parties were permitted, and the political competition that ensued led to violent conflicts. According to the 1992 constitution, the multi-party system was only implemented at higher political levels, especially at the national level.<sup>3)</sup> However, the lower levels, starting with the *Commune* (Burundi was then divided into 114 administrative municipalities), were to be kept free of competition from political parties. Instead, democratization was based on the model of the old moral and judicial authority system of the Bushingantahe, dating back to pre-colonial times.<sup>4)</sup>

In this context, the institution of Bushingantahe acquires special significance. In effect, it constitutes a legal, moral authority whose importance rests primarily at the local level, even if its weight at the higher political levels should not be neglected. Before discussing the details, let us first clarify the reasons for introducing the multi-party system at this level. According to the commission preparing the new constitution, among the most frequently invoked motives were as follows:

(...) the omnipresence of political parties can be a real danger to the daily understanding of the people on the hills. By introducing a partisan spirit that is contrary to customary conviviality, there is a risk that a neighbor who belongs to a competing party will be perceived and treated as an enemy instead of seeing him or her as a mere political opponent with whom one must compete fairly. The omnipresence of parties risks compromising a number of values that should be the foundation of democracy, including social peace and national unity. (...) For this reason the Constitutional Commission proposes that grassroots democratization should be based on the institution of *Ubushingantahe* which, for centuries, has served as the basis for social peace, justice, understanding and conviviality of Burundians on our hills. (translation by the author)<sup>5)</sup>

Besides kin and family ties, the institution of the Bushingantahe is considered a model and key factor for social cohesion, a central instrument for necessary regeneration by opening and maintaining relationships across ethnic boundaries (Nindorera 2003: 25). The strength of the Bushingantahe institution lies in the Bushingantahe’s mode of selection or in the fact that its representatives were legal spokespersons recognized from below, the local population, and not imposed top-down by the higher political authorities (Naniwe-Kaburahe 2008: 154f). The process of recognition and selection, usually broadly supported in the local community, distinguishes and sets them apart from all other legal bodies.

Based on the available historical knowledge, the Bushingantahe was a societal institution that evolved from the narrower local setting, regulated fundamental social

tasks, and, with the formation of the “Early State” in its (sacral) monarchical form, assumed advisory and legal responsibilities at all higher political-administrative levels. As the Bashingantahe councils had apparently been assigned to all levels of political administration from the early kingship, the regional chiefs and their deputies, up to the royal court, the rulers likely employed a system of checks and balances (cf. Naniwe-Kaburahe 2008: 154; 156). There are also numerous legends, anecdotes, sayings, and proverbs that bear witness to these honorable tasks (Baranyanka 2009: 59–64).

Parallel to the debate on the development of Bushingantahe, other questions about political transformation, the formation of state structures, the claims of the state, and its relationship to “civil society” emerge. More generally, the subject fits into the much broader framework of the relations between “Civil Society” and “State,” a field of study privileged by the Africanists since the 1980s. It is, therefore, a reflection on the relations between state and non-state authority and on the limitations of the former. For example, the local level serves as a restricted laboratory of analysis where this interaction occurs. Finally, there is a question about the history of transformations in the relationship between the state and the local community.

In the monarchical society of Burundi (ca. 17th–20th century), the holders of this juridico-moral authority, the Bashingantahe, occupied an important position even at the supra-local level as influential councilors and judges at the royal court and at the courts of the Ganwa princes, who governed the different regions. This study focuses on their importance at the local level, which refers to a hill or a group of hills. Indeed, much of Burundi is composed of a seemingly infinite series of hills: highlands gently sloping to the east and to the west separated by a chain of high mountains (up to over 2,000m) from a narrow band of lowlands with a humid tropical climate on the shores of Lake Tanganyika, where the only larger city and economic capital Bujumbura<sup>6</sup> lies. The hills that follow one another in the so-called “l’intérieur” (hinterland) of the country are marked by a very scattered habitat. The basic spatial unit is an isolated compound (enclosure) or cluster-shaped hamlet. The absence of a significant concentration of villages is an essential feature of this country. Until recently, only a minority of the population lived in urban areas.<sup>7</sup> Each hill, separated from the neighboring hill by a streamlet and swampy valleys, forms an important social unit, later designated as the “local group.” It comprises a few localized patrilineal segments termed “small localized lineages.” Until the end of the monarchy in the mid-1960s, older men enjoyed high esteem, either based on their status as representatives of the lineage or on their position within the institution of Bushingantahe.

This situation changed with the political transformations introduced during colonization, which had full effects only in the post-colonial period. The decline of the elders was symbolically marked by the fact that the Mwami (king), who reigned since 1915, was deposed in 1966 by his young son Charles Ndizeye at the instigation of influential Batutsi circles (cf. Manirakiza 1990). The fact that the power of Charles Ndizeye (enthroned under the title of Mwami Ntare V) was swept away the same year by Michel Micombero, commander of the armed forces and President of the Republic, established by his coup d’état, shows that this issue is not a mere matter of the dismissal

of elders by juniors. Thenceforth, the old monarchical society was transformed into a modern republican state, a state ruled by a military regime and supported by a single party. The institution of Bushingantahe was not spared from this change. In light of the Bushingantahe and its destiny, the history of the relationship between the local and state levels manifests itself in an exemplary way. The attempts to “functionalize” it provides insight into how the state deals with local intangible heritage. However, it is prudent to first closely consider the institution.

## 2. The Bushingantahe Authority System

### 2.1 Characterization

Almost everyone in Burundi would agree that the institution most likely to stand for justice, wisdom, and integrity is the Bushingantahe. This assumption is not by chance. Since the end of the 1950s and decolonization, Burundian society has found itself increasingly in aggravated crises and instability. Moreover, the more these values are obviously lacking, especially in everyday political and social life, the more this institution is invoked. As there has been ample reason and opportunity for this in recent decades, it is almost a mythical institution today. In fact, every political regime, in whatever form and whether in recent or more remote historical periods, has tried to claim and instrumentalize the Bushingantahe for itself. There is no reason to assume this would have been different for the monarchical and pre-colonial periods.

The Bushingantahe can be defined as an institution of community justice at the grassroots level. Let us first examine the ancient pre-colonial form of Bushingantahe. The Bashingantahe (sing.: *(u)Mu-shingantahe*) were and still are the real notables of the hill (Photos 2a, 2b and 2c). In a narrow sense, they have primarily juridical authority. In a broader sense, they have a high moral and political authority as role models and leaders



(2a)



(2b)



(2c)

**Photos 2a, 2b and 2c** Invested Bashingantahe, province Muramvya 1989 (©Thomas Laely)



of their local groups, as confirmed by the etymology of the word “Bashingantahe.” This term is composed of the verb *gushinga* and the noun *intahe*. *Intahe* is a small stick, usually made of ficus *umumanda* wood, which the Bashingantahe carry as a sign of their authority (Photo 3). They rhythmically strike the ground (*gushinga*) to underline the important passages of the presentation of the dispute, deliberations, and sentence communication. Thus, the Bashingantahe are conflict settlers, arbitrators, mediators, and counselors at the local level. Even if their role goes beyond simple mediation, they are generating decisions rather than implementing them. More Justices of the Peace than Court Judges, they have neither judicial competence nor penal power.<sup>8)</sup> Moreover, *Mushingantahe*, in general, refers to a person of authority, in love with justice, and of high integrity and experience, given an advanced age (Rodegem 1970: 464f; Ntabona 1999). The Bashingantahe are primarily responsible for judicial tasks: reconciliation and resolution of conflicts of all kinds within the hill community. If they fail to resolve such conflicts, they transfer them to extra-local political bodies and corresponding judicial authorities. In addition, the Bashingantahe serve as witnesses in various agreements at the local level, from marriages through succession regulations and the division of inheritance to the determination of land boundaries and lease contracts. The *Mushingantahe* is associated as witness and authenticator. In legal problems, the Bashingantahe are eye-witnesses, a task they can assume already by their advanced age: Are they not the ones who can remember in detail the drawing of the boundaries (*akarimbi*) that goes back far into the past and know the history of social relations most accurately? Generally, the obligation to establish and maintain harmony and unity, understanding and reconciliation, and, thus, protect the peace and order within the local community rests on them.

In addition to the legal field, the Bashingantahe were the guardians of customs and traditions at the local level. As the first moral authorities, counselors, educators, and role models of their community, they lead in constructing and consolidating the value system. Their duties are not limited to legal and normative aspects. As leaders of the territorially based groups, responsible for the consolidation of the internal order and representation toward the outside, the Bashingantahe took on prominent political functions in addition to their narrow duties as conflict resolvers. They were the first interlocutors of the local political authority. In pre-colonial Burundi, the Mwami generally delegated government power in various regions to members of his Ganwa lineage, with considerable autonomy in their territory. A Ganwa Prince administered his territory with the help of delegates, called *ivyariho* (sing: *icariho*; “substitute, lieutenant,” litt.: “who or what is in the place of...”), who were called “Sub-Chiefs” (Sous-Chefs) during the colonization; each was responsible for one, two, or three hills. Apart from a few messengers (*intumwa*), mostly caught on the job, these *ivyariho* had no other auxiliaries. As the Bashingantahe represented the most influential localized lineages (cf. Mworoha 1987: 210), the local *icariho* needed their support. Some were regularly summoned to his court to settle important juridical conflicts the local groups could not resolve independently.

Thus, another important issue emerges. Who became *Mushingantahe*, and how did one reach this social position? The status of *Mushingantahe* had to be acquired through a



**Photo 3** Bashingantahe—"Burundian notables in the countryside"  
(©O.N.T. Burundi, photo by J.P. Bastière, around 1978)

long process of observation and trials; no one acquired it "automatically," and no one was forced to do so. The Bashingantahe were recruited from the Batutsi and Bahutu (ethnic) groups. Only the Batwa (former hunter-gatherers, who still occupy a marginal social position today in all areas of life) were excluded from this social status. Accordingly, all adult males were expected to run for nomination to the Bashingantahe, the most prestigious social position within a local group. However, only a minority reached it—we are not dealing with an "age class" here: not every older man, and at least not necessarily every representative of the lineage, attained the status of Mushingantahe during his lifetime. This social position was not accessible to every older person, especially not women: "The *intahe* (stick) of the woman does not exist" because "the woman has no secrets" (a reference to the obligation of discretion about the content of the non-public deliberations of the Bashingantahe). The Bashingantahe are not to be mistaken for the elders of the lineages of a hill, i.e. with representatives of localized lineage segments. Even if this authority system contained obvious gerontocratic elements, the Mushingantahe is expected to exhibit more than just "the charisma of age" (Spencer 1985: 182f; cf. Mworoha 1977: 170f, 178).

It is quite possible, however, that the institution of Bashingantahe, as presented to us by the "mature" monarchy (19th century), is the result of a much earlier institution of lineage heads (the "elders"). The institution of Bashingantahe is widespread throughout Burundian territory; it is unknown in neighboring countries, including Rwanda.<sup>9)</sup> The fact that this institution was also known in the regions conquered only in the 19th century under Mwami Ntare Rugamba supports the argument that the monarchy contributed to the institutionalization of the Bashingantahe. Arguably, the monarchy had an interest in promoting the existence of such an institution and, thus, contributed to its extension to the whole territory. The hypothesis that originally presented the Bashingantahe as leaders and representatives of lineages or clans accredited by the king is reinforced by the fact that the Batwa never provided any Bashingantahe and were excluded from this social position. The other hypothesis is that these former hunter-gatherers knew neither separate clans (*imiryango*) nor any lineage organization before the complete formation of the



state. This situation would also explain the striking parallelism between their clan names and the Bahutu, and especially the Batutsi. Hence, the “merit” of the generalized extension of the Bashingantahe belongs to the monarchy, which has estimated the true value of the instances of reconciliation and decentralized representations of the local population. Finally, this institution containing the autonomist claims of the Baganwa and other regional leaders, was not to displease the central power. In the pre-monarchical era, the “pre-Bashingantahe”<sup>10)</sup> (the elders) likely played a much more general role. Under the monarchy, they assumed a primarily judicial role—increasingly specialized in juridical matters and, over time, associated with all government levels, highlighting the progressive incorporation of a lineage institution into the monarchical state.

## 2.2 The Status of the Mushingantahe: A Career of Several Stages and Grades

Whoever wanted to become a Mushingantahe had to prepare from his youth. One had to go through several stages and milestones, all marked by a big party during which the candidate had to offer much beer to the Bashingantahe of the surroundings and all those present. These stages described ascending graduation for aspirants, and this hierarchy continued even beyond the circle of the already invested Bashingantahe (cf. Rodegem 1966: 8). This order was manifested in their gatherings by the setting at the time of drinking and their duties and rights. However, their rank was also reflected in the local group at every function and formal meeting, accompanied by beer distribution in a convivial atmosphere.

Hence, one had to fulfill a few preconditions of a social, economic, and moral nature. The candidate must be recognized as a legitimate son, married at a mature age, and prove his aptitude for social commitment, first within the restricted framework of harmonious management of his household. It also implied the attainment of a certain economic status such that “one had something to give and something to keep,” as the Kirundi saying goes (*ukugira ico utanga n'ico usigarana*). Moreover, certain personal and moral qualities were required. The candidate was expected to possess *umutima* (mind, heart; here, politeness, education, compassion), which, generally, means a self-confident and balanced personality, with an acute social conscience. In other words, he must be endowed with a high sense of responsibility, especially for his community of provenance to which he always feels attached (Ntabona 1985). Maturity and integrity require a strong sense of truth and justice.<sup>11)</sup> Thus, if needed, he can confront even the powerful and rulers. Several proverbs evoke such integrity: “The true *mugabo*<sup>12)</sup> swallows a piece of dough, but not his word,” and “the true *mugabo* turns over on his mat, but not in his word” (cf. Hakizimana 1976: 33f). The reference to speech (*ijambo*) was central. A Mushingantahe “has the word” in all respects. He is an eloquent but not a smooth speaker. In an impartial spirit, he speaks clearly and confidently and has a deep sense of his professional obligations, especially when they require discretion.

Whoever wanted to become a Mushingantahe had to go through a long ordeal within his local group, lasting several years, which did not always end with success. The local community took time to observe and test the Mushingantahe applicant before official investiture, called *kwâtirwa*, which can be translated as “to be invested; to be initiated.”

The path to the official investiture as a Mushingantahe (a career never precisely explored in the scientific literature thus far) was rigorously ordered, depending on the region, in two, three, or four hierarchical stages. First, a general distinction was made between “Bakungu” and “Bashingantahe”. All men not invested in the Bashingantahe were called *Bakungu*.<sup>13</sup> “the not (yet) invested.” As it was customary for every man (even young men) to apply for Mushingantahe, they were all considered potential candidates. The periods of observation, learning, and maturation began just after adolescence. An assiduous *mukungu* would occasionally attend investigations and even juridical deliberations. Afterward, he would be asked a few questions to see if he had been following the case.

Those who wanted to outperform the rank of an ordinary “rear” *Mukungu* (*mukungu w'inyuma*) and rise to the “front” *Mukungu* (*mukungu w'imbere*), in allusion to the seating order and sequence when drinking beer, had to excel in the expected qualities and “offer beer to the Bashingantahe for the first time.” This kind of beer-offering could be connected to the celebration of the public presentation of the first child of the applicant.<sup>14</sup> The Bashingantahe could reject this “application beer” as insufficient and demand more. Under certain circumstances, the candidate must wait for the birth of his second or third child to reapply.

The man who finally had been promoted to “*mukungu w'imbere*” in this way enjoyed some new responsibilities and privileges but was subjected to more intensive scrutiny thenceforth. He had to give the ordinary Bakungu their beer, bring the Bashingantahe their pot, and appreciate its contents. Each status group drank separately. After years of intensive contact and observation by the Bashingantahe, he could advance from being an ordinary aspirant to a closer applicant and postulant to the final *kwâtirwa* investiture. If the Bashingantahe accepted the associated beer offering, he became “*umunya-mutámana*,” the “man in the robe (cloak) of the Bashingantahe,” expressing that he had received the “call” to Mushingantahe, the promise of an investiture (cf. Rodegem 1966: 8). The trial period and initiation were then opened. However, only a minority reached the stage of this last formal apprenticeship (cf. Trouwborst 1962: 148). The differences to East African age group or “class” systems also become apparent, of which the sequence of grades or stages may remind here and there (see, e.g., Spencer 1985: 178ff).

To be admitted to the investiture, all local lineages (*imiryango*) had their say, with the local Bashingantahe being the last to decide; it was within their power to postpone a request *sine die*. The one who received the “Cloak of Bashingantahe” was chosen as their apprentice and helper. What happened after this step? It was now up to the candidate's father to invite the most important relatives, neighbors, and local Bashingantahe to his premise, offer them a special beer, and formally submit his son's candidacy. The speed of progress depended on elements such as the economic fortune of the applicant. However, the assigned formal “investiture godfather,” *umuhetsi* or *umuheka*,<sup>15</sup> was also influential. He could have been a paternal relative whom the trainee himself suggested; although, ultimately, it was the hill Bashingantahe *in corpore* that determined him. The *muhetsi* was described as the first advocate and facilitator: the very manager and “impresario” of

his protégé's *kwâtirwa* campaign. One of his most important tasks was the organization of the investiture celebration. Under his leadership, the "novice" was introduced to the details of Mushingantahe duties. It was up to the *muhetsi* to ensure that the required amount of beer was accumulated, an organizational and economic effort not to be underestimated. The postulant was dependent on the assistance of his relatives, neighbors, friends, and followers. Finally, it was also the task of his godfather to introduce the aspirant to the local political authorities and inform them of the upcoming investment festival. Although it is somewhat uncertain from which point in history the applicant must be presented to local authorities in advance, this is a clear expression of the central state capture of the juridical field and the corresponding local authority system.

### 2.3 Investiture and Social Position of the Bashingantahe and Their Internal Hierarchies

The entire local community, relatives of the aspirant, and any individual passing through were invited to the demanding *kwâtirwa* ceremony, which took place in the candidate's compound. On the appointment day, "caravans" of beer pot carriers arrived at dawn. The public character of the ceremony was explicitly emphasized. Various speeches and an ever-renewed beer distribution took center stage. The beer jugs were distributed according to social categories and rank, including professions (Ntabona 1985: 279). Each grade was entitled to a particular jug of beer. Thus, the dominant social order was externalized and confirmed, and, above all, the candidates' recognition by all social strata was demonstrated. The local political authority honored only the candidate from an influential local lineage or members of lineages with whom it had special ties. The new initiate had to take an oath and, thus, as the local saying goes, swallow "the little stone of real men" (*kumira akabuye k'abagabo*). It is symbolic of the irreversibility of both the step taken and the commitment to assume the ensuing responsibilities (cf. Baranyanka 2009: 60; Rodegem 1966: 10). The newly-promoted man and his wife could drink the Bashingantahe jug for the first time. They were carried in the air so that everyone could see and applaud the invested Mushingantahe. The event sealed and formalized the agreement and link between the new Mushingantahe and his community and the acceptance by the local group of his new status, which now instituted him as spokesman, representative, and first legal and moral authority of the community.<sup>16</sup> It is always stressed that any opposition, wherever it came from, would have immediately interrupted the nomination.

Thus, a Mushingantahe was invested in by and for the local group from which he came. In the pre-colonial period, the investiture was in the hands of the local groups, especially of the oldest lineages of the locality: Without their agreement, no one could be invested. Admittedly, there were other investiture alternatives via the political centers; however, they seem to have gained importance only in a later period and never graduated beyond an exception. They are of interest here only insofar as they can be interpreted as an expression of the pre-colonial attempt of the central government to associate the Bashingantahe in one way or another with the political administration (Photos 4a and 4b).

One does not become a Mushingantahe overnight. Gradation from one stage to the next is understood as a requirement for learning by careful progression, very much in the spirit of the proverb *ibanga ntirimirwa intama*, “commitment [is] not something you can swallow without chewing it” (cf. Ntabona 1985: 279). Moreover, the Mushingantahe candidate is also already indebted to his local group by the economic expenses incurred during his ascent; he is much obliged and bound to it. A careful analysis of the different stages and duties corresponding to each one reveals an increasing responsibility linked to additional competencies and gradual integration in the juridical process. From an outside observer, one first became auxiliary to Bashingantahe in charge of conflict resolution. In the next stage, one was involved in the investigative process and allowed to attend the deliberations. However, only after the investiture could one participate in the judgment, where the word of a Mushingantahe gradually matured and gained weight (cf. Rutake 1986: 6). Periodic beer distributions on the long journey to Bashingantahe can be understood as a formalization of transitions and the social recognition of progress. The fact that a Mushingantahe was first mandated and legitimized not from above but from below does not mean this institution was not recognized and promoted by the central power. However, even in pre-colonial times, beer distribution did not have an exclusive ceremonial meaning. In addition to the indispensable personal qualities, this fact reassured that the candidate had a stable local base and a branched network of external connections. On the occasion of the investiture, he needed much beer from other hills. The distribution of beer thus had a selective function, as per economic power and the capacity to mobilize beer. Anyone who did not feel supported by a relatively influential and numerically strong lineage and a devoted neighborhood could not be invested.<sup>17)</sup>

There was also a clear ranking among the invested Bashingantahe. The position and prestige of each Mushingantahe were determined using two criteria: first, his personal qualities, influence, and “seniority,” all of which were determined by his social grouping (the lineage segment, clan, and ethnic group attributed to him); and second, his place within the hierarchy of legal and judicial levels that existed under the fully developed monarchical state (councils at the courts of the [sub-] chiefs up to the royal court; i.e., the *banyarurimbi*; cf. Rodgem 1966: 6f, 12; Mworoha 1977: 193, 210).

The first criterion was mainly decisive at the level of the hill. At each meeting of the Bashingantahe, an internal ranking became visible, again expressed in their seating and drinking order. They were generally divided into two categories: “the rear ones” and “the front ones” (*hari abari inyuma n’abari imbere*). Each of these groups had its unique beer and jug. The rear, still light-weight and usually younger Bashingantahe were called *abashingantahe bo ku carire* (Bashingantahe on the straw/calf bedding) or *banyacarire*, for short. They owed reverence and respect to the more experienced, venerable, and usually older Bashingantahe. The latter had their beer pot with them on the special sitting mat to which they were entitled; consequently, they were called *abashingantahe bo ku kirago* (Bashingantahe on the mat).<sup>18)</sup> *Ku kirago* is a place of honor. Among the *Banyakirago*, one again distinguished the *bicôcero*, whose physical strength had decreased so much that they remained sitting in their place and could not rise easily to go to the beer pot. Therefore, they got their calabash. However, these were not retired



(4a)



(4b)

**Photos 4a and 4b** Invested Bashingantahe, province Muyinga, 1989 (©Thomas Laely)

Bashingantahe, as I initially perceived—a resignation would not have been compatible with the sense of duty associated with Mushingantahe status. Only in cases of senility was care taken to ensure the people concerned were restrained. It would have been unthinkable to exclude them as elders. Admittedly, the aging process is often associated with a decreasing ability to assert oneself. However, insofar as they were still of a lucid spirit, they could be involved in the debates and decision-making; the trial could even be held in their compound if they could not move.<sup>19)</sup>

The internal differentiation and rankings among the Bashingantahe were not connected to any formal occasions or initiations, and, in principle, no special beer gifts were required. However, as in the step-by-step process for prospective Bashingantahe, considerable regional differences existed throughout Burundi. For example, some differentiation was unknown in various peripheral regions, and the designations could differ from region to region. The connected system and processes were apparently most differentiated at the center in areas around Muramvya and Gitega, which may only apply to the period at the end of the 19th and the first half of the 20th century; data on earlier periods are not known. And several of the specifications described are no longer found today, as we shall see in the next chapter. Thus, the description was more an ideal model than a fully lived reality; it was always subject to changes, variations, evasions, and exceptions, as with all social realities.

### 3. Transformations under Changing Political Regimes

#### 3.1 Alignment per Political Order

Let us turn to the question of what happened to the Bashingantahe system of authority under the changing political regimes since the beginning of the 20th century and its status in the 21st century. It is not surprising that all changes in the political order and the system of rule had somewhat direct effects on this locally based authority system (cf. Ntabona 1999). It applies primarily to the larger cuts—colonization, decolonization, and the transition from monarchy to republic in its three successive moldings. It applies equally to the attempts of the last 30 years to “rehabilitate” the Bashingantahe, deformed

and mutilated per the ruling order to break with the cycles of violence, cope with their consequences, and find an appropriate form of justice. In retrospect, the more its original spirit was invoked, the more instrumentalized the institution and vice versa.

Based on the political integration and attempts at appropriation under the colonial administration and later republic with its single-party regime, it is, if not obvious, then not too far to search, that even under the monarchical order, those in power must have had a lively interest in using this system of authority, founded in the wider local community, which largely regulated the local area. This situation probably explains the establishment of the Bashingantahe “second type”, directly placed alongside the political authorities at the higher levels.

### 3.2 Colonial Remodeling

If we disregard the conversions during the pre-colonial period and the formation of the “Early State” given the precarious data situation, the first interventions already occurred in the early colonial period. The bustling Catholic Church, whose functionaries and missionaries preceded and accompanied political colonization, was the first to penetrate the rural areas of the hills. Its representatives competed with Bashingantahe, seeking to assume their authority and traditional role as advisors, mediators, and regulators of marital conflicts and shape them according to their code of values (cf. Naniwe-Kaburahe 2008: 159; Nindorera 2003: 14). They appointed church officials and bodies in the form of *abajenâma* councils on the hills, recruited local cadres as auxiliaries, and worked as teachers in addition to their missionary work.

The Bashingantahe as an institution survived the relatively short colonial period (first German, then from 1916 Belgian), which began in the last years of the 19th century. It is essential to note that the colonial order did not begin to shape the everyday lives of people in the hills until the 1930s. When the Belgian colonial administration penetrated for the first time into the narrower rural space (“l’intérieur”), the judicial order at the level of the hill was no longer left to the Bashingantahe alone. Formal tribunals were established at the level of the *Chefs* and *Sous-Chefs*; the Bashingantahe were affiliated in the capacity of “assessors” in these customary law courts chaired by all-powerful chiefs or sub-chiefs (Gahama 1983: 301; Deslaurier 2003: 78). On July 1, 1962, Burundi and Rwanda achieved political independence at the same time. Though the colonial era hardly lasted more than one generation, the Bashingantahe was by no means unaffected by the upheavals therein. Rather, during this period, it underwent changes that made it easy for the later post-colonial republic to portray the Bashingantahe as hollow, justifying its complete redirection into new, now openly state-run paths. Let us take a closer look at these phases of development.

Under the colonial regime, the territorial administration was strengthened and standardized. Previously, many *Baganwa* and *Inkebe* territorial leaders, *Ivyariho* delegates, and *Bishikira* favorites were linked by very varied and highly intertwined dependency structures. These rulers governed regions of unequal sizes; the size of their territories depended on their political power at the time. These possessions were never fixed, but their boundaries were always fluctuating and controversial. However, colonial



power created an administrative structure of chiefs (Baganwa) and sub-chiefs (Batware) hierarchically structured per a universalized criterion.<sup>20)</sup> A completely “bureaucratized” staff, fully integrated into the state sector, was assigned to the sub-chief such that he could efficiently administer his territory, extended by several hills. The essential tasks of the sub-chiefs and their auxiliaries were now to summon the population to forced labor and the *corvées* (*guhimiriza*) and collect the tributes in kind (*gutôza imizigo*) prescribed in detail to supervise the introduction of new crops, ensure the maintenance of obligatory cash crops (especially coffee), and maintain order and peace. Auxiliary personnel comprised *Bahamagazi* criers, each responsible for proclaiming the orders of public power on his hill and mobilizing the tributes and *Barongozi* guides, who clerked to the execution of colonial works and led the columns of porters and laborers. The consolidation of the administrative apparatus included a multiplication of tasks for the local political authorities and their new auxiliaries, who had increasingly become coercive bodies under the colonial regime. This administrative reform led to the invasion of state-appointed civil servants at the local level, for which previously the Bashingantahe had been largely responsible. Under the pre-colonial system of domination, with a coherent ideological basis, the subordinates and subjects had to address the higher authorities. Now it was the other way around: It was the peasants who, on the hills, were solicited by the multiple representatives of the public authority. The central power interfered progressively in the “hill affairs.” Every peasant began to feel it in their life.

The colonial seizure of power, political and economic, led by political forces, was accompanied by a gradual disintegration of the local level. Bushingantahe was under increasing multifaceted state control. Each *kwâtirwa* nomination requires written authorization from the local political authority. There was a clear reduction in the competencies and functions of local non-governmental agencies. The state tried to keep the functions assumed by the Bashingantahe under more firm control. Two complementary strategies can be discerned: The central power tended to attach the Bashingantahe more directly to itself and make them properly state officials; and the state tried to restrict the extent of their competence by creating new local auxiliary administrative agents (*bahamagazi* criers and *Barongozi* guides). They assumed some of the duties and responsibilities formerly entrusted to the Bashingantahe. Despite the limitations, the Bushingantahe as a system of authority remained strong at the local level, and the Bashingantahe enjoyed the highest esteem in the community. In the later colonization phase after the Second World War, any official was systematically invested as Mushingantahe. This change increasingly induced Bushingantahe aspirants to circumvent the lengthy probation period by courting the local (*sous*) *chef* with alcoholic gifts (beer), inducing corruption, indebtedness, and dependencies (Delacauw 1936: 511). While the Bushingantahe used to be primarily based on the capability of mobilization and organization given high social integration, it now threatened to become completely venal.

### 3.3 Post-colonial Transformations: A History of Gradual Appropriation

As far as political developments are concerned, it is interesting to note that the colonial

changes anticipated at the local level became even more pronounced in the post-colonial state, especially under the Second Republic (1976–1987). The post-colonial state, which transformed into a republic after only a few years because this form promised to better meet its goals and needs to legitimize new elites and exclude old ones, initially induced greater state capture of the Bushingantahe in various steps.

The institution of the Bushingantahe was progressively placed in the sphere of influence of the newly created single-party UPRONA (Union pour le Progrès National), the new ideological and mobilization apparatus in the hands of the state. Under the First Republic (1966–1976), the Bashingantahe investiture was organized by the new “Administrateurs de Communes,” officials appointed from above, and was now conducted in the “party palaces” (*ingoro y’umugambwe*) created in each municipality rather than on the candidates’ residential hills, a significant local shift. Under the aegis of the state, the *kwâtirwa* was standardized throughout the entire national territory, and the previously pronounced regional disparities progressively disappeared (Hakizimana 1976: 58; 91). The candidates were invested in groups and presented themselves in a row in front of the Party house. At the end of the festivities, organized and supervised by the municipal administration, they had to contribute two jugs of beer and some cash to cover other expenses, sometimes even donating a cow whose meat was shared. Relative to earlier periods, *kwâtirwa* was now accessible to more men.

Under the First Republic, in the context of the creation of a centralized and bureaucratized local administration, the hill Bashingantahe faced competition from new (proto-) civil servants and their auxiliaries. The administration set up new organs with the “hill chief” (*chef de colline*)<sup>21</sup> and with the *Nyumbakumi* or *Nzezwamihana* (at the neighborhood or “borough” of the local community level) administering about ten households. While the former, as direct delegates of the municipal office, had obligations ranging from tax collection to conducting development tasks, the *Nyumbakumi* was control and policing body, conceived as the state’s most advanced bridgehead in the neighborhood—tasks that were not very popular and of dubious efficiency.

With the regime change in the mid-1970s, when the “post-monarchical” transition period ended, and the republican order began to take root, the state pursued a much more active policy in these areas. The innovator lieutenant-colonel Jean-Baptiste Bagaza, who had seized power in 1976, strove for a fundamental transformation of traditional society and its reorientation through reforms in various areas. While the late 1970s were marked by far-reaching financial, fiscal, and land reforms, the 1980s were increasingly dominated by police measures in a progressively autocratic regime (Chrétien and Guichaoua 1988; Reyntjens 1989). The first instrument for implementing state policy was the restructured single-party UPRONA, whose agencies were expanded, upgraded, and given additional tasks and powers, primarily at the local level. For the peasants on the hill, this meant primarily increasing bureaucratic pressure and not democratization by introducing “modern state” institutions, as Chrétien and Le Jeune suggested (1986; cf. Chrétien and Guichaoua 1988). The old-stock Bashingantahe proved to be unfit in achieving the objectives conceived by the central power. The republican state subsequently opted for the second strategy: A whole series of new state and para-state bodies were created or

expanded at the hill level to take over the traditional tasks and competencies of Bashingantahe and make them superfluous. As they would have represented an undesirable competition, they were unceremoniously “abolished” by prohibiting any previous *kwâtirwa* ceremony: In 1978, any installation on the hill outside the party framework was banned. The official reason was to put an end to the prodigality and possible indebtedness associated with the old form of investiture.

However, destruction and prohibition were not enough; a substitute was needed to make these measures and desired stronger state control effective. It was achieved via the significantly incremented density of civil servants and agencies in the local area down to the neighborhood (*imihana*) level. What interests us more than the territorial administration cadres in this context are the somewhat parallel bodies of the unitary party UPRONA, structured per the model of socialist states of that period. In the countryside, where more than 90% of the adult population adhered to the Party at that time, each geographical hill was promoted to “Party Section,” comprising different small “Party Cells” (*agacimbiri*). A committee of ten and five members led them under the chairmanship of the first and second secretaries, respectively. In May 1988, these committees were elected for the first time by local party members, each time on the proposal of the higher level.

The election and expansion of the party committees changed almost nothing in their composition, even in agricultural areas, where almost all members are farmers; non-peasants, especially those holding state office had every chance of being elected (Guichaoua 1989: 69, 76, n.10; Le Jeune 1989: 83ff, 93ff). Party committees were still perceived more as organs of the state than the local group. As a new regulatory body for conflicts and disputes on the hill, they were the ones who now gathered every Thursday instead of the Bashingantahe. All local problems were now within their competence. Only members of these committees had the right and duty to chair the juridical bodies and send a written report containing proposed solutions, decisions, and, if necessary, case references to higher offices.

The state chose an offensive strategy to make this transfer of competence clear to everyone and find the necessary support: Various elements of the outer appearance of the Bashingantahe were transferred directly to these new bodies. In view of the strong roots and the continuing high reputation of this institution on Burundi’s hills, the state refrained from abolishing it in any form. It must have seemed more promising to occupy and “nationalize” its territory and to link it more than ever directly to the civil service. Hereafter, only committee members were officially called “Bashingantahe.” Several features of the old mode of appointment were retained. The investiture of the committee members (Bashingantahe of the Party) after their respective designation and election was sealed by an oath to the party and its ideals, during which all held the national flag with their left hand, the right raised for the party salute. Thenceforth, only this new officially recognized “*kwâtirwa*” led to the Bashingantahe. Given that new qualifications were required (members of party committees should be literate such that the modern administrative apparatus could rely on them), there was no more room for older people in these bodies. The functionary Bashingantahe appointed by the party had the say.

Although the traditionally invested ones may have had considerable personal, charismatic, and functional authority, they no longer held any institutional authority in the mediation and settlement of disputes beyond the narrow localized lineage and neighborhood sphere.

However, the described transformation processes should not be seen too one-sidedly. If the state sought to instrumentalize certain elements of the Bushingantahe for itself, then in a reverse movement, the agencies, with which it had equipped every hill, were in a sense occupied from below and tied back into old patterns of perception and explanatory contexts. For example, in everyday language, the members of the JRR party youth of that time (*Jeunesse Révolutionnaire Rwagasore*) became the new *bakungu* (or *bakungu m'imbere*). Similarly, by being elected to a *Comité de Cellule*, one first climbed to the next higher level, following the perceptions of the peasants (*mu mutamana* according to the old terminology), and is, thus, not yet regarded as a “full” Mushingantahe—a common parlance and view that did not correspond to official discourse, but to vernacular speech.

With the administrative-political appropriation of the institution for the regulation of local space, Bushingantahe's importance eroded. This circumstance was also expressed in a “dépréciation sémantique”, a devaluation and extension of the semantic field of the term or the title of the Mushingantahe, becoming a commonplace expression generalized for a respectful person of male—and only male—gender (Deslaurier 2003: 78). After all, the title stood and stands for a respectable person in general up to the respectful everyday address like “monsieur” or “sir”. Thus, most public speeches begin and end with “Bashingantahe,” often supplemented by “na Bapfasoni,” synonymous with “Ladies and Gentlemen.” At the local level, however, especially in rural areas, the Bushingantahe institution has retained its meaning despite the waning of the term. Especially in largely anomic situations, where there are hardly any regulated relations to (let alone services from) the political authorities, the Bushingantahe finds its meaningfulness, though possibly in modified forms relative to the old rules (Photos 4a and 4b).

In the clash of different systems of power and authority, the elderly have lost enormous ground with the growing importance of modern criteria such as literacy. However, since this modernization created countless new problems for which there are no solutions, manifesting not least in the recurrent political conflicts ethnically oriented until the last turn of the century, people have long since begun to reconsider the value of the Bushingantahe.

This situation could be observed for the first time explicitly in the aforementioned “Débat sur Unité Nationale” during the democratization phase in the years 1989–1993, a direct consequence of the massacres in the two northern municipalities of Marangara and Ntega bordering Rwanda in August 1988. Of course, it must also be seen in the broader context of the “African Perestroika,” observable in large parts of the African continent after the changes in Eastern Europe from 1989 onwards. The widely recognized traditional institution was considered a means of reconciliation and reconstruction within the local setting. These efforts intensified with international support in the second half of the 1990s, when it was necessary to overcome the consequences of the devastating civil war that followed the bloody upheaval of October 1993.<sup>22)</sup>

After the coup d'état of October 1993, the 1992 constitution and the reforms of democracy "at the grassroots" were repealed. Under Buyoya's second presidency, a décret-loi was issued in 1997, providing for a "conseil consultatif (des Bashingantahe)" comprising 40 members appointed by the president, which, as its name suggests, had a consultative role.<sup>23)</sup> The Conseil National des Bashingantahe (CNB) published several recommendations and guidelines until 1998, but these did not receive much attention from politicians, security forces, or the general public.<sup>24)</sup>

The revalorization of the Bashingantahe was finally the subject of the peace negotiations among the nineteen political parties (G19) with international support from the region (Tanzania, South Africa) at the end of the 1990s, eventually finding a prominent place in the Arusha Agreement of late August 2000. "Neo-traditional solutions," as per Deslaurier (2003: 80), aroused not least the interest of the international community.<sup>25)</sup> However, the official Burundian side and urban circles invoked the old Bashingantahe at every opportunity in spirit, if not in form. In earlier times, the exclusion of categories such as women, Batwa, and less-performing men in traditional monarchical society was "politically correct" insofar as it was inscribed in a system according to which each social category, group, and (sub-) clan was assigned specific tasks, duties, and rights and the corresponding position within a rough ranking system. This system had largely dissolved with social and political changes which also had an impact on the Bashingantahe and the attempts to revive it. Thus, it was clearly stipulated that everyone, especially women and Batwa, should henceforth have access to the Bashingantahe. This stipulation of the new "politically correct" views by the central authorities proved to be ineffective in the rural context and were hardly implemented (Deslaurier 2003: 91).

As this anthology addresses the circumstances and fates of intangible cultural heritage, it is worth noting here that it was probably the vicissitudes of (local) political history, among other things, that contributed to the fact that Burundi has not yet developed the idea or has refrained from having the Bashingantahe recognized by UNESCO as an intangible cultural heritage. Accordingly, the criteria set by UNESCO (e.g., general democratic access and gender equality) would hardly have been fully met; however, the institution of the Bashingantahe was and still is far too controversial and insufficiently settled regarding (local) politics in the fierce squabbling among various stakeholders. This situation may account for some differences relative to other juridical systems operating primarily at the local level included in UNESCO's Representative List of the Intangible Cultural Heritage of Humanity. For example, this applies to the *Council of Wise Men* of the plains of Murcia and Valencia, Spain, inscribed in 2009,<sup>26)</sup> or the *Gada'a* system in Ethiopia, inscribed in 2016.<sup>27)</sup> However, these two are distinctly different in other respects. The centuries-old Spanish council system specializes in the allocation of water rights and involves local authorities directly, while the Ethiopian *Gada'a* system is much more comprehensive, affecting all areas of society. It is to be regarded as a generation-grading system in its own right, not based on (biological) age but rather on genealogical generation and descent, comprising any male member of the society (cf. Hallpike 1976: 48ff). Relative to the latter, the Burundian Bashingantahe is again more specialized and focused on the juridical and moral spheres, far from being

inclusive of the general male population. Certain permanence and determinacy are necessary for inclusion in UNESCO's Intangible Cultural Heritage Register. Whether such registration with all involved conditions would be conducive to the further significance of the institution in Burundian society seems doubtful; that certain sclerosis and "museumization" can be associated with it has been shown by other examples from the African continent (see the contributions in this anthology and examples by Rowlands and De Jong 2007). Notably, recall the fact that cultural heritage is not passive, existing for mere preservation, but rather a living construction, "an active process of assembling a series of objects, places and practices that we choose to hold up as a mirror to the present, associated with a particular set of values that we wish to take with us into the future," as per the heritage scholar, Rodney Harrison (2013: 4).

In 1999, the process of rehabilitating the Bashingantahe began to be steered by several international NGOs under the leadership of the Catholic *Centre de recherche sur l'inculturation et le développement* (CRID), which in retrospect led to criticism. This process was broadly formalized—municipal and provincial councils of the Bashingantahe were established, including an anthem and charter, even a national holiday of "*intahe*" to be celebrated annually on February 23. The national Bashingantahe Council CNB was launched for a second time in 2002, the chairmanship of which was handed over to the churchman Abbé Adrien Ntabona, who had studied and published on the Bashingantahe for many years. During the so-called rehabilitation of the institution, the UN Development Program (UNDP/PNUD) financed a broad-based project of identification of the Bashingantahe "traditionels" or "authentiques" on the hills from late 1999 to 2001, which it commissioned from several local organisms and international NGOs (Deslaurier 2003: 80, 88; Ingelaere and Kohlhagen 2012: 45). The hill-to-hill survey allowed for identifying "precisely 30,411 'traditionally' invested Bashingantahe" as Ingelaere and Kohlhagen report (2012: 45),<sup>28)</sup> "whose authority is still recognized by the local population," according to a 2003 report by the International Crisis Group.<sup>29)</sup> Thus "two generations" of Bashingantahe existed side by side, the "old style" alongside the "new style" (Deslaurier 2003: 84ff). The latter were accused in many cases of being appointed based on political criteria and being part of the "state aristocracy" who only sporadically left their urban surroundings to make their appearance on their hill of provenance, with largely unfamiliar circumstances, interests, and needs. This applies not least to the members of the new CNB.

Contrary to the Arusha Agreement, the Bashingantahe was not recognized as an official "transitional justice"; in the same way a "Truth and Reconciliation Commission" was not established. The politicization of the institution, which progressively fell into the hands of urban intellectual elites, led to the demise of the Bashingantahe as an official transitional justice policy. Ingelaere and Kohlhagen rightly note that this also had to do with the fact that the Hutu-dominated ruling party CNDD-FDD saw the new CNB and many civil society organizations as close to the urban Tutsi elites (2012: 45).

The official recognition of Bashingantahe has quickly come to its limits. A new law of the organization of the municipal government was enacted in 2005, creating new "Hill and Neighborhood Councils" to be appointed by universal suffrage.<sup>30)</sup> Ntabona speaks of



a parallel institution, although he explicitly does not want this to be understood as a “nationalization” of the Bushingantahe. While the various revisions of the Municipal Act up to 2010 created state legal structures and courts at the level of the “grandes collines,” the “renewed Bushingantahe” initiative by the CNB focused on the “petite colline,” the small hill *agacimbiri*, to be as close as possible to the population.<sup>31)</sup> While the new, officialized “grand-hill councils” were perceived to be staffed by people from the ruling CNDD-FDD party (and, like the former party committee members, were also figuratively referred to as “elected Bushingantahe”), the previously appointed Bushingantahe continued to be associated with the old unity party UPRONA (Ingelaere and Kohlhausen 2012: 46). Finally, it is crucial to mention that a law on the organization and powers of the judiciary, enacted in 2005, formally put an end to the function of (old-style) Bushingantahe as auxiliaries to the courts.<sup>32)</sup> Since the 2010 revision of the Municipal Act, the decisions of the Bushingantahe no longer have the force of law by removing the legal requirement that parties must bring their civil matters before the Bushingantahe before being heard by the municipal court.<sup>33)</sup>

#### 4. Conclusion

How must the efforts and attempts at revival and re-ordering be assessed? What have they resulted in? Efforts by the respective political regimes to use the local authority structure cannot be surprising. Evidently, the Bushingantahe dates from the time of the sacred kingship, where it helped to regulate the social life of the distinctly rural local communities characterized by scattered settlements. How should it be possible to transfer this institution to an increasingly densely populated, partly urban population under the guidance of the central government without far-reaching changes? The two attempts at modernization in this direction at the beginning of the 1990s and again from 1999 and 2002 have ultimately had little success (cf. Deslaurier 2003: 90).

From the mythical idealization of the Bushingantahe, it is often only a small step towards the thesis of the causal connection between the existence of the Bushingantahe and banishing social and ethnic conflicts—that before independence and until 1965, given the well-established existence of the Bushingantahe councils, ethnic conflicts never occurred.<sup>34)</sup> Although this conclusion contains correct elements (locally supported institutions legitimized from below work against instability and social conflict), it is premature to deduce, guided by an overly mechanistic-technocratic attitude, that the Bushingantahe can be revived as a ready-made set-piece to achieve reconciliation and social harmony. All recent recourse suffered from the same weakness: The Bushingantahe, mostly reanimated and installed in a dirigiste rush, were not legitimized from below but exclusively from above; they were not invested in this function bottom-up by the local community in a long, step-by-step process. Rather, they were appointed by the authorities in a decidedly top-down procedure. Crucially, they were not accountable to the local community but to the state authorities.

The rapid recourse to the Bushingantahe contrasts with the scarce knowledge about the functioning and basics of this local jurisdictional system. Unfortunately, there are

hardly any detailed scientific studies on this subject to date. Although there were considerable regional differences, the holders of Mushingantahe status in traditional society went through years of learning and probation before being appointed by the local community, intended to ensure aspirants possessed the expected qualities and remained accountable to their community as hill notables. The lack of interest in these qualities accords with the local, rural population being largely ignored, with no thought to involve them in rehabilitating the institution (Naniwe-Kaburahe 2008: 169).

What remains? Despite all the changes and instrumentalizations across the various historical periods and political regimes, the institution has not wholly lost its credibility (Naniwe-Kaburahe 2008: 160). Ingelaere and Kohlhagen argue that the underlying principles of the institution as “a social imaginary”<sup>35)</sup> and “an organizing principle of social existence” have been little affected (2012: 42; 46ff). Although this institution is now largely broken and no longer appears in its old form, it remains meaningful to adult Burundians. Indeed, it still determines the conception of authority in general and is at the root of the concept of authority that permeated rural life until the mid-1970s. Its importance has already emerged from the fact that the post-colonial republican state tried to capture this institution and emulate it more closely on several occasions, if only by adopting the outer attire of the Bushingantahe, its vocabulary, and some modalities for the investiture of the representatives of this grassroots authority. The continuing relevance of the institution and the social imageries associated with it is also evidenced by the common distinction between “real” and “fake” and “old” and “new” Bashingantahe, which Ingelaere and Kohlhagen note (2012: 47). Bashingantahe remain the first to be approached for advice and resolution at the level of day-to-day conflicts. According to Ingelaere and Kohlhagen, local conflict resolution is proceeding in a similarly ritualized manner nowadays: The Bashingantahe reinforce their argumentation and possibly decisions by tapping their *intahe* on the ground,<sup>36)</sup> often using proverbs and, at the end of the session, inviting the parties in conflict to a joint beer-drinking with straws from a gourd, offered by the party requesting the Bashingantahe. However, the Bashingantahe’s authority today is generally tarnished and no longer recognized, often inducing the fact that their intervention no longer leads to an all-around recognized solution (Ingelaere and Kohlhagen 2012: 46f).

All the values and traits of immaterial cultural heritage expressed around the Bushingantahe, or “social imaginaries,” as per Ingelaere and Kohlhagen, are part of Burundi’s cultural foundations and continue to impregnate everyday culture today in a wide range of spheres. However, the establishment of the Bushingantahe as a local authority structure has largely disintegrated or exists only in a diluted form with all possible regional differences. After repeated instrumentalizations, reinterpretations, and institutional violations, it would be presumptuous to believe that it could be brought back to life in its old form via a few decrees. After all, it has been discredited to a large extent by multiple trivializations under the Republic (see Naniwe-Kaburahe 2008: 175). Further, there are now decades-long turmoil and cycles of violence, inducing recurring regroupings and multiple expulsions with the anomic conditions associated with them, even on the most remote hills. Nevertheless, its strengths, especially the regulation of the

local space, proven in a different context, remain a powerful model that continues to exist latently in the background. In a post-conflict society, this model is important and should not be underestimated in the search for possible solutions for social life as a significant part of the intangible heritage, even if it is only a moral and cultural reference point.

Attempts to revive the Bushingantahe should be considered critically against this backdrop. Caution of too much idealization of the Bushingantahe, as found particularly in urban areas, is advised. In the countryside, farmers can hardly afford to step back from reality and indulge in wishful thinking. Their perception of the Bushingantahe has been greatly influenced by how this institution has functioned in reality since the 1970s. Through these transformations, Bushingantahe has been considerably emptied of its content. Before any re-use, the issue of which content and competencies are required to bridge the gaps is essential. However, it can only be successful if the long and changing history of Bushingantahe is examined. The answer will be determined by the broader political context and depends on the state's adherence to its dirigiste and autocratic claims, especially at the local level, and the scope for democratizing political life at the grassroots level. In any case, it is reasonable to conclude that the reissue of the pre-colonial Bushingantahe will certainly not be pure and simple.

## Notes

- 1) The study data are drawn from field research in Burundi conducted from June 1988 to July 1989 and subsequent visits in 1994, 2013 and 2016. The study was funded by the Swiss Agency for Development and Cooperation and by the Swiss National Science Foundation. Many thanks to these two institutions and to the University of Burundi for their assistance and intellectual support to the research. The article resumes and extends my earlier publications from 1992 and 1995. Without the exchange with the numerous interlocutors in Burundi, in the city and countryside, this work would not have materialized. This gratitude goes along with the usual disclaimer: The responsibility for what has been stated remains mine alone. Finally, my very special thanks go to Taku Iida of Osaka's National Museum of Ethnology, Japan (Minpaku) and its Center for Cultural Resource Studies for all the valuable feedback, numerous comments, and guidance through the entire editorial process and the anonymous peer reviewers and copy editors for rendering the text to be much more reader-friendly.
- 2) At this point, it is worth recalling the terminology in Kirundi, the local language. While the Kirundi prefix *(u)Bu*-[shingantahe] denotes the institution and the values associated with it, the prefix *(a)Ba*-[shingantahe] designates the people who hold or represent it (sing *(u)Mu*-[shingantahe]).
- 3) S. Deslauriers 2003: 79; Naniwe-Kaburahe 2008: 170.
- 4) Thus, article 178 of the 1992 constitution stipulated: "La commune est administrée par l'Assemblée communale, le Conseil communal et l'Administrateur communal élu par l'Assemblée communale. Ces institutions sont élues dans les conditions prévues par la loi. L'élection de ces organes se fonde sur *Ubushingantahe*, en dehors de la compétition des partis

politiques” (*The Municipality is administered by the Municipal Assembly, the Municipal Council and the Municipal Administrator elected by the Municipal Assembly. These institutions are elected in accordance with the law. The election of these bodies is based on Ubushingantahe, apart from the competition of political parties.* translation by the author).

- 5) “(...) l’omniprésence des partis politiques peut être un danger réel pour l’entente quotidienne des gens sur les collines. En introduisant l’esprit partisan qui est contraire à la convivialité coutumière, il y a risque que le voisin qui appartient à un parti concurrent soit perçu et traité comme un ennemi au lieu de le considérer comme un simple adversaire politique avec lequel il faut mener une compétition loyale. L’omniprésence des partis risque de compromettre un certain nombre de valeurs que devrait fonder la démocratie, notamment la paix sociale et l’unité nationale. (...) Dans la mesure où elle risque d’entretenir une agitation sur les collines, l’omniprésence des partis peut exercer un rôle de diversion sur la population en la détournant de ses véritables problèmes (...). (...) Dans notre pays [le] système [des partis] constitue une expérience nouvelle. Les réalités sociales et la tradition du Burundi nous commandent de choisir à la fois un système de représentation inspiré de l’âme et de la culture burundaises et compatible avec l’exigence d’institutions modernes. C’est pourquoi la Commission Constitutionnelle propose que la démocratisation à la base se fonde sur l’institution d’Ubushingantahe qui, pendant des siècles, a servi de socle à la paix sociale, à la justice, à l’entente et à la convivialité des Burundais sur nos collines” (République du Burundi. Commission constitutionnelle. août 1991: 120f; cf. décembre 1991: 17).
- 6) The political capital was returned to Gitega at the center of the country in 2019 under the Nkurunziza regime. Gitega was the capital under German colonial administration from 1912 until 1916.
- 7) According to UN statistics, Burundi’s urbanization rate of 13% in 2018 was one of the lowest in the world; see <https://population.un.org/wup/Country-Profiles> (retrieved 30 November 2020)
- 8) Therefore, it is not quite adequate to speak of a “hill-level tribunal,” as Dexter and Ntahombaye (2005: 15) do; to call it “informal” (Dexter and Ntahombaye 2005: 15) is at most justified by the fact that it is not (anymore) recognized as part of the official, state judicial system.
- 9) In Rwanda, another common grass-roots local jurisdiction is called *gacaca* (lit.: “meadow, lawn,” and figuratively “gathering of neighbors [sitting on the grass]”), a “people’s forum for dispute resolution” (see Reyntjens 1990; Rettig 2008). Of particular interest to us is the point that “although *gacaca* (...) is a traditional conflict-solving process, these [the councils revived and updated after the 1994 genocide] are in reality newly created institutions without effective links to the past” (Reyntjens 2001: 11; n30).
- 10) According to recent research in oral traditions, there are indications that the term Bu-/Bashingantahe has only been known since the period of Mwezi Gisabo, who ruled in the second half of the 19th century.
- 11) *Imvúgakuri*, “a sincere, truthful and loyal person, a man of honour” (Rodegem 1970: 354).
- 12) (*U*)*mugabo*, “man, the adult male, in the full sense of the word; the husband; the warrior, and also the arbitrator in charge of settling disputes; i.e. any man who is respected” (Rodegem 1970: 95).
- 13) Sing.: *umukungu*, probably derived from *inkungu* (sometimes also *igikungu*), “hornless adult

bovide/heifer that has not yet been covered by a bull,” and from the verb *gukungera*, “to put in a state of waiting, of latency; to observe while waiting for something to happen” (cf. Rodegem 1966: 8f, 1970: 247). Thus, *umukungu* denotes someone who is in a state of waiting or, more precisely, is waiting to reach a higher social rank. This connotation of latency implies that an *umukungu* is generally a person lacking something and has not yet found it while living in a non-stabilized situation (cf. Ntabona 1985: 300, who speaks of a “very pejorative connotation in common parlance”).

- 14) *Gusohora umwāna*.
- 15) Derived from the verb *guheka*; the verb is mainly used for the woman carrying an infant on her back; in some places the expressions *umuvyeyi w'intahe* or *sé w'intahe*, procreator/genitor (also “patron”) or father of the *intahe* stick were also used.
- 16) In Ntabona’s words, this was “a way of soliciting popular support, since, from that day on, he [the invested] became the father (*umuvyeyi*) of his fellow men in the community” (1985: 280).
- 17) It is not enough to say that the Bushingantahe, as a reflection of the asymmetries and social hierarchies that characterized the pre-colonial society, also included a certain ethnic dimension; these inequalities of access opportunities were determined by elements such as clan or even lineage membership.
- 18) Sometimes also called *abashingantahe babunyoye* (those who have been drinking for a long time).
- 19) The information given here is taken from the interviews during my field research in 1988/1989.
- 20) On the subject of administrative transformations during the first phase of Belgian colonization, see Gahama 1983: “From a Burundi with very fragmented units and imprecise boundaries, one passes in less than five years to a country with solid constituencies” (p.73, cf. pp.64f; translation by the author, TL).
- 21) His name and the extent of the territory under his charge underwent continuous changes per the successive provisions of the central administration. Until the Second Republic, in reference to the old system of the municipal council, he was called by his official title of “councilor,” a term still widely used in everyday language today. Since March 1988, he was officially called “chef de secteur” or “chef de collines” (*umukuru w'imitumba*), and he had oversight over two or three hills. These chefs de collines were salaried for the very first time; thus, their number was kept as low as possible.
- 22) Estimates put the death toll at around 300,000. Moreover, at the time of the Arusha Agreement, there were about 800,000 refugees, primarily in neighboring countries, especially Tanzania, and about 300,000 internally displaced persons (e.g., Lemarchand 2009: 153; 162).
- 23) The décret-loi n° 1/001/97 of 3 January 1997 established the organization, composition, and functioning of a “Bashingantahe Council for National Unity and Reconciliation” (CNB). The decree of 21 March 1997 (No.100/050/97) appointed the members of this council. The CNB had 40 members, including eight women (Deslaurier 2003: 93, n47).
- 24) The study draws primarily from information by Christine Deslaurier, who distinguishes three phases of the revaluation of the Bushingantahe between 1988/89 and 2003 (Deslaurier 2003: 78ff).
- 25) It included multilateral organizations such as UNDP/PNUD, UNHCR, and non-governmental organizations.

- 26) *Consejo de Hombres Buenos*, 4.COM 13.70, <https://ich.unesco.org/en/RL/irrigators-tribunals-of-the-spanish-mediterranean-coast-the-council-of-wise-men-of-the-plain-of-murcia-and-the-water-tribunal-of-the-plain-of-valencia-00171> (retrieved 18 August 2021)
- 27) 11.COM 10.B.11, <https://ich.unesco.org/en/RL/gada-system-an-indigenous-democratic-socio-political-system-of-the-oromo-01164> (retrieved 20 August 2021)
- 28) They refer to Weiss et al (2003).
- 29) The report of the International Crisis Group noted the number of 34,000 “traditionally invested” Bashingantahe. ICG, Rapport Afrique n° 70, 7 octobre 2003, pp. 12–13, quoted in Deslaurier (2003: 88).
- 30) Municipal Law 1/016 from 20 April 2005, in particular Article 37, revised 2010.
- 31) Personal communication Adrien Ntabona, 29 April 2021 and 18 June 2021; cf. Sibomana 2021.
- 32) Law 1/08, March 17, 2005, cited in Ingelaere and Kohlhausen (2012: 41; 46).
- 33) Law 1/02 of January 25, 2010, see Ingelaere and Kohlhausen (2012: 41).
- 34) This thesis was also directly included in the “Accord d’Arusha pour la Paix et la Réconciliation au Burundi” of 2000, p.15 (cf. Nindorera 2003: 2; 12).
- 35) A “social imaginary is closely related to what Pierre Bourdieu calls habitus,” something “carried in images, stories, and legends” (Ingelaere and Kohlhausen 2021: 49, n37; here they refer to Charles Taylor “Two Theories of Modernity”, in Gaonkar 2001).
- 36) Interestingly, elected hill councils do not do so, as reported by Ingelaere and Kohlhausen (2012: 47, n32).

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