



**“Women inherit wrappers, men inherit fields”:
The problem of women’s access to land in South Kivu,
Democratic Republic of Congo**

Research Report

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Contents

Acknowledgements	2
Table of acronyms	3
Summary	4
Introduction	7
1. Brief overview of the land issue in DRC	12
1.1. A question of power and identity	12
1.2. The situation in the areas covered by the study	13
1.3. The gender dimension of the land issue	14
2. Women's access to land: secondary land rights	17
2.1. Women's place in traditional land tenure	17
2.1.1. Women's exclusion from land access through Kalinzi	18
2.1.2. Other methods of accessing land used by women	20
2.2. Impact of the gender division of labour: limited power of decision over the control of resources	21
2.3. Lack of access to credit and inputs	23
2.4. Limited representation in decision-making bodies	25
2.5. Discriminatory legal provisions against women and lack of harmonisation of different legal texts	26
3. The place granted to women in initiatives to reform the land system	30
3.1. Interventions of the Congolese state	32
3.2. Interventions of national and international non-governmental organisations	32
4. Conclusion and recommendations	35

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Table of Acronyms

AFEJUCO	Association des Femmes Juristes du Congo (Association of Congolese Female Jurists)
ASOP	Action Sociale et d'Organisation Paysanne (Congolese NGO supporting farmers in South Kivu)
CAFCO	Cadre Permanent de Concertation de la Femme Congolaise (Permanent Consultative Framework of Congolese Women)
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CONAFED	Comité National Femme et Développement (Congolese National Committee for Women and Development)
DRC	Democratic Republic of Congo
IFDP	Innovation et Formation pour le Développement et la Paix (organisation promoting peace, conflict prevention and poverty reduction.)
IGA	Income-Generating Activities
LDF	Levain des Femmes (association for women's and rural women's rights)
REFAMP/RDC	Réseau des Femmes Africaines Ministres et Parlementaires de la République Démocratique du Congo (Network of African Women Ministers and Parliamentarians of the Democratic Republic of Congo)
SDGEA	Solemn Declaration on Gender Equality in Africa
SOFAD	Solidarité des Femmes Activistes pour la Défense des Droits Humains (solidarity movement of female human rights activists)

Summary

This report presents the results of research into the problem of women's access to land in the province of South Kivu, in the eastern region of the Democratic Republic of Congo (DRC). This study was carried out by Women for Women International (WfWI), as part of its programme to support women's rights to access land and livelihoods. The primary concern of WfWI was to identify the economic, sociocultural, legal and political scope of the obstacles to women's access to land. The results of the study will be used to strengthen WfWI's programmes in eastern DRC, particularly in building the capacities of local partners and advocating women's rights.

The field study was conducted in four rural communities located in two territories where WfWI carries out its work, namely Kalehe territory in the mountainous region of Kivu to the north of the province, and Uvira territory, on the Ruzizi plain, to the south of South Kivu. The main informants were rural women, who are partners of WfWI and benefit from its programmes in eastern DRC. However, the interviews were also extended to a limited number of male and female leaders of the communities in question, as well as key informants representing the administrative and customary authorities, NGOs working on land issues and the promotion of women's rights, and administrative agents from different state services in charge of land management.

Women do not constitute a homogenous social category. They have singular identities and realities, which are shaped by their class, ethnicity, socio-economic status and age. This in turn determines their experiences and opportunities in terms of securing land rights. As such, in DRC, the problem of access to land differs for women, according to whether they live in a rural, peri-urban or urban environment; according to their social status, whether they are married or single and, for married women, according to their matrimonial property system¹. As stated above, this research focussed on women's access to land in a rural environment.

Rural women are among the principal agricultural productive forces in DRC, where they contribute as much as 50% to the agricultural sector and ensure 75% of production in the subsistence economy. They also contribute significantly to the formal and informal forestry sectors. Despite their enormous contribution in terms of work within the agricultural sector, they continue to suffer discrimination regarding their access to land and resources, and the control thereof.

To fully comprehend the problem of women's access to land in eastern DRC, it must be placed within the context of the complex and pluralistic land crisis and bloody conflicts that continue to destabilise that part of the country. The duality of legal and customary land systems, the commodification of land, power dynamics and identity issues and the agrarian crisis, which characterise the land sector, are among the main factors that contribute the erosion of women's rights to landed property.

Indeed, both men and women in rural areas are affected by this land crisis, by the shortage of land and the lack of access to landed property. In general, the land cultivated by rural households consists of small plots measuring no more than 1 hectare. Yet, it must be noted that

¹ Muhimuzi, E. *Accès des femmes à la terre en République Démocratique du Congo* (Women's access to land in the Democratic Republic of Congo), *Comité National Femme et Développement* (Congolese national committee for women and development).

men and women are affected differently, as a result of customary law, traditional cultural practices and certain aspects of written law that are profoundly discriminatory against women and pose obstacles to them securing their land rights.

Women have secondary land rights in traditional land tenure, which they hold via male family members, generally their husband or father. In fact, under customary law, women cannot directly access, inherit or buy land. Custom places control of land belonging to rural households with the head of the family, who is legally defined as the man. Thus, customary land rights are derived from those of men.

Under traditional land tenure, women are able to lease land on a temporary basis, using the traditional method of access to land, known as *Bwassa*. The *Bwassa* practice is widespread among rural women, due to the small size of family fields, which do not produce enough to cover family needs. Rental costs are high, averaging around 100 US dollars for a plot measuring half a hectare. More often than not, these rental costs are accompanied by a shared farming contract, which includes two days' voluntary work per week for the owner of the rented plot of land. Hence the vast majority of rural women are cultivating land that does not directly belong to them, over which they have limited control and power of decision. This reduces their power to exercise control over income from agricultural production and its allocation within households.

Women's land rights constitute a whole. This means that their rights to access land must be accompanied by the right to access the necessary resources to effectively cultivate it. However, in the areas studied, these essential resources, such as credit, quality seeds, technology, information and access to markets are cruelly lacking. Women are limited to using archaic methods to exploit the land, which significantly increases their working time while only generating low earnings.

The representation of women at every level of land governance bodies is essential to secure their land rights. In DRC, the lack of women's representation in decision-making affects all sectors, not just that of land governance. For example, among the 24 chiefs of chiefdoms in South Kivu, there are no women. However, customary chiefs play a central role in the distribution and management of rural customary land. Although there are women who also play an important role in customary land governance among group and village chiefs, their number is limited.

Undoubtedly one of the greatest challenges relating to women's access to land lies in the legislation and legal frameworks - both customary and modern - that regulate the rights of women, in general, and, specifically, their land rights. The Congolese Constitution guarantees equal rights - including rights to landed property - for all, regardless of their gender. However, discriminatory provisions against women persist in Congolese legislation, particularly in the *Code de la Famille* (Family Code). This, combined with the contradictory measures of different legal texts and a lack of harmonisation between them, does nothing to facilitate the securing of women's land rights.

Since the signature of the Sun City peace agreements in 2002 and the official declaration of the end of the war, the Congolese government has made efforts to reform the land sector. A number of local NGOs also launched innovative initiatives to find solutions to the land crisis in eastern DRC. However, in initiatives to reform the land system, no clear value appears to have been placed on women's rights. Whereas there is a clear desire to consider women's rights and

include them in a gender perspective, this is not done systematically by all the stakeholders involved. Yet, in order to increase women's access to land, the gender dimension must be considered in the early stages of any reform programme. It is only on that proviso that these initiatives can succeed in exhaustively and inclusively reforming the sector, taking into account the interests of the Congolese population as a whole.

Recommendations

This report makes the following recommendations:

To the Congolese government

- Support the development of income-generating activities and women's access to inputs, technology and the market.
- Ensure the dissemination within rural communities of important legal texts on women's rights and on the management of the land and agriculture sector.
- Speed up the process of reform and harmonisation of legal texts promoting women's rights.
- Develop and strengthen collaboration with women's civil society organisations that work on a provincial level in South Kivu to secure the land rights of female rural producers and their involvement in decision-making.

To civil society organisations

- Complete an audit of land system reform initiatives led by the Congolese state and civil society organisations to determine whether they take women's needs into consideration and include gender issues in their programming.
- Carry out advocacy work among political decision-makers from local and customary authorities to influence the land sector reforms underway and to ensure that women's needs and the gender perspective are taken into account.
- Support the development of income-generating activities for rural women and support their access to inputs, technology and the market
- Increase women's decision-making power and their leadership for fairer management of household income.
- Organise programmes to raise awareness among men so that they assume their share of responsibility in family spending.

Introduction

In many countries in sub-Saharan Africa, land constitutes one of the main bases of social and political power and therefore lies at the heart of gender inequalities in the distribution and control of resources. This is especially true in eastern Democratic Republic of Congo (DRC), where women continue to suffer discrimination regarding their access to land and their ownership and control thereof. All of which is despite their crucial role and their contribution to agriculture, rural development and food security.

Women's ability to access land is impeded by their inferior status within the household, cultural practices, discriminatory laws, poverty, the burden of their domestic and reproductive tasks, and land governance that has been undermined by years of bloody war, ethnic tension and complex, ambiguous land legislation.

This report sets out the results of a study on women's access to land in South Kivu, in eastern DRC. It was conducted by Women for Women International, as part of its programme to support women's rights to access land and livelihoods.

In fact, access to land and its appropriation, was identified as a major challenge by the women farmers who successfully completed the Women for Women International (WfWI) training programme, due to the prevalent patriarchal legal and social system, as well as discriminatory attitudes towards women. Women farmers spoke of their difficulties relating to rights of ownership and access to land, and WfWI acknowledges that this is a key factor to the long-term success in agriculture. Consequently, WfWI undertook this research, in order to identify the economic, cultural, legal and political obstacles to women's access to land.

The results of this research will be used for the following purposes:

- To improve the content of the training on land rights, which women receive as part of the WfWI programme in DRC and to populate the module on land rights for the men's engagement programme in DRC;
- To advocate women's access to land among communities, and local and national leaders.

The research had the following objectives:

Overall Objective

To improve and secure women's access to land in DRC.

Specific Objectives

To identify and acquire a better understanding of the economic, sociocultural, legal and political obstacles to women's access to land and to the control of resources;

To improve WfWI's training programme on women's rights to access land, as well as the training module developed as part of the men's engagement programme;

To develop and run an advocacy programme at a community, local and national level; and

To identify opportunities and mechanisms at a local level to improve women's access to land.

Methodology

This study was conducted using a qualitative methodological approach to guide a data collection exercise that lasted two weeks (4 - 17 June 2014), in two main areas in South Kivu, namely Kalehe in Kalehe territory, and Kiliba in Uvira territory,

These two territories were chosen for the following reasons:

- The land problems in these areas are similar and, specifically, consist of land grabbing and privatisation, demographic pressure, a landless farming community, the shortage of arable land, conflicts sparked by the return of refugees, tension between farmers and livestock breeders, and the presence of armed militia;
- They are located in two relatively different cultural regions (North and South of South Kivu) and therefore present certain specificities, on account of the fact that problems concerning access to land are primarily sociocultural;
- They both display great ethnic diversity, as illustrated by the presence of the Bifulero, Babembe, Bahutu, Batutsi, Batwa, Bahavu, Batembo, and Barongeronge communities, among others.
- WfWI works with 2458 women, who have successfully completed or are currently completing the training programme and live in the these two territories, which makes it possible to embed the research more effectively in local reality.

The research team was made up of an international consultant, a local consultant, who conducted the field study, and four research assistants (two supervisors and two interviewers). The research team worked closely with the WfWI office in Bukavu.

In preparation for data collection in the field, a two-day methodology research team meeting was held in Bukavu, South Kivu, on 29 and 30 May 2014. The first day was dedicated to discussions on: the topic and its contextualisation in the various research sites; the objectives and the operationalisation of the research; and the standardisation of the tools used to collect data, which in this case comprised the discussion guide for the focus groups and the interview grid for key individual stakeholders. To ensure the reliability of the results, the research tools were tested in a pre-study conducted in the Mumosho district, in Kabare territory, where WfWI has an activities programme.

The field study took place in four of the 38 villages covered by WfWI's programme in the two territories, and in the town of Bukavu. The villages covered were: Bushushu and Munanira in Kalehe territory, and Rukangaga and Rusabagi in Kiliba territory. The criteria for selecting the villages were:

- Population density: the villages of Bushushu and Munanira form part of the Mbinga-South *groupement* (administrative entity in DRC), with a population of 25,397 and 22,906 inhabitants respectively, out of a total population of 138,263 in the *groupement*. The villages of Rukangaga and Rusabagi, in the Chiefdom spanning the Ruzizi plain to Kiliba, each have populations of 10,356 and 3,852 respectively, out of a total population of 35,754 inhabitants in the Chiefdom.
- The high number of women linked to the WfWI programme within these two *groupement*: these four villages contain the largest number of women who have either

successfully completed or are in the process of completing the WfWI training programme.

Eight focus groups, four of which were made up solely of women and four of which were mixed (men/women), were organised in the four selected villages. The women-only focus groups were made up of 12 - 15 persons, the majority of whom have successfully completed or were in the process of completing WfWI's training programme². These groups also included a small number of women chosen from the community, who are not associated with WfWI and have not completed its training.

In addition to the focus group discussions, a total of 40 one-on-one in-depth interviews were conducted with key informants in Kalehe and Kiliba. Those selected belonged to the following socio-professional categories: farmers, teachers, officials, NGO personnel, specifically those working on land issues and the promotion of women's rights, customary authorities, religious authorities and community leaders. These one-on-one interviews supplemented the information collected from the focus groups, making it possible to triangulate information to minimise any bias.

Ten additional one-on-one interviews were conducted in Bukavu, with key stakeholders working on land issues. These included officials from the Congolese provincial ministry of agriculture, heads of human rights organisations, NGOs dealing with land issues and one concessionaire.

The information collected during the focus groups and the one-on-one interviews was analysed and discussed by the members of the research team, in meetings that were held every day for this purpose.

Regarding sampling, 160 persons participated in the research, the majority being rural women involved in WfWI programmes. The summary of respondents is set out in the table below.

Women's focus group	Kalehe		Kiliba		Bukavu	Total
	Bushushu	Munanira	Rukangaga	Rusabagi	Bukavu	
Participants in the WfWI programme	15	10	10	10	0	45
Non-participants in the WfWI programme	0	5	5	5	0	15
Total	15	15	15	15	0	60
Mixed focus group	Kalehe		Kiliba		Bukavu	Total
	Bushushu	Munanira	Rukangaga	Rusabagi	Bukavu	
Female community leaders and ordinary female members of the community		15	16			31
Male community leaders and ordinary male members of the community		15	14			29
subtotal		30	30			60
One-on-one interviews	Kalehe		Kiliba		Bukavu	Total

² They had studied WfWI training modules for a year and completed their training.

		Bushushu	Munanira	Rukangaga	Rusabagi	Bukavu	
Women			9	4		2	13
Men			11	16		8	27
Subtotal			20	20		10	40
TOTAL							160

A literature review was also carried out, whereby various texts, documents and works were referred to, as were local and international NGO reports dealing with the problem of land in DRC and its impact on rural women. Fundamental legal texts, such as the Constitution of DRC and the *Code du Travail* (Labour Code), were likewise consulted. This literature review was supplemented by an analysis and critical review of national, regional and international instruments relating to the promotion of women's rights, which have been adopted, signed and/or ratified by the Congolese government in the last thirty years³.

Constraints and limitations

The study was limited to two territories in South Kivu, located in the mountainous region (Kalehe) and on the plain (Uvira). It did not include the Highlands (Fizi, Mwenga) or the forest areas, where land problems and customary land management display different characteristics. The allocation of a more generous budget would have made it possible to increase the scale of this research and its geographical scope. It would have also encouraged the adoption of a more systematic and comparative approach to land problems and women's access to land in the various geographical areas where WfWI carries out its work. The limited time allocated to the data collection in the field also proved to be a limiting factor for the research team.

Despite these limitations, the research nonetheless made it possible to identify a number of trends that provide a relatively comprehensive overview of the problems women encounter in attempting to access land and secure their land rights in the four communities studied in South Kivu.

This report is divided into three sections:

Chapter 1 provides a preview of the land issue in eastern DRC, with the aim of identifying its basic characteristics and demonstrating its complexity. This section also highlights the fact that the land issue, which is one of the structural drivers of conflict in the eastern DRC, also has an important gender dimension that simply must be considered and included in discussions on the land management and governance crisis in DRC.

Chapter 2, which to a certain extent, forms the core of the report, analyses the various factors that underlie discrimination against women, in relation to their access to land. It demonstrates how these factors are structural and have legal, cultural, political, economic and social dimensions.

Chapter 3 seeks out the place of women within the numerous initiatives to reform land management that have been developed by the multitude of stakeholders working in the sector,

³ This review of tools for the promotion of women's rights is set out in the document: *Women's Rights in the Democratic Republic of Congo*. Prepared by New Perimeter on behalf of Women for Women International (UK), March 2014.

including the Congolese government and local and international NGOs. Some of these initiatives appear to be innovative and promising. However, on examining them, it was not possible to clearly and accurately determine how they intend to secure women's land rights.

The report ends with a conclusion and recommendations. Some of these recommendations were formulated by the women involved in the WfWI programme and others, by stakeholders in one-on-one interviews.

1. A brief overview of the land issue in eastern DRC

1.1. An issue of power and identity

In eastern DRC, access to land and land management has always posed a problem of central importance. Over the past twenty years, the repeated wars seen in this part of the country have undermined the foundations of an already fragile land governance system, and the land issue has become one of the fundamental points of conflict, as well as one of the structural factors of instability⁴. Some analysts regard land conflicts as an identity and power issue, identifying some of the main factors linked to the land issue, which contribute to violence and conflicts, as: the existence of a large number of different land governance mechanisms; the shortage of arable land in areas where there is strong demographic pressure; the overlapping of legal frameworks; the weakness of written land law; increased competition for the control of land between local elites and the resulting concentration of land in the hands of a minority; competition between indigenous and migrant communities; and the expansion of artisanal and small-scale mining⁵.

It is widely accepted that one of the major problems of the legal land framework in DRC is the existence of a multitude of land legislation, and the overlapping of customary and statutory land systems, which has resulted in a double customary and statutory land system. This variety of systems and the juxtaposition of legal statuses based on different regulations, rights and obligations, means that there is no clear land policy, nor any transparent land management framework⁶. Landed property policies lack coherence, which makes rural populations, in particular women, vulnerable.

This lack of coherence is particularly visible in the absence of clear roles and responsibilities of customary chiefs, who have always played a crucial role in controlling and distributing land. Many of them have become rich and lost their authority and legitimacy by serving as intermediaries in the sale of land or by selling it on themselves, more often than not, to the wealthy elites. Hence, we are witnessing the commodification of land assets and, to a large extent, the privatisation of community land⁷. Often, the land alienated by chiefs and local elites is already occupied by rural households, who consequently find themselves dispossessed of their land and lose access to their field⁸. This alienation of customary land, to the detriment of often the poorest farmers' rights, is particularly common in densely populated areas. In Kalehe territory, where part of the research was conducted, there are more than 400 inhabitants per square kilometre. In most of these over-populated areas, rural households own plots of land measuring less than one hectare⁹.

⁴ *Sortir de l'impasse: vers une nouvelle vision de la paix à l'est de la RDC* (Ending the stalemate: towards a new vision of peace in eastern DRC), International Alert, September 2012.

⁵ Mugangu Mataboro, S., *La crise foncière à l'Est de la RDC* (The land crisis in eastern DRC), in *l'Afrique des Grands Lacs Annuaire 2007-2008; Problématique foncière dans la chefferie de Kabaré ainsi que dans la zone urbano-rurale de Kasha (Bukavu)* (The land problem in the chiefdom of Kabaré and in the urban-rural area of Kasha (Bukavu), IFDP, 30 November 2012; Vlassenroot, K., Land issues and conflict in eastern DRC, SSRC, Conflict Prevention and Peace Forum, January 2013; Huggins, C., *Terre, pouvoir et identité* (Land, power and identity), International Alert, November 2010.

⁶ Vlassenroot, K., op cit.

⁷ Huggins, C., *Terre, pouvoir et identité*, op cit.

⁸ Huggins, C., *Terre, pouvoir et identité*, op cit.

⁹ *Problématique foncière dans la chefferie de Kabaré ainsi que dans la zone urbano-rurale de Kasha (Bukavu)*, IFDP, 30 November 2012.

The indisputable connection between political representation at a local level, which certain analysts refer to as “ethnic territories”, and the “indigenous” versus “migrant” dimension also comprise one of the principle factors of the land crisis.¹⁰ Indeed, access to land is determined primarily by membership of an ethnic community, a clan or a family¹¹. This means that there is identification between land and ethnic community, explaining the land claims of ethnic communities and their demands for autonomy and political power. Indeed, these communities, who believe that they have no political representation, demand the right to landed property so that they can have their own chief.¹² This is why “...*the importance of ethnicity as an organisational principle of territories’ politico-administrative institutions at a local level has been the cause of constant tension and conflict, not only between different ethnic groups but also within these communities*”¹³.

The ethnicisation of the land issue is exacerbated by the return of refugees to their regions of origin. Such was the case in Kalehe, for example, where the arrival of Tutsi refugees from Rwanda intensified the conflicts between local communities and facilitated the mobilisation of ethnic armed militia. In fact, it is only when conflicts are intimately linked to identity issues with an inter-ethnic dimension that they tend to produce large-scale violence¹⁴.

The rights of female and male farmers alike are derided in mining and timber exploitation areas by operators that are protected by the *Code Minier* (Mining Code), the *Code Forestier* (Forestry Code) and operating licences. Other types of conflicts - such as those between farmers and livestock breeders due to migratory herding, particularly where there is a shortage of land, and those between rural communities and large corporate concessionaires - practically all arise from the lack of a coherent and transparent land policy.

The land issue is not solely a political or legal issue but is also rooted in the widespread agrarian crisis in eastern DRC, which is characterised by: unequal access to land, particularly for small farmers; a lack of investment in agriculture, modern farm equipment and the necessary inputs to improve production; a lack of maintenance of road infrastructure; and soil deterioration due to the decline in traditional methods of preserving it, including leaving it fallow¹⁵. To understand all its aspects, is important to place the land issue in the context of the agrarian crisis, which is not always evoked in discussions regarding land access. As we will see below, the agrarian crisis is clearly an important factor to consider when analysing the report on rural women in eastern DRC.

1.2. The situation in the areas covered by the study

All the problems mentioned above, with but a few exceptions, are found in both sites where the field study was conducted.

¹⁰ Higgins, C., *Terre, pouvoir et identité*, op cit ; Mugangu Mataboro, S., *La crise foncière à l’Est de la RDC*, in *L’Afrique des Grands Lacs. Annuaire 2007-2008*; Ansoms, A., Claessens, K., Mudinga, E., *L’accaparement des terres par des élites en Territoire de Kalehe, RDC* (Land grabbing by the elites in Kalehe Territory, DRC), in *L’Afrique des Grands lacs. Annuaire 2011-2012*.

¹¹ Higgins, C. *Terre, pouvoir et identité*, op cit.

¹² Higgins, C., op cit.

¹³ Vlassenroot, K., op cit.

¹⁴ Vlassenroot, K., op cit.

¹⁵ Higgins, C., op cit.

Kalehe territory, which comprises six principal ethnic communities – namely, the Bahavu, Batembo, Barongeronge, Bahutu, Batutsi and Batwa – has become a breeding ground for land conflicts. Kinyarwanda-speaking communities live in the highlands, where climatic conditions facilitate their pastoral activities, which essentially consist of livestock farming, whereas the others generally occupy the lowlands. The conflict dynamics resulting from this intra- and inter-community cohabitation are closely linked to land access issues, in particular, the problem of recovery of land rights by Tutsis repatriated from Rwanda, and the issue of administrative and customary power distribution between the communities. This land access problem was considered as one of the reasons for the proliferation of ethnic community armed militias at the beginning of the 1990s. Underlying this is an increasing feeling of land insecurity among the different communities living in the territory.

It should also be noted that Kalehe territory has significant potential in terms of mining resources, with several cassiterite, coltan and gold deposits currently being exploited on the coast and in the highlands. In 2011, the discovery of new deposits of gold and wolframite in some waterways contributed to increasing artisanal mining. However, these new deposits are a source of potential conflict between so-called indigenous miners, i.e. those who live in the chiefdoms or *groupement* where these deposits are found, and new miners, who do not come from these areas and are composed, more often than not, of members of military-administrative, customary and sometimes military authorities¹⁶.

In Kiliba in Uvira territory, where more than 85% of the population of the Ruzizi plain works in agriculture, the importance of the soil's agronomic value and the possibilities for transporting agricultural products to large urban centres, such as Bukavu and neighbouring Rwanda and Burundi, are equally positive factors for the agricultural sector in this area. Yet, strong demographic pressure resulting from the movement of populations has raised the stakes in relation to land access. What is more, the fertility of the soil has led to the practice of land grabbing and the development of huge concessions by the urban political elite and businesspersons from Uvira, Bukavu and even as far away as Kinshasa. These elites buy large expanses of land on the plain, which previously belonged to locals. Therefore, land relations are highly competitive, which largely explains the high number of farmers without land on the Ruzizi plain.

The Ruzizi plain is also home to fierce land and economic competition between the Bafulero and Barundi communities, with the latter demanding chiefdom. This conflict has fostered the multiplication of armed groups, who prolong a climate of insecurity on the plain. Other conflicts contributing to this climate are related to the return of Congolese refugees from Burundi, who are claiming their former plots of land, and tensions between farmers and livestock breeders.

1.3. The gender dimension of the land issue

As one of the main drivers and triggers of conflicts in eastern DRC, the land issue is multifaceted and complex. It also comprises an important gender dimension, since while the land crisis has an impact on both men and women, particularly in rural areas, they are affected differently.

¹⁶ *Conflits fonciers et dynamiques de cohabitation en territoire de Kalehe, Sud Kivu, est de la RDC* (Land conflicts and cohabitation dynamics in Kalehe territory, South Kivu, eastern DRC), APC, in partnership with the Life and Peace Institute, 2012.

Women, irrespective of their ethnic group, are among the main victims of the double customary and statutory land system. On the one hand, the land provisions of customary law make it difficult for them to access land, particularly with regard to inheritance and succession, even though, as we shall see in Chapter 2, custom can sometimes accommodate land access for certain categories of women. On the other hand, although the *Code Foncier* does not expressly exclude women from land ownership, the contradictions that exist in land tenure, combined with the lack of harmonisation between different legal texts on women's rights and the persistence of discriminatory cultural customs and practices, make it hard to secure women's land rights, particularly for the poorest rural women.

Because of their vulnerable position with respect to access and possession of land, women have experienced many land conflicts. In areas where the study was conducted, most female farmers we met had been involved in land conflicts. More often than not, these conflicts are of an interpersonal nature, and in disputes concerning land boundaries, the rambling of breeders' livestock into their fields or the theft of their crops stored in fields after the harvest. These types of conflict, which are often settled through informal mediation, sometimes also become violent, due to the wide trafficking of arms and the proliferation of militia, who may be involved in the conflict by either party. Women are generally the biggest losers in the most serious conflicts, such as those that pit farmers against large corporate concessionaires in cases of corporate land grabbing. Such is the case in Kiliba, where the corporate concessionaire, Sucrerie de Kiliba, holds a huge concession assigned to it by the Congolese state. The sugar refinery was granted thousands of hectares of land that were cultivated by farmers but does not exploit them, instead leaving them unused. As a result, thousands of farmers have found themselves without land, including numerous female farmers who have lost the small patches of land that they leased for their crops, as well as the family field on which they were the main farmers. According to the heads of local development organisations interviewed in connection with the study in Kiliba, food insecurity and the numerous cases of malnutrition in the Territory, are for the most part due to the shortage of land caused by privatisation and land-grabbing¹⁷.

Traditionally, it has been difficult for women to access land conflict mediation mechanisms at a community level. These mechanisms, which are managed by customary chiefs, are generally dominated by men. Women cannot appear before them alone, because "*women do not speak in front of men*"¹⁸. Therefore, women access these mechanisms via their husbands. It is husbands who appear before the committee of wise men to explain the nature of the conflict in which their wives are involved and to receive the verdict¹⁹. The land conflicts faced by women in rural areas are documented very little, if at all.

Lastly, we must remember that female farmers, who are the principal productive forces in rural subsistence economies, are also the foremost victims of sexual violence, particularly in areas where the ethnicisation of land conflicts has led to the renewed presence of armed militia. Women who work the land alone or in small groups in fields a long way from villages are easy prey for armed gangs and harvest thieves²⁰. If a just and sustainable solution to the land crisis

¹⁷ One-on-one in-depth interview, Kiliba, June 2014.

¹⁸ One-on-one in-depth interview, Kiliba, June 2014.

¹⁹ Women's focus group, Kiliba, June 2014.

²⁰ *Le corps des femmes comme champ de bataille durant la guerre en République Démocratique du Congo* (Women's Bodies as a Battleground: Sexual Violence Against Women and Girls During the War in the Democratic Republic of Congo), Réseau des Femmes Pour un Développement Associatif, Réseau des Femmes Pour la Défense des Droits des Femmes et la Paix, International Alert, 2004.

in DRC is to be found, the gender-specific dimension of the land issue, which is analysed in greater detail in the following chapter, simply must be taken into account.

2. Women's access to land: secondary land rights

Women are among the principal users and cultivators of land in DRC. It is estimated that women's contribution to the agricultural sector accounts for 50% and that they ensure 75% of food production in rural areas. They also make a significant contribution to the formal and informal forestry sectors²¹. The vast majority of farmers are poor and live in rural or semi-rural areas with limited financial autonomy. It must be highlighted that a large part of the Congolese population lives in poverty, with a gross national income per capita of 390 US dollars for women and 499 US dollars for men. The DRC is ranked number 186 out of 187 countries on the UNDP Human Development Index. Its Gender Development Index is 0.822, making it rank at number 134 out of 147 countries²².

Women in rural areas exploit land that does not belong to them, over which they have practically no control and exercise a limited power of decision. In rural communities in South Kivu, where the research was primarily conducted, women continue to be perceived above all, within their reproductive roles, i.e. as "mothers", who give birth and are in charge of the financial, physical and moral welfare of the family. Their significant work, in the agricultural sector is generally considered as an extension of their reproductive tasks and not as a productive, full-time job. These perceptions are ingrained by the discriminatory provisions against women that are contained in both customary and modern law. In addition to this, weak state policies for the empowerment of rural women and the precariousness of the agricultural sector as a result of the agrarian crisis are among the main obstacles to women being able to access land and secure their land rights.

This chapter examines a number of factors that are significant in the assessment and understanding of the main obstacles to women's access to land. Specifically, it analyses: the place granted to women in traditional land systems; women's methods of accessing land; the gender division of labour, both in households and in agricultural production, and its impact on women's power of decision; access to resources; legal obstacles to women's access to land rights; and, lastly, representation in decision-making.

2.1. Women's place in traditional land tenure

2.1.1. Women's exclusion from land access through Kalinzi

In South Kivu, there are a variety of land customs systems and several methods of accessing land, depending on ethnic communities and social and cultural organisation. The most widespread method of accessing land is Kalinzi²³, which is also the most traditional form of land tenure. Originally, land relations were primarily based on Kalinzi, a land royalty that farmers must pay to local customary chiefs in order to access land. This royalty was paid either in kind (goats or part of the harvest) or, increasingly nowadays, in cash, according to the surface areas of the land and the quality of the soil. The traditional Kalinzi land contract was conceived primarily as a "fraternisation contract" between the customary chief, who gave the land, and the farmer, who received it. Therefore, it was not conceived as a simple transfer of property. Under this "fraternisation contract", the recipient was granted a right of permanent enjoyment

²¹ *Genre et le droit à la terre*. (Gender and the right to land) DRC database, FAO, 2007.

²² *Rapport du développement humain* (Report on human development), UNDP, 2014.

²³ Kalinzi sets out both the price of the right of enjoyment and the land over which this right is exercised. (On this subject, see the article by Séverin Mugangu Mataboro cited hereinabove).

over the land. This would create social relations, i.e. relations of power and dependency, between the customary chief and the recipient, enabling the customary authority to protect its social standing and to keep the farmer in a dominant/dominated relationship²⁴. Therefore, traditionally speaking, “...*Kalinzi sustains a system of social and political dependence, shaping social relations*”²⁵.

Women are excluded from Kalinzi. They are unable to directly access land through this traditional land tenure. Whereas the majority of rural households do receive land through Kalinzi, custom places the control of land received within the home exclusively in the hands of the head of the household, who is legally defined as the man. Consequently, the customary land rights of women arise from those of men. This means that women’s rights to access land are secondary land rights, which they hold via male family members, generally, their husband or father. Kalinzi is therefore a patriarchal method of accessing land, which establishes and reinforces unequal social relations, including gender inequalities.

Additionally, under customary law, women are not permitted to directly participate in financial transactions, and are not able to either sell or buy land in their own name. Nor can they inherit land, other than with rare exceptions²⁶. This dependency places women who leave the family circle due to widowhood, divorce or separation, for example, in a vulnerable position and at risk of losing their access to land. Traditionally, however, safety valves did exist for such women, who were lacking a man’s “protection”; “*in most cases, it was established that customary systems would grant them temporary access to land*”²⁷.

Over the years, Kalinzi, as traditional land contract, has undergone significant changes, due to the commodification of land, demographic pressure, the shortage of land, land fragmentation, and the alienation of land by the customary authorities and local elites, among others. Customary chiefs in particular are no longer allocating land on a permanent basis; instead, they succumb to land speculation by selling it on to the highest bidder, developing it themselves, or granting temporary contracts to farmers. These contracts, which grant farmers a temporary right of use over land: “*lead to the reproduction of almost feudal relations over land acquired under modern law*”²⁸.

These changes in customary land tenure have significantly contributed to the erosion of women’s land rights. In particular, the few safety valves and limited protection available to certain categories of women have gradually disappeared due to the growing shortage of vacant land, plunging them into poverty and precariousness.

2.1.2. Other methods of accessing land used by women

In areas where the field study was conducted, the vast majority of rural women cultivate land that they do not own, which belongs to their husbands. This land is acquired by rural households

²⁴ Mugangu Mataboro, S., *La crise foncière à l’Est de la RDC*, op cit; *Problématique foncière dans la chefferie de Kabaré ainsi que dans la zone urbano-rurale de Kasha (Bukavu)*, IFDP, op cit.

²⁵ *Problématique foncière dans la chefferie de Kabare ainsi que dans la zone urbano-rurale de Kasha*, IFDP, op cit.

²⁶ IFDP, op cit.

²⁷ Higgins, C., *Terre, pouvoir et identité*, op cit.; Interview with the head of a Shikira (grass-roots female ecclesial community in catholic parishes), Kalehe, June 2014.

²⁸ Mugangu Mataboro, S., *La crise foncière à l’Est de la RDC*, op cit.

through the traditional land system described above. Women's main method for accessing land continues to be through their household. However, there are other access mechanisms through which some women are able to access land. These mechanisms are: temporary leasing of land (Bwassa), inheritance (Bwimet) and purchase (Bugura). Women respondents in Bushushu and Munanira, in Kalehe territory, also mentioned a few instances of land donation (Bushobole), yet these continue to be very rare²⁹.

Among the three methods of accessing land mentioned above, the temporary leasing of land, known as Bwassa, remains the most widespread in the areas studied. A large proportion of rural households own no land or are owners of small plots of land on which it is not possible to cultivate the required quantity of agricultural products to cover family needs. Consequently, rural households and, in particular, the women in them, lease land on a temporary basis, which they cultivate in order to supplement the production from the family field that they continue to cultivate, as well as to increase their income. These plots of land are leased in places where land is still available. In the two territories studied, women generally lease patches of land in vast plantations that fall under the concessionaire system. These plantations, which once belonged to Europeans³⁰, were acquired following their departure by politicians, churches or individuals.

The terms of the lease agreements, which are set unilaterally by plantation managers, are not advantageous for women. Rental costs are high for the area. In general, half a hectare of land is leased at a rate of 100 US dollars per annum. In villages like Kabindi and Mulira, 100 dollars can only lease a plot of land measuring 30 metres by 40 metres for the year³¹. In Munanira, Kalehe, a field measuring 50 metres by 25 metres is leased at 50 dollars, in addition to which, a case of beer costing 20 dollars may be required. This means that renting a field costs 70 dollars per annum. In areas where vast expanses of land are occupied by concessions and there are a significant number of farmers without land - as is the case in coastal Kalehe and the highlands - these rental costs come with shared farming contracts that include two days' voluntary work for the concessionaire³². Discussions with women in the focus group revealed that these costs were far too high for them, besides which landowners do not accept payments by instalment.

These women do not always manage to meet the costs of exploiting and cultivating their patch of land, which include hiring a male workforce to clear the field, purchasing agricultural inputs and spending relating to field maintenance and harvests. This explains why some of them lease a field for a year, yet cultivate it only once³³.

There were very few women landowners in the areas studied. Those who do own land became owners by either buying or inheriting land. The acquisition of land by women is a rare occurrence, given that neither customary law nor modern law fully facilitate women's access to landed property. In fact, under customary law, women cannot buy land. Modern law, through the *Code de la Famille*, only permits a married woman to make a land transaction if she has

²⁹ Women's focus groups in Bushushu and Munanira, Kalehe, June 2014.

³⁰ As part of the 1973-1974 Zairianization policy, the possessions of Europeans in Zaire were nationalised.

³¹ Women's focus group in Rukangaga, Kiliba, June 2014.

³² One-on-one in-depth interviews with the heads of human rights and development organisations, Kalehe, June 2014. See also the APAC report entitled: *Conflits fonciers et dynamiques de cohabitation en territoire de Kalehe, Sund Kivu, Est de la RDC*. APAC, in partnership with Life and Peace Institute, *Série des Grands Lacs*, 2012.

³³ Women's focus groups in Rusabagi and Rukangaga, June 2014, op cit.

obtained the permission of her husband beforehand. If the husband agrees, a document referred to as “bill of sale” is issued; however, not in the name of the woman making the purchase but instead in that of her husband. This document, which in addition to the name of the husband bears the names of the vendor and the witnesses to the sale, does not secure the acquirer’s rights of ownership. Therefore, this “bill of sale”, which is not an official land title, is not recognised by modern legislation. Furthermore, it cannot be recognised under customary law, which firstly does not operate on a written basis and secondly prohibits the acquisition of land by women.

Acquisition of land by women in rural areas is still a taboo considered as a transgression of social norms and an infringement of customary law. Consequently, some women, who have the means to buy land, abstain from doing so for fear of being stigmatised by men and even by other women within their communities³⁴. It is easier for widows who have the means to acquire a property, at least under the modern legal system, since they do not have to go through their deceased husbands in order to obtain permission. This means that female widows who have the means are able to buy property.

The method of accessing land by inheritance likewise poses difficulties. Women do not inherit land under customary law. There is even an adage to this effect: “*women inherit wrappers, men inherit fields*”³⁵. However, there are exceptions. In some communities, widows become owners of the land belonging to their deceased husbands but they are formally forbidden by their family-in-law to sell the property on. This means that, in reality, they are not full owners of their husband’s property, as they cannot freely dispose of it. Yet in principle, the joint estate system prevails in Congolese matrimonial systems. Under this system, women are entitled to inherit from their husbands in the event of death, provided that the marriage has been registered at the registry office. However, many marriages are not registered for a long list of reasons, one of the most important being the high cost of registration fees, which many rural households cannot afford to incur³⁶. Another reason is that, in general, households are not familiar with the law and the obligations governing the marriages contracted under the joint estate system. This lack of knowledge has disastrous consequences for women, particularly in the event of divorce, where they run the risk of not receiving any form of compensation.

However, a small minority of women manage to obtain fields through inheritance. For example, a father may decide to give a plot of land to his daughter. However, there are customary rules regulating this type of inheritance. Firstly, the fields that women inherit are always smaller³⁷ and less fertile than those inherited by men, which sometimes creates conflict between brothers and sisters within the same family. In certain communities, land inherited by women is known as *Engoloka*, which means “a non-productive, poor quality field”³⁸. For example, in Rukangaga, Kiliba, women cannot inherit banana plantations or afforestations, yet these are the most profitable types of land, yielding produce that constitutes the main sources of income. Only men can inherit them. Women inherit fields of cassava and paddy fields³⁹. What is more, women who do inherit land do not have full possession of it because, as with widows, they are not entitled to sell it on. In most cases, the fields inherited by women do not have land titles. All transactions are made verbally, albeit in the presence of witnesses. Nothing is recorded in writing; everything is verbal. In this context, it is difficult for women to obtain

³⁴ Women’s focus groups in Kiliba and Kalehe, June 2014.

³⁵ Interview in a women’s focus group, Bushushu, Kalehe, June 2014.

³⁶ Davis, L., Democratic Republic of Congo – DRC. Gender Country Profile, 2014.

³⁷ In the areas studied, the size of plots inherited by women varied between 25m x 20m and 25m x 25m.

³⁸ Interview with a head of a development organisation, Kalehe, June 2014.

³⁹ Interview in a women’s focus group, Rukangaga, Kiliba, June 2014.

formal official land titles that would guarantee them real access to the land and control thereof. As one of the participants of a focus group with women from Bushushu in Kalehe territory clearly noted:

“...There is not one single woman who can have her own field here. If she dares to buy one, the vendor asks for the name of her husband so that it can be registered in his name. Even if I would like to buy it myself, I cannot even give the vendor my name because he will not understand me. One tenth of women here may have inherited something from their biological families. Therefore, we can assume that there are a few women who may have fields from this inheritance but [these will be in] the name of their husbands or often without any document. Everything is done verbally and sometimes without witnesses⁴⁰.”

Obtaining a land title is a widespread problem that also affects men. In theory, land titles are issued by the local authority in charge of land issues. However, few people defer to these services. According to the informants we met, the registration process for land rights is long, complicated and expensive. It involves numerous trips to urban centres where the land authority's offices are located and, in most cases, the payment of bribes, on account of corruption⁴¹. Customary chief informants in Kalehe think that, in their chiefdoms, only 20% of households have official land titles. In general, these are large landowners or educated persons with the means to acquire such titles. The vast majority of poor small-scale farmers only possess mere “bills of sale” that do not secure their rights of ownership⁴².

2.2. The impact of gender division of labour: limited decision-making power over the control of resources

It is useful to analyse the gender division of labour within households in order to understand the organisation of work and production, to define the status of women, and to determine their power of decision within households with respect to the control of resources.

The type of agriculture practiced in Sub-Saharan Africa is characterised by the cultivation of small plots of land and the use of rudimentary technologies. Accordingly, labour is the most important asset within rural households⁴³. Female labour is essential to agriculture in Africa and particularly in DRC, as demonstrated by the aforementioned FAO statistics on the contribution of women's labour to the agricultural sector and the subsistence economy. However, the work carried out by women in the agricultural sector does not provide them with enough income to be able to do anything other than simply make ends meet; nor does it afford them sufficient decision-making power to control agricultural income and its allocation within the household.

⁴⁰ Women's focus group in Bushushu, Kalehe, June 2014.

⁴¹ Interviews in Kalehe, June 2014

⁴² One-on-one in-depth interviews with customary chiefs in Kalehe, June 2014.

⁴³ Tsikata, D., Gender, land and labour relations and livelihoods in Sub-Saharan Africa in the era of economic liberalisation: towards a research agenda, in *Feminist Africa*, Issue 12, December 2009.

Generally, in DRC, both men and women participate in agricultural production but their responsibilities and roles in this process differ from one province to another and, likewise, according to the products cultivated and the tasks completed⁴⁴.

In the areas of South Kivu studied, the analysis of task distribution within households revealed that women are the principal users of land. Tasks are fairly clearly defined. In most cases, men do not cultivate the land; their main role is to dedicate themselves to the heavy work of clearing fields and preparing the soil for cultivation. Women occupy a double role as producers and reproducers; they are in charge of cultivation, harvesting and marketing products. It is their responsibility to transport the harvests from the fields to the village and then from the village to the closest market. The transportation of products is a major challenge, due to the lack of road infrastructure and women's limited financial means. They transport products on their backs or by bicycle if they can afford to hire one. In addition to production tasks, they have domestic or reproductive duties towards the family. These include searching for firewood, drawing water and preparing meals. Therefore, women have much longer working days than men. From the study, it was calculated that, on average, men spend the morning - until 11am or 12 noon - working in the fields and dedicate their afternoon to other activities, i.e. leisure. Women cultivate the fields until the middle of the afternoon, before returning home to set about domestic tasks, which generally occupy them until late in the evening. In Kalehe, it was found that many men are increasingly reticent to carry out the task of clearing the fields and preparing the soil; this is heavy work that is customarily considered as belonging to men⁴⁵. Consequently, women are forced either to do the work themselves or to resort to a male workforce, whom they pay by carrying out hours of work in the field of the person who helped with the clearing⁴⁶.

The study highlighted that women have relatively significant power of decision over the use of land, in that it is generally they who decide, when tending begins, on which type of products to cultivate, the sowing period, the tending and the harvest⁴⁷. However, men control the sale of production. The women farmers who participated in the focus group in Kalehe claimed their husbands decide on the terms of sale, the quantity of products to sell, the sale price and the distribution of income generated from the sale within the household⁴⁸. The most commercially profitable crops, such as cassava, are sold directly by men, who leave the women to sell products of a lower market value, such as beans, peanuts, sweet potato or soya⁴⁹.

The majority of women respondents in Kalehe and Kiliba, complained about what they consider as the unfair management of income from harvests within households. In the areas studied, the main expenditure for rural households comprises basic needs such as food, schooling of children, medical care and clothes. There is also one-off expenditure, such as contributions to wedding ceremonies or funerals. Women say that it is nearly always their income, from the sale of the least financially profitable products, which are primarily allocated to satisfying the basic needs of the family. For example, in Kalehe, women respondents allocate on average 30% of their income to their children's schooling, 37% to food, 13% to medical

⁴⁴ Rasaga, C., Kinwa-Muzinga, A., Ulimwengu, J., Gender assessment of the agricultural sector in the Democratic Republic of the Congo, Discussion paper 01201, Development Strategy and Governance Division, IFRI, August 2012.

⁴⁵ Traditionally, the task of clearing was allocated to men, to enable them to establish rights of usufruct over the land.

⁴⁶ Women's focus group, Kalehe, June 2014.

⁴⁷ Women's focus group, Kalehe and Kiliba, June 2014.

⁴⁸ Women's focus group, Kalehe and Kiliba, June 2014.

⁴⁹ Women's focus group, Munanira, Kalehe, June 2014.

expenses, 13% to clothes, and 7% to social ceremonies⁵⁰. In Kiliba, women also allocate 30% of their income to school expenses, but only 30% to food, 5% to medical expenses and 15% to clothing and family ceremonies. It should be noted that women in Kiliba allocate 20% of their income to the preparation of the next agricultural campaign so that they can buy inputs and crop protection products and hire a male workforce to complete heavy clearing work and soil preparation.⁵¹

In Kalehe, women stated that it is rare for men to allocate the financial resources that they obtain from the sale of cassava to family spending. Sometimes husbands use this money to marry another woman, causing conflict within the household⁵². One discussion participant told us: *“Here, women have problems at home when it is approaching harvest time. It is the beginning of problems with remarriage, cohabitation, etc...”*⁵³.

Unfortunately, the research team was unable to collect information from male heads of household regarding the percentage of their income that they allocate to family spending. Nevertheless, a number of informants including men, asked during one-on-one in-depth interviews, confirmed the existence of post-harvest family conflicts and an increasing number of polygamous marriages.

2.3. Lack of access to credit and other inputs

According to the FAO, women can only effectively utilise the land if, firstly, they can access it and, secondly, they have access to other essential resources, such as financial, technological and agricultural advisory services, and to markets⁵⁴. The study in both territories showed that women face enormous challenges accessing additional resources.

The lack of access to credit in the agricultural sector in South Kivu is largely due to agricultural activities generating low incomes. As a result, they are considered by credit institutions to pose too high a risk. In 2009, the percentage of credit granted to the agricultural sector by these institutions in South Kivu, was just 3%⁵⁵. Most micro-credit institutions chose to channel their credit into small businesses, to the detriment of agriculture. Difficulties accessing credit were mentioned not only by women but by most of those participating in the study. According to the Village Chief in Munanira:

“Access to credit is a problem here. Businesspeople obtain credit... credit is targeted at business, whereas the majority of the population works in agriculture. So you see,

⁵⁰ Women’s focus groups in Bushushu and Munira, Kalehe, June 2014.

⁵¹ Women’s focus groups in Rusabagi and Rukangaga, Kiliba, June 2014.

⁵² According to respondents, polygamy is widespread in rural areas, particularly in Kalehe. Interestingly, women respondents in Kalehe believe the rate of polygamous marriages has reached 70%, whereas the men interviewed think this figure is 50%.

⁵³ Mixed focus group (men and women) in Munanira, Kalehe, June 2014.

⁵⁴ Food and Agriculture Organisation of the United Nations (FAO), *Genre et droit à la terre Comprendre les complexités, adapter les politiques*. (Gender and Land Rights - Understanding complexities, adjusting policies, Perspectives Economiques et Sociales), FAO Economic and Social Perspectives, Policy Brief No. 8, March 2010.

⁵⁵ *La femme comme objet d’exploitation socio-économique dans la dynamique des guerres au Sud-Kivu* (Women as objects of socio-economic exploitation in the dynamic of wars in South Kivu), International Alert, 2009.

access [to credit] is difficult for the majority of people and, consequently, for women⁵⁶.

To compensate for the lack of credit, rural women often organise themselves into self-help, tontine or mutual assistance groups, under a traditional saving system known as *likirimba*. Other strategies adopted include working together in the fields of each member and organising the communal transport of products at harvest-time, in order to minimise the production costs⁵⁷.

The vast majority of women do not have any effective tillage equipment. All cultivation work is done manually with a hoe. The small size of plots (less than one hectare) and the cost of more effective technology are limiting factors. It is particularly expensive to use tractors: hiring a tractor to work a field measuring one hectare, costs 50 US dollars, plus 40 US dollars for fuel oil⁵⁸. Hence female farmers mostly resorting to a local male workforce for heavy clearing and weeding work. This workforce is generally used on a daily or one-off basis for specific agricultural tasks. Daily recruitment costs 2000 - 2500 Congolese Francs, which is equivalent to 2.2 – 2.7 US dollars. The surface area worked for this amount is 8 metres by 5 metres but the price can vary depending on the quality of the soil⁵⁹.

Seeds, in particular quality ones, and crop protection products are lacking. Many female producers cannot afford the improved seeds for sale in specialised seed production centres. They continue to use poor quality seeds sold at low prices on rural markets⁶⁰. In rare cases, some women have access to improved seeds provided by certain development organisations. Soil fertilising products are also expensive: a 100-kilogramme bag of DAP fertiliser costs 100 US dollars. The lack of crop protection products poses a serious problem due to the numerous diseases that attack plants, including: cassava mosaic, caused by a virus that considerably reduces root yields; bacterial wilt on banana trees; and the yellowing of rice, caused by rice yellow mottle virus (RYMV). The impact of these diseases is disastrous for production and the socio-economic conditions of rural populations. According to women in the Rukangaga focus group in Kiliba, cassava chips, which can weigh more than 10 kilogrammes, did not grow any bigger than the size of a root⁶¹. Likewise, a study conducted in 2008 in the Minova region, in Kalehe territory, revealed that the presence of bacterial wilt in the region has led to a sharp increase in the price of basic foodstuffs, reaching 500% for maize and 320% for beans⁶².

The lack of adequate equipment and infrastructure complicates the processing and sale of products. For example, the female farmers in the village of Rukangaga, Kiliba, working in rice growing have to cover long distances to transport their harvests on their backs, firstly, from the field to the village, where they dry the rice in the sun. The village does not have the equipment to process the dried rice into flour so they then have to hire cycle rickshaws to transport it to a neighbouring village with a mill, located 5 kilometres from Rukangaga. Hiring a cycle rickshaw costs 3000 Congolese Francs, which is equivalent to 3.5 US dollars⁶³. The distance of markets from the production sites and the high tax rates that have to be paid to sell products

⁵⁶ One-on-one in-depth interview with B.T., Village Chief, Munanira, Kalehe, June 2013.

⁵⁷ In-depth interview with a head teacher, Kiliba, June 2014.

⁵⁸ Women's focus groups, Rukangaga, Kiliba, June 2014.

⁵⁹ In-depth interview with M.B., member of an NGO, Kiliba, June 2014.

⁶⁰ In-depth interview with G.M., Head of a women's group in Kalehe.

⁶¹ Women's focus group, Rukangaga, op cit.

⁶² IR. Ndungo Vigari (DR), *La situation du wilt bactérien du bananier dans la région de Moniva* (The condition of banana bacterial wilt in the region of Moniva). ACF International Network, 2008.

⁶³ *Women's focus group, Rukangaga, op cit.*

on the markets in the urban centres force the poorest farmers to sell off their production at a loss on-site, either through intermediaries or by selling it themselves at roadsides.

Agricultural extension and development services are almost non-existent in the areas studied, yet these services are vitally important for the procurement of technical assistance and the extension of agricultural techniques. Some respondents complained about the lack/inadequacy of agricultural cooperatives and agronomists in their communities. The age of the few active agricultural extension agents and the failure to replace them was highlighted as a major challenge: “... the villages of Rukangaga and Rusabagi have only one agronomist. He is already too old and sick anyway. This means that he is not able to do his job effectively⁶⁴”.

From time to time, some local NGOs provide agricultural extension training. This enabled certain groups of women, supported by Alliance for Peace, Education and Development (APED) in Kalehe, to complete training on product storage and seed conservation⁶⁵. All of these difficulties affect agricultural productivity and increase food insecurity. Despite women’s significant labour contribution to the subsistence economy, many rural households have difficulty accumulating the assets to see them through lean periods.

Local development associations and women’s groups are present in all the areas studied but they have very few resources and are not regulated by legal texts. Development associations do community support work but their limited resources mean that they cannot launch large-scale initiatives. The main activities are tontines and community agricultural exploitation. There are no real income-generating activities (IGA) in the areas where the study was conducted, which are able to contribute to significantly raising the standard of living for rural women producers.

2.4. Limited representation in decision-making bodies

It is widely acknowledged that women’s representation in land governance institutions at all levels is of capital importance to secure their land rights.

In DRC, the problem of equitable representation in decision-making affects all sectors, not only that of land governance. Despite the principle of gender parity in public institutions being established in the Constitution, and despite the Congolese government’s adoption of the Solemn Declaration on Gender Equality, women are very poorly represented at every level of decision-making, and particularly at a community level. The head of an NGO we met in Bukavu told us:

“...on a community level, starting from the lowest level, in small local development committees on drinking water, rural electrification, sanitation, up to the provincial administration level, such as the provincial assembly and ministries, women have no access to decision-making positions⁶⁶.”

In South Kivu, there are no women among the province’s twenty-five chiefs of chiefdom. The presence of women as chiefs of chiefdoms would constitute significant progress, given the

⁶⁴ One-on-one in-depth interview with K.M., landowner and coordinator of a farmers’ union association, Kiliba, June 2014.

⁶⁵ One-on-one in-depth interview with G. M., head of an association in Kalehe, June 2014.

⁶⁶ One-on-one in-depth interview, Bukavu, June 2014.

capital role played by traditional chiefs in land allocation and in settling land conflicts. In the areas studied, women have minimal representation in decision-making bodies at a community level. There are only two women *chefs d'avenue*⁶⁷ (*avenue* chiefs) in Kiliba and one woman among the fifteen chiefs of *groupements* in Kalehe.

Nor are women able to sit on village councils and the traditional land conflict resolution organisations, despite the fact that DRC adopted a National Plan for the Implementation of Resolution 1325 of the United Nations Security Council, which advocates the involvement of women in all conflict resolution and peace creation processes. Some Congolese NGOs are mobilising against discriminatory traditional practices. This is how Action pour la Paix et la Concorde (APC) - South Kivu, established structures known as *cadres de dialogue et de médiation* (local peace committees, CMD), with women's representation as a principle. Several mediation and conciliation sessions conducted by the CMDs in Kalehe have been chaired by women or have seen women actively participate in them⁶⁸. Research conducted by APC on discriminatory customary practices against women in Kalehe territory also revealed that one of the arguments put forward by certain customary chiefs to justify the exclusion of women, is that they do not know anything about customary law or cultural questions so would consequently not be qualified to participate in debates regarding customary provisions⁶⁹.

2.5. Discriminatory legal provisions against women and the lack of harmonisation of different legal texts

One of the greatest challenges regarding women's access to land undoubtedly lies in the legislation and the legal frameworks – both customary and modern – that regulate women's rights in general and, specifically, their land rights. It is recognised that land rights are regulated by overlapping provisions and laws that are often contradictory or ambiguous. This legal pluralism creates discrepancies between constitutional, legislative and customary laws, which further complicates the issue of women's access to land⁷⁰. What is more, certain aspects of customary law are included in written law, thus increasing gender inequality in land provisions.

In theory, DRC has a legal framework consisting of national, regional and international legal instruments to protect and guarantee the rights of women and their access to land. With respect to international and regional instruments, in 1986, DRC ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and adopted the Beijing Platform. These two major international instruments put a special emphasis on women's land rights. The CEDAW states that husbands and wives have identical property rights, including with respect to its acquisition, management and administration. The convention also guarantees women's right to be treated equally in land and agrarian reforms.

⁶⁷ In DRC, an *avenue* is an administrative subdivision of a *commune* (which are, in turn, subdivisions of the 26 districts comprising DRC). *Communes* are made up of the following administrative subdivisions: *quartier*, *cellule*, *avenue*.

⁶⁸ Buuma, D., Maliyaseme, S., Bikulongabo, R., Mudinga, E., *Les femmes n'héritent pas ici : Hériter et accéder à la terre : droit des uns, faveur des autres ?* (Women here do not inherit. Inheriting and accessing land: for some a right, for others a favour), A case study in Kalehe and Walikale territories in eastern RDC, Action pour la Paix et la Concorde (APC) - South Kivu.

⁶⁹ Buuma, D., Maliyaseme, S., Bikulongabo, R., Mudinga, E., *Les femmes n'héritent pas ici : Hériter et accéder à la terre : droit des uns, faveur des autres ?*, op cit

⁷⁰ *Genre et droit à la terre. Comprendre les complexités, adapter les politiques* (Gender and land rights. Understanding complexities, adapting policies), FAO, March 2010.

The Beijing Platform urges states to take the necessary steps to ensure women's access to financial and production resources, and the control thereof.

On a continental and regional level, the Congolese state has adopted three instruments concerning women's rights, with specific provisions concerning their access to land. These instruments are: the additional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa⁷¹ (Maputo Protocol), which asks signatory states to guarantee women's access to land and food production resources; the Solemn Declaration on Gender Equality in Africa (SDGEA)⁷², in which signatory states made an undertaking to actively promote the enforcement of legislation to guarantee women's rights to land, property and inheritance; and, the SADC Protocol on Gender and Development⁷³, in which states made an undertaking to revise and amend laws and policies regulating women's access to production resources and their control thereof, and to put an end to any discrimination against women and girls, regarding their rights to own and occupy land, by 2015.

With respect to Congolese national legislation, Article 12 of the Constitution of the DRC clearly establishes equality of rights for all, irrespective of gender. In Article 14, it is stipulated that the public authorities will ensure the elimination of any form of discrimination against women and will protect women's rights in civil, political, economic, social and cultural areas. These rights also include the rights to private property and to work. Article 14 includes another important provision that guarantees the implementation of male-female parity in institutions. The rights guaranteed by the Constitution are implemented through a series of specific laws, in particular, the *Code de la Famille*, the *Code Foncier*, the *Code du Travail*, the *Code Pénal* (Penal Code) and the *Loi Électorale* (Elections Law).

It is difficult to effectively enforce these national, regional and international instruments with respect to women's land rights. Indeed, despite the adoption of the principle of gender equality in the Constitution, discriminatory provisions against women continue to exist in Congolese legislation, regarding their land rights and civil rights. Contradictory provisions also exist, both within and between certain national legal texts, due to the lack of harmonisation between the different legal texts regarding women's rights. There is also a noticeable lack of harmonisation between national instruments for women's rights and those ratified by the Congolese state on a regional and international level.

In particular, the *Code de la Famille* contains a number of discriminatory provisions against women, which affect their rights to access land. The *Code de la Famille* is particularly important for women because it is a central tool for regulating the private sphere of the family and the relations between its members, specifically, between the husband and wife. The Code is based on the fundamental principle according to which, when a woman marries, she is under the guardianship of her husband who is considered as the head of the family. To this effect, Article 444 of the Code stipulates that the husband is the head of the family, that he must protect his wife and that the wife must obey her husband. Indeed, the wife must obtain the permission of her husband to buy land or property, to be a party to legal proceedings or to open a bank account. Article 448 states that the wife must obtain the permission of her husband for all legal acts in which she undertakes to provide a service that she must carry out in person. Article 450

⁷¹ Adopted by the African Union at the Maputo Summit in July 2003.

⁷² Adopted at the Conference of Heads of State and Government of the African Union, Addis Abeba, July 2004.

⁷³ Adopted at the 28th Summit of Heads of State and Government of SADC, Johannesburg, August 2008.

states that the wife must not be a party to legal proceedings or make an acquisition, alienation or undertaking without the authorisation of her husband⁷⁴.

These provisions, which actually place women under the guardianship of their husbands, significantly limit their power of decision within households and in public life. They contradict the Constitution, which guarantees all people the same rights irrespective of their gender. They also contradict certain aspects of the *Code Foncier*, which despite not containing specific provisions for women, does not make any distinction between the genders for the purposes of land acquisition, either. Article 49 of the *Code Foncier* stipulates that ownership of acquired property be transmitted by donation, testament, succession and agreement. Thus, theoretically, based on the *Loi sur les Régimes Fonciers* (Law on Land Systems), women possess the same rights as men regarding access to land, through the abovementioned methods of transmission⁷⁵.

Nevertheless, in matters of succession, the *Code de la Famille* grants the same rights to children of both genders, and to those born in and out of wedlock or adopted. However, these provisions are restrictive because they only apply to the children of married women. They do not apply to the children of single mothers or to children from polygamous marriages who do not have any protection.

Certain legal contradictions and ambiguities also work against women. Specifically, Article 34 of the Constitution clearly stipulates that private property is sacred and that the state guarantees the right to individual or joint property acquired pursuant to the law or custom. The Constitution acknowledges that men and women have the same rights to access private property. However, as this provision specifically refers to individual or joint property acquired pursuant to custom, in practice, women will face discrimination when accessing private property, because theoretically in customary law women can neither inherit nor buy land⁷⁶. This issue is worsened by restrictions contained in the *Code de la Famille* on access to individual property.

For years, women's rights organisations and the Congolese ministry of gender have been working towards the reform of discriminatory legislation towards women, in particular, the *Code de la Famille*, and the harmonisation of the different legal texts. The ministry, with the technical support of some women's civil society organisations, specifically, the Association des Femmes Juristes du Congo (AFEJUCO) has reviewed the Code and made recommendations to amend the provisions that contradict the Constitution. The bill amending and totally modifying the *Code de la Famille*, introduced by the Congolese government during the parliamentary session of March 2014, proposes the abolition of marital permission. Article 330 of the bill also introduces a provision stating that monogamy is the sole form of marriage in use. If the bill is adopted, it will lead to significant changes in terms of decision-making within households. However, even if the proposed removal of marital permission is approved, it is unlikely that the review will challenge men's status as heads of the family⁷⁷.

Most respondents in the women's and the mixed focus groups are unfamiliar or have very limited knowledge of Congolese law, in particular, important legal texts that contain provisions

⁷⁴ *Code de la Famille de la République Démocratique du Congo* (Family Code of the Democratic Republic of Congo).

⁷⁵ Women's rights in the Democratic of Congo, *op cit*.

⁷⁶ Women's rights in the Democratic Republic of Congo, prepared by New Perimeter on behalf of Women for Women International (UK), March 2014.

⁷⁷ Davis, L., Fabbri, P., Ilot Muthka, A., Democratic Republic of Congo, Gender Country Profile, *op cit*.

relating to women's land rights. For many women, these matters are far removed from their day-to-day reality. In interviews conducted in the women's focus groups in Kalehe, one participant responded: "... *we don't know about these things, we [only] hear about them*". In the group, only the women who had a minimum level of education stated that they had heard about the Constitution and some other legal texts but were not familiar with the content. The *Code de la Famille* was cited as being better known than the Constitution⁷⁸. Women are also unfamiliar with customary law, although those in the focus groups were well aware of discriminatory cultural practices against them. This lack of knowledge on legal matters prevents them from making their voices heard or and improving their land access conditions.

⁷⁸ Focus group interview, Bushushu, Kalehe, June 2014.

3. The place granted to women in initiatives to reform the land system

Numerous national and international stakeholders are working on land issues, with the aim of reforming the legal land system and land governance. These stakeholders are more often than not: state institutions; agencies belonging to the United Nations, in particular, UN-Habitat; and local and international NGOs. Within the limited scope of this research, it was not always easy to accurately determine the place given to the needs and concerns of women and the inclusion of a gender dimension in interventions. However, it appears that although there is a clear willingness to consider women and the gender dimension, this is not done systematically by all stakeholders. A more in-depth study would be required in order to be able to provide more accurate data on these interventions and to determine the various stakeholders with the necessary expertise and resources to include the gender dimension in their programmes.

In view of this, this section will limit itself to reviewing a few of the initiatives led by some of the aforementioned stakeholders, wherever possible highlighting the place specifically granted to women's rights.

3.1. Interventions of the Congolese state

Following the signature of the Sun City peace agreements in 2002 and the official end of the war in eastern DRC, the Congolese government made efforts to regulate the land sector. Various important laws, such as the *Code Agricole*, *Code Forestier* and *Code Minier* were reformed with the intention of regulating the land system. Although they had a certain impact on the land system, these reforms were also criticised, firstly, because they were made on an ad hoc basis rather than systematically and, secondly, because they contained contradictory provisions regarding property and usage rights.⁷⁹

Since 2011, there has been renewed willingness on the part of the state to carry out a more adequate reform of policies and the land system, in line with its ambitions for the country's socio-economic development. The state also made an undertaking to reduce land conflicts in the east of the country. In that context, an important national seminar on land reform took place in July 2012, organised by the Minister of Land Affairs, in partnership with UN-Habitat⁸⁰. The aim of this national seminar was, on the one hand, to promote an inclusive framework for dialogue between the different stakeholders, in order to reach a consensus on the land reform process and, on the other hand, to identify the challenges, opportunities and constraints of effective land management. The seminar was also supposed to adopt a detailed roadmap to ensure a participatory and consensual land reform process in the short and long term "...based on the principles of participation, decentralisation, respect of the environment, human rights, and the rights of women and minorities".⁸¹ During the seminar, it was agreed that a new land policy and a review of the *Loi Générale sur la Propriété* (General Property Law) of 1973 were necessary⁸².

⁷⁹ Huggins, C., *Terre, pouvoir et identité*, op cit.

⁸⁰ Vlassenroot, K., Dealing with land issues in conflict in Eastern Congo: towards an integrated participatory approach. Report on the seminar held in Brussels on 20 – 21 September 2012.

⁸¹ Democratic Republic of Congo, Ministry of land affairs, land reform, Programming Document, Kinshasa, May 2013.

⁸² Democratic Republic of Congo, Ministry of land affairs, land reform, Programming Document, op cit. See also Vlassenroot, K., Land issues and conflict in Eastern DRC. Prepared for the DRC Affinity Group, SSRC, January 2013.

It is not clear how women's land rights are considered in these different initiatives. In DRC, national policies for promoting women's rights and gender equality are launched by the ministry of gender, family and children, which has developed a National Gender Policy, a National Strategy Against Gender-Based Sexual Violence and a National Plan for the Implementation of Resolution 1325. The ministry has set up an entire package for implementing its policies. Accordingly, gender focal policies have been placed at the level of each ministry, with the aim of ensuring the mainstreaming of a gender perspective in sectorial policies. They have also been established at a provincial level to support the implementation of the National Gender Policy and to represent the ministry at every level of the provincial administration. Gender committees have also been set up in neighbourhoods of the town of Bukavu, in South Kivu. This national and provincial package is supplemented by a gender discussion group in charge of identifying the loopholes in gender equality policies⁸³.

In the National Gender Policy, the lack of women's access to land is clearly highlighted as one of the main challenges to women's empowerment in rural environments. The strategic plan that accompanies the policy contains strategies and actions to strengthen the economic power of women and men, in particular, through advocating the review of the *Code Foncier*, *Code Minier* and *Code Forestier*, considering the specific needs of women and men. There are also plans to create financial and investment institutions for women⁸⁴. The strategic plan, dedicated to improving the civil and political participation of women contains initiatives such as advocacy in parliament to obtain the review of the discriminatory legal provisions that are still present in legal texts, the popularisation of legal texts favouring gender equality and fairness, the setting up of legal clinics in each administrative centre and district, as well as in decentralised entities⁸⁵. For years, the review and updating of the *Code de la Famille* was among the ministry's objectives and, as mentioned in the previous chapter, the bill amending and supplementing the *Code de la Famille* has now been introduced to parliament.

The impact of the ministry's work and, beyond it, the policies of the Congolese state regarding the promotion of women's rights is not always obvious. The vast majority of respondents in Kalehe and Kiliba think that the state's involvement in securing women's land rights is severely lacking, and that it is not fulfilling its role. Some people expressed fairly virulent opinions, such as "*people are left to fend for themselves*", and even "*the state is non-existent here*"⁸⁶.

One of the main reasons for this lack of impact is the ministry's lack of resources. An organisational and institutional assessment of its operations conducted in 2013, showed that it did not have the required capacities to successfully fulfil its mandate. The gender focal points established in the ministries have neither the appropriate financial resources nor the technical expertise to work effectively. Additionally, in South Kivu, some stakeholders think that government policies are drafted using a top-down approach, which limits their enforcement and appropriation at a provincial level⁸⁷.

⁸³ Davis, L., Fabbri, P., Ilot Muthaka, A., Democratic Republic of Congo- DRC. Gender country profile, 2014. Commissioned by the Swedish Embassy in collaboration with DFID, the European Delegation and the Embassy of Canada in Kinshasa.

⁸⁴ National strategy for the inclusion of gender in policies and the programme, Ministry of Gender, family and children, 2013.

⁸⁵ National Gender Inclusion Strategy, *op cit*.

⁸⁶ One-on-one in-depth interviews in focus groups in Kalehe and Kiliba, June 2014.

⁸⁷ Davis, L. *et al*, Democratic Republic of Congo-DRC. Gender Country profile 2014, *op cit*.

The stabilisation and reconstruction programmes for eastern DRC, led by the Congolese government and United Nations Organisation Stabilisation Mission in the DRC (MONUSCO), cover the land issue. In South and North Kivu, the government's Stabilisation and Reconstruction of Eastern DRC (STAREC) programme supports the creation of permanent local conciliation committees. These committees were set up partly to prevent and resolve land conflicts, by coordinating with provincial authorities⁸⁸. However, the gender dimension of the land issue and the securing of women's land rights are not clearly set out in the stabilisation strategies, unlike the combatting of sexual violence, which is the fifth pillar of the stabilisation plan.

3.2. The intervention of local and international non-governmental organisations

Local NGOs are indisputably the most active and innovative stakeholders in land issue interventions, both in South and North Kivu where land problems are acute. Consequently, this section also mentions the initiatives launched by some of the NGOs working on land issues in North Kivu. Some of these initiatives are similar to those of NGOs from South Kivu but others are different and particularly innovative, which could lead to a valuable exchange of experiences between local NGOs in both provinces. NGOs' initiatives in both South and North Kivu are generally focussed on three specific areas.

The first is land mediation and reconciliation for land conflicts, where the greatest number of stakeholders are found. The majority of conflicts dealt with are land conflicts between opposing members of the same family or disputes concerning property boundaries. Some mediation also tackles conflicts caused by the return of refugees or displaced persons, who are claiming their rights to land⁸⁹. The study demonstrated that a relatively large number of women are involved in land conflicts, in particular, those relating to plot boundaries. Additionally, a number of women's organisations in South Kivu are involved in community mediation on land issues.

The second area of intervention is land governance. Faced with the problem of managing customary land, the idea is to help communities and, in particular, small landowners to register their land with the land registry and obtain land titles⁹⁰. In South Kivu, Congolese NGOs, such as Innovation et Formation pour le Développement et la Paix (IFDP) and Action Sociale et d'Organisation Paysanne (ASOP), are in the process of experimenting with a decentralised land management model based on customary rules, whereby they propose for customary chiefs to issue documents entitled "Customary Land Titles", serving as certificates to secure the land of farmers. Women are among the groups targeted by ASOP and IFDP⁹¹. Another organisation, Action Pour La Promotion et la Défense des Personnes Défavorisées (APRODEPED), has proposed setting up customary land registers⁹². There are similar initiatives in North Kivu, where the organisation Aide et Action pour la Paix (AAP) has called for the adoption of "rural land maps", which is also a simplified land registry system. On the other hand, the Forum des

⁸⁸ Virculon, T., Liégeois, F. *Inventer une politique dans un Etat failli. Le défi de la sécurisation des droits fonciers dans l'Est du Congo* (Inventing policy in a failed state. The challenge of securing land rights in eastern Congo). Note de l'Ifri, Programme Afrique Subsaharienne, April 2012.

⁸⁹ Vlassenroot, K. Dealing with land issues and conflict in eastern Congo, op cit.

⁹⁰ Vlassenroot, K., Dealing with land issues in conflict in eastern DRC, op cit.

⁹¹ In-depth one-on-one interviews with representatives of IFDP and ASOP, Bukavu, June 2014.

⁹² Virculon, T., Liégeois, F., *Inventer une politique publique dans un Etat failli*, op cit.

Amis de la Terre (FAT) has devised a code of good conduct on land issues for customary chiefs⁹³.

Analyses of these initiatives for the reform of customary land management demonstrated their scope and importance but also their limits. Such initiatives are not easy to launch and are not always successful because they necessarily involve processes that can prove costly. Furthermore, given the local interests at stake, customary chiefs have been known to undermine such programmes for fear that these will erode their power. Likewise, certain programmes of this type have led to the multiplication of land conflicts in some of the pilot areas, in particular, among members of the same family or between neighbours⁹⁴. It is also important to determine whether these projects take women's needs and gender issues into account and include them in their programmes, which it has not been possible to do within the limited scope of this research.

Other initiatives to reform customary land governance include those undertaken by the Syndicat de Défense des Intérêts Paysans (SYDIP) in North Kivu, which is involved in work to formalise, codify and record land customs in writing. This codification, has allowed SYDIP to draft a contract for the exploitation of customary land and a code of good conduct for traditional chiefs on land management in North Kivu. The aim of the code is to clarify the role of traditional chiefs on the subject of land and thus help to build the foundations of real cooperation between them and the provincial administration⁹⁵. This code, which has been examined at a Provincial Assembly level, is certainly one of the rare texts that clearly set out the principle of gender equality regarding access to land, resources and their control within a customary context. Indeed, Article 22 of this code stipulates:

“Any customary chief must refrain from and prohibit any discriminatory measures that prevent women from accessing natural resources and in particular land. He must therefore take steps to incentivise women’s access to land”⁹⁶.

The third type of intervention is at a political and legislative level. These interventions include not only the popularisation of the *Code Foncier* and related legal frameworks but also advocating the reform of these texts⁹⁷. Among advocacy initiatives to reform texts, it is worth mentioning those launched by the Fédération des Organisations de Production Agricole du Congo (FOPAC) and SYDIP, for the negotiations that resulted in the elaboration of the *Code Agricole*. Their list of grievances and recommendations for the *Code Agricole* were set out in various public consultations in North Kivu and then presented to decision-makers. Consequently, following intense negotiations, it was possible to include some of farmers' key concerns in the *Code Agricole*⁹⁸.

A number of local NGOs work more directly to promote women's rights as part of training, information and public awareness programmes. In Kiliba, the Centre de Développement Intégré de l'Enfant Rural (CEDIER) provides information on women's land rights, the importance of registering marriages at the registry office and the sharing of property between

⁹³ Virculon, T., Liégeois, F., *Inventer une politique publique dans un Etat failli*, op cit.

⁹⁴ Vlassenroot, K., Dealing with land issues in conflict in eastern DRC, op cit

⁹⁵ Virculon, T., Liégeois, F., *Inventer une politique publique dans un Etat failli*, op cit.

⁹⁶ Virculon, T., Liégeois, F., op cit.

⁹⁷ Vlassenroot, K., op cit.

⁹⁸ *Sortir de l'impasse: vers une nouvelle vision de la paix à l'est de la RDC*, International Alert, September 2012.

the husband and wife in case of divorce. The organisation also raises public awareness to change behaviour and mentalities. Action pour la Paix et la Concorde (APC) and the Association des Femmes des Médias (AFEM) also offer training programmes and are actively involved in women's rights advocacy, through radio broadcasts in particular.

A number of international NGOs are active in Kalehe, notably International Emergency and Development Aid (IEDA), which works in the area of protection and manages a legal clinic. IEAD raises public awareness to promote a change in behaviour and mentalities. Other international organisations such as WfWI, Action Aid, and Agency for Cooperation and Research in Development (ACORD) carry out similar interventions. Action Aid, which carried out research in North and South Kivu on women's access to land and its control in 2007, has since been working with local organisations on these matters⁹⁹. ACORD concentrates on issues related to means of subsistence, food security and women's rights, particularly in the province of Bandundu¹⁰⁰.

It is also necessary to mention the important advocacy work for women's rights, including securing their land rights, carried out on a national level by organisations such as Comité National Femme et Développement (CONAFED), Cause Commune, Cadre Permanent de Concertation de la Femme Congolaise (CAFECO), Réseau des Femmes Africaines Ministres et Parlementaires de la République Démocratique du Congo (REFAMP/RDC), and by Caucus des Femmes Congolaises Pour la Paix, on a provincial level in South Kivu. Since the signature of the Sun City agreements in 2002, these organisations have been working for more egalitarian representation of women in decision-making at every level, a reform of the *Code de la Famille* and the harmonisation of different legal texts concerning women's rights.

A number of respondents in the research sites have noticed positive developments concerning women's ability to buy, sell or inherit land. These developments are due to important public awareness campaigning by NGOs and churches to promote women's rights, as well as the impact of education. The majority of respondents highlighted the crucial role education played in these developments. In the communities studied, educated women disposed of greater leeway to buy or inherit land. Thus, in Kalehe, the women able to buy land are educated women, who have been informed by NGOs and have become community leaders¹⁰¹. More generally, on a provincial level in South Kivu, cases of women being able to inherit land are more commonly found in the centre of the *groupements* and in parts of the *groupements* that are close to urban centres like Bukavu, where there are lots of schools, or along national or frequently used roads. This proximity contributes to the opening up of these *groupements*, placing them in contact with certain forms of modernity that influence their lives¹⁰².

According to others, progress remains limited, despite the work of NGOs. According to one informant in Kiliba: "*The evolution of women's land rights has not been remarkable here, no matter how much effort associations put into raising awareness about human rights*"¹⁰³.

⁹⁹ Women's rights in the Democratic Republic of Congo. Prepared by New Perimeter on behalf of Women for Women International, March 2014.

¹⁰⁰ Women's rights in the Democratic Republic of Congo, op cit.

¹⁰¹ In-depth interview with a Mwami representative, Kalehe, June 2014.

¹⁰² *Problématique foncière dans la chefferie de Kabare ainsi que dans la zone urbano-rurale de Kasha (Bukavu)*, IFDP, op cit.

¹⁰³ In-depth interview with K.M., coordinator of a farmers' union association, Kiliba, June 2014.

Conclusion

The unfair nature of land rights is an important factor in the reproduction of gender inequality and the perpetuation of female poverty in rural environments in eastern DRC. It is also a factor that contributes to food insecurity and malnutrition. The 2011 Global Hunger Index placed DRC among the countries worst affected by hunger and malnutrition.

The securing of women's land rights in eastern DRC presents several large problems that simultaneously display a sociocultural, legal, economic and political-security dimension.

The land issue in DRC is closely linked to dynamics of violence and conflict. Although the distribution of rural land continues to be the prerogative of local customary chiefs, the multiplication of commercial transactions for land indicates that the land system in eastern DRC is changing from a customary system to a land market system¹⁰⁴. This context of land commodification, which has led to a significant number of farmers finding themselves without land, is a direct threat to female producers who are seeing their weak hold over land eroded and, at the same time, are losing the secondary land rights that they acquire within rural households.

Women's access to land rights is closely related to the unfair nature of social gender relations in DRC and the subordinated status of women within Congolese society. The determining factors of gender inequality are rooted in patriarchal cultural and customary practices and legal frameworks that discriminate against women. Women's rights in the land sector are inseparable from their civil rights, in other sectors of society. Thus, the persistence of discriminatory provisions, particularly in the *Code de la Famille*, and the lack of harmonisation in Congolese legislation also pose obstacles to securing women's land rights.

Women's land rights constitute a whole, which means that they are not limited to the formal and legal definition of the rights granted¹⁰⁵. Equality of access to land for women means not only that they can be landowners but also that they have the capacity and the necessary resources to effectively exploit this land. This means them being able to gain equitable access to transport, credit, quality inputs, markets and technological and advisory services.

Women's access to land can only be secured if a gender dimension is taken into account from the early stages of the land reform process. The Congolese state has stated its willingness to reform the land sector and to reduce land conflicts in a participatory manner, by opening a dialogue between the different stakeholders. However, there is no indication that female farmers and the thousands of male and female farmers without land have actually been included in this consultation process. Both land sector reforms in DRC and decisions concerning the renewal of agricultural policy must be conducted and taken jointly, by equally involving the men and women who work on and use the land.

¹⁰⁴ Higgins, C. *Terre, Pouvoir et Identité*, op cit.

¹⁰⁵ *La parité hommes-femmes dans les régimes fonciers* (Male/Female Parity in Land Systems). *Etudes sur les régimes fonciers* (Studies on Land Systems), 4, FAO, 2003.

Requests from research participants:

Participants in the study made a number of requests for the securing of women's land rights. These requests, which are set out below, were addressed to the Congolese state and to Women for Women.

To the Congolese state:

- Take the necessary measures to put an end to the insecurity related to armed conflicts.
- Discourage the fragmentation of land and family property.
- Reduce the cost of obtaining a land title to ensure easy access for all.
- Promote the empowerment of rural women producers by facilitating their access to credit and initiating income-generating activities managed by women themselves. This shall require increased female involvement and decision-making, and easier access to positions of responsibility for women.
- Review and update the *Code de la Famille* and ensure its dissemination, and the dissemination of the *Code Foncier*.
- Take measures so that women can have the same rights as men, particularly in matters of inheritance and schooling.

To Women for Women International:

- Step-up training sessions on women's access to land in the different associations supported by WfWI and extend them to others.
- Contemplate mixed male/female training to make the approach more successful.
- Carry out advocacy at every level so that women feel empowered, are able to have enjoyment of their property and are less vulnerable.
- Build the capacity of existing local associations; help them to obtain the legal documents in force in DRC and to raise funds for their activities to improve women's access to land.

Recommendations

This report makes the following recommendations:

To the Congolese government

- *Promote the development of income-generating activities programmes for rural women and guarantee their access to inputs, technology and the market.*

Ensure:

- *The dissemination in rural communities of important legal texts on women's rights and on the management of the land and agriculture sector.* It is essential for women to be familiar with legal texts so that they are able to know and understand their rights. This dissemination work could be carried out using visual supports and image boxes to facilitate comprehension of these texts.
- *The acceleration of the process to reform and harmonise legal texts promoting women's rights:* in particular the *Code de la Famille*, which has been in under examination by the Congolese national assembly since March 2014.
- *The development and reinforcement of collaboration with civil society women's organisations working on a provincial level in South Kivu to secure the land rights of rural women producers and their participation in decision-making bodies.* To achieve this, it will be important to build the capacities and expertise of the gender focal points established at a provincial level, as well as those of the provincial ministry of gender, family and children, so that they can work effectively with civil society organisations.

To civil society organisations

- *Complete an audit of the land system reform initiatives led by the Congolese state and civil society organisations:* in order to determine whether they take into consideration the needs of women and include gender issues in their programming. This audit shall also determine whether both the state and civil society organisations working on land issues dispose of the expertise and resources required to effectively and efficiently include the gender dimension in their programmes, and how they should procure technical expertise in this field, where necessary.
- *Carry out advocacy work among political decision-makers from local and customary authorities:* such as the provincial parliament, chiefdoms and the various provincial state services responsible for land issues, so as to influence the reforms underway and to ensure that women's needs and the gender perspective are taken into account.
- *Support the development of income-generating activities and women's access to inputs, technology and the market.*
- *Increase women's decision-making power and their leadership for the fairer management of household income:* this can be achieved by launching adult literacy

programmes or by building on those which already exist, to increase women's leadership within rural households and in the community in general.

- ***Organise programmes to raise awareness among men so that they assume their share of responsibility in family spending:*** to allow for a fairer distribution of household spending between men and women.