

# Land and property disputes impeding return and reintegration

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**A survey conducted by UNHCR in 2009 in IDP camps in North Kivu shows that access to land is the second factor after security which prevents people from returning to their zone of origin.**

On 17 February 2010, UNHCR, Rwanda and DRC signed the Tripartite Agreement<sup>1</sup> for the reciprocal repatriation of refugees between Rwanda and DRC. It has raised concerns, however, regarding the land conflicts which had already reached alarming proportions in Masisi and Rutshuru territories and their place in the overall peace process in North Kivu.

during this period of pacification.<sup>2</sup> Many land conflicts result from claims for the right to restitution after a long absence during which land has been transformed into pasture or farming land, or simply taken over for habitation.

Another cause of conflict is the acquisition of land by very large landowners. In Masisi and

of land laws, land in North Kivu and the majority of the country is managed and transferred on the basis of customary law, while the state only recognises land certificates issued by the property administration office. The registration procedure has enabled better informed groups to go to the land administration authorities to register plots whilst the former occupants are displaced.

Finally, the involvement of the military, often former members of rebel groups, is a growing phenomenon in Rutshuru and Masisi territories. A significant number of land concessions are under the control of former members of militias who are now integrated into the regular army. The local populations often dispute these acquisitions which seem to them to go against both legal and customary principles.

## Existing strategies

With the resurgence of land conflicts, UN-HABITAT, in partnership with UNHCR, has been implementing a programme to prevent and mediate land conflicts in the context of return and reintegration since May 2009. The aim is to offer communities alternative methods to resolve conflicts while the legal system is still paralysed by years

of war or simply inaccessible to rural populations, especially in the areas of return. In North Kivu, for example, more than ten local organisations working to prevent land conflict have come together in a coordination framework under the authority of the provincial ministry responsible for property matters. A land mediation centre has been set up by UN-HABITAT in Kitshanga town in Masisi territory. Centre staff offer training and information on land ownership issues with a view to preventing land conflicts but also



Community members with land problems looking for assistance, Kitshanga, Masisi territory

According to local communities, the massive return of refugees will fuel competition for land access. In post-conflict situations, access to land becomes a determining factor for cohabitation between communities and, above all, for the rebuilding of a community, and the emergence of land-related conflicts is understandable in such a context. In North Kivu, conflict over land – often linked to ethnicity – is a very old phenomenon. The varied nature of the current land conflicts tells us much about the land at stake

Rutshuru territories, land has been acquired by influential people during these periods of crisis on the basis of sometimes dubious procedures. These new owners are often challenged by both IDPs and local populations who find these acquisitions unjust, and this often turns into violent confrontation or provokes arbitrary arrests.

Another source of conflict lies in the contradiction between law and tradition in respect of land management. Despite the existence

provide mediation at the request of the different parties involved when the traditional leaders and other community bodies are out of their depth in a land conflict. The strategy focuses on providing land-conflict mediation teams with a certain degree of mobility and flexibility, alongside activities to strengthen capacity of, for example, traditional leaders and local organisations in the prevention and resolution of land conflicts.

Other international organisations such as the Norwegian Refugee Council and local organisations are also investing in land-conflict resolution by means of local reconciliation and legal aid mechanisms.

#### **Weakness of the means available**

With the signing of the Tripartite Agreement disquiet is growing in relation to the repatriation of 53,000 Congolese people who have been living in camps in Rwanda. Feelings of hostility are already rising in the territories of North Kivu with the community's rejection of these refugees, considered by some traditional leaders to be mainly non-Congolese. Furthermore, some UN agencies, including UN-HABITAT and UNHCR, have been accused of having a 'hidden agenda' of facilitating the implantation of Rwandans in Congolese territory. The repatriation movement thus risks running up against the land problem with the chance of refusal to return or provide access to the land on the basis of ethnic considerations. Despite warnings given by the international community, the provincial government tends to downplay the issue on the grounds that "the land belongs to the state".

Agencies who invest in the prevention of land conflicts and the promotion of good land governance do not provide sufficiently for access to resources to deal with the many land conflicts which emerge in the return areas. Despite a plea by UN-HABITAT to recognise the importance of the land problem in the peace process and economic recovery, we still see poor commitment by the international community, especially donors, to the land sector. However, the inclusion of land issues in the International Security and Stabilisation Support

Strategy,<sup>3</sup> particularly in its Return and Reintegration component, is a first step towards making the international community aware of the importance of the land question in the process of reconstruction and bringing peace to the areas affected by armed conflicts.

The principal Congolese land law dates from 1973 and no longer corresponds to the socio-political realities of the country. Besides, it has never been applied effectively in rural areas, generally due to poor knowledge of the law or its inability to be adapted locally. It needs to be reassessed during this post-conflict period. For example, this law offers no perspective on possible harmonisation between traditional customs and the law, while the traditional leaders still play a significant role in the management of land and the settlement of land disputes within their communities. Land management is still centralised in a land administration which is almost non-existent in rural areas where the returning populations need assistance to secure their land rights or simply to re-establish themselves.

A lasting political solution to the land problem would require an integrated approach based on the link between land and the law concerning displaced persons and refugees. To date, international legal instruments governing the rights of displaced persons in the whole Great Lakes region have still not been applied to ensure the development of policies and legal frameworks to deal coherently with the legal rights of displaced persons and refugees. What is necessary is to strengthen the capacities of the political and administrative authorities with a view to promoting an environment favourable to the development of a land policy and a legal framework which would offer lasting solutions to the land problem for successful returns and reintegration.

#### **Concerted and coordinated action**

The many initiatives under way to prevent and resolve land conflicts require harmonisation and coordination in order to prevent setbacks while community social cohesion is still fragile. The strategies implemented by the

Government of DRC through its Stabilization and Reconstruction Plan in Conflict-Affected Areas of Eastern DRC (STAREC) may well provide a framework for a coherent and coordinated approach to the land problem. Such an approach would also have the advantage of leading to the national and provincial authorities taking a degree of ownership of the issue.

To take this concern into account more fully, a Land Coordination Group has been set up under the management of the provincial Land Ministry in North Kivu to provide a framework for dialogue and harmonisation between the various parties working on the land issue, using an integrated and cross-cutting approach. The group consists of state bodies (provincial ministries which have dealings with land and property) and non-state bodies, both national and international. It interacts with Clusters working on humanitarian issues and the recovery of communities, specifically the Protection Cluster which is under the lead of UNHCR, the Return and Community Reintegration Cluster and the Shelter Working Group, with an exchange of information and initiatives concerning human rights violations.

Effective prevention and resolution of land conflicts in the east of DRC remain subject to the existence of political will. In the forthcoming land reform, the Government of DRC should seek to integrate the land problems which are specific to displaced persons and refugees with the peace process in the east of DRC and in particular its links with its neighbours. A framework for regional cooperation is more necessary than ever for the development of a shared land policy vision in accordance with the Stability Pact for the Great Lakes.<sup>4</sup> These initiatives will also require greater involvement of the international community.

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1. [http://www.provincenordkivu.org/doc6/refugies\\_rwandais\\_vivant\\_rdc.pdf](http://www.provincenordkivu.org/doc6/refugies_rwandais_vivant_rdc.pdf) (French)

2. UN-HABITAT recorded more than 300 land conflicts between September and December 2009 in Masisi and Rutshuru territories.

3. <http://tinyurl.com/DRC-SSSS>

4. <http://www.icglr.org/icglr-pacte.php>