

BRIEFING NOTE FOR HDP ACTORS WORKING IN THE KABARE AND WALUNGU TERRITORIES

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Introduction

This summary note on the conflict context in the Kabare and Walungu territories is structured around the four (4) dimensions of conflict analysis: the profile, causes, actors, and dynamics of the conflicts, followed by recommendations for the International Center for Tropical Agriculture (CIAT) so that it may take these into account in its interventions. This brief is based on available reports, studies, and research on the Kabare and Walungu territories from recent and older sources (see list at the end of the brief). This note focuses on the conflict context in the Kabare and Walungu territories, with particular attention to the communities of Irambi/Katana, Bushumba, Miti, and Cirunga in Kabare, and Kamanyola, Mushinga, Walungu, Nyangezi, Lubona, Ciherano, and the Kaziba chiefdom in Walungu.

1. Profiles of the Kabare and Walungu Territories

Conflicts in the Kabare and Walungu territories in general — and specifically in the communities of Mti, Bushumba, Katana, Cirunga, Kamanyola, Mushinga, Walungu, Nyangezi, Lubona, Ciherano, and the Kaziba chiefdom — revolve around land issues related to access to land and natural resources. These issues primarily pit individuals and families against one another: farmers and herders, large concessionaires and smallholder farmers, artisanal miners and mining companies. In the case of Kahuzi-Biega National Park (PNKB), the conflict primarily pits the Pygmies and other local communities against the PNKB and the Pygmies themselves. From an economic standpoint, the main activities in these two territories are agriculture, livestock raising, fishing, and mining. Livestock raising and agriculture are the most widespread activities throughout these territories. However, agriculture is the primary means of survival for the local populations. With land scarcity, increased demand for land, and low agricultural production in the Walungu and Kabare territories, access to land has become increasingly competitive.

The exploitation of mineral deposits is also a source of conflict in these two territories, particularly in the Mushinga group, where the Mukungwe site has been the focus of several conflicts related to its exploitation. The exploitation of land, flora, fauna, and other natural resources on one hand, and the cultural self-assertion of indigenous peoples and Pygmies on the other, constitute the main issues at the heart of the conflicts surrounding the PNKB. With the arrival of Kinyarwanda-speaking Tutsis in the Nyangezi group since 2019—coming from the highlands of Fizi, Mwenga, and Uvira—there has been a rise in stereotypes and prejudices against this community by other local,

predominantly Shi communities. They are accused of encroaching on land only to later claim it as their own, with reference to the Mulenge area in Fizi.

From a sociocultural perspective, the population of the Walungu and Kabare territories is predominantly Shi. Other diverse groups including the Batembo, Bahavu, Barega, Hundes, Bafuliru, Bavira, and Barundi are also present, though as minorities, and are concentrated mainly in the commercial centers of the groupings, such as Katana-center, Kabamba, Miti-center, Walungu-center, and Rubumba. Kinyarwanda-speaking Tutsis are located primarily in Nyangezi and Kamanyola. There are also Pygmies living in villages around Kahuzi-Biega National Park in the Katana and Miti groupings. All these ethnic groups live in harmony, but they sometimes come into conflict with the Pygmies over access to land and natural resources. Furthermore, in the Kamanyola sub-district, tensions exist between Kinyarwanda speakers and other ethnic groups over agro-pastoral activities, and in the Nyangezi sub-district, tensions stem from prejudices and stereotypes against Rwandophone Tutsi.

2. Causes of Conflicts

a. Root Causes

The colonial legacy is the root cause of land conflicts in the Walungu and Kabare territories. Belgian colonizers left the local population with large tracts of land without proper documentation. The absence of a land registry, the lack of good governance, and a dysfunctional justice system are also among the structural causes of conflict in both territories. This lack of good governance leads to abuses of power, of which smallholder farmers are the victims. Abuses are committed by political and administrative authorities, traditional authorities, and land administration officials who fail to properly enforce land laws due to corruption. Ignorance of the Family Code and land law prevents farmers from asserting their land-related rights; they are most often exploited by large concessionaires who take advantage of their ignorance to defraud them. It also happens that one group follows customary law while another follows written law. The duality of land law (written law and customary law) is a structural cause of land conflicts because it fuels disagreements and encourages arbitrary enforcement that often benefits the most powerful. Land law stipulates that all land in the Democratic Republic of the Congo (DRC) is owned by the state, which may then transfer it to private parties in the form of concessions under formal law. However, in practice, customary law is most commonly applied in the allocation of land. This duality between statutory law and customary law allows political leaders, traditional leaders, and others to manipulate the law to acquire large tracts of land and drive out peasant communities.

b. The Immediate Causes

Issues of succession and inheritance (often pitting families against one another) frequently lead to disputes over land or a house due to challenges by an heir, disagreements over the division of the inheritance and/or its management, and divergent interpretations of land transactions concluded between the deceased and third parties during the deceased's lifetime. Other immediate causes of most conflicts include problems with field boundaries or land concessions, which most often stem from the absence of a cadastral map defining the boundaries between concessions in both territories. This leads to land encroachments or the destruction of physical field boundaries, either by traditional chiefs or by government agencies. It also happens that such encroachment or physical destruction is caused by a shift in a riverbed, whether due to human activity or natural causes. Another immediate cause is the illegal occupation and/or exploitation of land, as well as disputes over customary fees called *Kalinzi*.¹ These types of problems in both territories concern concessions that were once farmed by settlers and, after the settlers' departure, were developed by local communities with the authorization of traditional chiefs in exchange for a customary fee. Subsequently, these lands were sold to large concessionaires by the authorized state authorities, and the farmers who had been cultivating them were driven out. Furthermore, customary authorities sometimes sell lands they had granted to one or more families in exchange for a customary fee, or they cultivate the lands themselves directly, or grant precarious contracts to farmers.²

Other immediate causes include *mineral extraction and the lack of land for the Pygmies*. Regarding minerals, with the coexistence of industrial and artisanal mining in South Kivu, people in mining areas have turned to extracting and selling minerals to meet their basic needs. Furthermore, with the return of foreign industrial companies that have obtained large mining concessions, farmers are legally required to leave their villages—which have become mining concessions—with little or no compensation. Additionally, disputes sometimes arise between families and traditional leaders over the management or ownership of mining sites. This is the case at the Mukungwe mining site, in the Mushinga group³ in Walungu territory. As for the lack of land for the Pygmies, they occupy areas belonging to other communities bordering the PNKB, which leads to their eviction without notice from the occupied areas. Furthermore, the lack of food and other basic necessities drives them to steal crops from the fields of other communities, either to eat them directly or to sell them. This theft often leads to regular confrontations between these communities and the Pygmies. Finally, the Pygmies sometimes enter or attempt to enter the park not only to find food but also to search for medicine, leaves to make baskets, and/or mats. They also view the park as a center for sociocultural activities, which leads to conflicts between them and the PNKB.

3. Triggering Events

Violent conflicts are triggered by killings, land grabs, court rulings considered unfair by one party, the relocation of boundary markers separating two fields, the eviction of field occupants, the theft of crops, the prohibition on local communities to mine minerals, the expulsion of residents from their villages by industrial mining companies, and the destruction of crops by livestock.

a. Aggravating Factors

The major factors contributing to the persistence of land disputes in the Kabare and Walungu territories—and particularly in the communities of Katana, Bushumba, Miti, Cirunga, Kamanyola, Mushinga, Walungu, Nyangezi, Lubona, Ciherano, and the Kaziba chiefdom—are ignorance of the Family Code or its disregard in matters of inheritance. Furthermore, cases of land being sold to more than one person (double sales) have been observed in both territories, creating tensions among buyers and/or between buyers and the seller. Another contributing factor is population growth, which further intensifies pressure on land. Artisanal miners' lack of knowledge of the mining code leads to resistance on their part and even a refusal to leave mining sites. This is also one of the aggravating factors.

4. Stakeholders in the Conflicts

The main actors are political and administrative authorities, judicial bodies, major concessionaires, farmers, herders, traditional chiefs, the PNKB/ICCN, the Pygmies, the Congolese government, communities living near the PNKB, artisanal miners, and mining companies. Due to a lack of neutrality and independence in resolving land disputes brought before them by the conflicting parties, and the failure to properly enforce land law and the Family Code, land registry officials, judges, magistrates, and territorial administrators often cause conflicts by ruling in favor of the party with greater financial resources. Cases of corruption are numerous, and large landowners use their positions to influence rulings and/or silence a complainant or victim. Furthermore, it has been observed that large concession holders buy up and evict farmers from concessions that the farmers believed rightfully belonged to them because they had paid customary fees. Most often, these actions are carried out in collaboration with political and administrative authorities responsible for land matters and/or traditional authorities. It is also noted that small farmers, due to a lack of knowledge and/or understanding of land law, apply customary law when acquiring land, which involves traditional chiefs in these sales. Farmers and herders dispute the destruction of crops by livestock. Most often, farmers do not kill the livestock themselves; rather, customary or judicial authorities intervene to restore the rights of one party or the other, and often the party with greater financial resources prevails.

The PNKB/ICCN, as the public agency responsible for the conservation and management of protected areas, has evicted the Pygmies from their traditional homeland. Since no adequate relocation or resettlement measures were provided, this has led them, on the

one hand, to continually attempt to return to the PNKB and, on the other hand, to occupy the lands and steal the crops of other neighboring communities. Regarding the Mukungwe mining operation, two families are disputing ownership of the gold-rich concession, to which another family later joined; there is also the local population, which was mobilized by these two families to denounce the occupation of their community by the BANRO company. We also find the artisanal miners who were working at this site and were expelled by the BANRO company, which drove the population from the gold site with compensation it deemed insignificant. Traditional chiefs who illegally collect taxes at this site; military personnel stationed there; judicial authorities implicated in corruption; and government agencies responsible for the mining sector. For all these actors, the stakes revolve around access to minerals.

Among those fueling the conflicts in the Kabare and Walungu territories are the leaders of Pygmy communities who exploit the PNKB-Pygmy dispute to advance their political agendas, politicians and businesspeople who profit from the illicit trade in natural resources, and real estate brokers and agents who connect land sellers and buyers or who buy and resell land.

a. Capacities for peace

In the Kabare and Walungu territories, there are Land Issues Think Tanks (GRF), which serve as a mechanism for resolving land disputes by facilitating their resolution through a win-win approach. Other peace-building capacities include national and international organizations working on peacebuilding and the peaceful resolution of conflicts, churches in general—and in particular the Catholic Church through its Diocesan Justice and Peace Commission—which use extrajudicial means to resolve persistent land disputes in the region. There are also community radio stations that broadcast messages encouraging the population to pursue peaceful coexistence, as well as local Pygmy organizations.

5. Conflict Dynamics and Current Trends

The dynamics of conflict in the Walungu and Kabare territories differ significantly from those in the neighboring territories of Uvira and Kalehe. Although armed groups are present in these territories, they do not generally affect the population at this time. Conflicts are on a smaller scale and are often resolved without violence. Since the ethnic composition of these territories is more or less homogeneous, the conflicts there do not have an ethnic dimension (the conflict between the Pygmies and other communities living near the PNKB is more economic than identity-based). Furthermore, there are no large herds of cattle that would cause significant damage to smallholders' fields, with the exception of the Kamanyola community, which is affected by the dynamics of the herder-farmer conflicts in the Ruzizi Plain. Livestock herders from the Ruzizi Plain

(Mutarule, Luberizi, Bwegera) periodically bring their cows in search of pasture in the Kamanyola group, where they ravage the crops of farmers in that group.

Regarding mining operations in Mukungwe in the Mushinga group, tensions between the three families fighting over control of the site have eased somewhat. The leaders of two of the feuding families—Kurengamuzimu and Rubango—were assassinated; as a result, Rubango's family drove the Chunu family out of the Mukungwe concession, and Kurengamuzimu's family has not been heard from since. Thus, according to information received from certain university professors in Bukavu and national NGOs, it appears that the Rubango family is managing this site through cooperatives of artisanal miners, who have become even more active there following BANRO's departure in 2020. At this time, it appears that no other company has resumed operations at the Mukungwe site. Consequently, we have been unable to obtain further information on this conflict after 2020.

Regarding the conflict involving the PNKB, tensions continue to be observed between the PNKB and the Pygmies, as well as between the Pygmies and other communities living near the PNKB. The Pygmies continue to try to obtain resources within the PNKB, which exposes them to repression by the guards tasked with patrolling the park. Furthermore, the Pygmies continue to steal crops and seize land from other communities, creating tensions among them. Several attempts to resolve this conflict between the PNKB and the Pygmies have already been made, but without success. Thus, to date, the situation has not changed, as the ICCN/PNKB has not yet responded favorably to the Pygmies' demands for the allocation of land. It would appear, however, that some land was allocated to them by the Congolese government but was subsequently sold by the leaders of this community—a claim that remains to be verified. Furthermore, several national and international organizations are actively working on this issue, attempting to find a solution to the difficulties Pygmies face in accessing basic services, including education and health care.

6. Recommendations

In light of this context, HDP stakeholders can take the following actions:

- Help disseminate legal texts on land and inheritance matters;
- Support the implementation of the new land law adopted in May 2022 to resolve land-related issues;
- Advocate with public officials for the implementation of a land policy that recognizes and protects the customary land rights held by farmers and that takes into account the obstacles and constraints faced by the most vulnerable populations regarding access to land;
- Support communities in holding community dialogues on land conflicts and implementing the outcomes of these dialogues;

- Engage local, provincial, and national authorities, through advocacy, to find progressive solutions to the problems and claims of the Pygmies and to ensure the implementation the law protecting the rights of indigenous peoples and its dissemination;
- Disseminate information about the land law and the family code;
- Raise awareness and train the population on stable livestock husbandry practices;
- Advocate for the establishment of a distribution system for agricultural and pastoral inputs;
- Raise awareness about peaceful coexistence, specifically within the Nyangezi community, to prevent identity-based conflict.

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