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## Baseline Results: Tenure Security and Land Conflict in Beni Territory, DR Congo

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### **Abstract:**

*This paper aimed to shed light on land tenure security and the dynamics of land conflicts in such a war-prone zone like Beni territory. The design of the study was descriptive and cross-sectional using both qualitative and quantitative methodologies. A total number of 1080 household participated in the survey and 19 institutions were included in the key informant interviews. Secondary sources were used in the quantitative approach as well such as reports, research articles and magazines. The findings indicates that tenure security is unknown and often misunderstood by majority of the people in Beni territory. The land registry coverage is 5%. The land administration does not have the legitimacy on the ground even if it is one of the greatest governmental institution with a legal authority over land. Only 34% of the study respondents affirmed having trust in the Land Administration. The classification results of land conflicts in terms of people's involvement criteria showed that individual disputes are the most frequently occurring followed by collective land conflict and lastly community land conflicts. Customary institutions were found to be the most involved in conflict resolution initiatives.*

**Keywords:** Conflict, land conflict, tenure security

### **1. Introduction**

Land conflicts in Africa are more often referred to rather than precisely documented. How to identify and interpret them is not self-evident. The causes and consequences of land conflicts do not obey simple rules (Chauveau & Alii, 1999).

The word "conflict" comes from the Latin word *conflictus*, which means collision or clash. Conflict is therefore defined as a process in which two or more parties attempt to frustrate the attainment of the other's goals (Wall, 1985). Society by its very nature, as human beings themselves, is not perfect, so disharmony and contradictions are inevitable parts of social development (Council of Europe, 2006).

The Congolese law distinguishes land disputes governed by custom from those governed by written law. Those governed by custom are conflicts over rural or customary land while those governed by formal or written law are land conflicts in urban areas (Mahamba, 2018). Many land-related disputes are not only about land but also an expression of the effects of the Congo's governance crisis (Mathys, Gillian; Vlassenroot, 2016). For example, the constitution and the land law (article 53) say that the soil is the exclusive, inalienable and imprescriptibly property of the State (Présidence de la République, 2013). One has to wonder whether the state has the capacity to enforce this section of the law. In practice, we realize that there is a dualism in the management of land. On one hand, the state via land administration has legal power over land, and on the other hand, customary authorities -who are incredibly trusted and accepted by their people- and therefore claim to be the owner of land, especially in rural areas where the presence of governmental institutions happen to be weak. Customary authorities do provide documents to land owners to give them a certain level of security. The majority of people in eastern Congo rely on these documents because of a poor understanding about formal tenure security but also because they can't afford to buy land according to the official channels. Sadly, once such a piece of land becomes a source of conflict, the customary document holder loses their rights over the land because these documents do not have any legal authority. Hence, land tenure security has been proved to have a link with land conflict. This paper therefore aims to shed light on land tenure security and the dynamics of land conflicts in such a war-prone zone like Beni territory.

#### **1.1. Background Information**

The Democratic Republic of Congo is the second largest country of Africa continent with 2 345 000km<sup>2</sup> of surface. It extends from the Atlantic Ocean to the large East African rift (or Great Lakes ") which constitutes the major part of river Congo Basin (CCFD - Terre Solidaire et alii, 2010).

The land context in the DRC is, as in many countries, the result of the history. In the Eastern part of Congo, this history is characterized by decades of one of the most violent and bloodiest conflict the world has ever seen (Long, 2007). Here Land disputes are considered both key sources and perpetuating factors of conflict. Over the years, scholars and practitioners have identified a number of critical land-related factors contributing to violence and conflict (Mathys, Gillian; Vlassenroot, 2016). These include a considerable diversity of forms of land governance that are fostered by: the existence of overlapping legal frameworks and weaknesses in statutory land law; increased competition over land, including among elites and between autochthonous and migrant communities, sometimes resulting from large-scale displacement; and the poor performance of the administration and justice system in the settlement of land disputes. In Beni territory, access to land has been recognized as the leading factor contributing to 49% of conflicts in the community (IOM et alii, 2019). Empirical studies have proved that it's hard to analyze land conflicts without considering tenure security. The tenure security is the relationship, whether legally or customarily defined between people (individuals or groups) and the land. It defines how access is granted to the right to occupy, use, develop, sell, give and exclude other from the property. (Jean Du Plessis et alii, 2016). This right is evidenced by the land title. Land title guarantees the ultimate security to land. This document is processed by the land administration. Given the exorbitant cost of the land title, the unfairness in the acquisition process, the context of Beni territory where majority of household depend on small scale agriculture, the harassment of some customary authorities, it can be difficult for individuals to own land titles. The locals rely on recognition documents provided by customary institutions. Our hypothesis is that despite the factors stated above, knowledge of land law, level of trust and legitimacy of land administration, the perception about the availability, consciousness and quality of the land-related services influences communities to acquire a land title.

### 1.2. Justification

This research is part of a joint stabilization program of Beni Territory (North Kivu province) that the International Organization for Migrations, Interpeace, Search for Common Ground, Université Chrétienne Bilingue du Congo and World Vision set up to support STAREC in the context of the International Strategy for Security and Stabilization Support (ISSSS).

The overall Goal of this joint program is to contribute to the stabilization of eastern Democratic Republic of Congo (DRC) through three pillars: Democratic Dialogue, Economic Recovery and restoration of state authority. Land matters are captured in the second pillar under the responsibility of the Université Chrétienne Bilingue du Congo.

## 2. Research Objectives

The main Objective is to analyze land tenure security and land conflict in Beni territory, Democratic Republic of Congo

### 2.1. Specific Objectives

- To describe land tenure security in Beni Territory and the level of trust towards the Land Administration;
- To analyze land conflicts and land conflict outcomes in Beni Territory

## 3. Materials and Methods

This study is descriptive and cross-sectional using both primary and secondary data. Primary data were generated from the household survey and Key Informant Interviews were carried out in institutions involved in conflict resolution. These were either institutions that fund conflict resolutions initiatives, or support conflict resolutions (research, tools development, and training) or organizations that conduct mediation sessions. This process was completed by secondary data analysis/aggregation using official items, NGOs' database and archives.

### 3.1. Key Informant Interviews

A total of 19 structured Interviews were conducted in institutions involved in conflict resolutions in Beni Territory. Here are the Institutions that participated in the Interviews: The civil bureau of la Mission de l'Organisation des Nations Unies pour la Stabilisation en République démocratique du Congo, Administration Foncière (Beni), Agence National de Renseignements (Watalinga), Direction General de Recettes du Nord-Kivu (Beni), Conseil Norvégien pour le Refugies (Beni), Tribunal de Paix (Beni), Société Civile (Watalinga), Bureau du secteur de Rwenzori, Coordination de Défense des Intérêts de Négociants des Matières Précieuses ( Beni-Mbau), Stabilisation et Reconstruction (Starec/Beni), Bureau du secteur de Beni-Mbau, Centre de Resolution des Conflits (Beni), Direction provinciale des mines (Goma), Ministère Provincial des Mines (Goma), Bureau de Geologie de Beni, Bureau de Chefferie de Watalinga, Administration du Territoire de Beni, pouvoir coutumier de Beni-Mbau.

The sampling method used was the snowball sampling. Snowball sampling is a purposive sampling design where participants who were selected are those believed as having more knowledge in the research topic due to their field area. The research team had in advance identified ten institutions in Beni territory and Beni Town. But in order to minimize error of leaving important sources of information, the data collectors asked to those respondents a recommendation of whom else to speak to. The study unit are institutions.

### 3.2. Household Surveys

The survey was done at the household level using a structured questionnaire that had closed-ended questions. To get the study participants, the study used a cluster sampling method. First of all, three regions (Collectivités) were randomly selected in Beni territory. Locations are naturally grouped into sub-region (groupements). So, the researcher

included all the sub-region then villages were randomly selected in each sub-region. After determining villages that will be included in the study, the researcher then determined the number of household per village.

Sub-Region	Village	Frequency	Percentage
Bahumu	Bugando	30	3%
	Kizanzaba	30	3%
	Mampopia	30	3%
	Total	90	8%
Baniangala	Kikura	30	3%
Basongora	Kalemia	30	3%
	Lubiriha	30	3%
	Total	60	6%
Baswagha/ Madiwe	Bapakombe-Pendekali	30	3%
	Kipabashi	30	3%
	Lubena	30	3%
	Mambabwanga	30	3%
	Mambombo	30	3%
	Visiki	30	3%
	Total	180	17%
Batalinga	Bwisegha	30	3%
	Kamango	30	3%
	Ndama	30	3%
	Total	90	8%
Batangi-Mbau	Batangi/Bingo	30	3%
	Kuskivi	30	3%
	Maleki	30	3%
	Mangoko	30	3%
	Mataba	30	3%
	Mavivi	30	3%
	Mbau	30	3%
	Musuku	30	3%
	Upende	30	3%
Total	270	25%	
Bawisa	Kisegeta	30	3%
	Kombo	30	3%
	Lwanoli	30	3%
	Nsungu	30	3%
	Total	120	11%
Bolema	Kalevya	30	3%
	Kyavitumbi	30	3%
	Mutwanga	30	3%
	Total	90	8%
Buliki	Masambo	30	3%
	Mbumbi	30	3%
	Total	60	6%
Malambo	Hurara	30	3%
	Kilya	30	3%
	Rugetsi	30	3%
	Total	90	8%
Overall Total		1080	100%

Table 1: Household Distribution per Village and Sub-Region

A total number of 1080 household participated in the survey amongst the 1.316.000 individuals (study population)

### 3.3. Selection and Training Investigators of Investigators

Investigators were selected locally in order to reduce bias, to ensure the beneficence in the study and to prevent accessibility challenges. Three days of training were organized with investigators who had a prior experience in data collection and a set of skills. The training was focusing on research objectives, methodology, fundamental ethical principles, review of the questionnaire, translation of the questionnaire from French to Kiswahili (local language), and safety measures in the field.

### 3.4. Ethical Consideration

An informed consent was verbally obtained from the research participants. For the survey, a letter of consent was red in local language to explain rights of respondents, the role they plays in the study and the benefits that the research will provide to locals as far as land is concerned. The interview was done amongst learned individuals who provided their consent by stamping on the letter of consent.

### 3.5. Data Collection and Analysis

Data collection took approximately 45 minutes for each participant. KoboCollect is the software that was used to collect survey data. For the interview, audiotape were used to record voices of the respondents. Analysis of quantitative data was done in excel for descriptive statistics but data were transposed to SPSS software for advanced analysis such as multiple responses frequency distribution.

## 4. Results

### 4.1. Household Survey Data

#### 4.1.1. Land Access

The study revealed that land is not accessible in Beni territory mindless the place where one is located. Also it was shown that work does not guaranty accessibility to land. Matter of fact, 40% of jobless respondent said that land is accessible while only 37% of people who have job said that actually land is accessible to them. When comes to gender, there's not much difference in terms of land access. On average both male and female confirmed that land is not accessible in Beni territory.

Response	Sexe		Sub-Region			Remunerated Work	
	Female n=547	Male n=533	Beni Mbau	Rwenzori	Watalinga	No	Yes
Land Access Is Good or Very Good	42%	37%	36%	39%	45%	40%	37%

Table 2: Land Access

#### 4.1.2. Perceived Availability of Land Official Registration Documents

Majority or 75% of the study participants confirmed that they possess official document followed by 21% who said they don't. Few people or 3% reported not knowing or if yes or no they do possess official documents while 3% of the respondents refused to answer this question.

Responses	Frequency	Percentage
I don't know	23	3%
No	183	2%
Yes	648	75%
Refuse to respond	9	1%
Total	863	100,00%

Table 3: Perceived Availability of Land Official Registration Document per Household

#### 4.1.3. Tenure Security

Data on tenure security in Beni territory showed that majority of the study respondents (63%) had the bill of land of sale. Only 5% of the respondents had the registration certificate, 18% had the plot recognition document and 6% the concession act.

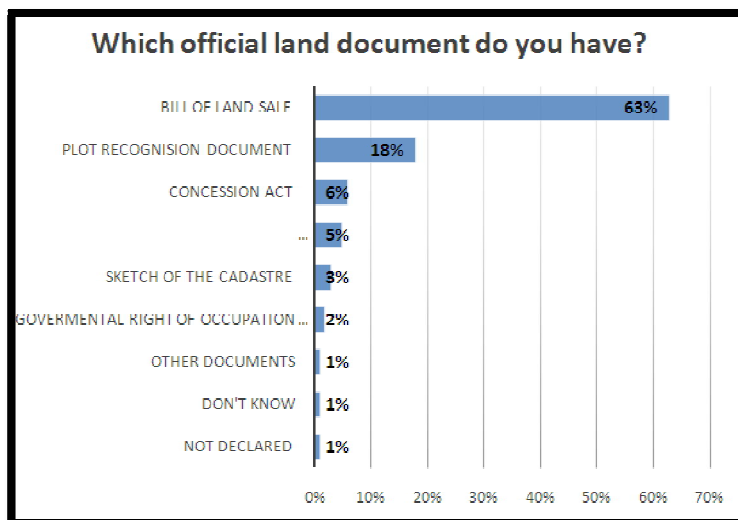


Figure 1

4.1.4. Community Trust to the Land Administration

On average, only 34% of the respondent reported to have trust to the land administration. Level of education was found to influence trust because half of respondents who had a tertiary level of education said that they trust the land administration. Gender did not have any relationship with the land administration trust.

Response	Level of Education				Sub-Region		
	None	Primary School	Secondary School	Tertiary	Beni Mbau	Rwenzori	Watalinga
Yes	35%	32%	35%	50%	32%	47%	24%

Table 4: Community Trust to the Land Administration

4.2. Interviews Data

« Land conflicts have enormous consequences on the lives of the population. Without lying to you, these conflicts enclose the development of entities. For example, there are conflicts around the boundaries of the farms. When conducting investigations, the administrative and customary authorities automatically stop their regular duties in order to focus solely on resolving the conflict. At the same time, conflicting parties abandon their income-generating activities (such as agriculture, business, etc) for the same reason. This truly affects the household economy... ». Secretary of Watalinga sub-region

4.2.1. Perceived Magnitude of Land Conflict

The research participants highlighted six types of land conflict mostly experienced in Beni Territory.

4.2.1.1. Boundaries-related Conflicts

Conflict of boundaries is the most common land conflict in Beni Territory. This conflict includes, on one hand, boundaries between plots (at individual level) but also boundaries of administrative entities. On a regular basis, grassroots authorities deal with conflict around plots of small farmers, and sometimes between farmers and big concessioners who often leave their land unexploited. This kind of conflict is claimed to involve the majority of the population but it rarely impacts the well-being of the community. These tensions are most often prevented and solved through dialogue and negotiations.

Conflicts between administrative entities are rare but negatively affect the economy, the security, and the social life of the local communities. In the Watalinga region, many villages face this challenge. Conflict of administrative entities have weakened social cohesion and the customary authorities no longer share good neighborly relations. Even if the retention by grassroots' authorities has made it possible to avoid a worse conflict in this region, the issues are far away from being resolved. One respondent Confided that in Watalinga, when a head of an administrative entity dies, often his successor don't give much consideration to conflict resolution agreements that were concluded by the predecessor. This is why, boundaries conflicts never resolved locally. Instead they subside.

4.2.1.2 Conflict Opposing Virunga National Park and Beni Territory

The conflict between Virunga National Park and Beni Territory was ranked the second worst land conflict in the study area. Rwenzori, Watalinga and Beni-Mbau regions are the most affected by this conflict. Virunga National park was founded in 1925 mainly to protect mountain Gorillas. This world heritage site contains a tremendous variety of natural resources that attract tourists from all over the world. Fully protected, this park is (like other DRC national parks) under the jurisdiction of "Institut Congolaise pour la Conservation de la Nature" and no one is allowed to freely enter or develop

it. For years now, the boundaries of the Virunga national park have been questioned by grassroots authorities who claim that these boundaries have been modified numerous times (1927, 1929, 1934, 1935, 1937, 1939 and 1950). Sometimes farmers find their way into the park after being manipulated by their provincial or national elected officials. This conflict has caused people to be arrested, beaten and some even lose their life. Currently the park is trying to show the benefits of its presence by implementing developmental projects, supporting charity initiatives, carrying out military patrols, holding community outreaches and encouraging people to visit the animals in the park. However, the conflict is real and ongoing.

#### 4.2.1.3. Land Conflict of Ugandan Concessioners in Watalinga Chiefdom

This conflict has existed since 2013 when Ugandan concessioners were denied from accessing the land they had acquired in Congo after 1998. The Republic of Uganda neighbours the Democratic Republic of Congo in many places including Nobili located in Watalinga region. These two communities share the same language, same culture and the same currency. It's not surprising, for example, to find a Congolese currency used by Ugandan people and vice versa. There's free trade and free movement of people within a 5 km radius of the border. Some Ugandans own land in Congo. But since 2013, the Watalinga region has begun experiencing war by Ugandan rebels (ADF-Nalu). This war has killed many people and has caused the displacement of thousands of families. For that reason the local security committee made the decision to stop Ugandans (i.e. non-DRC residents) from exploiting their land. Nevertheless, during harvest seasons, Ugandans cross the border in attempt to access their land to harvest cocoa. However, most of these lands have now been given to the locals. The confrontations are often bloody and sometimes the Ugandan army is involved to protect the land claims of their citizens.

«Every entity has its own realities. In 1998, a war occurred in Uganda between rebels and governmental forces. This war displaced families to the DRC. When these refugees arrived, they did not receive any assistance from the government instead they were received in host families and helped by the locals. After sometimes, some of the Ugandan refugees fraudulently began to buy concessions in the Watalinga chiefdom. They cultivated these farms, even harvested. Towards the year 2013, Watalinga started being attacked by the ADF. Thus it was found that the presence of these Ugandan citizens in Congo was became a threat to the national security because these fox were associated in providing personal information to the Ugandan rebels (ADF Nalu). Finally, the local security committee took a decision to forbid to non-Congolese residents to exploit or access land in Watalinga. This decision has caused huge problems locally. Can you just imagine forbidding someone who has 3-5ha to access his farm or harvest. It breaks relationships. Until today there is a tension between the two populations. We no longer live in harmony» Youth Group President, Watalinge region



*Figure 2: Data Validation Session with Community Members*





*Photo 2: Data Collection in Rwenzori Sub-Region*

#### *4.2.1.4. Conflict between Formal and Customary Systems*

As stated above, DRC has a dual system of land governance. Customary land are managed by customary authorities while other types of lands are under the formal system such as land administration, urban planning, and land taxation institutions. However the land law states that even in customary lands, land owners must be registered in the formal system that allows protection their land right and payment of land taxes.

Customary institutions on the other hand have small taxes (often not regulated) that they ask to land owners in rural areas to sustain the customary management. These customary authorities are -most of time- ignorant of the land law and sometimes think that documents pursued by them is sufficient and has a legal capacity to assure tenure security. Sometimes they even go far by forbidding their subject to pay legal taxes. All this brings a confusion into the community. In Beni territory majority of the population is unlettered which make them vulnerable and therefore susceptible to manipulation, fraud and harassment from authorities. Respondent said that when the land administration faces a community resistance, they have no choice than using force. Customary authorities are taken to the court and some people get jailed.

#### *4.2.1.5. Inheritance-Related Conflict*

This type of conflict was also found to be a major problem in Beni territory. Participants say that most families follow the deceased's will to distribute land properties and other goods to widows or orphans or family members. This will is respect by everyone including customary authorities and the judiciaries. But most of the problems arise in polygamous families when the deceased did not write a will before his death. Customary rules gives priority to the children who were born under marriage while the family code considers all children (whether born under marriage or not) as equal. This kind of conflict leads to violence and death.

#### *4.2.1.6. Conflict between Beni Town and Beni territory*

Land conflict between Beni territory and Beni town is due to contradictions in DRC legislation. In 2003, the presidential decree created the town of Beni but it was found out that the decree did not reflect the realities on the ground. The geographic coordinates put in the decree were wrong and unreliable. So far nothing has been done to sort out this issue but the two parties are considering to start lobbies which will map the boundaries and redefine the geographic coordinates.

4.2.2. Causes of land conflict

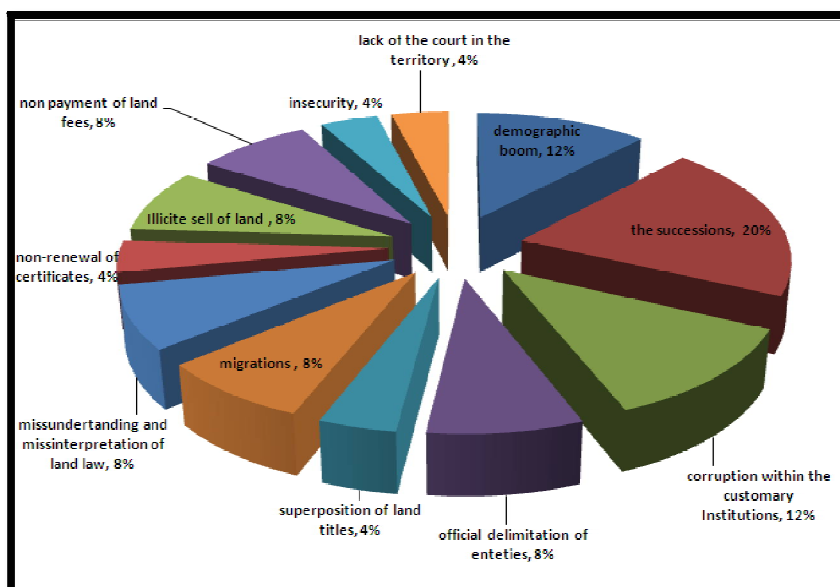


Figure 4

Comment :The study participants said that amongst the causes or origins of land conflicts in Beni Territory, 20% of conflicts come from successions followed by conflict that are due to corruption within customary institutions (12%) ; other 12% of land conflicts are caused by demographic boom, ; Official delimitation of enteties on the other side is responsible of 8% of conflicts ; migrations, misunderstanding and misinterpretation of land right, illicit land sell and non-payment of land fee contribute as well to land conflict (8%) ; lastly insecurity, non-renewal of land certificates and the absence of courts in Beni territory are responsible of 4% of land conflicts.

4.2.3. LandActors and Level of Implication in Conflict Resolution

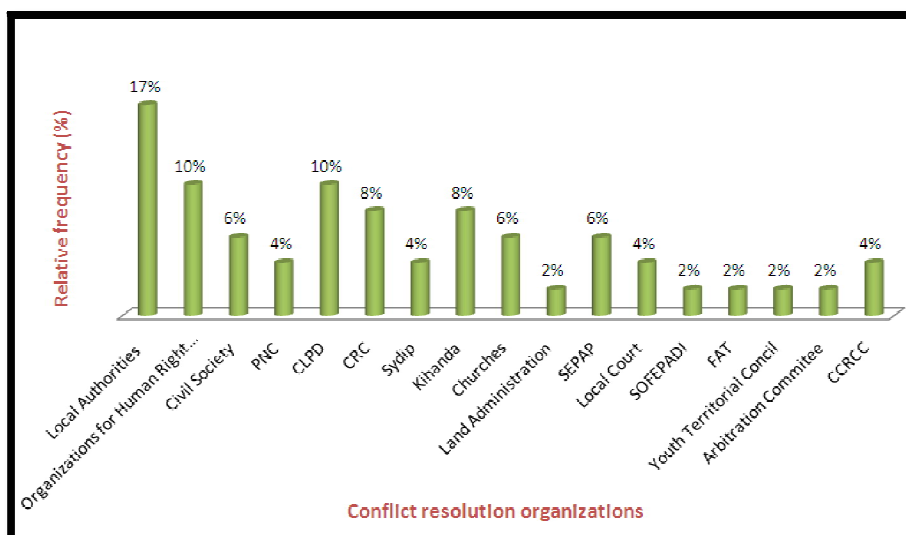


Figure 5

Comment: Local authorities were found to be the most involved in conflict resolution (17%) followed by Organization of human Right Defence and CLPD (10%). And then the rest.

5. Discussion

5.1. Perceived Land Security versus Tenure Security

During this investigation, majority of the respondents or 75% reported land security. They affirmed that their lands are secured having official documents. However, when going deeper only 5% of them had the registration certificate. Over 60% of the respondents still consider the bill of land sale (l'acte de vente) as an official document and therefore providing to them tenure security.

The DRC legislation recognizes the land title as the way to guaranty an ultimate or desired land tenure security to individuals and companies. The title is evidenced by the ownership of a certificate registry. However with the current



land reform process, a new terminology has come on board "continuum of land right". This refers to other documents that are recognized and accepted as providing a certain level of tenure security in a process towards acquiring land title. One of them is the contract of location. This document proves sufficiently that the land owner is known by the land administration, the information and details about the land is kept in the land administration records and therefore the registration certificate holder is susceptible to pay land taxes.

### 5.2. *Trust of the Land Administration*

Overall, the trust of the land administration in Beni territory was found to be low. Only 34% have trust in the land administration mindless the location (whether in Beni-Mbau, Rwenzori or Watalinga). However people with tertiary level of education happened to trust the land administration (50%).

### 5.3. *Types of Land Conflict According to the People Involvement Criteria*

Based on involvement of people criteria, there are three types of land conflicts: conflicts of individuals, collective conflicts and community land conflicts. Individual disputes are between two persons or two households while the collective conflict is between an individual to a group of people (For example land conflict opposing a concessioner with plots holders) or several individuals among themselves. Community conflict has a sense of identity. It can oppose a community X and a community Y.

In this study, Individual disputes were the most commonly found land conflicts (48%) followed by collective disputes (27%) and lastly community disputes.

A similar study done in the eastern Congo by the Rift Valley Institute (Mathys, Gillian; Vlassenroot, 2016) found almost the same result: The most visible land-related conflicts in the eastern Congo, and which have contributed to large-scale violence, are those that have pitted ethnic communities against each other. These inter-community conflicts, however, are not the most dominant land-related disputes in the eastern Congo. Other forms of land-related conflict are much more widespread, including community-level conflicts between farmers and large-scale concessionaires, between rural communities and mining companies, between pastoralists and farmers, and between national parks and surrounding populations. While generally accompanied by low levels of violence, the grievances related to such conflicts often have an indirect impact on security and stability at the local level. The most frequent forms of land-related conflict are those that happen at the interpersonal and intra-familial level. These relate to disputes over plot boundaries, inheritance, widows' rights to land, the validity of contracts, and illegal acquisition and occupation. These disputes have become part of daily realities both in rural and urban areas. In many cases, such disputes remain unresolved or only partially resolved.

## 6. Conclusion and Recommendation

Tenure security is unknown and often misunderstood by majority of the people in Beni territory. Bill of land sale and plot recognition documents are perceived by many as official documents. This ignorance does not depend on the level of education because even respondents with tertiary level of education were found with misconception about land tenure security. Only 5% reported to own a registration certificate. This paper argues that something has to be done to increase awareness and knowledge of individuals about land tenure security and benefits of securing land especially in such a war-prone area.

Land administration despite being one of the legal institutions in charge of land management in DRC, it does not have the legitimacy on the ground. In fact only 34% of the respondent reported to have trust in the land administration. Level of trust can also determine one willingness to secure land. Therefore, there's a need for the land administration to strengthen co-operation with customary authorities and institutions that anyway manage majority of land in such a rural setting than Beni territory. There's a need to find a space where the two systems can meet and talk for the people's good. The land administration must also communicate more often to the communities (primary stakeholders) and strive to regain the community trust.

When triangulating quantitative and qualitative data, conflict around individual plot boundaries was stated to be number one land conflict. In terms of involvement of people criteria as well, individual disputes were reported to be the most frequently occurring. One of the reasons could be the lack of tenure security. The land reform documents has to be availed to the people in order to make them understand that knowing the economic status of households, the country gives a possibility to secure land progressively. This is done through continuum of land right.

## 7. Scope and Study Limitations

This paper provides to the land decision makers, scholars and researchers information about the current level of land tenure security and the prioritization of land conflict. Qualitative data were collected from Institutions. Therefore land conflicts trend, causes or consequences information were not gathered from the population sub-groups. Household heads and representatives were reached out only for quantitative data.

## 8. Acknowledgement

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