

## CONSEQUENCES OF LAND CONFLICT BASED ON LACK OF AGRARIAN JUSTICE IN KITCHANGA LOCALITY IN D.R. CONGO

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**ABSTRACT:** Land conflict is not a new phenomenon across the world. It is widely documented that often land conflict affects negatively on peace building and cohesion among people. This is evident in many places, including Kitchanga locality in D.R. Congo, where land issues trigger unending conflict between peasant farmers and herders. Land conflict in this area has led to numerous negative effects on socio-economic life of people. However, evidence shows that agrarian justice has the power to resolve such conflict, although research on the same in the area remains scant. In this perspective, therefore, this paper has sought to examine the consequences of land conflict based on lack of agrarian justice in Kitchanga locality in D.R. Congo. In this regards, the contribution of this paper was to present agrarian justice as means to resolve land-related conflicts in Kitchanga locality in D.R. Congo. With this, the paper sought to help mitigating the persistent land conflict between peasant farmers and herders in the area.

**KEYWORDS:** *Land conflict, consequences, farmers, herders, agrarian justice, Kitchanga locality.*

### I. INTRODUCTION

This paper was motivated by the continuing land conflicts taking place across the world with many consequences among people. Kitchanga locality in D.R. Congo does not make exception in this issue. Land conflict in the region occurs mainly between peasant farmers and herders. To examine the consequences of land conflict in Kitchanga locality in D.R. Congo, the paper is organized into the following sections: Notion of Land Conflict; Land Conflict's Consequences in Kitchanga Locality; Land Conflict Related to Agrarian Justice's Lack in Kitchanga Locality; then, Conclusion.

#### I. Notion of Land Conflict

##### 1.1 Land

Land refers to "the surface of the earth, the materials beneath, the air above and all things fixed to the soil" (Dale & McLaughlin, 1999:163). It is a delineable area of the earth's terrestrial surface encompassing all attributes of the biosphere immediately above or below this surface. Among these attributes are the near-surface climate, soil, surface hydrology, which includes shallow lakes, rivers, marshes and swamps. Land implies also the near-surface sedimentary layers, the groundwater, the plant and animal populations, the human settlement pattern and physical results of the past and present human activities such as the terracing, water storage or drainage structures, buildings, roads, and so on (Balestri, 2015).

##### 1.2 Conflict

Conflict is any situation in which there are incompatible goals, cognitions, or emotions within or between individuals or groups of individuals. It is the consequence of a clash of interests between at least two parties, due to chasing contrasting or incompatible goals (Du Plessis & Cain, 2017). In other words, conflict is an antagonistic state of opposition, disagreement or incompatibility between two or more parties resulting from differences in ideas, suggestions, expectations, values, just to name but a few. It is an incompatibility or dispute caused by actual or perceived opposition of needs, interests and values (Framework Team, 2012).

Conflict is part of life's reality of human beings. It is as old as the humankind and is a phenomenon that exists at all levels of human social fabric. It occurs in all human relationships and social settings, due to the wide range of potential differences among people. Conflict is natural and common to all cultures. It has been there and will always exist as an inherent part of human social life (Du Plessis & Cain, 2017). Conflict is not an isolated event that can be managed once for all; it is an integral part of society's continual evolution and development.

However, conflict is not always directly observable. Human beings may not be aware of it, while still it exists (Framework Team, 2012).

On the other hand, conflict can be violent or uncontrollable, dominant or recessive, resolvable or insolvable. This means, violence is not an inherent aspect of conflict, but rather a potential form that it may take (Aremu, 2010). When conflict escalates and becomes violent, it mostly makes widespread negative consequences at the individual, regional, national or international level, strangling social development opportunities and spoiling resources. It threatens and destroys people's peaceful coexistence, security, cohesion and wellbeing. However, as explain Du Plessis and Cain (2017), conflict can also be constructive, leading to a positive social change or influence. It is not solely an inherently negative and destructive occurrence. It can be beneficial, leading to innovation and change. In fact, if constructively harnessed, conflict can contribute to societal transformation. Its underlying structures can result in change of people's attitudes, relationships and behaviors, leading to sustainable peace with respect for human rights.

### 1.3 Land Conflict

Land conflict is a social fact or event in which "at least two parties are involved, over land property rights" (Balestri, 2015:90). These rights include, among others, the right to use the land, to manage it, to generate an income from it, to exclude others from it, to transfer it, and the right to compensation for it. Land conflict can be a misuse, a restriction or a dispute over property rights to land (Wehrmann, 2008).

Conflict over land can occur at any place and time, regardless of whether the land is a state, a common property or someone's private property. It is prevalent worldwide and is an integral part of all human societies (Wehrmann, 2017). Land conflict occurs at intra-personal level such as between siblings or neighbours, and at intra-societal level like between different ethnic groups or the state and its local population. It occurs also at the inter-societal level such as between states. Land conflict is often a visible manifestation or outcome of invisible power and politics concerning access to and use of land (Wehrmann, 2008). Competition over land occurs at all levels of society and between any types of identity groups, whether based on nationality, ethnicity, class, gender, generation, or religion (Bruce, 2013). It can include members of households, clans or ethnic groups, families, governments and their agencies, or other actors such as corporations or investors (Framework Team, 2012). Driving forces of land conflict are generally selfish interests, which range from struggle for survival to profit maximisation by various people or actors (Wehrmann, 2017). In short, land conflict results mostly from the egoistic exploitation and the intentional continuation of social and institutional gaps.

When land lacks adequate legal or institutional protections, it easily becomes a commodity subjected to manipulation and abuse (USAID, 2004). Thus, land conflict is often facilitated by functional deficits of the institutions of land management (Wehrmann, 2017). Weak governance leads to weak tenure systems, which often deprives individuals and communities of the essential rights and access to land (Bruce, 2013).

Land is valued as a social commodity. It provides a means of livelihood to human beings, facilitates access to credit markets, gives influence in local politics, permits participation in social networks, and influences intra-household dynamics. These factors make land become a major source of violence and civil wars in the world. Conflict over land constitutes a great obstacle against development, especially when its occurrence generates long-lasting effects that strangle the possibility of escaping from poverty (Balestri, 2015). Solving land grievances and conflicts is actually fundamental for sustainable peace in any society or community.

### 2.1 Description of Kitchanga Locality

Kitchanga locality is located in the hills of North Kivu Province that overlook Lake Kivu in Eastern D.R. Congo. It is stretched across the border of Rutshuru and Masisi Territories. On the ground, it is one agglomeration, though stretching across two territories. Kitchangais a mountainous zone. According to Leeuwen and companions (2017), about 40% of its land is occupied by private plantations, known as 'concessions'. They belong to politicians, military officials, and wealthy businesspersons. Those concessions are not inhabited, but they are mostly used as cattle ranches. Kitchanga locality is one of the most densely populated areas in Eastern D.R. Congo. Its average density is 150 inhabitants/ km<sup>2</sup>. It has a medium altitude between 1,500 and 2,500 m (Search for Common Ground, 2014).

### 2.2 Land Conflict between Herders and Farmers in Kitchanga Locality

In Kitchanga locality, land is well-suited to both breeding cattle and farming. Most of the land in this area belongs to a small number of landowners, whom each has extremely large land holdings. A survey conducted in the past years shows that concessions cover 71.2% of the cultivated land in the region. The large-scale landowners are mostly from the Tutsi ethnic group (Search for Common Ground, 2014). There are large plantations of pyrethrum, coffee and tea in the region aside of an extensive ranching. However, many of the plantations have a controversial history of alienation from customary systems, sale and purchase by various

people at different times. A number of the transactions do not have local legitimacy (Vlassenroot & Huggins, 2004).

With this tense background, there is unending land conflict in Kitchanga locality between herders and farmers. This is because the herders' animals often stray onto the farmers' fields. With the occupation of land by large concessionaires, space is shrinking and the two modes of land use are clashing. As a result, since the early 1990s, cows have been injured or killed, and shepherds murdered in the region. This conflict has often taken on an ethnic character, as the farmers are predominantly Hunde, Hutu, Nande, and Nyanga, while the herders are mostly Tutsi (Search for Common Ground, 2014). Thus, land conflict in Kitchanga locality brings out inter-community tensions. There is permanent inter-ethnic mistrust.

As an example, a dozen of incidents between large concessionaires and peasant farmers in search of land were documented in the concessions adjacent to the town of Kitchanga from April to November 2013. That time, land conflict degenerated between a group of Hunde youth and Tutsi cow owners, leading to the killing of many dozens of people from both sides. The Hunde were accused to have injured the cows of the Tutsis, an act that these ones found being an extreme provocation (Search for Common Ground, 2014). With population increase, which also implies the increase of the fields' price, land conflict is always likely to arise in Kitchanga region.

### 2.3 Consequences of Land Conflict in Kitchanga Locality

There are thousands of people evicted from their land in Kitchanga locality due to land-related conflict between peasant farmers and herders. Their conflict is often animated by discourses centered on concepts of 'immigrant' and 'indigenous' (Vlassenroot & Huggins, 2004). Lacking well-planned reception areas, the evicted people are settled in IDP camps.

Women are the first victims of land-related conflict between farmers and herders in Kitchanga locality. They are responsible for the majority of food production in the area, thus playing a central role in the subsistence economy of families. However, they are relegated to the most insecure lands that they often cultivate just for short periods of time (Vlassenroot & Huggins, 2004). Though theoretically the 1973 Congolese land law granted right to use rural land to all, regardless of gender, traditional customs in the locality of Kitchanga are still discriminating against women who are excluded from inheritance and succession. This is worsening as the availability of vacant land decreases in the locality. Children of landless mothers (such as widows, separated or divorced women) grow up in poverty with limited means of support. Then, due to insecurity in the region, the number of widows keeps increasing and many children are left without inherited land and work (Search for Common Ground, 2014).

Large disparities in land distribution are a significant cause of entrenched poverty in Kitchanga locality where hundreds of families are internally displaced as a result of land conflict. This has caused many social problems and family disintegration (Wehrmann, 2008). Repression and crop destruction are often used to convince small landholders to abandon their land. There is increase of land prices. Land conflict has reduced the production of crops, thus endangering food security in the region (Vlassenroot & Huggins, 2004). It has affected different human rights, such as the right to own property, to choose one's residence, the right to an adequate standard of living, to adequate housing, to freedom from discrimination and adequate food. Land conflict, which in Kitchanga locality, is related to large-scale concessions has resulted also in local populations' loss of customary land tenure rights (Wehrmann, 2017). It has affected inter-ethnic cohabitation in the region.

Labourers from former plantations are forced to drive off the land they had been living and farming on for decades. While they sometimes access to the land they formerly cultivated as the new concession-owners rent them out, tensions continue to simmer below the surface as no durable solution has been found yet (Mathys & Vlassenroot, 2016). Seeing this hardship, many households have sought to reduce dependency on land access by migrating to urban centres. This has become an exit strategy for a good number of young men, while enrolment in local militias and rebel groups has been an alternative for others. Thus, individuals from local communities are being mobilized to join armed groups, a factor that contributes to unending insecurity in Kitchanga locality. Some farmers are also migrating to other rural areas, where they often face important constraints in matter of integration (Vlassenroot, 2006).

Another consequence of land conflict in Kitchanga locality is migration to mining centres. Since the early 1980s, different mineral-rich areas in Eastern D.R. Congo are attracting landless young men from Kitchanga locality who search for economic opportunities (Vlassenroot, 2006). Other people seek arable lands within protected areas in the region, mainly Virunga and Kahuzi-Biega national parks (Mathys & Vlassenroot, 2016). However, this alternative, in turn, leads to conflict between farming communities and the national parks' administration.

### III. Land Conflict Related to Agrarian Justice's Lack in Kitchanga Locality

#### 3.1 Origin of Agrarian Justice's Theory

Agrarian justice theory is grounded in Thomas Paine's theory of agrarian justice. Born in 1737 and died in 1809, Paine is an English-born American philosopher, political activist and theorist whose writings had an important influence on the French and American Revolutions. In 1795-1796, he founded the theory of agrarian justice, which he presented in his pamphlet, *Agrarian Justice, Opposed to Agrarian Law, and to Agrarian Monopoly*. This pamphlet was published in 1797. Starting from the idea of Thomas Hobbes (1588-1679) that in the state of nature land was owned by all people in common, Paine contended that, in its natural uncultivated state, the earth was the common property of the human race. However, with civilization, which resulted from the cultivation of land, came the problems of property and land tenure (Marangos, 2008). Hence, to better cultivate land, private property or ownership was established.

On the other hand, Paine notes that while private property makes many people better off, many others, lacking land and the means to obtain it, are rendered worse off than they could be in the state of nature. However, since in the state of nature land was owned by everybody in common, the basic needs of all humanity must be provided for by those with property. Therefore, they must pay "a land-tax-funded universal basic income." This is a payment to non-property holders for the right to hold private property. This payment is a compensation to those who are excluded from the privately held land. Hence, though being without private property, they are given access to the goods cultivated by others (Marangos, 2008).

This theory of land-tax was to abolish poverty on a nationwide scale and ensure that those who are worse off are better off. This theory was the precursor of the modern idea of citizen's basic income. Advocating a tax property owner to be paid for the needs of the poor, Paine claimed to plead for a right and not charity. He thus made an important revolution. Until his time (eighteenth century), justice was conceived in terms of issues such as duties to render specific things to particular people, avoid force, theft, fraud, and other wrongs in the interactions among people. It was with his theory that large-scale poverty was for the first time theorized as an injustice that needs to be prevented and abolished, and not merely relieved. Paine's claim was that large-scale poverty is a systematic injustice (Anderson, 2016).

#### 3.2 Appropriateness of Agrarian Justice to Resolve Land Conflict in Kitchanga Locality

According to the theory of agrarian justice, the lowest rung of people in society must be above poverty level. Nonetheless, to be achieved, this requires positive legal forms of property rights, namely the universal social insurance and stakeholder grant. These reforms are necessary to arrange the economic and social inequalities so that they may be reasonably fair to everyone's advantage (Anderson, 2016). It is on this ground that agrarian justice is appropriate to forge a path of resolving the injustices related to land among herders and farmers in Kitchanga locality in D.R. Congo. This is so because agrarian justice makes of the analysis of the injustices that the poor, disadvantaged and landless people experience its point of departure to investigating any option for social redress (Vel & Makambombu, 2010). Thus, as says Anderson (2016), agrarian justice "is a milestone in thinking about distributive justice" regarding various goods, including land.

Unlike access to legal justice, which focuses mostly on legal institutions, agrarian justice focuses on the injustices experienced by the socially disadvantaged people. Following this line, this paper suggests that, in Kitchanga locality, the rural poor and landless be incorporated into the large landholdings. This could give a guarantee against the concentration of land and its resources within the hands and for the benefit of only a few people. It could help reduce inequities among people and empower the rural populations. Thus, agrarian justice is a vehicle to redressing the past decades of inequities between the powerful landed elites and the poor and/or disadvantaged landless populations within the region. This is fundamental in the real setting of the rural poor for whom, according to Borras and Franco (2010), the question of agrarian justice is whether they have sufficient access to land that supports their livelihoods.

#### 3.3 Land Conflict Linked to Agrarian Justice's Lack in Kitchanga Locality

Land conflict in Kitchanga locality is not just a legal issue, nor is it purely a political concern. Rather, it is part of a wider agrarian crisis that stems from a combination of structural constraints on large lands that could be put at the disposal of the rural populations. There are massive levels of inequality in the size of landholding in this area, which is exacerbated by lack of alternative livelihoods for the local people (Huggins, 2010). Hence, rather than problematizing land conflict in Kitchanga locality in terms of land scarcity, demographic pressure or insecurity, this paper holds that, in this area, land conflict is a manifestation of a wider and ongoing struggle about agrarian transformation. It involves a struggle against dispossession and injustice of land distribution. Since the time of colonialism, there is in Kitchanga region a trend of problematic agrarian transformation, which consists in pushing peasants off their lands. This has caused contestations about citizenship and ethnicity, but also erosion of customary mechanisms of land protection in this area (Leeuwen, *et al.*, 2020).

For this reason, it is necessary that any attempt of land conflict resolution in Kitchanga locality adopt strategies that nurture agrarian justice. This could help address the fundamental questions of dispossession of people from their lands and the injustice of land distribution. In this way, agrarian justice could handle the grievances resulting from the various agrarian transformations that have taken place in the locality of Kitchanga since colonial time.

To facilitate such a mechanism, this paper advocates the creation of a local semi-democratic structure in Kitchanga locality, such as a local land council or committee of land use planning. This committee should represent all stakeholders in land use and decision-making of the area: state agencies, customary chiefs, and elected members representing different groups and ethnic groups in the community. It should include large-scale landowners, smallholders, youth, women, agricultural cooperatives, religious leaders, business people, civil society, indigenous groups and immigrants, just to name but a few. Its responsibility could be to ensure that all land transactions are legal and lead to an equitable division of land and its resources (Huggins, 2010). This could allow every citizen to equitably participate and receive an adequate share in regards to land and its resources.

#### IV. Conclusion

This paper has examined the consequences of land conflict in Kitchanga locality. To embark upon the issue, it started explicating succinctly what land conflict is. Then, it showed that, in Kitchanga, land conflict occurs mainly between peasant farmers and herders. Thereafter, it suggested and presented agrarian justice as means to resolve the land conflict in question. This is because agrarian justice works from the injustices experienced by the poor and disadvantaged of the society. It allows every citizen or community member to equitably participate and receive an adequate share in regards to land and its resources. Thus, agrarian justice is appropriate to help resolving conflicts over land in Kitchanga locality in D.R. Congo, where majority of people are poor and landless.

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