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Citation

Jacobs, C. I. M., Kyamusugulwa, P. M., Assumani, I., Katembera, R. S., Lubala, S., & Ruhamy, J. (2024). *Alternative dispute resolution mechanisms and access to justice in eastern DRC. Just Future DRC Report = Rapport Just Future RDC*. Leiden: Leiden University. Retrieved from <https://hdl.handle.net/1887/4210050>

Version: Publisher's Version

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Note: To cite this publication please use the final published version (if applicable).



Just Future DRC report #3

Alternative Dispute Resolution Mechanisms and access to justice in eastern DRC

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VVI and KUTAFITI



Colophon

This report is part of a series of documents that are the result of a socio-legal research project as part of the "Just Future" consortium, led by Cordaid and funded by the Dutch Ministry of Foreign Affairs, and fed by the team's previous research findings. The quotes presented here are taken from interviews with a range of stakeholders, in South Kivu and North Kivu provinces. The research was a collaboration between KUTAFITI, The Social Science Center for African Development, DRC and the VVI, Leiden University, the Netherlands.

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Publisher

Van Vollenhoven Institute for Law, Governance and Society

Cover photograph

Group picture with some team members and members of the *Barza Intercommunautaire de Kamanyola*, South Kivu

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Just Future DRC report #3

Alternative Dispute Resolution Mechanisms and Access to Justice in Eastern DRC

Executive Summary

This report presents the findings of an empirical, qualitative, socio-legal research project which explored 1) ways in which people in eastern DRC obtain access to justice, and 2) the role of alternative dispute resolution mechanisms in the provision of justice. We zoomed in specifically on access to justice for women and Internally Displaced Persons (IDPs), as two groups that face particular challenges and that may not be able to obtain access to justice easily. We also looked specifically into land-related disputes; the issues at stake; the dynamics through which these disputes unfolded, and the role of authorities in addressing conflicts.

The study approached access to justice as a process that consists of various stages. To get a full understanding of access to justice, we show that it is not only of importance that people are able to select and consult a justice provider of their choice. Access to justice can be hampered at each of the stages, and hence interventions that are geared towards the promotion of access to justice may consider each of these stages. In practice, we see that civil society actors, and other non-state authorities - as providers of alternative dispute resolution mechanisms - play a significant role in each of the access to justice stages; from dispute prevention, to raising legal awareness, the provision of legal aid and support to people to get access to state justice, actual mediation (mostly amicable settlement), and ultimately, the enforcement of a suggested solution. In general, MARCs play a major role in promoting access to justice, but many of these face challenges in securing sustainable funding to keep their paralegals motivated to work. Another challenge is capacity building; although many civil society actors have benefitted from training, these trainings are often initiated and designed by funding agencies and do not necessarily meet the needs of MARCs themselves.

Women face a lot of injustices, both in relation to sexual violence, but certainly also in relation to other forms of gender-based violence. Whereas sexual violence generally receives quite some attention, gender-based violence tends to be overlooked. Addressing GBV would require more attention for the structural ways in which it is part of society.

Land conflicts are prevalent throughout the east of DRC. Orality of arrangements and a lack of formal registration make it difficult for people to know which claims over land exists. This can easily lead to overlapping claims, especially when authorities have an interest in maintaining legal uncertainty.

Finally, we notice that IDPs face many thresholds to obtain access to justice, including a lack of financial means, lack of connections, or unfamiliarity with justice providers.

1. Introduction

In 2017, the Congolese government adopted a national justice reform policy, which is in place from 2017-2026. The policy reform envisions that “the DRC be a state that is governed by the rule of law. To make this ideal a reality, it is necessary to consolidate a justice system that is for all, independent, effective, and protective of human rights and, therefore, reassuring” (Ministère de La Justice 2017). The policy then focuses on four particular areas:

- 1) Ensure access to the law and quality justice for all;
- 2) Ensure the independence of the judiciary power;
- 3) Ensure the performance of the Ministry of Justice and Human Rights;
- 4) Ensure justice based on respect for human dignity.

For the purpose of our research, and considering the objectives of the Just Future alliance,¹ especially area 1 is important to consider. In the government’s policy document, this area, is further operationalized in 4 result areas:

- 1) Legal aid for the most disadvantaged and vulnerable people is effective;
- 2) Children in conflict with the law or at risk, receive effective, high-quality legal aid;
- 3) Resort to legal clinics and alternative dispute resolution (ADR) is supported by the state;
- 4) Local justice is strengthened.

Our research has focused on the way in which disadvantaged and vulnerable people obtain access to justice, either to state justice, or to alternative dispute resolution mechanisms. We also looked at the justice that is provided by these state and non-state mechanisms. Access to justice is a process that consists of many steps. For the purpose of this report, we use the following definition:

‘Access to justice exists if:

- *People, notably poor and disadvantaged,*
- *Suffering from injustices*
- *Have the ability*
- *To make their grievances be listened to*
- *And to obtain proper treatment of their grievances*
- *By state or non-state institutions*
- *Leading to redress of those injustices*
- *On the basis of rules or principles of state law, religious law or customary law*
- *In accordance with the rule of law’ (Otto, in Bedner & Vel, 2010: 7)*

What transpires clearly from this definition, is that access to justice is about more than having physical access to a state court. It includes non-state actors as justice providers and is about more than ensuring that justice institutions have the proper capacities to perform their tasks. It is also about the process that leads people to consult justice institutions, and it is about what happens after a justice intervention; when the decision is to be enforced. What does this entail in practice? Some brief examples: A daughter who is not aware that the Congolese Family Code

¹ The aim of the Just Future Alliance is to contribute to a world in which all people in fragile states benefit from more accessible, responsive and accountable security and justice institutions.

stipulates that women are entitled to inheritance in equal ways as their male siblings, may not take any steps to claim her rights, simply because everybody in her surrounding tells her that – according to custom- only sons have the right to inheritance; a poor and not so powerful villager who sees his land being confiscated by a powerful politician, may be aware of this being unjust, but he may not have the confidence to reclaim his land in court; a small merchant may be able to indicate who took away his stock, but the police may tell him that they are not able to do anything against the thief, if the thief is a member of an armed group that is violently occupying the area.

The examples mentioned here underline that access to justice can be hampered at each of the stages of the justice seeking process and in many different ways; cultural, social, political, or economic factors may play a role in the pathways to justice that are open to people. Whereas in theory justice seekers may have several options to find a solution for their justice problem, and could go to different institutions to get help, options may be much more limited, or even non-existing in practice.

Considering access to justice as a process implies that improving access to justice may require attention to all stages of the process. In practice, it may be too complex and too ambitious for a particular intervention to improve the whole process of justice. Hence, interventions can complement each other, with some actors focusing for instance on raising awareness among people about their rights, while other interventions provide support to affordable legal aid, or provide trainings for justice providers to act more in line with the rule of law. Taken together, such interventions can be effective in improving access to justice for all. This report looks into access to justice as a process to present a comprehensive picture of the elements that work and the elements that do not work when an individual, family, or community is in need of justice.

We have zoomed in on women and Internally Displaced Persons (IDPs) as people who are often at a disadvantage in obtaining access to justice, yet may face particular injustices related to their positionality that make it even more pertinent for them to have access to good functioning justice providers that apply the law and respect their rights.

In our definition of access to justice, we refer to both state and non-state justice providers. This is in line with the Congolese government's policy to also promote ADR mechanisms. Alternative dispute resolution providers in the east of the DRC are many and their functioning and role in society is difficult to describe in very general terms: Some of them draw primarily on customary norms, others have received some legal training and apply black letter law; some focus on mediation and community cohesion, others focus on the interest of the individual and the defence of individual rights. Some act on their own, others ensure to have representatives on all sides in a community, especially when such a community is multi-ethnic. On the basis of a scoping exercise of the various ADR mechanisms that exist especially in South Kivu province, our research has zoomed in particularly on the role of ADR mechanisms in addressing land conflicts. Land is a crucial, but often contested resource for many people in the DRC, not only in terms of livelihoods, but also in terms of identity and belonging, and in terms of power.

Structure of the report

This research report looks into some of the main justice concerns Congolese people have, and explores the pathways people follow to realise justice, and the hindrances they face on these pathways. It takes an actor-oriented perspective in which the justice seeker (or the person

facing a real-life problem) is central. When reflecting on interventions geared towards improving access to justice, it is important to look into the actual functioning of justice institutions, in comparison to their supposed functioning, but also to take the various contextual factors into account. The first part of this report describes in concrete terms the different stages of the access to justice process and the role of different alternative mechanisms of dispute resolution (ADRs) that are supposed to complement state justice in areas where the state justice apparatus is overburdened, or out of reach in practical terms. Especially in rural areas, they often play a large role in the provision of justice. The second report zooms in on prevalent types of injustices in the east of the DRC, namely injustices related to sexual and gender-based violence (SGBV), and injustices related to land. It then zooms in on Internally Displaced Persons as a specific vulnerable group and the injustices with which they are confronted, as well as their relations with state authorities. After these case studies, the report concludes with a number of key lessons in relation to each of the themes.

Methodology and research site

This report is based on qualitative research, and builds on earlier research by the team. Based on this research, we already had an impression of major justice concerns, and of challenges encountered in obtaining access to justice, especially for Internally Displaced Persons. Moreover, our team could build on existing contacts with local and provincial, state and non-state authorities, and civil society actors. After some general, orientating interviews, each individual researcher took ownership of a particular case study topic and then conducted more focused interviews. Interview findings were discussed during weekly team meetings for further reflection. Interview reports were coded and analysed in Atlas.ti.

Team members Stanislas Lubala and Rachel Sifa Katembera gathered data in Bukavu, and in different places in the Plaine de la Ruzizi and Uvira, whereas Innocent Assumani and Joachim Ruhama gathered data in Bunyakiri, Kalehe territory and in the IDP camps Don Bosco and Kanyaruchinya in the surrounding of Goma, North Kivu, but formally part of Nyiragongo territory. Patrick Milabyo and Carolien Jacobs accompanied the team members on different sites for shorter periods of time. Because of security and logistical challenges, it was not always easy to sustain access to the field sites, and in some places, some of the follow-up conversations took place via mobile phone.

2. Alternative Dispute Resolution Mechanisms throughout the justice process

There are certainly a lot of different alternative dispute resolution mechanisms available in the east of the DRC. Traditional authorities continue to play a role, but there are also many civil society organisations active in the east of Congo, most notably in North and South Kivu provinces since the 1990s. Although international donor support for civil society has dwindled in the recent decade, there are still many organisations active, also in the domain of justice, human rights, and conflict mediation/resolution, with or without international donor support. Taken together, civil society interventions contribute to the whole process of access to justice. In the following, we describe some of the key initiatives that we have come across. Most actors

that engage in alternative conflict resolution, also engage in the larger process of access to justice.

Conflict prevention

There are several initiatives to promote dialogue and peaceful cohabitation to reduce the risk of conflicts arising. A good example of this is the *barza intercommunautaire* (intercommunity council) that exists in many parts of the east of the DRC. It is a mechanism which used to exist in older days, had a low-key existence for some time, but seems to be revived and to gain power in present times. In Kamanyola for instance, the *barza* was set up anew in 2015 as a result of the interethnic conflict. When Kamanyola started to receive Banyamulenge IDPs from Minembwe from 2022 onwards, the *barza* asked the newcomers to delegate a representative to their *barza*. The *barza* at present serves as a forum in which dialogue is promoted and it intervenes in a wide range of (interethnic) conflicts within the community. An intercommunity council can take up this role because it is inclusive and consists of representatives of all ethnic groups within ethnically mixed communities. This representation creates legitimacy and facilitates intervention in case this is needed. As such, the *barza* contributes both to conflict prevention and mediation.

Another example of a mechanism which aims to prevent conflicts and to promote dialogue and peaceful cohabitation, is the CCI: the *Cadre de Concertation Intercommunautaire* (CCI) which also aims at bringing together representatives of different ethnic groups within a community, or of different communities. The CCIs exist in many different places in the east. They are grouped together in a network structure with provincial representation in Bukavu for lobby and advocacy activities.

The president of the CCI in Uvira territory explained to us that they see their role primarily in promoting peaceful cohabitation, but that they are nevertheless also consulted as ‘improvised mediators’ when conflicts break out, including violent conflict. In his experience, when territorial and provincial (state) authorities are asked to intervene in violent conflicts, they first ask the conflicting parties whether they have already involved the ICC. State authorities proceed to take action only when ICC interventions have been in vain (interview SL, May 2024). The CCIs have been actively promoted by a number of international and Congolese civil society actors but their funding has been reduced in recent years.

In general, we see many community-based initiatives that aim at peaceful cohabitation of members of the community, whether or not they share the same ethnicity. Despite the persistence of conflicts in the east of Congo, there are many people at local levels who are engaged in maintaining peace and stability at local level.

Raising legal awareness

The process to obtain access to justice starts with people being aware that an injustice is done to them. Raising awareness about people’s rights is part of this: Citizens who know their rights are more likely to claim their rights and to seek justice. Many of the civil society actors that engage in conflict mediation conduct campaigns to raise legal awareness. There are three major challenges here: First, there is often a lack of availability of legal texts, both among civil society actors, but also among state institutions such as the police office or the local state administration. This lack of documentation makes it difficult for both paralegals and state authorities to apply state law. Internationally funded projects have sometimes tried to address

this by supporting the distribution of leaflets in which laws are explained in simplified and summarized ways. Yet, paralegals in rural areas do not necessarily have full knowledge of the law, nor access to the law themselves either. A 28-year old woman for instance, leading a local human rights NGO in one of the villages along the main road of the Ruzizi Plain, argued:

“We need to be trained on the norms aimed at protecting women and young people. I only know article 14 of the Constitution on parity and also the Family Code, but regarding the actual content [of the Family Code] we are devoid of any knowledge.”

Secondly, there is the challenge for civil society and state actors to raise awareness among the general population about the content of the state law. A representative of an agricultural organisation argued in this regard: *“Our members are ignorant of the legal texts, they only know the customs and practices used in the event of a specific problem.”* (Interview, RSK, May 2024). In his view, one of the reasons why people prefer traditional justice, is the lack of knowledge about legal procedures and about the content of the law.

Thirdly, there is a challenge related to clashes between state law and customary laws in terms of content. When state law goes against widely held customary laws, it does not suffice to simply inform people about state law. It means that a change is needed among the bearers of custom and of society at large to ensure that state law is accepted locally. An often referred to example here is for instance the right to inheritance for women. This right is set out in the revised 2016 Congolese Family Code.² In everyday reality however, and especially in Congo’s rural areas, customary ideas about inheritance continue to prevail, with only the male offspring obtaining a share of the family’s property after decease of the parents. Indicatively, a paralegal of a civil society organization in the Ruzizi plain estimated that an equal division of inheritance occurs only in 1 out of 10 families.

Legal aid and support to state justice

Civil society actors play an important role in providing legal aid and in supporting the state’s legal system in its functioning. This is attractive on both sides: It facilitates access to state justice for citizens, and it contributes to improvements in the state’s justice provision. In general, we observe a lot of collaborations and referrals between civil society actors and state institutions: Civil society actors support people in going to formal justice providers and the police, whereas state authorities refer cases back to civil society. This was illustrated by a police officer we interviewed at one of the sub stations in Uvira territory. He argued that at his station, the police manages to mediate in disputes with a positive outcome in about 30% of the cases. Cases in which they do not manage, are referred to local dispute resolution mechanisms; both local authorities and civil society. More complicated cases are transferred to the state court. He also explained that many people are referred to the police by local actors, like the legal aid clinics, the office of the ‘groupement’, the local youth council, or local women’s structures: *“We analyse their files together with these facilitators, and we find a solution together.”* (Interview RSK, April 2024).

Familiarity with state institutions can be of help in reducing the threshold that people feel to address these institutions in case of problems. NGOs play a role in promoting better contacts between citizens and the state. This happens for instance under the ESPER programme in

² Loi no.16/008 du 15 juillet 2016: Loi modifiant et complétant la loi no. 87-010 du 1^{er} août 1987 portant Code de la Famille

which Cordaid also takes part. This programme (*Together for Security and Peace in the East of the DRC*) aims at strengthening the social contract between citizens and the state and at restoring state authority. Our team attended one such meeting, organised by the Legal Clinic of SOS/IJM in collaboration with the police, in one of the communities of Uvira territory. The community had experienced several acts of popular justice, which were of concern to both the police and civil society. The meeting was well attended, also by youth that are often seen as the actors in popular justice cases. During the meeting, community members were able to raise their questions and concerns about the functioning of the police, after which the police officers answered the questions and explained their modes of working. The meeting was conducted in a rather open atmosphere, with the police also willing to accept some wrongs done by them. One of the responses for instance was:

“We, the police, are aware that there have been certain excesses by our elements against the civilian population for which we apologize infinitely because these are cases not authorized by the hierarchy, but isolated.”

Although participants seemed to accept the responses by the police to some extent, other concerns remained, for instance regarding the rapid release of criminals, or about the fees people are required to pay to visit their relatives when they are in custody.

Legal aid is hence not only about providing legal advice and about sharing (legal) information with justice seekers and with other justice providers, but it is also about bringing citizens and state actors together to restore trust, as SOS/IJM aimed to do in its community meeting. Supporting legal aid can also be about very concrete practical support, such as covering transport fees which help people to travel to the nearest Peace Tribunal, or even to the High Court. The *groupement* of Kamanyola for instance is part of Ngweshe chiefdom, and serious penal cases and complex civil cases are supposed to be transferred to the Peace Tribunal in Walungu, or even to the High Court, based in Kamituga in Mwenga territory.³ To make justice more available in remote areas, international donor support, through civil society, sometimes covers transport fees for legal personnel to execute mobile hearings on location, but such hearings take place with little regularity. As a result of logistical challenges, suspects often remain much longer in preliminary detention (custody) than the maximum 48 hours that are legally prescribed.

In general, there seem to be many productive connections between civil society and the state that aim at improving access to justice for citizens, with NGOs providing legal aid and orientation on how to access state justice, but also in providing support to state actors to strengthen and facilitate their work.

Conflict mediation : A l’amiable

Traditional authorities and civil society organisations both play an important role in conflict mediation; they have a local presence, and their assistance can usually be requested on short notice. An additional reason for people to consult civil society actors is that - in contrast to most local authorities - they usually do not ask any payment for their interventions.

³ Décret d’organisation judiciaire no. 14/015 du 8 mai 2014 fixant les sièges et les ressort des Tribunaux de Grande Instance

When intervening in conflicts, civil society actors are generally aware of their limitations. People who consult civil society actors with criminal cases or major civil offences are encouraged to take their case to the state authorities. For land conflicts, collaboration is often sought with traditional authorities, as they can provide information about the truthfulness of land claims and the division of plots. Collaboration and referral is multidirectional; civil society actors refer cases to other civil society actors, to traditional authorities, and to the state, and the latter two refer cases to civil society as well.

Most civil society actors follow a similar approach to mediation. They aim at conflict settlement in amicable ways rather than through punishment: They first consult all parties in the dispute, and when necessary conduct a field investigation to consult other parties, or to observe the visible markers of a plot in case of a land dispute. Mediation then entails sitting together with both parties, and finding a solution that is acceptable to all. Once both parties agree on the suggested solution, many civil society actors proceed with the mutual signing of an act of compromise. Some even further formalize such acts by homologizing the document at the Peace Tribunal. This is said to contribute to the sustainability of the solution on the longer term, when both parties can be held accountable to the agreement because there is a formal piece of paper which states what both parties agreed upon. Non-state justice is hence not necessarily synonymous to informal justice. On the contrary, there is a lot of formality in the procedures of ADR.

Civil society actors have some flexibility in the normative discourse they mobilise to come to a solution, drawing on their knowledge of state laws and customary norms, and assessing which normative discourse the disputing parties are ready to accept. At local levels, most civil society organisations function through paralegals; volunteers who have received some training on conflict mediation, and on key legal texts. When cases are difficult to solve, they can usually resort to legal experts of their own organization, based in offices in Bukavu or Goma. This support helps to strengthen the ADR efforts of local paralegals.

Customary authorities can be seen as alternative dispute resolution providers as well. Their role and position is acknowledged by the Congolese state.⁴ A hierarchical distinction is made between a chief of a chiefdom, a chief of a *groupement*, and a chief of a village. Whereas a chief of a village or *groupement* lives in close vicinity of his people, the chief of a chiefdom can be at a larger distance. The *groupement* of Kamanyola for instance is part of the chiefdom of Ngweshe, of which the mwami is based in Walungu. But chiefs of *groupements* and of villages also engage in conflict mediation themselves, often with the support of respected village elders that are united in the *baraza la wazee* (council of elders).⁵

Enforcement

It is often argued that a weaker point of non-state justice is the lack of options to enforce a decision if no agreement can be reached between two parties. A woman we met in Kalehe territory for instance explained that she had consulted the Panzi Foundation to mediate in a

⁴ Loi no. 15/015 du 25 août 2015 fixant le statut des chefs coutumiers.

⁵ Note the difference between a *baraza intercommunautaire* and the *baraza la wazee*. The former unites representatives of different ethnic groups living within the same community. Its aim is to bring the community closer together. The latter is the council of elders that assists a customary chief in community matters such as conflict mediation. In South Kivu, there is also a provincial *intercommunal baraza* which unites all ethnic groups and which also collaborates with other leaders and notables in the province such as religious leaders.

dispute with her former husband about alimony for the children and child neglect. It took already seven invitations by the Foundation before her husband finally turned up at the mediation. More than half a year after the initial negotiations have started, her husband has paid for one of the three children only. Meanwhile, he is blackmailing her, saying that the Panzi Foundation has no prison and will not do anything to him. When we talked to her (in March 2024), she was considering to ask for a note of referral from the Panzi Foundation to take the case to a higher authority such as the police, but has not done so yet as she is fearing the fees she will have to pay there.

Although it is true that state justice providers have in principle more power to enforce decisions and to implement rulings, there is in practice limited follow-up by state actors to assess whether or not alimony is being paid, whether or not disputed land is returned to the rightful owner, or whether or not a prison sentence is completed without the detainee finding a way to be released earlier on. In the perception of many justice seekers, state justice is only for the wealthy and powerful ones. Distrust in the state's justice system and fears of high fees make people in fact often more confident to consult ADR providers, as they feel that amicable solutions that are generally proposed will often at least lead to some compensation or reparation. Alternatively, people do not try to find a solution at all, simply because they do not have hopes that they will find redress anywhere (Jacobs 2018).

3. Access to justice related to SGBV

A lot has been said, done, and written about access to justice for women in the DRC, especially in relation to sexual violence. Despite all efforts and attention, sexual violence remains a major issue of concern that needs to be addressed: Experiences of sexual violence remain high, especially among women living in insecure areas in the east of the country (Sahin 2021; Douma, Hilhorst, and Matabaro 2016). Cases of sexual violence are penal offences that should be dealt with by the state's justice. In practice however, state justice is not easily accessible. This is related to general hurdles to obtain access to justice such as lack of a court in the vicinity, lack of trust in the judiciary, fear that too much money will have to be paid (for example, the costs to transport the perpetrator to the Office of the Public Prosecutor (Parquet General) in Bukavu. It is also related to specificities of sexual violence; the perpetrator may not be known, or may be too powerful to hold accountable; the family of the victim may prefer to keep the case silent out of fear of stigmatization; people prefer an amicable agreement to maintain good relations with the family of the perpetrator. Besides, there is a widespread feeling that through mediation at least some compensation may be negotiated and received by the victim and the victim's family. Going to state court, people fear that both parties end up paying mostly to the police and or court officials.

Illustrative in this regard is the case of rape of an 8-year old girl, committed by the family's neighbour in Kamanyola. The rape occurred at the time our team was conducting fieldwork in May 2024. The perpetrator was caught in flagrante and the rape was confirmed in a medical report. The perpetrator was taken into custody at the local police office. To take up the case as a judicial case, the police demanded the family of the victim to cover the transport costs of both the perpetrator and a police officer to go to the responsible public prosecutor, based in Walungu. Because the direct road from Kamanyola to Walungu is not in a good condition, a considerable detour is required via Bukavu. Lacking the money to pay for the transfer, the perpetrator remained in custody and the family of the victim started negotiations with the

perpetrator to pay some compensation instead. It was agreed that the perpetrator would cede part of his plot to the family of the victim. Three weeks later, he was still into custody.

In cases like these, there is often an impasse to proceed in the justice process: the family of the victim is not able to cover the transport costs and prefers to find an agreement with the perpetrator about compensation. But the perpetrator remains in provisional detention until his family pays an informal fee to the police to enable his release.

Due to legal awareness raising campaigns by civil society, most Congolese people are aware that cases of sexual violence should be dealt with by state justice. To find orientations, victims often go to civil society institutions that focus primarily on the fight against sexual violence. Most of these organisations have a holistic approach: they offer legal aid, as well as psychological and medical support, and support to promote the socio-economic integration of victims. The level of support depends on availability of international funding, with the Panzi Foundation for many the most visible and prominent actor in supporting victims of sexual violence. Their well-equipped and well-constructed offices contribute to their status and visibility in the communities, and as such they are often the first point of reference for victims.

Despite a lot of initiatives to raise legal awareness and to support victims of sexual violence, there is still a lot of stigmatization, often related to culturally dominant ideas about rape. As a result of this, victims of sexual violence tend to be double victims; after having been raped, their husbands may repudiate them, or their families may reject them. Tellingly, the mother of the 8-year old girl said:

“ I can no longer sleep because of this event and [my concerns] about the reputation of my daughter, to the point that I took the decision together with her father that during the school holidays we will bring her to stay in Burundi [with an aunt] and to go and study there while justice takes care of the perpetrator, even though he has nothing that can repair the damage caused to our family.” (Interview, May 2024)

Some violence may also remain under the radar of health care providers and legal aid initiatives because of the stigmatisation when affected women do not dare to speak about their experiences.

SGBV is certainly more encompassing than only sexual violence. This tends to be somewhat overlooked in the eastern DRC context, where sexual violence in the context of conflict gets a lot of attention (Jacobs, Milabyo Kyamusugulwa, and Katembera 2024). Other types of gender-based violence gain much less attention, even more so when not committed by armed groups or in the conflict context, but when committed within a household, family, or community. Yet, such GBV is common as well. In many instances, such types of violence require justice interventions as well, but in practice remain without redress. Although civil society actors play an important role in mediating and in raising legal awareness, their efforts are not always accepted due to their limited possibilities to enforce solutions.

Marital violence is among the recurrent types of GBV that we came across. This can be physical violence or aggression, but can also relate to psychological violence or lack of support and recognition of the woman. For instance, a man selling off the land of his wife without her permission, after which she struggles to feed their children; a man abandoning his legal spouse for another woman, without providing any maintenance; a man leaving his wife because she

does not give birth, or because she has given birth through a caesarean section. The following case study provides an illustration of some of the dynamics of these conflicts and how they are solved.

“I came at the beginning of April to the office of the legal clinic of SOS/IJM for the case of the sale of our plot and the field by my husband. He married me 10 years ago, without civil and religious marriage or dowry; in the life of suffering we had bought the plot of 12.5 m by 30m in [...], thanks to my savings. We had also started sharecropping during 4 years of harvest, [...] With the agricultural activities we made our children study and saved money for the project of building a house on our plot. After all this my husband started dating another woman from another village [...]. Without my knowledge he bought her a house and after six months he disappeared here, leaving me with all the expenses of the house. The money had gone into his new house, the field was being exploited by another person and somebody claimed having bought our plot and even started to build there.

I was at the stage of committing suicide because I could not go to the police without money and because my husband was going to corrupt and win. Also I was not registered with the civil registry, officially I had no share in these assets; I was desperate when a friend advised me to go to the legal clinic of SOS / IJM where I met a paralegal.

At the clinic they listened to me, wrote my entire statement, gave me advice and encouragements. The paralegal team went down to the house to inquire about the situation and contact the neighbours. They found that everything was true and even the head of the ten houses, being aware of the facts, advised the paralegal to invite my husband to their office. We listened to him too, each in turn; the stage of confronting us arrived, I explained the facts in front of him and the paralegal. After the explanation of the Family Code, my [ex-husband] was ashamed and did not deny [the facts]. He admitted to having embezzled the family's assets and asked for forgiveness. The paralegal advised him to return the stolen assets, and to find a house for the family because the buyer of the plot had already chased me away and together with our children I was staying at a friend's place. He confirmed that he can no longer return home, he will stay with his second wife and agreed to sign a compromise deed that within a short period of one week he will return everything. The man who bought our plot was invited to return the plot to me and to arrange matters with my former husband. The friends, village chief and other local actors were informed of the situation and together they are calling on my husband to respect his commitment. My rights are now restored and all my property is in my hands.

Box 1: A JUSTICE SEEKER TELLS

Inheritance disputes are other types of family disputes that often affect women negatively. According to the Congolese Family Code, women are entitled to a similar share of their parents' properties after death. According to custom however, only the male heirs are entitled to inherit. Despite efforts of civil society to raise awareness about the Family Code and the right of women to inherit, it remains common for families to divide property only among males. This is related to the customary patriarchal practice in which a married woman and her children will benefit

from the land owned by the husband's family. Families fear they will lose their ancestral lands if they share this land with daughters/sisters. This is however not taken into account in the Family Code.

Finally, our team observed several cases of witchcraft accusations, directed against women. In many cases, such accusations are geared especially towards elderly women. Witchcraft accusations are often indicators of tensions and distrust in social relations. Even if such accusations lack material evidence, they are difficult to counterclaim for the person accused and local authorities often lack power to deal with such accusations and to calm the tensions. As a measure of protection, accused women often get expelled from their communities. One of our respondents for instance told us that his wife had been accused of witchcraft half a year earlier at the central market by a patrolling collective of youth. They accused her of having caused the death of a boy through poisoning. Local authorities and the police prevented further harm being done to his wife, but her food stall in the market got destroyed and she herself had been taken into custody for five days, and got released when her husband paid some money, with the advice of leaving the area. Not feeling adequately protected, she is now living with some of the children in another town, whereas her husband is continuing live in their own community.

The detention of the accused woman is seen by authorities as a way to protect people accused of witchcraft against popular justice. Although this may be an effective measure, it is a remedy that harms the rights of the accused even further.

4. Land conflicts and the role of ADR

Land is a valuable resource in Congo, not only in terms of livelihoods, but also in terms of power, identity and belonging. People hence do not easily give up claims over land. Land conflicts can take various forms, have various causes, and can evolve into larger conflicts. The rise of land conflicts is to some extent related to a number of weaknesses engrained in land governance and power arrangements. The following gives an impression of some type of land conflicts that are prevalent in the eastern DRC context, in which population density is relatively high (in comparison to other regions of the country).

An indication of the pertinence of such conflicts are figures provided by some of the main mediators in Kamanyola on cases received between January and mid-June 2024. The *baraza la wazee* in Kamanyola had dealt with 68 conflicts over field boundaries, 100 conflicts over the spoliation of individuals' land, and 22 cases of fields being leased by two different people, creating conflicts that even reached the clan level. In that same period, the intercommunal barza in the same place received 98 cases of land conflicts. Civil society organisations received numerous cases as well. A paralegal of the legal aid clinic of Groupe Jérémie for instance indicated having received around 300 cases between January and mid-June 2024, of which around 75 per cent related to land conflicts. SOS-IJM dealt with 63 cases of land conflicts. In addition, there are several other civil society actors that deal with these types of disputes.

Customary authorities play a role on addressing land conflicts as well. A representative of the *groupement* of Itara in the Ruzizi plain for instance indicated that they receive around 15 cases on land inheritance per month. Conflicts about disputed land boundaries are recurrent during the agricultural season. He estimated to receive around 30-40 cases per week during this period.

Despite the preference to solve conflicts in an amicable way, a significant number of land conflicts ends up either with the Peace Tribunal or with the Public Prosecutor's office. The complexity of land conflicts is proven by the number of cases that are ultimately directed to the public prosecutor's office (Parquet de Grande Instance). In its statistics, the Public Prosecutor in Uvira distinguishes between illegal occupation and *stellionat*.⁶ In 2023, the prosecutor dealt with 46 cases of illegal occupation and 20 cases of *stellionat*. Between January and June 2024, there were 47 cases of illegal occupation and 17 cases of *stellionat*.

Contested boundaries

In places in which there is more competition over land because of the land's scarcity, conflicts arise about contested limits of both residential and agricultural plots. Delimitation of plots is generally done by placing some sticks as markers, or by planting specific perennial plants. Clandestinely moving such sticks is a way to claim a larger plot of land. When land is transferred from one party to another, owners of neighbouring plots are supposed to attend the transfer as witnesses and to testify of the borders, but in practice this does not always happen, with new owners sometimes not being aware that they have bought a plot of which the limits are contested. Sometimes the contested claims come to light only during a subsequent sale, or when the owner wants to obtain formal property documents and invites somebody from the cadastral services to delimit the land.

Customary authorities play an important role in mediation of these conflicts. As custodians of the land, they are supposed to know the boundaries. Civil society actors are also often requested to intervene. They will often consult traditional authorities to gather evidence. Both civil society actors and traditional authorities usually descend to the actual location of the contested land to observe the boundary marks and to consult neighbours of the plot.

Contested land transactions

Conflicts not only relate to the boundaries of the plot but can also be about a plot in its entirety. This happens for instance when the same piece of land is sold twice to different people, or when the seller pretends to be the owner of a piece of land, whereas in reality the land is owned by somebody else. This can be a complete foreigner without any connection to the plot, but it can also be a husband who sells the land that his wife has acquired with her own savings. Most people, especially in rural areas do not have any formal ownership documents and the land they own is not registered anywhere. Not being able to show an ownership document does not necessarily raise a red flag for a potential buyer. Land transactions take place on the basis of trust, but such trust can be violated, especially towards potential buyers who do not originate from the area and therefore lack knowledge about existing land rights. In a number of cases, local authorities have been complicit in such transactions or have even been the principal initiators of such transactions.

The complexity of transactions in the absence of formal documentation becomes clear in the following case: one of our respondents had bought a plot of land from a village chief. This chief

⁶ *Stellionat* is a French legal term which refers to the act of selling or mortgaging a property that you know you do not own. It can also entail selling the same property to more than one person.

– who was apparently in need of money- had offered him a plot at a price of 450USD. The chief had told our respondent not to tell anybody about the sale of the land, because ‘others may come and solicit the same field to my detriment’. Together, they visited the field and the chief indicated the limits of the land, while the neighbours were absent. The deed had been signed by our respondent and the chief, in the presence of the former’s wife and son as witnesses to ensure discretion. When he wanted to start cultivating, he found out that somebody else also claimed having bought the plot from the same chief (at a price of 600USD), and that the chief had been in need of money for a medical treatment: “I had fallen into his strategy [of finding money] without realizing it, only because I trusted him and I could in no way doubt his words.” (Interview, SL, June 2024). Meanwhile the chief has passed away, and none of the buyers is making use of the land. Initially, the case was taken to a legal aid clinic, but given the complexity, the paralegals have transferred the file to the Public Prosecutor. One of the paralegals told us that he expects the prosecutor will ask the chief’s successor to find an alternative plot of land for one of the buyers.

Whereas civil society actors are often consulted in these types of cases, ultimately they often turn into formal legal cases. When local authorities are involved, a suggested solution is to find another plot of land for one of the buyers (as in the case above), but this is more difficult when the seller is a private person who has already used the money or goods that were paid in exchange of the land. The court may rule that compensation needs to be paid, but will usually not ensure the enforcement of its ruling.

Inheritance conflicts

As pointed out in the section on GBV, state law and customary law contradict each other regarding the rights of women to inheritance. Through legal awareness activities, more and more people are aware that women are also entitled to inheritance, but their claims often remain contested by male relatives. In the absence of a written will, inheritance gives easily rise to disputes within a family: Daughters may feel that state law should be followed and that they are entitled to inherit a fair share of the family’s land, whereas sons – and especially the eldest one – will prefer to give prevalence to customary norms, for reasons mentioned above. The choice of a justice provider may be key in the outcome of a justice intervention in such cases: Traditional authorities will usually apply customary laws, whereas civil society actors advocate for a fair inheritance share for women and propagate the Family Code.

A second category of inheritance disputes takes place within polygamous marriages. Such marriages can never be civil marriages, as the Congolese Family Code does not allow polygamous marriages. It is possible though to still conclude a customary marriage. Upon death of a husband, the first wife, and the children of a first wife often feel that they are entitled to the largest share of the possessions of their husband and father, not acknowledging the rights of other spouses and other children. This easily creates conflicts that are again even more complex in the absence of a written will. Also in these cases, the choice of a justice provider may determine which solution is proposed. Whether or not spouses and children can claim any rights at the Peace Tribunal depends on the legal status: is the marriage legally recognized? Are the children legally registered as the children of their father? The Peace Tribunal will usually only look into the legal reality. Customary authorities may recognize the rights of second and third spouses, as well as the rights to inheritance of sons of these spouses, whereas daughters may not inherit. Civil society actors may on the one hand apply state law, and advocate for the

inheritance share of daughters, while they may be more flexible than the state in acknowledging the rights of polygamous spouses.

Civil society actors, the *barza intercommunautaire*, the *baraza la wazee*, traditional authorities, and state courts all play a role in settling inheritance disputes over land, but the solutions they suggest may vary a lot. It underlines the importance of having knowledge about the justice providers that are available and the rules they may apply. In this context of legal pluralism, people with knowledge of the rules that are applied by different authorities can strategically choose to go to one or the other.

Land tenure arrangements

Landless farmers depend on lease arrangements to obtain access to land during the agricultural season. Such arrangements have a long existence in the eastern DRC. They have traditionally often been made between large landowners and landless farmers, usually on an oral basis. Both parties agree on the mode of payment that can be in the form of sharecropping, the provision of labour, or a payment in cash. Difficulties may nevertheless arise at the moment a harvest fails, or when the tenants face other misfortune and is therefore not able to pay for the use of the land. In such cases, tenants often expect that the arrangement will be renewed without an additional payment to be made, whereas the landholder either wants to end the arrangement or expects payment nevertheless. It also happens that landholders lease out the land to different people at the same time, which obviously creates a problem when both tenants start cultivating.

In contexts in which many people are displaced because of insecurity and violence, land tenure arrangements have high relevance: to be able to make a living in displacement, most people will need to find access to land in one way or another. Those who cannot afford to buy a plot of land, depend on tenure arrangements, or on work as day labourers, but this dependence often creates vulnerability.

Intercommunal land conflicts

Conflicts may arise between members of different communities, especially when members of one community are forced to move because of conflict and can no longer access the lands that they previously used. To be able to continue land-based livelihoods such as agriculture or cattle breeding, they need to find access to new lands. Where such communities have different ethnicity, such conflicts can get out of control even more easily, as acceptance of 'outsider' newcomers may be lower. In some cases, people on the move will try to make tenure arrangements with landowners, in others cases, they will try to purchase a plot of land.

In the Ruzizi plain, conflicts between pastoralists and farmers are frequent, also due to the scarcity of fertile land and water accessibility. Pastoralists make use of designated cattle roads to move with their cattle to grazing land and water wells, and there is supposed to be a distinction between agricultural land, cattle roads and pastures. In practice, pastoralists sometimes cross agricultural land, and farmers sometimes try to expand their fields or habitation by making use of the areas meant to be used as cattle roads. When there are conflicts between farmers and pastoralists about contested land, there is often a risk of escalation, because of the ethnic dimension.

Intercommunal conflicts are difficult to address, as they require intervention by a party that is accepted on both sides. The intercommunal council can help to bring together both parties. Civil society actors may sometimes be seen as neutral, but at other times as taking sides, especially since most civil society actors operate through local paralegals.

Challenges in addressing land conflicts

Whereas authorities should normally contribute to the resolution of conflicts, we came across several land conflicts in which different authorities contributed to the creation of legal uncertainty and overlapping or contested land claims (such as in the case introduced above). In one case, state authorities were selling communal land to powerful private parties. A problem here is overlapping systems of jurisdiction: On the one hand, customary chiefs are the custodians of the land, and they can decide on allocating land to newcomers, whereas transactions are mostly oral. Witnesses are used to testify of ownership and limits of the land. But land is also transferred between individuals; from parents to their sons, and sometimes to their daughters, or between private buyer and seller; such transactions having different levels of formality. A more formal way is by inviting the cadastral services to map and register the land on one's name. In some cases, customary chiefs are consulted about ownership, but in other cases they are not, and the land is simply registered on the name of the powerful person who is able to pay for the cadastral services. When there are competing claims, it is hence often the richest and most powerful person who ultimately secures access to the land.

5. Access to justice for IDPs

It is widely assumed that IDPs have particular needs and face particular challenges in realising their rights and in being seen as full and worthy citizens. Displaced people may experience distinct types of harm as they lose their home, but also their social network, and the resources to which they normally resort to make a living. Added to this is a sense of insecurity and uncertainty. In displacement (particularly protracted displacement), IDPs have to recreate their homes, social networks, and livelihoods, but many struggle to realise a modicum of fundamental rights: They live in unstable housing conditions, their livelihoods are precarious and unsustainable as many of them depend on day labour, and although members of a host community often provide some support and solidarity, IDPs also face stigmatisation.

In the following, we provide some insights on the major injustices with which IDPs struggle, ways in which IDPs aim to realise fundamental rights, and connections they seek with relevant actors who can help to realise these rights.

Injustices and insecurity before displacement

Insecurity in the east of the DRC has multiple sources that trigger internal displacement. Many IDPs have experienced insecurity, violence, the loss of lives or of property. Many of these experiences prior to displacement can be seen as injustices. Yet, there is very limited redress for these injustices, either because injustices are perpetrated by 'unknown' people, or by *Wazalendo* (litt. Patriots). Since these patriots have been recognized by the Congolese state as partners in the fight against the M23, they feel even more legitimated to use violence at their

own will.⁷ Many of the displaced that our team encountered, especially in Bunyakiri, related stories of harassment, plunder, rape, and extortion committed against them by Wazalendo, and for many of them this was the prime reason to flee. A woman in Kalehe territory explained that Wazalendo repeatedly took her goats and chicken, but also bothered her when they would pass her house in groups of three to five men. Failure to provide something could lead to arrests and arbitrary fines between 50 000 and 250 000 CDF. She also noted that women and girls would be forced to have sex.

Talking about injustices and crimes prior to displacement, none of our respondents felt such injustices could be addressed in any way, not by referring to a higher ranking Muzalendo chief, nor by referring to state actors or local chiefs. Apart from distrusting that justice could be done, some even feared acts of retaliation in case they would speak out, or indicated that the local chief would face such retaliations if he would act against a Muzalendo. ‘The only option for a civilian, is to get away from them’, as one respondent explained (Interview, IA, April 2024). If we turn back to justice as a process, access to justice is blocked in a very early stage, simply because people feel there is no justice provider available that can address their concerns.

Apart from being the source of insecurity and injustices, Wazalendo were nevertheless mentioned by some as a potential actor to resort to in case they face injustices. Having their roots in local communities, Wazalendo are not completely disconnected from these communities. Family ties, childhood memories, or shared beers in the evening in the local bar contribute to such connections, making Wazalendo less intimidating or distanced as they may seem to an outsider.

Although none of our respondents had actively sought the justice intervention of a Muzalendo, several indicated that they may consider going there in case a harsh intervention would be needed. Other respondents indicated that they would never consider consulting Wazalendo for a justice intervention. In general, respondents shared a strong conviction that justice by Wazalendo does not entail a payment for the accusing party, but does entail a high payment by the accused (to the Wazalendo themselves) and the imposition of harsh measures such as torture and sometimes even death. From the perspective of an accusing party, this may be considered a favourable and just outcome. From a rule of law perspective, there is no procedural justice and the rights of the accused party are severely violated.

Rights and justice during displacement in host communities

Not being able to find justice, but continuing to live in fear that further harm will be done forces many people to leave their community of origin and to find protection elsewhere. This is either in host communities or in displacement camps. In displacement, many IDPs struggle not only to obtain access to justice, but also to realise a number of fundamental rights, such as the right to housing, the right to employment, freedom from want, and freedom from fear.

In rural host communities, most IDPs manage to find housing, but obtaining access to land to make a living is a bigger challenge. Many resort to sharecropping arrangements, or work as day

⁷ In November 2022, president Tshisekedi called upon the Congolese youth to organize themselves in vigilante groups to support the Congolese army in its fight against the M23. September 3, 2023, a presidential decree legalized the presence of armed groups next to the Congolese army. Some argue that this led to slightly more control of these groups, others argue that it makes them either more powerful and out of control.

labourers in the fields of long-term residents, but such arrangements are not without problems and conflicts around them are rife, as described in the section on land justice.

Being displaced does not only entail being away from one's home. It is also being away from one's social network. People who are hosted in communities with which they do not share an ethnic background find it more difficult to integrate. In general, many IDPs experience stigmatisation and discrimination because of their IDP status. They are also the ones that get easily scapegoated at the moment there is unrest in a community. It results for instance in women being accused of witchcraft, or in accusations of theft or criminality.

In obtaining access to justice, the most vulnerable IDPs face monetary challenges as they are simply not able to pay the costs that most justice providers demand for their interventions. Several justice providers indicated that they had noticed how IDPs refrain from consulting them out of fear of having to pay. Besides, IDPs indicated not being aware of the options available to them to seek justice.

When local chiefs live in displacement as well, they are sometimes still consulted by their constituency in displacement. One displaced chief explains that he does not even charge any costs when treating cases of displaced people, as he is aware of their vulnerable situation. Displaced chiefs can play their role when the case concerns only parties from their own community, but they lack the formal position to play a role in justice provision when a case involves both displaced and non-displaced people.

To address conflicts between displaced people and members of host communities, justice providers that are seen as either neutral or inclusive have most legitimacy. This applies to (some but not all) civil society actors and to initiatives like the intercommunal council in which representatives of all groups have a place.

Rights and justice in displacement camps

Displacement camps are places in which it is more difficult to realise a number of fundamental rights than in host communities. Access to land and livelihoods is very limited, day jobs are hard to find, and basic services and assistance is only limitedly available. Social networks within a camp provide limited opportunities, as people in a camp are surrounded by others who are often just as vulnerable as they are themselves

Case: Don Bosco Ngangi IDP camp structure

The Don Bosco camp was set up in October 2022 on the premises of the Salesian fathers of Don Bosco Ngangi, in the periphery of Goma. The initiative to set up this camp was taken by IDPs who were until then residing in Kanyaruchinya IDP camp. Because the camp was overcrowded, some people felt a new space was needed and obtained permission from the Salesian fathers to make use of their terrain. In the initial months, when the camp was not yet formally recognized, humanitarian assistance was hardly existing. This has meanwhile changed a bit.

Setting up a new IDP camp from scratch also entails setting up a governance structure from scratch. Meanwhile, Don Bosco camp has a well-established structure. The camp is divided in 3 sites, that in turn are divided into blocks; Site 1 consists of 24 blocks, site 2 of 27 blocks and site 3 of 25 blocks. Each block consists of 50 households, leading to a total of around 4000 households. The camp has a camp management committee that is led by a president who has some leadership experience as he has been a village secretary in his village of origin.¹ Each site, block and 10 houses have their own chiefs, that have been nominated. Some argued that this nomination was on the basis of elections, whereas others argued that it was appointments made by the camp management on the basis of their networks, and with people from the same

BOX 2: GOVERNANCE OF DON BOSCO NGANGI IDP CAMP

In the absence of opportunities to make a living, access to humanitarian assistance is critical to realise basic rights, to obtain tarpaulins for make-shift shelters, to obtain some food rations, etc. But needs and demands are generally higher than the assistance that is available. Camp authorities are often the gatekeepers for IDPs to obtain access to assistance and to be high on the list of beneficiaries. In the Don Bosco camp, which we visited, this was considered a source of injustice by many, with people claiming that authority structures were not representatives of the composition of the camp community. As a result of this, assistance was also not considered to be equally accessible to all.

A particular concern which was raised by many camp residents was related to insecurity in the camp. With people residing in make-shift shelters consisting of tarpaulin walls, it is not difficult to enter a tent, resulting in frequent cases of sexual violence and of theft.⁸ Several respondents narrated stories of rape, theft, or attempts thereof since they had arrived in the camp. To address this, night patrols are set up by the camp management, but in most cases perpetrators disappear quickly in the densely packed camp environment, leading to many cases of unaddressed injustices.

⁸ The high prevalence of sexual violence in camps around Goma was confirmed in a recent survey conducted by MSF. In four camps around Goma, one of 10 young women reported having been raped between November 2023 and April 2024 (Simons 2024).

6. Conclusion

This report has shed light on justice as a process, and on ways in which people, especially the most vulnerable and marginalized obtain access to justice, how some of these justice providers operate, and to what extent justice providers are able to address some of the most pressing and recurrent injustices. In eastern DRC particularly in North-Kivu and South-Kivu, justice providers are diverse varying from state jurisdictions to traditional chiefs and to civil society actors, each of them having its ways of working and types of grievances to address, though there are some overlaps in settling people's disputes.

We notice that justice seekers face challenges at each stage of the justice process. Civil society actors work hard to remedy the shortcomings of the justice process and to offer non-state alternatives, though challenges remain. To conclude this report, we present a number of key lessons that can be taken from this report. We hope they provide inspiration on directions to take in strengthening access to justice, particularly with regard to ADR mechanisms, access to justice related to SGBV, land conflicts and for IDPs.

Key lessons on ADR

- There are a lot of civil society initiatives which contribute to the provision of justice in various valuable ways. Assuming that access to justice is a process, it is important to ensure the whole process is functional, fair, and accessible for all.
- Some restructuration of the jurisdictions of tribunals could help to make (state) justice more accessible. For people in the Ruzizi plain for instance, the Peace Tribunals and High Courts in Bukavu and Uvira are much more accessible. Local authorities expressed their desire to become part of these jurisdictions, but need advocacy support to pass on this message.
- Civil society ADR at local levels is largely ran by voluntary paralegals, who have some capacity, but who often express their wish to receive more structural training, and financial support on a more sustainable basis. Beyond project cycles, their work is pro bono, and they regularly cover necessary material costs themselves. Training and capacity development is mostly incidental and geared towards specific topics that are in the interest of the funding agency, but usually not demand-driven.
- Amicable settlement is the main mode of conflict resolution that ADR actors aim at, with varying degrees of formality. Some suppose that formalising arrangements through written declarations makes solutions more sustainable. Others emphasise the need to mediate and to reach consensus within the community and between the parties.

Key lessons on SGBV

- Despite awareness that rape is a criminal case, some people continue to prefer to settle such cases amicably, both because of a lack of trust in the state justice and because of the hope to negotiate compensation/reparation.
- SGBV is not only about sexual violence but also about other types of gender-based violence that tend to get much less attention, but also require justice solutions.
- There are several clashes between the state law and human rights on the one hand, and customary laws on the other hand in relation to women's rights. Raising legal

awareness and promoting a change of culture may both be needed to overcome these clashes.

Key lessons on land conflicts and the role of ADR

- Existing modes of land governance contribute to the high prevalence of land conflicts: Orality of arrangements and a lack of formal registration make it difficult for people to know which property claims are rightfully made, leading to overlapping land claims and conflicts. It is likely that the orality of customary arrangements will not easily disappear in rural areas.
- Local authorities play a role in providing clarity about land rights, but are also complicit in some of the contested land transactions.
- Legal uncertainty surrounding land ownership is especially beneficial for the most powerful and the best connected.
- Contested ownership claims come to the fore most clearly at the beginning of the agricultural season when people start preparing their fields for cultivation. It is important that such disputes are resolved at an early stage to avoid they take on larger, intercommunal dimensions.

Key lessons on justice for IDPs

- Costs charged by justice providers constitute a threshold for the most vulnerable IDPs to obtain access to justice. When civil society organisations have external project funding, they may not necessarily ask for a contribution from justice seekers, but without project funding, the paralegals will need some compensation for the costs they make. For vulnerable justice seekers this can be too much of a threshold.
- Lack of personal connections or lack of familiarity with justice providers may constitute a threshold for IDPs to seek justice.
- In displacement camps, where justice providers are set up by displaced themselves, it is important to ensure representation of all communities, also because camp authorities are gatekeepers in providing access to aid.

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