



Constructed Anarchy

Governance, conflict and precarious property rights in Bukavu, Democratic Republic of the Congo

Hoffmann, Kasper; Pouliot, Mariève; Muzalia, Godefroid

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Constructed Anarchy: Governance, Conflict, and Precarious Property Rights in Bukavu, Democratic Republic of the Congo

Kasper Hoffmann, Mariève Pouliot, and Godefroid Muzalia





Photo from Panzi

Land issues are at the heart of the Congolese conflicts (Huggins 2010; Vlassenroot 2004; Mathieu et al. 1999; Mararo 1997). Land issues have mainly been analyzed as a rural phenomenon. More recently, however, scholars have shown that land issues are crucially important in urban areas as well (Büscher 2012; Wagemakers et al. 2009; Büscher 2018; Büscher and Vlassenroot 2010; Peyton 2018).

Land is a key resource and its attribution is of vital economic and political concern across societal groups. Crucially, therefore, the control of land is a key determinant of power in the Congo. Land is not only important as a material resource; it is also woven into many aspects of social life for Congo's urban residents. Occupation and possession of land are important sources of prestige and self-esteem, and it contributes in no small way to determining people's social, economic, and political positions in society (Büscher 2012).

Hence, land issues relate to questions of property more broadly, and as such implicates social, economic, and political power relations in the widest sense (Lund and Boone 2013, 1).

In this policy brief we analyze the nexus between conflict, property rights, and land governance in the Panzi neighborhood of Bukavu, the provincial capital of South Kivu. Bukavu is separated from Rwanda by Lake Kivu and the Ruzizi River and is situated at 1460 meters above sea level. Administratively, Bukavu is divided into three municipalities: Ibanda, Kadutu and Bagira. Together, they cover an area of 60km². The neighborhood of Panzi is situated in the municipality of Ibanda and is subdivided into six *cellules*¹ and 82 *avenues*. This brief uses a mixed-methods approach. The empirical base of the paper consists of approximately 100 qualitative interviews with different kinds of interlocutors including state officials situated at various levels and residents. The quantitative part of the research is based on a survey of 375 heads of household selected using a random sampling method.

Property rights are notoriously precarious in Panzi, as they are in other urban areas of eastern Congo. Several factors contribute to this situation. They include the ambiguity of Congolese land legislation, rampant corruption in the land administration, rising demographic pressure, widespread land speculation, the lack of coherent urban planning, and competition between the country’s various land governance authorities in the region (van Overbeek and Tamás 2018, 291; Wagemakers et al. 2009; Peyton 2018). The compounding effect created by the interaction of these different factors has prompted exasperated Congolese citizens to refer to urban land governance as “anarchic urbanization,” “property anarchy,” or “anarchic constructions” (Verweijen 2015, 353; Büscher 2012, 495; Wagemakers et al. 2009, 176). NGOs, Panzi residents, and Bukavu’s land authorities refer to “anarchy” frequently. The notion of anarchy is deployed to criticize others for failing to comply with the law. Land authorities in Bukavu often accuse residents of anarchic constructions. Conversely, residents and NGOs accuse land authorities of promoting anarchic constructions. Land authorities also mutually accuse each other of being responsible for anarchic constructions. In this research brief we argue that these references to “anarchy” and “disorder” are not to be taken at face value, but should rather be seen as part of the ongoing struggle to define the rules of land governance in the Congo.

The struggle to define the rules of land governance in the Congo exposes a curious puzzle about land governance in the Congo: the law is simultaneously fetishized and disregarded. Neither Panzi residents nor the various authorities involved in land governance seem particularly concerned with respecting the law. However, their reasons for disregarding the law and idealizing the law are very different. On the one hand, the various authorities involved in land governance deploy the law as a language and a tactic of power. They fetishize the law as a symbol of sovereignty, and they use it to assert their authority to exercise jurisdiction over land issues and to justify the extraction of unofficial income from Panzi residents. In this way, land authorities deploy the language of the law to create an alternative order that

facilitates irregular resource extraction from Panzi residents. On the other hand, Panzi residents tend to fetishize the law as an ideal of governance. Their understanding of the law as an instrument meant to protect their property rights speaks to their faith in the law and its capacity to generate order. However, in reality, the law rarely protects the property rights of Panzi residents. As consequence, to establish a minimum degree of tenure security, people tend to either circumvent the law or play along with the alternative rules imposed by the land authorities. In doing so, they involuntarily become complicit in the “misrule of law” (Holston 1991).

As such, we argue in this research brief that the phenomenon of anarchic constructions is not the result of a spontaneous and chaotic process of urbanization. Rather, as we show, it is a set of practices, in which the law—paradoxically—is applied in a calculated way to ensure that the vast majority of people’s plots and buildings in effect do not comply with the law. Consequently, most Panzi residents’ property rights are temporal and ephemeral. However, the disenfranchisement of people’s land rights in this case is not the work of a grand conspiracy by Bukavu’s land authorities. Rather, the regime of practices is upheld by a myriad of micro-practices of power, enacted by a multitude of land authorities that compete and collaborate with each other in unpredictable patterns.

CONFLICT, MIGRATION, AND DEMOGRAPHIC GROWTH IN PANZI

The conflicts of eastern Congo have had a deeply transformative effect on urban space, land governance, and property rights in Bukavu. Bukavu’s population and built-up area have grown significantly since the 1970s. Between 1970 and 2002 (near the end of the Second Congo War [1998-2003]) the population of Bukavu increased from 142,181 residents to an estimated 450,000. Between 2002 and 2007 the population grew to 556,885, and between 2007 and 2017 the population swelled to 1,184,973, an increase of 112.8 percent in ten years (see table 1)².

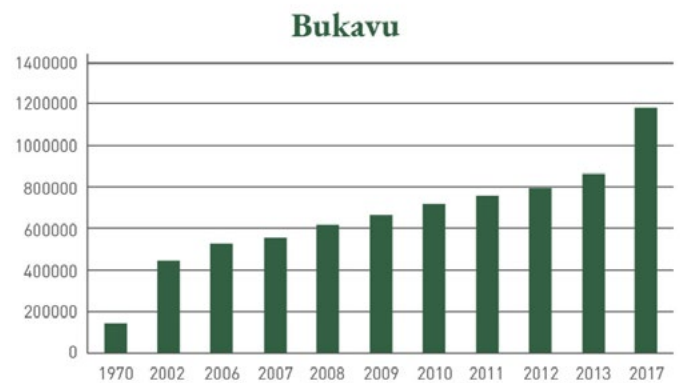


Table 1

Panzi has also grown rapidly. Between 2006 and 2017 the population grew from 75,554 to 133,222, an increase of 82.6 percent (see table 2).

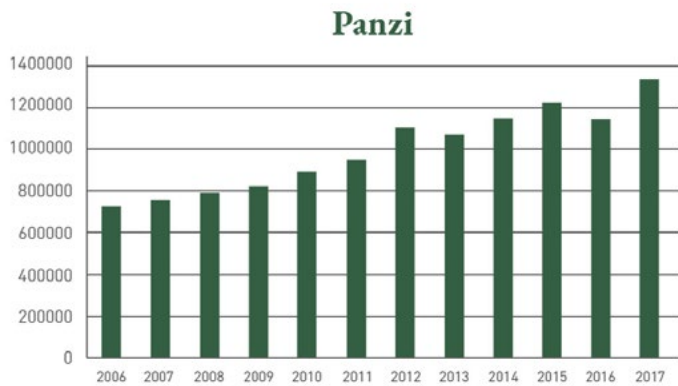


Table 2

Our survey data demonstrates that 89.5 percent of residents migrated to Panzi during their lifetime. Rural-urban migration accounted for roughly 50 percent of Panzi’s growth. The remaining 50 percent migrated from another urban area. Research on the transformation of eastern Congo’s urban areas suggests that the region’s violent conflicts and insecurity drove rural-urban migration (Peyton 2018, 213; Büscher 2012, 494; Sadiki et al. 2010, 2013). However, the research shows that insecurity was not the predominant reason people moved to Panzi. Instead, the reason most frequently cited by rural migrants was “lower living costs” (42.4 percent). By comparison, “security” was the second-most frequently cited reason (18.6 percent). “Employment” was third (15.1 percent). These reasons cannot be isolated from each other, as insecurity can impact people’s living costs and employment opportunities and vice-versa. Yet these results serve as a reminder that people’s reasons for migrating from a rural to an urban area in eastern Congo are often fundamentally, of a social and economic nature, and in any case quite diverse.

While, the city has grown demographically its built-up area has not grown substantially (see Map 2). Officially, the city limits have not changed, and as a result the population pressure on the available land has increased. However, the city limits have spilled over into Kabare territory, especially in the area south of Panzi (see Map 2). Consequently, just as in other urban centers in eastern Congo, the value of land has risen sharply since the beginning of the wars in the 1990s. For instance, David Peyton (2018, 2012) reports that the average value of a square meter of land increased more than 3500

percent from 1998 to 2016 in Beni in North Kivu. While we do not possess similar statistical indicators for Bukavu, respondents regularly mentioned that land has become very expensive. In the words of a resident of Panzi: “One of the biggest difficulties for the population here is that the price to acquire a land plot is enormous. However, the population here is largely very poor.”³

ACCESS TO LAND AND PROPERTY RIGHTS IN PANZI

There are several statutory institutions involved in land governance in Panzi. The most important ones are the *Cadastre* (Land Registry Office), which is linked to the *Ministère des Affaires Foncières* (Ministry of Land Affairs); the *Division d’Urbanisme et Habitation* (Department of Urbanisation and Housing), which is in charge of enforcing urban planning guidelines; and the *Maisons Communales* (Communal Offices), headed by a burgomaster. In addition there is the so-called *cadre de base* (grassroots executives). The *cadres de base* are local chiefs associated with the *Mairie* (Mayor’s Office), which oversees the Communal Offices. The *cadre de base* is organized within a pyramidal administrative structure and is headed by a *chef de quartier* (neighborhood chief). Neighborhood chiefs who play an important role in land governance, and especially the resolution of land disputes are official entities recognized by law, but their own subordinates are not granted the status of a civil servant.

Officially, there are no more available plots in Panzi.⁴ Yet some actors claim that plots are still being sold on the banks of the Ruzizi River even though much of this area is deemed unfit for construction (*non aedificandi*) due to its steep slopes and the risk of soil erosion, and mud- and landslides.

However, there are other ways in which people moving to Panzi can get access to land: by renting, through inheritance, by buying an existing plot, or by buying a parcel of an existing plot. In recent years, the latter solution has become increasingly popular due to the lack of available plots situated on safe construction sites. This practice simultaneously enables existing plot owners to profit from the rising property market and allows relatively poor people to get access to land in the city, regardless of whether they come from another urban area or a rural area. People who wish to acquire land in Panzi can do so either by contacting the seller directly, approaching one of the *cadres de base*, who often have good knowledge about the situation in the entities they administer, or by approaching one of Bukavu’s *commissionnaires* (real estate agents), who facilitate the contact between the seller and the buyer for a fee of approximately 5 percent of the overall price. The latter has become the preferred option in recent years, as it is cheaper than going through a *cadre de base*. In order to avoid meddling by authorities, people increasingly make land deals during the night. This practice frustrates the *cadres de base*, who not only lose out on income, but whose control over land governance issues



A part of the neighborhood of Panzi built on the steep slopes of the Ruzizi River.

is diminished by this practice.

Property rights are tenuous in Panzi for various reasons. First, since the passing of the current land law, the 1966 so-called Bakajika law, amended in 1973 and 1980, definitive private land rights do not exist in the Congo. The Bakajika law is a series of laws that nationalized all land and recognized the state as the supreme proprietor and owner of the national soil, as well as all resources located in the sub-soils of the national territory. The Bakajika law stipulated that land could be individually bought and sold and protected by a *Certificat d'Enregistrement* (certificate of ownership), which is delivered by the *conservateur des titres immobiliers* (custodian of property titles) in collaboration with the *Services de Cadastre* (Land Registry Office). However, it also stipulates that the land can be reclaimed by the state if doing so is in the interest of the state. This means that land can be legally expropriated on the basis of the state's supreme authority. In essence, people only have user rights for purchased land in the Congo. For instance, recently a new road was built southward in the direction of the *Plaine de la Ruzizi in Panzi*. During construction, several houses along the road were demolished or halfway demolished. In such cases, people would only receive compensation for buildings on the land, but not for the expropriation of the land itself, and only if they have a certificate of ownership. But even then, in some cases powerful, wealthy, and well-connected individuals have been able to successfully expropriate people who possess all the right documents without any compensation whatsoever.

Secondly, Panzi is a poor neighborhood. According to our survey, the average cash annual income is 875 USD per person, or 2.4 USD per day. While this average is above the global poverty line at 1.90 USD, 63.5 percent

of our sampled households do indeed live below the global poverty line. This measurement indicates that most residents cannot afford to acquire the necessary certificate of ownership from the Land Registry. The process is slow, expensive, and nontransparent, and the outcome is uncertain. The price of the certificate of ownership is said to vary between 500 and 1200 USD. The certificate of ownership is, therefore, out of reach for most Panzi residents. This consequence is reflected in our survey, which shows that only 11.9 percent of Panzi residents have acquired the required certificate of ownership. Moreover, the survey shows that there is a statistically significant relationship between high household income and possession of a certificate of ownership. However, in contrast, 23.9 percent of Panzi residents possess what is called a *contrat de location*, a lease contract you sign with the Land Registry for the plot. It obliges the titleholder to construct a building in durable materials within 36 months, which in effect only makes ownership and construction of the land more expensive. If you do not comply with this requirement, you run the risk of losing your property.

However, alternative title documents can be obtained. They are the *Attestations d'Occupation Parcelaire* (Proof of Occupation of Plot) and the *Attestations de Propriété* (Proof of Ownership). The former are issued by the *Division d'Urbanisme et Habitation* (Department of Urbanisation and Housing), while the latter are issued by the *Maisons Communales* (Communal Offices) of which there are three, one for each Municipality of Bukavu (Ibanda, Kadutu and Bagira). However, these alternative documents are in fact competing versions of the same deed. Both documents are valid only if the plot owner constructs a building in semi-durable material. If the plot owner fails to do so, the document is no longer considered valid by the

authorities. The legal status of these title deeds became uncertain with the passing of the land law of 1973. Of the two, the Proof of Ownership issued by the Communal Offices is the deed most frequently possessed by Panzi residents, as 30.8 percent of our respondents possess this type of deed. By comparison, 13.9 percent possesses the Proof of Occupation of Plot, issued by the Department of Urbanisation and Housing. There are both historical and economic reasons for why most people possess the Proof of Ownership rather than the Proof of Occupation of Plot. Until 2007 it was the prerogative of the Communal Offices to issue this document, which means that many older land deeds are of this type. At the same time it is the least expensive document of the two, which makes it more accessible to Panzi's predominately poor population. The price for the Proof of Ownership varies between 80 and 250 USD. By comparison the Proof of Occupation of Plot issued by the Department of Urbanisation and Housing, is said to cost around 400 USD.

However, there is a fourth document that Panzi residents may use to protect their property. This document is the *acte de vente* (bill of sale). It is the document most frequently owned by Panzi residents, as 59.7 percent of the respondents possess a bill of sale. A bill of sale is an agreement between the buyer and the seller of a plot. It contains the terms and the price of the transaction. The bill of sale is one of the precursor documents needed to obtain a certificate of ownership. People in Panzi are mostly aware that the bill of sale is not enough to grant them full legal (alienable) property rights, but it is, nonetheless, used as a valid land title in transactions in Panzi as many people cannot afford any of the alternative deeds. Indeed, our survey showed that there was no relationship between household income and ownership of a bill of sale. Many people seemed resigned to accept that the bill of sale is as good as it gets in terms of securing their property rights. Said a resident of Panzi: "I only have a bill of sale. I know it is not enough, but I don't have the means to buy another document, such as the one from the Land Registry."⁵ Nevertheless, people's lack of officially valid title deeds make them vulnerable to extraction and extortion by land authorities and ultimately also to expropriation.

RENT-SEEKING AND TENURE (IN)SECURITY

With a few exceptions, Congolese state institutions are characterized by low levels of legitimacy, drastic resource shortfalls, and technical shortcomings. In spite of this, Congolese state institutions persist and even proliferate (Trefon 2009). To a large extent, Congolese state agents are able to keep their institutions running by leveraging their position in the social order to impose various taxes, service fees, and fines on Congolese citizens (Eriksson Baaz and Olsson 2011; Eriksson Baaz and Verweijen 2013). The Congolese countryside, for instance, is littered with roadblocks where various Congolese security services and armed groups demand taxes in various form from people

passing by (Verweijen 2015; Schouten et al. 2017; Hoffmann et al. 2016). The administration of land in Bukavu is no different in this regard. In fact, the high value of land in Bukavu means that it is a highly profitable sector of public administration. State agents involved in land governance can be frank about their extractive practices.⁶ Said an agent from the Department of Urbanisation and Housing: "Normally the tax for a Proof of Occupation of Plot is 30 USD, however, this tax needs [additional] administrative fees to supplement the costs of creating the title deed."⁷

These administrative fees are only some of the many forms of resource extraction from Panzi residents that Congolese land authorities engage in. Congolese land authorities make verification missions to the field, ostensibly to check if people's constructions and plots comply with regulations. In reality, however, authorities often carry out these missions in order to pressure people into paying a fee for their inevitable transgressions without a mechanism for bringing people in compliance with the rules and often without issuing an official receipt for the payment of the "service" they provided.

It is easy to find plots and constructions in Panzi that do not comply with the regulations. Due to the high density of housing and people, Panzi residents have often build on sites that are unfit for construction, transgress boundaries of easements and public space, or redirect overland sewers to make space for their buildings. Moreover, as we have shown, people often do not possess the documents and deeds required by the law. The land authorities are partly responsible for the situation as urban plots are not always adequately measured, certificates are issued for unsafe land, and institutions rarely cooperate in the evaluation and administration of these plots and houses. Not only do land authorities not always collaborate but, they often compete over the rents of public office. As an employee in the Department of Urbanisation and Housing noted: "It is a conflict of interest. The Communal Houses and the Department oppose each other regarding who has the right to issue this document."⁸

In this manner, authorities of one institution may explicitly invalidate titles delivered by competing state authorities (van Overbeek 2014). This competition weighs heavily on Panzi residents who can never know if the recognition they have received from a land authority is going to be valid when another one decides to pay them a visit. As one resident put it:

There is a competition between the different land and property authorities. When one of them comes he has a tendency to ignore and dismiss the work of the other authorities and he tells that his service is the only one that can help you and that you should therefore place your trust in them. Since that is how it is, you pay them something. But then others come and tell you the same thing and that the money you had just paid is wasted. All of this

harassment means that we have no confidence in anybody.⁹

This competition is compounded by the at-best derisory payment that state officials receive as compensation for their work. State officials adapt by seeking out potential claimants to whom they may issue certificates, and transgressions they may resolve or issue fines for (van Overbeek 2014).

Knowing full well how widespread transgressive land practices are, land authorities pressure residents to pay for their transgressions yet without issuing any kind of official recognition of their rights to own their plot and to build on it. Overall 34.4 percent (93) of households reported having paid something to various authorities to protect their property over the past 12 months. Average payments for those households amounted to 101 USD (an average of around 5.8 percent of their total household income).

The uncertainty of tenure security and the selective deployment of the law provided a basis for Panzi residents' distrust of the land authorities. Said one resident of Bukavu's land authorities:

[The authorities] do everything they can in order not to inform us about how to acquire a title and about how much that may cost. And even when they do tell you, they do everything they can to hide the truth about the prices of the different documents you need. In that way they can keep you in a situation where you are always guilty so they can force you to negotiate with them.¹⁰

According to another:

All these authorities involved in land governance do nothing for us the inhabitants. They are only looking for their own part when someone sells a house or a plot. We have faith in no one. Only God is just.¹¹

LAND CONFLICTS

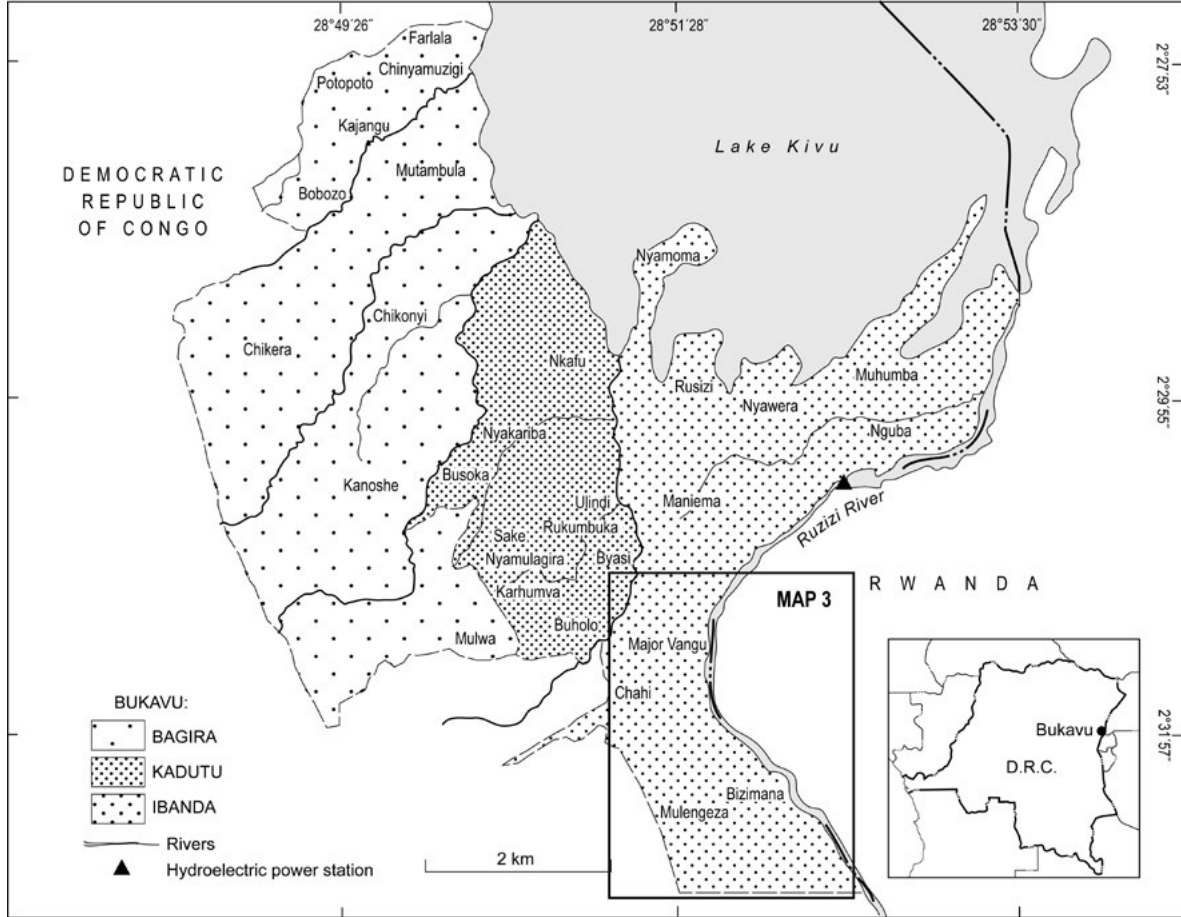
A high frequency of land conflicts is one of the consequences of Panzi's "property anarchy" is the high frequency of land conflicts. 33.9 percent of our respondents reported to have been in a land conflict during the preceding 12 months. The majority of these land conflicts are over plot boundaries. These conflicts often emerge because people try to push the limits of their plots into a neighbor's plot. Torrential rains seasonally contribute to the frequency of these conflicts, as they may erase the boundaries between plots, especially when they result in mud- or landslides. These may destroy houses and result in death or injury. When such events occur, it may be difficult to reconstruct the limits between plots, which in turn can lead to conflicts between neighbors. It may also lead to a public blame game between

authorities over who is responsible for allowing people to build on sites that are not suited for construction. Other frequent forms of land conflict relate to the channeling of waterways and sewage, the blocking of public passageways, and inheritance conflicts.

It is important to note that authorities are not equally distrusted. The *cadres de base* seem to be more trusted than the others because it is perceived that they actually help solve people's problems, especially people's land related problems with their neighbors and family members. However, they also help solve other pressing problems such as curbing crime (Perazzone 2018).

In 45.81 percent of the cases, a *cadre de base* was the first authority people went to when there was a land-related conflict. Moreover, the majority (55.49 percent) of the payments made to authorities were paid to a *cadre de base*. By comparison, 25.61 percent had paid something to the land authorities, while 13.41 percent had paid something to the police. In general, people only approach the judicial system or land authorities when the parties are not able to solve a land conflict themselves (29.1 percent preferred to not approach any authorities) or with the help of a *cadre de base* or other nonofficial authority, such as a church leader or a local notable. There are three main reasons for this. Firstly, *cadres de base* are cheaper to commission than higher-level authorities. Secondly, they are generally more trusted. Thirdly, they are focused on finding a compromise that works for all parties involved, often referred to as an "*arrangement à l'amiable*" (a friendly deal), which helps to avoid escalation. As one Panzi resident mentioned: "I only have faith in the *cadres de base* because they are there to accompany us and to support me in solving my problem with the former owner of the plot. After that I paid them a little bit as a sign of gratitude." Moreover, the *cadres de base* live among Panzi residents and thus share many of the same difficult life conditions and have social relations and daily interactions with them. All this indicates that there is a sense of community between the *cadres de base* and the Panzi residents based on personal relations, shared hardship, and the need to solve pressing problems. One of the shared concerns between the residents and the *cadres de base* seems to be keeping the higher-level authorities away as a means to avoid escalation and higher costs. By solving land issues at the level of the *avenue*, *cellule*, or *quartier*, residents and *cadres de base* can redistribute resources among members of the community, rather than be extorted by distant authorities looking to line their pockets.

However, it should be noted that residents generally have an ambiguous relationship with the *cadres de base*. This is largely due to the latter's position as intermediaries between higher-level authorities and Panzi residents. Much like customary chiefs in the rural areas, the role of *cadres de base* is very important for the higher-level authorities who rely on them due to their status as local notables and because they have good knowledge



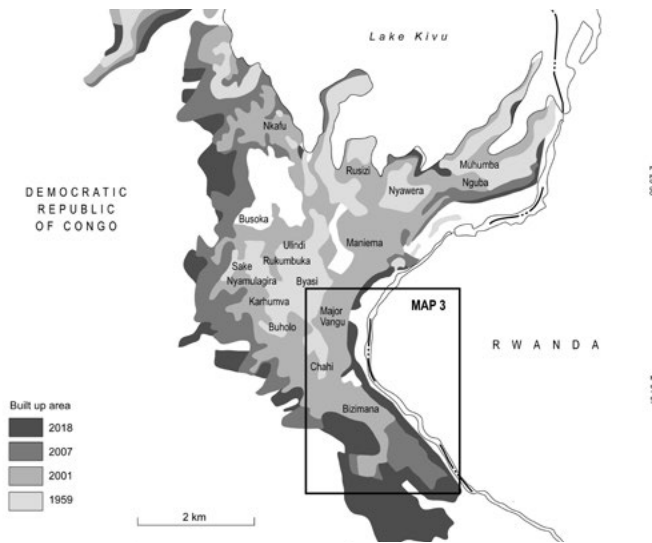
Map 1. Bukavu

of what is going on in the entities they govern. One *chef d'avenue* remarked: “the *cadres de base* are like scouts for the authorities. We are mines of precious information. We are the ones that have all the information about land in our entities”.¹² Indeed, several residents accused them of collaborating with the other land authorities in pointing out transgressions, and for selling plots even though they have no right to do so according to the land law, and despite some of the plots being unfit for construction or are built on public land.

Panzi residents are not equally exposed to the practices of rent-seeking by land authorities in Bukavu. Nor are they equally likely to have a satisfactory outcome in a land conflict. As stated above there is a significant statistical relationship between high household income and having a certificate of ownership. People who have the necessary financial means are able to buy a certificate of ownership from the *conservateur des titres immobiliers* and the *Cadastre*. This is usually enough to protect them against expropriation and encroaching neighbors or competing claims to the plot in the case of

multiple claimants. Moreover, with sufficient financial means, one can pay soldiers to protect one’s property in case of a land conflict with a neighbor. Money also enables people to bring their land conflicts before the court, whose rulings can also be swayed by money. However, no one in our survey had actually taken this step. There are other ways also by which people can protect their plot. Alongside using one’s financial means, the most effective way to protect one’s property or to gain the upper hand in a land conflict is by mobilizing social relations. This is referred to as *trafic d’influence* (influence peddling) or using one’s *parapluie* (umbrella). As one resident put it: “Some residents who are friends of the authorities do not hesitate to use their influence and surround themselves with soldiers, especially when they build their constructions.”¹³ According to another:

The authorities privilege those who have connections or family members or are friends of politicians, especially provincial ministers and deputies. These people do not have to pay the money



Map 2. The growth of Bukavu's built-up areas

that we pay to the police or the agents who come to control us. It makes us angry and it is not good.¹⁴

And a third:

The Congolese state is not committed to protecting its citizens and their property. On the contrary, it tries to strip them of the little things that they possess. It locks its system. In order to unlock it, you have to use influence peddling via one's important connections: deputies, ministers, or military or police officers.¹⁵

In other words, people's social and economic position in society, as reflected in the economic resources and social relations they are able to mobilize, are the main factors shaping the degree to which their property rights are recognized and protected.

The issue of property rights is among the most important issues facing Panzi residents. Yet for most people, property rights are elusive. This is partly due to the legislation, which denies people definitive property rights. However, our research suggests that practices of governance, rather than deficiencies in the law, are the main causes of tenure insecurity in Bukavu. These practices produce and reproduce an unequal social structure of power relations, where people's economic assets and the relative power of their social relations strongly condition their access to land and their property rights. The driving rationale behind these practices is economic rather than legal. People's property rights are withheld from them with the aim of generating resources for the land authorities. This means that land authorities de facto use the law as an instrument to keep people in a situation of permanent

illegality, which makes them vulnerable to extortion. Hence, while Panzi's land authorities mobilize the law, they do not typically do so to bring people in compliance with it. Instead, they use the law as an instrument to threaten residents into a negotiating a transgression fee or fine. In this way, Panzi residents are able to acquire a kind of temporary right to break the law, until the next authority comes along asking for another fee. In Bukavu, in most cases money can buy a person a plot, a house, and the necessary documents to render the acquired property legal. However, in order to truly enjoy the security that comes with obtaining legal status, you also need protection from powerful individuals capable of enforcing your property rights. This makes it almost impossible for all but the well-off and well-connected to possess perennial rights in Bukavu.

Panzi residents and the various authorities involved with land governance can all agree that Panzi's process of urbanization is anarchic and fundamentally disregards the law. However, they do not at all agree about who is to blame. Panzi residents tend to blame the authorities, especially the higher-level authorities such as those of the Department of Housing and Urbanisation and the Land Registry Office. As one resident remarked:

The law is not respected. There is corruption and influence peddling of the land authorities by those who have built property, for example on public land, such as those who have built on the easements and roads. Before 2000 all of Bukavu's neighbourhoods could be accessed by car. This is no longer the case due to the effect of anarchic constructions.¹⁶

For their part, the *cadre de base* accuse both Panzi residents and the higher-level authorities of being responsible for the "anarchy." According to one *chef d'avenue* (head of avenue):

[The land authorities] come to sell dangerous land. They even sell off the easements. When they have gone we are left behind with the consequences of their immorality. They don't guide people to avoid anarchic constructions. Instead they give in to corruption and sell plots that they do not have the right to sell.¹⁷

The higher-level land authorities blame the residents and the *cadres de base* for the anarchic constructions. For instance, according to a *chef de bureau* in the Mayor's Office, the *cadres de base* are largely responsible for the proliferation of anarchic constructions since they sell off plots that are not fit for construction.



Map 3. Panzi neighborhood

CONCLUSION: WHO'S ANARCHY?

Property rights are highly tenuous for the vast majority of Panzi residents. Only 11.9 per cent of our respondents possess the required certificate of ownership. According to Congolese land legislation, this is the only title deed that confers valid property rights to people, albeit these are only user rights. Due to the difficulty of obtaining such a certificate of ownership, Panzi residents possess a number of alternative documents, which they are able to use as proxies for a legally valid title deed, including the bill of sale between the seller and the buyer of a given plot, which does not confer property rights, unless connected to a certificate of ownership at the Land Registry Office. Nevertheless, the bill of sale is treated as valid among Panzi residents and to some extent by the *cadres de base* and as such, confers a minor degree of tenure security to those people who possess it. However, it does not protect residents against rent-seeking authorities or people with the means to purchase an ownership certificate for the same plot. Moreover, if a state institution decides that the state is in need of that plot, without a certificate of ownership, people can be legally expropriated without compensation.

In conclusion, it is not simple to determine whether or not someone has property rights in Panzi. The property rights of Panzi residents are situated on a continuum largely conditioned by people's financial means and the political, coercive and economic power of their *parapluie*; that is, their social connections.

Political theory tends to assume that in the absence of a strong central state, anarchy prevails. Conventionally, anarchy is associated with a spontaneity, rage, instinctual behavior, corruption, and the proliferation of violence and crime. Yet, this brief suggests that Bukavu's "property anarchy" is anything but anarchic in the conventional sense of the word. Rather, illegality is produced through the daily practices of land governance. The problem with framing the nexus between property, conflict and land governance as anarchic in the conventional sense of the term is that it conjures up a dichotomous understanding of legality and illegality. However, in practice, the law does not operate in this way. Neither the law nor anarchy, or the legal and the illegal, refer to objective universal states of being or domains of actions. Instead, the boundary between the two is drawn through concrete political struggles (Mitchell 1999). Thus, when such distinctions are evoked, we must not take them as boundaries between discrete domains or identities (the legal v. the criminal subject), but as attempts by different groups or individuals (more or less coordinated) to establish, maintain, or disturb a certain political order and the distribution of power and wealth that it protects. What is at stake in the nexus between land governance, conflict, and property rights in Panzi is who has the right and ability to define and impose limits between illegality and legality, even at the microlevel between neighbours. What counts as legal is not predominantly determined by the law, but rather through struggles to define or impose a certain definition of "anarchy-order." This means that people's property rights and the outcomes of land conflicts are determined by the total political, social, legal, coercive and financial resources that they can muster. This condition of "anarchy-order" has been dubbed locally as "*justice à deux vitesses*" meaning that justice is rendered differently according to who you are, who you know, and what you are worth. Therefore, in order to understand why most of Panzi plots and buildings are illegal—that is, do not conform to the rules of the law—it would be misleading to resort to stereotypical notions of anarchy. Rather, what needs to be understood and answered is how notions of anarchy and order are employed and in whose interest.



Photo from Panzi

ENDNOTES

- 1 They are: Major Vangu, Bizimana, Mbeke, Mushununu, Mulengeza 1, and Mulengeza 2.
- 2 This data was compiled at the Bureau of Panzi Neighbourhood, the Municipality of Ibanda, the Mayor's Office in Bukavu, and at the Provincial Ministry of Interior of South Kivu.
- 3 Interview, resident, Panzi, December 3, 2016.
- 4 Interview, *chef de quartier*, Panzi, December 2, 2016.
- 5 Interview, resident, Panzi, December 1, 2016.
- 6 See also van Overbeek 2014.
- 7 Interview, employee, Provincial Department of Housing, Bukavu, August 24, 2016.
- 8 Interview, employee, Provincial Department of Housing, Bukavu, August 24, 2016.
- 9 Interview, resident, Panzi, December 1, 2016.
- 10 Interview, resident, Panzi, December 2, 2016.
- 11 Interview, resident, Panzi, December 1, 2016.
- 12 Interview, *chef d'avenue*, Panzi, December 4, 2016.
- 13 Interview, resident, Panzi, December 2, 2016.
- 14 Interview, resident, Panzi, December 4, 2016.
- 15 Interview, resident Panzi, December 5, 2016.
- 16 Interview, resident, Panzi, December 4, 2016.
- 17 Interview, *chef d'avenue*, Panzi, 6 December 2016.

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