



Access to land rights and transitional justice:

Experiences of returnees and displaced persons in Northern Uganda



Belgium
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Access to land rights and transitional justice:

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Acronyms

ADR:
Alternative Dispute Resolution

ASF:
Avocats Sans Frontières

CBoW:
Children Born of War

CSOs:
Civil Society Organisations

DGDs:
Belgian Development Cooperation

FAPs:
Formerly Abducted Persons

GoU:
Government of Uganda

HIV/AIDS:
Human immune Virus/Acquired Immune Deficiency Syndrome

IDPs:
Internally Displaced Persons

INGOs:
International Non-Governmental Organisations

LCs:
Local Councils

LCCs:
Local Council Courts

LRA:
Lord's Resistance Army

NGO:
Non-Governmental Organisations

NINGOs:
National Non-Governmental Organisations

RDC:
Resident District Commissioner

SoPs:
Standard Operating Procedures

UGX:
Uganda Shillings

USD:
United States Dollars



Foreword

The LRA insurgency disrupted the livelihood of the people in Northern Uganda and led to immense suffering, loss of lives and property. The aftermath of the war and the prolonged displacement of people into the Internally Displaced Persons camps as well immensely contributed to loss of access to land, land conflict and poverty in the region. Due to the displacement, death of elders and distorted land tenure system at the time of the war, many victims could not immediately identify their locations and relations.

While there is a lot of literature on land rights in post conflict communities, the link between reparations and access to land rights for war survivors war is fuzzy. This research explains the depth and nature of some types of contemporary land grievances and experiences and the extent of vulnerability of the LRA war survivors. The research also focuses on the type of justice institutions available to justice seekers, the justice pathways people or groups of people take in order to seek solutions to their grievance.

The people in Northern Uganda derive their livelihood from farming and their main economic factor is land. Access to land is a fundamental pillar in development and the promotion and protection of human rights is strategic in transformation of their lives. Therefore, Government is committed to addressing land issues in post conflict communities to build confidence and ownership of their resources for economic transformation.

All stakeholders are therefore called upon to ensure that the war victims and vulnerable persons gain access to land. This could also be an opportunity to build stronger traditional and formal institutions to resolve land conflict and ensure effective land use and management.

For God and My Country

Kwiyucwiny Grace Freedom,
MINISTER OF STATE FOR NORTHERN UGANDA.



Executive Summary

Uganda witnessed a remarkable number of land disputes when IDPs started trying to access their pre-displacement homes (Hopwood, J., & Atkinson, R. 2013), following about a one decade protracted war, which caused displacement up to about 2006. Displacement and the consequent uncertainty over land boundaries and rights paved the way to land grabbing practices over vacant lands (Adoko, J., & Levine, S., 2004; Mabikke, S., 2011). These disputes range from small to large scale disputes, at the individual level involving returnees, to those at the community-level between families and clans. The disputes further extend to other actors, such as companies who have acquired land on a large-scale basis for investment and commercial purposes and government institutions (Hopwood, J., & Atkinson, R. 2013).

Uganda has several institutions responsible for resolution of land disputes, mandated and un-mandated by the law, including the formal courts system, Local Council Courts, traditional institutions and many other civil societies who offer legal aid and mediation services. Thus, Returnees had (and still have) the possibility to use these different institutions. However, each of the available institutions has limitations and it is not coordinated to others. This situation has contributed to unending dispute resolution processes. Consequently, none of the land dispute resolution mechanisms have produced outcomes that could be described as thoroughly transformative of the conflicts over land.

Since the existing literature does not offer exhaustive information about returnees' attitudes towards different justice mechanisms, and considering the lack of recent studies about returnees' current needs in terms of reparations, the upcoming research aims at understanding the reality of justice paths and the actual challeng-

es faced in restoring land rights before the different forums

To better understand the reality of justice paths and the challenges in restoring land rights by conflict affected populations in northern Uganda, ASF conducted a research in December 2020.

The study applied qualitative participatory methodologies including focus group discussions, key informant interviews and in-depth case studies with 180 respondents (89 women and 91 men) from the districts of Nwoya, Amuru, Kiryandongo and Gulu.

The study found that the major causes of land disputes in post-conflict northern Uganda are related to economic factors. Specifically, Land speculation fuels land disputes and conflicts in northern Uganda, contributed by increased interest in land in the region by multinational companies, investors and elites to make way for private investments. Additionally, the reduction in the numbers of elders who are custodians and knowledgeable of cultural norms, rules and principles of land ownership and boundaries added to the problem. The known landmarks had disappeared, and subsequently, boundaries became unclear in the returnee communities.

These factors combined, negatively impact the land rights of women, orphans, the elderly and other vulnerable people in the return communities. In particular, women and children, widows, orphans, returnees or formerly abducted youths, child-mothers and Children Born of War (CBoW), were unable to reclaim their land and to return to their places of residence.

The study also found that land loss resulting from unresolved disputes in the returnee communities has negatively affected economic development of individuals, their families and

communities, including through reduced agricultural productivity. Consequently, the most affected individuals have had to seek alternative livelihoods; including casual labour in and outside agriculture. Land loss additionally contributed to associated psychosocial impact, including reduced social status and stigma especially towards men who are rendered unable to provide for their families, as well as, women who are barred from passing on land to their children. Land losses also increased safety and physical security threats on those affected. People report losing their land and homes to violent attacks while in some cases, people had their gardens and homes destroyed in land dispute, and their loved ones killed in the process.

In Uganda, land dispute resolution mechanisms are governed by two parallel yet interrelated systems, i.e., the customary and statutory mechanisms to ensure justice for land related disputes. However, the study finds that currently, both customary and statutory dispute resolution mechanisms for land in Acholi sub-region are unable to provide effective resolution of land cases and to offer remedy or reparation for the population in the return communities, with an even more complicated situation for women and other vulnerable groups. In particular, both mechanisms faced with so many challenges that undermines people's experiences to seek justice for land related cases. First, the lengthy processes to secure justice for land matters causes delay in handling and successfully concluding land cases. In most cases, the elite and powerful individuals exploit the lengthy processes to their advantage. The cost of seeking justice for land matters are high for the ordinary people to afford, especially those who are most affected by land loss. Both customary and statutory mechanisms require payments to access it although the amounts vary across the mechanisms, with the latter noted by respondents as more expensive. Thirdly, formal courts tend to be located far away from the respondents community, increasing the cost of accessing justice. Moreover, although the customary mechanisms are easily accessible, they are also faced with challenges of inconsistencies in standards, rules and procedures that affect their ability to ensure fairness in their operation. Other factors include: the challenge



of enforcement of land rulings and decisions; the lack of awareness about land rights and additionally the threat to physical wellbeing, fear and intimidation also contributes to people giving up on their land rights.

As outlined above, it is clear that currently, both customary and statutory dispute resolution for land in Acholi sub-region are unable to provide effective dissolution of land cases and to offer remedy or reparation for the population in the returnee communities, with an even more complicated situation for women and other vulnerable groups. The central questions, thus remain, if both statutory and customary mechanisms of dispute resolution are to be effective in addressing cases of land disputes in the return communities, how can the present deficiencies, gaps and challenges be addressed? And, perhaps more importantly, what avenues exist to restore conflict affected population land rights before the different forums, and ensure a more victim-oriented reparations' framework?

A comprehensive land restitution strategy as part of the transitional justice process should, therefore:

1. Be familiar with the structural discrimination and barriers to women's, girls' and other vulnerable groups' equality that underlie the culture and structure in Acholi sub-region.
2. Be responsive to structural barriers along; low level of literacy and require low evidentiary proof or documentation, if any, in making land rights claims.

3. Be part of the larger transitional justice process, including, acknowledgement, truth-telling, investigation and documentation.
4. Provide free legal aid services to vulnerable members of the community, including women, orphans and young people, to help defend and protect their land rights.
5. Intensify efforts to ensure that conflict affected population land rights are fully respected, enforced and restored in the return communities:
 - Provide adequate resources and capacity building to both the statutory and customary mechanisms to fulfil their purpose in land dispute resolution, including;
 - Train personnel to engage with the communities on land matter and help clarify information; and officials responsible for land administration in gender sensitivity and women's and girls' rights to ensure equal access and non-discrimination of land both under statutory and customary law.

On a more general level, based on the research findings, the following recommendations are presented:

1. The GoU should ensure proper enforcement of land dispute resolution decisions by formal and informal justice systems by promoting better enforcement of land dispute decisions.
2. The GoU and stakeholders should work with Ker Kwaro Acholi towards the harmonisation of customary land dispute resolution processes, proper documentation of proceedings, and overall record keeping.
3. The Government of Uganda should redefine processes of land acquisition for multinational companies and investors in ways that are transparent, accountable, and involve local communities to reduce mistrust and help build confidence in on-going development initiatives in the region.



Introduction and Background

Dealing with past human rights violations has become a common feature of societies that emerge from an atrocious past characterized by massive violations of human rights. These measures range from justice, truth, reconciliation, guarantees of non-repetition, reparation. One of the key human rights violations following the two-decade war in the post war Northern Uganda relates to land rights. This is because land occupation and ownership have been substantively affected as a result of people fleeing from the over two decades' war. Northern Uganda as a region, experienced about two decades of civil war which arose as a result of rebel activity. This particularly affected the Acholi, Lango and West Nile sub-regions as well as the Karamoja sub-region (Mabikke, S. B. 2011). The government officially ordered the majority of the rural population in the Lango and Acholi sub-regions into Internally Displaced Persons' (IDP) camps in September 1996 (Branch, A. 2007; Branch, A. 2005; Hopwood, J., & Atkinson, R. 2013).

By 2004–5, nearly two million northern Ugandans had been driven from their homes and fields and relocated to IDP camps (Hopwood, J., & Atkinson, R. 2013). The majority of these, numbering about a million people and comprising more than 90% of the sub-region, came from the Acholi sub-region¹, where official government-enforced displacement began in 1996 (Hopwood, J., & Atkinson, R. 2013). Thus, 78% of a population originally dependent on subsistence farming was either forced to leave their land altogether or was unable to access it due to the threat of violence from the Lord's Resistance Army (LRA) or the orders of the UPDF (Uganda People's Defense Force) (Adoko, J., & Levine, S. 2004).

This extensive displacement led to confusion and uncertainty over land boundaries and land rights, and loss of communal knowledge following the death of elders, which in turn, created a space for the more powerful to engage in land grabbing (Adoko, J., & Levine, S. 2004). Consequently, in 2006, following the cessation of Hostilities agreement, in which the government declared it safe for formerly displaced persons to return to their pre displacement homes, the region witnessed a remarkable number of land disputes (Hopwood, J., & Atkinson, R. 2013). These disputes have ranged from small to large scale disputes, **including disputes involving returnees at the individual level to disputes at a community-level between families and clans**. The disputes further extend to other actors, such as **companies who have acquired land on a large-scale basis for investment and commercial purposes and government institutions such as hospitals and schools** (Hopwood, J., & Atkinson, R. 2013) as well as individuals formerly displaced onto publicly owned land.

Research shows that returnees have undertaken different paths to have their land disputes resolved and have expressed different reparation needs, ranging from restitution (the return of cattle lost during the conflict and land restitution) to compensation and apologies (Beyond Juba Project, 2010 and 2009; OHCHR, 2007; ICTJ & HRC, 2005). This has meant that they have consulted the several dispute resolution mechanisms, mandated and un-mandated by the law, including the formal courts system, Local Council Courts, Traditional Institutions and many other civil societies who offer legal aid and mediation services. However, each of the

¹ Acholi sub-region is comprised of eight districts: Gulu, Amuru, Nwoya, Kitgum, Lamwo, Omoro, Pader and Agago.

available institutions have limitations, including a lack of coordination between them and because they do not align themselves, this has contributed to unending dispute resolution processes. Thus, none of the land dispute resolution mechanisms have produced outcomes that could be described as transformative. This is because the disputes as well as land concerns resultant from the war continue to affect the majority of formerly displaced persons even over a decade after the declaration of the return phase. The National Transitional Justice Policy passed in June of 2019, also acknowledges land conflicts as a post conflict issue and integral to reintegrating victims back into their communities.

Although the existing literature acknowledges existence of multiple justice paths consulted by former IDP's in their pursuit for justice, the literature does not offer exhaustive information about returnees' experiences with the different justice mechanisms, and neither is there any literature on the coordination approaches adopted by the multiple justice paths. The upcoming research therefore seeks to understand the reality of justice paths and the actual challenges faced in restoring land rights before the different forums. This will in a broader sense contribute towards advocating for the development of a victim-oriented reparations' framework.

In particular, this research intends to look at the following key areas:

- > Understanding returnees' and displaced peoples' experiences of respective justice mechanisms. This should include mapping out the loss/harm suffered as result of displacement in respect to land rights
- > Highlighting key barriers preventing successful dispute resolution
- > Exploring the relationship between/among the existing mechanisms
- > Developing key recommendations shaped by the above findings.



1.1. Methodology

1.1.1. Research Methods

To understand the reality of justice paths and the challenges faced in restoring land rights by conflict affected populations in northern Uganda, ASF conducted a research in December 2020. The research used qualitative participatory methodologies to gather detailed descriptive information on the returnees and displaced person's justice paths and their experiences of claiming their land rights using the different justice mechanisms in the return communities. This section of the report outlines the methods used.

Study Site:

The study targeted the districts of Nwoya, Amuru and Kiryandongo. Amuru and Nwoya. These districts were selected because they were heavily affected by the Lord's Resistance Army (LRA) conflict in northern Uganda, and witnessed increased cases of land conflicts and disputes after displacement. Kiryandongo District, on the other hand, was selected since it was a host district for the most displaced population from northern Uganda. Gulu City was also included in the study since most of the Civil Society organisations (CSOs), NGOs and key stakeholders working in Acholi sub-region are based out of Gulu City.

In each district, two sub counties were selected for the research. In Nwoya District, the study was carried out in the sub-counties of Koch Goma and Lungulu, while in Amuru District, the study was carried out in the sub-counties of Pabbo and Lamogi. In Kiryandongo District, the study targeted the sub-counties of Kigumba and Kiryandongo respectively.

Selection of participants:

Research participants were selected in close collaboration with the area local leaders and research assistants who were mainly local people from the study sites. The selection of participants ensured the full and active representation of diverse views and experiences of land loss related to the prolonged displacement in northern Uganda. Research participants included; women, men, youth, formerly abducted persons (FAPs), widows, unmarried and single women, disabled people, orphans, among others. The selection paid attention to; education level, age, gender, class, language, among others, to enlist a broad based perspective for the study.

The details of study methods:

- > **Focus Group Discussions (FGDs).** 15 FGDs were held with 119 people (66 females and 53 males) spread across the study sites. FGDs were conducted with the following groups: youths (3), men and women (3), formerly abducted persons (FAPs) (3), widows, orphans, unmarried and single women and other conflict affected persons/ mixed group (3) who experienced land loss in the post-conflict period. Each FGDs comprised 8 to 10 participants per group. The group composition paid attention to gender and age considerations among other identities. FGDs were held in places preferred by the participants to ensure their safety and comfort when discussing the sensitive subject of land rights. Women facilitators and note takers facilitated the women FGDs, while men facilitators and note takers joined

the men's FGDs to allow for more open discussion on sensitive matters. However, one mixed FGD comprised of men and women was conducted in each of the districts. FGDs provided broad insights from participants to learn from their experiences of land loss in the post-conflict period, including the impact and their attempt to claim justice for their land loss.

- > **Key Informant Interviews (KIIs).** The study conducted 28 KIIs 5 female and 23 male respondents. The KIIs participants consisted of: CSOs representatives, leaders of cultural, religious and local government – Local Councils (Is – IIIs) and some local government staff – Community Development Officers, Police Land Desk Officers among others. KIIs respondents were actors from institutions and organisations at the district and sub-county level whose mandate included supporting land rights claims in the post-conflict period. The interviews sought to gather their experiences and insights on land rights matters in the post-conflict community. In general, the KIIs helped to clarify and provide more understanding of the involvement of the different actors and stakeholders in land right claims.
- > **Case studies** were conducted with 33 participants (18 females and 15 male) who had suffered land losses in the post-conflict period – following return from the IDPs camps. The interviews were conducted in the participants' homes or selected safe spaces identified by them. The case studies provided more depth and insight into the research participants' experiences of land loss and claim for justice in the return communities.
- > Although the report emphasis is on the use of primary data, **relevant secondary data** sources were examined, including scholarly and other publications, and grey (unpublished) literature to add and support primary data analysis. When relevant, key texts are cited throughout the report.

1.1.2. Research approach, management, quality control and analysis

- > The study was conducted by a team of 15 trained research assistants, who also had a good understanding of the post-conflict context in northern Uganda. The ASF research team ensured daily presence and close supervision of the study until the end. Prior to data collection, the enumerators/ fieldworkers were trained in appropriate methods of conducting KIIs, FGDs and case studies, in research ethics that "Do no Harm", and in obtaining informed consent.
- > Authorization was sought from relevant district and sub-county officials before carrying out the study.
- > In observation of the COVID 19 Standard Operating Procedures (SoPs), all FGDs were kept small, socially distanced and held in open spaces to limit the risk to participants. The facilitators and participants sanitized and wore masks throughout the research.
- > The interviews were conducted in Luo, the language of the study area, except with government officials and CSOs/NGOs staff who fluently spoke English. All information was confidentially kept and respondent's information anonymised.
- > The interviews were hand written and later typed on a computer to allow for cleaning, and editing.
- > To support analysis, all interview notes were read by the study team to identify themes and codes to inform the findings. To ensure reliability, the findings of the study were compared with the findings of previous studies, triangulation of the different data sources for this study, and insights from ASF staff who conducted the study.

1.2. Study Limitations

- > The main limitation was the Covid-19 pandemic that required the research team to meet with a limited number of respondents. This challenge was mitigated by coordinating closely with the local leaders in the field to mobilize research participants, and conducting FGDs with small numbers of participants (8 – 10).
- > To ensure adherence to Standard Operating Procedures (SoPs), all FGDs were held in open spaces and spacious settings, such as school compounds, under a tree, spacious rooms with large windows to limit the risk

of infection to participants. The facilitators and participants sanitized and wore masks during the interviews, with seats properly spaced in accordance with SoPs.

- > Some of the study participants raised concerns about the extractive nature of research by NGOs or other researchers who do not share any information with the community post the study. This was mitigated by assuring them of the anonymity and confidentiality of the information, and ASF's commitment to take back the report findings to each of the communities involved in the study.





RESEARCH FINDINGS

1. The Nature, Causes, and Impacts of Land Disputes

The findings are structured in three key parts: 1) The nature, the causes and impacts of land disputes in the return communities; and 2) land dispute resolutions mechanisms, its interlinkages, the actors involved, and experiences of displaced people using the mechanism to reclaim their land rights. The last section of the report offers recommendations based on the study findings.

1.1. Nature and types of land disputes

Land disputes in Acholi sub-region, northern Uganda, comprise of disputes between individuals, families, and clans; between tribes; disputes from the creation of new administrative units; and disputes resulting from on-going investment and development initiatives in the region. In the return communities, numerous cases of land disputes and conflicts between families, neighbors, and clan members exist. Most of the cases relate to border or land boundary disputes: disputes between a widow and her in-laws or late husband's family; disputes between siblings/co-wives in a polygamous family; disputes between neighbors and relatives over land ownership and boundaries; and, disputes between clans over land boundaries or ownership. There are also land disputes and conflicts arising from boundaries and land

borders between districts and sub-counties in the newly created administrative units. According to interviews with a local government official of Amuru district, there exist boundary disputes between Atiak and Pabbo sub-counties in Amuru district, as well as, an on-going border boundary conflict between Adjumani and Amuru districts – the Apaa land.²

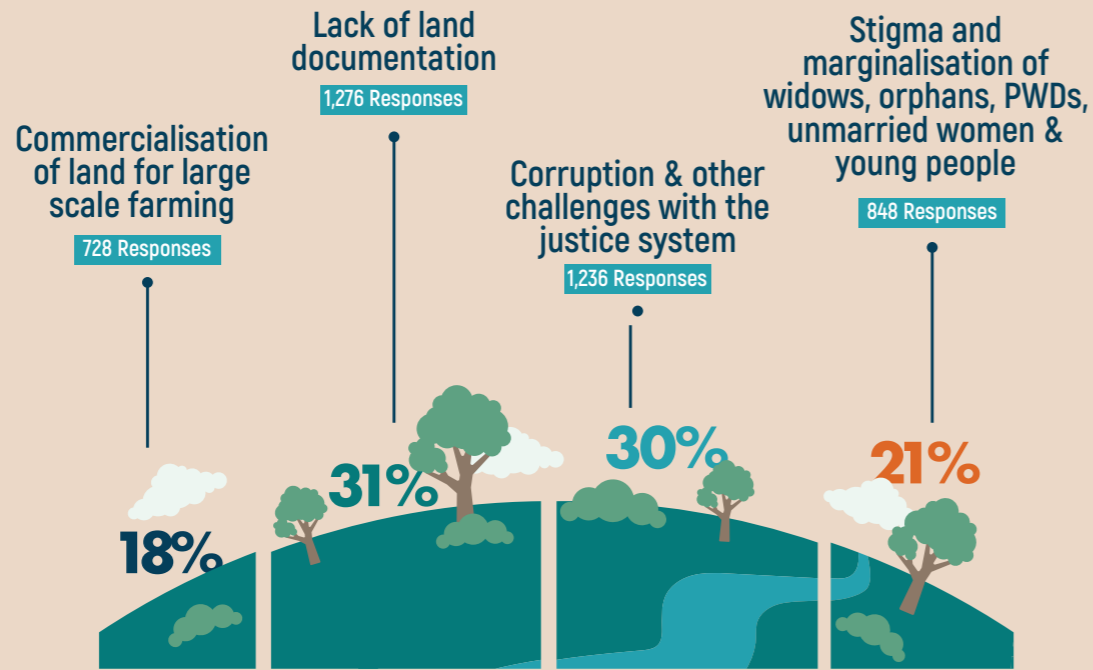
Additionally, there are cases of land grabs through fraudulent, illegal and unfair means by individuals, public or private enterprises away from local people who owned, inhabited and farmed the land for years. The cases involve instances of private investors who liaise with local leaders in the return communities to deprive the poor and vulnerable people like widows, orphans, the elderly among others, of their land rights.

² Saferworld (2013) "Promoting conflict-sensitive approaches in Amuru district, northern Uganda: Understanding and addressing land disputes." Available at <https://www.saferworld.org.uk/en-stories-of-change/promoting-conflict-sensitive-approaches-in-amuru-district-northern-uganda>. Accessed on 9/11/2020. Also see, SaferWorld 2014 Policy Brief, "Whose land is this? Assessing the land conflict between the Acholi and Jonam tribes in Northern Uganda" Available at: <https://www.files.ethz.ch/isn/182380/147---uganda-land-conflict-briefing.pdf> . Accessed on 9/11/2020. Also see <https://gwed-g.org/understanding-land-rights-situation-in-nwoya-district-a-reflection-from-pelard-n-inception-meeting/>.

POLL THREE

Why are land wrangles still so rampant in post conflict areas?

TOTAL RESPONSES: 4,088

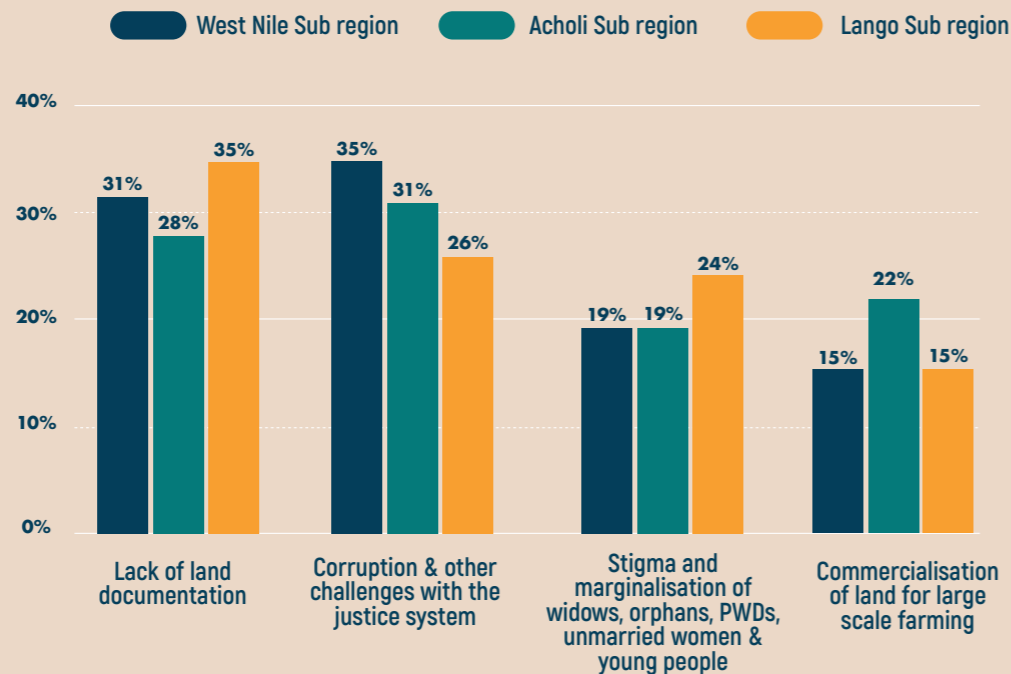


This poll question ran on 3 radio stations including Radio Pacis in West Nile, Radio Wa in Lango and Mega FM in Achol sub region from 30th Jan - Feb 9th 2021

POLL THREE REGIONAL

Why are land wrangles still so rampant in post conflict areas?

TOTAL RESPONSES: 4,088



This poll question ran on 3 radio stations including Radio Pacis in West Nile, Radio Wa in Lango and Mega FM in Achol sub region from 30th Jan - Feb 9th 2021

1.2. Causes of land disputes and conflict in northern Uganda

The main cause of land disputes and conflicts in post-conflict northern Uganda are majorly economic, but also the impact of the prolonged displacement, and challenges with the customary and statutory mechanisms of land dispute resolution mechanisms which exacerbates the problem.

The cases study below of one of the respondents, illuminates the experience of most of the participants interviewed. It highlights people's experiences with losing their land in the post-conflict community, often, through unscrupulous processes, including elite capture, abuse of power, intimidation, and weak land governance systems - a corrupted justice system - that is not responsive to the needs of poor and weak people- to help them defend their land rights.

Case study: Experience of land loss in the return communities

One morning in April 2012 at about 08:00 a.m. as I ploughed the land with my children, I was surrounded by armed and uniformed soldiers (six) and policemen (four). One of them said, 'Jal, etye ka timo ngo kany?' translated as; 'you, what are you doing here?' Before I could respond, one of them said, 'don't run, or I will shoot you'. They arrested, handcuffed and drove me in a Police patrol car to Gulu Central Police Station. I was not informed of the reason for my arrest but later learnt that afternoon when the judge read the case of unlawful trespass against me. I was remanded and spent six months in Lugore prison without trial. I lodged a complaint of unlawful de-

tention through legal aid services and I was produced in court but the complainant did not appear on four consecutive occasions. On the fifth appearance, I was accused of criminal trespass on a land in Alingiri vil-lage, but the judge granted me a non cash bail of UGX. 3 million (approx. USD 833)³ since I had overstayed in detention without trial. On release, I tried to use all the nec-essary mechanisms to resolve the land case but was unsuccessful. One day, I went to a Police Station to report a case of unlawful deployment of soldiers on my land, but I was instead arrested and taken directly to Gulu Army Barracks. I was produced before the Military Court Martial for illegal posses-sion of firearms, but the judge declined to try me - a civilian, before a military court. I was taken to the Magistrate Court in Gulu and sentenced to four years in prison for illegal possession of firearms -- despite no proof. Following my arrest, my brothers and other relatives also feared to dispute the land claim. They were threatened with arrest and imprisonment - that they would also 'rot in prison' like me. In 2017, I com-pleted my sentence and was released from Gulu prison, but I found when the accus-er had taken over ownership of our family land in Alingiri village. He surveyed the land and put mark stones while I was in deten-tion and deployed soldiers on the land to stop anyone from accessing it. I was told that they have even sold part of the land to some foreign investors and Indian com-panies for commercial Agriculture. That is how I lost my father's land. Currently I live on land I bought in 2018 at Lungulu trading center, measuring 40X40 meters only.⁴

³ 1 USD = UGX. 3,600/=

⁴ Interview, Male, Lungulu Sub-county, Nwoya District. December 2020.

1.2.1. Economic factors

Economic factors that drive land disputes in post-conflict northern Uganda range from the rising private investments, the role of elites, the increased value and sale of land, and land as the main source of survival for the majority of the population in northern Uganda.

1. Private investment: With the end of the armed conflict in northern Uganda, growing interest in agriculture -investment, especially in Acholi sub-region has contributed to land disputes and conflicts in the post-conflict period, as explained; *"When government decongested the IDP camps in 2008, by 2010, many people started selling their land to Indian companies and other foreign investors for rearing cattle and for commercial farming."*⁵ The protracted displacement left vast tracks of underutilised land, creating a perception of land availability in the region, leading to growing demand for land in parts of Acholi large tracks. In particular, land held under customary tenure (majority of land ownership in northern Uganda) are threatened; they are not demarcated or surveyed and titled, causing insecurity among land owners.⁶ Big multinational companies mainly owned by foreign investors require huge tracks of land, normally in thousands of hectares for large scale agri-business investments, fuelling land speculation and grabbing.⁷ A widow who lost her land through such means explained; *"My land is now for a Muyindi (an Indian). The land is now a place for the rich land grabbers who connived with the Local Council I, without fear to take my land when they realized that I had no one to defend my land rights."*⁸ Respondents noted that local intermediaries take advantage of the vulnerable poor, such as orphans and youth, widows, unmarried women and girls, and the elderly to cheat them of their land. The intermediaries take land in large tracks,

which they either lease out or sell to private investors. There were also cases of land loss resulting from government giveaway of lands inhabited and farmed by some locals for investments purposes. Land transactions for private investments that are carried out in non-transparent ways; without the involvement and compensation of land owners causes land disputes. The demand for land for private investment fuels elite capture in the return communities.

2. Elite capture: The elites, comprised of wealthy and powerful connected individuals reportedly use their resources, influences, and connections to fuel land grab, taking advantage of the poor and vulnerable members of the society to cheat them of their land. Elite capture includes private and public officials, including, government officials, military generals, relatives and local leaders who use their powers and position to dispossess vulnerable people of their land. Specifically, some of the local intermediaries reportedly connive with local leaders to cheat the land of weak family and community members, explained the same woman who lost her land; *"In 2018, my neighbour who has money together with the Local Council I of the place came to me very early in the morning with a letter asking me to leave the place within 14 days. They never allowed me to ask any questions except to receive the letter. Three days after I received the letter, they started fencing off the land. And any attempt to seek clarity from them was labelled as threatening violence against them. They beat my children who tried to ask them questions concerning the ongoing fencing of our land."*⁹ Respondents noted that some of the land grabs usually take the form of intimidation, threats and violence against vulnerable and poor people who can't resist or counter it be-



*cause of their impoverishment, lack of social and political connectedness or god fathers to protect their land claims. At times, the elites manipulate the existing mechanisms – both statutory and customary mechanisms to expedite their fraudulent land claims. For example, most of the land grab cases involve the use of the military and police to harass, threaten and intimidate people off their land, including through unlawful arrest and detentions, explained; "Our step-brother who is financially stable claimed whole of our family land after the war. He came with policemen and chased people away from the land, and went ahead to plough it. He even ploughed other clan member's land that border ours. ...Even after mediation, using his money and connections within government, he came back in full force and continued to plough the entire family land. ... When people tried to react to his land claim, this time using his connections, he came with the police, seriously beat and locked up family members; mothers and children for fear were locked up in their houses for days without food. And a lot of people were arrested and others fled for their lives and safety..."*¹⁰

3. Increased value and sale of land: In the return communities, there is increased value and sale of land, partly fuelled by the interest in large tracts of land for investments. Individual interest in land has also gone up in the return communities, often, for personal gain at the expense of the family and larger community – where land is communally owned. Some family members and relatives unlawfully grab and sell family or customary land, without the consent of other members, leading to disputes. For example, some of the displaced people returned to find their customary land inhabited and claimed by other family members who stayed back during the war. People who were more vulnerable such as war affected persons, orphans, and widows lost their land, explained a respondent; *"When I returned from LRA captivity, I found that both my parents had died. ...My paternal uncles denied me the right to use my father's land, which they later sold. ...I now have no land of my own to use."*¹¹ Some of the family members went ahead to sell land customarily owned to provide for their own needs, and bought their own land, leaving the rest of their family with little or no land to farm or inhabit.

⁵ Interview, Male, Lungulu Sub-county, Nwoya District. December 2020.

⁶ See Mabikke S.B., 2011 "Escalating land grabbing in post-conflict regions of northern Uganda" Conference paper on Global Land Grabbing. Land Deals Politics Initiative (LDPI) in collaboration with the Journal of Peasant Studies and hosted by the Future Agricultures Consortium, Institute of Development Studies, University of Sussex.

⁷ See Alliance for Food Sovereignty in Africa (AFSA), GRAINS and Radio Witness Organisation. (Aug 2020) "Land Grabs at gun-point." Available at https://afsafira.org/wp-content/uploads/2020/08/kiryandongo-report_compressed.pdf. Accessed on 9/Nov/2020.

⁸ Interview, Female, Pabbo Sub-County, Amuru District. December 2020.

⁹ Interview, Female, Pabbo Sub-County, Amuru District. December 2020

¹⁰ Interview, Male, Kiryandongo Su-county, Kiryandongo District. December 2020.

¹¹ Interview, male, Pabbo Sub-county, Amuru District. December 2020.

4. Land as a source of survival: Land is the biggest source of identity among individuals, families and communities in northern Uganda. It's also the main source of survival, with the majority of the population in the region reliant on land/agriculture as their main source of livelihoods. Without an education or other means to make a living, people's only hope is in land, which escalates conflict between individuals and family members as they compete for the only available piece or portion of land. Moreover, population growth exerts pressure on available land, affecting land ownership due to competing needs over the same piece of land. While the population expands, available land is scarce, forcing people to struggle and compete for it. In such a situation, the weaker family members and community are at a disadvantage, including orphans, widows, youth, the elderly and those in polygamous or large families. There were cases of polygamous or bigger families who experienced land disputes as the available land was not enough to accommodate the surviving members. In some cases, distant relatives or family friends who were given a portion of customary land to farm or use were either sent off the land or went on to claim the land as their own after the death of the family head, causing disputes. Moreover, taking advantage of the current process to title customary land in part of the region, some surviving elders (brothers in law, uncles) acting as homestead heads (often made up of several extended family households) reportedly manipulated the titling process to acquire the land in their names - supposedly on behalf of the family but later went on to claim it for themselves and their immediate family. Elders with large or polygamous families claimed other extended family member's share of customary land in order to serve the need of their large family, often, at the expense of the weaker households who cannot defend their land rights. This caused frustration, anger, mistrust and animosity among the affected households and are among some of the causes of land disputes and conflict in the post-conflict period. Some

of the affected households had either a very small portion of customary land allotted for their use or out of frustration, had left their family land to find alternative ways to survive in urban centres or periphery.

1.2.2. Impact of the prolonged displacement

The prolonged displacement of the population into IDP camps during the protracted northern Uganda conflict cut people off their land for long periods of time. In some places inside Acholi sub-region, people were displaced into the IDP camps for nearly ten years or longer. There is a surge in land disputes and conflicts in the return communities, evident by the cases handled by local leaders, which relates to land disputes caused by the prolonged displacement, such as boundary disputes and encroachment.¹² Respondents noted that land boundary markers, such as trees and anthills changed, overgrew or were destroyed during the prolonged displacement, leaving them prone to disputes and or encroachment.

Respondents mentioned that some relatives or unknown people who stayed back in the villages or returned as the camp were disbanded took advantage of the displacement or their delays to return home to settle, farm, sell or encroach on their land, explained a participant who lost his family land while in displacement; "...After the situation had calmed down following the displacement, we went back to our village in Mucwini, Kitgum District where we lived before the war, but we were looked at as outcasts. The family members who lived back in the village during the displacement considered us traitors for having run away during the time of the armed conflict and abandoned the land..."¹³ The elite family members, mainly, took advantage of the displacement to steal other family members land, while accusing them of abandoning their responsibility to protect and defend the land during the armed conflict. The pressure from population growth also heightened the problem of land conflicts in the return community. The displaced persons were assumed to have

acquired land in their places of displacement, thus, expected to give up their land shares and rights in the return villages. Moreover, the 1995 Constitution of Uganda, Art 237 (3) recognise and give legal rights to any person who have lived on any land successfully and uninterrupted for the period of 12 years or more before or after the enactment of the 1995 Constitution as a bonafide occupant or as an adverse possessor respectively. The 1998 Land Act, (Sect 29) further defines who such a person is under the law. Other studies of northern Uganda show that such legal provisions emboldened attempts to grab and take displaced people's land in the post-conflict period.¹⁴

1.2.3. Weaknesses in the customary system

Whereas customary law grants full rights to everyone and also provides a system of protection through oversight for its most vulnerable members, in reality, the study found that widows, unmarried and single women, the elderly, orphans and children faced considerable threats to their land rights and claim in the return communities.¹⁵ Weakening of the customary system over the two decades of armed conflict, particularly, the death of elders who knew the land boundaries exposed its weak members to exploitation and cheating by powerful and elite members.

- 1. Widows:** Under customary law, a traditionally married woman can reside on her husband's land with her children even after his death. The woman holds the land in trust for her children, primarily her sons, to inherit when they become of age or if she has no sons, her daughters can inherit the land. Yet family members, most often, brothers in laws ignore customary and statutory law and use violence and intimidation to grab some or all of the land from the widow and her children. The study found that women who

had lost their husbands during displacement had their land taken over by other relatives, especially, brothers-in-law, who under customary law, are supposed to protect them, including their land rights. They had either lost a portion or all of their land to their in-laws, uncles or other surviving male relatives, explained a widow: "...My husband had a large chunk of land but currently, the bigger portion was taken over by the brother of my late husband who claims he needs more land than I do since he has many children. My neighbour also encroached on my small remaining share of land."¹⁶ Whereas customary law recognises the rights of both men and women to inherit land, in practice, men are the primary custodians of land with full rights, while women only have partial or secondary rights. Moreover, a married woman still carries the status of 'imported', meaning, they do not fully belong to the husband's clan.¹⁷ Most widows who were interviewed were unable to inherit their deceased husband's land, and some were driven off the land together with their children, in part, because land inheritance under customary law is passed on along patrilineal lineage. Some brothers-in-law exploited the widows' lack of protection and recognition to inherit land under customary law, while some are reportedly polygamous or have a large family that require more share of land, thus, encroaching on the widow's land, especially if she has no children or son to defend the land.

- 2. Cohabiting:** Women who were not formally married or cohabiting even when they had spent a considerable amount of time in a relationship with a man and already had a child(ren) also faced threats to their land claims. Traditionally in Acholi, women who are cohabiting have the lowest access and ownership of customary land - they can neither own land at their natal family nor at the husband's place. Importantly, without

12 KII, Local Leader, Pabbo Sub-county, Amuru District. December 2020.

13 Interview, Male, Kiryandongo sub-county, Kiryandongo District. December 2020.

14 Hetz, Giovarelli, and Myers, Land Matters in Northern Uganda: Anything Goes; Anything Grows, Post-conflict

'Conflicts' Lie in Land, 2007.

15 Trocaire, 2017, "Amplifying the Voices of Women Across the Customary Land System of Acholi Sub-region, Northern Uganda." Commissioned by Trocaire, Uganda in Partnership with the Joint Acholi Sub-regional Leaders Forum (JASLF) funded by the Democratic Governance Facility (DGF), Kampala, Uganda.

16 Interview, Female, Pabbo Sub-County, Amuru District. December 2020.

17 Burke, Christopher and Doreen Nancy Kobusingye. 2014. Women's Land Rights in Northern Uganda: West Nile, Acholi, Lango, Teso and Karamoja, Oxfam.

full bride price payment, the marriage is not considered official or complete, limiting the rights and status of the woman and her children born of the relationship. They may not be considered full members of the man's clan and may not be afforded the same rights, status and protection from the clan, including to belonging, residence and inheritance that are often along patrilineal lineage.¹⁸ A woman explained her predicament following the death of her husband during the conflict;

*In 2001, my husband was captured by the LRA rebels and later killed after a year in captivity. My children and I were displaced in an IDP camp during the duration of the conflict. ... When we returned home after the displacement, I found that all the land we bought with my husband (about 30 hectares) was grabbed and settled on by my brothers-in-law. My children and I had nowhere to start...they said I was not traditionally married to my deceased husband, thus, had no claim to the land. They even said that my children don't belong to their deceased brother/my husband and I was chased from my husband's land empty handed..."*¹⁹

The lack of formal or proper marriage was used as a basis to deny some women and their children's land rights and claims and to cheat them to their land in the return communities, even though customary law recognizes and grants equal rights of inheritance to children whose paternity are known or verified.

3. Unmarried, divorced and single women:

In Acholi, before marriage, young women are regarded as temporary members of their family, and have limited possibly to their own customary land. Whereas customary law in Acholi grants unmarried and single women access and use of land at their natal families, most of those interviewed were denied land rights in their families. Unmarried women who had lost their fathers or parents during the war were especially at a disadvantage,

explained a young woman who lost both parents during the war; *"When my father died, my uncle, who is my deceased father's brother, decided to sell all the land leaving me with no place to stay. That's when I started wandering from place to place and ended up here, where I live now..."*²⁰ The social expectation that women marry and move to their husbands homes where they can access the husband's land often fuels such maltreatment of unmarried women at their natal homes. Even when they are of considerable age or have children to fend for, they are not given the same rights to use, access or own land as their brothers. In some polygamous settings, only the first wife or wives who were formally married and their children were recognized are given access to land. Moreover, women's status also intersected with other vulnerabilities such as living with HIV/AIDS, being disabled, and war affected to complicate their land claim in the return communities. Some women who were interviewed shared accounts of their HIV+ status or being disabled used to stigmatize and dispossess them of their land rights in the return communities.

4. Conflict affected persons: Conflict affected persons including women survivors of wartime sexual violence, their children born of war (CBoW) and other formerly abducted persons faced significant discrimination against them by family and community members. Those who returned from captivity and found when their parents had died were stigmatised by their family members and the community. Their conflict experience was used to steal and cheat them of their land, to harass and intimidate them, and to make them feel unwanted in the community, explained a woman survivor:

When I returned from the bush with three children born of war (CBoW), my husband with whom I had two children before abduction rejected me and the children. I tried to plead with him to take me back after I re-

*turned from captivity but he told me that I might have killed someone from the bush and could be a danger to him, described in Luo 'mogo no odugu ki cen ci romo neko an icaa mo keken'. When I raised the matter with the Local Council I, my husband still refused to give me any share of his land, contending that my three children born of war have unknown blood lineage which could turn out to be a serious danger in their clan. I went home to settle on my parents land, but my elder brother also chased me away from our customary land contending that I should go back where I was married.*²¹

In the Acholi culture, a woman once married has no land rights and claim at their natal family and yet on divorce/separation, she loses the right to her husband's land and may not put any claim to it. In the case of conflict affected persons, they were perceived to be possessed by evil spirits (cen) from their participation in rebel activities, which was used to chase them off family land to avoid contaminating the family and lineage with cen and bad omen. Women survivors of wartime sexual violence with CBoW, especially, face a harder time gaining acceptance, access to land and were more likely to be sent off family land.²²

5. Children, youth and orphans: Children and youth who lost their parents during the war and children born outside formal marriages also faced challenges to their land rights. Whereas orphans are supposed to inherit their fathers' land held in trust for them by other relatives, especially paternal uncles, most of those interviewed had lost their land claims in the process. The paternal uncle took advantage of their lack of knowledge of the land boundaries, borders and details to cheat them of their land rights. Some of these children and youth were born and spent most of their formative years in IDP camps, with limited or no knowledge of their parents' land.

Children who were born outside marriage, including CBoW were seen as competitors for family land and other assets by their maternal uncles and other relatives. And having no paternal identity - being born outside marriages further complicated the children's land claims since land inheritance is primarily passed along patrilineal lineage. Although mothers can inherit land in their natal family and pass it on to their children, maternal uncles made the children, especially male children feel unwanted in the family and chased them off the land.

6. Other weaknesses with customary system:

The loss of livestock during displacement diminished elders' power and control to discipline, guide, and ensure compliance to customary values and norms.²³ With the increased impoverishment, some elders reportedly ask for money, take bribes, exercise favour for or biases against some people, often putting vulnerable members at a disadvantage. In particular, the death of some of the elders with knowledge of land demarcation and ownerships in the return communities further weakened their role, predisposing the weak and vulnerable members of community to being cheated of their land rights, a respondent explained;

*My father was killed in 1992 during the insurgency and at the peak of the crisis, we moved to live in the IDP camp. A neighbor entered our land and continued to cultivate the land for the period of the displacement. When we returned from the camp in 2004, he denied me the right to repossess my father's land on assumption that since I went to the IDP camp as a young person, I probably do not remember the land boundaries and borders. In fact, he told me that the land is not my father's and that he could inhabit and use the land as he want.*²⁴ Some vulnerable people, especially widows and orphans had lost their land under such circumstances.

18 See Baines, E. and Rosenoff Gauvin, L., 2014. Motherhood and social repair after war and displacement in Northern Uganda. *Journal of Refugee Studies*, 27(2), pp.282-300.

19 Interview, Female, Koch Goma Sub-county, Nwoya District. December 2020.

20 Interview, Female, Pabbo Sub-county, Amuru District. December 2020.

21 Interview, Female, Koch Goma Sub-county, Nwoya District. December 2020.

22 Atim, T., Mazurana, D. and Marshak, A., 2018. Women survivors and their children born of wartime sexual violence in northern Uganda. *Disasters*, 42, pp.S61-S78.

23 See Baines, E. and Rosenoff Gauvin, L., 2014.

24 Interview, Male, Lungulu Sub-county, Nwoya District. December 2020.



1.2.4. Statutory law

Although the Uganda Land laws and policies provide for a dual system – customary and statutory systems of land administration and management, there are still some problems with it, leading to land disputes:

- › While the land laws recognize the rights of individuals who occupied and used a piece of land uninterrupted for 12 years, customary law does not recognize it, leading to competing demands and conflicts between displaced persons and relatives who occupied their land during displacement. In particular, the existing land laws do not address historical complexities in land tenure. To illustrate, the 1995 Constitution and the Land Act 2010 (Cap 227) recognize land tenure under; customary, freehold, mailo and leasehold tenure, leading to multiple and conflicting tenure rights and interest, often overlapping the same piece of land.²⁵
- › The customary system is not legally recognized, integrated and mandated to fulfil its responsibilities which contributes to land disputes. There are also overlapping institutional mandates between the formal and informal systems, leading to confusion and the lack of clarity on the roles of the various institutions involved. For example, there are ambiguities in the legal status of Local Council Courts.²⁶

- › The formal system is also faced with financial and human resource challenges, as well as, the lack of political will to implement reforms and enforce land rights. There is also a challenge with legal enforcement of court decisions.
- › Although provided for in law, there is a lack of formalisation and documentation of customary land and dispute resolution mechanisms, increasing the risks of disputes and confusion in handling cases.
- › There are also challenges of case backlogs, accessibility in terms of the costs, distance and technicalities in using statutory mechanisms. More so, while the Land Amendment Act 2010 criminalizes eviction of tenants, the implementation is weak and ineffective, in part, due to human and financial constraints, as well as, the lack of political will.

In light of the above shortcomings and challenges, the existing land dispute resolution mechanisms have not produced transformative outcomes in land resolution, especially for conflict affected populations. This report offers some insights into conflict affected people's experiences with the different justice systems and the challenges faced in restoring their land rights before the different forums to inform a victim-oriented reparations' framework.

²⁵ See Uganda Land Policy, 2013.
²⁶ See Uganda Land Policy, 2013.

1.3. The impact of land loss on individuals, their families and communities

Land disputes affect the economic development of the individual, their families and communities; reduced agricultural productivity and well-being, safety and security threats, physical and psychosocial impacts, among others.

- 1. Increased insecurity and safety:** Land disputes created a sense of uncertainty due to the threat of and experience of violence on individuals and their families. Many respondents faced daily threats, pressure and intimidation from land grabbers, resulting in physical attacks and harms; injuries from beating, infringement of rights due to unlawful arrest and imprisonment. In exceptional cases, land disputes caused murder or killings. Respondents with more vulnerability were likely to face more safety and security concerns, explained a woman whose two sons were victims; "...When my elder son tried to get to the land grabbers to ask what was happening, they considered it as threatening violence and he was immediately arrested and imprisoned, up to now, he is still rotting in prison. His follower was also beaten with heavy poles and after that, I decided to leave the village for Gulu town.²⁷ Witnessing violence caused insecurity and fear among the remaining family members, forcing them to give up their land rights and relocate to other places, explained a father who lost two children to land dispute;

The worst incident occurred in my life as a result of land wrangles in 2018 that was why I left my father's/ancestral land. It was around May 2018 at midnight when I had slept and two of my huts were set on fire by an unknown person, I slept in the main house and my children slept in the kitchen. My wife told me that the children were crying and I asked, what could be the problem? For me, I thought a thief was trying to break in but after realizing that the huts were on fire, I was upset. I tried to open

my door to run and rescue them but it was locked from outside so I couldn't open it. I broke through the wall of the hut to rescue my children, but it was too late. Two of my children, a 5 year-old girl and 6 year-old boy had already died of smoke suffocation. One of my sons, 12 years-old was also seriously burnt on the face while trying to open the door for the young ones to escape but it was locked from the outside and he couldn't open it. All my properties and foodstuff sim-sim, maize, beans, etc., got burnt in the huts."²⁸

There were many accounts of people unable to defend their land rights and were forced to simply give up and move out of the disputed land to new locations for their safety.

- 2. Reduced agricultural productivity:** The loss of land over disputes left the affected families with very small pieces of land to farm and inhabit. The available land was too small to enable them to engage in any meaningful and sustainable agricultural production. For example, people who lost part of their land to encroachment could no longer rear livestock because of reduced grazing land. Also, land that had a court injunction could not be farmed for the duration of the case, yet, such cases usually take long to get disposed because of case backlogs. At times, people who lost their land had to rent or buy their own land for settlement and farming, which was expensive and not enough compared to land they would have claimed customarily. Meanwhile, some people relocated to other areas on land they bought, rented or which was given to them by other relatives or community members to farm and inhabit for a given time period, explained; "I decided to borrow two gardens from our neighbor and out of that, I was able to cultivate it and got money to buy the land I am living on now."²⁹ The uncertainty over land ownership also limited creativity over land use and devel-

²⁷ Interview, Female, Pabbo Sub-County, Amuru District. December 2020.
²⁸ Interview, Male, Lungulu Sub-County, Nwoya District. December 2020.
²⁹ Interview, Female, Koch Goma Sub-county, Nwoya District. December 2020.

opment as people were not able to do much with the land they do not own. For example, they could not use it as collateral for loans to develop their land. Overall, most people were unable to get enough produce from the limited land, which affected their income and wellbeing of their households.

3. Increased impoverishment: Affected individuals were unable to meet basic needs for their households due to their land loss. The lack of land to farm caused food shortages and the ability to meet basic needs; school fees for their children, medical costs, housing, clothing and food, explains; *"Due to the loss of my land, I have become poor because I cannot provide enough food for my family now. I used to sell some of my farm produce and save money but now I don't have any savings. My children dropped out of school because I could no longer meet their school demands. ...I can no longer meet my family's medical needs whenever anyone gets sick"*³⁰ People became poorer following their land loss. Some of the children from the affected families were forced to drop out of school into precarious activities, including theft, become street children or engage in dangerous work and exploitative forms of labour. A parent admitted to giving away his young daughter in marriage due to his land loss.³¹ During FGDs, some of the youth shared their situation following their land loss; *"Our inability to realize justice forced us to leave home and join the streets in order to survive. We mainly rely on leftover food and petty theft in order to stay alive. I steal because I want to be alive not because I want to be rich but because I don't know how to write, I have no land and skills to survive on since we were rejected from home. ...I will continue stealing in order to be alive."* The alternative is working for those who have land in the trading centre.³² Land loss pushed some of the families to the edge of survival, increasing their vulnerability in the return communities, with the majority forced to seek alternative livelihoods outside agriculture.

4. Alternative livelihoods: People who lost their land were forced to find alternative means of livelihoods to sustain their families. They performed casual work (leja-leja) in peoples' gardens to support their families or engaged in other forms of casual labour for survival. Unfortunately, most of the work performed were petty jobs or work, such as, hair dressing, working as maids in people's homes, washing clothes for some income and working in restaurants. The earnings from such work could barely cover daily survival needs of their families, they were simply getting by. A few of the girls and young women who lost their claim to their deceased parents' land were also forced into sex work for survival, as explained: *"Look at me, 19-year-old girl, I only survive by selling myself for sex and I get money with the risk involved. I know all the repercussions but what do you think I can do? My mother and father died in the hand of rebels and left me with my grandmother who was killed in 2016 as result of land conflicts. Now I am the mother and father of five other children under my care with no land and no body to help us. I feel like I should poison all these children and kill myself so that the world is left to my uncle and other relatives who hates us for nothing but land of our ancestor."*³³ While participating in sex work enabled some of the young women to navigate their difficult socio-economic circumstances, it also damaged their social networks—an important resource for coping and future opportunities in post-conflict periods.

5. Psycho-social impact: Land is a key marker of identity and social status especially for men. The loss of land rights in the return communities affected their social status, manifested through stigma towards those without land, explained; *"I am now being stigmatized because I am landless. Some people call me names like Lakwena, (a person who returned from captivity) to discredit me and make others also dislike me given my background of being in the bush. I lost*



my value and social status because I am a landless person. I have become a beggar because I have no land to farm in the village."

³⁴ The loss of land diminishes men's social standing among their peers and in the community. In the absence of land, they are unable to fulfil their role as providers and head of the family. It also causes distress and a sense of hopelessness on the individuals and their families. Women who lost their land had been cut from the family and clan based social networks that they most need to survive in the post-conflict period. They worried about the future of their children; where

they would settle, call home or be buried. They worried about the fact that they might not be able to pass on any land for their children to inherit since they are too poor to buy their own. CBoW and those born out of wedlock were at a greater disadvantage as they had no paternal identity and with it, had no identity, nor a possible claim to land which is passed through patrilineal lineage. Women and their children who were chased off their land ended up wandering from place to place, which affects their children's life and future, some ended up as street children.

³⁰ Interview, Male, Lungulu Sub-county, Nwoya District. December 2020.

³¹ Interview, male, Koch-goma Sub-county, Nwoya District. December 2020.

³² FGD, Youth, Pabbo Sub-county, Amuru District, December 2020.

³³ FGD, Youth, Pabbo Sub-county, Amuru District, December 2020.

³⁴ Interview, Male, Lungulu Sub-county, Nwoya District. December 2020.

2. Effectiveness of Land Dispute Resolution Mechanisms

Land dispute resolution in Uganda is governed by two parallel systems, i.e., the customary system also known as Alternative Dispute Resolution (ADR) governed by the customs and norms of a given community, and the Statutory system governed by formal and written law.³⁵ The two systems are supposed to work hand in hand, but in reality, most people in post-conflict northern Uganda refer any land dispute case to the customary system before proceeding to the statutory mechanisms.

2.1. Customary Mechanism

The land dispute resolution by customary mechanism is to some extent sanctioned by law, under Section 88 of the Land Act Cap 227 provides: 'Nothing in this Part shall be taken to prevent or hinder or limit the exercise by traditional authorities of the functions of determining disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure'. Under the law, they can play a dual role, to 'determine disputes' or 'act as mediators' although the extent to which the determination of disputes can lead to a judgement remains unclear.³⁶

In Acholi, customary land management and dispute resolution rests with the traditional clan structure, under the *Kaka* (clan),³⁷ *Dogola* (family), *Won Pacu* (household head), or any adult clan member who is appointed by consensus of the members. The *Rwodi* (cultural chiefs) composed of; *Rwodi Kweri* (committee of chiefs of hoes), *Rwot Kaka* (clan heads or chiefs) and

The mechanisms, however, collaborates with other land administration structures where applicable; Area Land Committees at the Parish level, the District Land Board (District level), Uganda Land Commission at the National. They can also work with other government structures in the adjudication of land matters, including; Local Councils (LCs I – V), the Police Land Desk, the Resident District Commissioner (RDC) and referrals from appropriate departments and offices – Community Development, among others.

Rwodi Moo play a vital role in land management and dispute resolution. They are usually respected custodians of traditional knowledge and wisdom regarding land boundaries, rights and ownership in their communities. Their role is usually to advise and mediate the parties involved in land dispute to promote reconciliation through a signed agreement. In practice, the *Rwodi Kweri* deals with cases between individuals whereas the *Rwodi Moo* decides on cases involving communities such as clans.³⁸ Handling of land disputes under customary mechanism also include; selected and trusted elders, religious leaders and peace committees where they exist. At times, cultural leaders also involve the Local Councils (LCs I and II) of the respective community when handling and mediating land cases.

The primacy of the customary system in dispute resolution is to attain social harmony and peace in the community, often through mediation, settlement, reconciliation, and negotiation

between the conflicting parties. Where applicable, necessary compensation is provided to the victims, and the land rights and ownership of the rightful parties restored under customary law. Where applicable, the customary system works alongside the statutory mechanism to resolve land disputes, for example, by providing evidence in formal proceedings. In cases of severe violence, while the perpetrators of violence are convicted and sentenced, the clan members may still pay fines, and subjected to cleansing and reconciliation ceremonies with the affected family/clan.³⁹

The cultural leaders interviewed revealed that they mainly handle cases of land disputes between family members, relatives, clan members and land owners who bought land in the clan. These disputes are usually over land boundaries or contestation over land ownership, some of which relates to the prolonged displacement during the war. In general, local leaders handle about three (3) cases a week and over ten (10) cases in a month. They noted that over the years following the return after displacement, land cases have risen in numbers in the communities.

Research participants noted that the customary system ensures the satisfaction and protection of its members, especially the aggrieved parties. Interviewees believed that the system

worked in an impartial, independent manner which increases legitimacy. Most respondents also perceived the customary system as better than the statutory system for several reasons, including, being easily accessible, cheaper, and not complex – use local and none complex language. More so, community members also expressed knowledge and familiarity with its processes and working procedures from prior interaction. Due to all the above factors, respondents were more likely to understand how the customary system works compared to the statutory system. Nonetheless, the patriarchal nature of the informal system affected its ability to render equal protection and support to some members of the community. It challenges their ability to deliver justice in an equitable manner, especially for vulnerable groups such as widows, unmarried women, orphaned children and the youth. Additionally, the informal system suffers from poor record keeping, which is often in manual form cumbersome and frustrating to utilise, leading to inconsistency in standards, rules and procedures. The system also suffers from the lack of legal recognition, acceptance and integration; in most cases their decisions are not enforceable and or respected as well as- seen as inferior, especially by the statutory system. The system is also prone to corrupt tendencies: bribery, nepotism, biases and favouritism, which affects their legitimacy.

2.2. The Statutory mechanism

The statutory mechanism of land dispute resolution comprises: Local Council Courts, which includes the Local Council I - III Courts, and the formal courts, in the hierarchy of the District Land Tribunals, Magistrate Courts up to the Supreme Court.⁴⁰ The statutory mechanisms follow established procedures and laws to implement their decisions on land disputes.

Land disputes cases that are not successfully handled by the customary mechanisms are often referred to the Local Council Courts (LCCs),

established under the Local Council Court Act, 2006, which regulates their jurisdiction and mode of operation. Under Section 3 of the LCC Act, the LC I are the courts of first instance at every village, parish, town, division and sub county level. The Local Council Is and IIs play a dual role as executive officers of Local Council Committees and (quasi) judicial officers of LCCs.⁴¹ As LCCs, they handle specific land matters in accordance with their quasi-judicial mandate.⁴² Under the law, LCCs are mandated to deal with land matters as specified in the Lo-

35 See, The Uganda National Land Policy, Feb 2013. Ministry of Land, Housing and Urban Development. Government of Uganda.

36 Nakayi, R. 2013. 'The role of Local Council Courts and Traditional Institution in the resolution of land disputes in post-conflict northern Uganda. The Legal, Policy and Institutional Framework of Land Governance in Uganda: A critical Analysis View project.

37 A clan or a 'kaka' means 'an extended family unit comprising of a generational line including grandfather, fathers, sons and immediate next of kin'. There are 54 clans, each with a leader. It is these 54 that make up the Acholi cultural leaders of the Ker Kwaro Acholi.

38 Acholi Religious Leaders Peace Initiative (ARLPI) 'Resolving land conflict in Acholiland: A guide for community based stakeholders'.

39 Rugadya M, E Nsamba-Gayiiya, H Kamusiime (2008) Northern Uganda Land Study, Analysing Post Conflict Land Policy and Land Administration: A survey of IDP Return and Resettlement issues and lessons. Acholi and Lango Regions.

40 See the Magistrates Court Act, Cap 16 of the Laws of Uganda; Judicature Act, Cap 13 of the Laws of Uganda.

41 Sections 4 and 5 of the Local Council Court Act, 2006.

42 Section 10 of the Local Council Court Act.

cal Council Court Act No 2006 of 2006. According to the Third Schedule to the Act, LCCs have jurisdiction/power to try and determine matters relating to land held under customary tenure within their jurisdiction. This means, they cannot handle land matters held under other tenures; *mailo*, leasehold and freehold.⁴³ The provision also puts a huge mandate on them, to safeguard the rights of individuals who seek their services.

The study found that the Local Councils (Is – IIIs) were actively engaged in land dispute resolution, explained; *"In case of land problems, the case is always reported to the LC I of the area, who writes a letter to report to the police, who can then investigate and forward the case to the Resident State Attorney who sanctions the file for prosecution."*⁴⁴ The LCs served as a convenient alternative after the customary mechanisms to people's land dispute resolution needs. They are preferred for; accessibility and proximity to the community, especially the lower level LC Is. They also tend to work more in tandem with the customary systems to mediate land disputes. However, the nature and environment of their work affect the extent to which they can dispense justice that meets human rights standards. Notably, the competence requirement for LCCs are not stipulated in law, meaning, they may not necessarily have the ability to resolve land disputes. More so, the procedures in the LCCs fall short of being fair; cases are not registered and do not keep proper records on proceedings that resulted to their decision. The lack of proper record keeping, resources and capacity leads to further cost and case backlog in the Magistrates Courts. Some LCCs also charge court fees to claimants beyond what is prescribed in law, affecting the pursuit for justice.⁴⁵

The statutory mechanism is also has barriers that make it hard for; women, girls, children, youth, and other vulnerable members of the community to access it. The lengthy and extremely expensive legal services dissuades the pursuit for justice. The complex process and requirement, such as, the high evidentiary proof may not be easily attainable by some women and girls, who have no paperwork to prove their ownership of customary land. The use of legal languages in formal courts also make it hard for the majority of the people without any formal education to follow and understand. Overall, the statutory system is also insensitive to other forms of structural barriers – poverty, distance, gender, class, cultural, etc., among others that affects access and utilization of their services.⁴⁶

There is also an overlapping institutional mandate between the statutory and customary systems, leading to confusion over clarity on the roles of the various institutions involved.⁴⁷ Additionally, whereas the Land Act 2010 (Section 76A) recognises the LC II (parish) as Courts of first instance in land matters, Section 32 of LCCs Act, No.12/2006 provides for LC I (village) as court of first instance with jurisdiction to try land matters. This contradiction affects the role of land tribunals in the appellate structure on land matters, requiring harmonization. There are also multiple land dispute resolution mechanisms that affect the quick and successful disposal of cases, allowing applicants or claimants options to 'forum shop' by trying all the available avenues, at times, concurrently which causes more delay in dispute resolution.⁴⁸

43 Obaikol, E and Ogwapit, J.F. 2017. "Dispute Resolution: The Land governance assessment framework technical report." LANDnet, Uganda.

44 Interview, Religious Leader, Gulu City. December 2020.

45 See Nakayi, R. 2013. 'The role of Local Council Courts and Traditional Institution in the resolution of land disputes in post-conflict northern Uganda.'

46 See Atim. T., 2017. "How to stop the scales of justice being loaded against women and girls in Africa." The Conversation. <https://theconversation.com/how-to-stop-the-scales-of-justice-being-loaded-against-women-and-girls-in-africa-79582>.

47 See Uganda Land Policy, 2013.

48 Obaikol, E and Ogwapit, J.F. 2017. "Dispute Resolution: The Land governance assessment framework technical report." LANDnet, Uganda.

2.3. Relationship between statutory and customary mechanisms

There exists some relationship between customary and Statutory mechanisms of land disputes and resolution:

- > Part II of the 1998 Land Act recognizes four land tenure systems in Uganda. This includes Customary, Freehold, Mailo, and Leasehold. According to Section 4-8 of the Act, a certificate of customary landownership can be granted to any individual holding customary land by a committee. These provisions integrate customary law into statutory law thereby generating complementarities in land ownership and dispute resolution mechanisms.
- > Section 88 of the 1998 Land Act permits the application of traditional authorities in dispute settlement and mediation. This means, customary mechanisms are responsible for handling land disputes under customary tenure, while the statutory mechanisms address land disputes under the other forms of land tenure; *mailo*, leasehold and freehold. In addition, the statutory mechanism also handles appeals/referrals from customary mechanisms related to customary tenure land disputes. In such situations, the customary mechanisms often rely on the proceedings and resolutions of statutory mechanisms (where available and applicable) to enforce its decision or judgment. Some of the key actors in customary mechanisms, such as cultural leaders, can be invited as witnesses in the formal/statutory court proceedings over land disputes and conflicts originating from their locality. At the local level, the customary mechanism works hand in hand with the Local Councils (Is and IIs) to arbitrate land conflicts and disputes satisfactorily and vice versa. Both customary and LCCs emphasize restorative approaches to land

dispute resolution, explained a respondent; *"We handle land disputes in line with the reports we get from the parish chiefs and their executives since they are the ones who know land boundaries in their jurisdiction. If they have witnesses and the conflicting parties also have their witnesses, we then give our verdict depending on their plea."*⁴⁹ In some cases, land disputes that are filed in the formal courts can be referred back to the customary mechanisms for arbitration/mediation, showing the different ways that the two mechanisms complement each other. Specifically, the existence of customary practice alongside state-centered laws presents a system of legal pluralism that has long been practiced in Uganda and most common in post-conflict societies.⁵⁰ By definition, legal pluralism reflects a system where the sovereign commands different bodies of law for different groups of the population varying by ethnicity, religion, nationality, and geography and when the parallel legal regime is all dependent on the state.⁵¹ While such legal regimes broaden access to justice, it can also create obscurity.

- > Customary actors have no jurisdiction over cases of violent or grievous harms, such as bodily harm or murder arising from land conflict. However, upon conviction and sentencing of the offender, cultural leaders from the offenders clan can be involved in promoting reconciliation by fostering the payment of compensation, perform cleansing and reconciliation with the aggrieved or affected family/clan.⁵² This is another example of complementarity where customary mechanisms can work alongside statutory mechanisms in pacifying land disputes, promoting reconciliation and peaceful co-existence in communities.

49 Interview, Local Council, PabboSub-county, Amuru District. December 2020

50 Frederick W. Jjuuko, 'Legal Sector Reform Review in Uganda' written in the 'Reforming Justice in East Africa; A Comparative Review of Legal Sector Processes(2008) Kituo Cha Katiba: Law and Justice Series 2. P.376. See available at http://www.kituoachakatiba.org/sites/default/files/publications/Reforming%20Justice_Final.pdf. (Accessed 22 July 2020).

51 Griffiths John 'What is Legal Pluralism? Cited in Sally Engel Merry (1988) Journal of Legal Pluralism. P. 870-871.

52 Rugadya M, E Nsamba-Gayiiya, H Kamusiime (2008) Northern Uganda Land Study, Analysing Post Conflict Land Policy and Land Administration: A survey of IDP Return and Resettlement issues and lessons. Acholi and Lango Regions.

Despite the advantages of complementarity of the systems, there are also challenges:

- > The referral of cases between the different mechanisms – statutory versus customary mechanisms sometimes lead to ‘forum shopping’, a situation where litigants have the option to try all the available options, which they at times do concurrently. This causes delays in disposal of land dispute cases. The challenge of multiple dispute resolution mechanisms also brings to question the legitimacy of the different mechanisms, in terms of which one should be preferred for what kind of land tenure cases for a conclusive resolution. As earlier noted, the resolutions or decisions of the customary mechanisms are at times treated as inferior, not respected, or non-binding/enforceable.⁵³ Nonetheless, research participants emphasized that the resolution of the customary mechanisms should be foundational to the decision and resolution arrived at by the statutory mechanisms in land cases to avoid ‘forum shopping’ by those who do not get a satisfactory outcome at the lower level.
- > Critical areas of concern are women’s rights and access to justice under both mechanisms. Studies found that although statutory law does not bar women from owning property in Uganda, the reality within which they live effectively denies them this right.⁵⁴ There are socio-cultural practices under customary systems that discriminate against women, discouraging them from owning land, or sanctioning it for them. Such cultural practices include the payment of bride price for marriage, family inheritance through patrilineal descent, and polygamy.⁵⁵ Bride-wealth in the context of Uganda has the effect of making a woman being viewed as a husband’s property thus nullifying any claim she might have to land yet women mainly access land through marriage. A woman’s

marital status is very important in determining how she will be affected by land registration and dispute resolution mechanisms. Widows are particularly vulnerable because land is generally registered in the names of the husband and upon his death, they are not considered heirs.⁵⁶

- > Both mechanisms are faced with weaknesses that affect their functionality and effectiveness. On the one end, the erosion of the powers and authority of customary actors following the prolonged conflict and displacement and the resulting social changes; the death of elders who knew customary systems, and the threat imposed by the statutory mechanisms on the authority of elders. On the other hand, the statutory mechanisms are fraught with limited human and financial resources, as well as, the lack of political will to successfully implement and enforce land resolutions. This is evident in the delays to resolve land cases and case backlogs in the formal courts.
- > The mechanisms also faced challenge of corruption. Research participants noted the widespread corruption in the formal courts, and LCCs also charge some money beyond the legal provision, while the customary actors also demand payments as facilitation to handle land matters, although the cost is much less compared to the formal courts. Both mechanisms are also prone to biases, favoritism, and influence when handling land cases that disproportionately affect women, orphans, the disabled, the elderly and other vulnerable persons’ access to justice. Nonetheless, the majority of respondents were more satisfied with customary mechanisms: accessible, more trustworthy, affordable and prioritize community good over individual benefits.

The customary and statutory mechanisms of land dispute resolution have some similarities

that complement their work. However, there still exist some challenges that affect their ability to better coordinate effectively to deliver justice. There is a need to harmonize the existing linkages for greater access, efficiency, and cost-effectiveness of the two mechanisms. Key informant believe that strengthening, recognition, and harmonization of the decisions and

roles of customary actors at the different levels in land dispute resolution could be a strategy to address case backlogs on land matters in the formal courts of law. More so, the improved capacity to handle and record land dispute case proceedings by customary actors and LCCs would ease/shorten formal court processes and backlog.

3. Individuals’ and Communities’ Experiences of Land Dispute Resolution Mechanisms

Individuals’ and communities’ experience of land dispute resolution mechanisms are based on their interaction and perceptions of the systems. In this section, we outline people’s experiences and perceptions of the two customary and statutory mechanisms of dispute resolution. The case study below depicts the experience of most of the respondents, specially the most vulnerable people such as women, children, orphans and the elderly in their struggle to seek justice for their land rights in the return communities. The lengthy processes, expense, and its non-responsiveness to those who need it most, make it daunting and undesirable for

the majority of the people as described in more detail throughout the section.

“If you go to court, the procedures take long and sometimes you may not have the money to go through the judicial process. Some people just give up and such cases are many. There are some widows who go back to their land and find when some other persons have occupied and farm it. As a woman, one does not have that much power to say anything or much. We have many of such cases here.”⁵⁷

3.1. Lengthy justice processes

Individuals and communities experience extreme delays to handle and conclude land cases, especially, before the formal court. The court processes are said to be lengthy, and tedious, frustrating efforts at getting justice as the more lengthy the process, the most cost is incurred. Studies show that on average it takes the Judiciary 26.7 months to dispose a land matter in the high court, five months in the Chief Magistrates’ Court and 21.5 months in the Magistrates’ Court, from the time it is filled until it is disposed.⁵⁸ Moreover, elite and wealthy land grabbers exploit the lengthy court

processes to their advantage. There were accounts of unexplained changes to court dates, which, unfortunately, created confusion among local people and ex parte decision by the judges on land cases – resulting to their land loss. Respondents reported that due to the lengthy process and delays, some people merely gave up their land rights claim or in a few cases, people took the law into their own hands and attacked their opponents in the land dispute. They burnt huts and food stuff, erased gardens of crops, threatened, beat, and injured other people. The delays also explains why most people prefer

53 See Land Policy, 2013

54 Asiimwe, J. ‘Making Women’s Land Rights a Reality in Uganda: Advocacy for Co-ownership by Spouses’ (2011) Yale Human Rights and Development Journal, Article 8, Issue 1, P.174

55 The list of the cultural practices cited are not exhaustive as different communities what different practices that affect women from owning, accessing, and transferring land.

56 Laloyo Stella Apecu, ‘Gender, land rights and fragility in Northern Uganda: the case of Amuru District’ (2018), Globe: A Journal of Language, Culture and Communication, Vol.6. ISSN: 2246-8838. P.187. See media report at <https://www.reuters.com/article/us-uganda-landrights-conflict-feature/this-is-our-land-uncertain-future-for-ugandans-facing-eviction-from-wildlife-reserve-idUSKCN1UI00H>. (Accessed. July 20, 2020).

57 Interview, Local Council I, Pabbo Sub-county, Amuru District. December 2020.

58 Obaikol, E. and Ogwapit, J.F., 2017. “Dispute Resolution: The Land governance assessment framework technical report.” LANDnet, Uganda.

customary mechanisms to handle and resolve land matters; *"People normally prefer the informal justice system because the formal system ...have too many extensions of the cases, yet a person would have been evicted out of the land and is suffering."*⁵⁹ Yet, some KIIs argued that the lengthy court process is owed to its rigor and careful examination of evidence before any resolution, including locus visit to ascertain the facts before court. It also helps to restore confidence in the formal courts. To enable

3.2. High cost of land dispute resolution

There was consensus among research participants that both customary and statutory mechanisms are expensive to afford, especially for poor people. Both mechanisms require some form of payment although the amount varies. The customary systems and LCCs were mentioned as less expensive compared to the formal courts -which includes; legal representation and cost to access court premises and transport witnesses, moreover multiple trips increases cost of justice. The LCCs also required payments beyond the legally approved amount, meaning, they charged unofficial fees for their services, further impeding access to justice. The customary systems also required some facilitation – sitting allowances, transport and feeding of clan leaders to attend land dispute resolution meetings, paid by the complainant. Participants noted that most Rwot Kweri do not schedule any land dispute hearing before

women and other vulnerable groups to claim their land rights, a land restitution mechanisms should avail trained staff to engage with them and larger community to clarify information and help them gather the required information and documentation to support their claims before any land dispute resolution mechanism. The staff must include women and should be trained in gender sensitivity, and women's and girls' rights to ensure equal access and non-discrimination in the process.

facilitation payments are confirmed. Thus, poor people or those who could not afford for various reasons were unable to claim their land rights. When people had to weigh among other pressing issues, they prioritized their household's basic needs; schooling, health, food security rather than spending on justice mechanisms. Generally, respondents agreed that facilitating land dispute cases left them poorer – it reduced their household wealth and income and some people had to sell livestock, or produce to pay for the cost involved. The formal courts were viewed as more corrupt and unjust, especially to poor and vulnerable people without the social connection to support their claim and accompany them through the legal process. Most people simply gave up. Free legal aid services should be made available to people who need it to defend their land rights.

3.3. Access to land dispute resolution mechanisms

According to a 2004 National Service Delivery Survey (NSDS) report 80% of the households in Uganda are located more than 19 kilometers from the High Court; more than 66% from the District Land Tribunal and 48.8% from the Magistrate's Court. Access to court premises, often located far away from the respondents villages, explained; *"The distance to formal court makes people lose interest in court systems. For instance, from Pabbo to Otwee where the court is*

situated is about 80 kilometers away, meaning a lot of money is involved."⁶⁰ In most cases, distance increases cost involved in pursuing formal court proceedings and contributes to dissuading interested parties from pursuing it. In particular, the bureaucracy and complexity of formal courts complicates access and utilisation, especially for illiterate people who are unable to afford legal representation. The countrywide lockdown in 2020 and the restrictions on social

gathering and travels due to the COVID 19 pandemic made it impossible for people to access land dispute resolution mechanisms, even at the community level. Whereas the customary mechanisms and LCCs were more accessible, they also faced challenges related to institutional framework to administer land rights customarily, resulting in inconsistent standards, rules

3.4. Gender and other vulnerabilities

Women, girls, children and youth respondents were least likely to get justice before on land disputes. Some women respondents mentioned that most customary justice mechanisms are biased, favouring men. Women reported that customary justice systems did not accord them a fair hearing or fair treatment. Existing customary justice systems were not supportive of women who sought justice and tend to favour men whenever land cases were brought before them. They consider men as 'more kin' being their brothers and relatives and they always buy beer/alcohol for them thus compromising their ability to remain fair when handling such land cases. When women refer cases, they are not given the same audience as men, and in some cases, nothing is done. And yet, most of these women are too poor to pursue formal justice. To deter them from referring cases, the women can suffer reprisal attacks or backlash from their in-laws, at times, losing all of their land rights, even the small portion they still hold or use. Thus, many simply stayed back or left the land for their natal families, especially young widows or moved to urban centers to

and procedures in their work and the degree to which they are seen as fair. There should be efforts to ease access to land dispute resolution bodies, including further decentralisation of formal courts, and strengthening customary mechanisms to increase their effectiveness – codify procedures, improve record keeping and capacity to handle land dispute resolution.

find alternative ways of making a living. Unmarried and single women, specifically noted that it is even more complicated for them to go through the customary system that is oriented towards patriarchy and the privilege of men. Formerly abducted persons (FAPs), children, and youth who were orphaned in the war also faced the same fate in claiming their land rights. Their attempt to refer land matters to both statutory and customary justice systems were affected by their lack of money, numerous needs and lack of social connectedness within to support their claims. In particular, FAPs and young people who had no trusted, respected and influential male adult relatives were least likely to successfully regain their land rights. And transitional justice process should be built on an understanding of the gender dimension of land rights and ownership and the discrimination women face in the return communities. It requires recognising women as legitimate land owners where they are widowed, not traditionally married, or involved in polygamous relationship.

3.5. Lack of enforcement of land resolution cases

Many respondents interviewed described their frustrations with enforcement of land dispute resolution. In most cases, people were frustrated with the inability of the customary justice system to enforce its decision or resolution to guarantee their land rights claim. There were several accounts of cases that were successfully resolved by the formal or customary system, yet their decisions were not respected. In such cases, the party continued their land use and encroachment unabated or uncontrolled, espe-

cially if the case was against a weaker opponent. Where women, especially, widows tried to report to customary mechanisms and the cases are ruled in their favour, the decision and ruling are ignored by the men, their brothers-in-laws and not enforced, explained; *"When I lost my land, I reported the case to the police, they came to the village and we met the Rwot Kweri. However when the police left, the Rwot Kweri just dismissed the issue and said in our clan, women do not own land and even if I contin-*

59 Interview, CSO Actor, Gulu City. December 2020.

60 Interview, LC I, Pabbo Sub-county, Amuru District. December 2020.



ue with the matter, they will not support me and they will persuade the whole clan to disown me.”⁶¹ Yet in such cases, the individuals also lacked the resources to refer the cases to a higher level, in this case, the formal courts. Moreover, the informal systems reportedly lacked the capacity to resolve some land cases, especially those involving elites; army gener-

als, politically connected individuals, investors, among others. Efforts should strengthen customary authority and the enforcement of land resolution decisions that recognise women as legitimate land owners, where they are not recognised traditionally, in order to address continued discrimination and elevate their social position in the community.

3.6. Abandon land claims

The study established that some respondents were unable to report their land rights claims for several reasons; they felt too weak to manage the process, lacked the finances to pay for it, prioritised other immediate needs over land rights claim, as well as, feared possible backlash and retaliation from the parties to the conflict. In particular, individuals who had witnessed other people killed, arrested or maimed over land disputes feared to go forward with any land case for fear of being victimised. Women who are widowed, single or unmarried feared to report land cases involving their in-laws or

brothers less they and their children are sent off the land without any recourse, explained; “...After the war, I returned back home to my father’s land, to my brothers but they sent me away saying girls and women don’t own land. ...This issue was also taken before the clan elders, but they also said the same thing, that ladies don’t own land. I was angry and left to go and live my life.”⁶² Moreover, women and young people also felt powerless to influence any land claim processes since they have no voice on land matters, leaving them more vulnerable in the face of land dispute claims.

3.7. Lack of awareness about land rights

The general lack of awareness about land rights in the population also affected their ability to seek available support to protect their land rights and claim. Where possible, awareness

campaigns should be matched with free legal aid services to enable women and other vulnerable populations to defend their land right.

61 Interview, Female, Lungulu Sub-county, Nwoya District. December 2020.

62 Interview, Female, Kiryandongo District. December 2020.

4. Conclusion and Recommendations

4.1. Conclusion

The study sought to understand conflict affected people’s experiences with the different justice systems and the challenges faced in restoring their land rights before the different forums, and to inform a victim-oriented reparations’ framework. Under Ugandan and international law, conflict affected populations have a clearly established right to remedy and reparation. Remedy encompasses the right to: equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; access to relevant information concerning violations and reparation mechanisms; and access to fair and impartial proceedings. Reparation is a part of remedy. Reparation has five components: (1) restitution (seeking insofar as possible to restore victims to their original state prior to the violations, including land restitution); (2) compensation for economically-accessible damage; (3) rehabilitation (ensuring access to medical and psychological care and legal and social services); (4) satisfaction (measures such as attested public disclosure of the facts around disappearances, abductions and killings; identification and burial of the dead; and apologies from and sanctions against perpetrators); and (5) guarantees of non-repetition.⁶³

In Uganda, land dispute resolution mechanisms are governed by two parallel yet interrelated systems, i.e., the customary and statutory mechanisms that work collaboratively with other land administration systems to ensure justice for land related disputes. However, the study finds that currently, both customary and statutory dispute resolution for land in Acholi sub-region are unable to provide effective dissolution of land cases and to offer remedy or reparation for the population in the return communities, with an even more complicated situation for women and other vulnerable groups. Those seeking justice through the different dispute resolution mechanisms face numerous chal-

lenges to their claim, including, lengthy, costly and complex processes, as well as, the lack of enforcement of decisions, forcing some claimants to take law into their hands or to abandon their land claims altogether.

The central questions, thus remain, if both statutory and customary mechanisms of dispute resolution are to be effective in addressing cases of land disputes in the return communities, how can the present deficiencies, gaps and challenges be addressed? And, perhaps more importantly, what avenues exist to restore conflict affected population land rights before the different forums, and ensure a more victim-oriented reparations’ framework? Both the statutory and customary system are challenged by over two decades of armed conflict in northern Uganda, and unable to live up to their expectations. In light of these, a comprehensive land restitution as part of the transition justice process should, therefore:

1. Be familiar with the structural discrimination and barriers to women’s, girls’ and other vulnerable groups’ equality that underlie the culture and structure in Acholi sub-region. these will ensure that the rights of all individuals who have a claim to land, including women and girls are upheld. In this regard, it should consider reforming laws of land ownership and access under customary law to accommodate women who are not traditionally married.
2. Responsive to structural barriers along; local language differences, low level of literacy and require low evidentiary proof or documentation, if any, in making land rights claims.
3. Strengthen customary authority, as well as, statutory mechanisms to enable vulnerable members of the community, including wom-

63 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of serious Violations of International Human Rights Law and International Humanitarian Law, A/RES/60/147.

en, orphans and the elderly who by law have a claim to land to uphold their rights.

4. Be part of the larger transitional justice process, including, acknowledgement, truth-telling, investigation and documentation.
5. Provide free legal aid services to vulnerable members of the community, including women, orphans and young people, to help defend and protect their land rights. Customary mechanisms should be strengthened to enable women and other vulnerable groups who remain on their land to live free from violence, harassment and intimidation.
6. Assess what customary mechanisms have done to date and what they are actually capable of doing. These efforts should be mindful of the frequent failures of customary mechanisms to treat women and girls with equality and non-discrimination.

7. Intensify efforts to ensure that conflict affected population land rights are fully respected, enforced and restored in the return communities:

- Provide adequate resources and capacity building to both the statutory and customary mechanisms to fulfil their purpose in land dispute resolution, including;
- Train personnel to engage with the communities on land matter and help clarify information,
- Help gather required information and documentation including, codifying customary law for uniformity on land dispute resolution, and
- Train officials responsible for land administration in gender sensitivity and women's and girls' rights to ensure equal access and non-discrimination of land both under statutory and customary law.

4.2. Overall Recommendations

Based on the research findings, the following recommendations are presented:

1. The GoU should ensure proper enforcement of land dispute resolution decisions by formal and informal justice systems by promoting better enforcement of land dispute decisions. The Police Land Desk at the Sub-county level should be better resourced; finance, personnel and logistics to operate efficiently.
2. The government of Uganda and stakeholders should work with Ker Kwaro Acholi to reform customary land ownership and access, and dispute resolution mechanisms, including; the harmonisation of customary land dispute resolution processes, proper documentation of proceedings, and overall record keeping.
 - The efforts should also promote the documentation of customary justice system procedures and rules for land dispute resolution to ensure consistency and accuracy in handling land proceedings

3. The Government of Uganda should redefine processes of land acquisition for multinational companies and investors in ways that are transparent, accountable, and involve local communities to reduce mistrust and help build confidence in on-going development initiatives in the region.
4. The GoU and stakeholders should reform the customary justice systems and practices to ensure it can recognise and respect the rights of women, girls and other vulnerable population, including; disabled persons, FAPs and CBoW to access, own and inherit land as provided for in the statutory law.
5. GoU and stakeholders should promote sensitisation and dialogue on land rights, the various dispute resolution mechanisms and the rights of people to access their land rights through the different dispute resolution mechanisms.
6. The GoU should remove the physical cost and other barriers associated with accessing justice under the statutory and customary justice system to make them more affordable, at ease and accessible to the vast majority of the population.
 - Where possible consider the creation of satellite judicial centres in remote and areas highly prone to land disputes in order to expedite cases and reduce case backlogs.
 - Create and re-invigorate land tribunals to enable them handle land disputes and reduce case backlog and delays in the formal courts. The tribunals should also have powers to recommend and award appropriate remedies for land losses.
 - Adequately resource judicial mechanisms with personnel, financial and political will to implement and enforce decisions on land disputes cases.



5. Annexes

Annex 1. The main actors involved in land dispute resolution and their roles

Actors	Roles in land dispute resolution
Customary Actors	
Ker Kwaro Acholi comprised of; Rwodi such as Rwo-di Moo, Rwodi Kweri, Won pacu, and Dogola of a particular Kaka (Clan). ⁶⁴	<ul style="list-style-type: none"> > Help to clarify customary land boundaries and rightful owners > Mediate and help to resolve land disputes over customary land > Make referrals of unresolved customary land dispute cases to State Actors > Can provide evidence over customary land in formal courts
State Actors	
Local Council Courts – LC I, II and III	<ul style="list-style-type: none"> > Receive and handle customary land disputes in their jurisdiction. > Mediate land dispute cases > Make referral for unresolved land dispute cases to the formal courts > Can provide evidence for land disputes in their jurisdiction in formal courts. > Under Section 13 of LCC Act 2006, they have powers to order for; reconciliation, declaration, compensation, restitution, cost or an apology.
Formal Courts	<ul style="list-style-type: none"> > Adjudicate land disputes filed in the formal courts, especially cases referred from the lower level. > Handle land matters that are criminal or violent in nature > provide ADR mechanisms by asking parties to have the issues settled through mediation.
Police Land Desk	<ul style="list-style-type: none"> > Receive and record land dispute cases. > Where applicable, mediation land dispute and conflict cases > Investigates and forward cases to the formal system > Help in the enforcement of court rulings on land matters.

⁶⁴ Ker Kwaro Acholi in the widely recognised traditional cultural institution in Acholiland, northern Uganda.

Non-state Actors	
Comboni Missionaries	<ul style="list-style-type: none"> > One case where they bought land and constructed a house for a disabled couple interviewed for the study. > It is unclear if this an institutional mandate or an act of good will by a member of the institution.
Pabbo War Memorial, a victims group/organisation	<ul style="list-style-type: none"> > Provided land at the former Pabbo camp to landless or distressed community members who lost their land rights in the return community.
ZOA, INGO	<ul style="list-style-type: none"> > Facilitated the survey and titling of customary land in the return communities, specifically, in Nwoya. > Work to promote the land rights of vulnerable people in the community, especially widows, women, orphans, etc. > Sensitisation over land disputes and matters in the community
Acholi Religious Leaders Peace Initiative (ARLPI), NNGO	<ul style="list-style-type: none"> > Mediate land disputes in the community > Sensitisation on land rights
World Vision - INGO	<ul style="list-style-type: none"> > Rehabilitation and reintegration of formerly abducted persons (FAPs) into their families and communities > From the transcripts, WV built houses for some FAPs upon return to their communities.
Human Rights Focus, Gulu, NNGO	<ul style="list-style-type: none"> > Land mediation > Legal representation on land dispute cases > Sensitisation and awareness on human rights , including land rights
Legal Aid Project	<ul style="list-style-type: none"> > Free access to legal aid services related to land dispute and conflict > Legal representation of vulnerable people in land dispute cases.
Gulu Women's Economic Development and Globalization (GWED-G), NNGO	<ul style="list-style-type: none"> > Issuance of customary land title > Sensitisation over land issues > Mediation of land conflicts > Support the legal representation of vulnerable people in land cases

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■ **Avocats Sans Frontières**
Non-profit association under Belgian law

Avenue de la Chasse 140 Jachtlaan
1040 Brussels
Belgium
Phone: +32 (0)2 223 36 54

■ **Avocats Sans Frontières in Uganda**

Plot 16, Vale Road, Naguru
P.O.Box 36710, Kampala

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