

Improving Tenure Security for Smallholder Farmers in Select Areas in Uganda

ISSUE BRIEF



LAND CONFLICT SITUATION IN NORTHERN UGANDA, PADER DISTRICT

Introduction

Pader district is one of the districts in Acholi region, located in Northern Uganda. As is in other parts of the country, land in this region is a vital resource through which virtually the entire population derives its livelihood. Land is largely customarily held in the region and is managed through the cultural/clan based system alongside the state

system.

Two decades of insurgencies and armed hostilities between the Government of Uganda and the Lord's Resistance Army retarded development and significantly affected communities in Northern Uganda leaving them fraught with challenges majority of which are land related.

In this issue brief, UCOBAC presents

findings from consultations with local government leaders and customary leaders in Pader district on the prevailing land conflict situation with an aim of establishing status quo and using this evidence to make practical recommendations for policy and practice change.

IMPORTANT TO NOTE

Land in Uganda is a key driver of economic progress as it plays a central role in industrial, infrastructural and agricultural development. It is critical in eradicating poverty and realizing food security as many, especially the rural poor, rely heavily on land and other natural resources to sustain their livelihoods (FAO, 2012).

Common land disputes reported to the leaders

As shown by the graph below, out of every 12 land cases reported, 10 are specifically boundary related; it was found that these are mostly among the war returnees and community members neighboring each other. Income inequality also continues to fuel conflicts on land and this is exhibited through the increased grabbing of land (21.2%) by the rich and powerful individuals who tend to fence off more than their share of land, (forcefully grab land) including taking over of communal lands, grazing lands and evicting the poor.

Despite the centrality of land to women as primary users of land, women have weaker land tenure rights compared to men. It was found that despite their contributions to family developments and welfare, widows and women separated from marriage still find challenges in enjoying their land rights as they are often denied access to land by their in-laws. This is because under patriarchal societies, land ownership is passed on through the male lineage thus women may have the right to live on and farm the land, but do not necessarily have the right to own, inherit or make decisions on it.

Common land disputes

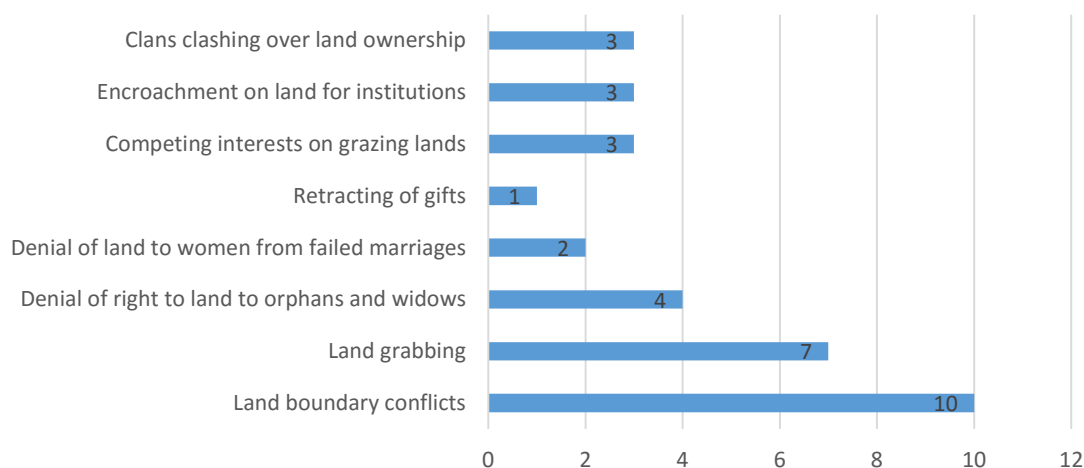


Figure 1: Common causes of land disputes

While men mostly report cases related to boundary (31.8%), unequal land sharing among siblings particularly brothers (18.2%) and competing interests over grazing lands (18.2%) among others; women especially widows reported denial of access to matrimonial land, eviction and disinheritance (52.4%). Gender Based Violence which leads to separation of spouses also emerged as one of the factors highly contributing to women's loss of rights to land.

Youth on the other hand reported non-involvement in decision making on land by parents and elders intending to sell off or give away land and unfair land distribution among children. Male children continue to be favored over the females in distribution of family land. Additionally; orphans, the disabled and children of girls from failed marriages are in some instances not given land at all. Conflicts by/or with youth are worse among polygamous families.

Causes of conflicts faced by men, women and youth

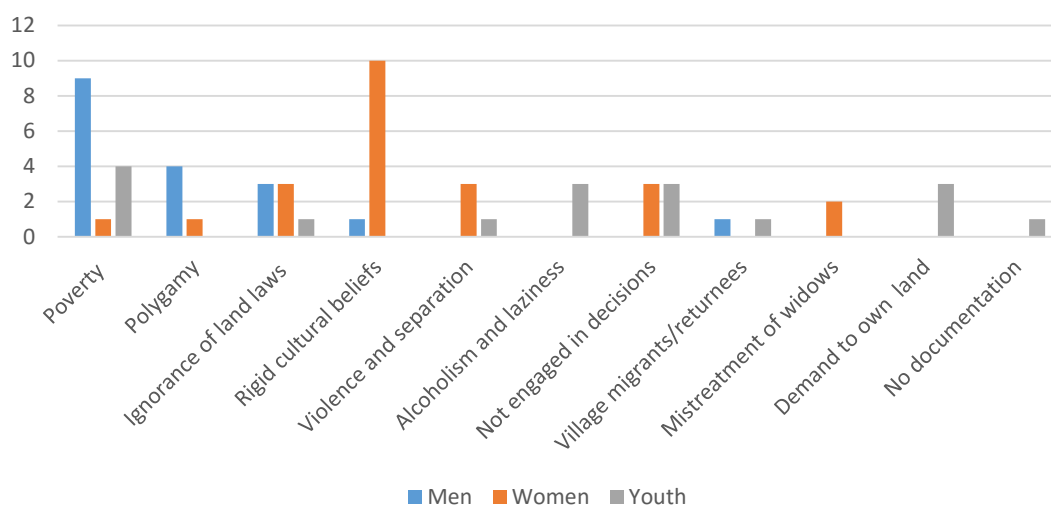


Figure 2: Main causes of land conflicts among men, women and youth

Poverty and income inequality were found to be among the key drivers of disputes over land by men. While some men sell off family land fraudulently without spousal or family or clan consent; others are driven by greed and a need to have control over large chunks of land as it is traditionally a sign of power. Major economic reasons driving this kind of behavior among men include; need for land to invest in large scale/commercial agriculture while others are land speculators anticipating high compensation for land from government given the on-going construction of the Kitgum-Lira Highway. Youth unemployment has driven some to engage in land disputes with their parents and elders over land control and ownership.

“The young people have no source of income; their hope is in taking control of family land and sell it off to buy bodas [motorcycles] to meet their immediate needs. Because they are energetic and youthful, they engage in land wrangles with their parents which sometimes leads to loss of life by parents.”

Community Development Officer, Pader

“Youth take advantage of elders’ old age to take over land.”

LC II, Pader

Women on the other hand are mainly affected by the rigid and discriminatory cultural beliefs and practices which deprive them of opportunities to enjoy their land rights. Among these are; women and girls should not own land, women and widows have no say/can’t make decisions on land. Women without children are not entitled to any land, unmarried widows are denied land, etc.

IMPORTANT TO NOTE

In Africa, women are primary users of land, producing more than 80% of the food but only owning one percent of the land (FAO, 2010; UNDP, 2012). Women’s lack of access, ownership and control over the land they till and toil on affects their productivity, increases food insecurity, ties women in a vicious cycle of poverty and powerlessness and undermines realization of SDGs specifically SGD 1, SDG2, SDG5.

Figure 2 above shows that it's women and youth who have conflicts over non-involvement in decision making on land. These findings are not uncommon considering that land is customarily held in Pader and decisions on land continue to be patriarchal in nature with power placed in the hands of men to make most critical decisions.

Land disputes are also common among polygamous families and large extended families. Children considered to be born out of wedlock are discriminated against during family land sharing. The limited use of family planning has also led to large families hence the difficulties in agreeing on land planning and use due to differing interests.

EXAMPLES OF DISCRIMINATORY BELIEFS AND PRACTICES DEPRIVING WOMEN OF THEIR LAND RIGHTS

- Women should not own land.
- Women and widows have no say in land related decisions.
- Women without children are not entitled to any land.
- Unwed widows are denied land.
- Marriage returnees (i.e. daughter/girls who have separated with their husbands and returned to their homeland) do not deserve to share in the family land.

It was noted that lack of /inadequate sensitization on existing land laws and policies among all the three groups (men, women and youth) is a major cause of conflicts on land as community people do not know/understand their land rights and the procedures to take to seek justice in case of a dispute.

Access to justice

a) Reporting of conflicts to authorities

While 86 percent of adult and elderly men and women report disputes to any preferred authority, only 14 percent youth opt to report their encountered disputes. This is mainly because i) youth often resort to violence to solve disputes rather than seeking justice from authorities, ii) youth feel undermined and discriminated against because of their age iii) youth do not own land and therefore their parents make all the decisions concerning land on their behalf.

Mechanisms for solving land disputes

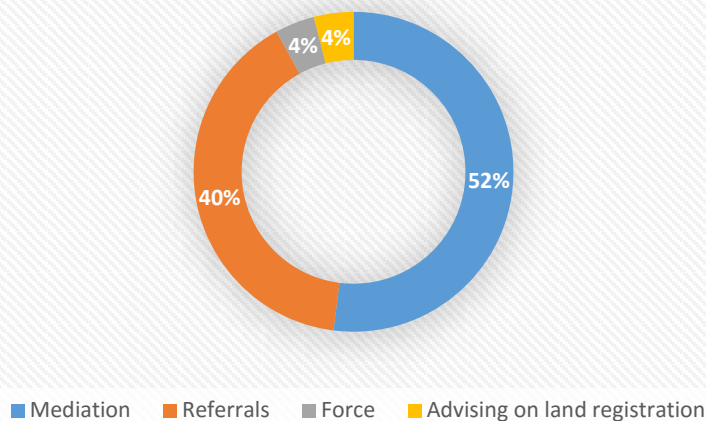


Figure 3: Mechanisms used by leaders to solve land disputes

When asked about the common means of settling reported disputes; leaders reported that alternative dispute mechanisms like mediation is the most employed because it is the most affordable.

Law enforcement is used to settle disputes mostly in instances where community members have

encroached on natural resources and gazetted government lands. In this case, the authorities apply the law and force or evict the illegal occupants on the land.

Institutions preferred by community members for dispute resolution

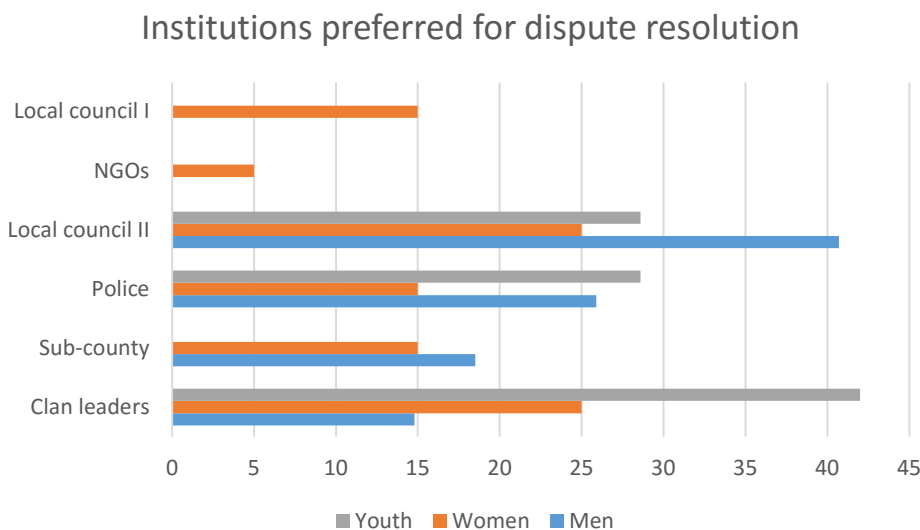


Figure 4: Institutions preferred by community members for dispute resolution

Men prefer to settle their land disputes with the help of Local Council II (LC II) leaders/court because they feel that these leaders are more competent and therefore capable of performing the dispute resolution role than those at LC I. They also feel confident that court will provide fair judgment.

While others go to police out of ignorance on procedure for reporting cases and the fact that police officials can easily be influenced through bribes to expedite conclusion of cases.

“Many men run to police because they can afford to pay off officials for favors. According to them police is quick when it comes to arresting culprits. So men choose not to come to the sub-county where a lengthy procedure is taken in investigation and mediation.”

Senior Assistant Secretary, Pajule.

Women on the other hand prefer to report at LC I and II because they feel that these are active grassroots offices that are accessible to them, understand their situations better and will therefore be fair in judgement. They also go to the clan leaders because these are considered to know the history of the land disputed over more than anyone else hence they are in the best position to settle disputes.

“Women come to us because we have their trust to protect their rights but also mainly due to the fact that we know the land boundaries.”

Traditional leader

b) Mechanisms used by community members for dispute resolution

Mediation is the main approach used by both men and women mainly because

- It's the most affordable. At community level, disputed parties have a say on the choice of mediator unless otherwise.
- It's considered to be a peaceful process and can limit breakdown of relationships unlike litigation.
- It's more transparent and reliable than the court system.

Other mechanisms include; approaching of political leaders to use their powers to influence settling of disputes – this is mainly used by men; use of force by youth who feel energetic enough to push their fathers into making decisions according their will.



c) Institutions and mechanisms not preferred

Although the institutions and mechanisms mentioned above and in this section are used; they are not necessarily preferred due to the short comings listed below.

		Reasons for non-preference
Institutions	Clan	<ul style="list-style-type: none"> • Leaders base their decisions on customary beliefs which are biased against women's land rights. • They have inadequate knowledge for handling land cases. • They tend to favor close family members hence their decisions are at times are not reliable. • They can easily be affected by conflicting interests since they are in most cases relatives of the conflicting parties.
	Court	<p>Courts are marred with corruption exhibited in the following ways;</p> <ul style="list-style-type: none"> • Court process is considered to be expensive. • Women are unable to afford court processes. • Court procedure is bureaucratic; one has to go through several adjournments to get the desired service/remedy. • The rich are favored over the poor. • Some community members fear defeat hence they opt not to report their cases.
Mechanism	Religious Institutions	<ul style="list-style-type: none"> • Religious leaders consider youth to be violent thus avoiding to meddle in their cases and denying them justice in the long run.
	District Land Office	<ul style="list-style-type: none"> • District Land Office processes are bureaucratic.
	Police	<ul style="list-style-type: none"> • Officials are easily corruptible with money.
	Mediation	<ul style="list-style-type: none"> • Some mediators have interests in the disputed land. • Women feel under represented because the mediation team is usually composed of men. • The process is lengthy and time consuming. • The procedure is too informal and not binding enough to some.

Challenges encountered by duty bearers in dispensing land justice

In committing to fulfil their respective mandates, promoting peace and security of tenure for all, local leaders and officials encounter a number of challenges as shown in figure 5:

Challenges faced in providing land justice



Figure 5: Challenges in dispensing land justice

Inadequate technical knowledge on land laws and policies (28.6%); low knowledge capacity on existing land legislation limits leaders' ability to effectively and efficiently deliver land justice. Leaders most affected by this include traditional leaders, lower government structures including Local Council I, II and III.

“Majority of the traditional leaders do not understand statutory laws. They are unable to handle some land problems referred to them due to this knowledge gap”.

Senior Land Management Officer, Pader district.

“LC II leaders are not conversant with court proceedings and some are ignorant about community land justice.”

Community Development Officer, Pajule sub-county.

Financial restraints and poor facilitation for work (26.2%); in some instances are unable to reach communities to hold mediation meetings and visit land sites under conflict due to lack of transport. They possess neither motorcycles nor fuel or money to hire transport means. Lack of stationery to take records for mediation sessions is also a challenge. All these are demotivating factors.

“LC II committee members boycott mediation process because they do not benefit from it. Not even a lunch allowance is provided.”

Chairperson LC II, Ogom

“Sometimes land is too bushy for demarcation. We can't afford to hire men to help us cut down the bushes.”

Elderly Area Land Committee member, Pader.

Political interference (11.8%); political leaders tend to meddle in cases and the mediation process to influence decisions being made. They intimidate mediators using their power. Some community members have thus lost trust in their leaders and mediation.

False witnesses cause delays and setbacks in the conclusion of land disputes. These include people who are at times bribed to provide false information about the land in question and people with unknown/unclear interests in land.

Other challenges noted include; corruption tendencies especially in government structures, low staffing which causes case backlogs, inadequate office facilities for example some Area Land Committee (ALC) members have no designated places for conducting mediation sessions or performing other duties at the sub-county; failure of government to harmonize statutory and customary laws is proving to be a challenge in terms of interpretation of the laws and their actualization on ground; there is poor coordination between structures for example the poor linkage between the ALC and District Land Board causes delays in processing of Certificates of Customary Ownership and their issuance.

Recommendations for responsive and equal access to justice

Based on the findings above, the following solutions are suggested;

Strengthen Alternative Dispute Resolution (ADR) mechanisms like mediation as many people especially the poor, majority of these being women prefer these mechanisms because they are affordable, accessible, easier to understand and can maintain good relationships in the community.

Build capacity of duty bearers in the state and traditional system; these would specifically include trainings in landlaws and processes, ADR, land use planning,

gender and women's land rights, among others. Traditional leaders should be prioritized in these trainings.

Provision of translated and simplified information materials on land (such as Acts, the Constitution, e.t.c) to leaders. These should be produced in local language which the duty bearers are most conversant with, find easier to read and comprehend. Government should set up information centers at district, sub-county and community levels to ensure easy access to the materials.

KEY ASKS

- Strengthen ADR mechanisms.
- Build capacity of duty bearers in state and traditional land system.
- Provision of translated and simplified information materials on land.
- Financial and material resource facilitation i.e. fuel for transport to field, stationery, equipment eg computers, motorcycles, etc
- Continuous sensitization of masses on land rights especially women's land rights.
- Creation of livelihood opportunities to eradicate poverty among the youth.
- Enforcement of statutory laws.

Facilitation of duty bearers with financial and material resources to ease their work but also to limit corruption tendencies and bureaucracy in land service provision. This can be achieved by improving budget allocations to provide for allowances such as fuel and meals in case of field visits, availability of stationery for documentation purposes, equipment e.g. computers, motorcycles, filing cabinets, etc. As seen from above, some leaders boycott duties due to non-facilitation while others transfer their frustrations to the clients/community members making them pay highly for services that are at times supposed to be given at no cost.

Continuous community sensitization on land rights and women's land rights especially to promote mindset change and limit impact of discriminatory cultural norms and practices against women and children's right to land. Specific strategies should be used to engage men, women and youth.

Support and create livelihood opportunities for youth to keep them engaged and to eradicate poverty among them. The lack of access to income is among the major reasons they end up in land wrangles fighting for an opportunity to control land and eventually sell it off.

Enforce existing statutory laws consistently through a systematic and gender responsive approach that is pro-grassroots.

Provision of security for land mediators because their lives are at risk in communities with mixed tribes that tend to riot when not in agreement with decisions being made.

ABOUT THE PROJECT

Global Land Tool Network (GLTN) as facilitated by UNHABITAT is implementing Secure Access to Land and Resources (SALaR) project with support from the German Federal Ministry of Economic Cooperation and Development (BMZ) with an overall goal of improving land and natural resources tenure security of rural smallholder farmers in Uganda.

In contribution of this goal, UCOBAC is implementing the project entitled, Improving Tenure Security for Smallholder Farmers in Select Areas project in Uganda. The project is implemented in partnership with Ministry of Lands, Housing and Urban Development.

PROJECT IMPLEMENTERS AND PARTNERS



Uganda Community Based Association for Women and Children Welfare (UCOBAC) is a national non-government organization whose mission is to improve the welfare and promote human rights of vulnerable women and children in Uganda using community based initiatives. One of UCOBAC's core program areas is Women's Land and Property Rights program which aims at undertaking service delivery and advocacy interventions to influence gender responsive policies and programs to advance women's land, property and inheritance rights.



United Nations Human Settlements Programme is working towards a better urban future. Its mission is to promote socially and environmentally sustainable human settlements development and the achievement of adequate shelter for all. It facilitates the Global Land Tool Network (GLTN).



Global Land Tool Network (GLTN) is an alliance of global, regional, and national partners contributing to poverty alleviation through land reform, improved land management and security of tenure particularly through the development and dissemination of pro-poor and gender sensitive tools.



The German Federal Ministry for Economic Cooperation and Development (BMZ) is the primary State development body in Germany. BMZ's governing principle is the protection of human rights, which includes the right to live in peace and freedom, and to help address the poverty issues in the world.

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