

Research on Land Conflicts and Resolution in Uganda

Executive Summary

More than 20 years of armed conflict between the rebel Lord's Resistance Army (LRA) and the Ugandan government displaced more than 1.7 million people and stalled development in northern Uganda. Over the past several years, peace has returned to the region, and more than 90% of internally displaced people (IDPs) have returned to their villages of origin or locations close to home. The peaceful reintegration of returnees as well as the development of the region is undermined, however, by ongoing conflict over land.

Since 2012, I have worked on various resettlement action Plans on behalf of the Government of Uganda under various private companies in Kenya, Rwanda and Uganda. I have integrated these approaches, motivated by the growing body of research linking Resettlement Action Plans, Compensation Assessments and overall conflicts related to Land. My aim is to develop a general program that will address land conflict interventions that will build peace by eliminating the underlying causes of conflict and, at the same time, open the doors to development by reducing violence. To better understand the Land conflicts in Uganda, I have conducted a land conflict assessment in December 2012. The assessment included a literature review, key informant interviews, and focus group discussions.

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Acronyms

ULA	Uganda Land Alliance
FRA	Food Rights Alliance
AMREF	African Medical and Research Foundation
PLTF	Police Land Task Force
AFIRD	Agency for Integrated Rural Development
FHRI	Foundation for Human Rights Initiative
PAPs	Project Affected Persons
LCs	Local Council
MDI	Microfinance Deposit-taking Institutions
MFI	Microfinance Institutions
IDPs	Internally Displaced People

Introduction

The increased need for large expanses of land by both local and international investors is a common occurrence in Uganda today. Since there is no longer plenty of unoccupied/idle land to the magnitude required by the investors, large scale evictions of the inhabitants in most cases without prior consultations and compensation, leading to landlessness and loss of livelihood sources are some of the consequences. Loss of land does not only lead to hunger, but loss of property, livelihoods, water scarcity and related issues such as children dropping out of schools and social unrest. Above all these, incidences are characterized by gross violation of human rights.

It is against this background that Food Rights Alliance (FRA), under the leadership of the Uganda Land Alliance (ULA) and the thematic group on land and natural assets, launched a national campaign on April 26, 2012 aiming at stimulating national and global debate on land grabbing and amplify it in the public domain for informed decisions and free consent in land investments and negotiations. To date, the land grabbing and mass evictions debate is a household notion across the country and among groups of people including technocrats and politicians. The development of globally recognized principles and guidelines on land investments and recent pronouncements by His Excellence the President of Uganda on these issues gave a new twist and hope to the populace.

Having faced high rates of Conflicts in regards to Land matters, it was noted that Conflicts themselves are not destructive forces, but if left unaddressed can create mistrust, suspicion, dishonesty, defensiveness, conspiracy, and barriers." Conflicts can be perceived as negative or positive. In Uganda, conflicts are viewed as negative and have consequently produced inappropriate behaviors and destroyed the morale and pursuit of the various teams' mission such as Uganda Land Alliance (ULA), AMREF/U-TOUCH, statehouse Directorate on Land Matters, Police Land Task Force(PLTF), Agency for Integrated Rural Development (AFIRD), Foundation for Human Rights Initiative etc. Such negativity has diverted their energy from important team activities and issues that require energy to resolve. When conflicts are viewed as positive, it opens up discussion topics resulting in clarification. When teams are able to work through their conflict, it builds cohesiveness among team members and allows members to develop their conflict resolution skills. Among any team of more than one person, regardless of whether the conflicts are viewed as positive or negative, conflicts are inevitable. Understanding what causes conflicts and how to

resolve conflicts is vital to the success of Uganda especially in the conflict regions of Northern Uganda, Hoima, Masindi, Kayunga etc.

1.0 What causes Land Conflict in Uganda?

Before we begin to talk about what causes land conflicts and ways to resolve them, we must first define what Land Conflict is. Conflict is the process which begins when we perceive that someone has negatively affected, or is about to negatively affect, something we care about. The more deeply we care about something, the more intense the conflict.

Land disputes are widespread in Uganda, affecting 33%² to 50%³ of landholders. In Uganda, land disputes are the most significant form of conflict, with many escalating into violence. Land disputes crop up throughout Uganda, with the greatest number of disputes arising in Northern Uganda Districts, some parts of Hoima and Amuru District where oil has recently been discovered and where the government has given away large tracts of land.

2.0 Types of Land Disputes

Most land disputes in Uganda fall into two broad categories: disputes between individuals and Families and disputes related to private sector investment.

2.1 Disputes between individuals and families

The majority of land disputes in Uganda are between relatives, neighbors, and families/clans. Most of these disputes are related to the delineation of boundaries or competing claims for land use and ownership. Common types of land disputes include:

- Disputes between junior and senior family members;
- Disputes between widows and members of their late husband's family;
- Land grabbing by neighboring families or villages;
- Selling family land without permission;
- Disputes between landowners and squatters; and
- Disputes related to gifting and other unrecorded transfers of ownership.

2.2 Disputes related to private sector investment

Efforts by private sector actors to acquire land in Uganda have increased competition for land and sparked disputes with local communities. Conflict between communities and private investors

arises due to several factors, including reluctance to sell land to outsiders, fear of land grabs, and lack of transparency and stakeholder involvement in negotiations over land use. These disputes are due to the way in which businesses have approached and interacted with communities rather than lack of local interest in private sector investment. Focus groups were unanimous in their support of private sector investment in Uganda, noting that this would create employment and boost the local economy. Focus groups offered several suggestions for smoothing the entry of private sector actors into Uganda, including:

- Leasing land rather than buying it;
- Signing and formalizing rental agreements;
- Providing jobs to those who lease land to the company;
- Ensuring that affected community members have consented to the agreement; and
- Negotiating access to land through traditional leaders and elders rather than government.

3.0 Underlying Causes of Land Conflict in Uganda

Economic interests drive most land disputes in Uganda. Several other permissive factors – confusion over boundaries and ownership after years of displacement, weaknesses in both customary and formal systems of land regulation, and discrepancies between these systems – enable the emergence of these disputes. Additional factors, including the history of mistrust between Uganda and the national government, further exacerbate land conflict.

3.1 Economic drivers of land conflict:

Economic factors, including survival and a desire to increase personal wealth, drive most land disputes in Uganda.

- *Survival*: Land is the key economic asset for most affected families. As one focus group in Uganda commented, people look at land as their only source of survival. Conflict over land arises when individuals and families compete for use of the same parcel of land.

This competition is exacerbated by the perception that land is increasingly scarce due to population increases over the past 20 years. With current population growth, this situation will continue to worsen.

- *Cash sales of land*: Cash sales of land have increased in frequency since the end of the war. Conflict arises when one family member sells the land without the consent of his relatives.

Youth are most likely to sell family land without permission, pocketing the proceeds for their own use. This may be related to the perceived reluctance of many youth to return to the agricultural livelihoods of their parents.

- *Increasing personal wealth:* There is a widespread perception that wealthy or powerful community members take advantage of the uncertainty around land ownership and boundaries in order to grab land.
- *Private investment:* Some land disputes arise when private sector actors attempt to acquire land in a non-transparent manner without full consent of the community.

3.2 Impact of displacement:

According to focus groups and key informants, land disputes began when IDPs began returning home from the camps. Many Affected persons have been in camps for over a generation and upon returning have difficulty accessing their land, reestablishing their rights to the land, and defining boundaries. For example, returnees may find that their land is now inhabited and farmed by people from another family or village. Knowledge of boundaries has been lost as the elders who traditionally held this knowledge have died, natural markers such as trees have changed over time, and people have simply forgotten.

3.3 Customary law:

While the customary system of land tenure is not to blame for land disputes and can be a powerful tool for the resolution of land disputes, several facets of customary law permit the emergence of land conflict.

- *Lack of protection for vulnerable groups:* Customary law provides women with access to land through their husbands but does not allow them to inherit this land upon their husbands' death. As a result, other family members sometimes seek to deprive widows and their children of this land.⁶
- *Communal land:* Most Affected persons land is communally owned. Conflict arises when one family member sells the land without the consent of their relatives.
- *Breakdown of customary systems of governance:* Two decades of displacement have eroded customary systems of governance and weakened the ability of elders to manage access to

land and resolve land disputes.⁷ Elders' legitimacy is further compromised by those who allegedly accept bribes for the resolution of land disputes.

3.4 Formal law

Uganda's history, marked by several drastic changes in land policy, has created uncertainty about rights and ownership. Since colonial times, each government has developed a new set of land policies without nullifying previous rights, such that today there is a confusing overlay of several different land rights systems. British colonists in 1900 gave large tracts of freehold estates, called "mailo" land, to a few wealthy people.⁸ This destroyed the ownership rights of those that had already occupied the land. All non-mailo land became public land. In the 1920s, laws gave these unwilling mailo tenants some rights, including eviction protection. Idi Amin's government nationalized all land in 1975. Though this had little impact at the time, it confused ownership claims. The 1998 Land Act changed legal rights yet again.⁹ Today, the Constitution recognizes at least four types of ownership, often over the same plot of land: customary, freehold private property, mailo rights, and leaseholds.¹⁰ In 2007, amendments to the current land law were introduced and are still being debated.¹¹ At this time, it is unclear how the legal system will change in the near- to medium-term future.

Key challenges with formal land rights include:

- *Unclear policies regarding land ownership:* Individual land rights and tenure systems are not well-defined under Ugandan law, making it difficult for people to secure their rights. For example, the 1998 Land Act appears to vest perpetual occupancy rights in multiple groups (i.e., landowners and tenants) simultaneously.
- *Limited capacity for implementing or enforcing laws related to land:* The government has lacked the resources and the political will to implement Land Act reforms,¹² and has little capacity for either implementing or enforcing land rights.
- *Lack of awareness about land rights:* Many people (some studies indicate as many as 90%) are unaware of their legal rights.

3.5 Discrepancies between formal and customary law:

The determination of land rights and the resolution of land disputes is complicated by discrepancies between customary law and formal law. For example, current statutes give rights to those who have

held land for more than 12 years, but these rights are not recognized by customary law. This has led to conflict between land owners who fled their land for the camps 20 years ago and the squatters who inhabited and farmed their land during that time. While Ugandan law recognizes customary law, it's not clear which system should prevail in situations where each system determines tenure differently. "Forum shopping" is prevalent, and sometimes the same dispute will be resolved differently by different groups, leading to competing claims. Interestingly, some research has shown that areas where land is held under customary tenure rights experience more conflicts than those governed by formal laws.

There was little consensus among key informants and focus groups about whether customary or formal law has greater legitimacy in the community. Customary law holds great sway in Uganda, and focus groups suggest that traditional leaders may be more trusted than local government officials. Local government officials in particular may be dismissed as youth who don't understand how land is traditionally managed, and elders appear to feel threatened by the influence that government officials can wield. In other cases, community members held a favorable view of local government officials, particularly village council members (LC1s) as they are the most accessible. However, the extent to which traditional leaders and local government officials are trusted varies, and is weakened in both cases by fears of abuse and allegations of corruption. The Local Council (LC) system, LC1 refers to the village level, LC2 to the parish level, LC3 to the sub county level, and LC5 to the district level.

3.5.1 Role of the national government:

While the national government is not directly implicated in most land disputes in Uganda, several national factors – including the historical relationship between the national government and Uganda, government development initiatives, opposition politics, and decentralization and redistricting – exacerbate these conflicts.

- *Historical relationship:* A historically contentious relationship between Uganda and the national government colors affected persons' interpretations of government actions in Uganda. The region has consistently supported the opposition and has been economically and politically marginalized, lagging behind the rest of the country in terms of development.

As a consequence, affected persons tend to regard government actions in Uganda with suspicion, even though the national government has articulated a strategy for developing the region. This in turn hinders government efforts to set land policy, resolve land disputes, and implement development initiatives. In addition, Ugandans from other parts of the country have deep rooted prejudices against affected persons and still perceive Uganda as a dangerous, conflict-ridden region.

- *Development initiatives:* Because of this contentious relationship, government development initiatives may be perceived by affected persons as efforts to control or grab Uganda's land when such initiatives are not conducted with transparency or stakeholder involvement. For example, the government sees Uganda as the agricultural "breadbasket" of Uganda and has made overtures in recent years about granting large tracts of land to agricultural businesses. Affected persons are often concerned that interventions by outsiders are a thinly-veiled attempt to steal lands.
- *Opposition politics:* Some opposition politicians appear to deliberately stoke the fears of affected persons that the national government is trying to grab land from them. For example, one community member described how an opposition MP told his community that the government wanted to give their land to investors, saying, "Take your spears. If anyone tries to take your land, just kill them."
- *Redistricting:* Decentralization efforts have created a number of new districts in recent years. This process has been expensive and inefficient, requiring the creation of duplicate administrative structures and frequently leading to gaps in staffing and financial resources at the district level. This has exacerbated land by weakening local government.

4.0 Stakeholder Analysis

The following table outlines the actors involved in land disputes.

ACTOR	ROLE IN CONFLICT	INTEREST
Youth	<ul style="list-style-type: none"> Grab land. -Sell family land without permission. -Carry out violence related to land disputes. -Carry out revenge if parents are attacked in land disputes. -Lack of respect for land dispute resolution by elders. 	<ul style="list-style-type: none"> Economic survival. -Gaining/increasing access to land for their family. -Gaining/increasing access to land for themselves. -Gaining control over family land (youth have access to and use of family land, but no ownership rights). -Decreasing economic dependency on parents.
Wealthy/influential community members	<ul style="list-style-type: none"> Grab land. -Offer bribes to settle land wrangles in their favor. 	<ul style="list-style-type: none"> -Increasing personal wealth. -Gaining/increasing access to land.
Elders (men and women)	<ul style="list-style-type: none"> -Initiate land grabs. -Push youth to carry out or escalate land disputes. -Grab land from youth whose parents have died. 	<ul style="list-style-type: none"> -Economic survival. -Gaining/increasing access to land.
Traditional leaders/Elders	<ul style="list-style-type: none"> -Accept bribes to resolve land disputes in one party's favor. -Resolve land disputes. 	<ul style="list-style-type: none"> -Personal gain. -Resolution of land disputes
Local government officials	<ul style="list-style-type: none"> -Grab land. -Force sale of land for development projects. -Orchestrate land sales to private companies. -Demarcation of administrative boundaries. -Accept bribes to resolve land disputes in one party's favor. -Resolve land disputes. 	<ul style="list-style-type: none"> -Personal gain. -Gaining access to oil (perception). -Commercial farming. -Development of Uganda. -Resolution of land disputes.
Private business	<ul style="list-style-type: none"> -Purchase of land. -Expansion of business to Uganda 	<ul style="list-style-type: none"> -Gaining access to oil (perception).
UPDF soldiers	<ul style="list-style-type: none"> -Occupying land without permission 	<ul style="list-style-type: none"> . -Living on land (not farming).

Several types of people are particularly negatively impacted by land disputes, including:

- *Orphans/youth whose parents have died*: Older family members may seek to deprive younger family members whose parents have died of their parents' land by refusing to allow them access to the land or by being dishonest about boundaries.
- *Youth involved in violent land disputes*: Youth may be injured or imprisoned in the course of violent land disputes.
- *Women*: Widows or divorced women may lose access to their husband's land due to limited awareness of formal land rights and the primacy of customary law in Uganda, which assures women's access to their husband's family land but does not traditionally provide for women's ownership or inheritance of land.
- *Poor community members*: Poor members of the community may lose their land to more wealthy or influential community members, who have the resources to bring land disputes to court or to offer bribes for the resolution of land disputes in their favor.

5.0 Economic Consequences of Land Disputes

Land disputes undermine economic growth in Uganda and the economic well-being of affected families in four ways, including decreased agricultural productivity of small-scale farms, limited private sector investment, limited infrastructure development, and limited youth economic engagement.

5.1 Decreased agricultural productivity:

Land disputes decrease agricultural productivity of small-scale farms in four key ways:

- *Land use is prohibited when disputes are heard in court*: By law, land that is disputed in court cannot be farmed while the case is being heard. This can prevent productive use of this land for as long as several years due to the backlog of court cases. In a focus group discussion with youth in Karuma, Oyam District, 6 of 18 youth (33%) said that they are currently unable to farm their family land because it is held up in court. Other economic impacts of court cases include fees and the possibility of permanently losing access to the land.
- *Physical insecurity and violence prevents cultivation*: Violence or fear of violence may prevent people from working in their fields.

- *Uncertain ownership discourages investment in the land:* Many people, particularly women and youth, farm borrowed or family land that they can use but do not own. This discourages investments due to the fear that these investments will be appropriated by the owner.
- *Land disputes may result in loss of life, injury, or imprisonment:* Youth who participate in land disputes may be killed, injured, or imprisoned.

These findings are echoed by research showing that plots that are conflict-free generate more than twice the output of conflicted plots.

Decreased agricultural productivity decreases affected families' economic well-being. As a focus group of women in various Districts explained, land disputes decrease the amount of food available, decrease income that might be used to pay for school fees and other basic needs, and may push children to steal or beg due to hunger.

5.2 Limited private sector investment:

Land disputes have also hindered the entry of private sector actors into Uganda and the supply of raw materials. This is due to several factors, including security concerns, the difficulty of negotiating land use and acquisition in a transparent and inclusive manner, and community mistrust of private sector actors.

5.3 Limited infrastructure development projects:

Land conflict may hinder the construction of infrastructure, such as schools, roads, and health centers that requires government acquisition of several tracts of land.

5.4 Limited youth economic engagement:

The inability of some youth to access or control land may limit their ability to engage in productive economic activities.

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6.0 Land Dispute Resolution

The failure to resolve land disputes in a fair, transparent, and timely manner contributes to the perpetuation of land conflict. Several factors pose a challenge to the resolution of land disputes, including the existence of multiple dispute resolution mechanisms, lack of coordination between dispute resolution mechanisms, the erosion of customary dispute resolution mechanisms, lack of government capacity and political will to implement or enforce land policy, and corruption.

6.1 Multiple dispute resolution mechanisms:

There are a number of different mechanisms for resolving land disputes, including:

- *Customary mechanisms*, including elders, clan leaders, and religious leaders;
- *Formal mechanisms*, including local government officials at the village and parish level (LC1s and LC2s), land officers, parish level land committees, sub-county court committees, and district courts, magistrates, and land boards; and
- *Peace committees*, which appear to be comprised of community leaders and may have been created by nongovernmental organizations (NGOs) such as Mercy Corps and other international actors.

The variety of dispute resolution mechanisms has led to confusion about who has the authority to resolve land conflicts. In the past, elders and other traditional leaders were responsible for resolving land disputes. Many people continue to turn to customary mechanisms, in part because they are less expensive. Moreover, while some elders will accept bribes to resolve land disputes in favor of a particular party, elders are generally considered more trustworthy and less politically biased than local government officials and are thought to have the best interests of the disputants at heart. As youth focus group commented,

“The elders are the best at resolving land disputes. The elders aim to bring the people together so that they stay friends.”

Local government officials are also frequently approached to resolve land disputes. In some cases, disputants may approach local government officials first, particularly the more accessible LC1s, while in other cases government mechanisms will be accessed only when a conflict is not resolved (or is not resolved to one party’s satisfaction) by customary mechanisms. Formalized dispute resolution is often mistrusted, however.²⁰ Focus groups noted that those with money or with

relatives in government are more likely to turn to the courts and see the dispute resolved in their favor.

6.2 Lack of coordination between dispute resolution mechanisms:

Formal and customary dispute resolution mechanisms follow different procedures to resolve land disputes and may arrive at different resolutions. Government policy has failed to clarify the jurisdiction of each mechanism or how these mechanisms should coordinate to produce a single outcome. For example, while traditional dispute resolution is recognized as legally binding in the Land Act, it's not clear whether this resolution should prevail over a resolution achieved in court.

This confusion can delay the resolution of land disputes and provoke further conflict. Focus groups indicate that both customary and formal dispute resolution actors may refer cases to each other when they are unable to resolve the dispute. Moreover, if disputants don't like the way their case has been resolved, they may bring the case to another forum in search of a more favorable outcome ("forum shopping").

The lack of coordination between formal and customary mechanisms is not universal, however. A number of focus groups noted that local government officials will often seek the advice of elders in resolving specific disputes. Likewise, elders may refer cases to local government officials or the courts if they are unable to resolve the dispute harmoniously.

6.3 Erosion of customary dispute resolution mechanisms:

The capacity of customary dispute resolution mechanisms has been weakened over the years as many traditional leaders have died.

The authority of traditional leaders has been further undermined by the social changes wrought by displacement and the growing strength of formal government mechanisms.

6.4 Lack of government capacity and political will:

In spite of the progress the government has made in developing and reforming land policy, lack of resources and political will has hindered the implementation and enforcement of these policies. This has undermined the government's ability to resolve land conflicts.

Many legal institutions are overworked and overwhelmed, leaving a backlog of cases that can delay resolution by several years.

6.5 Corruption:

Focus groups indicate widespread perceptions of corruption, particularly among local government officials and the courts. Corruption may take the form of bribery, nepotism and favoritism in the resolution of land disputes, and biases related to the perceived role of the government in attempts to grab land.

7.0 What Is Needed to Resolve Land Disputes?

Focus groups and key informants offered several suggestions for preventing and resolving land disputes, including:

- Conduct negotiations of land use and acquisition in a transparent manner;
- Involve community members in negotiations of land use and acquisition;
- Facilitate collaboration between customary and formal mechanisms of land dispute resolution;
- Clarify government policies regarding land tenure and land dispute resolution; and
- Develop stronger administrative structures to deal with core land issues.