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Reviewing the Role of Selected Land Governance Institutions in Land Conflict Management in Uganda

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Abstract

Purpose: This study aimed to assess the role of selected land governance institutions in managing land conflicts in Uganda.

Methodology: A desk research was adopted given that it was purely based on secondary data.

Findings: The outcomes suggest that although a variety of mechanisms are available, ad-hoc mediation is key is resolving land conflicts in Uganda.

Conclusion: The study concludes that government strengthen ad-hoc mediation as well as making them more formal in land conflict management.

Recommendations: From the study, it is encouraged that local council court members be periodically trained in conflict management; that government advocates, trains, and considers better facilitation for ad-hoc mediators to make them more effective.

Key words: *Land governance, land conflicts, ad-hoc mediation, conflict resolution, Institutions*

1. Introduction

In Sub-Saharan Africa land has been a subject of conflict (Urmilla, 2020). For instance, in Botswana, Kalabamu (2019) noted that mediation agencies would play key role in the management of land related conflicts in society. Similarly, in Kenya, Klaus (2015) noted that most State institutions shape the role and salience of ethnic identity in relations to land which was a basis for conflicts over land and other resources. A well-intentioned intervention to improve land tenure may unintentionally have increased land conflicts and social polarization instead of providing the basis for sustained growth (Platteau, 2010). For example, whereas the Land Act (1998) consolidated the laws relating to tenure, ownership and management of land, the then existing laws like Hearing of Titles Act, Succession Act (2006). However, attempted reforms have instead increased conflict by applying simplistic legal categories of 'owner' and 'user' to complex and fluctuating interrelationships especially on *Mailo* tenure. For example, the 1998 Land Act prescription for the issue of Certificate of Occupancy, by which the lawful or bonafide occupant is able to demonstrate legal habitation and becomes a "statutory tenant of the registered owner", has been extensively contested, breeding conflict (Rugadya, 2009). By causing a proliferation of administrative and statutory land governance institutions existing in parallel with traditional institutions the reforms have created a complex land governance infrastructure, made worse by the fact that some of these institutions are not fully operational in certain areas such as Northern Uganda and yet they are de-facto legal institutions (Rugadya, 2009). This has caused institutional competition that promotes forum shopping by people that approach those institutions that might best serve their interests in a conflict (Firmin-Sellers, 2020).

The Land Act of1998 is seen to be in pursuance of the overall government policy of decentralization provides for a decentralized land management and dispute settlement mechanism (Ahumuza, 2014). Generally, responsibility is decentralized to a large number of new institutions for land administration and conflicts settlement in order to provide for community involvement in decision making (Mwesigye & Matsumoto (2016). For instance, the Land Act (1998) established an elaborate structure of land Tribunals; and the appointment of ad-hoc mediators, initially under Ministry of Lands, but later transferred to Ministry of Justice (Obaikol & Ogwapit, 2017). The role of Land Tribunals in land conflicts resolution in Uganda is to provide for easier accessibility to justice by landowners and users, by moving away from the formal court structure whose ambience is intimidating, complicated and alienating. Local Council Courts are the institutions that mainly deal with land conflicts but are often going beyond their legal mandates when dealing with land conflicts (ibid). The Land Tribunals are currently dysfunctional and even when they are established in all districts they will not have the capacity to handle all conflicts efficiently (Rugadya et al, 2009). Area Land Committees that are to be responsible for recording land boundaries on customary land and recording transactions of such land in certificates of occupancy at the local level have largely not been formed in certain areas due to financial constraints (ibid).

In this study, land governance institutions will be comprised of the Local Council Courts, the Land Tribunals, and ad-hoc mediators, while land conflicts management was looked at the aspects of prevention of land conflicts, mediation, resolution, sensitization, and

forwarding of unresolved cases for further management in the higher courts of law. Local Council Court is a system created to complement the formal courts with more informal courts; they are designated in every village, parish and sub county to function as court (Alban, 2020). Among other issues, these courts deal with customary law disputes relating to customary marriages, such as the marital status of women and the identification of customary heirs. They might also be called upon to decide on family property upon divorce.

Local Council Courts therefore resolve a range of disputes about the value of land and buildings, and about their occupation, use or development (Obaikol & Ogwapit, 2017). The Land Act (1998) provides for the establishment of Local Council Courts at the sub county and district levels. Local Council Courts consist of a chairperson and two other members. At the sub county level, the Local Council Courts shall handle those land disputes with a maximum value of 50 million shillings in rural areas, 100 million shillings in urban areas or 250 million shillings in Sub-county. According to Obaikol and Ogwapit (2017), the District Local Council Courts have jurisdiction to: determine disputes on land whose value is above 50 million shillings in rural areas, 100 million shillings in gazetted urban areas and 250 million shillings in Sub-county; determine land disputes related to the grant, lease, repossession, transfer or getting of land by individuals, the Uganda Land Commission or other authority with responsibility for land; determine any dispute related to the amount of compensation to be paid for land acquired by the national or local Government; make orders to cancel entries on the certificate of title or cancel the certificates of title and vesting of title in cases handled by the lower Local Council Courts; and determine any other dispute relating to land under the Land Act (1998).

According to Akin and Katono (2011), a Lands tribunal is that it is an institution that was created under the Lands Act of 1998 as an alternative dispute resolution mechanism with the objective of achieving speedy, low cost, flexible and efficient means of settling disputes that arise in land. Jurisdiction of Lands Tribunal is contained in Section 15 of the Land Act of 1998 states that any person aggrieved with a direction or decision of a person in authority may apply to the Lands Tribunal for determination. In Section 22, the Lands Tribunal shall have jurisdiction to "inquire into and make a resolution and decisions in any dispute relating to land under this Act"; and generally to inquire and adjudicate upon any matter affecting the land rights and obligations. These provisions therefore indicate that the operations of the Lands Tribunal shall be restricted to land which is only statutory or leasehold land. The Land Act (1998) further provides for a very limited jurisdiction for the Tribunal. The Tribunal does not have jurisdiction to handle disputes on customary land. The guiding spirit behind the functions of the Lands Tribunal is that it would provide an alternative to the High Court. In other words, the alternative land dispute resolution mechanism is seen to be the Lands Tribunal. This again is limited with regard to customary or traditional land.

Thus, ad-hoc mediators play a cardinal role in land conflicts mediation, which according to Mwesigye & Matsumoto (2016) is a form of alternative land conflicts resolution in Uganda. Alternative forms arose because of the increasing cost, complexity and time to resolve disputes in courts and tribunals of the judiciary. ADR seeks to emulate customary forms that are less formal, less costly and therefore more accessible to all. Kakooza (2017) opined

that mediation may be defined as a voluntary, non-binding and private dispute resolution process in which a neutral person helps the parties reach a negotiated settlement. The neutral person who helps parties find a solution to their dispute is called a 'mediator'. Mediation creates a dialogue and environment for listening, for diffusing of tension, and understanding of perspectives. It can bring together antagonists and create conditions for negotiation and agreement.

According to Urmilla (2020), ad-hoc mediation over customary land dispute resolution in the Kingdom of Eswatini has been described as operating to preserve harmony between community members. The preservation of harmony is a key principle that builds cohesion and social peace in rural communities. When disputes do arise, it is the 'politics of harmony' that is used to help resolve the dispute. In Bangladesh, while local institutions such as village councils and religious leaders can often resolve local land conflicts, land disputes are solved in villages with the help of village Sarpanch or a panchayat committee. In Malawi, small scale land dispute occurs in villages especially when two separate entities feel like they both have a legal claim to a piece of property, and aside from maintaining the land records created by the Patwari, the Tehsildar also hears land disputes between two or more parties and makes a decision after referring to the official records in his possession. This is an equivalent of a local council court in Uganda. In Tanzania, land conflicts is primarily settled by village elders who constitute themselves in a tribunal because most people that generally face evictions are desperately poor to mobilize funds to hire lawyers to argue their cases for them (Bjola & Kornprobst, 2010). The Tribunal would be established with the view that Courts in Tanzania were always congested with workloads and it would be very expensive to pursue land conflict cases in courts. Tentatively, the arrangement of village land conflicts settlement in Tanzania can be serving the role similar to local council courts in Uganda. In spite of the well formulated institutions that the Land Act (1998) provides for, conflicts related to ownership of land; and use of land have persisted (Ahumuza, 2014) in Uganda and in Lango sub-region in particular.

1.1 Problem Statement

Despite the attempts by the Government of Uganda to reduce land conflicts through the formal court systems, land related conflicts have remained the most prevalent type of dispute occurring with and among communities in Uganda, both in the rural and urban areas (Obaikol & Ogwapit, 2017). For instance, UBOS Report (2016) found that in Uganda, land wrangles are common with 6.7% of households reporting having had a land dispute. Similarly, Musumba (2015) gives a precise magnitude of the problem, indicating that 33% to 50% of landholders in Uganda were affected by land conflicts, and in Northern Uganda, Burke & Egaru (2011) contend that land conflicts had become a serious issue in the post-conflict times. To manage these spiral cases of land conflicts, Government of Uganda established different land governance institutions such as the National Local Council Courts; the Land Tribunals; the Sub-county Local Council Courts; and Ad-hoc mediators. But a caseload records show that the total number of reported land conflicts is on the rise but the total number of "resolved" cases is decreasing and stood at 83% in 2015 (Obaikol & Ogwapit, 2017), bringing into question the effectiveness of land governance institutions. A report from the Lands Investigation Desk of the Uganda Police Force (2017) indicates that Lira district had 371 cases of reported land

conflicts, while Mityana and Gombe had a total of 849, and 1,093 cases, respectively in 2016; and after Musumba's (2015) study which indicate a high prevalence of land conflicts in Lira district, this study therefore sought to fill the gap by finding what the situation is now in terms of the effectiveness of land governance institutions in managing land conflicts in Lira district.

1.2 Purpose of the study

This study aimed to examine the effectiveness of selected land governance institutions in the management of land conflicts in Lango sub-region. Specifically, the study answered three questions, namely: (i) what is the effectiveness of Land Tribunals in land conflicts management? (ii) What is the role of Local Council Courts in land conflicts management? And (iii) what is the impact of Ad-hoc Mediators in land conflicts management?

1.3 The Theoretical review

Theoretical underpinnings from both the argumentative theory of governance and the conflict theory were considered in this section. Palau; Mochales & Marie (2019) state that argumentative theories of governance focus on the constitutive forces and formative conditions for the emergence and operation of particular governance regimes in society. Argumentation theory investigates the practices and standards of using arguments. One major criticism of conflict theory is that it focuses too much on negative aspects of human interaction. Some critics argue that humans are inherently good, and conflict theory creates an entire ideology around human flaws and faults rather than focusing on the positive nature of people and social functions (Choudree, 2019). Predictably, conflict theory has been criticized for its focus on change and neglect of social stability. Some critics acknowledge that societies are in a constant state of change, but point out that much of the change is minor or incremental, not revolutionary. The relevance of social conflict theory is noticed in the promotion of groups to find common ground, form alliances, define core values, identify differences in view point, set group boundaries, and inform strategies for achieving expected change.

2. Methods and materials

This research used correlation and descriptive study designs. The reason for using correlation design was because it probes the extent to which two or more variables relate to one another. In this study the correlation design investigated the extent to which land governance institutions are effective in land conflict management. Descriptive research involved describing such things as values, attitudes and characteristics (Mugenda & Mugenda, 2013). The study was basically a case study of Lira District. This was because it was not feasible to carry out the investigation in the entire country for reason of time and resource constraints. Quantitative as well as qualitative research approaches were used in the study. Quantitative methods obtained numerical data while qualitative methods generated descriptive data explaining facts revealed by quantitative data. The study population is composed of persons who served as land tribunals between 2016 and 2021 in Lira district, members of the local council courts, and opinion leaders who included religious leaders, elders, members of Parish Development Committee, and Secretaries of Environment Affairs of villages. The choice of this population is informed by the fact that they are the epicentre of land institutions and land conflicts management. The

study population included officials from each of the nine sub-county land tribunals; members of local council courts that included court clerks and court members from the nine sub-counties in Lira district; and 18 members from each of the nine sub-counties in Lira district that included religious leaders, elders, members of Parish Development Committee, and secretary for environment in villages. This target population was expected to provide the much needed information on the study variables. Data were collected using documentary analysis, a self-administered questionnaire, personal interviews and FGDs.

3. Results and Discussion

3.1 The concept of land conflicts and land governance

Conflict arises when two or more groups believe their interests are incompatible (UNEP, 2012). In a similar view, Deininger & Castagnini (2016) concur that a "conflict is the perception of differences of interests among people." Similarly, Torre *et al* (2014) called a conflict an opposition marked by an engagement or a commitment between two or several parties in relation to local material objects (Torre et al, 2014). Tjosvold, Wan & Tang (2016) agrees with UNEP's (2012) but disagrees with Torre *et al* (2014) definitions when they proposed that defining conflict as incompatible actions is a much stronger foundation than defining conflict as opposing interests, because conflicts also can occur when people have common goals in that conflict actors may disagree about the best means to achieve their common goals.

According to UNEP (2012) a conflict is not in itself a negative phenomenon given that non-violent conflict can be an essential component of social change and development, and is a necessary component of social change and development, and is a necessary component of human interaction. It is only a negative phenomenon when it escalates into violence (UNEP, 2012). This is in tandem with Mayer's (2010) contention that a conflict is something that is natural, something that is inevitable, even needed, and normal. Coleman, Deutsch, & Marcus (2014) in agreement with UNEP (2012) and Mayer (2010), maintain that a conflict is a component of interpersonal interactions; it is neither inevitable nor intrinsically bad, but it is commonplace (Schellenberg, 2016). For that reason and in further concurrence, Torre et al (2014) observed that we do not consider it necessary to eliminate conflicts nor even try and solve them at all costs, for they are the expression of the voiced opposition of parties that consider themselves injured.

Regarding why conflicts breakout, Shah (2013) wrote that a conflict occurs as a result of the difference between the rate of change within the moral norms and human desires, expectations, dissatisfaction and needs of the community. Bringing this further home, and in agreement, Balestri (2015) wrote that land conflicts can emerge from unequal distribution of access and control of land and land-related resources, lack of appropriate policies, weak and corrupted institutions and the mismatch between traditional and current uses of land. Torre et al (2014), in concurrence with Balestri (2015) observed that land conflicts are the results of the dissatisfaction of one part of the population with actions undertaken or planned by their neighbours, by private institutions or by public authorities. In fact, according to Douglas & Walton (2016), land and conflict are often inextricably linked. Bjola & Kornprobst (2010) attest

to the same link when he points out that where there is conflict, land and natural resources issues are often found among the root causes or as major contributing factors.

Land is very much a sovereign issue as all levels of government – national, territorial/provincial, and particularly local – are involved in preventing and resolving land conflict and are sometimes involved in land-related human-rights violations (UN Habitat, 2017). Torre et al (2014) agrees that the government's role in conflict resolution in terms of authority, duties and functions is to create a sense of security in society by making policies that guide conflict resolution measures if they occur. It is in this context that land governance comes about when Palmer et al (2019) earlier contended that, land governance is fundamentally about power and the political economy of land. Additionally, Palmer et al (2019) posited that land governance encompasses statutory, customary and religious institutions, as well as informal institutions. It includes state structures such as land agencies, courts, and ministries and municipalities responsible for land. It also includes informal land developers and traditional bodies. It covers the legal and policy framework for land, as well as traditional practices governing land transactions, inheritance and dispute resolution. In short, it includes all relevant institutions from the state, civil society and private sectors.

Later, in concurrence, UN Habitat (2017) defined land governance as: "the rules, processes and structures through which decisions are made regarding access to and the use and transfer of land, the manner in which those decisions are implemented and the way conflicting interests in land are managed " (UN Habitat, 2017). UN Habitat (2017) later substantiated this definition that it highlights three important dimensions: (1) institutions, (2) quality of decision-making and translation into action; and (3) managing conflict interests, entailing consideration of the equity dimensions of land policies, land interventions, and the institutional arrangements for land governance (UN Habitat et al, 2017).

3.2 Land Tribunals and Land Conflict Management

Kakooza (2017) considers that alternative forms of handling conflicts arose because of the increasing cost, complexity and time to resolve disputes in courts of the judiciary. It seeks to emulate customary forms that are less formal, less costly and therefore more accessible to all. In Uganda, the Land Act of 1998 provides for District Land Tribunals, and section 57 of the Act mandates the District Land Tribunals to facilitate the hearing and transfer of interests in land; cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents; compile and maintain a list of rates of compensation payable in respect of crops, buildings of a non-permanent nature and deal with any matter which is incidental or connected to the other functions referred to in this subsection (Akena & Ssemakula, 2020).

Musumba (2015) contends that all appeals to decisions made by the District Land Boards and by sub-county Land Tribunals have to go to District Land Tribunals. Appeals to decisions made by a District Land Tribunal must be lodged at the High Court (Mwesigye & Matsumoto, 2016). While at least one of the members of the Land Tribunals on the sub-county level must be a woman, no such provision is included for the membership of the District Land Tribunals (Rugadya, 2009). According to Tracaire (2017), by November 2001, the District Land Tribunals were finally established in Uganda to offer speedy settlement of land conflicts

across the country. With the delay in establishing the Land Tribunals, many people who did not have a case pending at a Local Council Court or Magistrate's Court have had to go directly to the High Court, which is overwhelmed by the number of cases filed before it. An amendment on the jurisdiction of Local Council Courts and the Magistrates' Courts was thus adopted in June 2001, allowing these courts to finalize the cases that were still pending before them on 2 July 2000.

Omiiat (2011) states that Land Tribunals may also advise the parties to use such mediation or may refer the parties to an independent mediator, appointed by the Tribunal, but agreed to by the two parties; and that the tribunals may accept evidence that would not ordinarily be admissible in the normal courts of law. According to Alban et al (2020), by hearing cases of customary rights over land in a formal register, district land Tribunals play a crucial role in the management of conflicts. It prevents land conflicts by making rights over and ownership of the land to be recognized by others and stop them from making competing claims over the land. Ali et al (2019) concurs by holding that international recognition that issuance of legal land rights documents such as land titles enhance land security.

Jurisdiction of Lands Tribunal is contained in Section 15 of the Land Act of 1998 states that any person aggrieved with a direction or decision of a person in authority may apply to the Lands Tribunal for determination. In Section 22, the Lands Tribunal shall have jurisdiction to "inquire into and make decisions in any dispute relating to land under this Act"; and generally to inquire and adjudicate upon any matter affecting the land rights and obligations. These provisions therefore indicate that the operations of the Lands Tribunal shall be restricted to land under the Lands Act of 1998 for only statutory or leasehold land. The Land Act (1998) further provides for a very limited jurisdiction for the Tribunal. The Tribunal does not have jurisdiction to handle disputes on customary land.

The guiding spirit behind the functions of the Lands Tribunal is that it would provide an alternative to the High Court. In other words, the alternative land dispute resolution mechanism is seen to be the Lands Tribunal. This again is limited with regard to customary or traditional land. However, according to Alban et al (2020), the land conflict prevention role of District Land Tribunals is often undermined by the weak and non-functional nature of the Tribunals, as evidenced by poor records with incomplete information at the Land Offices in most districts in Lango and Acholi regions. Government of Uganda Report (2020) is in agreement with the World Bank Report (2019) when it observed that statutory land institutions such as the District Land Tribunals have faced difficulties in innovating comprehensive, legitimate, accessible and cost-effective frameworks to address the root and structural causes of land conflict and conflicts.

Consequently, Kobusingye, Leeuwen & Dijk (2016) observed that people have lost trust in such institutions as the District Land Tribunals because they fail to ascertain or even protect people's registerable land rights. While according to Trocaire (2017) District Land Tribunals are unable to protect security of tenure and prevent competing land claims because they have limited knowledge and skills to deliver on their mandates, another problem with the District Land Tribunals is delay in processing land transaction. This gives room for conflicts

to emerge. According to Chigbu, Paradza & Mwesigye, 2019), team of respected personalities are always considered or preferred in handling mediation so as to achieve its purpose in resolving land disputes. It taps into the current law and practices on mediation and balances its operation.

Elsewhere in Lango sub-region, land conflict broke out in Otuke district and by 2015, conflicts mediation was considered to create a sustainable community support network to address land conflicts and NGOs, Saferworld and partners established a voluntary community-led mediation committee made up of 30 men and women from Olilim sub-county in which the contested 'Barima' is located Chigbu, Paradza & Mwesigye, 2019). The mediation team consisted of different ages, including police and security representatives. Saferworld and partners trained committee members on approaches and skills to resolve conflicts, land rights including women's rights to land and other properties, and conflict analysis during resolution processes. Thus, working within the community, members of the mediation committee have honed their mediation skills over the years to resolve disputes and prevent disagreements escalating into conflict. Impressively, the committee recorded important details of all the cases that were brought to them. "Record keeping was very important. The mediation team has a book in which they've been documenting cases since 2015. In 2015, 102 cases were registered, only two went to court; in 2016, 92 were successfully mediated, none went to court; in 2017, 56 have been registered six are pending, none have gone to court which scored a significant success in the reduction of land conflicts" (Chigbu; Paradza & Mwesigye, 2019). According to Kalabamu (2019), land Tribunals did not have sufficient funds to facilitate their activities including community outreaches and lacked well-planned and community sensitization on themes which are relevant to providing solutions to land rights challenges faced by locals in most sub-Saharan African countries.

3.3 Local Council Courts and Land Conflict Management

Local courts are prominent practice globally, for instance, Cornwell & Jewkes (2015) states that in Peru, Cell authorities reported reserve the autonomy to hear and determine cases related to small land holdings between or among neighbours or families in such a cell. In Africa, the concept of local council courts is not new, too. Papua New Guinea they started in 1973 with the enactment of the Village Court Act (Brison, 2015). Van der Waal (2014) agrees with this observation when he opined that local courts have been in existence in Limpopo Province, South Africa for millennia. In Nigeria, Hopwood & Atkinson (2015) write that the local courts had unlimited jurisdiction to deal with conflicts in respect to land held under customary tenure. This is similar to the situation in Burundi given Kohlhagen's (2019) observation that land conflicts are officially within the jurisdiction of local courts.

The government of Uganda, on realizing that community conflicts could not be handled entirely by courts of judicature, enacted the Local Council Courts Act which, according to Jjemba (2019), came into force on 8th June, 2006. This concurs with Nakayi (2013) who observed that courts were established to bring justice nearer to the people and to resolve local conflicts quickly at minimum costs. The same significance of the Local Council Courts in adjudicating land conflicts is alluded to by Burke and Omiat (2011) which reported 94% of all cases presented to LCII executive court committees were mainly land-related. According to

Obaikol (2014) Local Council Courts have been found to be most utilized dispute resolution for land conflicts for majority of Ugandans. This is in tandem with CEPIL (2016) observation that the public trusts Local Council Courts more than they do the main stream courts. The level of satisfaction with the outcome of local council court decisions was just above 50% and the reasons advanced were that in most cases the conflicts were resolved or settled, and disputants were always allowed to ask questions. Local Council Courts were also perceived to be effective, expeditious and less costly (Jjemba, 2019). This concurs with Burke's and Omiat's (2011) study which report that many community members consulted described LCIIs as respected members of the community and claimed to be satisfied with the role of the LCIIs in resolving land conflicts.

This is nevertheless contrary to the situation in Papua New Guinea, where Brison (2015) observed that satisfaction with village courts were not enjoyed because the magistrates most often presented themselves as agents of state, which undermined these local courts. Nakayi agrees with Brison (2015) but disagrees with Jjemba (2019) when she observed that in Northern Uganda Local Council Courts operate in an unstable environment characterized by highly imperfect and chaotic functioning, which affects their ability to dispense justice that meets the minimum human rights standards. Khadiagala (2013) concurs when he opined that in Kabale District in South-Western Uganda indicates that local council practices are discriminatory and that women seem to prefer 'the rule of law' by magistrates' courts to 'the rule of persons' by local councils. To Akin & Katono (2011) the effects of the statutory silence concerning enforcement of Local Council Court determinations regarding land conflicts are loudly experienced on the ground. However, despite the challenge Akin and Kono (2011) describes, according to CEPIL (2016) the public trust Local Council Courts and the police more than they do the main stream courts.

3.4 Ad-hoc Mediators and Land Conflict Management

Ad-hoc mediators play mediation role in the management of land conflicts in society, and according to Cornwell & Jewkes (2015) the characteristics of mediation are that it is relatively short, informal with simple procedure, low cost, voluntary, and confidential. Kakoza (2017) opined that mediation may be defined as a voluntary, non-binding and private dispute resolution process in which a neutral person helps the parties reach a negotiated settlement. The neutral person who helps parties find a solution to their dispute is called a 'mediator'. Mediation creates a dialogue and environment for listening, for diffusing of tension, and understanding of perspectives. It can bring together antagonists and create conditions for negotiation and agreement (Balestri, 2015).

The main elements of mediation are that it is voluntary where the conflicting parties to the dispute must agree to try mediation, although there may be strongly encouraged to do so in some circumstances (Ali et al, 2014). Mediation may also be non-binding because it is voluntary, and the process and the outcome do not bind the parties to a settlement. A party is free to walk out of mediation at any time (Coudree, 2019). A mediator has no authority to make a binding determination, so if the parties cannot agree, there will be no settlement and the case will proceed to another form of dispute resolution. However, if settlement is reached, the agreed

terms will form part of an enforceable contract (De Juan, 2017). Mediation is non-prejudicial, meaning that anything said or revealed in the process cannot be used later in another forum (Cornwell & Jewkes, 2015). The facts revealed are confidential to the parties and to the mediator and cannot be revealed to others at any time (Lahr, 2016). The terms of a settlement may remain confidential or not, as agreed by the parties.

The role of the mediator is key to the success of any mediation, and it is essential that the mediator is acceptable to and trusted by both parties (Marcus, 2014). Therefore, the mediator must be a truly neutral person having no association with either of the parties or any interest in the outcome. Mediation aims to achieve a "win-win" outcome (Kohlhaggen, 2019). It is only successful if both parties are happy with the outcome and abide by the agreement. Mediation often fails if one or both parties is unwilling to participate and contribute to reaching agreement; one of the party's acts in bad faith; and if one of the parties exits the mediation process or takes the dispute to court (Tjemba, 2019).

According to Obaikol (2014) mediators are provided for under section 89 of the Land Act on ad-hoc basis. According to Akin & Katono (2011), mediation has taken root in a variety of jurisdictions across Africa, from paralegal training programmes for village mediators in Malawi and Kenya, to Mozambique's Arbitration, Mediation, and Reconciliation Act. Here, Akin and Katono (2011) was supported by Hopwood and Atkinson (2015) who give an example of South Africa, where the 1998 Transformation of Certain Rural Areas Act set in place an institution, operating on a relatively large scale, whereby issues of land tenure security could be achieved through a detailed consultation and mediation process in areas of the Western and Northern Cape. Alluding to the popularity of mediation and by extension mediators Obaikol (2014) observed that courts of law now apply mediation for most cases before going into formal hearing.

Whereas LEMU & ASB (2010) observed that by December 2009, most land conflict mediations in Uganda went unrecorded as to their procedural justice, effectiveness, and compliance to applicable laws (LEMU & ASB, 2010). Also, Obaikol (2014) alludes to existence of analysis and records of the same when she reported 26% effectiveness with mediation in a 2012 national study by the Justice, Law and Order Sector or JLOS. Kakooza (2017) states that land conflicts mediation have been successful in customary land dispute resolution in Ethiopia, and have been described as operating to preserve harmony between community members. The preservation of harmony is a key principle that builds cohesion and social peace in rural communities. When disputes do arise, it is the 'politics of harmony' that is used to help resolve the dispute. The method is similar in most respects to mediation. According to Lincoln Institute of Land Policy (2010) mediation is widely used in some areas of law, such as family or employment cases, its application in land use has been limited. LEMU and ASB (2010) disprove that observation when they opined that the gravity and significance of mediators' daily work in mediating land conflicts in Uganda can in no way be overstated (LEMU & ASB, 2010). Lincoln Institute of Land Policy (2010) study is further contradicted by Obaikol (2014) study which found that most successfully mediated cases were family and land related matters.

As a consequence, a successful mediation program requires selecting suitable cases for mediation at the right time in the process, and matching them with appropriate forms of mediation assistance (Lincoln Institute of Land Policy, 2010). This observation concurs with ARD (2008) who observed that mediators often lack the skills and knowledge to resolve conflicts consistent with the law, yet institutional support is limited to non-existent. Alluding to the same lack of knowledge of what skills and approach to apply in mediation Akin and Katono (2011) observed that one of the challenges facing mediators is that they operate in a litigation mindset. They add that letters written to invite Respondents for mediation sessions were often structured and worded like accusatory Notices of Intention to Sue sent by advocate on behalf other client.

Nakayi (2013) observed that the strategic principles of mediation must be deployed by a mediator to ensure a workable peace settlement that is acceptable to all the parties has currency. It for instance, concurs with Hopwood and Atkinson (2017) who observed that where unbalanced power relations between stakeholders are not addressed, it is likely that settlements will favour the more powerful and this will often undermine the efficacy of settlement agreements. The Government of Uganda (1998) had the said principle in mind when it enacted in section 89 (5) of the Land Act that "the mediator of a customary land dispute shall be guided by the principles of natural justice, general principles of mediation, and the desirability of assisting the parties to reconcile their differences." Thus, Akin and Katono (2011) cannot be more right when they observed that adversarial mindset of community paralegals who mediate land conflicts in post-conflict Northern Uganda tended to visibly undermine the problem-solving spirit of mediation (Akin &Katono, 2011).

While the literature presented different institutions of mitigating land conflicts across the globe such legal establishments, use of RDCs or RCCs offices for mediation, enforcements, and the involvement of religious, but there is limited provisions of the exact analysis on land tribunals, local council courts and ad-hoc mediators as land governance institutions especially in the land conflicts management in Lango sub-region. From the documents reviewed at the district Lands Offices to ascertain the level of prevalence of land conflicts that existed between 2016 and 2021 which include type of land, parties involved in the conflicts, type of land conflicts as illustrated on table 1 below.

Table 1: The type and nature of land conflicts in Lira District (N=371).

Land related Issues	**Frequency**	**Percentage**
Land category with conflicts		
1. Surveyed Land (with mark-stones)	2	0.5
2. Registered Land/ Titled or registered land	0	0
3. Customarily owned land	255	68.7

4. Land acquired or bought	16	4.3
5. Land which was donated or given in the past	92	24.9
6. Others (mortgaged land, staked as a security, or debt settlement)	6	1.6
Sub-Total	**371**	**100**
Types of conflicts		
1. Boundary contestation	103	27.8
2. Partial land contestation	32	8.6
3. Whole Piece contestation	236	63.6
Sub-Total	**371**	**100**
Parties involved		
1. Government institutions	13	3.5
2. Relatives	94	25.3
3. Neighbours	261	70.4
4. Financial Institutions /bailiffs	3	0.8
Sub-Total	**371**	**100**

Source: *Lira District Lands Office (2022)*

On the land category that conflicted against, customary lands had 68.7% cases reported in Lira district, and titled or registered land had no case reported but 0.5% of surveyed land had some contestations. This can be justified by the fact that customary land ownership have weak inheritance guidelines, and also have very limited security features attached, hence high prevalence of conflicts over land. On the type of conflicts, land conflicts of boundary and demarcation had 27.8% cases, partial contestation had 8.6%, and whole piece of land contestation had 63.6%. This is justifiably explained by the fact that conflicting parties in Lira district could have preferred the contestation of the whole piece of land to make it morally acceptable by the land governance institutions such as Local Council Courts or ad-hoc mediators.

On the parties involved in land conflicts, the involvement of government institutions such as schools, police barracks, and health centres recorded 3.5%, neighbours were involved in 70.4% of cases, relatives were involved in 25.3% of cases, and financial institutions or bailiffs were involved in 0.85 of cases. This finding implies that land conflicts were more

common between or among neighbours than among relatives, government institutions, and financial institutions. This could be because neighbours could be persons with different ethnicity or other social backgrounds that might breed hostilities amongst themselves in regard to land ownership. Others may also look at neighbours as 'foreigners' in their vicinity and would prefer them out of such land. From this instrument, the study considered constructs such as number of cases assigned to land tribunals, number of cases successfully handled by land tribunals, number of cases pending before the desk of land tribunals, and number of cases withdrawn from being handled by land tribunals. Below are the results of the findings:

Table 2: Cases handled by Land Tribunals between 2016-2021 in Lira District (N=09)

Description of Cases	**Freq.**	**%**
1. Number of cases that were convincingly settled by Land Tribunals	3	33.3
2. Number of cases pending determination	1	11.1
3. Number of cases that collapsed or were withdrawn from Land Tribunals	5	55.6
Total	**9**	**100**

Source: *Documentary Review from Lira District Lands Office (2022)*

From table 2, land tribunals scored in 33.3% settlement of land conflicts cases, 11.1% cases was pending, and 55.6% were withdrawn from being handled by members of the land tribunals. This could be a result of distrust that the public have against the tribunals. A documentary review was made to determine land conflict cases which were meant to be handled by Local Council Courts in Lira district between 2016 and 2021, such as number of registered cases, withdrawn cases, resolved or concluded cases, and pending cases.

Table 3: Cases handled by the Sub-county Local Council Courts (N=371)

Description of Cases	**Frequency**	**Percentage**
1. Resolved or concluded cases	296	79.8
2. Cases that were withdrawn during proceedings	00	0
3. Pending Cases	75	20.2
4. Conflicts recorded during the entire period of court determinations	00	0
Total	**371**	**100**

Source: *Documentary Review from Lira District Lands Office (2022)*

The statistics appear to suggest that Local Council Courts is effective in land conflicts management in Lira district given that 79.8% of cases were resolved in a period of five years from different sub-counties. The fact that there was no single case withdrawn during by the complainants attests to the confidence that the people have on the tribunals. The Local Council Courts also appear to be very effective in containing land conflicts basing on the fact that the district recorded no single cases of abuse of court order that prohibits the conflicting parties from using the contested piece or pieces of land, until its final determination. The researcher further internalized the statistics on 296 resolved or concluded cases to determine the effectiveness of Local Council Courts in Lira district. This is indicated in table 9 below.

Table 3: Cases Resolved Local Council Courts between 2016-2021 (N=296)

Description of Cases	**Freq.**	**%**
1. Number of cases appealed against the decision of Local Council Courts	85	28.7
2. Number of conflicts that re-emerged after cases were concluded	12	4.1
3. Cases where both conflicting parties were contented after conclusion	199	67.2
Total	**296**	**100**

Source: *Documentary Review from Lira District Lands Office (2022)*

The above table reveals that 28.7% of cases that were handled by Local Council Courts were appealed to the higher courts against the decisions of the tribunals, 4.1% of cases had to re-emerge with the same conflicts over the same land in question, and 7.2% were contented or convinced with the decisions or verdicts of the Local Council Courts. This findings is justifiable in that the 67.2% of cases appeared to be convincingly handled by the Local Council Courts to the extent that both parties had to wholly agree with such verdicts or decisions, and even the 28.7% of appealed cases appeared to be observing their constitutional rights to appeal but it does not necessarily mean that the Local Council Courts erred in law when they were passing such verdicts. Meanwhile, the 4.1% of re-emerged cases of conflicts demonstrates that nature of uninformed persons in society who still believe that justice must only favour them, and so they tend to resort to defiance or even violence as the best options for them. The findings from documentary review therefore appear to suggest that Local Council Courts are effective in managing land conflicts in Lira district. A Documentary review was considered to analyse and categorize the cases handled by Ad-hoc mediators in Lira district. The findings are presented in the table below.

Table 4: Cases handled by Ad-hoc Mediators between 2016-2021(N=16)

Description of Cases	**Freq.**	**%**
1. Number of cases that were convincingly settled by Ad-hoc Mediators	13	81.3

2. Number of cases rejected by either of the parties in the conflicts	3	18.7
3. Number of cases that re-emerged after being settled by Ad-hoc Mediators	0	0
Total	**16**	**100**

Source: *Documentary Review from Lira District Lands Office (2022)*

In table 4 above, the finding reveals that 81.3% of cases that were assigned to Ad-hoc mediators were successfully and convincingly settled after being referred by the courts. This finding can be justifiably argued that Ad-hoc mediation team are always comprised of respected members of society that included retired civil servants, accomplished lawyers, religious leaders, cultural leaders, and businessmen who are credited for their exposure and expertise, and experience. Unfortunately, the few number of cases assigned to ad-hoc mediators stood at only 4.3% of the total registered land conflict cases in Lira district, implying that not all land conflicts in Lira can be arguably settled by Ad-hoc Mediators. The documentary findings appear to confirm that mediation is non-prejudicial, meaning that anything said or revealed in the process cannot be used later in another forum (Cornwell & Jewkes, 2015). The facts revealed are confidential to the parties and to the mediator and cannot be revealed to others at any time (Lahr, 2016). The terms of a settlement may remain confidential or not, as agreed by the parties. The role of the mediator is key to the success of any mediation, and it is essential that the mediator is acceptable to and trusted by both parties (Marcus, 2014).

4. Conclusion

Ad-hoc mediation appears to be the most effective method to resolving land related conflicts in Uganda.

5. Recommendations

The government of Uganda is encouraged to formalise ad-hoc mediators within the land conflict management strategies seeing that it has proved to be more successful. Also, members on the ad-hoc mediation committees should be regularly trained so that they can avoid being dragged into the same conflicts they are mediating.

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