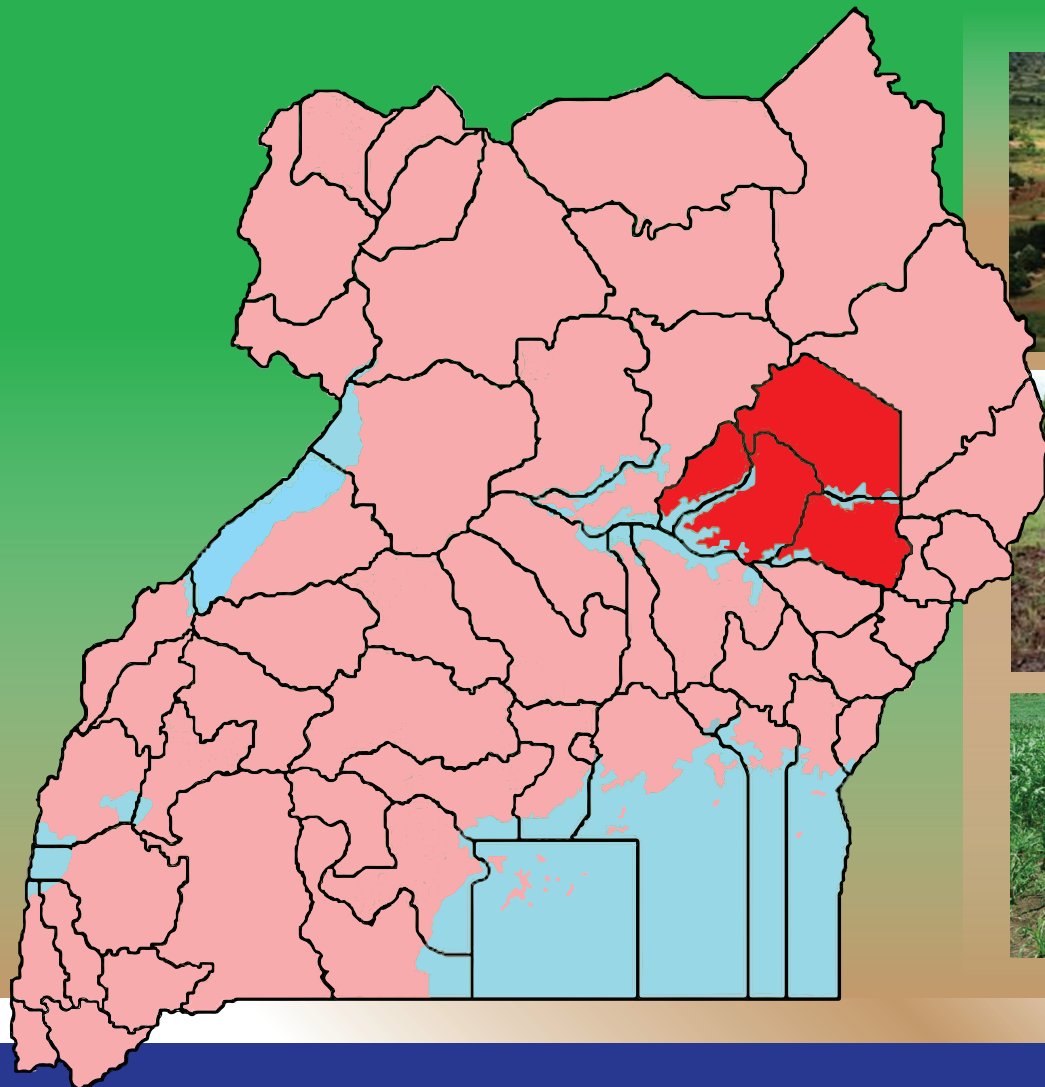


# FIELD RESEARCH AND DESK STUDY REPORT



## COMPREHENSIVE COHERENT LAND CONFLICT MANAGEMENT MECHANISMS IN TESO SUB-REGION

FINAL REPORT, JULY 2017



Implemented by:  
**giz** Deutsche Gesellschaft  
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Zusammenarbeit (GIZ) GmbH





**COMPREHENSIVE COHERENT LAND CONFLICT MANAGEMENT MECHANISMS IN TESO SUB-REGION,  
JULY, 2017**

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**Cover page courtesy photos:**

**Bottom Left:** Map of Uganda showing Teso Sub-Region (shaded in red)

**Top Left:** An aerial view of settlement pattern in rural Teso.

**Middle Left:** Ox-ploughing in action.

**Bottom Right:** A large scale commercial maize farming.

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**Disclaimer:**

The views and interpretations expressed in this report are the authors' and do not necessarily reflect those of Teso Initiative for Peace, nor GIZ-RELAPU.

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## List of Acronyms and Abbreviations

3CMM	Comprehensive and Coherent Conflict Management Mechanisms
ADR	Alternative Dispute Resolution
ALC	Area Land Committee
BMZ	German Federal Ministry for Economic Cooperation and Development
CADER	Centre for Arbitration and Dispute Resolution
CAO	Chief Administrative Officer
CBOs	Community Based Organisations
CCO	Certificate of Customary Ownership
CDO	Community Development Officer
DCDO	District Community Development Officer
DLB	District Land Board
DLO	District Lands Officer
DPC	District Police Commander
DPO	District Production Officer
FBOs	Faith Based Organisations
FGD	Focus Group Discussion
FY	Financial Year
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GOU	Government of Uganda
ICU	Iteso Cultural Union
IDP	Internally Displaced Persons
KII	Key Informants Interview
LCI	Local Council I
LCII	Local Council II
LEMU	Land and Equity Movement of Uganda
LIS	Land Information System
LRA	Lord's Resistance Army
MLHUD	Ministry of Lands, Housing and Urban Development
NDP II	National Development Plan II
NDP	National Development Plan
NEMA	National Environmental Management Authority
NFA	National Forestry Authority
NGOs	Non-Governmental Organisations
NLP	National Land Policy
OWC	Operation Wealth Creation
PPP	Private Public Partnership
PRR	Principles, Practices, Rights and Responsibilities
PWDs	Persons with Disabilities
RDC	Resident District Commissioner
RELAPU	Responsible Land Policy in Uganda
SCC	Sub county Committee Court
TIP	Teso Initiative for Peace
ULC	Uganda Land Commission



## Glossary of Terms used in the Report

There are certain agreed terms and concepts that guided this report production:

Term	Operational Meaning
Alternative Dispute Resolution (ADR)	ADR refers to the process and technique of settling disputes outside the government judicial process (court room). ADR processes include negotiation, arbitration, mediation and other restorative justice processes which foster reconciliation between conflicting individuals and/or groups.
Bush Lawyer	A person unqualified in the law who claims competence in it and holds out as a practitioner of the law.
Customary Land	A system of land ownership regulated by customary rules which are limited in their operation to a particular description or class of persons in a particular community; it is allowed in law to convert land held under customary tenure into freehold.
Forum Shopping	A practice adopted by any of the parties to a dispute to get their respective cases heard in a particular forum that is likely to provide a favourable decision or outcome.
Free Hold	A system of land ownership that encompasses holding of registered land in perpetuity, subject to statutory and common law qualifications. Transactions involving land held under freehold tenure are governed by Uganda's Registration of Titles Act and transacted through the land registry in the Ministry of Lands, Housing and Urban Development.
Land conflict	A situation of disagreement between individuals, people or groups on matters relating to access, ownership and/or use of land. Land conflict can arise between and amongst family members, communities, firms, institutions such as health or education, local authorities as well as at national and international levels. <sup>1</sup>
Lease Hold	A system of land ownership in which an individual owns land through an agreement between him/herself and the owner of the land for a specific period of time; it can range from 5 to 99 years.
Mailo Land	A system where the landholding is registered in perpetuity and having roots in the allotment of land pursuant to the 1900 Uganda Agreement and subject to statutory qualifications.
Traditional or Cultural Leader	A king or similar traditional leader or cultural leader by whatever name called who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader

<sup>1</sup> For more details see chapter 3.2.11

## Acknowledgement

This Report on Comprehensive Coherent Land Conflict Management Mechanisms in Teso Sub-Region is a combined effort of two independent consultancy teams<sup>1</sup> - a desk study component and field research component - whose independent work has been harmonised into this final document.

The Consultants are grateful to all those who contributed at each stage of the assignment, from contracting to actual execution and reporting.

Special thanks go to Teso Initiative for Peace (TIP) that championed the management of the entire process and finally GIZ-RELAPU for both financial and technical support provided during the process of consultations, report validation, including feedback on the subsequent drafts.

In a special way, the Consultants wish to thank the TIP Board of Directors whose Chairperson Mr. John Odolon fully participated in the consultation workshops and the Secretariat team led by Mr Michael Odeke (Director) and Mr. Stephen Makumbi (Programme Coordinator) for their active involvement throughout the assignment implementation cycle. In the case of GIZ-RELAPU, we extend appreciation to Mr. Zeno Pack, the RELAPU Project Manager, whom together with his team members; Mr. Philip Osodo, Advisor GIZ-RELAPU, and Mr. Samuel Eriaku, Advisor GIZ RELAPU, who found us in the field when doing consultations, during technical consultation workshop, the report validation workshop, and later provided technical comments and input to the report that finally saw the light of day.

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Finally we thank the Government through its various departments that were fully consulted at all levels; the Registrar and clerical staff of the High Court at Soroti, Resident District Commissioners and LC5 Chairpersons, the District Police Commanders together with their officers, the District Internal Security Officers, the District Executive Committees of Soroti, Amuria, Katakwi, Bukedea and Kaberamaido districts, the Sub-County Chairpersons and Councillors of Gweri and Katine (Soroti district); Omodoi and Katakwi (Katakwi district), Acowa (Amuria district), Ochero (Kaberamaido district) and Kidongole (Bukedea district). In the same vein, appreciation is extended to the Chief Administrative Officers and their technical officers, who participated, as well as the Sub-County Chiefs / Senior Assistant Secretaries and their technical officers who provided their insights and input to the pertinent issues we sought clarity on.

As Consultants to this assignment, we are honoured to have been offered this rare opportunity to make a contribution to strengthen the understanding of the link between the informal and formal land conflict management mechanisms in Teso Sub-Region.

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<sup>1</sup> The Desk Study was undertaken by Mushanga and Associates Solicitors and Advocates where Mr. Mushanga David Ndyabarema was the Team Leader and Ms. Melanie Nagasha, the Associate Consultant; The Field Research Study was carried out by Pascal Odoch, PhD of Greenstar International Ltd as Principal Consultant and supported by 14 experienced Research Assistants who hail from Teso Sub-Region.

## Executive Summary

**Introduction:** Teso Initiative for Peace (TIP) received funds from the German Federal Ministry for Economic Cooperation and Development (BMZ) that has been delegated through Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) under a project titled “Responsible Land Policy in Uganda” (RELAPU). In its pursuit to reduce extreme poverty and hunger in the world under its Field of Action 6 i.e. “support of responsible land utilisation and improvement of land access”, the “One World, No Hunger” special initiative of the German Federal Ministry for Economic Cooperation and Development (BMZ) whose global programme objective seeks to uphold in selected partner countries, that the introduction of secure and equitable land use and land ownership rights, coupled with responsible land use practices, establish the pre-requisites for sustainable development and food security.

This report presents findings featuring both Field Research and Desk Study Components that were conducted during May to June 2017, in the five districts of Teso Sub-Region (Soroti, Katakwi, Amuria, Kaberamaido, and Bukedea) in which key reports and stakeholders’ views were collected, analysed and later validated.

**Study rationale:** Land among Iteso and Kumam tribes is largely owned under customary land tenure system and is vested under patrilineal lineage. While clan systems guarantee the rights of ownership and access for everyone and would equally handle land disputes on merit, pressure on land has dramatically increased especially over the last two decades as a result of increasing population, decreased land productivity, reclamation of wet lands, de-afforestation, growth of town centres, appreciation of land as a finite resource and its commercialisation. These situations are conflict triggers that threaten tenure security especially for the most vulnerable population, including the active poor - subsistence farmers. Besides being structurally inadequate, people and institutions mandated to respond to land conflicts in the formal and informal settings are not adequately responding to these evolving complexities.

**Purpose:** The overall objective of the assignment was to discern land conflict management mechanisms in the Teso Sub-Region through field based research and complemented by desk study component.

**Geographic scope:** In order to leverage its coverage, the study covered both the RELAPU project target districts of Soroti and Katakwi and control districts of Amuria, Kaberamaido and Bukedea. The project involved rights holders and duty bearers in the following sub-counties: Gweri and Katine (Soroti district); Omodoi and Katakwi (Katakwi district), Acowa (Amuria district), Ochero (Kaberamaido district) and Kidongole (Bukedea district).

**Assignment specific objectives:** They were a) Identifying and analysing the existing formal and informal land conflict resolution mechanisms in the Teso Sub-Region for better understanding of the scale of land related conflicts, b) Analysing the efficacy of the existing formal and informal land conflict resolution approaches in Teso Sub-Region i.e. strengths, weaknesses, opportunities, threats in each, c) Identifying the “best practices” and lessons learned from the use of the various formal and informal land conflict resolution approaches in Teso Sub-Region, d) Identifying and analysing the competencies of key stakeholders involved in land conflict resolution in the Teso Sub-Region, e) Discerning the existing discriminatory practices enshrined in the customary land tenure system, f) Assessing how the existing formal and informal land conflict resolution mechanisms are impacting on the right of ownership, control, access to and use of land by men, women, youth, other vulnerable persons i.e. persons with disability and orphans in the Teso Sub-Region, g) Recommending the most efficient, appropriate and coherent land conflict resolution pathways and approaches in the Teso Sub-Region, and h) Propose actions for mainstreaming comprehensive and coherent conflict management mechanisms (3CMM) by the relevant actors in the Teso Sub-Region in order to avoid duplication and forum shopping.

**Methodology:** The assignment execution adopted a mix of methods; using both quantitative and qualitative methods. For field research component which focused on primary data and information gathering, four main tools were employed namely: literature review checklist; individual survey questionnaires; key informants' interview and focus group discussion sessions (FGDs). For the desk study component which focused on review of literature, relevant study reports, laws, and policies were analysed to inform the terms of reference.

For the survey respondents, based on the total number of households (N=36,477) in Omodoi, Katakwi, Gweri, Katine, Acowa, Ocheri and Kidongole sub-counties, the Yamane formula was used to calculate the sample size which stood at 418 respondents. Upon returning from field consultations, two independent reports (Field research study report and desk study report) were shared with the assignment reference team and this formed the basis of the 23<sup>rd</sup> June 2017 stakeholders' report validation meeting in Soroti. Key issues that were raised during the stakeholders' meeting have been reflected upon by both consultants and resulted into the preparation of this harmonised Final Report.

### **Key findings:**

#### **Highlights of findings from the Desk Study include:**

The recent development of physical planning in Town Boards and Councils in Teso Sub-Region, as in the rest of Uganda's country-side, has resulted into such Town Boards and Councils encroaching on customary land, occasioning the demand for surveying such land thereby creating conflict. Urbanisation is an unstoppable force that is changing the economic geography of societies. Under the right policy frameworks, harnessing the momentum of urbanisation can carry industry forward to a more prosperous and equitable future by smoothly connecting the forces of urbanisation and industrialisation and customary land tenure system has the potential to take up this emerging opportunity rather than fighting it.

Customary law is considered to be *informal* and generally is not codified nor is it documented. Customary law has a major characteristic that the recognised and agreed upon conditions and rules are passed orally from generation to generation. Still, customary law is recognised by Courts of Law.

A flexible land market allows households and firms to respond as economic conditions change, fostering innovation and competitiveness. Having stronger structures provides opportunities to aggregate customary land and engage it for lease, and that way, provide economic and livelihood beyond the current peasantry type, to meaningfully engage viable economic production actors who can pay Clans and its bona-fide residents much better rates for use of such land and in the process fend-off land grabbers.

Land conflicts in Teso Sub-Region mainly affect the vulnerable especially the women, (mainly widows and unmarried / divorced women) children and orphans, elderly people, and the poor. Since majority of the land in Uganda and Teso Sub-Region in particular is held under customary law, it is not surprising that customary institutions and customary law are recognised as critical to the resolution of land disputes. What is required is their strengthening through updating their method of work and capacity strengthening.

The Land Act provides in Section 88(1) that there is nothing under the law that prohibits or hinders the involvement of the traditional institutions or individuals in hearing and determining or deciding land disputes of customary nature. The law *permits* traditional authorities to determine and decide cases of customary nature. However, the law also does not give the traditional authorities exclusive jurisdiction to exercise that function but rather recognises it as an essential office for dispute resolution. This has provided opportunities for incompetent entities to engage in land dispute resolutions thereby further deepening such conflicts and has indirectly triggered the rise of *bush* lawyers who have taken advantage of this ambiguity.

The Judicature (Mediation) Rules, 2013, that have been passed by the Rules Committee and issued by the Chairperson, Hon. Chief Justice Benjamin Odoki requires land cases to be first referred to mediation. With this provision, conflicting parties are required to agree before the trial Judge or Magistrate on the person to act as a mediator. The challenge with this provision is that it fails to guide on how to recognise the mediators drawn from within the traditional/ cultural structures and whom the field research found are trusted by the local communities. Also, the capacity of mediators is assumed to be commensurate with the expectations as prescribed by law yet in reality informal land conflict management utilises mediators who are ill-equipped with the prescribed requirements. This calls for the Judiciary working closely with traditional structures to harmonise this lacuna around the identification of a mediator and in the process help avoid forum shopping.

The role of traditional / institutions was highlighted in this study as being important in informal land management conflict resolutions in Teso Sub-Region although their judgment is usually undermined by Courts of law.

According to Teso and Kumam Principles, Practices, Rights and Responsibilities (PPRRs), the Iteso Cultural Union (ICU) and Kaberamaido Elders' Forum (KEF), are responsible for the overall management of all customary land in Teso Sub-Region. The reality however is that this remains a contestable point as not all clans subscribe to ICU or KEF, thereby rendering adopting a Buganda Kingdom type of land management where every *Muganda* owes allegiance to the *Kabaka*, a challenge in Teso Sub-Region. Lack of acceptance of this role played by the two traditional institutions is at the heart of forum shopping in land conflict resolution cases.

The Judicature (Mediation) Rules, 2013, provides that once both warring parties in a land conflict accept mediation, they prepare a council of elders, traditional leaders, and sometimes local leaders to mediate the case. The issue of preparing *council of elders* to perform mediation roles is a challenge on account of absence of a standard list of "approved elders" who are known and appreciated by all Clan members like the case of *Akiriket* in Karamoja Sub-Region.

Another key challenge facing mediation process is lack of a standard procedure, in which there is no classical process that is followed across Teso Sub-Region. This brings ambiguity and triggers forum shopping.

#### Highlights of findings from the Field Research include:

- Majority of the study respondents (60.9%) reported having had land-related conflicts over the previous year to the survey.
- The leading drivers that guide where land complainants go to, range from cost (24.4%), followed by perceived effectiveness (18.5%), and trust (16.6%).
- On how complainants cases are resolved, majority reported mediation (106), followed by negotiations (87), and arbitration (23).
- For those whose cases were not concluded in the informal land management system, majority of the respondents (56.5%) reported having shifted their case to another system and thereby triggering forum shopping.
- As to what factors guided the choice of "unsatisfied land complainants" in moving to the next point in seeking redress, 39.1% reported having been guided by the same office they had approached, followed by 30.4% who made their own decisions to move to the next point for redress.
- One of the leading champions of land matters, the Uganda Land Alliance that was engaged in management of informal land conflicts has since closed shop and moved out of Teso Sub-Region. This has to an extent created a gap in the value addition of CSOs in informal land conflict management niche.

- On how victims lost their land, 30.3% of the survey respondents reported outright sale to offset welfare needs such as education and health needs. Another was encroachment (28.9%), followed by grabbing (21.1%). Although standing at only 3.5%, the study consultations showed that compulsory land acquisition features through government public works in the growth centres / trading centres.

**Key recommendations:** The Study presents the following thematic areas for attention and necessary action:

**a) Strengthening effectiveness**

1	Strengthen transparency in handling land conflicts	<p>Clan leaders should conduct land conflict resolution sessions in public places that are known, accesible and agreed upon between the conflicting parties. The expenses associated with this process should be known and equally shared between conficting parties. ICU and KEF should stipulate on such expenses in order to make them uniform and equally develop acceptable clan governance instruments and decision - making tools.</p> <p>A comprehensive guide/ handbook should be developed to harmonise mediation practices in Teso Sub-Region.</p>
2	Design and distribute user-friendly educative materials	Agencies involved in land conflict management information dissemination should design simple Information Education and Communication (IEC) materials which are user friendly.
3	Strengthen linkages of parties handling land conflict management	<p>The Judiciary, ICU, KEF, TIP, and GIZ-RELAPU should convene at a round table and identify, train and accredit mediators from clans and religious institutions.</p> <p>The Judiciary should collect and profile all mediated cases albeit their presentation in court. This will strenghten storage and back-up of information.</p> <p>Photographs of actual mediation and boundary tree planting should equally be profiled for future references.</p>
4	Promote interactive fora/ avenues	The formal and informal sectors should hold regular fora where operational challenges are presented, discussed, appreciated and improvements are jointly adopted for action. Clans should equally invite judicial officers to attend clan meetings on land.
5	Improve actors' knowledge and skills on land conflict management	Actors involved in land conflict management should be trained in relevant skills so that they have access to relevant information (key reference materials) on land conflict management frameworks.
6	Support the enforceability of resolutions	Actors should advocate for the enforcement of informal land conflict resolutions.
7	Standardise procedures	Actors in land conflict management in Teso Sub-Region should develop and follow standard procedures in administering informal land conflict sessions.



**b) Promote *what works* (best practices)**

1	Support appropriate land demarcation practices	Clan leaders should consistently monitor the compliance of their clan members in boundary land planting. The leaders should identify for demarcations acceptable tree species such as <i>ejumula</i> or <i>eligoi</i> as preventive boundary dispute triggers.
2	Involve the formal land conflict management persons	To avoid having repugnant provisions, Clans should engage / interface with Judicial system in formulation of their constitutions/ bye-laws where they don't exist and where they exist, ensure they include land conflict management mechanisms. This equally applies to inclusion of Judicial system in any review of Teso and Kumam PPRR to ensure conformity to Uganda's laws and policies.
3	Strengthen clan governance	Clan governance should be made credible, and functional including their system of land conflict management and administration.
4	Promote neutral agents in conflict management	Involve other actors such as parish chiefs, councillors in clan land conflict management sessions to enrich the process and so reduce on the conflict of interest challenges and also lend legitimacy to the processes.
5	Strengthen documentation	Clans should be supported to document all land conflict management resolutions concluded and copies of these documents given to relevant stakeholders.  Storage and retrieval system of land conflict mediated cases should be established and managed with the use of Ateso and Kumam languages in recordings to avoid misunderstanding of sessions and resolutions (outcome).

**c) Strengthen and scale up Mediation**

1	Support the identification and training of mediators	Credible clan and religious leaders should be identified and trained by the judiciary as mediators.
2	Build capacity of key actors in conflict resolution	The capacity of the following persons in land conflict management should be strengthened: 1) Local Councils (witness); 2) Clan leaders (custodians); 3) Area land committee (handle conflict-free land); 4) Religious leaders (peaceful co-existence); 5) Neighbours (peaceful co-existence); 6) Police (law and order); 7) NGOs (neutrality and technical support)

#### **d) Capacity strengthening**

1	Clarify and confirm mandated roles and offices	Harmonise roles and responsibilities of core stakeholders to avoid forum shopping and overlap in efforts
2	Establish monitoring and evaluation system to track progress of interventions	Actors in land conflict management should develop monitoring systems to periodically assess progress and the effect of the targeted capacity building interventions.
3	Empower marginalised segments of the population	Promote and train marginalised groups of persons especially the women, the youth, and PWDs, in land conflict management mechanisms.



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## 1.0 INTRODUCTION AND BACKGROUND

---

### 1.1 Introduction

Teso Initiative for Peace (TIP) received funds from the German Federal Ministry for Economic Cooperation and Development (BMZ) that has been delegated through Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) under a project titled “Responsible Land Policy in Uganda” (RELAPU). Teso Initiative for Peace applied part of the proceeds of this funding towards the identification and analysis of land conflict resolution/management mechanisms in the Teso Sub-Region.

This report presents findings on Land Conflict Management Mechanisms in the Teso Sub-Region featuring both Field Research and Desk Study Components. As such, the study findings are meant to be applied by various stakeholders in Teso in resolving land disputes and feeds into a 5-year RELAPU project. The report is informed by the field visits, consultations with state and non-state (cultural) actors and secondary literature review that were conducted during May to June 2017, in the five districts of Teso Sub-Region in which key reports and stakeholders’ views and perceptions were collected, analysed and validated.

Land constitutes one of the household’s most important assets and is the most essential pillar of human existence and national development. Uganda relies heavily on land to provide incomes, employment, livelihoods, and export earnings among others thus land can be defined as a source of livelihood, a form of wealth, a major forex earner from the national parks and game reserves and is therefore a vital commodity. The land resource lies at the heart of social, economic and political life in most of Africa, but across much of the continent there is a lack of clarity regarding property rights and all over, land tenure is contested.

Land disputes have been shown by various studies to be the most prevalent form of livelihoods disruption to many households’ and individuals. Wehrmann (2008)<sup>2</sup> defines land dispute as a social fact in which at least two parties are involved, the roots of which different interests are over the property rights to land: the right to use land, to manage the land, to transfer it and the right to compensation.

Uganda is faced with disparities in ownership, access to and control of land by vulnerable groups; displacements, land grabbing and landlessness resulting from high population growth and increasing demands on land. The vast majority of land lacks formal recognition, making it more difficult to prevent land conflicts or to resolve them at low cost. Vulnerable segments of the population especially, the widows, orphans, the youth, and the disabled, are unable to assert their rights against competing claims.

The prevalence of land disputes is itself an impediment to development and social stability because land which is a subject of dispute may be left undeveloped and may fall out of the land market for quite a long time. Litigation concerning such land is often protracted, costly and tedious, thereby wasting both the time and resources that would have been used for its development.

Land conflicts have been an area of concern due to failure to resolve many of the conflicts which are emerging in both formal and informal areas. Conflicts are an integral part of human interaction and one must learn to manage them and develop innovative and creative ideas to resolve them. In Uganda and in particular Teso Sub-Region, formal, informal and Alternative Dispute Resolution (ADR) mechanisms exist and people seek any of these to resolve conflicts.

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<sup>2</sup> Wehrmann Babette (2008). [Land Conflicts: A practical guide to dealing with land disputes](#). Eschborn.

Land disputes/conflicts in Teso Sub-Region are resolved by a multiplicity of institutions, some created and mandated by law, and others operated by non-state actors as part of their conflict management and dispute resolution interventions. Each of the systems has its own peculiar way of resolving conflicts. However the choice of appropriate process depends on the particular circumstances and context of the conflict. These land conflict management systems have their own strengths and weaknesses in resolving conflicts. These mechanisms could be enhanced and developed to support and complement each other in order to achieve an effective justice system that is well recognised and respected by all stakeholders.

Despite government's interventions to resolve land conflicts through enacting relevant laws and establishing institutions for administration and management of the land resource, still, land disputes are - on the rise, and in some areas such as in Teso Sub-Region, they are escalating. Thus, there is need to examine the formal and informal mechanisms for land conflict resolution and to find out the challenges faced by the land conflict mechanisms in Teso Sub-Region, so as to enable the achievement of a coherent mechanism where both formal and informal systems are mutually reinforcing.

Although the 1995 Constitution provides a new Chapter in the land governance of Uganda, considering that some of the provisions that came into force in pre-colonial Uganda (1900 Agreement) and the Idi Amin decree (1975), have remained in force to this day, it is imperative to bring into context this historical background stretching right back to the pre-colonial era. The next section provides this information.

## 1.2 Background

**Pre-colonial era:** Before colonial rule, land tenure in Uganda consisted of a number of customary tenure systems, both sedentary and pastoralist. In general, customary tenure in sedentary agricultural communities revolved around kings and chiefs who allocated land to clans and community households according to customary norms and practices. Every person and household had the right to access sufficient land for his or her subsistence. Since most lineages in Uganda are patrilineal, when land was handed down within a family, it passed from father to son.

Customary tenure recognised varied rights of the individual to possess and use land subject to sanction by the family, clan and or community. The individual land holder had the right under customary tenure to utilise land as thought best, rent or lend a piece of land for temporary purposes, pledge crops on land but not land itself. Sale of land was subject to the approval of the family. The clan or family had the right to settle land disputes within the area of control, exercised the right to buy any land offered for sale by its member, prohibited sale of clan land to undesirable persons and declared void any land transaction which had not received its approval. The general community had the right to graze communally over the whole area but damage to crops had to be made good/compensated; right of free access to salt licks, watering of cattle at running or open waters and access to water from springs and other common rights.

**The Colonial era:** When Uganda became a British protectorate at the end of the nineteenth century, the land tenure and management system was profoundly changed creating 'haves' and 'have-nots' in land ownership. The land reforms by the British in Buganda, the central part of the country, created a grossly unequal land tenure system. It gave large tracts of land to the political elite but turned most of the people of Buganda into tenant farmers. Besides, the preservation of customary tenure, *Mailo* tenure, freehold and leasehold tenures were introduced. By virtue of the 1900 Buganda Agreement, large extensions of land called *Mailo* estates were conferred to chiefs and other notable personages. Outside of Buganda, the colonialists introduced freeholds created under the crown lands ordinance of 1903 from crown land to individuals by the colonial Government, adjudicated freeholds and native freeholds in Toro and Ankole.

For the rest of Uganda, all land not covered under *Mailo*, freehold or leasehold became crown (public) land. All land users became, at the stroke of a pen, tenants at will of the State (the British Crown). After independence, under the Public Lands Act, 1969, any person was authorised to hold land by customary tenure without any grant, lease or license from any controlling authority provided the land was not in an urban area and had not been alienated into registered tenure.

**Post-Colonial era:** The 1962 (Independence) Constitution established a national land commission to hold and manage land at the national level formerly held by the colonial government as crown land (“public land”), and land boards within federal units to perform similar functions in those areas. Land that had been allocated to or vested in Kingdoms was not affected by the 1962 Constitution. The 1967 Constitution however vested all land of the kingdoms into the Uganda Land Commission.

The 1975 Land Reform Decree made fundamental changes in respect of the land, declared all land public land, vested in the state, to be held in trust for the people of Uganda, and to be administered by the Uganda Land Commission. It abolished all *Mailo* and freehold interests in land, converting them into leasehold of 199 years where these were vested in public bodies and to 99 years where these were held by individuals, except those vested in the State which were transferred to the Uganda Land Commission.

**Present-day Uganda:** The 1995 Constitution of the Republic of Uganda vests title in the citizens of Uganda and in accordance with specific land tenure systems including; *Mailo* land tenure system, Freehold tenure system, Leasehold tenure system and Customary land tenure. The Constitution re-established Uganda Land Commission and made it clear that District Land Boards were to operate independently of that Commission and would not be subject to the direction or control of any person or authority. The 1995 Constitution also provided for the establishment of land tribunals, whose jurisdiction was to determine disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, and the determination of any disputes relating to the amount of compensation to be paid for land compulsorily acquired. It reaffirmed the authority of the state to make laws regulating the use of land.

In 1998, the Land Act was enacted. The Act further clarified on the various categories of tenure created by the Constitution and set out the powers and functions of land boards and tribunals. Along with the new Land Act came introduction and recognition of customary certificates of ownership (CCO) as well as the responsibility of the individual to the family. Issues concerning selling, mortgaging, pledging or bequeathing land became codified. Indeed, the Land Act, and the subsequent amendments made it possible for a customary land holder to obtain a registerable interest in land. A customary land owner is able to lodge a caveat and also pledge the land to a financial institution as security. Corollary to these rights was the protection of family land and the responsibility of the family head to the family in matters concerning selling, mortgaging or other dealings with land for the land where the family ordinarily resides or derives sustenance.

**The case of Teso Sub-Region:** Teso Sub-Region, constituted by 8 districts, and located in North-eastern Uganda, and approximately 250 kilometres from the nation’s capital, Kampala, is home to an estimated 2,364,569 million people of Iteso and Kumam ethnicities<sup>3</sup>.

When not disrupted or dispossessed by the violence endemic since the mid-1980s, most Iteso and Kumam are primarily mixed farmers. The old staples of finger millet, sorghum, sesame, and various peas, beans, and leafy green vegetables continue to be grown, along with twentieth-century crops

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3 UBOS, National Population and Housing Census. Final Report, 2016

such as cassava, maize, peanuts (groundnuts), fruits, and cotton. As they have done for centuries, the Iteso and Kumam rely mainly on ox-ploughs and other hand tools for opening their farmlands. The most common domestic animals are cattle, chickens, turkeys, and goats. Large, dry-season hunts were an important part of the pre-colonial economy; these gradually decreased in significance as the varied roster of both large and small game animals dwindled over the twentieth century.

**Photo 1: Map of Teso Sub-Region**



Traditionally, land rights were vested in localised patrilineal lineages, under the control and guidance of lineage heads and elders. This included both agricultural and hunting land. An individual had personal claim to land that he and his wife (or wives) had under cultivation or that had been cultivated but was lying fallow, and such rights passed from father to son. Given the low population densities and minimal land pressure, almost anyone who was willing to clear and work unused land has been welcomed by lineage heads responsible for such land and, while they functioned, by the Clan head within whose domains the land lay. For many years, the Sub-Region has been experiencing declining agricultural productivity and has lately been worsened by prolonged drought. For districts like Ngora,

Bukedea and Kumi, land fragmentation has heavily affected productivity. Many of the Sub-Region's indigenous drought resistant crop varieties have been affected by diseases and pests.

According to the 2016 Poverty Assessment<sup>4</sup>, Uganda has reduced monetary poverty at a very rapid rate.

<sup>4</sup> The Uganda Poverty Assessment Report, 2016 themed: Farms, cities, good fortune: assessing poverty reduction in Uganda from 2006 to 2013. The World Bank Group, Washington, recognizes that while poverty reduction has reduced over the past decade, pressure is exerted on land which is a factor of production. The report recommends that "The critical role that the agricultural sector has played and most likely, will continue to play in poverty reduction deserves a reexamination of agricultural policies with a focus on extension services, input availability and quality, and access to credit."

The proportion of the Ugandan population living below the national poverty line declined from 31.1% in 2006 to 19.7% in 2013. Similarly, the country was one of the fastest in Sub-Saharan Africa to reduce the share of its population living on \$1.90 PPP per day or less, from 53.2% in 2006 to 34.6% in 2013. Poverty reduction among households in agriculture accounts for 79% of national poverty reduction from 2006 to 2013. The increase in income derived from agriculture was mainly due to favourable prices and weather. Favourable prices reflect improvements in market efficiency as a result of sound policies (investments in infrastructure, economic liberalisation, and better trade services) but also positive changes in supply and demand conditions outside of Uganda. In addition, peace in northern Uganda also contributed to poverty reduction by allowing farmers to take advantage of stable and favourable prices to double their crop income.

Progress in reducing poverty has been much slower in Northern and Eastern Uganda, and thus, the concentration of poverty is higher in these two regions. The proportion of the total number of poor people who live in the Northern and Eastern regions increased between 2006 and 2013, from 68% to 84%, according to the report. Also, households in Uganda's Northern, Eastern, and Western regions have much lower levels of human capital, fewer assets, and more limited access to services and infrastructure than households in the Central region. For example, electricity is almost non-existent in the Northern, Eastern and Western regions, where the proportion of households with access stands at 3.7%, 5.8%, and 8.6%, respectively.

Land in Teso Sub-Region is mainly under customary tenure and from it the main land-related conflict triggers are land grabbing by the rich, retraction of land gifts to institutions and Churches especially in areas that did not experience the insurgency or cattle rustling, boundary conflicts within the communities and with the neighbouring Karimojong district (Napak versus Katakwi), and land grabbing from widows and children. Other factors include aggressive practices of primitive accumulation of wealth, pressure from growing male population who are traditionally designated heirs to especially the land and contested boundaries due to population long stay in the internally displaced camps (IDPs) during the insurgency and where the elders who have memory of the land boundaries passed on while in the camps, and culture including gender norms that relate to property rights which deny girls and women rights to property, and ignorance of the law and policies.

Arising from protracted insurgency and violent livestock raids which drew in actors from as far as western Kenya, the central government established a dedicated Ministry with a financial vote for Teso Affairs in the Office of the Prime Minister solely for affirmative action programmes to enable the Sub-Region "catch-up" with the rest of the country in development efforts. Key government recovery of Teso Sub-Region interventions which has a Teso Policy Committee, include agriculture mechanisation (ox-ploughs), hydraform machines for brick-making by the youth, market construction such as those in Magoro Sub-County, boreholes, water jars, improved crop seeds, and cattle crushes. The Sub-Region boasts of an agricultural research institution based in Serere district and an agricultural college at Arapai and lately Soroti University.

A 2014 Teso Sub-Region serialised district hazards, risks and vulnerability reports<sup>5</sup> show land conflict as cutting across all districts of Teso Sub-Region. Other hazards caused by natural and human induced processes highlighted in these reports include; floods, winds, hailstorms and lightning, pest infestation, crop and animal diseases, drought, environmental degradation, vermin, and mines and unexploded ordinance.

The Sub-Region has a cultural institution – the Iteso Cultural Union, popularly called ICU which is recognised in the 1995 Uganda Constitution and the Institution of Traditional or Cultural Leaders Act, 2011. The Act, under article 9, stipulates the roles of traditional and cultural leaders as;

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<sup>5</sup> UNDP. 2014. District hazards, risks, and vulnerability for Teso Sub-Region districts. Office of the Prime Minister. Kampala.

(a) promote and preserve the cultural values, norms and practices which enhance the dignity and well-being of the people where he or she is recognised as such; and (b) promote the development, preservation and enrichment of all the people in the community where he or she is recognised as such.

In 2009, with technical support from Land and Equity Movement of Uganda (LEMU), the Iteso Cultural Union (ICU), prepared and disseminated for use the Teso Principles, Practices, Rights and Responsibilities Publication (PPRR) (<http://www.land-in-uganda.org/assets/Teso-PPRR.pdf>), as a common reference point document for guiding administration and management of customary land issues among the Iteso. In late 2016, the Teso PPRR commenced a review to ensure it is not repugnant to national laws and policies.

Of recent, Teso Religious Leaders Efforts for Peace and Reconciliation (TERELEPAR) launched a process to prepare and produce a “Handbook on Mediation” for guiding inter-religious leaders in handling land-related challenges facing their faithful. This further shows the continued search for lasting solutions to the complexities beyond the country’s constitutional provisions around the land resource.

In an effort to conform to the central-local government development planning framework requirement, the Sub-Region local governments have in place approved five year District Development Plans (DDPs) that are aligned to the second National Development Plan timeline of 2015/16-2019/20. These DDPs underpin their development aspirations on land for commercial farming, development infrastructure, climate change adaptation (greening) and mining. Of interest is the fact that these DDPs exist amidst the land contradictions and the prevalence of conflict around the land resource. Nevertheless, all the DDPs reflect a conscious effort to support and promote key forms of land conflict prevention, transformation and resolution efforts as a vehicle to ensuring attainment of the country’s lower middle income status aspiration, come 2020.

### **1.3 Justification for the study**

While the Constitution of the Republic of Uganda (Article 237 and section 2 of the Land Act Cap. 27) vests the ownership and management of land in Uganda on its citizens, there is still inadequate awareness on land rights and its attendant obligations. This makes most of the population vulnerable and further curtails their venturing into the land ownership processes as well as inclusive participation in the country’s socio-economic development. The 1998 Land Act (as Amended) defines customary land tenure to include its territorial or clan nature, existence of rules and regulations governing community, family and individual access to and ownership of land.

Teso Sub-Region is constituted by the eight districts of Amuria, Bukedea, Kaberamaido, Katakwi, Kumi, Ngora, Serere and Soroti. According to the Uganda Population and Housing Census (2014), Iteso number 2,364,569 (with 1,160,208 Male and 1,204,361 Female) constituting 6.9% of the country’s population (UBOS, 2016). Teso Sub-Region is the 5<sup>th</sup> largest ethnic group in Uganda with a population density which stands at 175 persons per square kilometre, which is slightly higher than the national average of 173 persons per square kilometre. The population growth rate in the Sub-Region is 3.5% which is relatively higher than the national average of 3%. Land in Teso is largely owned under customary land tenure system and is vested under patrilineal lineage. While clan systems guarantee the rights of ownership and access for “everyone” and would equally handle land disputes on merit, pressure on land has dramatically increased especially over the last two decades as a result of increasing population, mushrooming growth towns, appreciation of land as a finite resource and its commercialisation. Other factors include:



- Limited understanding of land tenure systems among the population creating land disputes with no expedient legal method to clarify ownership;
- Tension from rapid socio-economic changes due to the shift from subsistence to cash economy;
- Political and religious differences creating family and community divisions;
- Growing pressures to find alternative income sources;
- Fear, tension and mistrust over customary ownership practices;
- Tension caused by breakdown of traditional leadership structures and systems (i.e. loss of respect for, and power of, leaders without new credible systems to replace such leadership).

The above situations are conflict triggers that threaten tenure security especially for the most vulnerable population, including the active poor - subsistence farmers. Besides being structurally inadequate, people and institutions mandated to respond to land conflicts in the formal and informal settings are not responsive to these evolving complexities.

In its pursuit to reduce extreme poverty and hunger in the world under its Field of Action 6 i.e. “support of responsible land utilisation and improvement of land access”, the “One World, No Hunger” special initiative of the German Federal Ministry for Economic Cooperation and Development (BMZ) whose global programme objective seeks to uphold in selected partner countries, that the introduction of secure and equitable land use and land ownership rights, coupled with responsible land use practices, establish the pre-requisites for sustainable development and food security.

In respect of the above aspiration, the BMZ is funding a five year project: “Responsible Land Policy in Uganda” (RELAPU). GIZ-RELAPU held a planning workshop on the 14<sup>th</sup> – 15<sup>th</sup> September 2016 to plan activities purposed to facilitate the securing of tenure rights on customary land in Soroti and Katakwi districts in the Teso Sub-Region. During the workshop, discussions were held on how to strengthen the competent engagement of civil society actors in formalising the implementation of the project to ensure that “80% of the land conflicts that occur during its implementation in the target communities in North-eastern Uganda are processed and resolved”.

Alternative Dispute Resolution (ADR) is quite known and acceptable in Teso Sub-Region and is considered as being fair to land conflict resolution in the community. As such, to initiate the process of identification and understanding of what conflict management mechanisms exist in the Sub-Region; explore possible options to filling existing gaps among partners; ensure that all actors work in a coherent way, Teso Initiative for Peace, in partnership with RELAPU commissioned the two independent consultants to facilitate “the identification and analysis of land conflict resolution mechanisms in the Teso Sub-Region in order to form the basis for strengthening both formal and informal structures and establishing a comprehensive blue print on land rights awareness and protection” that various partners in Teso Sub-Region can borrow a leaf from.

This initiative has determined that the most at risk population in the community should be competent in determining when and where to go first if they are faced with land conflicts in their locality. Key questions on the preferred structures and executing powers ought to be made clear to the communities and thereby enhance efficiency and avoid “forum shopping” in matters of land administration and management of emerging conflicts.

## **1.4 Assignment purpose and objectives**

### **1.4.1 Purpose**

The overall objective of the assignment was to discern land conflict management mechanisms in the Teso Sub-Region through field based research and complemented by desk study component.

### 1.4.2 Geographic scope

In order to leverage its coverage, the study covered both the GIZ-RELAPU project target districts of Soroti and Katakwi and control districts of Amuria, Kaberamaido and Bukedea. The thinking is supported by the fact that the findings are generalisable to Teso Sub-Region population who share traditional customs, norms and are guided by the same government agricultural and economic zoning practices (See Plan for Modernisation of Agriculture, 2000).

The criteria for the selection of project areas was based on:

- Two sub-counties from each of the GIZ-RELAPU project districts of Soroti and Katakwi to reinforce relevance and leverage,
- Locations which are not under contention of district border disputes,
- Existing civil society efforts to reinforce the discernment of best practices and lessons learnt
- Appreciating levels of stakeholder organising (clan and religious leaders),
- Areas experiencing mounting pressure on land for purposes of discerning how land conflicts are being resolved,
- Areas hosting various tribal communities,
- Areas where efforts on land conflict management by external actors is limited (a control group), and
- Areas confronted by urbanisation.

In lieu of the above, the project involved rights holders and duty bearers in the following sub-counties: Gweri and Katine (Soroti district); Omodoi and Katakwi (Katakwi district), Acowa (Amuria district), Ochero (Kaberamaido district) and Kidongole (Bukedea district).

### 1.4.3 Assignment specific objectives

The specific objectives of the assignment were:

- Identifying and analysing the existing formal and informal land conflict resolution mechanisms in the Teso Sub-Region for better understanding of the scale of land related conflicts.
- Analysing the efficacy of the existing formal and informal land conflict resolution approaches in Teso Sub-Region i.e. strengths, weaknesses, opportunities, threats in each.
- Identifying the “best practices” and lessons learned from the use of the various formal and informal land conflict resolution approaches in Teso Sub-Region.
- Identifying and analysing the competencies of key stakeholders involved in land conflict resolution in the Teso sub region.
- Discerning the existing discriminatory practices enshrined in the customary land tenure system.
- Assessing how the existing formal and informal land conflict resolution mechanisms are impacting on the right of ownership, control, access to and use of land by men, women, youth, other vulnerable persons i.e. persons with disability and orphans in the Teso Sub-Region.
- Recommending the most efficient, appropriate and coherent land conflict resolution pathways and approaches in the Teso Sub-Region.
- Propose actions for mainstreaming comprehensive and coherent conflict management mechanisms (3CMM) by the relevant actors in the Teso Sub-Region in order to avoid duplication and forum shopping.

## 1.5 Structure of the Report

This report is structured into four chapters. Under chapter one, the report presents the rationale and scope of the assignment field research component and highlights of the GIZ-RELAPU project for Teso Sub-Region. Chapter two contains methodology that guided the assignment execution including limitations there-in. Chapter three presents key study findings based on Desk Review and Field Research components. The chapter also details successive Government of Uganda efforts in addressing land administration and management amidst its aspiration of achieving a *lower middle income status*, come 2020. Chapter four summarises the study conclusions and key recommendations. Supporting information and data on the study are contained in Annex tables to this Report.



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## 2.0 METHODOLOGY

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### 2.1 Approach to the assignment

#### 2.1.1 Approach

The assignment execution adopted a mix of methods; using both quantitative and qualitative methods. For field research component which focused on primary data and information gathering, four main tools were employed namely: literature review checklist; individual survey questionnaires; key informants' interview and focus group discussion sessions (FGDs). For desk study component which focused on review of literature, relevant study reports, laws, and policies were analysed to inform the terms of reference. As such, the assignment execution approach was structured in the following four phases; (i) Planning and inception; (ii) Field work/Data collection; (iii) Data entry, analysis and synthesis of information; and (iv) Report writing and finalisation of the deliverables.

#### 2.1.2 Field research study areas

The survey was conducted in Omodoi, Katakwi, Gweri, Katine, Acowa, Ochero and Kidongole Sub-counties in Katakwi, Soroti, Amuria, Kaberamaido, and Bukedea districts in Teso Sub-Region.

#### 2.1.3 Target population for the field research study

This survey targeted the following stakeholders:

- i. Households (women, youth and men)
- ii. District and Sub-County technical and elective officers e.g. CAO, DLO, DCDO, CDO, RDC, DPC, Senior Assistant Secretary, Chairman LCIII, Town Clerks, cultural, religious and local leaders at parish and village level; others included Area Land Committees and District Land Board as well as the committee.
- iii. Institutions engaged in project interventions especially Civil Society Originations (CSOs) involved in land rights like LEMU
- iv. Central Government – Focal Ministry, Departments, and Agencies e.g. Ministry of Lands Housing and Urban Development.

### 2.2 Methodology

#### 2.2.1 Study design, sample size determination and selection for the field research component

##### a) Sampling design:

A two-stage stratified cluster random sampling design was used. Stratification was based on the household (Sub-County) which formed a stratum. In the first stage, primary sampling units (PSUs) which are villages (Enumeration Areas), were selected using Probability Proportionate to Size (PPS), that is, size implying the number of households within each village (Enumeration area). In the second stage, Simple Random Sampling (SRS) was used to select households as the Ultimate Sampling Units (USUs) from a complete list of households (list-frame) using a complete list of households obtained from UBOS Mapping dataset for enumeration areas (EAs) within Omodoi, Katakwi, Gweri, Katine, Acowa, Ochero and Kidongole Sub-counties<sup>6</sup>. An EA has 20 households on average (UBOS 2014).

##### b) Sample size and Selection of households in study areas:

Based on the total number of households (N=36,477) in the Omodoi, Katakwi, Gweri, Katine, Acowa, Ochero and Kidongole Sub-counties (NPHC 2014 Provisional Result Report), the Yamane formula below has been used to calculate the sample size.

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<sup>6</sup> The local authorities (LC-1) in the enumeration areas (EAs) will serve as guides in approaching the Household respondents obtained from the UBOS listings

$$n = \frac{z^2 p(1-p)N}{z^2 P(1-P) + N(e)^2 z^2 P(1-P) + N(e)^2}$$

Whereby;

**N** = Total Households Omodoi, Katakwi, Gweri, Katine, Acowa, Ochero and Kidongole Sub Counties (36,477)

**e** = level of precision or permissible error which is assumed to be 0.05.

**Z** = value of the standard normal distribution given the chosen confidence level of 95% such that  $z = 1.96$  at 95% level).

**P** = probability of success estimated at 0.5

We have assumed a proportion (P) = 0.5, on the assumption that HHs are normally distributed and internally homogeneous in the Omodoi, Katakwi, Gweri, Katine, Acowa, Ochero and Kidongole sub-counties. Given that HHs was randomly sampled in the villages visited, a 95% confidence level at 5% level of precision/degree of error has been assumed. Using the above formula, the total sample size became 380 households as calculated below.

$$n = \frac{0.25(z^2)N}{z^2(0.25) + N(e)^2} = \frac{0.25 \times (1.96^2) \times 36477}{0.25 \times (1.96^2) + 36477(0.05)^2} = \approx 380$$

In order to cater for the non-responses, a 10% allowance (non-response rate) was considered such that the final sample (n) becomes [380+ (10% of 380)] = 418 out of the total 36,477 households. Table below shows a summary of the sample size in each district.

**Table 1: Total number of households and sample size per Sub-County**

District	Programme Area	Number of HH	Proportions	Respondents per Sub-County
Katakwi	Omodoi	2,972	0.08	34
	Katakwi	6,785	0.19	78
Soroti	Gweri	8,164	0.22	94
	Katine	5,974	0.16	68
Amuria	Acowa	3,474	0.10	40
Kaberamaido	Ochero	4,583	0.13	53
Bukedea	Kidongole	4,525	0.12	52
	<b>Total</b>	<b>36,477</b>	<b>1</b>	<b>419</b>

## 2.2.5. Data Collection Techniques

### a) Desk review of land related documents and reports

The research utilised secondary methods of collecting data which involved reviewing and collecting data from documents, materials, books, study reports, papers, research reports, workshop reports on the formal and informal land conflict management mechanisms to support primary data that was collected by the field research consultant. Key documents that were used in the analysis are appended to the report under Annex 4.

### **b) Survey Questionnaire for the Households**

Individual questionnaire was administered to household respondents (i.e. women, youth and men). The main focus of the household questionnaire was to collect data on socio-economic characteristics and with focus on customary land. The items in the questionnaire sought to provide pertinent answers with regard to the specific tasks indicated in the TOR, i.e. land ownership, access, control, use/utilisation and administration/management. Prior to the actual survey, selected research assistants were oriented in modalities and ethics of data collection (purpose, research ethics and clarification of the different parts of the data collection tools). Actual data collection was preceded by mobilisation of the target community members by local leaders.

### **c) Key Informant Interviews (KIIs) and consultative meetings**

Key informant Interviews and consultative meetings were held with representatives identified from the key institutions/partners and key stakeholders involved in land rights/Land conflict resolution mechanism at Sub-County and District level. A key informant interview guide was used to collect information to ascertain the following issues:

- Existing formal and informal land conflict resolution mechanisms
- Competencies of key stakeholders
- Existing discriminatory practices enshrined in the customary land tenure system.
- Assessing how the existing formal and informal land conflict resolution mechanisms are impacting on land rights
- Draw recommendations on better land conflict resolution mechanisms
- Propose actions for mainstreaming 3CMM in Teso Sub-Region

However, some of the key stakeholders selected included: TIP project staff, religious leaders (4 in each district), Iteso Cultural Union (ICU), 5 Clan leaders in Teso, 3 teams of entrepreneurs in Teso, 2 Town Council Boards, Community Based Organisations (CBOs), Faith Based Organisations (FBOs), NGOs, CAO, DLO, DCDO, CDO, DPO, RDC and DPC.

### **d) Focus Group Discussions (FGD)**

In each district, selected FGD sessions (i.e. with women, youth, PWD, entrepreneurs, clan leaders) were conducted with the participants who would not have participated in filling the questionnaires. Each FGD session comprised of an average 8-10 community members who were mobilised with the support of local leaders, and Researchers. A FGD guide was used to facilitate the discussion. Moderators facilitated the FGD sessions with the aid of note takers. This provided community perspective to customary land administration and management. Table below summarises the key instruments and total targeted individuals that were consulted.

**Table 2: Field Research Component primary data and information sources**

<b>Instrument</b>	<b>Primary Source/s</b>	<b>Total Number Consulted</b>
Individual Survey Questionnaire	Households	445 respondents
Key Informants Checklist	Key Informants (Members of DEC, Sub-County Councillors, RDC, DPC)	90 interviewees
Focus Group Discussions Guide	Community members 9Youth, women, Clan Leaders, Entrepreneurs)	214 participants

Source: Final Evaluation Data, 2017

### **2.2.6 Data Cleaning and analysis**

Data from the questionnaires were entered in Epidata 3.1 to support the analysis. The qualitative data collected from KIIs and FGDs were analysed using thematic content analysis, narrative analysis and comparative analysis techniques.

### **2.2.7 Reporting**

Upon returning from field consultations, two independent reports (Field research study report and desk study report) were shared with the assignment reference team and this formed the basis of the 23<sup>rd</sup> June 2017 stakeholders' validation meeting in Soroti. Key issues that were raised during the stakeholders' meeting have been reflected upon by both consultants and resulted into the preparation of this harmonised Final Report.

## **2.3 Limitations**

### **2.3.1 Lack of awareness on land laws and policies**

The project focused on customary land tenure system administration and management in Teso Sub-Region. The limited access to information and documentation around customary land tenure system rendered the solicitation of information contestable. The Consultant was fortunate to have accessed other related research reports to corroborate areas of contestations in such cases.

### **2.3.2 Baseline data construction**

The participants consulted showed difficulty in showing accurate information on customary land tenure as the "custodians" are the clan heads. In the circumstances, the clan heads are not literate to advance informed and objective land administration and management information to the pertinent questions. To mitigate the challenges around correctness of information, the Consultant had to triangulate the information collected to make meaning to the context.

### **2.3.3 Policy and legal reforms around land**

This assignment was conducted during a period when the Justice Catherine Bamugemereire-led commission of inquiry was launched to investigate and share a national report for improving the efficiency and effectiveness of the land law, policies and process of land acquisition, land administration, management and land registration in Uganda and proposing necessary reforms. This coincidence exerted a sense of anxiety to the study population who were suspicious of the study's motive. Where possible, the Consultant clarified the distinctions between the ongoing national level inquiries from this field research exercise.

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## 3.1 Overview

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The research findings are presented covering the following key areas:

- Identifying and analysing the existing formal and informal land conflict resolution mechanisms in the Teso Sub-Region for better understanding of the scale of land related conflicts.
- Analysing the efficacy of the existing formal and informal land conflict resolution approaches in Teso Sub-Region i.e. strengths, weaknesses, opportunities, threats in each.
- Identifying the “best practices” and lessons learned from the use of the various formal and informal land conflict resolution approaches in Teso Sub-Region.
- Identifying and analysing the competencies of key stakeholders involved in land conflict resolution in the Teso Sub-Region.
- Discerning the existing discriminatory practices enshrined in the customary land tenure system.
- Assessing how the existing formal and informal land conflict resolution mechanisms are impacting on the right of ownership, control, access to and use of land by men, women, youth, other vulnerable persons i.e. persons with disability and orphans in the Teso Sub-Region.
- Recommending the most efficient, appropriate and coherent land conflict resolution pathways and approaches in the Teso Sub-Region.
- Propose actions for mainstreaming comprehensive and coherent conflict management mechanisms (3CMM) by the relevant actors in the Teso Sub-Region in order to avoid duplication and forum shopping.

## 3.2 Discussion of desk study findings

### 3.2.1 Land tenure systems in Uganda

To better analyse the efficacy of the existing formal and informal land conflict resolution approaches in Teso Sub-Region i.e. strengths, weaknesses, opportunities, threats in each, it is imperative this section discusses all the four existing land tenure systems as enshrined in the Constitution.

#### 3.2.1.1 Mailo land tenure<sup>7</sup>

*Mailo* Land Tenure is primarily in the Buganda (Central region) and in some parts of Western Uganda. *Mailo* and native freeholds were introduced as part of the 1900 (B) Uganda Agreement, principally as a form of a modified freehold, whose distinctive feature is the separation of ownership of land from occupancy or ownership of developments by “lawful or *bonafide*” occupants, guaranteed by the Land Act Cap 227. Thus, it is legal ownership subject to the equitable and unregistered rights of occupiers or *Kibanja* holders. The Land Act also guarantees statutory protection to the *Kibanja* holder and his or her successors against any eviction as long as the prescribed nominal ground rent is paid.

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<sup>7</sup> Section 1(t) and 3(4) of the Land Act as amended defines *Mailo* tenure as meaning the holding of registered land in perpetuity and having roots in the allotment of land pursuant to the 1900 Agreement and subject to statutory qualifications, the incidents of which are described in section 3.

### Key characteristics of *Mailo* land include:

- It is surveyed and certificate of title is given as conclusive evidence of ownership;
- Ownership is unlimited i.e. it is held in perpetuity;
- It allows separation of ownership of land from ownership of developments on land by lawful and *bonafide* occupants;
- The owner utilises the land the way he or she wishes and provided the interests and rights and interests of the lawful and or bonafide occupants are not fettered.
- Lawful and *bonafide* occupants may apply for certificate of occupancy from the land owner;
- The owner can lease, mortgage or sale the land;
- *Kibanja* owner can purchase the land and get a private *Mailo* title;
- Non-citizens cannot own land under *Mailo* tenure.

#### 3.2.1.2 Leasehold Tenure System<sup>8</sup>

This tenure is created by contract or operation of the law, whereby the landowner (lessor) grants another person (a tenant or lessee) complete (total) power over land for a defined period of time often, but not always, in return for rent or services. The leasehold land tenure system refers to the use of land for a particular set period of time. In Uganda, there are two types of leases i.e. private lease (where individual land owner grants lease to an individual or organisations on terms agreed upon by both parties e.g. under *Mailo* and freehold) and Public or statutory lease (given to individuals or corporate groups (Such as Buganda Land Board or the Kampala Archdiocese) under the terms of Public Land Act of 1969 and are granted by Uganda Land Commission and with endorsements from District Land Board.

The aggressive land hunt by investors for commercial agriculture and the growth of urban centres are phenomena that are not likely to spare Teso Sub-Region's customary land ownership. The recent development of physical planning in Town Boards and Councils in Teso Sub-Region, as in the rest of Uganda's country-side has resulted into such Town Boards and Councils like Ochero and Kidongole in Teso, to encroach on customary land and demand for surveying such land and this demand has created conflict. Urbanisation is indeed an unstoppable force that is changing the economic geography of Africa. Under the right policy framework, harnessing the momentum of urbanisation can carry industry forward to a more prosperous and equitable future by smoothly connecting the forces of urbanisation and industrialisation<sup>9</sup>. Customary land has the potential to take up this emerging opportunity rather than fighting it.

One of the key reasons advanced for obtaining leasehold titles in the urban centres or even the peri-urban has been security of tenure as the land is surveyed, mapped, titled and ownership is easily ascertained. Whereas customary land tenure and its security in the Teso Sub-Region hinges largely on length of time of use and occupation, social connections to the clan and honour unidentified forms of respect for the clan leaders, the leasehold is a new phenomenon that is available for lease to any person who makes an application for the same from the District Land Boards. Indeed, the land boards will grant leasehold certificates for public land or for land within the jurisdiction of a town council or municipality where the tenure may then be converted from customary tenure to leasehold. The justification for this conversion is largely to bring the land use into conformity with the local zoning by-laws and housing ordinances as specified by the local authorities in charge of housing and planning.

<sup>8</sup> Section 1(s) and 3(5) of the *Land Act as amended*

<sup>9</sup> United Nations Economic Commission for Africa (UNECA), 2017. *Urbanization and Industrialization for Africa's transformation*, Addis Ababa, Ethiopia Economic Report on Africa, UNECA, Page 158.

**Key characteristics of a leasehold tenure include:**

- Certificate of Title is given as conclusive evidence of ownership;
- It has conditions and terms in a contract to be fulfilled by all parties;
- It is valid for a specific period of time (49 years, 99 years and 199 years);
- Land reverts back to the owner after the agreed period;
- Lessees exercise the right of the owner and may use the land, sell, mortgage it or bequeath it as the owner would, subject to some minor covenants on consent.
- Lease is granted out of the former public land and may be converted to freehold (only where there are no customary tenants at the time the leasehold was issued; where it does exceed 100 hectares, DLB must approve that the conversion is in public interest and that land is paid for at market value);
- It can be owned by non-citizen for a period not more than 99 years.

**3.2.1.3 Freehold Tenure System<sup>10</sup>**

This type of land was granted by the British government and later by the Uganda Land Commission. Freehold is a system that allows ownership of land in '*perpetuity*' (unceasingly) giving full powers over its use and disposition. Such land was primarily allocated to church missionaries, academic institutions, as well as some selected individuals. In Teso Sub-Region, the Freehold tenure system is available upon application for a certificate of title and conversion, the lack of adequate knowledge and distrust for the authorities has thwarted any attempts in sensitising the masses as to the virtues of obtaining certificates of title.

**Key characteristics of freehold include:**

- The owner has a certificate of title as conclusive evidence of ownership of rights and interests in the land;
- The ownership of such land is indefinite or unlimited (owned in perpetuity);
- The owner may utilise the land in any way they please as long as it doesn't not violate any law;
- Since the land reform decree of 1975, the owner must recognise and respect the rights of Lawful or bona fide occupants as well as developments or improvements (if any) on this type of land;
- The owner has control and authority or use and may transfer and carry out transactions of any kind on this type of land;
- The owner can grant leaseholds, mortgage, sale or pledge, etc.
- Non-citizens cannot own land under this tenure.

**3.2.1.4 Customary Tenure System<sup>11</sup>**

This is land which is owned by a particular group of people (family, clan, tribe, community). The Land Act describes customary tenure as a way of owning land regulated by customary rules, limited to a particular place or group of people. It is the most widespread type of tenure system, although the specific rules of customary tenure vary according to the ethnic group and location. The use of the land is usually overseen by elders, clan heads or other assigned committees to ensure the rights of the entire group are being honoured.

Customary law is considered to be *informal*' and generally is not codified nor is it documented. Customary law has a major characteristic that the recognised and agreed upon conditions and rules are passed orally from generation to generation. Still, customary laws are recognised by Courts of Law.<sup>12</sup>

<sup>10</sup> Section 1(p) and 3(2) of the Land Act as amended

<sup>11</sup> Sections 1(l) and 3(1) of the Land Act as amended

<sup>12</sup> Article 37 of the Constitution provides that "every person has a right as applicable to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others. See also Section 15 of the Judicature Act, which recognizes customary law and that the High Court shall observe and enforce any custom that is not repugnant to the principles of natural justice, good conscience and equity.



The Land Act Cap 227<sup>13</sup> enumerates the incidents of customary tenure to include its territorial or clan nature, existence of rules and regulations governing community, family, and individual rights to land, and perpetual ownership of land. The Constitution and the Land Act also provides that customary tenure may be converted to freehold and a Certificate of Customary Ownership may be issued as evidence of ownership. The emerging challenge in present-day Teso Sub-Region is the changing face of customary land tenure that is driven by the demand for “individual” as opposed to communal/ family ownership, demand for clear demarcation and documentation, and the emerging women land rights agenda such as those championed by a coalition of interest group of mainly civil society groups called Ateker Women Land Rights Partners (AWOLARIP), among others.

The increasing levels of exposure and education by communities supported by progressive revisions to the land policies and laws, has enabled individuals who are alive to take up key requirements of formalising their land-holding and the virtues of protecting the important resource. The Land Act provides for methods upon which coordinates and maps for a particular parcel of land may be obtained, and duly registered at the Sub-County and a Certificate of Customary Ownership issued. This method has come in handy also in the protection and preservation of land belonging to women and children and non-natives of Teso Sub-Region who have purchased such land. It is well recognised that the PRRs stipulate the incidents upon which a married woman or beneficiary receives land for utility. However, the practical aspect of such transfer and use of land are fully internalised and openly adopted by the clan structures who are the custodians of the customary land. The concern with Women’s rights is instructive as it is directly related to the productivity of the land in agriculture and food security. The Certificates of Customary Ownership seek to remedy this situation.

**Key characteristics of customary land tenure system include:**

- The tenure only obtains on former public land, which was not rendered into leasehold or any other form of registration;
- Land can be owned by an individual, family, community or traditional institution. It is owned forever (in perpetuity);
- It only applies to a specific area and class or group of people. The rules applied are usually derived from customs, norms, and practices and they are accepted by all people;
- Issues concerning ownership, use, occupation and transaction in land or disputes are resolved using local custom and regulations as long as these (customs and regulations) do not run contrary to the Constitution or repugnant with the principles of natural justice, equity and good conscience;
- Communal ownership of land is recognised and communities may form Communal Land Associations for owning and managing such land;
- One can acquire a Certificate of Customary Ownership from the District Land Board as conclusive evidence of customary rights and interests in this tenure;
- One can apply to the District Land Board to convert the Certificate of Customary Ownership into a freehold title;
- No transactions of any nature is valid under this tenure unless it is registered by the Recorder;
- Non-citizens cannot own land under this tenure.

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13 Section 3(1) of the Land Act provides under the heading “incidents of forms of tenure” as regards customary tenure as applicable to a specific area and a specific description or class of persons; subject to Section 27 [referring to constitutional protection against discrimination meted out against disadvantaged groups] governed by rules generally accepted, binding and authoritative by the class of persons to which it applies; applicable to any persons acquiring land in that areas in accordance with those rules; subject to constitutional protection characterised by local customary regulation; applying local customary regulation and management to individual and household ownership, use and occupation and transactions in, land; providing for communal ownership and use of land; in which parcels of land may be recognised as subdivisions belong to a person, a family or a traditional institution; and which is owned in perpetuity.



The above discussion again confirms that a variety of land rights systems operate in African societies, ranging from customary and collective ownership, to government ownership with leasehold rights, to full freehold titles. Under any system, the land market should allow for residential and firm mobility, and not place undue burdens on developing land while protecting lower-income households, informal enterprises and women. If land and real estate markets are functioning smoothly, economic actors have more chance of sorting themselves into an economically efficient arrangement in urban space. Different firms have their own locational preferences based on the intensity of various factor inputs and the nature of production. In selecting the best location they weigh their preferences for access to land, labour (skilled or unskilled), inputs from other firms, market access (including the transport links to other cities or countries) and access to knowledge and amenities. A flexible land market allows households and firms to respond as economic conditions change, fostering innovation and competitiveness<sup>14</sup>. This therefore shows the need to have stronger Clan structures on which Teso Sub-Region customary land administration is anchored. Having stronger structures provides opportunities to aggregate customary land for lease, and that way provide economic and livelihood beyond the current peasantry type to meaningfully engage viable economic production actors who can pay clans and its bona-fide residents much better rates for use of such land and in the process fend-off land grabbers.

### 3.2.2 Land and land issues in Teso Sub-Region

Over the last three decades, the people of Teso Sub-Region have experienced different violent conflicts starting with the 1986 Teso rebellion against the advent of the National Resistance Movement (NRM) government. There was also violent cattle rustling that decimated the peoples' livestock asset base; the historical conflict which involved Karamojong pastoralists grazing their livestock in Teso Sub-Region during the dry season and returning to their homes with stolen animals when rains return and pasture sprouts; the Lord's Resistance Army (LRA) incursion in 2003 which was characterised by killings, abductions, and the internal displacement of people (IDPs); and the flooding that ravaged crops and homesteads in 2007.

Since 2009, the security situation improved in Teso Sub-Region which allowed IDPs to return to their ancestral land after many years. Subsequently, numerous conflicts occurred due to disputed land and land boundary claims. Teso Sub-Region has not fully recovered from the economic, social and political impacts of these incidents, as the regional poverty rate stands at 66% compared to a national average of 37% in Uganda as a whole<sup>15</sup>.

Teso PPRR defines customary land to mean land in Teso Sub-Region that is not registered under the Registration of Titles Act or owned by or vested in the local or central government of Uganda. Part 2 of Teso PPRR states that customary land in Teso Sub-Region is vested in the respective clans of Teso to hold and manage in trust for the past, present and future people of Teso. All persons born in or married into a family have rights to customary land ownership.

Land conflicts in Teso Sub-Region mainly affect the vulnerable especially the women, (mainly widows and unmarried / divorced women) children and orphans, elderly people, and the poor<sup>16</sup>. Since the majority of the land in Uganda and Teso Sub-Region in particular is held under customary law, it is not surprising that customary institutions and customary law are recognised as critical to the resolution of land disputes.

14 United Nations Economic Commission for Africa (UNECA), 2017. Urbanization and Industrialization for Africa's transformation, Addis Ababa, Ethiopia Economic Report on Africa, UNECA, Page 149.

15 Report of the proceedings of the Multi-stakeholder Meeting on Teso Land Issues; organized by TEKAPIP AND GIZ/CPS; SOROTI, 12th – 15th May 2014

16 See Final Report on Women Land Rights in Teso Sub-Region. AWOLARIP. 2016.

### 1.1.3 Policy and legal framework for land management in Uganda

#### 3.2.3.1 Policy framework

##### a) Uganda National Vision 2040

In 2007, Cabinet approved the National Vision 2040 “A Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years”. It builds on the progress that has been made in addressing the strategic bottlenecks that constrained country’s socio-economic development since independence, including; ideological disorientation, weak private sector, underdeveloped human resources, inadequate infrastructure, lack of industrialisation, underdeveloped services sector, poor democracy, among others.

Targets of Vision 2040 for the land sector include the following;

- Roll out Systematic Land Demarcation and survey of the entire country to ensure land hat land ownership facilitates development.
- Computerise the land registration system to ensure efficient and effective land management.
- Government to ensure land acquisition is driven purely by market forces within the framework of the zoning laws and with minimum distortion.
- Undertake massive sensitisation programs in customary holding areas to ensure that the interests of all parties are duly protected.
- Land tribunals to be activated to provide redress for people or organisations that will feel aggrieved in land matters.
- Government to make land reforms to facilitate faster acquisition of land for planned urbanisation, infrastructure development, and agricultural commercialisation among other developments.
- Government or local government shall continue to hold in trust natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and touristic purposes for the common good of all its citizens.
- Government will put in place a mechanism to ensure that district and international borders are secured and any disputes addressed.

##### b) The Second National Development Plan (NDP II), 2015/16-2019/20

The second National Development Plan (NDP-II) is the second in a series of six five-year Plans aimed at achieving the Uganda Vision 2040 among other development agendas. The goal of this Plan is to propel the country towards lower middle income status<sup>17</sup> by 2020 through strengthening the country’s competitiveness for sustainable wealth creation, employment and inclusive growth. Like Vision 2040, the NDP II also envisions “A transformed Ugandan society from a peasant to a modern and prosperous country within 30 years”. NDP II targets for the land sector include the following;

- Computerisation of the land registration system to ensure efficient and efficient land management and in addition to land use planning and land valuation.
- Radically improve the process of land transactions for development
- Facilitate faster acquisition of land for planned urbanisation, infrastructure development and agricultural commercialisation.
- Comprehensive land valuation
- Set up the National Spatial Data Infrastructure, which will combine spatial information from all MDAs.

<sup>17</sup> Under the UNDP classification framework, the per capita cut-off for a country to join a lower middle income status USD1,040 per capita.

NDP-II objectives regarding the land sector include;

**1. Improve utilisation, protection and management of land and land based resource for transforming Uganda's economy. Some of the strategies to achieve this objective include;**

- Implement and disseminate the National Land Policy and Land Use Policy.
- Develop, implement and disseminate sub-national Land Policies and Land Use Policies.
- Formulate, review and revise land related laws, regulations and guidelines (provision for regularisation of land tenure in informal settlements).
- Identify, assess, inventory and register Government land.
- Facilitate better management and use of land owned by cultural and religious institutions.

**2. Improve availability of land for development under the following strategies;**

- Strengthen land services to provide land for priority economic development areas and infrastructure corridors.
- Facilitate equitable access to land for orderly development of urban and rural settlements.
- Re-design/ Operationalise the Land Fund to provide improved land access.
- Review, update and clarify procedures for land acquisition by government.
- Improve accessibility to and functioning of land sales and rental market.

**3. Improve and modernise land administration services/system under the following strategies;**

- Strengthen land dispute mechanisms, institutions and structures.
- Rehabilitate, densify and modernise the National Geodetic Network.
- Develop and initiate national mapping program.
- Review, roll out, implement and sustain the Land Information System (LIS).
- Establish National Spatial Data Infrastructure that integrates data for planning and development.
- Review and roll out a national program of Systematic Adjudication, Demarcation, Survey and Certification and titling or Registration of land.
- Streamline and integrate Traditional Land Administration with formal systems.

**4. Improve equity in access to land, livelihood opportunities and tenure security of vulnerable groups. The following strategies will be implemented to achieve this objective;**

- Strengthen the land rights for the poor and vulnerable groups.
- Increase provision of public information on land rights.
- Strengthen access to land for women and youth.

The National Planning Authority Act requires the local governments to reflect their development planning priorities guided by the NDP. As such, the five year development plan of each Sub-County and district is aligned to the NDP-II and by extension, National Vision 2040. Teso Sub-Region local authorities' District Development Plans (DDPs) and Sub-County Development Plans (SDPs) have integrated and localised the national-level priorities and plans which include the land sector issues, thereby operationalising the National Vision 2040.

**c) National Land Policy, 2013**

The National Land Policy (NLP) was approved by Cabinet in February 2013 to provide a framework for articulating the role of land in national development, land ownership, distribution, utilisation,

alienability, management and control. The policy is intended to ensure that the country transforms from peasant society to modern, industrialised and urbanised society.

The goal of the NLP is “to ensure efficient, equitable and optimal utilisation and management of Uganda’s land resources for poverty reduction, wealth creation, and overall socio-economic development”.

**Objectives for the National Land Policy include;**

- Stimulate the contribution of the land sector to overall socio-economic development, wealth creation, and poverty reduction in Uganda.
- Harmonise and streamline the complex tenure regimes in Uganda for equitable access to land and security of tenure.
- Clarify the complex and ambiguous constitutional and legal framework for sustainable management and stewardship of land resources.
- Redress historical injustice to protect the land rights of groups and communities marginalised by history or on the basis of gender, religion, ethnicity, and other forms of vulnerability to achieve balanced growth and social equity
- Reform and streamline land rights administration to ensure the efficient, effective, and equitable delivery of land services.
- Ensure planned, environmentally-friendly, affordable, and orderly development of human settlements for both rural and urban areas, including infrastructure development.
- Harmonise all land-related policies and laws, and strengthen institutional capacity at all levels of Government and cultural institutions for sustainable management of land resources.

The NLP is now at the stage of implementation and the proposals to address dispute resolution mechanisms include;

- Empower customary/traditional institutions to keep proper written records of all disputes dealt with under their jurisdiction;
- Define a clear hierarchy for dispute resolution structures to guarantee the finality and authoritativeness of decisions, subject to appeal to higher levels of jurisdiction;
- Provide free legal aid to the vulnerable sections of society through a system of partnerships and incentives to private and civil society organisations to deal with the ever increasing land litigation; and
- Encourage and build capacity for alternative dispute resolution (ADR) on land matters and application of principles of natural justice.
- Re-instate the Land Tribunals.

### **1.1.1.2 Legal framework for land management (Land Related Laws)**

#### **(i) The 1995 Constitution of the Republic of Uganda (as amended)**

The Constitution is the supreme law of Uganda and the fountain from which all land legislation originates. The Constitution vests land in the citizens of Uganda to own it under customary, *Mailo*, freehold or leasehold tenure.<sup>18</sup> The Constitution also refers to the protection and promotion of fundamental human rights and freedoms including the right to own property<sup>19</sup>. It also provides that

<sup>18</sup> Article 237 (1) of the 1995 Constitution

<sup>19</sup> Article 26(1) of the Constitution

Government may acquire land in the public interest.<sup>20</sup> Regarding land management, the Constitution established Uganda Land Commission, District Land Boards<sup>21</sup> and Land Tribunals.<sup>22</sup>

### **(ii) The Land Act Cap 227 (as amended)**

The Land Act outlines the different land tenure systems (customary, *Mailo*, freehold, leasehold)<sup>23</sup> established by the Constitution, the ownership and management of land.

The Act provides that customary land owners may acquire a Certificate of Customary Ownership for their land as conclusive evidence of their rights.<sup>24</sup> A person may apply for a freehold, or may convert their customary ownership to freehold.<sup>25</sup> The Act provides for spousal consent in transactions on family land.<sup>26</sup> Spouses and children must consent to transactions in land where they ordinarily reside or where they, as a family derive sustenance.<sup>27</sup>

For orphans, the Land Committee must give consent<sup>28</sup>. It provides for the establishment of, ULC, DLOs, Land Tribunals, Sub-County Land Tribunals, and Parish Land Committees.<sup>29</sup>

The Land Act was amended in 2004 and made certain changes to the Land Act, Cap. 227, and imposed restrictions on the transfer of family land. The Amendments also introduced changes to the dispute resolution mechanisms under the principal Act. It amends the parish Land Committees to Area Land Committees and provides that LC 11 as courts of first instances in land matters over customary land.

In 2010 the Land Act was amended to enhance the security of occupancy of lawful and bona fide occupants on registered land in accordance with Article 237 of the Constitution and other related matters.

### **(iii) The Land Acquisition Act Cap 226**

This Act deals with the procedures for compulsory land acquisition by the Government before it can obtain land from private individuals or the community. It is the implementing law for Article 26 of the Constitution, which guarantees the right to own property and requires prompt payment of fair and adequate compensation before the taking of possession and acquisition of the land.

### **(iv) Physical Planning Act, 2010**

The Act repeals the Town and Country Planning Act which was enacted in 1951 & revised in 1964. It provides for decentralisation as provided in the Constitution. The Act establishes the National Physical Planning Board, District and Urban Physical Planning Committees and making and approval of Physical Development Plans, etc. It sets up urban planning committees at local levels to consider special developmental needs of their areas taking into account proper architectural works, public health facilities and utilities.

### **(v) Registration of Titles Act, (Cap. 230)**

The Registration of Titles Act governs the registration of land titles in Uganda, and the registration

20 Articles 26(2)(b) and 237 of the Constitution

21 Article 240 of the Constitution

22 Article 243 of the Constitution

23 Section 3 of the Land Act Cap 227

24 Sections 4-7 of the Act

25 Sections 9-13 of the Act

26 Section 39 of the Act

27 Section 39(1) of the Act requires spousal or the consent of the dependants of majority age. The section, while progressive in protecting family and matrimonial property also provides in section 39(5) that the said consent sought should not be withheld unnecessarily, implying that there must be reasons for any contemplated refusal to give consent. This is a limitation as not many spouses or dependent children are able to realistically assert their rights in the face of the patriarch.

28 Section 39(1)(c)(iv) of the Act

29 Sections 46, 56, 64 and 74

of key transactions in land, such as transfers, leases and encumbrances. The Act introduced the Torrens system of title registration, which provides a state-guaranteed system of title (usually called an “indefeasible” title), backed by a right to compensation for loss of land.

**(vi) Survey Act, (Cap 232)**

The Survey Act provides for and regulates the survey of lands. It set up the office of Commissioner of Lands and Surveys, which later became the Commissioner for Surveys and Mapping, with functions and responsibilities for regulating land surveys.

**(vii) Mortgage Act, 2009**

The Mortgage Act was originally enacted in 1974, as the Mortgage Decree No. 17/1974. The Act was amended in 2009 to provide for remedies available to a mortgagee upon default by a mortgagor. The Mortgage Act provides for mortgages on matrimonial home, customary land and family land.

**(viii) The Local Council Courts Act 13 of 2006.**

It provides for the administration of justice at the local council level in terms of jurisdiction, powers, and procedures of the Local Council Courts is provided for under this Act.

**(ix) The Succession Act Cap 162**

This Act lays out the law of Uganda which is applicable to all cases of intestate or testamentary succession. *Intestate succession is where one dies without leaving a legal will. Testamentary or testate succession is where one dies leaving a legal will.*

**(x) Subsidiary legislations include;**

**a) Land Regulations, 2004**

The Land Regulations 2004, although strictly subsidiary legislation, are a major component of the land administration framework. It generally operationalises the detailed provisions of the Land Act. They provide forms for various functions, and for transactions under both the Act and the Regulations.

**b) The Local Council Courts Regulations No. 51 of 2007**

This allows for further operationalisation of the provisions of the Local Council Courts Act, 2006 in regards to procedures, fees to be paid, and remedies there under.

**c) The Mortgage Regulations, 2011**

The Regulations operationalise the Mortgage Act and provides for forms and procedures.

**d) The Physical Planning Regulations, 2012**

The Regulations operationalise the Physical Planning and provides for forms and procedures.

**3.2.4 Land Rights in Uganda**

Land rights refer to rules that specify who may do what with a particular place or thing, for how long and under what conditions (e.g. who may sell, rent or destroy an object). Bundle of rights existing on a piece of land can include:

- a) The right to derive benefit from the land/user right (e.g. through cultivation or grazing);
- b) The right to decide how and who to use the land and under what Conditions/management right;
- c) The right to derive income from the use of the land;
- d) The right to convey the land to others or to heirs (i.e. by inheritance), to sell it or to give it away/transfer right; and
- e) The right to exclude others from using the land or otherwise interfering with it.



## Land rights are derived from land related legislations and the rights include;

### a) Land rights in the 1995 Constitution of the Republic of Uganda

- i. The Constitution provides for the protection and promotion of fundamental human rights and freedoms.<sup>30</sup> The rights include the right to own property by everyone. Any rights of individuals or groups enshrined in the Constitution must be respected, upheld and promoted by all organs and agencies of Government and by all persons.
- ii. The Constitution provides that every person has a right to own property either individually or in association with others<sup>31</sup> in accordance with the established land holdings available, namely; customary, freehold, *Mailo* and leasehold tenure systems.
- iii. The Constitution permits Government or a local body to acquire land in the public interest by a doctrine known as imminent-domain. However, the Government cannot take away any land in public use or in the interest of defence, public safety, public order, public morality or public health outside the ambit of the Constitution; and the compulsory taking of possession or acquisition of property is made under a law which makes provision for; prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property compulsory acquired; and a right of access to a court of law by any person who has an interest or right over the property.<sup>32</sup>
- iv. The Constitution also provides that men and women above the age of eighteen years and above have been accorded equal rights in marriage, during marriage and at its dissolution.<sup>33</sup> The said rights include the right to acquire, hold and dispose of land. Women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities.<sup>34</sup> Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this Constitution.<sup>35</sup>
- v. The Constitution established lawful and bonafide occupants on registered land. Article 237(8) guarantees that 'the lawful or bona fide occupants of *Mailo* land, freehold or leasehold land shall enjoy security of occupancy on the land.

### b) Land rights in the Land Act, Cap 227 (as amended)

#### i) Rights of women, children, and persons with disabilities

The Land Act prohibits decisions pertaining to customary land that deny women access to, ownership of, or occupation of land. The Act safeguards the rights of women, children and persons with disability on customary tenure, and specifically voids any customary rule or practice that denies women, children or disabled persons access to ownership or use of land.

*Section 27 of the Land Act* as amended provides that for any decision taken in respect of land held individually or communally must be in accordance with the customs, traditions, and practices of the community concerned. This is so exercised provided always that such decision does not deny women, children, or persons with a disability - access to ownership, occupation, use of any land, or when conditions are imposed which violates *Articles 33, 34 & 35 of the Constitution* regarding ownership, occupation, or use of land. If the customs, traditions, and practices of the community are inconsistent with any provision of the Constitution, then such custom, tradition and practices shall be null and void to the extent of their inconsistency.

The Land Act as amended gives all spouses (wives and husbands) the right to security of occupancy on family land and requires the consent of the spouse(s) for transactions of family land. Family land is defined as:

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30 Chapter 4 of the Constitution  
31 Article 26  
32 Article 26 (2)  
33 Article 31 (1)  
34 Article 33 (4)  
35 Article 33 (6)

- (i) Land where the family home is situated.
- (ii) Land where the family derives its sustenance. This means Land which the family farms; or Land which the family treats as the principal place which provides the livelihood of the family; or Land which the family freely and voluntarily agrees shall be treated as the family's principal place or source of income for food.
- (iii) Land which the family freely and voluntarily agrees shall be treated as their place of Ordinary residence or where it derives its sustenance.
- (iv) Land which is treated as family land according to the Norms, Culture, Customs, Tradition or Religion of the family.

A spouse's consent to a transaction i.e. to sell, lease, ex-change, transfer, or mortgage family land must be given personally in writing to the Land Committee.

### c) Marriage, Divorce and Separation

According to the Constitution and the Land Act, both women and men have equal rights to own land and property, either as individuals or jointly with other people. When people get married, they do not lose these rights. It is important for women and men to know that they can own property before, during and after marriage. The marriage of a woman does not exclude women from benefiting from land owned by her parents. A woman therefore cannot be discriminated against on the grounds that she is married. Upon marriage, a wife is automatically entitled to the husband's property including land as long as the two remain married and as long as both spouses contributed to the purchase, development or construction of that property. The type of contribution is not limited to cash or some variable measured in monetary terms. It could be time and supervision and attention accorded a particular project by one of the spouses. The point however remains that even a married woman or man can hold property in marriage and as an individual, separate from that of the family.<sup>36</sup>

Separation is a situation where a husband and wife stay away from each other for a given period either because they have agreed or because the court has ordered the separation. Separation does not end a marriage, but only suspends certain rights of the husband and the wife. On the other hand divorce is the permanent ending of a marriage. It only applies to legally recognised marriages.<sup>37</sup>

The succession law protects spouses and children's equal right to inheritance. The Succession Act provides that if a spouse dies intestate (without leaving a will); the property is divided amongst the beneficiaries as follows;

- Lineal descendants (children) receive 75%.
- Spouse(s) receive 15%.
- Dependant relative(s) receive 9%.
- Customary heir receives 1%.

If the deceased has no lineal descendants (children);

- Spouses' share 50%
- Dependent relatives share 49%.

If no lineal descendants, a wife or dependant relatives, the spouse/dependant relatives receive 99%.

<sup>36</sup> This point was properly underscored in Julius Rwabinumi V Bahimbisomwe SCCA No. 10/2009 the Supreme Court adopted the holding by Bbossa J, as she then was, in Muwanga V Kintu High Court Divorce Appeal No. 135/1997, that "**matrimonial property is understood differently by different people. There is always property which the couple chooses to call home. There may be property which may be acquired separately by each spouse before or after marriage. Then there is property which a husband may hold in trust for the clan. Each of these should, in my view, be considered differently. The property to which each spouse should be entitled is that property which the parties choose to call home and which they jointly contribute to.**" (emphasis added)

<sup>37</sup> Customary marriages are also recognized as legal marriages and their dissolution must be in accordance with custom, practice and the law.



*Section 30 of the Succession Act* provides that no wife or husband of an intestate shall take any interest in the estate of an intestate, if at the death of the intestate; he or she was separated from the intestate as a member of the same household.

This means that a wife or a husband of one who dies without a legal will cannot benefit from the deceased property if at the time of death he or she was separated as a member of the same household. Therefore, the one who voluntarily abandons his or her spouse cannot benefit from the property upon death.

No wife or husband of an intestate shall take any interest in the estate of an intestate if, at the death of the intestate, he or she was separated from the intestate as a member of the same household. However, the court may, on application by or on behalf of such husband or wife, whether during the life or within six months after the death of the other party to the marriage, declare that subsection (1) shall not apply to the applicant.<sup>38</sup>

When a person leaves a will, she/he may distribute property as she/he chooses and does not have to follow these allocations. Provided they are sane and lucid at the time of making the will, the contents of the Will shall be upheld and followed.

In the case of divorce, at the moment the marriage is dissolved, the property that is deemed matrimonial property is divided equally between the husband and wife. After such, neither party is entitled to their former spouse's property upon death as the marriage that had originally brought them together had been terminated.

Where a marriage is annulled on the ground that a former husband or wife was living, and it is found that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or where a marriage is annulled on the ground of insanity, children begotten before the decree nisi is made shall be specified in the decree, and shall be entitled to succeed in the same manner as legitimate children to the estate of the parent who at the time of the marriage was competent to contract.<sup>39</sup>*A decree nisi is issued by the court to and lasts a minimum of six months before it is made absolute. Once the decree is made absolute, the marriage stands dissolved.*

Where judicial separation has been decreed under this Act, the wife shall, from the date of the decree, and while the separation continues, be considered as unmarried with respect to property of every description which she may acquire or which may come to or devolve upon her, and that property may be disposed-off by her in all respects as if she were an unmarried woman, and on her death, if she dies intestate, shall go as it would have gone if her husband had then been dead; but if she again cohabits with her husband, all property to which she may be entitled when that cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband while separate.<sup>40</sup>

When a decree of dissolution of marriage or of judicial separation is pronounced on account of adultery by the wife, and the wife is entitled to any property, the court may, notwithstanding the existence of the disability of coverture, order the whole or any part of the property to be settled for the benefit of the husband, or of the children of the marriage, or of both.<sup>41</sup>

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38 Section 30 of the Succession Act  
39 Section 13 of the Divorce Act cap 249  
40 Section 15 Divorce Act  
41 Section 26 of Divorce Act

#### **d) The Mortgage Act, 2009 and Land Rights.**

The Mortgage Act gives land owners a right to mortgage their land that can help in improving one's financial situation and livelihood. This is also meant to spur business and commercial activity.

The Act is a tool for people to know their land rights with regard to mortgaging of property. It protects spouse's land right by providing for the requirement for marital consent, in writing, prior to the mortgaging of matrimonial home or property<sup>42</sup>. The Act also recognises customary land as securities for acquiring a mortgage but with the consent of spouse and children of the one intending to mortgage the land.

#### **e) Children's property rights under Children Act, Cap 59**

Any decision taken in respect of land held individually or communally must be in accordance with the customs, traditions, and practices of the community concerned. If the customs, traditions, and practices of the community are inconsistent with the Constitution, they are null and void to the extent of their inconsistency. According to the Children's Act customary practices that are harmful to a child are unlawful. This protection is outlined in Section 7(1) of the Children's Act as amended by Act 9 of 2016, which should be read together with Article 34 of the Constitution. The protection accorded is against physical harm, exploitation as well as discrimination on the basis of age.<sup>43</sup>

*Article 34 (7) of the Constitution* provides that the law shall give special protection to orphans and other vulnerable children.

Local government council is mandated to mediate in any situation where the rights of a child are infringed and especially with regard to the protection of a child, the child's right to succeed to the property of his or her parents. The power given to the local government council to protect the property of a child does not include powers of distribution of the property by the local government council. The property is distributed as provided under Succession Act or according to the will.

According to the *Succession Act*, orphans are entitled to benefit from the estate of their late parents. *Section 2(b)* of the Act defines a child to include legitimate, illegitimate, and adopted children. These children are entitled to 75 percent of the entire property of the estate under *section 27 (1) (a) (IV) of the Succession Act*.

#### **f) Environmentally sensitive areas**

The Land Act provides for the different tenures, ownership and management of land. However under the same Act all owners and occupiers of land are to manage it in accordance with the National Forestry and Tree Planting Act 8 of 2003, the National Environment Act, the Water Act, the Uganda Wildlife Act, the Town and Country Planning Act, and other laws.

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<sup>42</sup> Section 6 of the Mortgage Act, 2009 to be read together with Section 39 of the Land Act, which both provide for marital consent to be sought in writing.

<sup>43</sup> It is trite that the customs, practices and traditions of a given area, that tend to foster rather than impede the rights of the children will be considered by the courts. But the courts are by no means bound to apply customary law wholesale without due regard to the provisions of the law. Every effort must be made to conform to the practices of a given custom. However, decisions that are premised in customary law and patriarchy are often discriminatory and controversial. Courts have to be careful in accepting them wholesale without adequate information on how they came to be made. This is so because customary law has come to be known as the tool by which women's and children's rights are made subordinate to those of other persons who are sometimes also women. That is a position that can no longer be accepted without question in light of the decision of the Constitutional Court in *Law & Advocacy for Women in Uganda v. Attorney General, Constitutional Petitions No. 13/05 and 13/06*. In that case the Justices of the Constitutional Court ruled that ss.2(n) (i) and (ii) of the Succession Act are inconsistent with and contravene Articles 21 (1) (2) (3) 31, 33(6) of the Constitution and they are null and void.

Environmentally sensitive areas such as natural lakes and rivers, ground water, natural ponds and streams, wetlands, forest reserves, national parks and any other land reserved for ecological and touristic purposes is held by the government or local government in trust and protects it for the common good of all citizens of Uganda.

### **3.2.5 Land rights and Teso Sub-Region practices on Customary land tenure system**

In Teso Sub-Region heads of families hold land in trust for the family and have the rights to allocate land to members of their family and to protect land rights of women and children from trespassers.<sup>44</sup>

In the year 2008, the Iteso Cultural Union (ICU) came together with the majority community leaders, in association with the development partners and under the stewardship of their Ministry of Lands, Natural Resources and Physical Planning and documented what has become widely known as the Principles, Practices, Rights and Responsibilities (PPRR) for the Teso Sub-Region. In coming up with these elaborate guidelines, ICU was aware that over 90% of the land in Teso was under Customary land tenure and that there was no permanent record of the methods of acquisition, disposal, succession and transfer of land other than folklore and verbal recounts of the practices and 'best practices'. This effort was intended to demystify the land management and transfer of the land in the face of an increased population and a more sophisticated and advanced social class that values their heritage, land<sup>45</sup>.

Part 2 of the PPRR of Teso provides that in Teso Sub-Region customary land is vested in the respective clans to hold and manage in trust, for its past, present and future.

In Teso customary law, the clan elders have the responsibility for administering land, but this includes the right to say who can sell land and to whom. That is because they have the responsibility to protect the land for the entire clan, and to make sure that everyone is given rights to land be ownership, access, or transfer. (This duty does not exist in the freehold land tenure).

All heirs to family land have rights and responsibilities of heads of families over their own allocated land, over the land of previous deceased head of family, and over land left unallocated in a pool for the use of the whole family.

In Teso Sub-Region, a son becomes the head of household at marriage. He is then allocated land to hold and to manage for the good of his family. He is the steward of that land. His wife/wives, children and other family members also have rights to that land, but he is the overall 'manager'. He allocates land to his wife or wives and children.

All widows whether living alone or with a male partner from within the clan become heads of their families upon the death of their husbands with full rights to manage her land and the land of her children who are minors (Section 7). A widow has the responsibility to manage the land which had been allocated to her, and to allocate land to her male children when they become adult and get married. The clan of the deceased husband shall appoint a man to protect the land rights of a widow from trespassers but the land rights of the widow shall not pass on to the officer appointed to protect the widow. A widow who remarries in to another clan loses her rights as head of the family of her deceased husband and this right passes to the heir of the family as appointed by the clan. This right may be regained on the widows' return.

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44 Section 4 of Principles and Practices of Customary Tenure in Teso Sub-Region, 2009

45 This was made pursuant to Article 237 (4)(a) of the Constitution which is read together with Section 3 of the Land Act which spells out the incidents that customary tenure will take. Section 15 of the Judicature Act, Cap 13 provides that nothing in this Act shall deprive the High Court of the right to observe or enforce the observance of, or shall deprive any person of the benefit of, any existing custom, which is not repugnant to natural justice, equity and good conscience and not incompatible either directly or by necessary implication with any written law.

All children (both boys and girls), born to a family have the right to inherit their fathers' land and right to use land allocated to them. Children born in marriage to a daughter married in another clan have no right to inherit land but may be allocated land to use.

Children born by daughters out of marriage have full rights to land the same way as children born in the family, unless their biological fathers pay penalty or "Ekingol".

Adult boys and girls who do not marry remain with the right only to use land within the family unless they have children in which case they then become heads of their families. If a girl has children without being married, she is the head of the family with the responsibility to manage and be steward for the land allocated to her family the same responsibility which a married son has for his family.

Under customs, divorces are not expected. If a woman gets divorced, she is expected to return to the brother who used her dowry for his marriage. He is expected to share his land with the sister. If the heir still has unallocated land, then the divorced woman is allocated land and becomes head of family. Her children may have rights to use the land but can never be given land to manage as heads of their family. They are expected to return to their father's land.<sup>46</sup>

The Kumam PPRR, all married men, unmarried adults girls, with or without children, the children born by un-married girls, widows, widows who voluntarily choose to return to their parents' homes, orphans and all daughters who were once married but divorced and returned to their parents' homes have rights to land as individuals and the responsibility to manage land in trust as head of family on behalf of all family members.<sup>47</sup> All children, boys and girls born to a family have the right to allocation of land by their fathers and right to use land allocated to them as well as pass it to their children. Children born out of marriage shall have rights to the land of their mother's family unless the biological father claims their heritage by paying compensation to the mothers' clan. Once compensation is paid and accepted by the girls' family, the children born out of marriage shall have rights to the land of their biological father. It is the responsibility of the clans of the unmarried girl and the clan of the biological father of the children to ensure that children know where their heritage land and entitlement is before the children become adults. It is the responsibilities of the clans of the divorced women or widows who return to their maiden homes to ensure that children born in marriage but living with their mothers are shown their land in their fathers' homes and their rights are protected until they are old enough to live on their land. The clan members of divorced women and widows must ensure the land is shown to the children by their fathers and their clans.

If the families of the divorced women or widows who return to their maiden homes want to give gift of land to the children of their divorced and widowed daughters, no one shall remove these rights.

Children born to a wife who is separated from her husband but not divorced have rights to the clan land of the husband whether or not the biological father of the child is or is not a clan member of the husband.

The husband and the clan of the husband must give clan land to the children. Children of a widow who has not remarried whether or not the biological father of the child is or is not a clan member of the husband, have rights to land of the widow's husband. The family of the husband must give land to the children.

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46 Land transactions in land under customary tenure in Teso by Judy Adoko, January 2007

47 Section 5 of the Principles, Practices, Rights and Responsibilities of customary tenure for Kumam Communities - PPRR number 1 of 2011.

The first wife of a polygamous man and her children have exclusive rights to land allocated to her and her husband by her father in law or a family member. If the husband marries other wives or land is bought during their marriage before other wives, he must not divide or allocate part of the land already given to the first wife or bought during marriage to the first wife to any of the other subsequent wives. He must find alternative land by himself alone to allocate to any of the subsequent wives he marries.

Under Kumam customs a widow has the right to make any of these choices: choose to live in her marital home or return to parents home. If she returns to parents home, and does not remarry, she may return to her marital home and get her land back at any time; she may choose to live alone without a man to inherit her; she may choose to pick an inheritor from within or from outside the clan. Widows who voluntarily leave their marital homes to get married in another clan must appoint one of the children as the head of family and leave the land to her/him or leave the land to the clan of her husband if she has no children or if the children are young.

Women who are separated with their husbands and return to their fathers' land must leave the land to their husband or the clan of the husband. Nonetheless, the husband and the children cannot sell the land without the consent of the separated wife and the clan. Women who are separated from their husbands but who are not divorced have the right to return to their land in their marital home. The husband and the clan must return the land to them. A divorced woman who returns to her parents or a widow who re- marries to a man of another clan shall leave the first marital land of the former husband to her children and their clans and return to her maiden home where she must be allocated land by either parents, if they are still alive and there is land in the pool or if the parents are dead and there is no land left in the pool for allocation, then by the brother who used her dowry to marry. Should the divorced woman marry again, the land given to her should remain in the pool for her possible return. Upon her death, this land reverts to the one who allocated it or passed on to any child of the divorced woman born before marriage or after the divorce. A widow who is a head of family on land from the husband's family who has no child may decide which child to allocate and pass the land to as long as the child is a relative of the husband's family and not her parents' family. The widow must make a choice of the child in writing or verbally in front of the clan.

### **3.2.6 Whose land rights are at risk in Teso Sub-Region?**

Generally, when issues of land management arise, the question of women's rights must then be addressed in the same breath. This is because women control the larger part of the factors of production which mainly is centred on land. Teso Sub-Region is not any different from other areas of the country or other areas of the continent as women continue to suffer the brunt of discrimination, unfair and unjust treatment, the total flouting of the principles of natural justice, as well as premising these social injustices on the culture and custom. The Ugandan Constitution is clear and provides in varied Articles that culture, custom and tradition shall not contradict or run contrary to the Constitution.

The persons most likely to be adversely affected in the Teso Sub-Region are:-

#### **i) Widows**

The vulnerability of widows has been well documented just as strongly in Teso<sup>48</sup>. The potential fear of losing land rights hangs over women's heads while their husbands are alive. They are essentially hostages to their in-laws which guarantee their compliance and agreeable conduct.

A widow's status position may be linked to being a mother of her late husband's children, giving her rights within a family context. In practice, if widows need money for basic needs of their children, they are often prevented from selling a small part of the land which they (with their children) have inherited,

48 See pages 44-51 of Final Report on Strengthening Women Land Rights in Teso Sub-Region. AWOLARIP. 2016.

although such a sale is clearly allowed by customary law. A father would not be prevented from selling the land in these circumstances. The discrimination which really affects women badly is that which restricts their rights to look after themselves and their children, within the context of their owning land as members of a wider family.

### **ii) Children of unmarried girls and children born outside wedlock/marriage**

According to Teso custom, the children of unmarried girls (children born at home) are members of their mother's clan, and as such have full rights to inherit land from their maternal grand-parents.

Children born in marriage to a daughter married in another clan have no right to inherit land but may be allocated land to use. Children born by daughters out of marriage or before marriage, have full rights to land same as children born in the family, unless their biological fathers pay penalty or "Ekingol". This is contrary to the rights of children provided by the law.

Children born outside wedlock/marriage by the wife do not have the right to inherit land in the man's clan contrary to the definition of a child in succession law which defines a child as a legitimate or illegitimate child. They only have rights to the land if the man accepts paternity. Such children are seen as competition for scarce resources by the family.

### **iii) Unmarried women**

In Teso Sub-Region, an unmarried woman is entitled to receive land from her parents. However the cultural 'expectation' that she may still marry never goes away even when she is mature she may still be treated as a girl and much as the PPRR provides for full rights, the challenges exist around this "expectation" which manifests in denial of allocation of land as a right, or access and control over land that would ordinarily belong to her.

## **3.2.7 Institutional (formal) arrangement for land administration and management**

### **3.2.7.1 Ministry of Lands, Housing and Urban Development (MLHUD)**

The Ministry is not a body corporate and cannot hold property in its name. The Ministry has a supervision responsibility for land administration and professional development matters. It has a role of ensuring the implementation of land tenure reforms as per the Land Act and the Constitution. This can be done in partnership with the other key institutions i.e. Local Governments, Judicial Service Commission and NGOs.

The Ministry also plays the following roles; amendment on land laws, identification of new areas to be regulated; and formulation of policies and laws. The Ministry also is responsible for building capacity The Ministry is composed of the Directorate of Physical Planning and Urban Development, the Directorate of Housing, the Directorate of Land Administration and the Department of Planning and Quality Assurance.

### **3.2.7.2 The Uganda Land Commission (ULC)**

The Uganda Land Commission is a body corporate established under s.46 of the Land Act and is set up to manage land belonging to or acquired by the Government of Uganda and the Land Fund. The Commission is taken to be an artificial/corporate person with continuous existence and can sue or be sued in its name and has a common seal.

The functions of the Commission are to:

- (i) Hold and manage any land in Uganda, which is owned or acquired by the government
- (ii) Hold and manage any land, belonging to Government in another country. However, the Commission can allow Uganda's embassies abroad to manage such land.
- (iii) Acquire Certificates of Title over land belonging to Government.



- (iv) Manage all natural resources and reserved lands vested in the central government
- (v) Manage the Land Fund with the authority to contract out the whole or part of the management of the Fund.

### **3.2.7.3 District Land Boards (DLBs)**

District Land Boards are established under the Land Act (section 56). A District Land Board is set up in every District in Uganda to manage land. The Board has continuous existence/ perpetual succession with an official stamp. It may sue or be sued in its names.

The functions and duties of the Board are to:

- (i) Hold and allocate land, which is not owned by anyone in the District.
- (ii) Assist in recording, registering and transferring of rights or claims in land.
- (iii) Take over the role of lesser in leases by former controlling authority such as ULC, municipal, city or town council.
- (iv) Ask its officers or agents to mark or survey, plan, map, draw and make estimates on land.
- (v) Make and keep a list of rates of compensation for the loss or damage to crops, houses and other property.
- (vi) Revisit the list of rates of compensation every year.
- (vii) Do other things connected to its functions

### **3.2.7.4 Area Land Committees (ALCs)**

They are Located at the Sub-County level, the Area Land Committees functions in an advisory role to assist the DLB on land matters. (*Section 64, Land Act*).

The ALC has the authority to make referrals and recommendations to other structures working on land matters and have the mandate to determine, verify, and mark land boundaries. The ALC consists of five (5) members, one (1) of whom is a woman nominated by the Sub-County Council and approved by the District Council. The Sub-County Chief/Town Clerk is the Recorder.

Key roles include:

- Sensitising and advising the public on procedures of obtaining land titles/certificates. Issuing and receiving application forms for land titles/certificates.
- Inspection of the land for which application pertains to.
- Advising disputants about how to resolve conflicts over land.

### **3.2.7.5 Office of the Recorder (Sub-County Chief)**

The office of the Recorder has been set up under the accounting officer docket in every jurisdiction such as that of a Sub-County Chief in a rural area, a Town Clerk in a gazetted area and Assistant Town Clerk in a city division (Section 68 of the Land Act).

#### **3.2.7.5.1 The Recorder has the following functions**

- (i) To issue Certificate of Customary Ownership and Occupancy
- (ii) Keep register of such Certificates
- (iii) Record of all dealings in customary land.

### **3.2.7.6 District Land Office (DLO) (S.59 (6) – (7) Land Act)**

The DLO is so vital to the operation of the DLB's work. The DLO comprises of the following technical officers (Section 59 (6) (7)):

- (i) District Physical Planner
- (ii) District Land Officer
- (iii) District Valuer
- (iv) District Surveyor
- (v) District Registrar of Titles
- (vi)



The DLO performs the following functions:-

- (i) It provides technical guidance to the District Land Board.
- (ii) Advises on matters which the board may not be able to address.
- (iii) Provides technical services to the public in the district e.g. surveys, planning, land administration procedures, valuations for properties/compensation rates.
- (iv) Facilitates the DLB in performing its function.

### **3.2.8 Formal Land Conflict Mechanisms**

Land conflicts can be resolved through formal and informal mechanisms. It can be through legal conflict resolution mechanisms or through Alternative Dispute Resolution (ADR). The land conflict mechanisms have been set up at the national, district, Sub-County and village level. The 1995 Constitution of Republic of Uganda and the Land Act Cap 227, establish various mechanism and Institutions for conflict resolution. The various institutions are described in detail as follows;

#### **a) Supreme Court**

The Supreme Court has jurisdiction to hear appeals from the Court of Appeal.

#### **b) Court of Appeal and the Constitutional Court**

The Court of Appeal has jurisdiction to hear appeals from the High Court. Under Article 137 of the Constitution, there is created The Constitutional Court comprising of five members of the Court of Appeal, whose charge is to hear and determine any petition touching on the interpretation of the Constitution or laws that tend to contravene the Constitution.

#### **c) High Court (land division)**

Courts are formal structures in decision-making. The High Court hears appeals from the Magistrate's Courts and can also act as courts of first instance in dispute matters involving registered land especially with regard to verifying the certificates of title and depending on the nature of the dispute and the value of the subject matter. As a general rule however, all matters relating to registered land or land that has been brought under the Registration of Titles Act, are to be decided by the High Court.

#### **d) Chief Magistrate's Courts**

Section 87 of the Land Act (cap 227) provides that an appeal shall rely on the decision of the sub county land tribunals to the District land tribunal and the High Court from the District land tribunals. Upon the transfer of the Tribunals to the Judiciary the administrative measures were undertaken to revert their functions to the Magistrates Courts pending the fate of the Tribunals.

The Magistrates Court handles both new land conflict cases as well as appeal cases from the Sub-County Court Committee. They also are mandated to execute orders or decisions passed by the Local Council Courts (LCII) or Sub-County Court (SCC).<sup>49</sup>

The Chief Magistrate Court can handle cases 'relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the Uganda Land Commission or other authority with responsibility relating to land and hear any disputes relating to the amount of compensation to be paid for land acquired<sup>50</sup>on its jurisdiction to handle land matters.

#### **e) District Land Tribunals**

Section 74 of the Land Act provides for the creation of a land tribunal for every district in Uganda. Each tribunal was to consist of a chairperson, who must be a lawyer and two other members who are not

<sup>49</sup> Section 10(3) of the Local Council Courts Act 2006.  
<sup>50</sup> Practice Direction No. 1 of 2006

required to possess formal qualifications but should have been knowledgeable and experienced in land matters. The tribunals had the same power as Grade-1 Magistrates Courts and were the final body of appeal on land disputes within the district. Subsequent appeals against the decision of a District Land Tribunal had to be made to the High Court.

The Land Tribunals had powers equivalent to a court of law but the Land Act envisaged that they would follow different rules of procedure from ordinary courts. It was hoped that by being less formal and legalistic these tribunals could make themselves more accessible to ordinary people and bring justice closer to the community. However, land tribunals were later transferred from the Ministry of Lands to the Ministry of Justice and upon the expiry of their term in 2007, they were closed down, their jurisdiction over land matters was transferred to mainstream courts and split between Magistrate Grade 1 and Chief Magistrates Courts.

#### **f) Local Council Courts (LCCs)**

These courts are established under the Local Council Courts Act 2006, (LCCA). The Act establishes local council courts for the administration of justice at the local level, to define the jurisdiction, powers and procedure of the established courts and to for related matters. Under the Act, the courts are meant to be courts of first instance at every village, parish, town, division and sub county level.<sup>51</sup>

g) Under section 10(1)(b) of the Act, the LCCs have jurisdiction/power to try and determine matters relating to land held under customary tenure within the territorial area where the court is located<sup>52</sup>. However, this means the LC Courts have no power to handle disputes falling under Mailo, leasehold or freehold tenure; they only have power to handle disputes over customary land.

Section 13 of the Local Council Courts Act, provides that Local Council Courts have powers to order for the following:

- a) Reconciliation
- b) Declarations
- c) Compensation
- d) Restitution
- e) Costs
- f) An apology or
- g) Attachment and sale; and
- h) In the case of infringement of a bye-law or Ordinance, impose a fine, community service or any other penalty authorities by that bye-law or Ordinance.

The courts cannot order for an arrest.

Under section 21 of the LCCA, the proceedings of the local council court and the records of those proceedings shall be in the language of the court, which shall be the language widely spoken in the area of jurisdiction.

#### **i) Sub-County Court (SCC)/Local Council III Courts**

The SCC is a body mandated under the Local Council Courts Act of 2006 at the sub county level to hear and determine disputes including customary land appeal cases from Local Council II courts. However,

<sup>51</sup> Section 3 of the Local Council Courts Act 2006

<sup>52</sup> Third Schedule to the Local Council Courts Act, 2006.

decisions made in the court are executed by the Chief Magistrate Court (*Section 10(3) of the Local Council Courts Act, 2006*).

The SCC consists of five (5) members nominated by the Sub-County Council and with approval by the district council. The Sub-County Chief is the secretary of the committee and for quorum to be achieved, three (3) members including the person presiding must be present with one (1) of them being a woman.<sup>53</sup>

Roles of LC III include;

- Registering, investigating, and presiding over appeal cases of customary land conflict from LC II Courts.
- Ruling and passing judgment on the cases handled.
- Explaining the right to appeal.
- Advising parties on correct procedures to resolve land conflicts.

### **ii) Local Council (LCII) Courts**

The LCII courts operate at the parish level and settle community disputes including customary land conflicts. The Land Act recognises courts for first instances of land conflict. The LCII executive consists of nine (9) members directly elected by the people at the parish level. At least five (5) members, (2) two of whom must be women, must be present for quorum. Their decisions are legally binding but they also need the Chief Magistrate's Court to execute their orders.

Their roles include;

- Ensuring that there is law and order in the community.
- Registering, investigating, and hearing complaints of new customary land conflicts.
- Passing their judgment on the cases handled.
- Explaining right to appeal
- Advising parties in conflict.

However LCCs are currently making decisions of LCII courts which are not courts of record and are not recognised and therefore are not binding. The LCII courts also do not practice or proscribe the time honoured for jurisprudence development of precedence<sup>54</sup> and for this reason it is difficult to develop the required body of rules and practical steps without the benefit of resorting to previous decisions of a similar nature.

### **iii) Police**

The Police are not mandated to handle land matters, it is their responsibility to protect people and their properties and maintain law and order in society. The police (generally) get involved in land matters when parties become criminal in nature. The police, acting on the increasing number of registered land conflicts have established a Lands Desk to handle land disputes reported and channel them to the authorities. In particular areas, there are fully furnished Units of police known as the Land Protection Unit which carries out the ordinary duties of resolving and mediating in land conflicts before preferring criminal charges for acts committed. Acts that arise during land conflict that can lead to criminal prosecution include arson, threatening violence, assault, murder/ manslaughter, malicious damage to property, criminal trespass, and forcible entry onto land.

<sup>53</sup> Section 8 (4)(b) of the Local Council Courts Act, 2006.

<sup>54</sup> Under Section 12 of the Local Council Courts Act, 2006 it is provided that a defendant may object to the jurisdiction of the court and where an objection has been raised the matter is referred to a court having jurisdiction in the area.

The role of the police in land conflicts include;

- Advising conflicting parties on procedures to follow.
- Registering criminal cases as a result of land conflicts.
- Investigating of criminal cases related to land conflict.
- Providing security during mediation or execution of court orders.
- Arresting individuals suspected of committing criminal acts as a result of land conflict.

### **3.2.9 Informal land conflict mechanisms**

Informal mechanisms still form an important part of administration of justice in Uganda. They are the traditional/customary processes of land dispute resolution that derive its origin from the people and are the most appropriate means to resolve land conflicts. The informal mechanisms range from the conflict resolution systems operating in different parts of the country to customary ways of ordering life in villages and communities.

#### **a) Traditional or Customary Methods**

The Land Act recognises in Sections 88(1) and 88(2) the role of customary law in dispute settlement and mediation in relation to land held under customary law. The Act states that at the commencement of a case, or at any time during a hearing, if the court is of the view that, because of the nature of the dispute, it ought to be dealt with by traditional mediation, it can advise the parties to attempt to resolve the dispute through this mechanism. The court may adjourn its proceedings for up to three months in such circumstances to give the parties time to try and reach agreement by using traditional methods. Both parties are free to resume formal proceedings if either is not satisfied with the outcome of this process.

Where a dispute is because of a customary system of owning land, the traditional or clan elders can hear the case or can act as mediators in conflict resolution. The traditional or clan elders use their customs to hear the case. At the present, because the law applies to the entire country and yet there are different customary practices from place to place and from time to time, there are no set guidelines that must be followed. However, the nominal rules of natural justice must be complied with; namely there should be a sense of justice, there should be a process where both parties participate in a free and fair manner and in a manner that protects the dignity of the individual.

The Land Act further provides in 89 the qualifications and functions of a mediator. This section is to be read together with Part VI of the Land Regulations, 2004 as well as Mediation Rules recently passed by Court. Rule 89(1)(a) for mediators to have due regard to the principles of objectivity, fairness and justice, giving considerations to, among other things, the rights and obligations of the parties, the customary and statutory laws and traditional practices on land, having due regard to the Constitutional provisions of the association, and the circumstances surrounding the matter including any previous dealings or disputes between the parties. That the mediator should conduct the mediation in such a manner, as he or she considers appropriate, taking into account the wishes of the parties, the circumstances of the case and the desirability of reaching a speedy settlement of the land dispute. The challenge of this provision is that it generates calibre of mediators who are effective in provides eligibility any calibre of a mediator who may either be unaware of it or unable to internalise “considers appropriate, taking into account the wishes of the parties, the circumstances of the case and the desirability of reaching a speedy settlement of the land dispute”, particularly in the case of Clan leaders who are at the frontline of this conflict resolution.

The Land Act provides in Section 88(1) that there is nothing under the law that prohibits or hinders the involvement of the traditional institutions or individuals in hearing and determining or deciding land

disputes of a customary nature.<sup>55</sup> This has provided opportunities for incompetent entities to engage in land dispute resolutions thereby further deepening such conflicts and indirectly triggered the rise of *bush* lawyers.

#### **b) Other Institutions**

Other systems and stakeholders play important roles in conflict resolution and they include; NGOs/CSOs, Area Land Committees (ALCs), District Land Boards (DLBs), District Land Offices, RDCs, Religious leaders, development partners, legal aid clinics, youth and women leaders. These help in mediating between conflicting parties and providing free legal advice. The Land Act provides that ALCs may advise parties in a conflict about how to resolve conflicts over land.

#### **3.2.10 Existing mechanisms used in land conflicts in Teso Sub-Region<sup>56</sup>**

Teso Sub-Region has legally established systems for land conflict settlement including courts of law and local council courts. The court system in Teso Sub-Region starts at the Magistrates Courts with the highest level being the High Court. The Sub-Region also has customary mechanism for land disputes resolution and ADR mechanisms. However, currently there is no legally established customary and ADR mechanisms in Teso Sub-Region and this explains in part contestations around customary land as one of the most litigated subjects in Teso Sub-Region courts of law.

As land conflicts continue to be a reality in Teso Sub-Region, many structures both formal and informal are attempting to resolve the disputes. These mechanisms play various roles and have procedures which were determined through consultations, workshops held with stakeholders involved in conflict resolution in the study area.

#### **a) Courts of law**

The courts of law receive new land conflict and appeal cases and the High court is the highest in Teso Sub-Region located in Soroti District although the High Court (land division) has not yet been decentralised. Teso Sub-Region courts include; High Court and Magistrates Courts. To resolve land conflicts that continue to rise as seen in Table below, courts follow;

- Mediation: The Judiciary provides the Judicature (Mediation) Rules, 2013<sup>57</sup> requiring land case to be first referred to mediation. Parties are required to agree before the trial Judge or Magistrate of the person to act as a mediator. The mediator may be a Court appointed official or not. The mediators may include: Former or current Judicial Officers, senior lawyers trained in mediation skills and practice, religious leaders, cultural leaders, local leaders or other person. A mediation before a Judicial Officer must be before an officer other than the one handling the matter in the courts of law.
- After negotiation a report is made indicating what has been agreed on by parties. However if parties fail to agree during mediation the parties proceed with the trial of the case.
- When hearing of the case has commenced and evidence has been adduced, the Judicial Officers or trial Magistrate or Judge are required to visit the locus in quo or the land in dispute, in order to obtain an objective opinion as to the situation on the ground.
- After visiting the locus, the trial proceeds by observing a speedy trial.

<sup>55</sup> Section 88(1) of the Land Act provides as follows: “nothing in this Part shall be taken to prevent or hinder or limit the exercise by traditional authorities of the functions of determining disputes over customary tenure or acting as a mediator between persons who are in disputes over any matters arising out of a customary nature.” The rules of interpretation must apply to the foregoing provision of the law. The law *permits* traditional authorities to determine and decide cases of a customary nature. The law does not give the traditional authorities exclusive jurisdiction to exercise that function but rather recognizes it as an essential office for dispute resolution.

<sup>56</sup> Stakeholders workshop on Land conflict resolution in Soroti- June 2017

<sup>57</sup> The mediation rules were passed by the Rules Committee and issued by the Chairperson, Hon. Chief Justice Benjamin Odoki.

**Table 3: Land-related cases received and handled by Soroti High Court since 2010**

Year	No of cases registered	No of cases completed	Pending cases
CIVIL SUITS			
2010- JUNE 2017	125	37	88
CIVIL APPEALS			
2010-JUNE 2017	462	223	239

Source: Soroti High Court Registry

The pressure around land is evident in other similar studies whose findings are closely related. During the period 2011-2014 alone, the Uganda Human Rights Commission, Soroti regional office, registered the highest number of complaints. The regional office registered 487 cases, which constituted 14.57% of the total number of registered complaints in the country in that period, which stood at 3,342.<sup>58</sup> Meanwhile, an NGO, Soroti Development Association & NGO Network (SODANN), indicated that the major human rights challenges facing Teso Sub-Region include detention without trial; torture, cruel, inhuman and degrading treatment; deprivation of life; and deprivation of property (land grabbing); and lack of access to justice<sup>59</sup>. Clearly, having in place a stronger and effective informal land conflict management system in Teso Sub-Region would reduce this rising trend in case backlogs at the formal system.

#### **b) Local Council Courts**

In Teso Sub-Region LCCs play an important role in resolving customary land conflicts both at the village, parish and Sub-County level. The Local Council Courts mediate and assist parties to arrive at a mutually acceptable solution on any conflict within their jurisdiction so as to secure peace and harmony. Although the LCIs are courts of first instance under the law they are currently declared illegal but they are still regarded as one of the mechanisms for conflict resolution in Teso Sub-Region.

Procedure followed by the LCCs includes;

- Lodging a complaint to the LCCs by the aggrieved party after paying a fee.
- The case is registered and investigation of complaint begins.
- Time and date to hear the case is scheduled and parties summoned.
- Hearing takes place where parties in conflict and witnesses are required to give their testimonies.
- Members are required to visit land in dispute
- Judgement is then made
- Parties are informed of the right to appeal

#### **c) Customary land conflict mechanisms**

In Teso Sub-Region the majority of the complainants take their cases to the customary land conflict mechanisms including traditional leaders, family heads, clan leaders and through the Iteso Cultural Union (ICU). The traditional leaders, family heads, ICU or clan leaders resolve the conflicts through mediation, arbitration and negotiation. The Land Act provides that the traditional leaders may resolve land disputes as mediators. Their primary function is to guide and foster dialogue among community members.

It was established that customary land conflict mechanisms are the commonly used mechanisms in Teso Sub-Region because they are inexpensive, informal, accessible, and speedy and their proceedings are easily understood by all parties. These mechanisms resolve domestic land conflicts, boundary

<sup>58</sup> Uganda Human Rights Commission; 17<sup>th</sup> Annual Report, p. 17

<sup>59</sup> Trócaire Uganda. Final Report. Situation Analysis on Teso and Acholi Sub-Regions and National level. June 2016.



conflicts and are believed to understand the land in dispute since they are on ground. The decisions or recommendations of the traditional leaders may be used to influence judgments or decisions of the LCII, SCC, or the Magistrates Courts. The role of traditional institutions was highlighted as important in Teso Sub-Region although their judgments are usually undermined by Courts of law. According to Teso and Kumam PRRs, ICU and KEF, are responsible for the overall management of all customary land in Teso Sub-Region. The reality however is that it remains a contestable point as not all clans subscribe to ICU or KEF, thereby rendering replication of a Buganda Kingdom model a challenge in Teso Sub-Region. Lack of acceptance of this role played by the two traditional institutions is at the heart of forum shopping in land conflict resolution cases.

When a complaint is brought before the traditional institutions they first analyse the situation and ask each party whether they accept to be mediated. Once both sides accept, they prepare a council of elders, traditional leaders, and sometimes local leaders to mediate the case. The mediation day, date, time and venue is set and the conflicting parties are called to the mediation. The issue of *council of elders* to perform mediation roles is a challenge on account of absence of a standard list of “approved elders” who are known and appreciated by all Clan members.

The parties are asked to state their case beginning with the complainant and the mediation team examines the parties. The mediation team then inspects the land in question before giving options on how to resolve the conflicts. Parties are then given chance to decide on how to proceed after the mediation and declaration of the option is then made - or at a later date. A follow up is conducted by the elders to see whether the two parties are adhering to the resolution. If they are not they advise a way forward. When the parties are not satisfied with the decision of the council they precede and lodge complain with the courts of law. A challenge facing this mediation process is lack of a standard procedure, in which there is no classical process that is followed across Teso Sub-Region. This brings ambiguity and triggers forum shopping.

#### **d) Area Land Committees**

Area Land Committees (ALCs) located at the Sub-County play a role in land management. The Land Act provides that the ALCs play an important role before one acquires a certificate of title, one must visit the ALC office located at the Sub-County headquarters to receive an application form upon payment of fees. Regarding land conflict management ALCs can mediate between parties in a dispute if approached.

It is important to note that it is not the role of the police to execute court orders but only to provide security during execution. It is the role of the court bailiffs/brokers to do so.

#### **f) Other Institutions involved**

Other institutions involved in land conflict management in Teso Sub-Region include; NGOs/CSOs, District Land Boards (DLBs), District Land Office, the RDCs, Religious Leaders, Development Partners, Legal Aid Clinics, Youth and Women Leaders who help in mediating between conflicting parties.

NGOs/CBOs involved in land conflict management in Teso Sub-Region include;<sup>60</sup>

- **Teso Initiative for Peace (TIP)** -involved in peace building, good governance & social accountability campaign through promoting dialogue, information sharing, referrals, developing early warning systems etc. and works in partnerships with other Organisations and District Local Government.
- **Teso Religious Leaders Efforts for Peace and Reconciliation (TERELEPAR)** - advocates for human rights and economic and social justice through sensitisation, training and mediation.

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60 Report on Multi stakeholders Meeting on Teso Land Issues; May 2014



It works in cooperation with Uganda Joint Christian Council, Uganda Joint Peace Commission, local governments in Teso, security agencies and CSOs.

- **Iteso Cultural Union (ICU)** - comprises of all Iteso clans with the aim of uniting all Iteso people to preserve the Iteso culture as well as pursuit modern development projects. ICU promotes the registration of clans and works on different land issues.
- **Kumam Elders' Forum (KEF)** – is constituted by senior elders who preside and perform the roles of governing the entire Kuman clans including passing decision relating to the norms, customs and rules in the way of life and culture of the population. The KEF is the gateway of the Kumam to the outside world.
- **Teso Dioceses Development and Planning Office (CoU-TEDDO)** - promotes peaceful co-existence between the Iteso and Karimojong communities through exchange of knowledge and capacity-building.
- **Soroti Catholic Diocese Development Office (SOCADIDO)** - targets to improve household incomes, food security, disaster preparedness and its own engagement through sensitisation, dialogue and building capacity of local structures.
- **Paralegal Advisory Services (PAS)** - seeks to root out bad practices in the judicial system, link communities to judicial services and sensitise the public on how the judicial system and law works.
- **Uganda Human Rights Commission (UHRC)** - was established by an act of parliament to protect and promote fundamental freedoms and rights through investigations of violations of human rights, referrals and mediation in simple cases.
- **Public Affairs Centre – Uganda (PAC-U)** – operates a think tank that promotes the core principles of constitutionalism, rule of law; frugal public management, economic empowerment and justice across Teso and recently in Karamoja Sub-Region.
- **Teso Women Peace Activists (TEWPA)** - addresses the gap created by excluding women from dialogues. It works through conflict resolution, capacity building of women groups and establishment of peace committees in Teso Sub-Region.
- **Teso Anticorruption Coalition (TAC)** – a member based organisations drawn from across Teso Sub-Region focusing on governance and accountability through legal aid, legal assistance, legal education, advocacy in key accountability areas including land justice and governance.
- **Kolir Women Group (KOWDO)** - is a self-help widows' association that operates in Bukedea district. It supports its members through revolving funds sourced from within and from other agencies.
- **Teso Media Houses** - There are at least 8 FM radio stations in the Teso Sub-Region. Soroti district is home to most FM station with others broadcasting from Amuria, Kumi and Katakwi districts. In addition, some radio stations from the neighbouring districts of Mbale and beyond like Radio Maria, Top Radio and Faith FM also have good reach in the Sub-Region. The key radio stations and their frequencies are: Voice of Teso 88.4, VERITAS FM 91.5, Etop Radio 99.4, Joshua FM 93.5, Teso Broadcasting Service 87.6, Continental FM 94.7, Delta FM 97.0 and Saviour FM. They closely work with state and non-state actors involved in land conflicts through their corporate social responsibility component (i.e. often providing free airtime for open topical issues for discussions including those relating to land conflicts).

- **Legal Aid Project – Uganda Law Society (LAP-ULS)** - provides free legal services to the poor, vulnerable and marginalised persons in society. Intervention areas include: advocating for better land use policy, empowering the poor and economically vulnerable, awareness creation and training.
- **Teso Karamoja Women Initiative for Peace (TEKWIP)** - works through sensitisation of communities on land issues, gender-based violence and human rights. Partners are ActionAid, LEMU, FIDA and others CSOs.
- **Land and Equity Movement Uganda (LEMU)** - promotes the security of land rights of vulnerable people.
- **Justice and Peace Commission (JPC) – Soroti Catholic Church** - was established to promote social justice, peace and reconciliation, human rights, good governance, integral development, and to enhance the capacity of the people to fully engage in their own communities. JPC collaborates with LEMU, TAC, TIP, ICU, other justice and peace structures as well as LC IIIs.

### 3.2.11 Alternative Dispute Resolution (ADR)

In the current era of dispensation of justice, litigation is increasingly becoming tedious, technical and costly. This has to a very great extent hampered accessibility to justice for many people. Article 126 of the 1995 Constitution of the Republic Uganda calls for the exercise of judicial power as derived from the people and to be exercised under the constitution in the name of the people and in conformity with the law, values, norms and their aspirations. This has led to the development of Alternative Dispute Resolution (ADR) i.e. a mechanism designed to help parties amicably resolve their disputes without necessarily resorting to the formal court process. The application of ADR is the only way reconciliation can be promoted. A well-managed ADR process goes a long way in facilitating efficient case management.

Alternative Dispute Resolution (ADR) refers to the process and technique of settling disputes outside the government judicial process (court room). ADR processes include negotiation, arbitration, mediation and other restorative justice processes which foster reconciliation between conflicting individuals and/or groups.

Legal framework for ADR includes:

- Art. 126 (2) Constitution of Republic of Uganda 1995.
- Civil Procedure Act Cap 71
- Civil Procedure rules SI-71 Order 12 rule 1.
- The Judicature (Mediation) rules 2013.

The above makes it mandatory now for the reference of all civil cases to ADR (mediation) before trial commences.

#### a) Arbitration

It is a process of settling disputes which involves a third party (arbitrator) who acts much like a judge in an out of court setting. The procedures used in arbitration are less formal than that of trial courts. An arbitrator is appointed by the parties. Arbitrator may be appointed by court on application by parties if they apply for reference to arbitration. Decision of arbitrator is an award. Award is final except for imperfection, incorrectness, outside matter, error or mistake. Award can be set aside for corruption, fraud, outside time allowed, etc.

## **b) Mediation**

Mediation is a process used to bring conflicting parties together for the purpose of fostering a mutually satisfactory settlement or agreement to the dispute. Mediation is a process by which a neutral third party facilitates communication between parties to a conflict. A mediator assists them to reach a mutually agreed resolution of the conflict. Mediation can only be by a Judge, Registrar, a Magistrate or a person accredited as a mediator by court or one certified by Centre for Arbitration & Dispute Resolution (CADER), or one with the necessary qualification chosen by the parties. Courts are now mandated to refer every civil action before proceeding for trial. After settling issues whole or partly, a mediation agreement is filed signed by all the parties and filed in the court. The matter is then closed or otherwise, it proceeds on the outstanding issues.

### **b (i) Provisions on a Mediator (Section.30 Land Act)**

The Act also makes provision for the appointment of mediators, on an *ad hoc* basis, in an attempt to resolve land disputes. A mediator is not required to hold any formal professional qualifications and his or her main role is envisaged as attempting to 'narrow any difference between the two parties.

The parties in dispute must be willing to allow a third party to come into the dispute and assist them to reach resolution. Parties should approve a mediator presence and the parties should be ready to listen to their suggestions on how to manage the tensions. A mediator should not enter into the conflict without voluntary consent by all parties involved.

The conflicting parties cannot be forced to accept an outcome that they do not like. Unlike an arbitrator or a judge, the mediator is not a decision-maker. The mediator's role is, rather, to assist the parties in reaching a settlement or an agreement of the dispute.

## **c) Negotiation**

It is a conflict resolution process similar to mediation that focuses on dialogue between the conflicting parties in an attempt to amicably resolve the dispute. Each party may have a representative or negotiator who will help each side to bargain to the advantage of those they represent. At times the process may instead involve a single neutral third party that is agreed upon by both conflicting sides who helps to guide the discussions and make clarifications, while at other times there may be a team of negotiators agreed upon by both parties. While often the negotiator speaks on behalf of the individuals/groups they represent, they however cannot make a decision or rule on the conflict but can offer suggestions and help the conflicting parties recognise similar goals/ needs of the parties. The process concludes with the production of an agreement that is decided by those in conflict which usually involves concessions from both sides documenting the course of action to be taken.

## **d) Conciliation**

A party to dispute has a right to initiate conciliation proceedings by sending to the other party a written invitation to conciliate. Conciliation proceedings commence on acceptance by the other party in writing. Parties can agree on conciliators or CADER can appoint for them if asked. A conciliator is same role as mediator. Parties cannot by law initiate any other proceedings- arbitral or judicial while conciliation is on. Upon a settlement, an agreement is drawn and has same effect as an arbitral award. Conciliation proceedings are confidential. Parties meet costs equally or by each party depending on the kind of cost.

### **Advantages of ADR identified:**

- ADR is cheap. It is economical and less expensive in terms of time, money as compared to court systems that can at times drag indefinitely.
- ADR affords parties the opportunity to exercise greater control over the way their dispute is resolved than would be the case in court litigation.
- The parties themselves may select the most appropriate decision-makers for their dispute.

- Parties may choose place and language of the proceedings.
- ADR proceedings are private and any results confidential. There is no public disclosure of personal problems or finances, unlike litigation where both the trial proceedings, as well as all papers filed, are open to the public.
- Arbitral awards are not normally subject to appeal.
- Encourages mutual satisfaction for both parties (Win-Win solution).
- Empowers parties to make their own decisions and manage them.
- It is informal which helps the parties to better understand and more actively engage in the process.
- The process promotes communication and cooperation between the conflicting parties.
- It promotes positive family relationships by reducing conflict.

#### Challenges of ADR:

- Power imbalances between parties which tilt the negotiations by the parties.
- ADR systems do not include legal and procedural protections for weaker parties.
- Politically powerful or wealthy parties may affect results.
- The informal nature of the process may lead to unfair results sometimes.
- Has the very real propensity of being influenced by local custom biases and prejudices.
- Limited powers of arbitrators.
- Arbitrator cannot enforce production of say documents, or direct interim measures of protection.
- Need for reform to allow some residual powers to arbitrators to enforce some orders.
- Lawyers and legal practitioner have a strong aversion to the new approaches of ADR. They feel rendered weak and irrelevant if they opt for ADR. They advise against ADR. They prefer the litigious approach and account for the higher professional fees.
- Lack of sufficient personnel. Few mediators at the moment in the courts. ADR was rolled out to all courts, however some areas may not have sufficient staffing to enable the ADR mechanisms be a reality.
- Lack of sufficient infrastructure for mediation.
- Lack of adequate facilitation for mediators as they tend to important matters that are time consuming and the mediators, to give unbiased guidance, require adequate remuneration.

### 3.3 Discussion of Field Research Findings

#### 3.3.1 Basic characteristics of the survey respondents

##### 3.3.1.1 Respondent's period of residence in the community of survey

Table below shows that overall, out of the 445 respondents; majority (80.2%) had spent over 10 years in the community, compared to (0.9%) who had spent less than one year in the community. Slightly more males (83.6%) had spent long time in the community than the female (75.0%). Amuria and Kaberamaido districts had lowest number of respondents (48.7%) and 67.8%) who had spent over 10 years in the community when compared to (87.7%) for Soroti, Bukedea (85.0%) and Katakwi (83.9%).

Clearly, this proportion of longevity in respondents' residence in the study area provides a trend and experience that resonates with a community profile and land challenges.

**Table 4: Respondent's period of residence in the community of survey**

Background characteristic	Less than one year (%)	Between 1 to 2 years (%)	Between 2-5 years (%)	Between 5-10 years (%)	Over 10 years (%)	Total (%)	No. of respondents
<b>District:</b>							
Katakwi	1.6	1.6	3.2	9.7	83.9	100	124
Soroti	0.0	1.8	3.7	6.7	87.7	100	163
Amuria	2.6	10.3	10.3	28.2	48.7	100	39
Kaberamaido	0.0	5.1	10.2	16.9	67.8	100	59
Bukedea	1.7	3.3	5.0	5.0	85.0	100	60
<b>Residence:</b>							
Urban	0.0	2.6	7.8	11.7	77.9	100	154
Rural	1.4	3.4	3.8	10.0	81.4	100	291
<b>Gender:</b>							
Female	1.1	3.4	6.8	13.6	75.0	100	176
Male	0.7	3.0	4.1	8.6	83.6	100	269
<b>Overall</b>	<b>0.9</b>	<b>3.1</b>	<b>5.2</b>	<b>10.6</b>	<b>80.2</b>	<b>100</b>	<b>445</b>

### 3.3.1.2 Respondent's age

The study asked the respondents their age. Table below shows that most of the respondents (47%) were in the economically productive age bracket of 30-49 years.

**Table 5: Respondent's age**

Background characteristic	18-29 years (%)	30-49 years (%)	50-59 years (%)	60 or above years (%)	Total (%)	No. of respondents
<b>District:</b>						
Katakwi	12.9	47.6	21.0	18.5	100	124
Soroti	20.2	41.7	20.2	17.8	100	163
Amuria	17.9	43.6	25.6	12.8	100	39
Kaberamaido	10.2	59.3	22.0	8.5	100	59
Bukedea	25.0	50.0	20.0	5.0	100	60
<b>Residence:</b>						
Urban	18.8	46.1	20.8	14.3	100	154
Rural	16.5	47.4	21.3	14.8	100	291
<b>Gender:</b>						
Female	18.2	46.6	21.6	13.6	100	176
Male	16.7	47.2	20.8	15.2	100	269
<b>Overall</b>	<b>17.3</b>	<b>47.0</b>	<b>21.0</b>	<b>14.6</b>	<b>100</b>	<b>445</b>

### 3.3.1.3 Respondent's marital status

The study asked the respondents their marital status. Table below shows that majority of the respondents (64.3%) reported being married (monogamy), followed by 13.9% with polygamous marriages.

**Table 6: Respondent's marital status**

Background characteristic	Married (monogamy) (%)	Married (polygamy) (%)	Single; never married (%)	Divorced (%)	Widowed (%)	Widower (%)	Total (%)	No. of respondents
<b>District:</b>								
Katakwi	62.1	17.7	8.1	0.0	2.4	9.7	100	124
Soroti	63.2	12.9	6.7	3.7	3.7	9.8	100	163
Amuria	53.8	17.9	5.1	2.6	10.3	10.0	100	39
Kaberamaido	76.3	6.8	5.1	1.7	1.7	8.5	100	59
Bukedea	66.7	13.3	6.7	0.0	3.3	10.0	100	60
<b>Residence:</b>								
Urban	66.2	13.0	6.5	1.9	3.2	9.1	100	154
Rural	63.2	14.4	6.9	1.7	3.8	1.0	100	291
<b>Gender:</b>								
Female	55.7	10.2	5.1	3.4	4.5	21.0	100	176
Male	69.9	16.4	7.8	0.7	3.0	2.2	100	269
<b>Overall</b>	<b>64.3</b>	<b>13.9</b>	<b>6.7</b>	<b>1.8</b>	<b>3.6</b>	<b>9.7</b>	<b>100</b>	<b>445</b>

### 3.3.1.4 Respondent's ability to read and write in vernacular (Ateso/ Kumam)

The study asked the respondents their ability to read and write in vernacular. Table below shows that majority of the respondents (72.1%) can do so compared with 75% at the national level (UBOS, 2014). This finding has implication on the project design of information, education and communication messages for the target groups.

**Table 7: Respondent's ability to read and write in vernacular (Ateso/ Kumam)**

Background characteristic	Can read and write in vernacular (%)	Cannot read and write in vernacular (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	80.6	19.4	100	124
Soroti	69.9	30.1	100	163
Amuria	89.7	10.3	100	39
Kaberamaido	67.8	32.2	100	59
Bukedea	53.3	46.7	100	60
<b>Residence:</b>				
Urban	59.9	40.3	100	154
Rural	78.7	21.3	100	291
<b>Gender:</b>				
Female	55.7	44.3	100	176
Male	82.9	17.1	100	269
<b>Overall</b>	<b>72.1</b>	<b>27.9</b>	<b>100</b>	<b>445</b>

### 3.3.1.5 Respondent's ability to perform numeracy in vernacular (Ateso/ Kumam)

The study asked the respondents their ability to perform numeracy in vernacular. Table below shows that majority of the respondents (78.2%) were able to do so which compares favourably with 75% at the national level (UBOS, 2014).

**Table 8: Respondent's ability to do numeracy in vernacular (Ateso/ Kumam)**

Background characteristic	Can do numeracy in vernacular (%)	Cannot do numeracy in vernacular (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	87.1	12.9	100	124
Soroti	71.2	28.8	100	163
Amuria	92.3	7.7	100	39
Kaberamaido	69.5	30.5	100	59
Bukedea	78.3	21.7	100	60
<b>Residence:</b>				
Urban	59.1	40.9	100	154
Rural	88.3	11.7	100	291
<b>Gender:</b>				
Female	65.9	34.1	100	176
Male	86.2	13.8	100	269
<b>Overall</b>	<b>78.2</b>	<b>21.8</b>	<b>100</b>	<b>445</b>

### 3.3.1.6 Respondent's highest level of education attained

The study asked the respondents their highest level of education attained. Table below shows that most of the respondents (33.7%) had attained some primary education. A total 14.2% reported never having attended any formal education. This has implication on strategies for designing key information dissemination messages and on their level of understanding the complex land management and administration matters.

**Table 9: Respondent's highest level of education attained**

Background characteristic	No formal education (%)	Some primary education (%)	Completed primary education (%)	Some secondary education (%)	Completed "O" level (%)	Completed "A" level (%)	Some University (%)	Finished University (%)	Vocational/technical (%)	Attended FAL (%)	Refused to answer (%)	Total (%)	No. of respondents
<b>District:</b>													
Katakwi	9.7	27.4	17.7	14.5	13.7	3.2	0.8	5.6	7.3	0.0	0.0	100	124
Soroti	16.0	41.7	14.1	16.0	7.4	0.0	3.1	1.2	0.6	0.0	0.0	100	163
Amuria	20.5	25.6	5.1	10.3	5.1	7.7	12.8	5.1	7.7	0.0	0.0	100	39
Kaberamaido	11.9	23.7	20.3	22.0	6.8	10.2	0.0	1.7	1.7	0.0	0.0	100	59
Bukedea	16.7	40.0	13.3	6.7	13.3	3.3	0.0	3.3	1.7	0.0	1.7	100	60
<b>Residence:</b>													
Urban	16.9	31.8	16.9	18.2	7.1	3.9	2.6	0.6	1.3	0.0	0.6	100	154
Rural	12.7	34.7	14.1	12.7	11.0	3.1	2.4	4.5	45.0	0.0	0.3	100	291
<b>Gender:</b>													
Female	24.4	37.5	12.5	11.4	8.5	0.6	1.1	2.8	0.6	0.0	0.6	100	176
Male	7.4	31.2	16.7	16.7	10.4	5.2	3.3	3.3	5.2	0.0	0.4	100	269
<b>Overall</b>	<b>14.2</b>	<b>33.7</b>	<b>15.1</b>	<b>14.6</b>	<b>9.7</b>	<b>3.4</b>	<b>2.5</b>	<b>3.1</b>	<b>3.1</b>	<b>0.0</b>	<b>0.4</b>	<b>100</b>	<b>445</b>

### 3.3.1.7 Respondent's type of housing

The study observed the respondents' type of housing units. Table below shows that majority of the respondents (54.5%) were living in mud and wattle housing units. At rural communities the figure stood at 44% compared to a much higher rate in urban (growth towns) of 65.6%.

**Table 10: Respondent's type of housing**

Background characteristic	Permanent House (%)	Semi-permanent (%)	Mud &wattle (%)	Total (%)	No. of respondents
<b>District:</b>					
Katakwi	16.9	21.0	62.1	100	124
Soroti	11.7	31.9	56.4	100	163
Amuria	25.6	61.5	12.8	100	39
Kaberamaido	13.6	20.3	66.1	100	59
Bukedea	33.3	40.0	26.7	100	60
<b>Residence:</b>					
Urban	12.3	22.1	65.6	100	154
Rural	20.3	35.7	44.0	100	291
<b>Gender:</b>					
Female	17.0	29.0	54.0	100	176
Male	17.8	32.3	49.8	100	269
<b>Overall</b>	<b>17.5</b>	<b>31.0</b>	<b>54.5</b>	<b>100</b>	<b>445</b>

### 3.3.1.8 Respondent's leading source of income at the household

The study asked the respondents their leading source of household income. Table below shows that majority of the respondents (56.6%) reported sale of crops, followed by off-farm activities, notably trading in merchandise (14.2%) and local brewing (12.4%).



**Table 11: Respondent's leading source of income at the household**

Background characteristic	From sale of fish (%)	From sale of crops (%)	From sale of animals (%)	From sale of land (%)	Salary (%)	Hiring out labour (%)	Business/trading in merchandise (%)	Brewing (%)	Other (%)	Total (%)	No. of respondents
<b>District:</b>											
Katakwi	0.0	58.1	2.4	0.0	0.0	6.5	11.3	19.4	2.4	100	124
Soroti	1.8	52.1	3.7	0.0	0.6	3.7	23.3	8.6	6.1	100	163
Amuria	0.0	41.0	7.7	0.0	7.7	5.1	15.4	23.1	0.0	100	39
Kaberamaido	11.9	62.7	6.8	0.0	0.0	0.0	6.8	11.9	0.0	100	59
Bukedea	6.7	70.0	6.7	0.0	0.0	13.3	1.7	1.7	0.0	100	60
<b>Residence:</b>											
Urban	6.5	55.2	5.8	0.0	0.0	3.9	9.1	13.0	6.5	100	154
Rural	1.4	57.4	3.8	0.0	1.4	6.2	16.8	12.0	1.0	100	291
<b>Gender:</b>											
Female	2.8	52.8	2.8	0.0	0.0	5.1	18.2	16.5	1.7	100	176
Male	3.3	59.1	5.6	0.0	1.5	5.6	11.5	9.7	3.7	100	269
<b>Overall</b>	<b>3.1</b>	<b>56.6</b>	<b>4.5</b>	<b>0.0</b>	<b>0.9</b>	<b>5.4</b>	<b>14.2</b>	<b>12.4</b>	<b>2.9</b>	<b>100</b>	<b>445</b>

### 3.3.1.9 Respondent's average number of people in the household

The study asked the respondents the number of residents in their households. Table below shows that average number of household residents stood at 8 people. At district level, Kaberamaido district lead with an average 9 people.

**Table 12: Respondent's average number of people in the household**

Background characteristic	Average number of people in the household (%)	No. of respondents
<b>District:</b>		
Katakwi	8	124
Soroti	8	163
Amuria	7	39
Kaberamaido	9	59
Bukedea	8	60
<b>Residence:</b>		
Urban	8	154
Rural	8	291
<b>Gender:</b>		
Female	7	176
Male	9	269
<b>Overall average</b>	<b>8</b>	<b>445</b>

### 3.3.2 Effectiveness of existing informal land conflict management approaches

#### 3.3.2.1 Respondent's experience in land-related conflicts in the past year

The study asked the respondents if they had had any land-related conflict in the past year. Table 13 below shows that majority of the respondents (60.9%) reported having had land-related conflicts over the previous year to the survey. This finding points to the need to generate measures that reduce the conflicts that afflict these communities and thereby divert them away from engaging in productive economic activities for improving their household welfare.

**Table 13: Respondent's experience in land related conflicts in the last one year**

Background characteristic	Ever had any land-related conflict in the last 12 months (%)	Never had any land-related conflict in the last 12 months (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	67.7	32.3	100	124
Soroti	69.3	30.7	100	163
Amuria	61.5	38.5	100	39
Kaberamaido	45.8	54.2	100	59
Bukedea	38.3	61.7	100	60
<b>Residence:</b>				
Urban	49.4	50.6	100	154
Rural	67.0	33.0	100	291
<b>Gender:</b>				
Female	60.2	39.8	100	176
Male	61.3	38.7	100	269
<b>Overall</b>	<b>60.9</b>	<b>39.1</b>	<b>100</b>	<b>445</b>

### 3.3.2.2 Respondent's type of land conflict faced

The study asked the respondents the type of land conflict they had faced. Table below shows that most of the respondents (34.3%) reported land grabbing, followed by boundary disputes (31.7%) and encroachment (26.2%).

**Table 14: Respondent's type of land conflict faced**

Background characteristic	Eviction (%)	Grabbing (%)	Encroachment (%)	Boundary (%)	Compulsory acquisition (%)	Forced displacement (%)	Total (%)	No. of respondents
<b>District:</b>								
Katakwi	1.2	29.8	23.8	40.5	4.8	0.0	100	84
Soroti	4.5	37.5	20.5	32.1	2.7	2.7	100	112
Amuria	0.0	25.0	33.3	37.5	4.2	0.0	100	24
Kaberamaido	3.6	28.6	46.4	17.9	0.0	3.6	100	28
Bukedea	8.7	52.2	30.4	8.7	0.0	0.0	100	23
<b>Residence:</b>								
Urban	6.6	27.6	40.8	18.4	3.9	2.6	100	76
Rural	2.1	36.9	20.5	36.9	2.6	1.0	100	195
<b>Gender:</b>								
Female	5.7	37.7	23.6	26.3	4.7	1.9	100	106
Male	1.8	32.1	27.9	35.2	1.8	1.2	100	165
<b>Overall</b>	<b>3.3</b>	<b>34.3</b>	<b>26.2</b>	<b>31.7</b>	<b>3.0</b>	<b>1.5</b>	<b>100</b>	<b>271</b>

### 3.3.2.3 Respondent's destination to seek redress to problem faced

The study asked the respondents where they went to seek redress. Table below shows that majority of the respondents (63%) reported having approached the informal structure. A total 18.5% reported having approached both formal and informal structures, which point to the "forum shopping" phenomenon. Those who do not go to the informal system have a reason as Youth FGD, Acowa Sub-County, Amuria district consultations revealed that:

The complainants have a tendency of undermining the local leaders concerning conflict management because they think they have little knowledge on solving land conflicts effectively. The community has little knowledge on land conflict management and approaches of where to seek help when the need arises. They assume that the informal structure is less superior to the formal structure therefore they prefer - formal structure.

**Table 15: Respondent's destination to seek redress to problem faced**

Background characteristic	Formal Structure (%)	Informal structure (%)	Both structures (%)	Total (%)	No. of respondents
<b>District:</b>					
Katakwi	23.8	64.3	11.9	100	84
Soroti	15.2	67.9	17.0	100	112
Amuria	8.3	62.5	29.2	100	24
Kaberamaido	35.7	32.1	32.2	100	28
Bukedea	4.3	73.9	21.7	100	23
<b>Residence:</b>					
Urban	19.5	58.4	22.1	100	77
Rural	18.0	64.9	17.0	100	194
<b>Gender:</b>					
Female	15.2	68.6	16.2	100	105
Male	20.5	59.6	19.9	100	166
<b>Overall</b>	<b>18.5</b>	<b>63.0</b>	<b>18.5</b>	<b>100</b>	<b>271</b>

Some of the actors in the informal system defend their meritorious advantage as the consultations with Clan heads' FGD session, Merok Parish, Katine Sub-County, Soroti district show:

We the clan leaders and elders protect their land from being grabbed. Sometimes boundaries are not respected when a land conflict has been resolved. We (clan leaders) encourage common understanding in case judgment has been made. More clarity on the roles performed by each structure could go a long way to lessen the un-guided movements to seek redress.

### 3.3.2.4 Factors that guided respondent's choice of where to go

The study asked the respondents what guided their choice on where to go. Table below shows that the leading driver was cost (24.4%), followed by perceived effectiveness (18.5%), and trust (16.6%).

**Table 16: Factors that guided Respondent's choice of where to go**

Background characteristic	Easily accessed (%)	Less costly (%)	More effective (%)	Experienced in land matters (%)	I was advised (%)	I trust them (%)	Others (%)	Total (%)	No. of respondents
<b>District:</b>									
Katakwi	14.3	29.8	9.5	3.6	10.7	15.5	16.7	100	84
Soroti	13.3	19.5	19.5	8.8	9.7	20.4	8.8	100	113
Amuria	13.0	0.0	34.8	21.7	17.4	13.0	0.0	100	23
Kaberamaido	10.7	39.3	21.4	7.1	7.1	7.1	7.1	100	28
Bukedea	4.3	34.8	26.1	4.3	13.0	17.4	0.0	100	23
<b>Residence:</b>									
Urban	15.6	33.8	19.5	6.5	10.4	5.2	9.1	100	77
Rural	11.3	20.6	18.0	8.2	10.8	21.1	9.8	100	194
<b>Gender:</b>									
Female	14.2	22.6	19.8	5.7	13.2	17.0	8.5	100	106
Male	11.5	25.5	18.2	9.1	9.1	16.4	10.3	100	165
<b>Overall</b>	<b>12.5</b>	<b>24.4</b>	<b>18.5</b>	<b>7.7</b>	<b>10.7</b>	<b>16.6</b>	<b>9.6</b>	<b>100</b>	<b>271</b>

The issue of cost was echoed during the consultations with Youth FGD, Kidongole Sub-County of Bukedea district:

Elders are well versed with the history of land management systems before and as well as boundaries that existed before thus this rich history helps a lot when handling land conflicts. Clan committees charge fair and friendly fees when handling land matters and this is of advantage to the community. People are nearby thus makes it more convenient to mobilise them to come for mediation.

### 3.3.2.5 On whether respondent's problem was resolved through the choice taken

The study asked the respondents as to whether their case was resolved where they had taken them. Table below shows that majority of the respondents (69.4%) reported that the cases they had taken were resolved compared to 30.6% who reported their cases were not resolved. The latter lot could be the proportion of those who took their cases to the *wrong* forum.

**Table 17: If respondent's problem was resolved through the choice taken**

Background characteristic	Conflict problem you faced solved through this structure (%)	Conflict problem you faced was not solved through this structure (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	72.6	27.4	100	84
Soroti	59.3	40.7	100	113
Amuria	95.8	4.2	100	24
Kaberamaido	77.8	22.2	100	27
Bukedea	69.6	30.4	100	60
<b>Residence:</b>				
Urban	73.7	26.3	100	76
Rural	67.7	32.3	100	195
<b>Gender:</b>				
Female	62.9	37.1	100	105
Male	73.5	26.5	100	166
<b>Overall</b>	<b>69.4</b>	<b>30.6</b>	<b>100</b>	<b>271</b>

### 3.3.2.6 How respondent's case was resolved

For those who reported having used informal structures<sup>61</sup>, the study asked the respondents what mechanism was used to resolve their case. Table below shows that majority reported mediation (106), followed by negotiations (87), and arbitration (23). This finding shows the positive effects of the study respondents showed in mediation.

**Table 18: How respondent's case was resolved**

Background characteristic	Mediation (%)	Negotiation (%)	Arbitration (%)	Adjudication (%)	Force (%)	Total (%)	No. of responses
<b>District:</b>							
Katakwi	56.6	37.1	4.3	0.0	0.0	100	70
Soroti	39.5	42.1	14.5	2.6	1.3	100	76
Amuria	47.1	41.2	2.9	8.8	0.0	100	34
Kaberamaido	44.8	20.7	24.1	0.0	10.3	100	29
Bukedea	37.5	56.2	6.2	0.0	0.0	100	16
<b>Residence:</b>							
Urban	30.2	33.3	27.0	3.2	6.3	100	63
Rural	53.7	40.7	3.7	1.9	0.0	100	162
<b>Gender:</b>							
Female	46.8	37.7	11.7	2.6	1.3	100	77
Male	47.3	39.2	9.5	2.0	2.0	100	148
<b>Total responses</b>	<b>106</b>	<b>87</b>	<b>23</b>	<b>5</b>	<b>4</b>	<b>100</b>	<b>225<sup>2</sup></b>

61 In all cases, to ensure efficiency the Researchers interpreted the respondent's replies into study typology of formal and informal

Testimonies during consultations with Clan Leaders, FGD, Omodoi Sub-County, Katakwi district, shows that the open forum in resolving conflicts guided by elders, works, as attested below:

In Ikarebwok icoma, Ikocila, the father brought his friends to occupy the land where the son was to occupy and when the son came back, they refused to leave the land, so they went to (Land Alliance). The complainants came with their evidence. They sent them to collect all the elderly and clan leaders. One of the complainants brought fake papers where all the witnesses of the land agreements were dead, so people denied and refused. They pleaded and the gathering unanimously allowed them two acres and planted trees to mark the boundary and that solved the problem.

In addition to the open, all-inclusive forum, Mediation brings merit to the dispute resolution than other options as study consultation documented from the Clan leaders, Ocerro Sub-County, Kaberamaido district and the Youth FGD, Gweri Sub-County, Soroti district, below:

Mediation has less chance of violence, the two sides have respect and confidence /trust in what Mediator is doing and saying. Conflict is solved cheaply as mediators are more of volunteers. Both parties are most likely to take the outcome or resolution that comes as a result of the meeting (respects the resolution). It is very difficult to find a good and common Mediator. A person trusted by 'A' in most cases is not trusted by 'B'. In Arbitration meanwhile, the ruling is final what they or he / she says is to be implemented or you take to other /formal method of land conflict management. The challenge is that the courts system does not recognise the ruling of informal system (settings) as their ruling is not binding. Adjudication has capacity to enforce their ruling but it leaves grievances in the community. Their resolution/s in most cases is/are not binding but forced. Negotiations, meanwhile has a win-win situation leaving all parties happy. All parties agree resulting to sustainable peace. Further still, the majority like it happened in Abelet village have ever experienced mediation and negotiation from clan leaders, family heads, area land committee in land conflicts resolutions whereas arbitration and adjudication has gotten less impact to the complainants as those involved in the system of land resolution have always taken sides basing on bribery and corruption aspects.

**Testimonies of Mediation effectiveness found during consultations include:**

The land conflict Apeleun between Mzee Pascal in Atirir and Achinget enlisted Aloket Ann Grace whom both parties agreed to as a Mediator; she managed the case that was concluded with planting sisal as a boundary. Also, for the two children in Aleles Village, who were orphans (the girl and the boy), their land was divided but the boy was not contented. Later, a clan meeting was convened during which the acres were divided equally. So the boy gave more land to the girl and they planted land boundaries and up to now the case has never re-emerged (FGD session with Women Group in Apeleun Village, Omodoi Sub-County in Katakwi district). Further strengths of mediation are attested by the Clan leaders themselves, arguing that Mediation requires no monetary aspect, it seeks forgiveness, no threats to violence, and it brings along lasting peace which communities who are most times relatives within the clan (FGD session with Clan leaders in Katakwi Sub-County, Katakwi district).

### 3.3.2.7 If respondent's case was resolved promptly

Of those who reported having had their cases resolved, the study asked the respondents as to whether their cases were solved promptly. Extended delays in handling land conflicts lead to more frustration and often escalate the situation. Table below shows that majority (88.2%) of the respondents reported having had their cases resolved promptly. This points to easiness and efficiency of the leading approaches that were applied, i.e. mediation and arbitration.

**Table 19: If respondent's case was resolved promptly**

Background characteristic	Case was resolved promptly (%)	Case was not resolved promptly (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	93.5	6.5	100	62
Soroti	90.0	10.0	100	70
Amuria	91.3	8.7	100	23
Kaberamaido	69.6	30.4	100	23
Bukedea	82.4	17.6	100	17
<b>Residence:</b>				
Urban	80.6	19.4	100	62
Rural	91.7	8.3	100	133
<b>Gender:</b>				
Female	88.4	11.6	100	69
Male	88.1	11.9	100	126
<b>Overall</b>	<b>88.2</b>	<b>11.8</b>	<b>100</b>	<b>195</b>

For those that do not conclude their cases within the informal system, further consultations with PWDs FGD session, Merok Parish, Katine Sub-County, Soroti district, and the FGD session, Women Group in Apeleun Village, Omodoi Sub-County, Katakwi district, show that the doubts of credibility of the informal system resolutions trigger complainants to cross to the formal system, hence contributing to forum shopping and increased case back-logs in the formal courts, as attested below:

The reasons range from biased clan leaders who want money (bribery), weak clan leaders, no respect for clan leaders which forces complainant to go ahead, elsewhere; lack of trust and credibility coupled with fear of oppression. Besides, they are perceived as being not knowledgeable on how well to solve land conflicts. The ones who lose the petition do not give up (accept the loss). Other factors revealed include; the relatively high charges for those who don't have the money especially when it comes to stamping documents, where parties are required to pay charges. If one of the parties is related to the clan leader, they will always win the case. The PWDs face a challenge of transport to reach clan leaders and sometimes abandon the land conflict resolution process, when movement becomes too much. The PWDs are under-looked, oppressed and often lose cases. Those who reach the clan leaders first, their views are listened to and that is how the case gets settled

### 3.3.2.8 What respondent did when choice did not work out?

Of the respondents who reported that their case was not resolved, the study asked them what action they took when they did not conclude their case. Table below shows that majority of the respondents (56.5%) reported having shifted their case to another system.

**Table 20: What respondent did when choice did not work out?**

Background characteristic	Moved case to another system (%)	Abandoned the case (%)	Other (%)	Total (%)	No. of respondents
<b>District:</b>					
Katakwi	75.0	25.0	0.0	100	4
Soroti	57.1	28.6	14.3	100	7
Amuria	100.0	0.0	0.0	100	2
Kaberamaido	28.6	71.4	0.0	100	7
Bukedea	66.7	33.3	0.0	100	3
<b>Residence:</b>					
Urban	50.0	50.0	0.0	100	12
Rural	63.6	27.3	9.1	100	11
<b>Gender:</b>					
Female	62.5	25.0	12.5	100	8
Male	53.3	46.7	0.0	100	15
<b>Overall</b>	<b>56.5</b>	<b>39.1</b>	<b>4.3</b>	<b>100</b>	<b>23</b>

The study consultations with Entrepreneurs FGD session, Merok Parish, Katine Sub-County, Soroti district revealed that the most shifted cases were those that moved from the formal to the informal structures after long stalemate in the formal structures and that some people believe the formal structure is much better in resolving their land conflicts while others believe that the informal structure cannot make referrals to the formal structure and thereby take it upon themselves. Also, when the forum shoppers realise the formal structure has taken too long, the complainant voluntarily return to the informal system as a last resort; but this can even be as long as five to ten years and even longer.

### 3.3.2.9 What guided respondent's choice to go to another referral point

The study asked the respondents on what guided their next action after the case was not concluded. Table below shows that most of the respondents (39.1%) reported having been guided by the same office they had approached, followed by 30.4% who made their own decisions to move to the next. This finding shows that that there is some progress on capacity of some actors to perform referrals to walk-in clients.

**Table 21: What guided respondent's choice to go to another referral point**

Background characteristic	Guided by the same office I had gone to (%)	Made my own decision (%)	Friends guided me (%)	Radio (%)	CSO sensitisation (%)	Others (%)	Total (%)	No. of respondents
<b>District:</b>								
Katakwi	50.0	25.0	0.0	0.0	0.0	0.0	100	4
Soroti	57.1	28.6	14.2	0.0	0.0	0.0	100	7
Amuria	0.0	50.0	0.0	0.0	0.0	0.0	100	2
Kaberamaido	28.6	42.9	14.3	0.0	14.3	0.0	100	3
Bukedea							100	
<b>Residence:</b>								
Urban	41.7	33.3	16.7	0.0	8.3	0.0	100	12
Rural	36.4	27.3	0.0	9.1	9.1	18.2	100	11
<b>Gender:</b>								
Female	37.5	25.0	0.0	0.0	25.0	12.5	100	8
Male	40.0	33.3	13.3	6.7	0.0	6.7	100	15
<b>Overall</b>	<b>39.1</b>	<b>30.4</b>	<b>8.7</b>	<b>4.3</b>	<b>8.7</b>	<b>8.7</b>	<b>100</b>	<b>23</b>

### 3.3.2.10 Respondent's view on what works best in resolving customary land conflict

The study asked the respondents on their perception of what works best. Table below shows that majority of the respondents (88%) reported informal system as being best in resolving customary land conflict.



**Table 22: Respondent’s view on what works best in resolving customary land conflict**

Background characteristic	Formal system (%)	Informal system (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	10.4	89.6	100	96
Soroti	10.1	89.9	100	119
Amuria	24.1	75.9	100	29
Kaberamaido	8.9	91.1	100	45
Bukedea	20.0	80.0	100	20
<b>Residence:</b>				
Urban	10.7	89.3	100	131
Rural	12.9	87.1	100	178
<b>Gender:</b>				
Female	10.9	89.1	100	110
Male	12.6	87.4	100	199
<b>Overall</b>	<b>12.0</b>	<b>88.0</b>	<b>100</b>	<b>309</b>

Some of the factors that make the informal system relatively favourable in the current circumstances as cited during field consultations with Women FGD, Acowa Sub-County, Amuria district include, prompt conclusion of decisions on land ownership, practical advice to involved parties because of their land history knowledge. The key challenges include their limited capacity to hold regular meetings as land conflict cases come-up, operational tools for facilitating performance of their tasks are limited, and lack of adequate infrastructure to execute their duties like an office, stationary.

#### Box 1: Drivers of ineffectiveness of existing informal land conflict management approaches

- 1) Witnesses are intimidated by the wealthy or influential in the village; so complainants opt to go to the formal court system despite being far away (Amuria, Soroti).
- 2) Lack of trust in the informal land conflict managers; the system is easily influenced with money (Amuria, Katakwi, Kaberamaido).
- 3) Politicians have continued to entertain land grabbers (Amuria)
- 4) “Bush lawyers” encourage disrespecting rulings and seeking redress in formal courts (Amuria, Soroti)
- 5) Customs and norms have been abandoned because of modernization; there is a belief in the community, especially by the educated, that informal land conflict management approaches are old fashioned (Katakwi)
- 6) There are people who like using the formal court system because they know it is expensive, takes too long and it can be manipulated to their favour given that they have the money and time. The poor are denied justice in the courts of law that’s why the rich and educated shun the informal land conflict management approaches (Katakwi, Soroti)
- 7) The administrators of the informal system are volunteers who also live in relative poverty; so their integrity is no longer intact (Katakwi, Soroti)
- 8) Conflict of interest of the clan leaders. Many of these clan leaders are part of the warring parties in one way or the other. They are therefore not believed to pass fair judgment. (Bukedea, Soroti, Katakwi)

Source: Group Interviews with the District and Sub-County Authorities, 2017

### 3.3.3 Practices that work in informal Land Administration and Management

#### 3.3.3.1 If ever respondent contacted anyone on the issue related to land

The study asked the respondents as to whether they had contacted anyone in their quest to resolve their land conflict. Table below shows that majority of the respondents (68.8%) reported ever having approached someone on issues to do with resolving land conflict.

**Table 23: If ever respondent contacted anyone on the issue related to land**

Background characteristic	Ever contacted any individual on issues related to your land (%)	Never contacted any individual on issues related to your land (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	72.6	27.4	100	124
Soroti	76.1	23.9	100	163
Amuria	61.5	38.5	100	39
Kaberamaido	76.3	23.7	100	59
Bukedea	38.3	61.7	100	60
<b>Residence:</b>				
Urban	67.5	32.5	100	154
Rural	69.4	30.6	100	291
<b>Gender:</b>				
Female	65.9	34.1	100	176
Male	70.6	29.4	100	269
<b>Overall</b>	<b>68.8</b>	<b>31.2</b>	<b>100</b>	<b>445</b>

**3.3.3.2 Respondent's contacts made regarding resolving land conflicts**

Of those who reported having approached someone, the study asked the respondents whom they had approached. Table below shows that majority (70.9%) had approached Clan leaders, followed by government with a distant 18.9% and Civil Society (4.3%). The study found that major CSOs, such as Uganda Land Alliance that was engaged in management of land conflicts had closed shop and moved out of Teso Sub-Region, hence pausing a vacuum in respect to customary land conflict management.

**Table 24: Respondent's contacts made concerning resolving land conflicts**

Background characteristic	Government (%)	CSO (%)	Clan leaders (%)	Religious leader (%)	Others (%)	Total (%)	No. of respondents
<b>District:</b>							
Katakwi	15.6	5.6	72.2	0.0	3.3	100	90
Soroti	20.0	4.2	71.7	1.7	0.8	100	120
Amuria	8.3	4.2	75.0	0.0	8.3	100	24
Kaberamaido	28.9	0.0	66.7	4.4	0.0	100	45
Bukedea	17.4	8.7	65.2	0.0	4.3	100	23
<b>Residence:</b>							
Urban	18.0	3.0	74.0	4.0	0.0	100	100
Rural	19.3	5.0	69.3	0.0	3.5	100	202
<b>Gender:</b>							
Female	17.7	2.7	73.5	1.8	3.5	100	113
Male	19.6	5.3	69.3	1.1	1.6	100	189
<b>Overall</b>	<b>18.9</b>	<b>4.3</b>	<b>70.9</b>	<b>1.3</b>	<b>2.3</b>	<b>100</b>	<b>302</b>

**3.3.3.3 Respondent's recommendation on structure to anyone faced with land problem**

The study asked the respondents which structure they would recommend to anyone else faced with similar situation. Table below shows that majority (72.4%) reported informal structures.

**Table 25: Respondent's recommendation on a structure to anyone faced with land problem**

Background characteristic	Formal structure (%)	Informal system (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	27.4	72.6	100	124
Soroti	19.0	81.0	100	163
Amuria	41.0	59.0	100	39
Kaberamaido	18.6	81.4	100	59
Bukedea	51.7	48.3	100	60
<b>Residence:</b>				
Urban	19.5	80.5	100	154
Rural	32.0	68.0	100	291
<b>Gender:</b>				
Female	29.5	70.5	100	176
Male	26.4	73.6	100	269
<b>Overall</b>	<b>27.6</b>	<b>72.4</b>	<b>100</b>	<b>445</b>

### 3.3.3.4 Actions and measures which were satisfactory to respondent

As a measure of establishing *what works*, the study asked survey respondents which informal land conflict resolution practices and/ actions, were satisfactory to them. Table below shows that most of the respondents (215) reported its being less costly, followed by ease of access to the responsible persons (136), and proximity (nearness) to the complainants' location (135) that required no long trips. Having cases resolved at once was another of the best practices reported (126).

**Table 26: Practices and actions that were satisfactory to respondent**

Background characteristic	Less costly (%)	Solved at once (%)	Ease of access to responsible people (%)	Nearby my place (%)	Technical support to organising my case (%)	Total (%)	No. of responses
<b>District:</b>							
Katakwi	29.1	21.4	18.7	19.8	11.0	100	182
Soroti	33.9	19.2	20.6	21.7	4.5	100	286
Amuria	37.8	32.4	18.9	8.1	2.7	100	37
Kaberamaido	36.8	9.2	26.4	23.0	4.6	100	87
Bukedea	31.7	20.0	21.7	23.3	3.3	100	60
<b>Residence:</b>							
Urban	38.9	16.1	26.4	14.0	4.7	100	193
Rural	30.5	20.7	18.5	23.5	6.8	100	459
<b>Gender:</b>							
Female	36.4	17.5	20.2	21.9	3.9	100	228
Male	31.1	20.3	21.2	20.0	7.3	100	424
<b>Total responses</b>	<b>215</b>	<b>126</b>	<b>136</b>	<b>135</b>	<b>40</b>	<b>100</b>	<b>652<sup>3</sup></b>

The above finding suggests that for majority Teso Sub-Region population who are relatively poor, while they are not tested, key factors, i.e., cost effectiveness, proximity to administration of land justice at source of conflict, and ease of access to mandated offices and individuals point to areas that need to be strengthened and replicated to address and reduce such conflicts.

## Box 2: What works (Best practices) on existing informal land conflict management approaches

- 1) Courts of law are now flexible; they send mediators and negotiators to visit the locus and resolve cases (Amuria, Katakwi)
- 2) People have learnt to plant live fence with “ejumula or eligoi” to form the boundaries (Amuria, Katakwi, Bukedea, Soroti, Kaberamaido)
- 3) Some clans have constitutions that are recognized by courts of law (Amuria, Katakwi)
- 4) Equitable land division carried out by clan leaders; although the clan leaders acknowledge there is no standard that can be used to equitably divide land and this is a source of conflict (Katakwi)
- 5) People are continually sensitized on land related issues in order to avoid/ prevent conflict. This normally happens in meetings that are meant to resolve land conflicts, churches and political rallies (Bukedea)
- 6) In case of conflict, the clan leaders invite clan leaders from other clans as observers and advisers in the meeting (Bukedea)
- 7) The committee of elders is elected in a general meeting in which all members have equal right to vote and be voted. *Ikarebwok* clan has done this; they even have a clan constitution (Bukedea)
- 8) Documentation of land matters by clans reduces confusion (Soroti)
- 9) Registration of all clans and sub-clans in Teso region has removed opportunities for conflicts (Katakwi)
- 10) Clans have accepted to incorporate the young but knowledgeable in the committees (Kaberamaido)
- 11) Division of land by fathers to their children when the fathers are still alive; this eliminates conflict on the death of the fathers; however, often fathers fear to do this because it will “mean” they are about to die (Omodoi)
- 12) An all-inclusive conflict resolution that involves all interested and non-interested people works best (Soroti, Katakwi, Amuria)
- 13) Clans should be encouraged to write down all land conflict management issues and copies of these documents given to all other stake holders so that those that want to disregard the decisions of the clans will be sent back from all this stakeholders because they will have copies of the ruling of the clan leader. Formal courts need to work hand in hand with the informal system (Kaberamaido)

Source: Group Interviews with the District and Sub-County Authorities, 2017

### 3.3.4 Key Lessons Learnt from the use of various land conflict management approaches

#### 3.3.4.1 If respondent owns land

The study asked the respondents if at they owned land of their own. Table below shows that majority of the respondents (91.5%) reported owning land.

**Table 27: If respondent owns land**

Background characteristic	Yes (%)	No (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	92.7	7.3	100	124
Soroti	98.8	1.2	100	163
Amuria	84.6	15.4	100	39
Kaberamaido	79.7	20.3	100	59
Bukedea	85.0	15.0	100	60
<b>Residence:</b>				
Urban	92.2	7.8	100	154
Rural	91.1	8.9	100	291
<b>Gender:</b>				
Female	89.2	10.8	100	176
Male	92.9	7.1	100	269
<b>Overall</b>	<b>91.5</b>	<b>8.5</b>	<b>100</b>	<b>445</b>

### 3.3.4.2 If respondents ever lost any of their land parcels owned

The study asked the respondents if at all they had lost any part of their land parcels owned. Table below shows that majority of the respondents (68.1%) reported never having lost any of their land parcels.

**Table 28: If respondent ever lost any of the land parcels**

Background characteristic	Ever lost any parcel of your land (%)	Never lost any parcel of your land (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	49.2	50.8	100	124
Soroti	31.3	68.7	100	163
Amuria	25.6	74.4	100	39
Kaberamaido	23.7	76.3	100	59
Bukedea	10.0	90.0	100	60
<b>Residence:</b>				
Urban	24.0	76.0	100	154
Rural	36.1	63.9	100	291
<b>Gender:</b>				
Female	29.0	71.0	100	176
Male	33.8	66.2	100	269
<b>Overall</b>	<b>31.9</b>	<b>68.1</b>	<b>100</b>	<b>445</b>

When asked on what they had done that made them not lose any of their land parcels, the study consultations revealed that most common practice included live boundary marking.

### 3.3.4.3 How respondent lost the portion of land owned

Of those who reported having lost some portion of land they owned, the study asked respondents how they had lost their land. Table below shows that most of the respondents (30.3%) reported sale to offset welfare needs such as education and health needs. Another contrary manner of loss was encroachment (28.9%), followed by grabbing (21.1%). Although standing at only 3.5%, the study consultations showed that compulsory land acquisition features through government public works in the growth towns / trading centers. The rural urbanisation planning and development phenomenon is happening with demands for streets (roads), sometimes new markets, and these have led to access through people's property and the compensation procedures are not clear to understand for the rural land owners. This has been misconstrued and relayed variously by the state actors and has led to the loss of land.

**Table 29: How respondent lost the land**

Background characteristic	Sold off (%)	Grabbed (%)	Encroached (%)	Compulsory land acquisition (%)	Family wrangle (%)	Fraud (%)	Court order (%)	Other (%)	Total (%)	No. of respondents
<b>District:</b>										
Katakwi	22.6	24.2	29.0	3.2	17.7	0.0	0.0	3.2	100	62
Soroti	48.0	16.0	28.0	4.0	4.0	0.0	0.0	0.0	100	50
Amuria	20.0	10.0	40.0	0.0	30.0	0.0	0.0	0.0	100	10
Kaberamaido	21.4	21.4	28.6	7.1	7.1	14.3	0.0	0.0	100	14
Bukedea	0.0	50.0	16.7	0.0	33.3	0.0	0.0	0.0	100	142
<b>Residence:</b>										
Urban	8.1	24.3	48.6	5.4	8.1	5.4	0.0	0.0	100	37
Rural	38.1	20.0	21.9	2.9	15.2	0.0	0.0	1.9	100	105
<b>Gender:</b>										
Female	23.5	21.6	33.3	3.9	11.8	3.9	0.0	2.0	100	51
Male	34.1	20.9	26.4	3.3	14.3	0.0	0.0	1.1	100	91
<b>Overall</b>	<b>30.3</b>	<b>21.1</b>	<b>28.9</b>	<b>3.5</b>	<b>13.4</b>	<b>1.4</b>	<b>0.0</b>	<b>1.4</b>	<b>100</b>	<b>142</b>

**Photo 2 (below): District level consultations, Bukedea**



The survey consultation revealed that more land conflicts are arising from the quest to sell land parcels when the custodians disagree with the bonafide members in whose names the land is collectively owned (i.e. family land). This tension is usually between the land owner members whose needs are not permitted by the custodians, usually the clan leader or the head of the family. The study found out that much as Teso PPRR (2009) contains guidance on how land may be sold, the pressure in the prevailing society, ranging from hunger, to education and health needs has put the relationship in customary land governance at risk.



### 3.3.4.4 Respondent's current size of land parcel

For those who reported owning land parcels, the study asked the respondents their current size of land parcels. Table below shows that most of the respondents (47%) reported land owned of 2-5 acres. The most pressed lot (13.9%) reported owning land of less than 1 acre. The challenge of this lot of households is that they are prompted to seek land rental to grown food for the household and as a measure of supplementing their existing land. The thought of dwindling land size is itself a trigger of conflict especially where it is known to the head of the household that land will be sub-divided to the male members of the family when they marry on. The pressure on land fragmentation to future allocation as the survey found the average number of residents at the household stood at 8!

**Table 30: Respondent's current size of land parcel**

Background characteristic	Less than 1 garden (%)	Between 2-5 gardens (%)	Between 6-10 gardens (%)	Above 10 gardens (%)	Refused to answer (%)	Total (%)	No. of respondents
<b>District:</b>							
Katakwi	1.6	40.3	33.1	23.4	1.6	100	124
Soroti	14.7	51.5	19.0	12.9	1.8	100	163
Amuria	7.7	38.5	38.5	10.3	5.1	100	39
Kaberamaido	28.8	50.8	13.6	6.8	0.0	100	59
Bukedea	26.7	50.0	13.3	8.3	1.7	100	60
<b>Residence:</b>							
Urban	18.2	53.2	16.2	11.7	0.6	100	154
Rural	11.7	43.6	26.8	15.5	2.4	100	291
<b>Gender:</b>							
Female	13.6	50.6	22.2	10.8	2.8	100	176
Male	14.1	44.6	23.8	16.4	1.1	100	269
<b>Overall</b>	<b>13.9</b>	<b>47.0</b>	<b>23.1</b>	<b>14.2</b>	<b>1.8</b>	<b>100</b>	<b>445</b>

### 3.3.4.5 How respondent acquired the land parcel

The study asked the respondents on how they acquired the land parcels owned. Table below shows that most of the respondents (341) reported inheritance, followed by outright purchase (82).

**Table 31: How respondent acquired the land parcel**

Background characteristic	Inherited (%)	Donated/gift (%)	Compensation (%)	Purchase (%)	Virgin land (%)	Court award (%)	Total (%)	No. of responses
<b>District:</b>								
Katakwi	75.6	10.1	0.0	14.3	0.0	0.0	100	119
Soroti	82.0	0.6	0.6	16.9	0.0	0.0	100	172
Amuria	64.7	2.9	2.9	29.4	0.0	0.0	100	34
Kaberamaido	75.4	1.6	0.0	21.3	1.6	0.0	100	61
Bukedea	71.2	3.4	1.7	22.0	0.0	1.7	100	59
<b>Residence:</b>								
Urban	74.5	1.2	0.6	23.0	0.6	0.0	100	165
Rural	77.9	5.4	0.7	15.7	0.0	0.4	100	280
<b>Gender:</b>								
Female	77.8	4.1	1.2	16.4	0.6		100	171
Male	75.9	3.6	0.4	19.7	0.0	0.4	100	274
Total responses	341	17	3	82	01	01	100	445 <sup>a</sup>

The survey consultations showed that compensation in this context included actions around sharing of assets and wealth of a deceased relative in which in lieu of the asset, the recipient receives land parcel; as a measure of payment to an individual's labour efforts over time and for which labour was not remunerated; reward from settlement of a dispute in which the perpetrator does not have the monetary means to effect imposed penalty.



### 3.3.4.6 Respondent's possession of evidence to land ownership

The study asked the respondents the evidence of ownership to their land. Table below shows that majority of the respondents (72.1%) reported having had some form of valid evidence to their land owned.

**Table 32: Respondent's possession of evidence to land ownership**

Background characteristic	Yes (%)	No (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	88.7	11.3	100	124
Soroti	71.8	28.2	100	163
Amuria	61.5	38.5	100	39
Kaberamaido	61.0	39.0	100	59
Bukedea	56.7	43.3	100	60
<b>Residence:</b>				
Urban	77.3	22.7	100	154
Rural	69.4	30.6	100	291
<b>Gender:</b>				
Female	72.2	27.8	100	176
Male	72.1	27.9	100	269
<b>Overall</b>	<b>72.1</b>	<b>27.9</b>	<b>100</b>	<b>445</b>

A similar study, the 2016 Baseline Survey Report conducted by RELAPU, presents quite contrasting figures to the above findings. This is majorly on two accounts; first, herein (of course the sample areas/ respondents have been different in Katakwi & Soroti districts). However, the 'assuring' figures herein, at a glance could indicate that there is 'already a commendable level of tenure security' in the Sub-Region, but should be understood from the perspective of the reality that communal land ownership is a *blanket* measure of possession and respondents most often reply in the affirmative on account of having *ownership* as a collective i.e., they will say they own land but as family or clan, and not as individuals even with informal evidence to defend such claims. This is the major reason why despite such reported claims to land ownership, violent disputes arise in the event some individuals want to carry out transactions on their so called land possession as attested in the consultation; "We wanted to sell a portion of our family land to take our mother who was referred to Mulago hospital in Kampala but have been denied selling the land by the Clan head" (a family member during the Omodoi Sub-County group consultations).

### 3.3.4.7 Respondent's type of documentation for land owned

The study asked the respondents the type of documentary evidence against their land owned. Table below shows that most of the respondents (48.3%) reported being in possession of clan minutes, followed by land sale agreement (26.8%). Clearly these are not legal documents that can stand the scrutiny of the judicial system; they point to the generally accepted framework of the customary land tenure system and administration.

**Table 33: Respondent's type of documentation for land owned**

Background characteristic	Land sale agreement (%)	Clan minutes (%)	LC or community minutes (%)	CCO (%)	Leasehold (%)	Freehold/title (%)	Area Land Committee report (%)	Pronouncement (%)	Total (%)	No. of respondents
<b>District:</b>										
Katakwi	16.5	54.1	5.5	0.9	1.8	2.8	0.0	18.3	100	109
Soroti	26.5	41.9	6.0	0.0	0.0	5.1	0.0	20.5	100	117
Amuria	37.5	50.0	0.0	0.0	0.0	4.2	4.2	4.2	100	24
Kaberamaido	32.4	48.6	13.5	0.0	0.0	0.0	5.4	0.0	100	37
Bukedea	47.1	50.0	0.0	0.0	0.0	2.9	0.0	0.0	100	34
<b>Residence:</b>										
Urban	33.1	37.3	8.5	0.0	0.0	5.1	1.7	14.4	100	118
Rural	23.2	54.7	3.9	0.5	1.0	2.5	0.5	13.8	100	203
<b>Gender:</b>										
Female	25.0	47.7	3.1	0.0	0.8	3.9	0.8	18.8	100	128
Male	28.0	48.7	7.3	0.5	0.5	3.1	1.0	10.9	100	193
<b>Overall</b>	<b>26.8</b>	<b>48.3</b>	<b>5.6</b>	<b>0.3</b>	<b>0.6</b>	<b>3.4</b>	<b>0.9</b>	<b>14.0</b>	<b>100</b>	<b>321</b>

**3.3.4.8 Respondent's perception of secure land ownership**

Of those who showed possession of documents proving ownership to their land, the study asked the respondents how secure they believed their land was with the documents shown. Table below shows that majority of the respondents (86.6%) reported belief that the documents were sufficient in securing their land. This finding shows the trust the people have in their informal ways of documents that cannot even be recognised in courts of law.

**Table 34: Respondent's perception of secure land ownership**

Background characteristic	Yes (%)	No (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	86.1	13.9	100	108
Soroti	84.7	15.3	100	118
Amuria	91.7	8.3	100	24
Kaberamaido	81.1	18.9	100	37
Bukedea	97.1	2.9	100	34
<b>Residence:</b>				
Urban	81.8	18.2	100	121
Rural	89.5	10.5	100	200
<b>Gender:</b>				
Female	84.1	15.9	100	126
Male	88.2	11.8	100	195
<b>Overall</b>	<b>86.6</b>	<b>13.4</b>	<b>100</b>	<b>321</b>

**Box 3: Lessons Learnt from the application of informal land conflict resolution approaches**

- 1) Mediation: This is the most common (Katakwi, Amuria, Soroti, Kaberamaido, Bukedea)
- 2) Negotiation: It is one of the acceptable methods (Katakwi, Amuria, Soroti, Kaberamaido, Bukedea)
- 3) Arbitration: Applicable method (Katakwi, Kaberamaido)
- 4) Adjudication: Not applicable (Katakwi, Amuria, Soroti, Kaberamaido, Bukedea)

Source: Group Interviews with the District and Sub-County Authorities, 2017

### 3.3.5 Capacity of key stakeholders engagement in land conflict management

#### 3.3.5.1 Respondent's knowledge of who are involved in land conflict management

The study asked the respondents on who they knew were involved in resolving land conflicts in their locality. Table below shows that most of the respondents (410) reported clan, followed by family head (298) and LC-1 (275). This finding points to the need to reinforce the positions of clans and family heads as the already accepted "offices" for customary land administration and management.

**Table 35: Respondent's knowledge of who are involved in land conflict management**

Background Characteristic	Family Head (%)	Clan (%)	ICU (%)	LC-1 (%)	LC-2 (%)	LC-3 (%)	Area Land Committee (%)	RDC (%)	Police (%)	Religious Leaders (%)	NGOs (%)	Courts of Law (%)	Total (%)	No. of Responses
<b>District:</b>														
Katakwi	15.9	23.1	6.0	17.1	4.5	3.1	6.2	1.4	2.9	8.1	7.9	3.7	100	484
Soroti	18.4	20.1	6.6	15.1	7.4	4.5	11.5	1.5	2.5	6.5	1.7	4.1	100	755
Amuria	15.8	25.0	17.1	13.8	5.3	5.9	5.9	1.3	2.0	5.3	1.3	1.3	100	152
Kaberamaido	24.9	23.5	9.9	18.3	6.1	7.0	3.8	0.0	3.8	2.3	0.5	0.0	100	213
Bukedea	4.1	47.9	2.5	14.9	13.2	5.0	1.7	0.0	0.8	4.1	0.0	5.8	100	121
<b>Residence:</b>														
Urban	21.8	23.5	11.3	16.7	5.8	5.0	8.6	0.7	2.4	1.9	1.4	0.9	100	582
Rural	15.0	23.9	5.5	15.6	7.1	4.4	7.5	1.4	2.7	8.3	4.0	4.6	100	1143
<b>Gender:</b>														
Female	19.2	24.5	7.3	13.9	6.2	4.4	8.8	0.8	2.3	5.3	3.3	3.9	100	660
Male	16.1	23.3	7.6	17.2	6.9	4.7	7.3	1.4	2.8	6.7	3.0	3.0	100	1065
<b>Total responses</b>	<b>298</b>	<b>410</b>	<b>129</b>	<b>275</b>	<b>115</b>	<b>79</b>	<b>136</b>	<b>20</b>	<b>45</b>	<b>106</b>	<b>54</b>	<b>58</b>	<b>100</b>	<b>1725<sup>5</sup></b>

#### Box 4: The Ten (10) core offices for handling informal land conflict

- 1) Local Council (witness)
- 2) Clan leaders (custodians)
- 3) Area land committee (handle conflict-free land)
- 4) Religious leaders (peaceful co-existence)
- 5) ICU (custodians)
- 6) Neighbours (peaceful co-existence)
- 7) Early warning committee (conflict prevention) created by Sub-County local governments in Katine and Gweri sub-counties
- 8) Police (law and order)
- 9) The whole clan (it is customary and communal)
- 10) NGOs (neutrality and technical support)

Source: Group Interviews with the District and Sub-County Authorities, 2017

### Box 5: Internal capacity challenges facing administrators of informal land conflict

- 1) Poor documentation, storage and retrieval system (Amuria); In the event that there is documentation, it is in English which is not understood by many community members. The literate use this to trick the illiterate into signing what they don't understand (Amuria)
- 2) ICU that is mainly handling land disputes does not have structure up to the villages; and their charges are not standardized very high (Amuria, Soroti)
- 3) Roles and responsibilities of all stakeholders should be clearly spelt-out; usually there is overlap of duties which is a cause of conflict (Amuria)
- 4) Failure of parents to acknowledge the importance of writing wills which has left gaps in the event of death (Soroti)
- 5) Government has empowered women but culturally this empowerment has not taken root; it is now culture versus constitution! (Soroti)
- 6) Lack of integrity and the core stakeholders are easily compromised especially where they are not economically empowered (Katakwi, Bukedea)
- 7) They are not knowledgeable on matters relating to land conflict administration and management; so they rely on their experience which may not be appropriate and many of these elders have forgotten the boundaries of the land they claim to know (Katakwi, Soroti, Bukedea)
- 8) The decisions made by the informal approach/system are not recognized by the formal systems. This creates a trust gap in the community (Katakwi)
- 9) Culture is in conflict with the law. In the event that there is death, usually as a result of land conflict, culture provides for a fine of seven cows but the law considers it criminal. With this, the wealthy can kill with impunity after all they have the cows for compensation (Kaberamaido)
- 10) A number of land-related issues have not been defined in Kumam and Iteso cultures;
- 11) There is a weakness in how to distribute land in a polygamous marriage/ family
- 12) Women ownership of land lacks clarity
- 13) Procedure on how to accommodate foreigners on customary land (Kaberamaido)
- 14) Because the clan leaders role is voluntary, the young, educated and well off that would not easily be compromised are not interested (Kaberamaido)
- 15) Office of the clan leader does not have a physical address (Kaberamaido)
- 16) The patrilineal culture of the Iteso has alienated the woman from land ownership yet 95% of land production is done by the women and children (Kaberamaido)
- 17) They don't have the capacity to enforce their decisions (Kaberamaido)
- 18) Courts of law continue to entertain informal land matters making the informal setting secondary in the process (Kaberamaido, Soroti)
- 19) ICU is not widely accepted in Teso as the supreme cultural body especially among the Kumam (Soroti)
- 20) Clans still believe that the tall make good leaders. So shorter people even if they are knowledgeable are still left out (Soroti)
- 21) Their integrity is easily compromised because many of them are not economically empowered (Soroti, Katakwi)
- 22) Customary land conflict managers are not consistent amongst themselves; they operate independently. This leads to conflict in themselves leading to mistrust in all of them (Katakwi)
- 23) It is just presumed that they know land related issued but some of them don't know. Age is not enough for one to qualify as a land administrator and/or manager (Katakwi)
- 24) They stop at knowing the boundaries but do not comprehend the legal aspect of land conflict (Katakwi)

Source: Group Interviews with the Districts and Sub-County Authorities, 2017

### 3.3.6 Impact of existing conflict management mechanisms on key population

#### 3.3.6.1 If respondent ever faced any challenges in resolving land conflict in the past year

Of those who reported owning land, the study asked the respondents if at all they had faced any challenges in resolving land conflict resolution challenges in the past year. Table below shows that majority of the respondents (52.6%) reported having had challenges compared to 47.4% who did not.

**Table 36: If respondent ever faced any challenges in resolving land conflict in the past year**

Background characteristic	Yes (%)	No (%)	Total (%)	No. of respondents
<b>District:</b>				
Katakwi	62.1	37.9	100	124
Soroti	66.3	33.7	100	163
Amuria	43.6	56.4	100	39
Kaberamaido	39.0	61.0	100	59
Bukedea	15.0	85.0	100	60
<b>Residence:</b>				
Urban	45.5	54.5	100	154
Rural	56.4	43.6	100	291
<b>Gender:</b>				
Female	51.7	48.3	100	176
Male	53.2	46.8	100	269
<b>Overall</b>	<b>52.6</b>	<b>47.4</b>	<b>100</b>	<b>445</b>

#### 3.3.6.2 Respondent's type of challenges faced in resolving conflicts on their land owned

**Photo 3 (below): A widow speaking at Katakwi Sub-County**



Of the respondents who admitted having faced challenges in resolving their land conflicts cases, the study asked the respondents on the type of challenges faced. Table below shows that most of the respondents (38.9%) reported lack of resources to pursue their cases, followed by threatened violence (29.9%), and bribery and corruption (23.5%).

**Table 37: Respondent's types of challenges faced in resolving conflicts on land owned**

Background characteristic	Lack of resources (%)	Bribery and corruption (%)	Language limitations (%)	Information gaps (%)	Threatened violence (%)	Court charges (%)	Too many places to go to (%)	Total (%)	No. of respondents
<b>District:</b>									
Katakwi	14.3	33.8	2.6	3.9	37.7	3.9	3.9	100	77
Soroti	53.7	13.9	1.9	0.9	28.7	0.9	0.0	100	108
Amuria	35.3	35.3	0.0	0.0	29.4	0.0	0.0	100	17
Kaberamaido	39.1	30.4	0.0	4.3	17.4	0.0	8.7	100	23
Bukedea	77.8	11.1	0.0	0.0	11.1	0.0	0.0	100	9
<b>Residence:</b>									
Urban	45.7	24.3	2.9	1.4	22.9	0.0	2.9	100	70
Rural	36.0	23.2	1.2	2.4	32.9	2.4	1.8	100	164
<b>Gender:</b>									
Female	44.0	23.1	0.0	1.1	28.6	2.2	1.1	100	91
Male	35.7	23.8	2.8	2.8	30.8	1.4	2.8	100	143
<b>Overall</b>	<b>38.9</b>	<b>23.5</b>	<b>1.7</b>	<b>2.1</b>	<b>29.9</b>	<b>1.7</b>	<b>2.1</b>	<b>100</b>	<b>234</b>

**3.3.6.3 Any effects on respondent's household of these challenges mentioned**

Of the respondents who reported facing challenges, the study asked the respondents the effect the stated challenges had on their households. Table below shows that most of the respondents (38.9%) reported food insecurity, followed by income security (22.2%) and 19.7% reported psycho-social challenges.

**Table 38: Any effects on respondent's household of these challenges mentioned**

Background characteristic	Food insecurity (%)	Income insecurity (%)	Ill health (%)	Education challenges (%)	Psycho-social challenges (%)	Emigration (%)	Violence (%)	Total (%)	No. of respondents
<b>District:</b>									
Katakwi	48.1	16.9	5.2	2.6	6.5	1.3	14.3	100	77
Soroti	33.3	17.6	1.9	8.3	35.2	0.0	3.7	100	108
Amuria	23.5	52.9	5.9	0.0	0.0	0.0	17.6	100	17
Kaberamaido	39.1	39.1	0.0	4.3	8.7	4.3	4.3	100	23
Bukedea	55.6	22.2	0.0	0.0	11.1	0.0	11.1	100	9
<b>Residence:</b>									
Urban	38.6	24.3	1.4	4.3	22.9	1.4	7.1	100	70
Rural	39.0	21.3	3.7	5.5	18.3	0.6	9.1	100	164
<b>Gender:</b>									
Female	46.2	20.9	2.2	4.4	18.7	0.0	4.4	100	91
Male	34.3	23.1	3.5	5.6	20.3	1.4	11.2	100	143
<b>Overall</b>	<b>38.9</b>	<b>22.2</b>	<b>3.0</b>	<b>5.1</b>	<b>19.7</b>	<b>0.9</b>	<b>8.5</b>	<b>100</b>	<b>234</b>

**Box 6: Impact and category affected most due to mal-administration****Impact of customary land conflicts:**

- 1) There have been killings and land remains unused by both of the worrying parties for long.
- 2) Poverty: especially among the youth, orphans, and widows. This is usually because they are the most likely losers of land cases. And also because of the prolonged court cases that become costly for them given that many of them are vulnerable on account of fragile livelihood sources.
- 3) It has also led to rural-urban migration of many people whose lives have been threatened in villages over land conflicts.
- 4) Increased murders especially through mob justice, domestic violence.



**The impact has been majorly on the following:**

- 1) Widows
- 2) Government institutions (Churches and Schools)
- 3) Orphans
- 4) Bastards
- 5) Adopted children
- 6) Barren women
- 7) Unmarried girls
- 8) Youth
- 9) Distant relatives who are compelled to take on the victims with welfare support

Source: Group Interviews with the District and Sub-County Authorities, 2017

### 3.3.7 Mainstreaming Compressive and Coherent Conflict Management Mechanism (3CMM)

#### 3.3.7.1 On who makes decision on where to go for resolving land conflict?

Of the respondents who reported having faced challenges around the land owned, the study asked the respondents who in their household made the final influence on where to go to seek redress. Table below shows that most of the respondents (34.4%) reported they did take action on their own, followed by entire family (23.6%) and only 18.4% reported husbands. The issue of decision on land is critical in that it affects people's livelihood especially where decisions to graze animals, hire the land out, grow cash crops or food crops carry different implications. The right to decide or the decision element is not such a significant issue in other land tenure systems other than customary land tenure because in other land ownership systems such as lease and freehold, the land is owned individually.

**Table 39: On who makes decision on where to go for resolving land conflict?**

Background characteristic	Myself (%)	Husband (%)	Wife (%)	Children (%)	Both husband and wife (%)	Entire family (%)	Relatives (%)	Total (%)	No. of respondents
<b>District:</b>									
Katakwi	35.5	16.1	1.6	0.8	12.9	29.8	3.2	100	124
Soroti	36.8	11.7	4.9	1.2	16.6	20.2	8.6	100	163
Amuria	17.9	28.2	2.6	0.0	17.9	25.6	7.7	100	39
Kaberamaido	44.1	5.1	0.0	1.7	27.1	22.0	0.0	100	59
Bukedea	26.7	48.3	0.0	1.7	3.3	20.0	0.0	100	60
<b>Residence:</b>									
Urban	44.8	11.7	1.3	0.6	17.5	16.2	7.8	100	154
Rural	28.9	22.0	3.1	1.4	14.1	27.5	3.1	100	291
<b>Gender:</b>									
Female	31.8	25.6	5.1	1.1	14.2	16.5	5.7	100	176
Male	36.1	13.8	0.7	1.1	16.0	28.3	4.1	100	269
<b>Overall</b>	<b>34.4</b>	<b>18.4</b>	<b>2.5</b>	<b>1.1</b>	<b>15.3</b>	<b>23.6</b>	<b>4.7</b>	<b>100</b>	<b>445</b>

#### 3.3.7.2 Respondent's mention of information that is known for resolving land conflicts

The study asked the respondents what kind of information they believed is useful in resolving land conflicts. Table below shows that most of the respondents (319) reported clan bye-laws, followed by Uganda's constitution (101), and government laws (91).



**Table 40: Respondent’s mention of information that is known for resolving land conflicts**

Background characteristic	Constitution (%)	Government policy (%)	Government laws (%)	Teso PPRR (%)	Clan byelaws (%)	Total (%)	No. of responses
<b>District:</b>							
Katakwi	16.2	1.4	13.5	18.9	50.0	100	148
Soroti	15.3	9.6	23.1	4.3	47.7	100	281
Amuria	27.1	4.2	0.0	4.2	64.6	100	48
Kaberamaido	18.2	0.0	3.0	0.0	78.8	100	33
Bukedea	20.0	0.0	6.7	1.3	72.0	100	75
<b>Residence:</b>							
Urban	15.3	12.1	22.3	5.1	45.1	100	215
Rural	18.4	1.4	11.6	8.6	60.0	100	370
<b>Gender:</b>							
Female	15.5	6.7	18.7	6.7	52.4	100	252
Male	18.6	4.2	13.2	7.8	56.2	100	333
<b>Total responses</b>	<b>101</b>	<b>31</b>	<b>91</b>	<b>43</b>	<b>319</b>	<b>100</b>	<b>585<sup>6</sup></b>

**Box 7: Mainstreaming Comprehensive and Coherent Conflict Management Mechanisms**

- 1) Empower the local leaders with the current laws governing land (Amuria)
- 2) Formal courts should be linked with the informal in as far as resolution of communal land is concerned (Amuria)
- 3) Informal court records should be copied to all relevant offices (Amuria, Soroti)
- 4) Support should be given to clans to handle communal land matters. Other organizations are secondary in these matters because the land belongs to the clans (Amuria)
- 5) To eliminate influence of the rich, households in a particular clan should be encouraged to pool resources that will be used to finance the welfare of the informal conflict management process (Katakwi)
- 6) All documents relating to informal land matters should be availed to clan elders for reference. His documents should also be translated to the local languages (Bukedea)
- 7) Courts of law should be cautioned against entertaining informal land matters so that clan decisions are respected (Bukedea, Soroti, Katakwi)
- 8) Clans should be consulted and a universal hand book on handling informal land issues produced to guide conflict resolution (Bukedea, Kaberamaido, Soroti)
- 9) Clans should also be permitted to enforce their decisions as long as the enforcement is within the law of the land (Bukedea, Soroti, Katakwi)
- 10) Magistrate should be encouraged to come down to the “locus” to listen to customary land matters not to rule over the matter without visiting the locus (Soroti)

Source: Group Interviews with the District and Sub-County Authorities, 2017

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## 4.0 CONCLUSION, LESSONS LEARNT, AND RECOMMENDATIONS

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### 4.1 Conclusion

The main objective of the study was to discern land conflict management mechanisms in the Teso Sub-Region. Specific objectives of the study included; i) To identify and analyse the efficacy of the existing formal land conflict management mechanisms in the Teso Sub-Region. 2) To identify the “best practices” and lessons learned from the use of the formal land conflict management mechanisms in the Teso Sub-Region. 3) To identify and analyse the formal land conflict management mechanisms in the Teso Sub-Region for better understanding of the scale of land related conflicts. 4) To identify and analyse the competencies of key stakeholders involved in formal land conflict management in the Teso Sub-Region. 5) To discern the existing discriminatory practices enshrined in the customary land tenure system. 6) To assess how the existing formal land conflict management mechanisms are impacting on the right of ownership, control, access to and use of land by men, women, youth, other vulnerable persons i.e. persons with disability and orphans in the Teso Sub-Region. 7) To recommend the most efficient, appropriate and coherent land conflict resolution pathways and approaches in the Teso Sub-Region and 8) To propose actions for mainstreaming comprehensive and coherent conflict management mechanisms (3CMM) by the relevant actors in the Teso Sub-Region in order to avoid duplication and forum shopping.

This study has not pursued anything entirely new; it has simply documented the key issues and gaps afflicting what the government of Uganda has recognised and is committed to protect – the customary land tenure system. By recognising the customary land tenure system in the country’s constitution and recognising traditional leaders through the traditional leaders’ Act, the foundation for a secure customary land tenure system has been concretely laid.

The state and non-state actors are continually engaged in implementing a number of land-conflict linked interventions aimed at addressing the key challenges around the land resource. These mutually-reinforcing efforts range from sensitisation on key policies, laws and regulations, mediation, legal aid to victims of rights violations, especially where resolutions have collapsed, computerisation of the land registration, packages around surveying and titling of communal land parcels, and boundary demarcations. These efforts are timely but still fall short of the magnitude and intensity of the challenges obtaining in Teso Sub-Region. Moreover, the other development challenges that continue to emerge on the socio-economic and cultural scene such as influx of refugees, threats of famine, pests and diseases outbreaks undermining production and productivity, prolonged drought, among others, tend to relegate the land conflict as a challenge deserving of national attention amidst the available resource envelope.

The research has found that customary land tenure system has a future, the same way the framers of the Uganda’s laws, envisioned it. Indeed, amongst existing approaches, mediation as a means of resolving land disputes is very common and understood by the community. A lot could be achieved if the mediators are certified and provided with the knowledge and skills to perform the tasks. Documentation of cases could also fetch a higher dividend for the warring parties in land conflicts as most times, as the study found; poor documentation provides opportunities for abuse.

## 4.2 Lessons Learnt

### 4.2.1 Lessons from critical challenges faced

a) An all-inclusive community mobilisation and involvement should be supported through motivation measures such as awareness raising on the merits.

The lesson is that to avoid re-occurrence of conflicts, an all-inclusive session ensures agreed positions are built through consensus and evidence, in full view of anyone associated with the locality where the case is heard from.

b) Clear separation of institutional roles and responsibilities is key to efficient land administration.

The lesson is that the pressure to resolve a customary land conflict has often promoted “irrelevant” offices to handle what is not theirs, simply to appease the warring factions; this undermines the efficiency of customary land wrangles resolution.

c) Women empowerment measures is not fully operationalised in customary land tenure system

The lesson is that misery brought on especially the woman out of customary land tenure management is due to the fact that conflicts are resolved using “male lenses” and this undermines human rights based approach to land administration and management

d) The lack of documentation, storage and retrieval system undermines land administration

The lesson is that more peace and development could be attained in customary land tenure management system if they are documented, shared, promptly stored, and is easily retrieved.

e) Lack of standardised charges to the administration of land conflicts has undermined the system

Future strengthening of the land conflict mechanism should harmonise and standardise the catalogue of charges that relate to the administration of customary land conflicts. This will enable its predictability.

### 4.2.2 Lessons from best practices (beyond the study area)

#### 4.2.2.1 Systematic demarcation as a measure to stem boundary disputes

Systematic demarcation aims to fix, and give legal effect to these customary rights and relationships. The pilot process of systematic demarcation for titling was introduced in Soroti District but didn't take off as planned due to apprehension and political interference. The advantage of systematic demarcation and adjudication is to protect property rights. The MHLUD launched a programme on systematic land adjudication and demarcation where the Ministry plans to demarcate customary land and issue freehold certificate of titles. Teso Sub- Region leaders should lobby and have their communities' customary land demarcated in order to protect their property rights.

#### **4.2.2.2 Certificate of Customary Ownership (CCOs) for securing land tenure**

The Land Act Cap. 227 Section 4 states that, any person, family or community holding land under customary tenure on former public land may acquire a Certificate of Customary Ownership (CCO) in respect of that land.

A CCO is an official document from the State identifying the owner of the land, because customary law recognised the person registered thereon as the rightful owner of the land. This can be used as proof of legal ownership in case the owner wants to sell the land, or in case of any land dispute. (If someone else manages to get a title issued on this land, this certificate may help one prove fraud or theft, but the title may still be regarded as having a stronger claim on the land.) It is much easier to write many names on a CCO than on a title there is nothing in the law which limits the number of names on a title. Section 15 of the Land Act provides for Communal Land Associations where a group of persons who may have common interests in land ownership by customary law or otherwise may be registered into communal land associations. These associations are registered at the District Registrar's office. These land associations may then be registered on the CCO title as owner and this would resolve the issue of multitude of names to be entered on the CCO title.

The Certificate of Customary Ownership is issued by the Recorder to an applicant whose rights Claim has been approved by the DLB after payment of the official fee which may change from time to time. The Recorder is by law the Sub-County Chief and is mandated to keep all records relating to customary ownership.

A certificate helps to protect land from adverse claims by other members. The certificate helps ensure that the land will go to the wife (or husband) and children (and anyone else) when one dies. Teso communities should be encouraged and helped to start the process of acquiring Certificates of Customary Ownership.

With CCOs boundaries are known and respected. The sketch map is equivalent to a deed print in terms of accuracy. The sketches have been used to reconstruct boundaries especially where boundary tree markers have been deliberately destroyed.

The procedure itself is a straight forward for the locals. Under Section 4(1) of the Land Act the Act recognises individual, family and communal ownership of land and section 5 accordingly provides that any person, family or community holding land under customary tenure may apply for a Certificate of Customary Ownership of that land. The application is to be determined by the Parish Land Committee, a body whose establishment, composition, functions and procedures are set out in some detail in the Act. The committee's recommendations have to be forwarded to the District Land Board which has broad powers to confirm, reject or vary it. From the board, there is an appeal to the Land Tribunals and from the Land Tribunals to the High Court. The determination and recording of customary land rights, including settlement of any disputes that may arise, is entrusted largely to administrative bodies rather than the courts.

#### **4.2.2.3 Harmonisation of traditional customs and statutory laws**

The Constitution provides that if any custom is in contravention with the constitution such custom is declared null and void to the extent of its inconsistency. Teso Sub-Region has customs and rules that it upholds and respect. However some of the rules especially on children and widows are inconsistent with the Constitution and there is need for harmonisation with the law.

There is also need for state-clan partnerships because both sides can never solve land conflicts if they work independently.

Teso Sub-Region has tried to document their Principles, Practices, Rights, and Responsibilities that spell out how land is held under customary tenure. However, they are not legally recognised and cannot be recognised by courts of law. Therefore, there is need to have them properly documented in accordance with the requirements of the formal courts, in order to be legally recognised.

#### **4.2.2.4 Sensitisation of leaders and communities**

There should be continuous sensitisation of the leaders and communities on the land conflict management and generally land matters including land rights. This will resolve land conflicts since everyone will be aware of what land rights are involved, what should be done and how they should be handled.

#### **4.2.2.5 Formalisation of customary tenure**

For land rights' protection under customary tenure, the state needs to change its attitude towards customary tenure and to improve its understanding of the rights and management systems in order to enter into a partnership with the clan system. Important areas of partnership are in the writing of laws to govern customary tenure and provision of a court system that starts with the clan and ends with the state courts.

#### **4.2.2.6 Writing wills**

Writing of wills reduces the confusion around claims to possession of the deceased. The communities in Teso Sub-Region should be encouraged to write wills and sensitisation on will making should be carried out.

#### **4.2.2.7 Dissemination of the Kumam and Teso PRRs**

Since the Principles, Practices, Rights and Responsibilities (PPRR) have been written for Teso Sub-Region, it is critical that they are used by all traditional and cultural authorities and this requires dissemination and training of all levels of the traditional and cultural structures.

## 4.3 Recommendations

### 4.3.1 Strengthening effectiveness

1	Strengthen transparency in handling land conflicts	<p>Clan leaders should conduct land conflict resolution sessions in public places that are known, accesible and agreed upon between the conflicting parties. The expenses associated with this process should be known and equally shared between conficting parties. ICU and KEF should stipulate on such expenses in order to make them uniform and equally develop acceptable clan governance instruments and decision-making tools.</p> <p>A comprehensive guide / handbook should be developed to harmonise mediation practices in Teso Sub-Region.</p>
2	Design and distribute user-friendly educative materials	Agencies involved in land conflict management information dissemination should design simple Information Education and Communication (IEC) materials which are user friendly.
3	Strengthen linkages of parties handling land conflict management	<p>The Judiciary, ICU, KEF, TIP, and GIZ-RELAPU should convene at a round table and identify, train and accredit mediators from clans and religious institutions.</p> <p>The Judiciary should collect and profile all mediated cases albeit their presentation in court. This will strenghten storage and back-up of information.</p> <p>Photographs of actual mediation and boundary tree planting should equally be profiled for future references.</p>
4	Promote interactive fora/ avenues	The formal and informal sectors should hold regular fora where operational challenges are presented, discussed, appreciated and improvements are jointly adopted for action. Clans should equally invite judicial officers to attend clan meetings on land.
5	Improve actors' knowledge and skills on land conflict management	Actors involved in land conflict management should be trained in relevant skills so that they have access to relevant information (key reference materials) on land conflict management frameworks.
6	Support the enforceability of resolutions	Actors should advocate for the enforcement of informal land conflict resolutions.

7	Standardise procedures	Actors in land conflict management in Teso Sub-Region should develop and follow standard procedures in administering informal land conflict sessions.
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#### 4.3.2 Promote *what works* (best practices)

1	Support appropriate land demarcation practices	Clan leaders should consistently monitor the compliance of their clan members in boundary land planting. The leaders should identify for demarcations acceptable tree species such as <i>ejumula</i> or <i>eligoi</i> as preventive boundary dispute triggers.
2	Involve the formal land conflict management persons	To avoid having repugnant provisions, Clans should engage / interface with Judicial system in formulation of their constitutions/ bye-laws where they don't exist and where they exist, ensure they include land conflict management mechanisms. This equally applies to inclusion of Judicial system in any review of Teso and Kumam PPRR to ensure conformity to Uganda's laws and policies.
3	Strengthen clan governance	Clan governance should be made credible, and functional including their system of land conflict management and administration.
4	Promote neutral agents in conflict management	Involve other actors such as parish chiefs, councillors in clan land conflict management sessions to enrich the process and so reduce on the conflict of interest challenges and also lend legitimacy to the processes.
5	Strengthen documentation	Clans should be supported to document all land conflict management resolutions concluded and copies of these documents given to relevant stakeholders.  Storage and retrieval system of land conflict mediated cases should be established and managed with the use of Ateso and Kumam languages in recordings to avoid misunderstanding of sessions and resolutions (outcome).



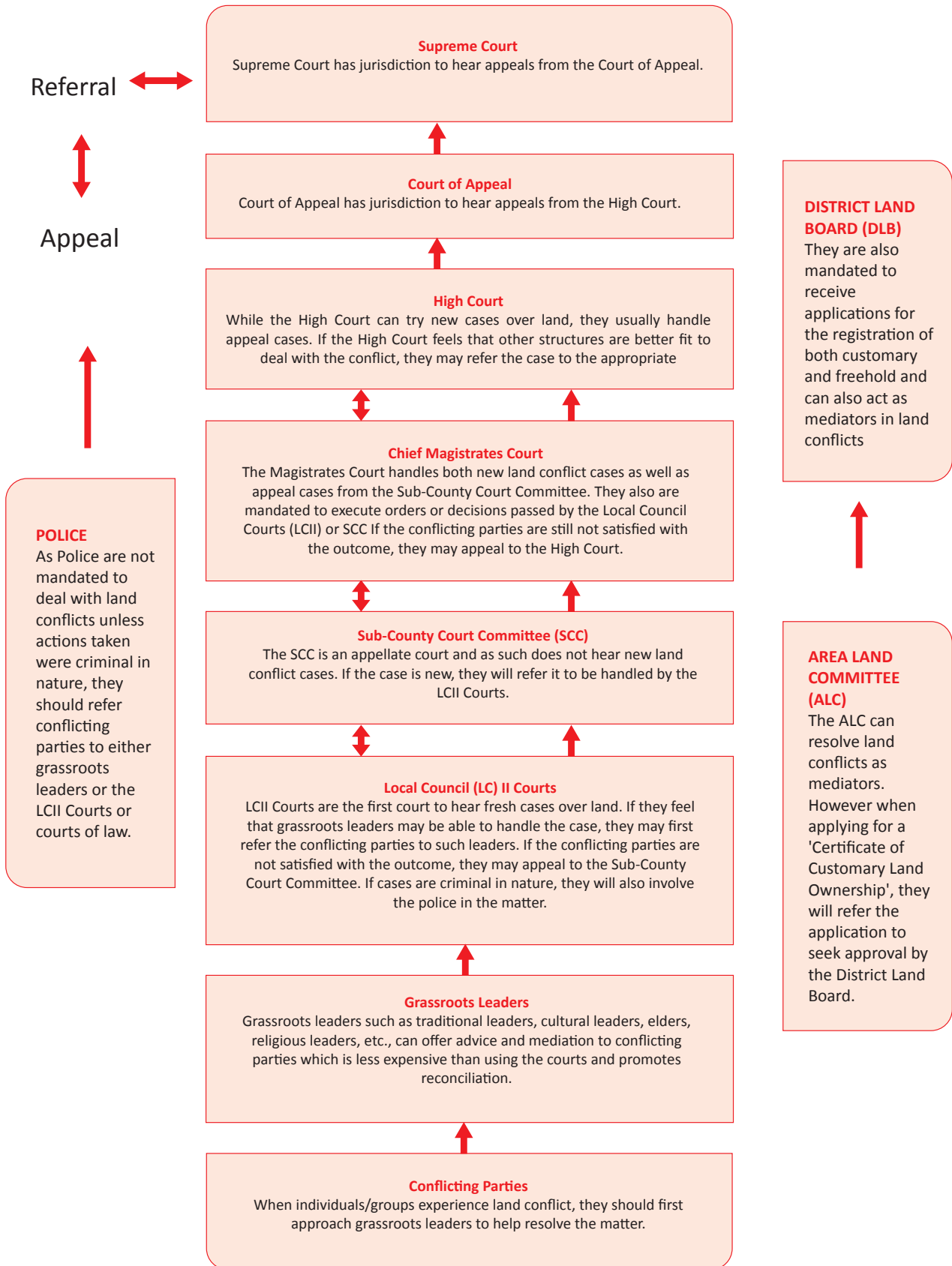
### 4.3.3 Strengthen and scale up Mediation

1	Support the identification and training of mediators	Credible clan and religious leaders should be identified and trained by the judiciary as mediators.
2	Build capacity of key actors in conflict resolution	The capacity of the following persons in land conflict management should be strengthened: 1) Local Councils (witness); 2) Clan leaders (custodians); 3) Area Land Committee (handle conflict-free land); 4) Religious leaders (peaceful co-existence); 5) Neighbours (peaceful co-existence); 6) Police (law and order); 7) NGOs (neutrality and technical support)

### 4.3.4 Capacity strengthening

1	Clarify and confirm mandated roles and offices	Harmonise roles and responsibilities of core stakeholders to avoid forum shopping and overlap in efforts
2	Establish monitoring and evaluation system to track progress of interventions	Actors in land conflict management should develop monitoring systems to periodically assess progress and the effect of the targeted capacity building interventions.
3	Empower marginalised segments of the population	Promote and train marginalised groups of persons especially the women, the youth, and PWDs, in land conflict management mechanisms.

**ANNEXES:**  
**Annex 1: Hierarchy of where to go in case a land conflict arises**



## Annex 2: The Field Research Team

S/NO.	NAME	DISTRICT	CONTACT
	Omara Lawrence	Kaberamaido	0776 299 677
	Eseru Samuel	Kaberamaido	0782 001 468
	Apecho Olive	Amuria	0785 990 881/ 0752 284 161
	Ajumo Prosy	Amuria	0788 011 607/ 0778 468 014
	Oluka Godfrey	Katakwi	0782 615 632/ 0757 615 632
	Okiror Paul	Katakwi	0772 543 351/ 0782 134 301
	Caroline Akiteng	Katakwi	0785 150 274
	Apio Suzan	Katakwi	0785 094 580
	Otim Emmanuel	Soroti	0773 270 500/ 0701 436 675
	Osire Paul	Soroti	0778422125
	Among Sarah	Soroti	0772 625 286
	Adwono Betty	Soroti	0777 259767
	Muron Paul	Bukedea	0779 666 508
	Akello Mary	Bukedea	0774 388 112/ 0750 925 205

## Annex 3: List of People Met

### ATTENDANCE LIST FOR THE VALIDATION MEETING ON LAND CONFLICT MANAGEMENT MECHANISMS IN TESO SUB-REGION AS AT 23<sup>rd</sup> JUNE 2017

S/N	NAME	SEX	TITLE	PLACE	TELEPHONE
1	Amongin Rose	F	IG Coordinator	Bukedea	0782607723
2	Akiror Grace	F	VC/person ICU	Bukedea	0783323091
3	Okoche Charles	M	C/P ALC Kidongole	Bukedea	0775049575
4	Omoding David	M	CPS	Bukedea	0772627416
5	Asekenye Joyce	F	Coordinator TEKWIP	Bukedea	0772871454
6	Emoaku Smith	M	DLMO	Bukedea	0781868030
7	Saul Robert	M	IG Coordinator	Bukedea	0758116683
8	Ochen C. Ebayu	M	C/man KEF	Kaberamaido	0773173003
9	Ejom Samuel	M	C/man ALC	Kaberamaido	0783762800
10	Magambo Mathias	M	Secretary District Land Office	Kaberamaido	0784609834
11	Bongonyinge Bruno	M	Police Land Desk	Kaberamaido	0775554806
12	Okwi Emmanuel	M	IG Coordinator, TESRAW	Katakwi	0773350606
13	Aleli Martin	M	Lands Officer	Katakwi	0757173631
14	Akwang Nico	M	C/man ICU, Katakwi	Katakwi	0783196130
15	Opio Gerald	M	C/man ALC, Omodoi SC	Katakwi	0782752234
16	Olum Saverio	M	C/man ALC	Katakwi	0771223699
17	ASP Oduko Peter	M	CLO	Katakwi	0777312781
18	DSGT Odong John	M	Police Officer	Katakwi	0774656426
19	Ikonyai Julius	M	IG	Kapelebyong	0773014051
20	Alloch William	M	Coordinator	Kapelebyong	0779764848
21	Atanget Emmanuel	M	Police Amuria	Amuria	0772605230
22	Olaboro John Robert	M	C/man ICU	Amuria	0772323764
23	Enokokin Stephen	M	Minister ICU	Serere	0782433604
24	Faustin Okiror	M	C/P ALC	Acowa	0756334250
25	Oichan Emmanuel	M	CLO	Amuria	0773430294
26	Ariengu Patrick	M	Coordinator	Amuria	0772839654
27	Asekenye Brenda	F	Administrative Assistant	TIP Amuria	0774151493
28	Odolon John	M	C/P TIP BOD	Amuria	0772196514
29	Achuru Moses	M	Secretary IG	Soroti	0779959389
30	Odeke Michael	M	Director TIP	Soroti	0772488001
31	Makumbi Stephen	M	Programme Coordinator, TIP	Soroti	0782365086
32	Eligu Albert	M	C/P ALC	Katine	0774506152
33	Imede Catherine	F	P.M	Soroti	0782334663
34	Ongodia Ignatius	M	Prog. Officer, TERELEPAR	Soroti	0784960397
35	Odongo James	M	Coordinator	Soroti	0772516006
36	Esabu Willy	M	C/P ICU	Soroti	0774695677
37	Akello Catherine	F	SLMO	Soroti	0774631127

S/N	NAME	SEX	TITLE	PLACE	TELEPHONE
38	Ayub Muhamad	M	Communication Officer, TIP	Soroti	0776479015
39	Olari Proscovia Ruth	F	Intern TIP	Soroti	0772940377
40	Eneku Eyedu Patrick	M	C/P ALC	Gweri	0782588719
41	SP Otello Eyatu	M	CLO	Soroti	0775485578
42	Achola Leah	F	Coordinator, AWOLARIP	Soroti	0773168866
43	Eriaku Samuel	M	Advisor GIZ RELAPU	Soroti	077300844
44	Paul Zenon	M	GIZ RELAPU	Soroti	0773284213
45	Hannah Bresh	F	GIZ CPS Advisor	Soroti	0779679507
46	Adioci Caroline	F	IG	Soroti	0779189754
46	Paul Enos Emulu	M	Research Assistant, Greenstar	Kampala	0701850916
47	Melanie Nagasha	F	Associate, Mugasha & Co Advocates	Kampala	0772622117
48	David Mugasha	M	Mugasha & Co. Advocates	Kampala	0772558806
49	Emmanuel Ochepe	M	Research Assistant, Greenstar International	Kampala	0784965391
50	Dr Odoch Pascal	M	Consultant, Greenstar International	Kampala	079080944
51	Akiror Grace	F	C/V ICU	Bukedea	0783323091
52	Enwaku E. Smith	M	SLMO	Bukedea	0781863030
53	Omoding David	M	Police Officer	Bukedea	0772627416
54	Okoche Charles	M	C/P ALC	Bukedea	0775049575
55	Amongin Rose	F	IG Coordinator	Bukedea	0782607723
56	Asekenye Joyce	F	Coordinator TEKWIP	Bukedea	
57	Isaul Robert	M		Bukedea	
58	Bongonyinge Bruno	M	Police Land Desk	Kaberamaido	0775554806
59	Ejoru Samuel	M	C/P ALC	Kaberamaido	0783763800
60	Magambo Mathias	M	Secretary DLB	Kaberamaido	0773173003
61	Ochen Charles Ebayu	M	C/P KEF	Kaberamaido	0779896752
62	Opio Gerald	M	C/P SC ALC	Omodoi	0782752234
63	Akwang Nico	M	C/P Katakwi	Usuk	0783196130
64	Olum Saverio	M	C/P ALC	Katakwi	0771223699
65	Oduko Peter	M	CLO	Katakwi	0777312781
66	Odongo John	M	Police Land Desk	Katakwi	0774656426
67	Aleli Martin	M	Land Officer	Katakwi	0757173631
68	Okwi Emmanuel	M	IG Coordinator	Katakwi	0773350606
69	Ikonyat Julius	M	IG Coordinator	Kapelebyong	0773011051
70	Enokokin Stephen	M	Minister ICU	Serere	0782433604
71	Odolon John	M	Chairperson BOD, TIP	Amuria	0772196514
72	Atanget Emmanuel	M	Land Desk	Amuria	0772605232
73	Alloch William	M	Coordinator	Kapelebyong	0779764848
74	IP Oicha Emmanuel	M	DCLO	Amuria	0773430294
75	Alaboro John Robert	M	C/P ALC	Acowa	0756334250
76	Asekenye Brenda	F	Admin Asst, TIP, Amuria	Amuria	0774151493

#### ATTENDANCE LIST FOR THE VALIDATION MEETING ON LAND CONFLICT MANAGEMENT MECHANISMS IN TESO SUB-REGION AS OF 23<sup>rd</sup> JUNE 2017

S/N	NAME	SEX	TITLE	PLACE	TELEPHONE
1	Omiat Vincent	M	Lecturer	Busitema University	0772856869
2	Emulu Enos Paul	M	Research Assistant, Greenstar	Soroti	0701850916
3	Ochepe Emmanuel	M	Research Assistant, Greenstar	Soroti	0701112274
4	Nabire Rona	F	AIP	Soroti	0782043505
5	Esabu Willy	M	C/man ICU	Soroti	0774695677
6	Enugu Moses	M	LCIII C/man	Katine	0781481335
7	Echuru Moses	M	Police Officer	Soroti	0779959289
8	Amoding Florence	F	Program Officer	Katakwi	0774631469
9	Osodo Philip	M	Advisor ICU	Soroti	0772436080
10	Ebau Peter	M	LCIII C/man	Gweri	0752446217
11	Akiror Jane	F	Rep CAO	Soroti	0782506261
12	Makumbi Stephen	M	Program Coordinator	Soroti	0782365686

S/N	NAME	SEX	TITLE	PLACE	TELEPHONE
13	Dr Odoch Pascal	M	Consultant – Field Research	Kampala	0779080944
14	Mushanga David	M	Consultant – Desk Research	Kampala	0772558805
15	Okiror Ben Boham	M	Program officer	Soroti	0772884199
16	Odeke Michael	M	Director TIP	Soroti	0772488001
17	Akello Catherine	F	Member	Soroti	0774631127
18	Olari Proscovia	F	Intern TIP	TIP	0772940377
19	Achola Leah	F	Coordinator AWOLARIP	Soroti	0773168866
20	Olaboro John Robert	M	C/man ICU	Amuria	0772232376
21	Ikonyat Julius	M	Member	Amuria	0773014051
22	Adioci Caroline	F	Tecodlam	Kapelebyong	0779189754
23	Aloch William	M	Coordinator	Kapelebyong	0771764848
24	Erimu Richard	M	DPC	Amuria	0788559565
25	Ssenyonga John	M	DISO	Amuria	0772331188
26	Arieng Patrick	M	Coordinator	Amuria	0772839654
27	Obwangole James	M	DPC escort	Amuria	0777695794
28	Atia Miriam	F	LCV c/man	Amuria	0782334429
29	Oluka Amis	M	Driver	Amuria	0782835893
30	Okanyum Charles	M	Driver	Amuria	0789378773
31	Acanit Betty	F	Lands officer	Amuria	0785329988
32	Oonyu Gilbert	M	Driver	Amuria	0782207245
33	Asekenye Brenda	F	Admin Assistant	Amuria	0774151493
34	Apio Ann	F	Field Officer	Amuria	0782281444
35	Nakiwala Marion	F	Intern Student	Amuria	0784895152
36	Sureya Amina	F	Admin Assistant	Soroti	0774773012
37	Isaur Robert	M	Coordinator	Bukedea	0758116683
38	Amongin Rose	F	Coordinator	Bukedea	0782607723
39	Ekoroi Emin Percy	M	C/person ICU	Bukedea	0783361409
40	Okurut Charles	M	Driver	Bukedea	0789428614
41	Ebukalin Tychilus	M	District Speaker	Bukedea	0701673878
42	Aporu David	M	Member	Bukedea	0774452536
43	Oleko Julius	M	District C/person	Bukedea	0776254500
44	Okwi Vincent Xavier	M	LCIII C/person	Katakwi Omodoi	0782131231
45	Etom Sam Enapat	M	CID Police	Katakwi	0772684124
46	Akello Dinah	F	IG-Tesran	Katakwi Magoro	0704177778
46	Keri Suzan	F	IG-TECLARA	Katakwi	0773714774
47	Akwang Nicholas	M	ICU C/person	Katakwi	0783196130
48	Omaje Henry	M	LCIII C/person	Katakwi	0774152998
49	Aleli Martin	M	Land Officer	Katakwi	0757173664
50	Okwameri Francis	M	District Speaker	Katakwi	0782514611
51	Among Majeri	F	Police Officer	Kumi	0782035148
52	Asekenye Joyce	F	c/person TECAB	Kumi	0772871454
53	Okiria Charles	M	District Speaker	Kumi	0771958580
54	Opolot Stephen	M	Vice District C/person	Kumi	0782396548
55	Among Francis	F	ICU C/person	Kumi	0772602526
56	Okalany Robert	M	Driver	Kumi	0777259491
57	Ojok Stephen	M	DPC	Kumi	0782112216
58	Akol Peter	M	Driver	Kumi	0782015274
59	Chemonges Calvin	M	Escort	Kumi	0773659898
60	Okello Bosco	M	District Speaker	Serere	0779952281
61	Enokokin Stephen	M	Lands Minister ICU	Serere	0782433604
62	Achola Carolina	F	Rep RDC	Serere	0782116037
63	Aujat Emmanuel	M	For Lands Officer	Serere	0779667405
64	Apolot Norah	F	DPC	Serere	0772416854
65	Anapa Ande	M	District Speaker	Ngora	0774506835
66	Omoding Didio	M	For DPC	Ngora	0775001045
67	Atugu Stephen	M	C/person ICU	Ngora	0771411522
68	Okou Charles	M	Driver	Kaberamaido	0774469537
69	Madiri Alfred	M	DPC	Kaberamaido	0772631393

S/N	NAME	SEX	TITLE	PLACE	TELEPHONE
70	Ecumu Nichanga	M	Escort	Kaberamaido	0777259258
71	Olari Proscovia	F	Field Officer	Kaberamaido	0756259723
72	Opolot Charles	M	Field Officer	Kaberamaido	0775027810

#### GROUP INTERVIEW HELD IN THE OFFICE OF THE CHAIRMAN KATAKWI DISTRICT ON 02/05/2017

S/N	NAME	TITLE	FROM	CONTACT
1	AUMA MARY GORETI	VICE C/M	KATAWI	0778297923
2	ESIDAI SIMON PETER	CLERK TO COUNCIL	„	0782820452
3	ALIABU BOSCO OKIROR	SEC FINANCE	„	0781247520
4	OLEMO MATHEW	D/ PLANNER	„	0772863852
5	ASEDE ROBERT	SEC PRODUCTION	„	0772822563
6	IYESET AUGUSTINE	SEC EDUCARION	„	0772417070
7	OKWAMERI F.F	SPEAKER	„	0782514611
8	AMBROSE MWASIGYE	RDC	„	0782477369

#### GROUP INTERVIEW HELD IN OMODOI SUB COUNTY BOARD ROOM ON 03/05/2017

S/N	NAME	TITLE	FROM	CONTACT
1	AKWI SOFIA	ACDO	OMODOI	0774660749
2	OPIO GERALD	ALC C/P	„	0782752234
3	AKWI MARY	YOUTH COUNCILOR	„	0787758537
4	OSIRE JOSEPH ENYAKU	COUNCILOR	AMUSIA	0785272779
5	OKELLO GABRIEL	YOUTH COUNCILOR	OMODOI	0785323825
6	IMALINGAT MARTIN	COUNCILOR PWD	APARISA B	0782969086
7	OMAGOR SILVER	COUNCILOR	OMODOI	0752318178
8	ALUNGAT BETTY	COUNCILOR	ASURET	0783122545
9	ONGARIA JANE	COUNCILOR	AMUSIA	0773270124
10	OKWI VICENT XAVIER	LC III C/P	OMODOI	0782131231
11	ITEU ZIPORAH	SAS	OMODOI	077288210
12	OPIO ALOYSIUS	SPEAKER		0781659339
13	OTIM JOHN PETER	COUNCILOR	ANGODINGOD	0772086895
14	ALUJA LUCY	COUNCILOR	AMUSIA	
15	ACOR GRACE	COUNCILOR	OMODOI	0779726984
16	OLINGA TOM	COUNCILOR	OMODOI	0785930071
17	IMALINGAT JOYCE MARY	COUNCILOR	ANGODINGOD	0785363101

#### GROUP INTERVIEW HELD IN SOROTI DISTRICT LUKIIKO HALL ON 04/05/2017

S/N	NAME	TITLE	FROM	CONTACT
1	EGUNYU G.M	DC/M	SOROTI	0772468541
2	AMONGIN MARGARET	SEC FINACE		0782467386
3	AKIROR JANE	PAS		0782504261
4	HANNINGTON M.	DISO		0773272282
5	EDORU SIMON	V C/M		0786657384
6	OCAILAP FILBERT	RDC		0772330285
7	OBOI RICHARD	D/PLANNER		0772636576
8	AKELLO CATHERINE	LAND OFFICER		0774531127
9	KALYA SAMUEL	DPC		0775603059

#### GROUP INTERVIEW HELD IN KATINE SUB COUNTY BOARD ROOM ON 03/05/2017

S/N	NAME	TITLE	FROM	CONTACT
1	OSODO PHILIP -	Advisor, GIZ-RELAPU	Soroti	0772436080
2	ARIEKOT DINAH	SEC FIN	KATINE	0774270190
3	OCHALOI JAMES	PWD	„	0781500074
4	AJANG BETTY	COUNCILOR	MEROK	0777258648
5	ATALO FLORENCE	„	OJAMA	0776511471
6	EMOLU RUTH	„	KATINE	0779733790

S/N	NAME	TITLE	FROM	CONTACT
7	IGIRO ANNA	VC/M	OJOM	-777976180
8	ASUKO NORAH	COUNCILOR	KATINE	0755472735
9	APOLON FAUSTINO	„	„	0780465025
10	ELAYU JOHN	GISO	„	0772910102
11	AMIDU STEPHEN	COUNCILOR	„	0778327323
12	EECHU EMMANUEL	„	„	0754888129
13	EMWALU MOSES	„	„	0778011238
14	OPIO RICHARD	„	„	0753663056
15	OWALO NASET	„	„	0774916981
16	ESEMU RASMUS	D/SPEAKER	„	0788574070
17	ANAYO STELLA	SPEAKER	„	0781879744
18	EMUGU MOSES	LC III C/M	„	0781487330
19	AWE0 STELLA	PWDS	„	077258195
20	ENYOLU GEORGE	SAS	„	078739092
21	EWALU EDMOND	COUNCILOR	„	0783912021

### GROUP INTERVIEW HELD IN KATAWI SUB COUNTY BOARD ROOM ON 10/05/2017

S/N	NAME	TITLE	FROM	CONTACT
1	AKELLO CHRISTINE	WOMEN COUNCILOR	DADAS	0787420815
2	ATIRO HELLEN	WOMEN COUNCILOR	OLELA	0789423224
3	OKURE EMMANUEL	COUNCILOR	ABELA	0778098937
4	OKURE GABRIEL	COUNCILOR	ALELES	0785320574
5	AKIROR RUTH	COUNCILOR	OLUPE	0781617156
6	ONGINA ALEX	COUNCILOR	OLUPE	0784322835
7	OKIROR DAVID	COUNCILOR	GETOM	0780343413
8	EGAU BEN	COUNCILOR	ABWANGET	0787104417
9	ANGOLE MAX	COUNCILOR	ABELA	0774269915
10	ADEKE MARY JOYCE	COUNCILOR	ABELA	0774090701
11	IJULI JOSEPH	COUNCILOR	ALYAKAMER	0775553557
12	ELUNGAT JAMES JIMMY	COUNCILOR	ALOGOK	0784969762
13	AMEJA HELLEN	COUNCILOR	KATAKWI	0771815748
14	OTOKE EMMANUEL	D/SPEAKER	DADAS	0777685224
15	OPWANYA SARAH	COUNCILOR	ABWANGET	0778516931
16	ILONGUT ANN	COUNCILOR	ALELES	0773251332
17	ONYAIT SOLOMOM	COUNCILOR	ALELES	079394181
18	ALUPO ANNA ROSE	COUNCILOR	ABELA	0774757293
19	ODONGO ALRED	COUNCILOR	ALUCOK	0783696405
20	AKILENG GEORGE	COUNCILOR	KATAKWI	0785323636
21	ALEPER JESCA	INTERNSHIP	AKISIM	0777062271
22	IMUNYOS CONS	COOUNCILOR	ALOGOK	0781634835
23	OMONGIN AGNES	COUNCILOR	ALIAKAMER	0776930616
24	AKUDA ANGELLA	COUNCILOR	ALOGOK	0775486368
25	OMAJE HENRY	LC III C/P	KATAKWI	0774152998
26	AKWANG GILBERT	SPEAKER	KATAKWI	0777256488

### GROUP INTERVIEW HELD IN GWERI SUB COUNTY BOARD ROOM ON 11/05/2017

S/N	NAME	TITLE	CONTACT
1	ILOLU ANGELLA	COUNCILOR	0788329463
2	ALUKET M.	COUNCILOR	0781247810
3	OLUKA WILLIAM	COUNCILOR	0774547827
4	OMALAS MOSES	COUNCILOR	0785412121
5	OUMO DANIEL	LC III V C/M	0779324860
6	SWAIBU YAWERI	COOUNCILOR	0785330567
7	EBAU PETER	LC III C/M	0752446217
8	ESATU MOSES	CDO	0774301131
9	OKIROR GILBERT	COUNCILOR	0777600338



S/N	NAME	TITLE	CONTACT
10	ONYUNYU MAX	COUNCILOR	0773685331
11	AKITENG JESCA	COUNCILOR	0786066752
12	EMURON GABRIEL	COUNCILOR	0779130994
13	AGABO DEBORAH	COUNCILOR	0776119166
14	AYAGO GRACE	COUNCILOR	0771981722
15	APORU RICHARD	COUNCILOR	0772998694
16	ASIO FLORENCE	COUNCILOR	0777974692
17	ELASU MICHAEL	GISO	0788340611
18	OPIO MICHEAL	PLANNER	0774871955
19	AKELLO STELLA	SAS	0775120129
20	OPOLOT STEPHEN	SPEAKER	0775366881

#### GROUP INTERVIEW HELD IN AMURIA DISTRICT BOARD ROOM ON 12/05/2017

S/N	NAME	TITLE	CONTACT
1	EDOTU PAUL	A/CAO	0782191141
2	IBRAHIM MUHAMED	CDO	0772488059
3	AMEDO JUDITH	COUNCILOR	0771455235
4	AKOL KETTY	SPEAKER	0774362434
5	ECOMU SILVER	COUNCILOR	0771877942
6	EWAYU DAVID	D VC/M	0773411505
7	SSENYONGA JOHN	DISO	0772331188
8	EGAU A.M.	SAS	0772996931
9	ERIMU RICHARD	DPC	0788359565
10	ITWANI ALEX	LC III VC/M	0783373643
11	ALONGU THOMAS	COUNCILOR	0789313877
12	OPOLOT BANABAS	COUNCILOR	0784589612
13	ALUNGAT GRACE	COUNCILOR	0789435221
14	OKWII STEPHEN	SPEAKER	0778610443

#### GROUP INTERVIEW HELD IN KABERAMAIDO DISTRICT COUNCIL HALL, 13/05/2017

S/N	NAME	TITLE	FROM	CONTACT
1	OJUKU C	LC III C/M	OCHERO	0773010032
2	EJOKU HERMAN	SAS	OCHERO	0772157752
3	ILADO IMMACULATE	SEC HEALTH	KABERAMAIDO	0787565592
4	OKIMA CYRUS	SEC WORKS	„	0787813037
5	AYUDO JANE	SEC FINANCE	„	0774513105
6	OKELLO SAMMY	V C/M	„	0777037211
7	GEAFRINGO GEOFFREY	DISO	„	0772192464
8	MADIRI AHMED	DPC	„	0774667983
9	MUYOMBIA DENIS	RDC	„	0783470754
10	AYAMA JAMES	PLANNER	„	0779322607

#### GROUP INTERVIEW HELD IN BUKEDEA DISTRICT PLANNERS BOARD ROOM ON 16/05/2017

S/N	NAME	TITLE	FROM	CONTACT
1	OKWI MICHEAL	COUNCILOR	BUKEDEA	0772828776
2	BULOLO STEPHEN	DISO	BUKEDEA	0772795919
3	TINO CHRISTINE ELIODO	SEC PRODUCTION	BUKEDEA	0772167911
4	OPIO SAMSON MISAKI	SPEAKER	KIDONGOLE	0772211652
5	OPIT OBELLA SAM	SEC WORKS	KIDONGOLE	0782096208
6	ENWAKU E. SMITH	SEC LAND BOARD	BUKEDEA	0781863030
7	APIO NANCY	DPC	BUKEDEA	0754230617
8	AKOL JOSEPH	SAS	KIDONGOLE	0776305178
9	ONGABA STEOHEN	D/PLANNER	BUKEDEA	0772863708
10	TAVUGA MUBARAK	SEC PRODUCTION	KIDONGOLE	0782837481
11	CHEMERY IGUNE W.	SAS	KIDONGOLE	
12	ASIO MARIAM	SEC HEALTH	KIDONGOLE	0777855587
13	EKOROI PETER	SEC EDUCATION	KIDONGOLE	0779961828
14	OKURUT SAMUEL	CHAIRMAN	KIDONGOLE	0776886087

**REGISTRAR- Soroti High Court  
GWERI LC III COURT  
CID SOROTI-CPS**

**ATTENDANCE SHEET**

**Purpose:** Apeleun Women's Group

**Location:** Omodoi s/county (women Group)

**Date:** 5<sup>th</sup> /may/2017

No.	Name	Sex	Age		Title	From/Place	Mob. No.
			19-35	36-55			
1	AKWI MARY	F			C/Person	Apeleun	0787758537
2	AKELLO MARGRET	F				Apeleun	
3	AKOL CHRISTINE	F			Member	Apeleun	
4	AKIROR BETTY	F			Member	Apeleun	
5	ATITA TERESA	F				Apeleun	
6	ALOKET GRACE	F			Member	Apeleun	
7	ARIKOT BETTY	F			Member	Apeleun	
8	AKELLO AGNES	F			Secretary	Apeleun	
9	ACHEN ROSE	F			Member	Apeleun	
10	KONGAI CICILIA	F			Member	Apeleun	

**ATTENDANCE SHEET**

**Purpose:** Focus Group Discussion with the Youth Group in OMODOI (ACUNA YOUTH)

**Location:** Omodoi Sub-County Katakwi District

**Date:** 5<sup>th</sup> /May/2017

No.	Name	Sex	Age	Title	From/Place	Mob. No.
			19-35			
1	OCERO PAUL	M		Youth	Aleles	0784352407
2	APOLOT SARAH	F		Youth	Aleles	0772020175
3	KIYAI ANN GRACE	F		Youth	Aloet	
4	OKIROR RICHARD	M		Youth	Aloet	0782866595
5	APIO CHRISTINE	F		Youth	Aloet	0779140870
6	AKELLO JENIFER	F		Youth	Aleles	
7	ABUBURA HELLEN KETTY	F		Youth	Aloet	0777302750
8	EGASU BEN	M		Youth	Aloet	0779035526
9	ISORET H. SUSAN	F		Youth	Akisim	0779970320
10	Hon. OKELLO GABRIEL	F		Youth Councilor	Aloet	0785323825
11	ARAAT ROSE	F		Youth	Aloet	

**ATTENDANCE SHEET**

**Purpose:** Focus Group Discussion with Clan Leaders **(RESEARCH)**

**Location:** Katakwi Sub-County, Katakwi District

**Date:** 13<sup>th</sup> /may/2017

No.	Name	Sex	Age		Title	From/Place	Mob. No.
			19-35	36-55			
1	OGHEGER JOHN MIKE	M			c/person	Moru-Inyamat	0785310110
2	OKURUT GERALD FRANCIS	M			C/person	Akoboi-Dadas	0775206122
3	OPIO JOHN PETER	M			C/person	Akoboi-Alukucok	0772089900
4	ANGURIA ALFRED	M			secretary	Akoboi-Dadas	0788296680
5	AKHOL OLET JAMES	M			Mobiliser	Moru-Inyamat	0772672468
6	OCUMAR ALOYSIOUS MARTIN	M			Vice C/person	Akulet-Getom	0782434113
7	OKURE FILBERT	M			Clan leader	Moru A	
8	OMODING FILBERT	M			Speaker	Aleles	0751022669

**LIST OF PARTICIPANTS IN THE FOCUSED GROUP DISCUSSION IN OCHERO SUB-COUNTY, KABERAMAIDO DISTRICTS**

<b>GROUP 1 CLAN LEADERS</b>		<b>GROUP 2 TOWNBOARD FOCUSED GROUP DISCUSSION</b>	
<b>NAME</b>	<b>CONTACT</b>	<b>NAME</b>	<b>CONTACT</b>
1. EDUTU .G. WILLIAM	0785248833	1. AREO DOLLINE	0774946971
2. ELOSU JOHNSON	0779475070	2 .ATIKIRO .R.	0774630018
3 .AKUNYO MODESTA		3. OPIO RICHARD RAYMOND	0774828714
4. AKITE BETTY		4 .ESWAU DAVID	0773881523
5. ARAGO SMITH	0775468085	5. ACHAR PATRICK	0783078187
6. ALEMO JENTI		6. ENYABU RICHARD	
7 .EWALU MICHAEL	0776508693	7. EWAYU FRANCIS	0783315766

**GROUP 3  
ENTREPRENEURES' FOCUSED GROUP DISCUSSION**

<b>NAME</b>	<b>CONTACT</b>
1. OPIO ROBERT	0775859045
2. EPSU ROBERT	0779963401
3. AGESO ROBINA	0751019819
4. AMUO .I. REBECCA	0779530272
5. APACU TIMOTHY	0777614161

**LIST OF ATTENDANCE FOR FOCUS GROUP DISCUSSION, ACOWA SUBCOUNTY**

**1. People with disability group:**

No.	Name	Sex	Age
	Agoe Selina	F	29
	Atim Rosa	F	38
	Akello Stella	F	62
	Ocen Peter	M	46
	Otim John	M	56
	Okotum Isaac	M	63
	Oloba Job	M	23
	Erisat Tom	M	29
	Ocom Syrus	M	36
	Okurut Ivan	M	36
	Ogwang Paul	M	39

**2. Women's group**

No.	Name	Sex	Age
	Acaroi Rita	F	89
	Abor Mary	F	46
	Akiteng Mary	F	36
	Atim Anne	F	69
	Congoni Rosa	F	65
	Ajiko Keletesia	F	56
	Arionge Betty	F	26
	Apio Perina	F	29

## Annex 4: Key References

### At the national level:

- The Constitution of the Republic of Uganda, 1995
- The Uganda Land Act Cap 227 (as amended)
- The National Land Policy of Uganda, 2013
- Traditional and Cultural Leaders Act, 2011
- The second National Development Plan.
- National Vision 2040.
- The Mortgage Act 2009
- The Land Acquisition Act, Cap 226
- The Local Council Courts Act, 2006
- The Succession Act Cap 162
- The Physical Planning Act 2010
- The Divorce Act Cap 249
- The Children Act Cap 59
- The Land Regulations 2004
- The Physical Planning Regulations 2011
- The Mortgage Regulations 2012
- The Local Council Courts Regulations 2007

### At Teso Sub-Region level:

- Principles, Practices, Rights and Responsibilities (PPRR) of Customary Land Tenure in the Teso Sub-Region
- Power and Vulnerability on land resolution in northern Uganda (NULP)
- Land in Teso and Karamoja (GIZ-CPS study)
- Teso Multi-stakeholders Meetings (GIZ-CPS)
- Strengthening Women Land Rights in Teso Sub-Region. AWOLARIP. GIZ-CPS. 2016
- Uprooting bad faith brief
- Religious Mediation Handbook (Teso Religious Efforts for Peace and Reconciliation)
- Rugadya Margaret (2007) Post Conflict Land Policy and Administration: Lessons Form Return and Resettlement of IDPs in Soroti
- Judy Adoko and Simon Levine 2007: Land transactions in land under customary tenure in Teso: Customary land law and vulnerability of land rights in Eastern Uganda.
- Rugadya, M., Nsamba-Gayiiya, E., Kamusiime H (2007); Analysis of Post Conflict Land Policy and Land Administration: A Survey of IDP Return and Resettlement, Issues and Lessons in Teso region, for the World Bank to input into the PRDP and the Draft National Land Policy.
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### Books and Articles

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- Abby Sebina-Zziwa, Richard Kibombo and Herbert Kamusiime (2003): Land Dispute Resolution Mechanisms: What works in the rural settings? MISR, Kampala.
- A Study on Participatory Poverty Assessment on Safety, Security and Access to Justice: Voices of the Poor in Uganda (2002 Study by Windsor Consult Development Consultants, commissioned by the Ministry of Justice and Constitutional Affairs.
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- Kigula, J (1993) "*Land disputes in Uganda*" An overview of the types of land disputes and dispute settlement fora, *Research paper 3, MISR and Land Tenure centre*.
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- Kiryabwire, G (2005) *ADR: A Uganda Judicial Perspective*. A paper delivered at the continuation seminar for Magistrates Grade One held at Colline Hotel, Mukono.
- Kumam Principles, Practices, Rights and Responsibilities (PPRR) for the customary land tenure management of 2011
- Mugambwa John T (2002). *Source book of Uganda's land law*. Fountain publishers.
- Mugambwa John T (2002) *Principles of land law in Uganda*: Fountain publishers.
- Muhereza, F. (1992). *Pastoralism and Land conflicts in Uganda: Implications for the National Land Policy*. Uganda Land Alliance.
- Mwebaza, R (1999) *How to integrate Statutory and Customary Tenure: The Ugandan case*. A paper presented at the DFID workshop on Land rights and sustainable development in Sub-Saharan Africa at Sunningdale; Berkshire, UK 16<sup>th</sup> – 19<sup>th</sup> February.
- Rugadya, M (1999) "*Land reform, The Uganda Experience*", Land Use and villagisation workshop.
- Rugadya et al (2008) *Report on the Integrated Study on Land and Family Justice*: Ministry of Justice and Constitutional Affairs.
- Rugadya .M (2009) *Escalating Land Conflicts in Uganda: A review of evidence from recent studies and surveys*, International Republican Institute and the Uganda Round Table Foundation.
- Resolving Land Conflict in Acholiland: A Guide for Community Based Stakeholders. The Acholi Religious Leaders Peace Initiative [ARLPI]
- Wehrmann Babette (2008). *Land Conflicts: A practical guide to dealing with land disputes*. Eschborn.

## **Annex 5: The Terms of Reference**

Terms of Reference for the Baseline study on Land conflict management mechanisms in the Teso Sub-Region

### **1.0. Introduction**

While the Constitution of the Republic of Uganda (Article 237 and section 2 of the Land Act Cap. 27) vests the ownership and management of land in Uganda on its citizens and recognises customary tenure as a legal tenure, there is still inadequate awareness on land rights and its attendant obligations. This makes most of the population vulnerable and further curtails their venturing into the land ownership processes as well as inclusive participation in the country's socio-economic development. The 1998 Land Act (As Amended) defines customary land tenure to include its territorial or clan nature, existence of rules and regulations governing community, family and individual access to and ownership of land. Despite all these provisions, not a single community in Uganda has successfully followed the legal processes set out in the Act to protect and secure their land.

Teso Sub-Region, which is constituted by the 8 districts of Soroti, Katakwi, Amuria, Kaberamaido, Ngora, Kumi, Bukedea, and Serere, is located in Eastern Uganda and is largely inhabited by the Iteso and Kumam tribes with an estimated population of 2,364,569 people (UBOS, 2016). Land in Teso is largely owned under customary land tenure and is vested under patrilineal lineage. While clan systems guarantee the rights of ownership and access for everyone and would equally handle land disputes on merit, pressure on land has dramatically increased especially over the last two decades as a result of increasing population, mushrooming trade centres, appreciation of land as a finite resource and its commercialisation. Other factors include:

- Limited understanding of land tenure systems among the population creating land disputes with no expedient legal method to clarify ownership;
- Tension from rapid socio-economic changes due to the shift from subsistence to cash economy;
- Political and religious differences creating family and community divisions;
- Growing pressures to find alternative income sources;
- Fear, tension and mistrust over customary ownership practices;
- Tension caused by breakdown of traditional leadership structures and systems (i.e. loss of respect for, and power of, leaders without new credible systems to replace leadership).

The above situations are conflict triggers that threaten tenure security especially for the most vulnerable population, including the active poor - subsistence farmers. Besides being structurally inadequate, people and institutions mandated to respond to land conflicts in the formal and informal settings are not responsive to these evolving complexities.

### **2.0 Rationale for the study**

In its pursuit to reduce extreme poverty and hunger in the world under its Field of Action 6 i.e. "support of responsible land utilisation and improvement of land access", the "One World, No Hunger" special initiative of the German Federation Ministry for Economic Cooperation is seeking to ensure that land utilisation, safe and fair land rights are guaranteed as a precondition for sustainable development.

In respect of the above aspiration, the German Federal Ministry for Economic Cooperation and Development (BMZ) is funding a five year project: "Responsible Land Policy in Uganda" (RELAPU). RELAPU held a planning workshop on the 14<sup>th</sup> and 15<sup>th</sup> September 2016 to plan activities purposed to facilitate the securing of tenure rights on customary land in Soroti and Katakwi districts in the Teso Sub-Region. During the workshop, discussions were held on how to strengthen the competent engagement of civil society actors in formalising the implementation of the project to ensure that "80% of the land conflicts that occur during its implementation in the target communities in Central and North-Eastern Uganda are processed and solved.

To initiate the process of identification and understanding of what conflict management mechanisms exist in the Sub-Region; explore possible options to filling existing gaps among partners; ensure that all actors work in a coherent way, Teso Initiative for Peace in partnership with RELAPU is seeking the services of two competent consultants to facilitate “the identification and analysis of land conflict resolution mechanisms in the Teso Sub-Region in order to form the basis for strengthening both formal and informal structures and establishing a comprehensive blue print on land rights awareness and protection” that various partners in Teso can borrow a leaf from.

It is important that the most at risk population in the community are competent in determining when and where to go first if they are faced with land conflicts. Key questions on the preferred structures and executing powers ought to be made clear to the communities and thereby enhance efficiency and avoid “Forum shopping”.

Alternative Dispute Resolution (ADR) is quite known and acceptable in Teso Sub-Region and is considered as being fair to land conflict resolution in Teso.

## **2.1 Objectives of the consultancy**

The overall objective of the consultancy is to discern *land conflict management mechanisms* in the Teso Sub-Region.

### **The specific objectives include:**

- Identifying and analysing the existing formal and informal land conflict resolution mechanisms in the Teso Sub-Region for better understanding of the scale of land related conflicts.
- Analysing the efficacy of the existing formal and informal land conflict resolution approaches in Teso Sub-Region i.e. strengths, weaknesses, opportunities, threats in each.
- Identifying the “best practices” and lessons learned from the use of the various formal and informal land conflict resolution approaches in Teso Sub-Region
- Identifying and analysing the competencies of key stakeholders involved in land conflict resolution in the Teso sub region.
- Discerning the existing discriminatory practices enshrined in the customary land tenure system.
- Assessing how the existing formal and informal land conflict resolution mechanisms are impacting on the right of ownership, control, access to and use of land by men, women, youth, other vulnerable persons i.e. persons with disability and orphans in the Teso Sub-Region.
- Recommending the most efficient, appropriate and coherent land conflict resolution pathways and approaches in the Teso Sub-Region.
- Propose actions for mainstreaming Comprehensive and coherent conflict management mechanisms (3CMM) by the relevant actors in the Teso Sub-Region in order to avoid duplication and *forum shopping*.

## **2.2 Expected Outputs**

Study report with a comprehensive outline of clear pathways and best practices in implementing appropriate, participatory and sustainable mechanisms on land conflict resolution in the Teso Sub-Region.

## **3.0 Methodology**

A number of CSOs, traditional leaders and structures, courts and police as well as local government structures are engaging in land related conflict resolution using Alternative Dispute resolution (ADR). In order to avoid duplication and incoherence, it is imperative that the study uses inclusive and participatory approaches that have the buy-in of the relevant actors involved in land conflict resolution. In lieu of this it is important to document these practices and lessons learnt in order to strengthen the 3CMM.



Teso Initiative for Peace therefore commissions this study to discern ways of strengthening land management mechanisms in the Teso Sub-Region i.e. ownership, access, control and utilisation. The study will therefore use a combination of approaches i.e. both quantitative and qualitative including review of already existing literature e.g. study reports featuring similar settings.

For purposes of linking what is documented versus practice, it is hereby proposed that the study shall enlist both a desk review (secondary information) corroborated by segmented stakeholder consultations (primary data and information). The project shall therefore hire two strands of proven consultants i.e. one expert to conduct a comprehensive desk study of the requisite documents on the formal and informal land conflict management mechanisms and the other to undertake elaborate field studies on the same. The two pieces of work shall be converged in developing a comprehensive report that will outline the best practices and how these can be applied to strengthen land conflict management mechanisms in Teso Sub-Region.

#### **4.0 Geographical focus, content and scope**

The field studies shall be conducted in the five districts of Katakwi, Soroti, Amuria, Kaberamaido and Bukedea from where the sub-counties of Omodoi, Katakwi, Gweri, Katine, Acowa, Ocheru and Kidongole shall be the primary target areas. In these areas, purposive targeting shall be done in order to generate and triangulate information.

The field study in its entirety shall interact with 3 groups of youth, 3 groups of women, 3 groups of persons with disability, 5 teams of clan leaders, 3 teams of entrepreneurs whose activities have a direct impact on land e.g. sand and murrum mining, brick making, rock excavation; 2 Town Council Boards and 28 religious leaders (Islam, Catholic, protestant and Pentecostal). The groups shall be identified in consultation and keeping with the work already being done by various CSOs. It shall be incumbent upon the consultant in-charge of the field studies to devise appropriate data collection techniques. Data collection shall take 2 days per Sub-County and it shall be done by two data collectors per Sub-County.

The consultant to undertake the desk study shall concentrate on secondary information in lieu of reviewing documents on, identifying and analysing the efficacy of the existing formal land conflict management mechanisms in the Teso Sub-Region. The consultant shall borrow a leaf from other similar studies under comparable social and cultural contexts. It is important that the study incorporates elements of the relevant experiences, laws and policies such as provided under but not limited to:

- The Constitution of the Republic of Uganda
- The Uganda Land Act 1998 (as amended)
- The National Land Policy of Uganda, 2013
- Principles, Practices, Rights and Responsibilities (PPRR) of Customary Land Tenure in the Teso Sub-Region
- Power and Vulnerability on land resolution in northern Uganda (NULP)
- Land in Teso and Karamoja (GIZ-CPS study)
- Teso Multi-stakeholders Meetings (GIZ-CPS)
- Uprooting bad faith brief
- Religious Mediation Handbook (Teso Religious Efforts for Peace and Reconciliation)
- Traditional Leaders Act, 2012
- The Succession Act

#### **5.0 Target group**

The study shall be cognisant of the existence of formal and informal structures that are engaged in land dispute management and administration and shall therefore aim at harmonising the mechanisms for dealing with various forms of land conflicts. The study shall interact with stakeholders like RDCs, Police, LC-1, LC-3, LC-5 councilors, Area Land Committees, (ALCs), District Land Boards (DLB), District Lands Officers (DLO), clan and religious leaders, magistrates and Civil Society actors and others privy to land management.

**6.0** It is anticipated that once commissioned, the study shall be concluded within 5 months commencing March to August 2017.

**7.0 Deliverables**

Each of the consultants shall initially submit draft reports of their studies (soft copies) to Teso Initiative for Peace and eventually make a presentation during the Teso wide validation meeting within a span of 25 days spread out in the 5 months of the project. Both consultants shall compress the two reports to produce a consolidated report for eventual submission to GIZ-RELAPU.

Reporting	To be delivered
Inception Report	With detailed methodology, tools, professional fees, timeline and experience within 5 working days prior to the signing of the contract
Progress report updates	Once a month to get updates and address any attendant challenges
Draft report	Within 5 working days following end of field and desk studies
Final report	Within 5 working days after validation

**8.0 Study factors and technical approach**

In addition to price quotations, submission shall be scrutinised on the basis of technical factors such as qualification, experience, relevance and the drive to enhance learning for TIP and its stakeholders during the study.

TIP shall allocate an officer to coordinate the implementation of the study. He shall work hand in hand with the two consultants and research assistants to be recruited. The coordination of the survey shall therefore be executed within the tenets of Teso Initiative for Peace.

**9.0 Reporting**

The separate desk and field study reports shall be joined during the final submission. Both consultants shall make a presentation during a Teso wide validation meeting.

**10 Application procedures**

Qualified firms and or persons can apply by submitting their technical and financial proposal (professional fees) chargeable to Teso Initiative for Peace **not later than 31<sup>st</sup> March 2017 at 5:00pm**. The proposal should include the Curriculum Vitae of the consultant on the relevant study area to the address below:

Teso Initiative for Peace, P.O. Box 686, Soroti or E-mail: [tipteso@gmail.com](mailto:tipteso@gmail.com). **Note:** *The technical evaluation of the proposals shall be based on the qualification and relevant experience of the persons to undertake the study, proposed methodology, innovation, timeframe, legal status of the bidder or bidding firm and professional fees.*

*(Footnotes)*

- 1 For more details see chapter 3.2.11
- 2 Here, we considered number of responses since it was a multiple choice question.
- 3 Here, we considered number of responses since it was a multiple choice questions.
- 4 Here, we considered number of responses since it was a multiple choice question.
- 5 Here, we considered number of responses since it was a multiple choice question.
- 6 Here, we considered number of responses since it was a multiple choice question.





Implemented by:  
**giz** Deutsche Gesellschaft  
für Internationale  
Zusammenarbeit (GIZ) GmbH



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