

LAND IN POST-CONFLICT SITUATIONS

War, Decentralization, Land Governance and
State Formation In Northern Uganda



Doreen Nancy Kobusingye

Land In Post-conflict Situations

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2018

Propositions

1. It is not possible to comprehend post-conflict land governance without understanding the role of the state.
(this thesis)
2. Without power, people or institutions cannot participate in land governance.
(this thesis)
3. There is no need to toy with democracy by a regime that was imposed by violence.
4. You can only govern people that are willing to be governed.
5. Being extremely vocal is a cover-up of inner personal battles or insecurities.
6. Projecting a trajectory of a PhD is like climbing and sloping incessant hills.

Propositions belonging to the thesis, entitled;

Land In Post-Conflict Situations: War, Decentralization, Land Governance And State Formation In Northern Uganda

Doreen Nancy Kobusingye

Wageningen, 30 April 2018

LAND IN POST-CONFLICT SITUATIONS

**WAR, DECENTRALIZATION, LAND GOVERNANCE AND
STATE FORMATION IN NORTHERN UGANDA**

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LAND IN POST-CONFLICT SITUATIONS

WAR, DECENTRALIZATION, LAND GOVERNANCE AND STATE FORMATION IN NORTHERN UGANDA

Doreen Nancy Kobusingye

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For Eliah, Kiva, Elijah and Dorcus.

You have walked this journey with me, Ninkusima Ruhanga.

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Table of Contents

Acknowledgments	vii
Table of Contents	xi
List of Tables	xiv
List of Figures.....	xiv
List of Maps	xiv
Acronyms and Abbreviations	xv
 1. General Introduction	 1
Community meeting of 4th May 2013 at Kololo, Amuru District.....	1
Problem statement.....	5
Objectives of the study.....	6
Research Questions.....	7
Relevance of the study	7
Post-conflict land governance reform in northern Uganda	8
Historical divides between the north and south/state shaping perceptions.....	9
Theoretical framework.....	11
Power Relations and Access to Land	11
Decentralization and Decentralized land structures	13
Legal pluralism, institutional proliferation and tenure security.....	14
Land governance and state formation	17
 2. Methodology	 21
Organization of the research.....	21
Selection of study areas and case studies	21
Methodology	22
Ethnography	22
Methods of data collection	23
How choices made in methodology contributed to the research.....	25
Fieldwork experiences.....	25
Language barrier.....	25
Living with the communities	26
The research area: Northern Uganda.....	26
The Acholi sub-region.....	27

3. The Multifaceted Relationship between Land and Violent Conflict: The case of Apaa Evictions in Amuru district, Northern Uganda.....	31
Introduction.....	32
Analyzing land, governance and conflict in post-conflict settings	34
Governance, war and land disputes: the Apaa evictions, Amuru district	36
The creation of new districts: putting into question the jurisdiction over Apaa land	40
Land, ethnicity and identity.....	42
The role of the LRA/NRM war in the conflict about the land in Apaa.....	43
Displacement opened up space for land grabbing.....	43
Ambiguity of land governing authority and political competition	44
The identity factor in a post-conflict setting	45
Discussion and conclusion.....	45
4. Decentralized Land Governance and Power Complexities in Large Scale Land Allocations: The Case of Amuru Sugar Project in Uganda.	49
Introduction.....	50
Decentralization, power and accountability	51
Decentralization in Uganda	53
Decentralized land governance in Uganda.....	54
Customary tenure in Acholi region.....	56
A brief history of the LRA conflict.....	57
Power plays in decentralized land governance - the case of Sugar cane plantation in Amuru district	58
Analysis - Decentralized Land Governance in Practice.....	62
Conclusion	65
5. Where do I report my land dispute? The impact of institutional proliferation on land governance in post-conflict Northern Uganda.	69
Introduction.....	70
Methodology	72
Legal pluralism and institutional competition.....	72
Decentralization of land governance in Northern Uganda	75
Institutional proliferation and land dispute resolution - the case of Kigwe dispute in Pader district. 77	
Discussion	79
The impact of war on land institutions	80
Conclusion	83

6. African Youths; The Forgotten Category in land governance. A Case study of Post-conflict Acholi Region, Northern Uganda.....	87
Introduction.....	88
How intergenerational conflicts, power and violence shape the role of youth in land governance ..	89
The Role of Youth in Land Governance – the case of Acholi Region, Northern Uganda.....	92
Changes in land governance relations within the family	92
Changes in land governance at the community level	95
The role of youth in political contestation about land	99
Discussion and conclusion	101
7. General Discussion and Conclusion	105
Land governance reform in Northern Uganda; decentralizing or establishing the state?	105
The impact of LRA war on land governance in northern Uganda	106
Land reform and the continuing struggle between the North and the South	107
Decentralization and power relations among land governing institutions	108
Institutional competition and the acknowledgement of customary tenure	109
Land governance as a means of state formation	111
The violent imposition of a new land governance regime	113
Implications for policy	114
Final remarks	115
Areas for Future Research /Limitations of the study	116
References	117
Summary.....	129
Samenvatting.....	133
Other Outputs from the research	137
About the Author	139
Completed Training and Learning Activities.....	140
Funding	142

List of Tables

Table 1

A history of population movements and evolution of Apaa conflict	39
--	----

List of Figures

Figure 1

An Illustration of the drivers of conflict in the Apaa Evictions	47
--	----

List of Maps

Map 1

Showing Northern Uganda	27
-------------------------	----

Map 2

Showing Acholi Sub-Region	28
---------------------------	----

Map 3

Showing Apaa conflict area and other localities mentioned in the case study	38
---	----

Map 4

Showing Study Area of Pailyec Parish, Amuru Sub County in Amuru district	67
--	----

Map 5

Showing the Study Area of Kigwe village, Lapul Sub County in Pader District	85
---	----

Acronyms and Abbreviations

ARLPI	Acholi Religious Peace Initiative
ASC	African Studies Centre
CCO	Certificate of Customary Ownership
FAO	Food and Agriculture Organization
FGD	Focus Group Discussion
FM	Frequency Modulation
GDLG	Gulu District Local Government
GOU	Government of Uganda
HSM	Holy Spirit Movement
HURIFO	Human Rights Focus
IDPs	Internally Displaced People
KKA	Ker Kwaro Acholi
LC	Local Council
LRA	Lord's Resistance Army
MP	Member of Parliament
NBS	Nile Broadcast Services
NGOs	Non-Governmental Organizations
NRC	Norwegian Refugee Council
NRM	National Resistance Movement
NTV	Nation Television Uganda
RC	Resistance Councils
RDC	Resident District Commissioner
RLP	Refugee Law Project
SPLA	Sudan People's Liberation Army
UBOS	Uganda Bureau of Statistics
UNICEF	United Nations Children's Fund
UNLA	Uganda National Liberation Army
UPDA	Uganda People's Democratic Army
UPDF	Uganda People's Defense Force
USD	United States Dollar
UWA	Uganda Wildlife Authority

1. General Introduction

Community meeting of 4th May 2013 at Kololo, Amuru District

On the 4th of May 2013 all roads in Amuru district led to Kololo village. Lawyers were to deliver an update on the land dispute between the community of Amuru District and the Amuru District Land Board. The community contests allocation of 10,000 hectares of land by Amuru District Land Board to Amuru Sugar Company Limited, which is one of the most vehement land conflicts in Acholi region. Days before the community meeting local people were mobilized by their local leaders and announcements were run on local FM radios urging people to attend in big numbers. The state Minister for Water, who doubles as the Amuru District woman Member of Parliament, other members of parliament and other politicians were to attend the community meeting.

At 1pm my research assistant and I arrived at Kololo primary school, which had structures constructed from mud and thatched with dry grasses. It was the venue for the meeting. At a stone's throw away a makeshift police station/barracks of approximately 100 policemen was in place and ready to keep law and order. Local people were clustered in small groups, some were seated on school desks and others sat on the grass under trees to get shelter from the scorching sun. A pickup truck kept on ferrying people from neighboring villages to the meeting grounds. The majority of people arriving were youths. One could tell the level of poverty by looking at their torn clothes. Some were bare footed while others wore dirty clothes which suggested they had been directly picked from their gardens. Both the elders and youth seemed enthusiastic and were looking forward to receive updates about the land dispute from the lawyers, minister and politicians.

At around 3pm the meeting started after an announcement that the state Minister for Water would be late. A local mobilizer who had failed to win in previous local council elections but commanded a lot of respect from the local people opened the discussions. He started by saying that "we finished the LRA war but now we are in conflict over land which is very difficult". The people gathered were reminded of the agenda of the meeting: the lawyers representing the community in court would report on the progress made in negotiations about the conflict with the attorney general representing government.

The lawyers then informed the people gathered that after their many meetings with the attorney general at state house, some resolutions had been reached between them and the attorney general in response to local people's demands and concerns expressed in earlier meetings.

The first of those was that the community wanted to know the exact boundaries of the land that was allocated to the sugar company by the district land board. The lawyers and the attorney general had agreed that the sugar company should show these boundaries to the community. The lawyers also informed the people that they would be compensated before they would be displaced from the land by the sugar project. The second request was to be better informed about the extent local people would benefit from the sugar project. In response, the attorney general had advised people to form and register associations that would communicate directly with the government on how the community would benefit. The third issue was people's concern about the fact that the district land board had allocated land

to powerful people without proper assessments. The attorney general had promised that the Ministry of Lands would work on that issue, so that people's rights to land would be protected. Lastly, the lawyers informed the gathered community that a team from government, including one minister from northern Uganda, the minister of lands and the attorney general, would visit the disputed land and consult the people staying on the land. The lawyers concluded by saying that "according to us, we see that the government is responding positively, it has accepted many -if not all- of our demands". The lawyers reminded the people gathered that the land dispute was still in court, and if negotiation with government would fail, they could still hope for a court ruling in their favor.

The reaction of local people to the report from the lawyers

The announcement of these resolutions resulted in sporadic questions and people talking at the same time. Tempers were rising; people were dissatisfied with the solutions that had been reached between the lawyers and the attorney general. The community wondered how government could simply show up and allocate land to an outsider, the sugar company, without involving let alone informing them. People also asked "if we are relocated, and not compensated, what will the government do?" The people said that it was clear government wants to put an end to the Acholi people. People then argued that they want the government first to accept that the land belongs to the people, and if the government is not willing to do so, they are not willing to receive any team from the president.

A young man raised his hand and was given a chance to speak. He said: a group of 100 people from other parts of Acholi had been invited to state house, had visited the Kakira sugar factory in Jinja district, and had gone to Kalangala District to visit the palm plantations and oil factory. However, the people from Lakang, the proposed locality for the sugar factory in Amuru District, had not been included in these visits. The purpose of these visits had been to have youths see for themselves the potential benefits of large-scale investments. The young man argued that these promotion visits had taken place before this community meeting in order to create political support for the sugar cane plantation and nurture opposing opinions among the Acholi.

After the youth had spoken, other people commented that when you are not affected by something, how are you able to talk on behalf of the affected? All the people that had participated in these visits to other parts of the country had received an allowance of 400,000shs (153 US Dollars), slept in lodges of 200,000shs (76 US Dollars) and had been "feasting on expensive food". It was rumored that in total over a billion Uganda shillings had been spent on these visits which might have been used to build schools and open up roads in order to rebuild the communities after war. Some people then started to shout that some of the beneficiaries were present and should be stoned to death. Many of those present then said that people of Lakang should not go to meet the president.

An elder remarked that some politicians disorganize and misrepresent the ways in which people of Acholi own land. This comment was directed to a particular prominent politician who is known for his support to the government's plan to use the contested land for growing sugar cane. People commented that this politician wants a reward from government for supporting the sugar project because he lost his parliamentary seat in 2011. Other people then started to mention names of politicians that supported the government to give land to the sugar company and said that if these politicians had come to the meeting they would have

beaten them to death. Then the local mobilizer calmed people down and asked them to make a way forward. When tempers had been cooled down and some order restored, the local people present agreed on the following recommendations; the government should first accept that the disputed land was their customary land; only then government and the sugar company representatives could come and negotiate directly with the local people; and finally, that no delegates from Lakang would meet the president.

After the community had tabled their complaints to the lawyers, the discussions drifted to other issues like corruption and the importance of land to the Acholi people. A middle aged man commented: "to us, a land conflict is the most difficult war. No one can accept to be pushed into fire. But why are they pushing the people of Lakang into the fire? We have prepared our weapons to fight. The sons of Lamogi [a clan among the Acholi people] are fearless, and asked the cowards to leave Lakang and go to hide in Guru-Guru hills [where the Lamogi rebellion against the British was fought]. The government is made of people, yet the people are marginalized as if they are not the government". This remark illustrates the strained relationship between the Acholi people and the government, as well as the negative perceptions of the government prevailing among local people.

As it was getting darker, the lawyers told the people present that an attendance list would circulate and that people should sign for attendance. This list of attendance could then be attached to the minutes of the community meeting. However, many people present refused to sign the attendance list, demanding their Area Member of Parliament (MP) to first tell them it was okay to sign. Only after this had happened, the people present started to fill out the attendance list. The MP told people that "our land should not be played with. If it is to be given out, this should be done in the right way. Many people have been arrested in connection to this land conflict for no good reason. People of Lakang, you should not be fearful, even if the government has [its police forces] on standby to execute government orders like evicting you from this land. To authenticate the issue of money exchanging hands to support the sugar project, the Area MP said: Today should be the last day to receive money from the state house; people should get it on their own and not on the behalf of people of Lakang". The Area MP then got 500,000shs (192 US Dollars) out of his pocket and publically gave the money to the community leaders. He declared this money had been a bribe given to him by government to fuel his car to come to Kololo for the meeting yet he always comes to check on people in his constituency without government facilitation.

Thereafter, another MP, representing people with disabilities from northern Uganda, and belonging to the NRM ruling party, was given the floor to speak. He admitted that he had given that money to the Area MP, and that he had evidence that this same Area MP had received more money from the government. This statement resulted in a fight between the two MPs. Then a woman from the crowd walked up to where the MPs were seated, pulled a walking stick from the MP representing the disabled, and tried to beat him, However, she was pulled away. Then the Woman MP of Amuru district -who is also the state minister for water, and who had arrived 30 minutes earlier- intervened and stopped the two MPs from further confrontation.

At 7pm the woman MP of Amuru district was given the floor to address the people gathered for the meeting. She said "I am very happy to be with you even though I was late. I want to tell you that if the government had wanted to take the land by force, it would have done so already a long time ago. The fact that people are being paid to support the project is not

correct, because we would not be coming here to discuss this land issue.” Yet, as the minister continued to speak, the majority did not pay attention. I later discovered that the local people considered her to be supporting the interests of the government rather than those of local people.

An unexpected turn of events

At around 7:30pm, when the meeting was still ongoing, we left because our car had a flat tire, and we wanted to get a pump for motor cycles at Lakang centre to get some pressure. However, at 7:45pm we encountered a road block at Lakang centre organized by drunken youths armed with logs to be used for flogging people, stones, pangas, bows and arrows. The atmosphere got tense. My research assistant, driver and I were ordered out of the vehicle. From the crowd surrounding us, a young woman ordered the youth to beat me first. My driver and research assistant pleaded with them saying that I was only a student. Then, we were ordered to sit on some benches, as these youth, wanted to again discuss the land issue. The youths started shouting on top of their voices to make us know about their feelings towards the government, and how the land conflict had been handled by government and the district land institutions. The youth shouted that “we will continue beating up people, being violent until this land dispute is solved, Museveni (the president) will have to come back to Lakang, we will die on our land, how can a car take people from other villages to the meeting in Kololo and no one from Lakang is taken yet it is the headquarters of the land conflict”.

After around 20 minutes of our “arrest” by these irate and drunk youths, the car of the Area MP arrived. It was stopped and he came out, he shook hands with the youth casually and called some of them by their names. The youth realized that he was their beloved Area MP and then wanted to let him continue with his journey. Yet, before the Area MP could leave 3 other cars arrived, one carrying the state minister, another one the lawyers, and a double cabin pick up that was ferrying people for the meeting. The cars were blocked. The body guard for the minister jumped out of the car to assess the situation, he started disbanding the road block by removing the stones and logs from the road. Then the youth started hurling stones at him and at the cars, smashing some windows. The situation got out of hand and the body guard started shooting in the air, while the youth continued approaching towards him, he even slapped and kicked some of them. Because of gun shots the youth scattered a bit. The body guard then ordered us (people from the Kololo meeting) back into our cars and we drove off in a convoy; everybody memorizing of how we had escaped the wrath of the violent youths of Lakang. We finally reach Gulu town at midnight.

The community meeting of 4th May 2013 at Kololo in Amuru district pointedly illustrates the complexities of post-conflict land governance in northern Uganda, which is the topic of this thesis. In the first place, the meeting and its aftermath shows the impact of the LRA war on tenure security, and the way land is governed, and how claims on land in such a context may turn very conflictive.

This all happens in a context where in principle district-level institutions are responsible for land governance. While proponents of decentralization argue that it may contribute to enhancing the power of local decision takers, the events rather demonstrate that it is more complex. The case of Amuru Sugar suggests that to better understand the outcomes of decentralization requires to explore not only the institutional arrangements that come about

as a result of the reform, but also to what extent they are indeed capable to perform the roles imagined for them, and how power plays of local and national elites play a role in this.

The case also illustrates the prevalence of institutional multiplicity in land governance. Even though the land dispute case is before the court of appeal waiting for a ruling, lawyers are busy negotiating with the attorney general about the same land dispute. Important to note is that both the court of appeal and the attorney general are at the national level. At the same time people claim the land as theirs on the basis of customary norms. The case suggests, that to understand how decentralization works out one needs to explore how it impacts a situation of ongoing institutional multiplicity and competition.

In addition it shows the problematic relationship between the state and the people of the northern region, and the sometimes violent nature of this relationship. The diverse remarks show a negative perception of the government. People from the north believe that the state does not protect their interests in land matters. The roles of state actors in this particular land dispute only reinforce people's perceptions of the state. The youth would not have had to block the roads 20 years before because there was no District Land Board to give away the land to a large investor. The state would not have got access to Acholi land, if it were not for the state institutions like army, and decentralized land structures such as the district land board that have been put in place over the past years. There is a strong perception that the state is trying to gain access to the resources of the community. A developmental state is using land policies to dispose of certain people (local people) to create space for the elites and government supporters especially investors. Later on in the thesis I will explain this relationship and show how the state is using land governance to incorporate northern Uganda into the "mainstream" Ugandan society.

In a nutshell, the community meeting provides a snapshot of the impacts of decentralizing land governance on tenure security, institutions and other actors in land governance, the sensitivity of such reforms in post-conflict settings, the use of violence in land matters and the problematic presence of the state at the local levels. These issues will be elaborated in this thesis in order to show how they shape post-conflict land governance and impact state formation in post-conflict settings.

Problem statement

Land disputes continue to play an important role in violent conflicts on the African continent. Consider for example how fierce competition for land contributed to the 1994 genocide in Rwanda (Pons-Vignon and Solignac Lecomte, 2004). Likewise, the civil war that started in 2002 in Cote d'Ivoire was linked to land and identity issues (Anseeuw and Alden, 2010). In 2006 in Ethiopia over 150 people were killed in a land clash between the Borenas and Guhis (Wehrmann, 2008). In Ituri in north-eastern Democratic Republic of Congo there has been an ongoing violent land conflict since 1999 between the Lendus and the Hemas (Vircoulon, 2010). Recent post-electoral violence in Kenya was directly connected to the threat of land evictions (Anseeuw and Alden, 2010). Land is a resource that is deeply embedded in conflict. And particularly in post-conflict settings people might react violently to land issues because they see it as the only source of livelihood.

Scholars have pointed out various reasons for land disputes. Some of them emphasize high population growth, availability and scarcity of land, political crises and land markets (Berry,

1993; Le Billon, 2001; Whitehead and Tsikate, 2003; Lund et al, 2006). However scarcity, distribution, and depletion are not just the characteristic of resources themselves; but often the ways in which land is governed make land such a contentious issue (Peters, 2004). Land conflict is foremost a matter of distribution, unequal access and exclusion that may be embedded in the system of land governance.

Land governance emerges out of a number of interactions among various actors at different levels of government and society. FAO (2007) defines land governance as a process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way conflicting interests in land are reconciled. The way in which land is governed may be conflictive and this can result into land regulations that are considered unfair, and irregular practices of land governance. It can have significant consequences for levels of tenure security, for example, overlapping and conflicting land rights and unequal access to and ownership of land can give rise to land disputes (Rugadya, 2009). Nowadays land governance reform is seen as a necessary measure to alleviate land disputes, while it might also deal with other tensions in societies (See Cotula et al, 2004; Wiley, 2006; Anseeuw and Alden, 2010). Reforming land governance, e.g. through decentralization, is often considered an important way to improve governance after conflict (FAO, 2007). At the same time, though, land governance and its reform are very sensitive affairs in post-conflict setting, as they touch on the issues that the peace process is all about.

This research project sought to find out how post-conflict land governance takes shape in post-conflict areas like Amuru district, amidst unique characteristics of post-conflict situations such as displacement and return; confusion over which institutions have authority over land governance; opportunities that can be exploited by the powerful; and use of violence in land matters. It starts from the realization that, in order to understand the relationship between land disputes and other conflicts, it is necessary to have a clear and deep understanding of the special characteristics of the particular land conflict, the causes of the conflict, its transformation, the actors involved and their power relations with each other (Wehrmann, 2008). Throughout, the study highlights the connection between the rampant land disputes in northern Uganda and the recently ended civil war.

Objectives of the study

This study aims to comprehend the dynamics of land governance reforms in post-conflict settings, particularly to understand how decentralization, the aftermath of the LRA war and the mobilization of youth have influenced land governance in post-conflict Northern Uganda. An indirect aim is to contribute to the policy debate about land governance by providing scientific findings on post-conflict land governance; especially at a moment that policies are being formulated in order to rebuild peace and reconstruct Northern Uganda. Land reform is problematic in post-conflict settings due to political sensitivities; whereas effectiveness of land reforms is a critical issue, considering the need for economic recovery and restoration of livelihoods. The study was particularly interested in the link between decentralization and land governance, as this is a key strategy in many post-conflict reform agendas. This study also intends to clarify the relationship between conflict and land and thereby contribute to the on-going debate on resource-based conflicts.

Research Questions

This study started from the question of how post-conflict land governance and its reform – notably decentralization– takes shape: how reform impacts the legitimacy and authority of local institutions, and contributes to tenure security and the resolution of land disputes in post-conflict Northern Uganda. The study is sensitive to the fact that land disputes might be connected to other contestations in society, and thus that land governance reform might have impacts beyond land disputes and tenure security.

Over the course of the trajectory I particularly got concerned with how land reforms are critically connected to the larger process of contested state formation in Northern Uganda where the state tries to get more control over its territory¹.

Hence, the main research question is:

How does war and subsequent decentralization impact on land governance in post-conflict Northern Uganda, and how does this contribute to the process of state formation?

This question led to the following sub-questions:

1. How is land governance in Uganda organized and how did the conflict in the North affect land access and land governance practices over time? In particular, how did the 20 years' civil war affect land access, land governance practices, and local land disputes in Northern Uganda?
2. How does decentralization influence land governance? How does it restructure power relations among land governing institutions and what is its impact on tenure security in Acholi region?
3. How does decentralization contribute to institutional proliferation and what is its impact on land dispute resolution in northern Uganda?
4. How has the war impacted and transformed the role of marginal groups such as youths and women in land governance in Acholi region?

Relevance of the study

A lot of studies have been carried out on decentralization in general but little has been done on decentralized land governance in a post-conflict situation in particular. As Clover (2010) noted, the issue of land policy in post-conflict environments has received little attention from researchers. The findings from the study are vital in understanding how post-conflict land governance takes shape which information is useful since a post-conflict situation in many

¹ The study equally paid attention to gender issues in post-conflict land governance. Women are often affected differently in war-time situations, basing on this reality data was collected to understand how the war impacts on women's ownership and access to land in northern Uganda. But also on how women become vulnerable in land matters in post-conflict settings. Gender issues in land governance were catered for in this study and much of these findings explaining land and gender relations were disseminated through a film documentary entitled 'Governance off the Ground' which was a product of grounding land governance program. However I chose not to devote a chapter to land and gender issues in this thesis because in literature a lot of attention is given to women and land matters. Instead in this thesis I choose to focus on the youth because little attention has been put into understanding the role of youth in land governance in post-conflict settings.

cases provides a window for governments to introduce administrative, territorial and land tenure reform.

Cotula et al (2004) advised that further research should be carried out in order to understand the link between land and conflict. This study shows that violent conflict and war prominently impacts on land governance and extensively contributes to land conflicts in post-conflict settings. In addition, the study underscores that the relationship between land and conflict cannot only be explained by the environmental security notions or by only the political ecology but rather a combination of both. Scarcity, availability, political, historical and social dynamics interconnect and contribute to the potential for conflict related to land or natural resources.

Lund (2010) points out that information does not serve only governments and technocrats but also social and political movements (like cultural institutions, civil society and pressure groups). This information might be useful to central and local government, NGOs and all stakeholders while formulating their policies in the reconstruction and peace building of Northern Uganda. For example the issue of devolving enough power from central government to local government so that local government structures like district land boards can make independent decisions about land governance. Bringing all actors in land governance on board and giving land issues a central place in order to maintain stability in post-conflict settings.

Post-conflict land governance reform in northern Uganda

Like in many areas coming out of war land is a contentious issue in northern Uganda². Land disputes have become part and parcel of daily life. One cannot fail to hear or read about a land related issue or dispute on radio, in the newspapers and in community meetings. The Ministry of Justice (2008) equally reported that land disputes ranked the highest among all conflicts in the country. Since 2006, after more than two decades of civil war between the Lord's Resistance Army (LRA) and the National Resistance Movement (NRM) government which resulted into the displacement of over 2,000,000 people, life in Northern Uganda is returning to normalcy. Following the 'inconclusive' 2006 Juba peace talks between the LRA rebels and the NRM government, former refugees and internally displaced people started returning home and re-accessing their land in northern Uganda. However, many people in the Acholi region are confronted with contestations and competition over ownership and access to land: within extended families (relatives), between those who returned first and those that returned later, between clans, between the Acholi and other tribes like the Madi, and between local communities and institutions like the Uganda Wildlife Authority, and foreign companies. In the difficult transition from war to peace, land disputes are considered a serious threat to stability of Northern Uganda (Cf. ARLPI, 2010; Carfield, 2011). To make matters worse formal and informal institutions that govern land are still weak as a result of breakdown during the civil war. Important to point out is that post-conflict does not necessarily mean a situation of total peace or no conflict at all but it can be a situation immersed in hidden conflict or characterized by forms of everyday violence.

Post-conflict settings are prone to land conflicts because of the disturbance of land governance during the conflict but also because land governance institutions may not be able

²In this thesis northern Uganda is taken to refer to the 7 districts of Acholi region including; Gulu, Amuru, Pader, Kitgum, Lamwo, Nwoya and Agago. Important to note is that politically northern Uganda encompasses the greater regions of Acholi, Lango, West Nile, Teso and Karamoja.

to guarantee people's tenure security. Violent conflicts might undermine the functioning of formal property rights institutions and when war ends people might question the capability of such institutions to enforce rights to property or natural resources (See Daudelin, 2003; Unruh, 2003). Post-conflict circumstances such as many people re-accessing land within a short period of time, a large number of contested land claims by for example returning refugees or internally displaced persons (IDPs) who find their land occupied by other displaced people and consequently settle on land belonging to others (Meinzen-Dick et al. 2008; Van Leeuwen, 2008), make post-conflict land governance significantly challenging. Without doubt the way land issues are dealt with is crucial for post-conflict stability. Land disputes at local level can articulate with or give birth to new conflicts (like ethnic conflicts) and if they are not managed properly they can broaden (draw in new issues), widen (suck in new actors) and intensify (suck in new victims) (Miall, 2004). The relationship between land and conflict cannot be underestimated or taken for granted. It is sometimes suggested that low intensity conflict can eventually result in an outbreak of extreme violence and limited land conflicts can erupt into large scale political conflict and violence (Andre and Platteau, 1998; Pons-Vignon and Solignac Lecomte, 2004). This makes land a critical element in peace building and economic reconstruction in post-conflict situations (See Unruh, 2003; Rugadya, 2008; Borrás and Franco 2010; Cammett and Malesky, 2012). Therefore, land reform in post-conflict areas ought to be well thought out because the risk of conflict is high in post-conflict societies (Bigombe et al. 2000).

Decentralization is often promoted as an important strategy of reforming land governance based on various assumptions about its positive effects (for example popular representation, local accountability and participation of local actors). Similarly Bigombe et al. (2000) argue that decentralization might facilitate war-to-peace transition because it empowers all stakeholders and allows them to settle issues such as land control, land reform and local representation. The government of Uganda is modeling post-conflict northern Uganda through promoting decentralization reforms to reconstruct the northern region. Regarding land issues, decentralization provides for statutory decentralized land governance structures like District Land Boards, District Land Offices, Land Tribunals, Area Land Committees and Sub-county court committees at the sub-county levels (Land Act, 1998). These structures are charged with dealing with land related issues or disputes. However, despite these efforts, land disputes are still rampant in post-conflict northern Uganda. The frequent occurrences of land disputes in Acholi region for example Gulu district (GDLG, 2010) might be an indicator of the ineffectiveness of decentralized land governance structures in dealing with land issues or disputes particularly in post-conflict situations. This study seeks to find out why decentralized land governance has not specifically translated into improved tenure security and less land disputes in northern Uganda.

Historical divides between the north and south/state shaping perceptions

Land governance reform takes place within the context of how the people in the north perceive the state and their relations with the state and this may have diverse consequences. The civil war in northern Uganda and the problematic north/south relations play an important role in shaping land governance in post-conflict northern Uganda. The relationship between the people of the north and the south or state in Uganda has been shaped by colonialism, tense relations after Independence and the war between the Lord's Resistance Army (LRA) led

by Joseph Kony and National Resistance Army/Movement (NRM) government headed by Yoweri Museveni, president of Uganda since 1986.

When the British colonialists ruled Uganda, they favored the Buganda region in the south because it was more organized and had political institutions that could help the British achieve their colonial objectives (See Atkinson 2010). This put Buganda at an elevated position vis-à-vis the other regions of Uganda. Note that Buganda is found in the southern region of the country, and thus all infrastructural investments were done in the south by the British. The northern region was of little importance to the colonial government because it had nothing to offer economically given that it was a dry land, sparsely populated and remote. As a result, since colonialism the Acholi region (north) has served as a labour reserve for the army, police and plantations in the south because the south has always been more developed compared to the north. At independence, the Acholi dominated the Ugandan army, a situation created by the British. The north was neglected by the British and also in the post-independence era the north was relatively underdeveloped and neglected. In short the colonial regime fueled the north-south division in Uganda (Omara Otunu 1995; Atkinson 2010; Branch 2010).

People from northern Uganda dominated state power from when Uganda attained independence to 1986. The northerners, among them the Acholi held most of the positions in the army and government at large during the regimes of Obote I and II, Amin and Okello. The divide between the north and south was further widened by the 1981-1986 NRM guerilla war and furthered by NRM government after capturing power in 1986 (Cf. Branch 2010). In 1981 Museveni welded a lot of support from people of Southwest and central regions because he was seen as fighting northern military domination or relieving the country from domination by the people of the north (Allen and Vlassenroot 2010). Therefore the takeover of power by the NRM in 1986 was seen as a threat among the Acholi because their political link to state power had been severed (Cf. Branch 2010). The Acholi were excluded in the NRM government (with no political positions) but also they were pursued by the same government and during the LRA war state violence was meted upon the Acholi (See Branch 2010).

In 1996 at the height of the civil war in northern Uganda, the NRM government ordered all people in Acholi to go to “protected” camps or Internally Displaced Peoples’ camps (IDP). The Acholi believe that encampment was not the only solution to the violence that was carried out by both NRM and LRA. Though the camps were to protect the people, they were not secure, violence was continually meted upon civilians and people were massacred, and mutilated, youth and children were abducted (Branch 2007; Atkinson 2010). The LRA war helped to show this north-south division and the position of Acholi or people of the north in the Ugandan state. When the LRA headed by Joseph Kony attacked civilians, it showed that the government was reluctant, unable or uninterested to protect the Acholi or people of the north. Instead encampment and state violence was viewed as government having secondary motives of getting hold of the land in Acholi. Land issues have also become closely connected to this marginalization in various ways. However on the other hand the NRM government may have believed that by forcing people into the camps it would effectively control the northern region and make it a part of the Ugandan state.

The media, both local and international, framed the LRA guerillas as satanic, barbaric and terrorists. This framing has for long worked in the interest of NRM government without a proper understanding of the actual reasons behind the rebellion in northern Uganda. Because of such labeling immediately the world condemned the LRA and wanted to bring it to an end

(Schomerus 2010). This helped government to secure funds internationally in order to buy weaponry to counteract the insurgency in the north. However army officers amassed personal wealth with money that was meant to help bring the insurgency to an end (Mwenda 2010). The economic benefits of the LRA war to the NRM government and army contributed to resounding the perceptions of the north-south relations.

In a nut shell, the NRM inherited a failed state in 1986 and its responsibility was to build a stronger state. Although this had been attained in the south over time, the NRM government had not achieved this in the north. Therefore the NRM wants the organs of the state like army, police and other state institutions to work in the north in order for it to legitimize its rule and incorporate northern Uganda into the Ugandan state (Cf. Mwenda 2010; Atkinson 2010). While the south has flourished economically, the north has been crippled economically due to the civil war thereby furthering the imbalance between north and south that has existed since colonial times. This contributed to the Acholi regarding themselves as different from the rest of Uganda. The Acholi and the people of northern Uganda at large believe that the current NRM government treats them as ignorant and backward (Also see Atkinson 2010). But also the Acholi are skeptical about the land governance reforms that are being carried out by the state in northern Uganda. In many ways land issues touch on larger issue of conflict in the north, marginalization and relations between the north and south. While violence is over, this North/South conflict is not. This ongoing divide seems also to play an important role in how land issues and government responses are locally understood. Thus land governance reforms in the north need to be analysed from this lens of North and South/State relations in Uganda.

Theoretical framework

A number of concepts have been employed to understand but also to contribute to debates around post-conflict land governance. Key concepts used include; decentralization, land governance, legal pluralism, institutional proliferation, access, conflict, violence, governance and state formation. All the concepts are interconnected to the topic of study. The analytical concepts are used as tools to understand issues under study and processes which were studied. The themes to be discussed include the nexus between land and conflict, decentralized land governance and an argument will be made that the state through decentralization acquired more control over local land governance. This is promoted by a situation of legal pluralism and institutional competition especially between customary versus statutory land institutions. This leads to a situation that the state increasingly determines where and how customary institutions operate through its decentralized institutions. This leads to numerous conflicts and even the use of violence in land matters by both the state and people.

Power Relations and Access to Land

Land governance is ultimately about access to land, it is thus vital to understand the concept of access. In the literature on land tenure a shift is taking place from analyzing formal property rights and how they are enforced or denied towards thinking in terms of access (Hann, 2007). Ribot and Peluso (2003:153) define access as the 'ability to derive benefits from things'. To them, access is not just a bundle of rights but is embedded in bundles of powers. These powers constitute the material, cultural and political-economic strands within the bundles and webs of powers that configure resource access (Ribot and Peluso, 2003). Access to land is vital for the rural populations of Africa, and often continues to be based on social identity or group

membership along lines of ethnicity, age, gender and religion (Berry, 1993; Ribot and Peluso, 2003; Peters, 2004; Bernstein, 2005;).

In societies some people and institutions control resource access while others must maintain their access through those who have control therefore access to land is distinct from control of land (Ribot and Peluso, 2003; Cousins, 2010). Law, customs and in some cases non-legal means such as violence determine who has control and who gets access to land. Thus a focus on access broadens the scope of analysis from rights to powers and identities.

Identity plays a big role in determining peoples' access and rights to land. Land conflicts bring identity and ethnic sentiments to the forefront. Lund (1998) argues that when people struggle over land it is not merely to secure a livelihood, but elements of belonging and political identity also play a role. People attach a lot of meaning to land and people can make claims to land based on historical claims to that land (Unruh, 2003). In Africa artificial boundaries were created by colonialism and this put together different ethnic groups within a state (Anseeuw and Alden, 2010). Likewise in Uganda the British colonial administration made ethnicity the basis for the creation of territorial and administrative boundaries and divided the country into ethnically defined regions (Cf. Espeland, 2007). In situations where regions were created based on ethnicity or religious reasons then secure access and control over specific lands can be important to those particular groups (Cf. Unruh, 2003). When access to land is mainly determined by factors such as ethnicity, it might give rise to conflicts that run along ethnic lines and spread to areas completely unrelated to land (Deininger and Castagnin, 2006). Recently, land conflicts along ethnic lines have increased considerably in number and the severity of the violence (Anseeuw and Alden, 2010). Minor land conflicts can be kept alive for generations and reawakened by ethnically motivated violence (Deininger and Castagnin, 2006). It is therefore crucial to understand how groups interact with each other, assert and defend their identity in situations of conflict (See Ibrahim, 1998; Barron et al. 2004) because these might be the underlying forces behind land conflicts. In a post-conflict situation, therefore, issues of identity may affect and impact on decentralized land governance.

Access relations are contingent upon a person's position and power within social relationships (Ribot and Peluso, 2003). This means that in post-conflict settings people's access to land may have changed because their position and power might have shifted during the conflict. Power relations are dynamic: they can change and shift between social groups and institutions over time. People may grab land if their positions allow, for example army generals may use their powerful position during war and the vulnerable can lose their land because they are in a weak position and cannot protect their rights, such as in Northern Uganda where people were put together in IDP camps.

People can use illegal means to enjoy access to resources like land. Ribot and Peluso (2003) term this as illegal access which operates through coercion and use of power of official positions to protect personal resource access. In this regard the access framework can be used to understand how land conflicts become the means through which terms of access and control are reformulated. As we will see land conflicts in Northern Uganda are largely a reflection of power relations between conflicting parties and the institutions that govern land. In particular this is the case when we explore the power relations between customary and statutory land institutions and its implications for tenure security.

Decentralization and Decentralized land structures

Bartley et al (2008) define decentralization as the devolution of governance from higher to lower level organizations most commonly from central government to local governments. There are various forms of decentralization these include; administrative decentralization which transfers responsibility for administrative procedures; political decentralization which delegates electoral and legislative authority to the periphery; financial decentralization which transfers both resources and responsibility for financing government services to local entities (Meinzen-Dick et al. 2008). Most African governments have embraced decentralization as a governance reform especially in the 1980s and 1990s when it featured as one of World Bank's structural adjustment criteria (World Bank, 2003). This acted as an incentive for African governments to give decentralization a central place in their administrative policies. Decentralization was promoted as the 'official' response to widespread failure in the provision of services by the post-independence African states. The logic behind was to bring on board other actors in governance (Prud'homme, 1995).

Proponents of decentralization suggest that it improves the quality of governance, this is because decisions are made at the local level (See Golola, 2001; Shah and Thompson, 2004; Siegle and O'Mahony, 2006; Benjamin, 2008). The rationale for decentralization was to take services closer to the people (Ribot et al. 2008) where local views and ideas would be included in governance. It was assumed that people would be empowered to make decisions about local issues that affect them. Others argue that decentralization provides space for interactions among all actors in governance (Golola, 2001; Agrawal and Gupta, 2005; Meinzen-Dick et al. 2008; Van der Haar et al. 2009). This in turn should lead to increased participation, representation and accountability in the process of governance. And particularly decentralization was supposed to create channels for dealing with differences or conflicts because of representing views of all stakeholders (Siegle and Mahony, 2006). According to Meinzen-Dick et al. (2008) decentralization taps into local knowledge to develop rules that work for particular local conditions, rather than imposing exterior rules that in most cases are not appropriate to local circumstances.

However, the sketch above is a somewhat idealized version as in practice decentralization might not bring about things like popular participation and representation of all stakeholders in governance. First of all most African countries have undertaken administrative and political decentralization with the central government retaining most powers over finances and decision making (Cf. Ribot et al. 2006). In such cases decentralization may not be as efficient and all representative as decentralization is supposed to be (cf. Pons-Vignon and Solignac Lecomte, 2004). On the other hand, under decentralization there are many stakeholders involved in decision making, which might be a cause of conflict itself. In addition local governments face horrendous pressure from various actors in governance such as the central government, local people, donors and NGOs (Bartley et al. 2008). These actors significantly influence the process of decision making and implementation of policies. Devolving power to local government by the central government brings in different power relations in case policies are determined from the center and implemented by the local governments. This study therefore seeks to find out to what extent does decentralization indeed bring power to local actors, or instead is strategically used to enhance power of central government? Whose interests are executed and what does this imply for tenure security?

Decentralization in the 1990s contributed to the transfer of responsibilities in the governance of natural resources from central to local government. Powers to control natural resources were transferred from the central governments to user groups or local authorities (Vedeld, 1996). Indeed many African states established local governments and decentralized land governance within the broader context of political decentralization (cf. Cotula et al. 2004). In the scanty literature available on decentralized land governance a few reasons are identified to explain why decentralization may fail to result into tenure security. For example land disputes may increase in situations where land boards are not decentralized enough to create downward accountability (Sjaastad and Cousins, 2008). Lund et al (2006) further point out that land boards tend to be dominated by local elites who may implement central government interests. Authority under decentralization is entrenched in complicated and often conflicting institutional structures (Bartley et al. 2008). Decentralization might be used by the elite class and politicians to promote their interests (Edmunds and Wollenberg, 2003; Meinzen-Dick et al. 2008).

However little research has been done to understand how decentralization restructures power relations between land governance institutions and its relation to tenure security. Decentralization might lead to institutional proliferation and the impact of institutional multiplicity on land governance especially in relation to the authority of land governance institutions and land dispute resolution has rarely been studied. Thus to understand to what extent decentralized land governance in northern Uganda is effective in curbing land disputes, we have to explore better how participation, representation and decision making are catered for under decentralized land governance. It is also important to find out how power is distributed among the various decentralized institutions that deal with land issues in northern Uganda. Therefore, decentralization is taken as a system of governance that is employed by the state but may work out in unexpected ways in practice like creating competing institutions, unclear power divisions between central government and local governments and as a tool used by government for building a strong state

Legal pluralism, institutional proliferation and tenure security

Escalating land conflicts directly point to the issue of authority of land institutions that are supposed to resolve land disputes and sanction claims to land. Looking through the lenses of legal pluralism might be a useful way to understand how the coexistence and competition of different legal systems in land governance in northern Uganda comes into being and how institutional competition intensifies land disputes. Legal pluralism is the presence of multiple systems of legal order within a society or confines of the state (Hooker, 1975; Griffiths 1986; Unruh, 2003). Legal pluralism challenges the idea that law is a single, unified and exclusive hierarchical normative ordering depending from the power of the state (Griffiths, 1986:3). Instead Unruh (2003) notes that legal pluralism with regard to land tenure signifies the existence of different sets of rights and obligations concerning land and property.

In most African states, legal pluralism was a consequence of colonialism. Colonial regimes introduced state institutions that started operating alongside customary institutions. However because the two systems were never mutually combined, many at a time they end up conflicting and competing with each other for authority. Legal pluralism does not necessarily create equal systems but systems that interfere with and oppose each other (Cf. Peters, 2004). State institutions significantly determine how customary institutions act. Customary systems have to function within the conditions set by state law and is often confined to specific

domains (for example family law, land) and particular territorial spheres such as tribal areas. The state can choose to recognize customary institutions or circumscribe their activities (Fitzpatrick, 2005). Therefore, customary institutions cannot be regarded as autonomous but as institutions that compete for authority with statutory institutions (Benjaminsen and Lund, 2003). Important to note is that a customary system is not static it keeps on evolving and this process is also shaped by interactions with state institutions. So in many instances it is even questionable whether they can still be regarded as customary.

In policy making and in the analysis of African land tenure, a sharp distinction is often being made between customary and state tenure. Land tenure is the relationship, whether defined legally or customarily, among people with respect to land (FAO, 2007). Land tenure involves the allocation and security of rights in land (Enemark, 2010). Land tenure is not only a system of rights but also a requirement for peaceful human interactions (Migot-Adholla and Bruce, 1994 quoted in Unruh, 2003). Customary land tenure is characterized by its largely unwritten rules and is based on local practices, norms and customary institutions. State systems of land tenure are usually based on written laws and regulations, in combination with state institutions like centralized and decentralized agencies (See Feeny et al. 1990, Cotula et al. 2004; Juma, 2006; Kunda Komey, 2010). However, in practice this distinction often does not hold, and the two systems blend with each other and it becomes complex to differentiate between customary and statutory tenure systems.

Tenure security is a fundamental requirement for African economies because the majority of their populations derive their livelihoods from agriculture. Land tenure systems should provide security to people with regard to accessing, owning and utilizing land. Unclear tenure systems can contribute to land disputes well as clear tenure and unambiguous systems may alleviate land disputes. Similarly, Hilhorst (2009) notes that a resource tenure system only enhances perceptions of security when trusted. People can trust the tenure system when they feel that their rights to land are secure and protected and the reverse is also true. Thus evidence to prove and support rights of access and claim to land is a fundamental feature of land tenure systems; this can be done through documents for state tenure systems or informal evidence related to social and cultural features for customary systems (Unruh, 2004).

There is a new interest in customary tenure arrangements which is related to the resurgence of interest in grass-roots democracy, public participation and local level planning (Feeny et al. 1990). Agencies like the World Bank now recognize that customary systems of land tenure are more flexible and adapted to local circumstances than centralized statutory systems (Deininger, 2003). This recognition has led to international attention for how non-state tenure systems might help to make land tenure more adapted to local circumstances. However, the merging of customary and state systems requires a cautious approach because vague tenure systems can be a source of conflict (Anseeuw and Alden, 2010). But also codification and registration do not necessarily increase tenure security, because all the flexibility and ambiguity in customary systems needs to be suppressed and rights have to be fixed, and this may lead to conflict.

In Africa over 90 percent of the land is accessed through customary tenure arrangements and formal tenure covers less than 10 percent of the land area (Wiley, 2006; Deininger and Castagnin, 2006). This implies that in Africa in many settings different tenure systems (statutory and customary) apply simultaneously. The fact that little land is registered does not imply that the land is not governed. Instead most land is still held under customary tenure

arrangements and there are customary institutions that govern customary land. In some cases states create a statutory institution to oversee and govern land in customary tenure. However statutory tenure does not necessarily lead to increased tenure security (Peters, 2004) but rather this gives opportunity to conflicting parties to manipulate the overlapping jurisdiction which is put in place when statutory institutions replace customary institutions (Fitzpatrick, 2005). In other cases it might not be clear which system has the authority to define rights and deal with land disputes (Carfield, 2011). It may also provide individuals and institutions with opportunities to use either of the systems (Fitzpatrick, 2005). However, in the end the statutory system prevails over the customary system because in most cases it has the backing of the state and the possibility of use of state violence. Similarly Carfield (2011) clarifies that pluralism offers opportunities of refuting one system and seeking out the other for a better deal. This availability of choices may contribute to escalation of land disputes, indecision in land dispute resolution and people not knowing which institutions to go to have their land disputes resolved.

Due to lack of clarity about the role of statutory and customary institutions in land governance in post conflict areas (Deininger and Castagnin, 2006) room is created for forum shopping in land governance institutions according to what suites people's interests (See Lund 1996, Unruh, 2003). Forum shopping is the ability of some actors to select the arena of law or custom that will favor their objectives (Ribot and Peluso, 2003). In addition Firmin-Sellers also noted that, when customary and statutory systems compete they give conflicting parties an opportunity to resort to institutional shopping (Firmin-Sellers, 2000 cited in Deininger and Castagnin, 2006). The relationship between state law and various normative orders provides a menu for forum shopping (Von Benda-Beckmann, 1981 cited in Unruh, 2003). In sum legal pluralism fuels into institutional competition among land governance institutions, creates choices for both people and land institutions and all these impact differently on land dispute resolution in post-conflict settings. But important to note is that legitimacy and stability in tenure institutions is necessary if people are to believe that existing institutions protect their rights in land (Juma, 2006).

The issue of legal pluralism becomes very challenging and pronounced in post-conflict areas where there are numerous claims on land as a result of an influx of returnees. Yet the majority of the population may not have proof of ownership of their land. Both statutory and customary land institutions may still be weak to provide tenure security and ascertain land claims that are made by large numbers of people within a short period of time. Post-conflict areas always have diverse and competing institutions, and under such circumstances people might seek out institutions to sanction their claims and also people embodying land institutions can equally look for claims to authorize in order to solidify their legitimacy in relation to competitors (See Boege, 2006; Sikor and Lund, 2009; Huber, 2010). Institutions are not neutral, but often reflect power relations in a given society. Conflicting parties especially the powerful may take advantage of competing institutions to achieve their interests in land (cf. Juma, 2006; Lund et al. 2006; Bartley et al. 2008). Therefore power struggles and competition that occur among institutions create opportunities for mostly the powerful parties which is commonly referred to as elite capture in the literature on decentralization (Edmunds and Wollenberg, 2003; Meinzen-Dick et al. 2008). The important question to ask is how competing land institutions are able to assert their authority and influence the resolution of land disputes and tenure security.

Land governance and state formation

Scholars have speculated about how improved governance can promote post-conflict stability (FAO, 2007; Cammett and Malesky, 2012). They emphasize that when governments operate effectively people may not be motivated to resort to conflict (Cammett and Malesky, 2012). Governance can be defined as the structure that emerges in a socio-political system as the common outcome of the interacting intervention efforts of all the actors involved (Kooiman, 1993). Governance is not something fixed but a process that is altogether more fluid, process of interactive decision-making that is constantly evolving and responding to changing circumstances (Commission for global Governance, 1995). In the past governance was seen as synonymous with the state but attention shifted from the state to various other actors who interact, participate in decision making, and exercise authority in governing society (Nuijten, 2004; Stoker, 1998; Strange, 2000; Waters, 2004). What we see emerging is a system of polycentric governance in which a range of central and local institutions, public and private, each play a role (Ostrom, 1999; Wunsch, 1999). However important to note is that the central state continues to play a critical role in governance and in most of the spheres the economy to the extent that its presence may be felt even in the lowest local structures (Cf. Nuijten, 2004; Meinen-Dick et al. 2008). Therefore states have strong influence on how the interactions among different governance actors turn out.

Issues of participation and representation are important elements in governance discussions, because they determine how other actors may contribute and influence relations of governance (Nuijten, 2004). People may start to view themselves as actors in land governance because of the opportunities provided by representation and participation under decentralized governance. However most governments in Africa do not willingly create institutions to enhance participation of different actors (Sjaastad & Cousins, 2008). Therefore this study sought to understand the interactions and power relations between the state and other actors in decentralized land governance. How stakeholder participation is provided for, who participates, whose interests are represented in decentralized land governance and how the state may use land governance as a tool of building a strong state.

Land governance and state formation are closely linked. When government institutions make decisions on land governance, they are explicitly or implicitly feeding into state formation. Their aim is not only to solve problems but also impose their authority as part of a strong state. State formation can be taken to mean activities that contribute to the 'formation and systematization of social action and in so doing consolidate or complicate the division between state and societies' (Agrawal, 2001: 12). Most of the states in Africa were a creation of colonialism, however the process of state formation did not stop at the end of colonialism or the attainment of independence. Post-independence governments are still engrossed in the continuous process of state formation. State formation is currently done through governments building state institutions, armies and developing economies (See Robinson and Parsons, 2006).

The power to govern land lies with the state (Borras and Franco 2010: 24). Some African states interfere with democratic decentralization of resource management in order to retain central control (Ribot et al. 2006). Central governments may instead use decentralization as a form of governance to frustrate local governments in governing themselves, for example through limiting the powers that are devolved to local governments (Ribot et al. 2006). States often interfere with natural resource management, for example land, in order to stay in control. The

rules of land governance may be redefined by the state so that they fit into the process of state formation. State land laws affect social relations or directly impacts on the way people relate with land especially through statutory land institutions (Borras and Franco 2010). State formation then serves the extension of state power to ensure the hegemonic status of state institutions. The process of state formation or building a strong state inevitably leads to a deconstruction of customary institutions (Boege et al. 2008; Trotha, 2000) because they are regarded as competitors to statutory institutions and a challenge to central state authority. In most cases state and the local communities may have divergent interests and then the issue of power and coercion comes in (Agrawal 2001). Using coercion works in the interest of the state because the state has monopoly of violence and can enforce cooperation of customary institutions.

The Ugandan state started up a process of decentralization in 1986, as a way of changing the authoritarian ways of governing introduced by earlier regimes (Obote and Amin's regimes), and arrive at better relationships between citizens and authorities. In fact, the development of state-citizen relationships can be seen as an important element of state formation processes. This raises the question to what extent decentralization of land governance, so important for local livelihoods alter relationships between citizens and authorities in northern Uganda? I will show that a critical element in this was that people mistrusted the good intentions of the government to truly transform governance practices, and rather perceived the reforms as an effort by the state to impose itself and get a stronger grip on land governance and local resources.

Civil conflict reflects a state's failure to monopolize the use of violence or force (Fjelde and De Soysa 2009: 6). This has been the case in northern Uganda for over 2 decades. During the civil war in northern Uganda, many scholars, researchers and politicians depicted Uganda as a country collapsing into state failure. Do the current policies (state violence, develop policies, land governance) of the government help the NRM government to build a strong state? After the war ended in 2006 the government of Uganda may have wanted to show that it has monopoly on the use of force by reinforcing the state's presence at local level. Land governance is a crucial element in this endeavor to reinstate government control.

It is also vital to further explore the notion of violence and its role in governance. One of the defining features of a state is its ability to have a monopoly over the means of violence. States can use this violence to their advantage especially to enforce policies, rules and norms in order to maintain social order (See Boege, 2006). Bakonyi and Stuvøy (2005) define the use of violence as social process where violent actions shape new structures and new forms of behaviour, thereby redefining the forms of societal organization. According to Finnstrom (2005) violence is not limited to the battleground or to perpetrators and their victims but may progressively infest the wider surrounding and may even last for generations. However in a post-conflict situation where most of the people may be accustomed to the use of violence, how does the state use this monopoly over violence to order society? The state may use violence as a tool of regaining control over post-conflict areas. However, violence may be just another form of gaining access to land in post-conflict areas. But also the use of violence by people in land matters may explain the failure of both statutory and customary land governance institutions to provide tenure security to local people in post-conflict settings. It is therefore critical to comprehend the role of violence in shaping land governance in post-conflict situations.

Outline of the thesis

The rest of the thesis is organized as follows; Chapter two discusses the research design; ethnography was the main methodology employed. Qualitative methods like participant observation, focus group discussion, interviews, case studies and document collection were utilized to collect data about the role of war, decentralization and the youth in land governance in post-conflict Northern Uganda. This chapter also comprises of the justification for selecting the study areas and case studies, area of study – Acholi sub-region, Northern Uganda, methods of data collection, and my experience with ethnographic research.

Chapter three describes the case of the Apaa evictions in Amuru district and discusses the connection between the colonial past, the 20 year civil war in the north and the current land disputes in Acholi region. The chapter adds knowledge onto the ongoing debate on resource based conflict by illustrating that the multifaceted relationship between land and conflict cannot only be explained by the environmental security notions or by only the political ecology but rather a combination of both. Scarcity, availability, political, historical and social dynamics interconnect and contribute to conflict about land or natural resources. Violent conflict fuels into tensions between local groups about social issues such as ethnicity, grievances against those in power and the institutions that govern natural resources. This chapter concludes by highlighting that how those new issues are dealt with by policy makers is critical for future reconstruction and stability.

Chapter four which is based on the case of Amuru Sugar Project reflects on decentralized land governance and its role in large-scale land allocation. It zooms in on how decentralization reshuffles vertical power relations between land governing institutions. It shows that administrative decentralization without real devolution of power from central governments to local governments is insufficient to influence decision making at local level. In this chapter it is demonstrated that decisions made about land attribution at lower levels of government reflect interests of those at higher levels of governance. The chapter asserts that the real impediment to local governance lies in the distribution of power between levels of authority. And it concludes that without transfer of real power to decentralized structures, decentralization will continue to be ineffective as a channel of incorporating popular participation in decision making. The chapter helps to comprehend how decentralization restructures power relations between land governing institutions and its impact on tenure security in Acholi region.

Chapter five that is based on the Kigwe land dispute case in Pader district, focuses on the notion of institutional pluralism and its impact on land dispute resolution. In this chapter it is demonstrated that institutional proliferation in land governance results into confusion in land dispute resolution in post-conflict settings. Decentralization contributes to institutional multiplicity by creating new institutions that add on to the already existing authorities and regulations about land rather than devolving power to existing local institutions. This fuels into institutional competition at local level, thereby contributing to indecision in land dispute resolution. This intensifies land disputes and thus deviates from the essence of improved service delivery propelled by decentralization.

Chapter six focuses on the youth case and elucidates the pivotal role of the youth in post-conflict land governance. It demonstrates that although intergenerational conflicts are part and parcel of society, war significantly accelerates social and political change which in turn

restructures society and place land governance partly in the hands of male youths in post-conflict settings. The shift in power relations fuels into struggles for authority over land governance between the youth and the elders. Social change as a result of war makes some youth powerful and prominent while other youths especially the female and orphaned youth become powerless in land governance. The chapter shows how the dynamics of staying in IDP camps, participation in the war, assuming positions in decentralized structures and inability to find jobs outside agriculture significantly influence the role of youth in land governance in post-conflict settings. It concludes by asserting that the new role attained by the youth in land governance may have irreversible effects on customary tenure where authority to govern land is embedded in elders but may also provide new avenues of dealing with intergenerational conflicts over land. It contributes to answering the question of how war transforms land governance.

Chapter seven discusses what the different chapters tell us regarding the main question of the study. In this chapter the link between post-conflict land governance and state formation will be discussed. The Involvement of the central state in the decision making process at the local government levels reinforces state formation and the creation of a strong state. It shows how the state uses land to reward elites, investors and government supporters (especially in the case of Amuru Sugar Works limited). The state wants to have monopoly over violence in order to establish itself as the highest command or force in northern Uganda, a region that was under the control of the LRA rebels for more than 20 years. In short in this chapter it is shown that states use post-conflict land governance as tool of regaining control over and asserting authority in post-conflict areas that were previously under some other form of control. The state not fully devolving power to decentralized land governing institutions but also constricting the operations of customary institutions are indicators that central states want to continue pulling the strings of power. In a nutshell these are some of the characteristics of strong states.

2. Methodology

Organization of the research

In November 2011 my fieldwork was started and the data collection journey began. In early November 2011 introductory visits were made to NGOs working on land in Kampala including Uganda Land Alliance, Land and Equity Movement in Uganda and Environmental Alert and interviews were conducted with key informants in Kampala. The visits and interviews in Kampala gave me an overview of land issues in Uganda and what to expect from the field. Mid November 2011 I made my first visit to northern Uganda, Gulu district in particular. I visited NGOs like the Acholi Religious Leaders Peace Initiative (ARLPI), Legal Aid, the Norwegian Refugee Council (NRC) and Ker Kwaro Acholi (KKA) and interviewed representatives from those organizations. The purpose of the visits was to establish contacts and introduce myself to local authorities and institutions working on land. I applied for an internship and requested to do research with some of those organizations. KKA accepted my internship request; I was given office space at the office of KKA and was allowed to do field visits with KKA staff and teams. This arrangement did not involve any form of payments.

I worked with Ker Kwaro Acholi (KKA) for a period of two years from 2011 to 2013. KKA is the Cultural Institution for Acholiland, the institution was involved in peace talks with LRA and contributed to the peace process in northern Uganda. KKA has undertaken many programs including helping to resettle formerly displaced people in the Acholi region, programs to improve people's livelihoods and documenting the principles and practices of customary tenure in Acholiland. The institution helped me to gain access to the Acholi community. My attachment to KKA enabled me to do field trips with the staff and conduct research in all the 7 districts that make up the Acholi sub region, the districts include Gulu, Amuru, Pader, Kitgum, Lamwo, Nwoya and Agago. I attended land dispute mediations, meetings, workshops on land governance and community dialogues that were organized by KKA. I was also able to interview conflicting parties that brought their land disputes to KKA offices. Later I made independent visits to my research sites. The data I collected is my independent data and in no way does it reflect the interests or influence of KKA.

Selection of study areas and case studies

As part of the grounding land governance program, the project was designed to study post-conflict land governance. The southern part of Uganda has been fairly peaceful since the National Resistance Movement (NRM) government came to power in 1986. Thus northern Uganda was selected as the area of study because the region had just come out of the 20 year civil war (from 1986 to 2006), and region provided the best conditions to study how decentralized land governance takes shape in post-conflict settings. At the beginning of 2012 the high court in Gulu, made a ruling on the prominent Amuru Sugar project land dispute. The ruling stirred violence among the youth in Amuru, the politicians clashed with government, and the media extensively started reporting on this land dispute. This is what drove my attention to this particular land dispute and I started following it as case study. I also chose this case because it showed vertical struggles for authority between central and local government. Amuru sugar project land represents a conventional land grabbing case.

Another case is the Apaa evictions that occurred in February 2012 in Amuru district, KKA arranged to meet with the people that had been evicted and that is how I chose to study the

case. This particular case showed how the colonial history contributes to the present confusion in land governance in northern Uganda. It is not only a classic case of green grabbing but it also manifests the impact of war on land governance and progressive state formation through land governance. Then for the Kigwe land dispute in Pader, I went with KKA for this land dispute mediation but what made me pick interest in the case is that this particular land dispute had been taken to almost all formal and informal land institutions but it had not been resolved. The Kigwe case represented the horizontal competition for authority between state and customary institutions. Interviews were conducted across Acholi region to understand other aspects like the role of war and youth in land governance. However majority of the interviews were conducted in Gulu, Amuru and Pader districts. This is because Gulu district is the hub or heart of Acholi region where most of NGOs are found and with a burst of activities like workshops on land matters. Amuru district was the hot spot where all the prominent land disputes in Acholi took place and then Pader district because of specifically the Kigwe case study that I chose to follow.

Methodology

Ethnography

This study was conducted in a post-conflict setting as already illustrated by the Community meeting of 4th May 2013 at Kololo. The study employed a qualitative methodology in order to attain an in-depth description of processes and events during fieldwork (Eby et al. 2005). Understanding how decentralized land governance takes shape in post-conflict northern Uganda and the connection between land and conflict required studying these processes over a long period of time. Participant observation combined with interviews were the main fieldwork methods of ethnography and had the advantage of being explorative and open-ended in character and better able to deal with the complexity of the issues (internal and external validity). Qualitative methodology is also not so structured because it involves less prior classification on data which therefore means that emergent themes from the field can be catered for (Eby et al. 2005). From all the land conflicts that I followed during fieldwork I realized that violence was used either by the state or by the citizens. This is a concept that I had not given a central place in my proposal but it became significant during data collection. Participant observation was the main methodology used because it was most suitable for collecting data about the role of war, decentralization and the youth in land governance in post-conflict Northern Uganda.

The methods of ethnography help to uniquely explore lived experiences in all its richness and complexity (Herbert, 2000). Ethnography involves watching what happens; listening to what is said, asking questions and collecting whatever data that is related to the focus of the research (O'Reilly, 2005). Ethnography enables the researcher to examine processes of change, negotiated lived experiences (O'Reilly, 2005) making it suitable to collect data about the process of post-conflict land governance. Ethnography enables a research design that leaves space for fluidity and flexibility (O'Reilly, 2005) which gives it an edge over other methodologies such as quantitative methods for example questionnaires that are rigid and which do not cater for emergent or unexpected issues that arise from the field. Careful analysis of what people do and how people do it (Richards, 2005) in relation to land enabled the researcher to discover the relations between conflict and land, people's attachment to land, why people use violence in land matters and the struggle for authority over land

between land institutions. By studying events in their natural setting (Eby et al. 2005), for example by witnessing processes as they evolve, gives this research also external validity.

Both primary and secondary data was used. Primary data was collected in the field for example data about the experiences of formerly displaced people and how the war changed their access and ownership of land. Secondary data, especially from written documents on decentralization, land tenure systems was used to get information for example about laws, provisions and roles of decentralized land governance structures and customary institutions and how they interact and contribute to shaping land governance in northern Uganda.

Methods of data collection

A range of qualitative methods was utilized. Qualitative methods including participant observation, focus group discussions, interviews and case studies were used to collect data on post-conflict decentralized land governance in northern Uganda. Similarly Kvale (2007) noted that such qualitative methods of data collection have become key methods of social research since the 1980s. This research employed a mixture of qualitative methods so that data obtained could be cross-checked and triangulated. In the same way Eby et al. (2005) pointed out is that convergence across data methods increases confidence in research findings.

Participant observation, the researcher spends considerable time observing and interacting with a social group (Herbert, 2000). By carrying out participant observation, the researcher becomes part of the natural settings so that people being researched cease to be affected by his/her presence (O'Reilly, 2005). I took part in and observed daily practices of the people of Acholi region for example land dispute mediations, community or village meetings, periodic markets, youth meetings and practices like group digging. Through participating in such daily practices I was able to observe how land disputes unfold, how they transform from nonviolent to violent, people's perceptions about the state and the governance of land in Acholi. Photographs were part of the data, for example photos of markings on trees which signified people's land boundaries, photos of people evicted from their land and their emotions shown through facial expressions. And photos of crop gardens and animals that show that people are trying to rebuild their livelihoods after war. The meaning of objects and events are often revealed through practices, reactions, cursory comments and facial expressions (Herbert, 2000). I documented and recorded events related to the topics under study through making field notes and this enabled me to later give a thick description of the events like evictions in Apaa, Amuru district, northern Uganda. In total I participated in 5 land dispute mediations, and 8 community dialogues; land, culture, investments, saving and LRA war issues were discussed. I took part in 7 workshops that discussed land matters in Acholi region for example to discuss the relevance of certificates of customary ownership in Acholi and the applicability of principles and practices of customary tenure in Acholiland that were documented by KKA.

Focus Group Discussions (FGD) were conducted in order to see how opinions are formed while people discuss about issues of land governance. Information on topics like how the war changed the social structure of Acholi and how the youth view themselves with regard to land were obtained through FGD that were composed of youth, elders and women. Focus group discussions were categorized into homogeneous and heterogeneous. FGDs with youths, elders, women, local leaders, returnees were conducted so that different information and a variety of opinions could be obtained on concepts like identity, decentralization, land conflict, the impact of LRA war. Through FGDs people were able to share their different experiences,

for example how they participate in decision making and how land disputes bring out ethnic sentiments among social groups. In total 25 focus group discussions were conducted. Certain sensitive issues, like what it means for a widow to be denied access to land by relatives and officials in land institutions taking bribes which influences land allocation and land dispute resolution could not be discussed through FGD. So other methods of data collection such as interviews were used to get such information.

In an **interview** the researcher asks about and listens to what people themselves tell about their lived world (Kvale, 2007). One to one in-depth interviews and group interviews about decentralized land governance were conducted but also questions that arise on the spur of the moment were catered for (Cf. O'Reilly, 2005). Interviews were conducted with people from central government, local government (for example officials from the ministry of lands and land boards at the district level), traditional leaders, local council leaders, police, women and youth, returnees, formerly displaced people, non-government organizations and the local people. Interviews were also done with key informants who are experts or very knowledgeable on topics related to the research in order to get a complete picture. Interviews were done with the district land officers, members of district land boards, members of area land committees and local council members, because they were knowledgeable about the functioning of decentralized land governance structures. Through interviewing the above categories, data was obtained on how land governance decisions are made under decentralization, who is represented, who participates and whose interests are implemented in decentralized land governance. Employees of local and international NGOs were interviewed to understand their role in land dispute resolution because conflicting parties approach NGOs for services such as land dispute mediation and legal representation. In a nutshell qualitative interviews provide for in-depth understanding through rich narratives (O'Reilly, 2005). A sum of 133 interviews was conducted throughout the data collection period.

By viewing a **case study** through the lens of an interpretive framework, the researcher provides a broader understanding of what happened (Druckman, 2005). I followed particular case studies in depth: these included the Apaa evictions in Amuru, the Kigwe land dispute in Pader district and the Amuru Sugar project in Amuru district. From following these case studies I was able to find out the actors involved in land governance which included institutions, politicians and local people, the interests of those actors, the causes and types of land conflicts. They shed more light on associated issues like identity, why people use violence in land matter, the impact of war on land governance because there was ample time for descriptive questioning. Case studies often show major patterns, trends, comparisons and contrasts with other cases (Druckman, 2005). This is important because the case studies that were followed were totally different yet they all told a story about land governance in post-conflict settings. Out of the 4 papers that were developed from this study, 3 are based on case studies.

Document collection, land governance involves policy reforms therefore documents were analyzed in order to understand the concept of land governance. The documents that were collected include legal statutes like the Constitution, Land Act, Local Council Act, Gazettement and De-gazettement statutes, Newspapers, Scientific papers and Policy papers. Analysis of the above documents contributed to the understanding of the discourses and debates on decentralization, legal pluralism, tenure systems, governance, land conflicts and power. For

example from analyzing the gazettelement and de-gazettelement statutes, I was able to find out that the current land conflicts in northern Uganda are also deeply rooted in historical policies on land governance.

How choices made in methodology contributed to the research

By using methods of ethnography I was able to study land governance as a process which would not be possible if I had employed questionnaires or through a short term research (less than 6 months). For example the case of Apaa evictions is ongoing and new developments keep unfolding like the women who undressed before government ministers who had gone to visit Apaa village in early 2015 after my fieldwork. Undertaking ethnographic research permitted me to continue recording such events as they happened. Staying long with the communities made me get accepted by the community and got data that can only be got when the community stops identifying you as a stranger, for example to explain the current perceptions of the people of Acholi or north towards the state/government. The specific cases that I followed were very sensitive: most people at the start thought I was a government spy. If this research was to be carried out through short interviews and short stays in the field I would have missed observing how land disputes escalate into violence, and I would have failed to understand how various power plays influence decisions made on land on the long run. In all the cases land governing institutions were reluctant to make decisions over land disputes because they were afraid of stepping the powerful actors' toes these include the state. The Apaa case (chapter three), Amuru sugar case (chapter four) and the Kigwe case (chapter five) are land disputes that kept on evolving and transforming, they required sufficient time to follow all the actors and also to understand the interests of the different actors. Important to note is that by the end of fieldwork in May 2013 these land disputes were still open and ongoing.

Fieldwork experiences

My background of coming from the southern part of the country contributed to people viewing me as an outsider. I received this treatment from both the local people that I lived with and the institutions that I worked with. The little children openly called me muno (foreigner) referring to my skin complexion which was a bit lighter than most people in the areas where I conducted fieldwork. Where I worked I was regarded just as another person from Southern Uganda. Of course being identified as an outsider makes a person feel isolated. However this was more intense during the initial stages of conducting fieldwork. But as time passed and the longer I stayed with the communities in northern Uganda people started treating me like their own. People opened more about land disputes and told me their histories especially with regard to their experiences during the LRA war. And at KKA I made friends and my colleagues realized that my research was purely for academic purposes, my relations with them improved.

Language barrier

The people in Acholi region, northern Uganda speak Luo and I come from a Bantu speaking group in southern part of the country. The two languages are completely different and communication was difficult. I was able to learn a few basics in Luo but I had to work with a translator on a full-time basis. The other good thing that helped is English is the official language in Uganda so many people tried to communicate with me in English.

Living with the communities

Some of the case studies that I followed were in very inaccessible places with no other types of accommodation apart from individual residential homes. It was difficult to get accommodation but it was almost impossible to commute to these areas on a daily basis. I managed to get host families that took me on with my research assistant. Staying with communities for a long time helped to gain trust from the people that I lived with and people shared with me virtually everything. However I got into situations where people who helped me gain access to the field turned out to be the perpetrators of land conflicts and the community had negative perceptions about them. I also did not want the community to see me as party to such actions so some relations that I had developed with such people were severed by building new networks. There were also instances where I had been following two families with a land disputes for a long time that these families expected me to be loyal to them and share what the different families were sharing with or telling me. This was tough but I tried to make the ground straight by telling them that my stay with them is not about telling the other what they are doing about the land conflict but studying what each family is doing about the conflict.

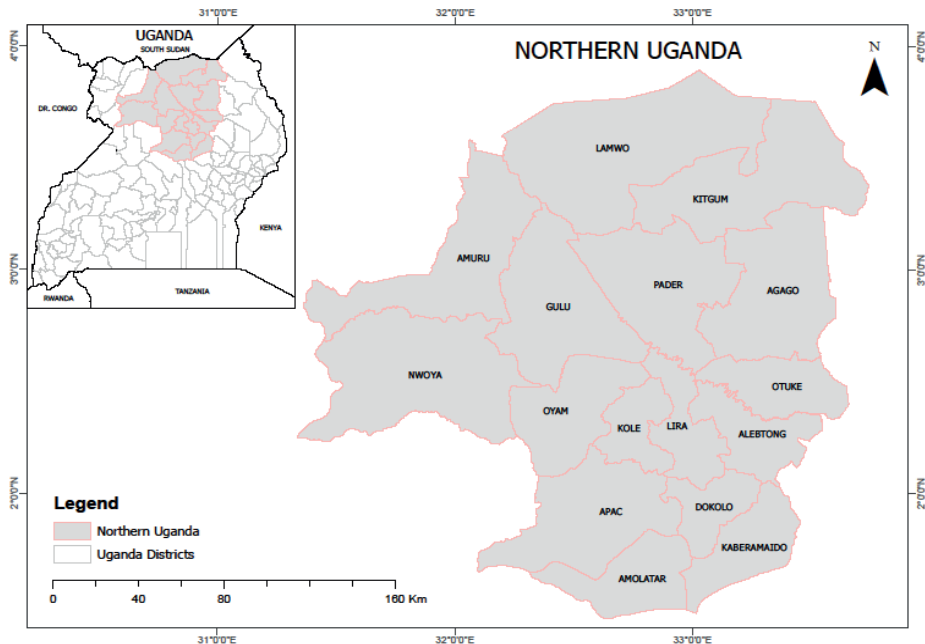
Violence or the threat of violence was also very much part of the fieldwork as was apparent in the account of the community meeting in Amuru. I saw live bullets for the first time in my life. I dodged stones that were hurled in different directions by irate youth and took cover under a parked car to protect my dear life. This happened when the minister's convoy met the road block, the minister's body guards swung into action by firing live bullets in order to disperse the youth who had turned violent. This taught me that while doing research in post-conflict settings the researcher has to be prepared for anything. This experience increased my interest in this particular land dispute, it also seemed like a movie to me. I eagerly waited for new developments; my ears were always on the ground so that I do not miss any developments. This is because I would later use such occurrences to make my analysis about the use of violence in post-conflict land governance.

The research area: Northern Uganda

Uganda has a land resource base of 20 million hectares of which 6.77 million is cultivated (Bruce, 1998). Uganda is politically divided into four regions Northern, Eastern, Western and Central region. The Northern region comprises of Acholi, Lango, Teso, West Nile and Karamoja sub regions. Northern Uganda covers 35% of the total land surface in Uganda.

Uganda has a total population of 34,856,813 people and 73 percent of the country's population is employed in the agricultural sector and only 13 and 3.3 percent are employed in the service and industry sector respectively (see UBOS, 2014; World Bank, 2013). This paints a clear picture of the pressure exerted on land because the majority of the population derives its livelihood from agriculture. Uganda is engrossed in a cocktail of land related conflicts throughout the country, for example land conflicts on Mailo land in Buganda between the tenants and the land lords which was a creation of the British colonialists, land conflicts in Acholi land because of distortion of land governance during the LRA war, land conflicts among customary land owners in Teso, Ankole and Busoga regions because of population growth and currently land conflicts in Bunyoro region because of the discovery of oil. These wide spread episodes of land conflicts or clashes occur between the pastoralists and farmers, men and women, investors and local people over ownership and access to land. In Uganda there have

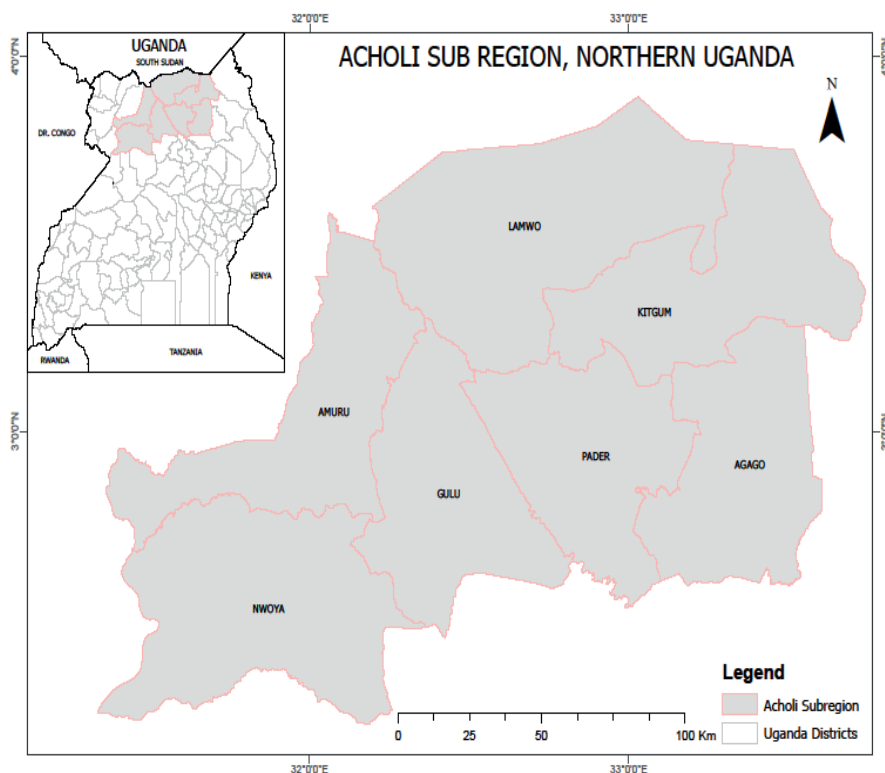
been several policy responses to such issues, among which decentralization takes a prominent place. Decentralized land governance has been looked as a land governance reform that would contribute to tenure security and alleviate land disputes in the country.



Map 1: Showing Northern Uganda

The Acholi sub-region

Well as the southern part of the country has enjoyed relative peace for the last 30 years since NRM came to power, the northern region of Uganda, more specifically the Acholi sub-region has been devastated by a two decades civil war. The study was conducted in Acholi sub-region which forms part of the greater northern Uganda, it is made up of seven districts; Agago, Amuru, Gulu, Kitgum, Lamwo, Nwoya, and Pader district, with a total land surface of 28,400 square kilometers. Acholi sub-region has a population of 1,511,614 people of which the majority belongs to the Acholi tribe (UBOS, 2014). Customarily Acholi are governed by traditional chiefs, and Acholi sub region has 54 chiefdoms which are led by the paramount chief who is based at Ker Kwaro Acholi in Gulu district. Economic activities in Acholi are dominated by agriculture especially subsistence agriculture, cattle keeping and fishing from numerous streams. The main crops grown in Acholi include; sesame, sorghum, millet, rice, groundnuts etc. Acholi is surrounded by rivers which also act as political boundaries between Acholi and neighboring regions or districts.



Map 2: Showing Acholi Sub-Region

The Acholi region that was affected the most by the activities of a series of rebel movements that occurred between 1986 and 2006 in Northern Uganda. These violent events have been framed by researchers and scholars as the LRA war, a war that started without clear motives apart from the rebels claiming to restore the 10 commandments in Uganda (Allen 2007; Finnstrom 2010). However, this civil war that started in 1986 was a rebellion against National Resistance Movement (NRM) government led by Yoweri Museveni, because it had toppled the Uganda National Liberation Army (UNLA) government that was led by Acholi officers. In the course of time, the civil war transformed and took on new motives and new actors. The resistance movement went through a series of leadership changes. It started as the Uganda People's Democratic Army (UPDA) and the Holy Spirit Movement (HSM) led by Alice Lakwena which led the rebellion between 1986 and 1988. Then Lukoya Severino the father of Alice Lakwena took over from 1988 to 1989 under the flag of the Holy Spirit Movement ii. Over the same period of time (1987) armed Karamajong cattle rustlers also terrorized the region, raiding almost 98% of the cattle in Acholi region (HURIFO, 2002). From 1989 onwards, the Lord's Resistance Army (LRA) under the leadership of Joseph Kony became the face of the guerrilla movement. The LRA abducted children and youths, mutilated people by cutting off

their limbs, lips and ears and massacred civilians. However atrocities were committed by both the LRA and the Uganda People's Defense Force (UPDF).

In 1996 due to intensified brutalities, the government of Uganda forcefully ordered all people of Northern Uganda specifically in the Acholi region to relocate to protected camps so that the UPDF could drive the LRA rebels out of the villages where they had access to food and could disguise as civilians. The civil war in Northern Uganda led to the death of more than 30,000 people and displacement of over 2,000,000 people (ARLPI, 2010; Mabikke, 2011). Literally all families in Acholiland were displaced to Internally Displaced People's camps (IDP). According to many of my Acholi interlocutors this is one of the factors responsible for rampant land disputes in the present.

The civil conflict in northern Uganda later transformed into an international conflict when the Khartoum government started supporting the LRA rebels which was a retaliation since the NRM was equally helping the Sudan People's Liberation Army (SPLA) rebels in South Sudan. It then became an issue of state building where governments were now defending their territories and international borders. Northern Uganda suffered the brunt of violence as the two states tussled it out. Up to now LRA rebels continue to destabilize Central African Republic, Democratic Republic of Congo and South Sudan but also the Uganda People's Defense Forces has not given up the pursuit of the rebels in those countries in order to finish them off. This war elevated the importance of northern Uganda in regional politics and the subsequent desire of the NRM government to have full control over this territory in order to portray Uganda as a strong state.

In 2006, after peace talks were held in Juba between the NRM government and the LRA rebels, there was cessation of hostilities bringing an end to the civil war that had lasted for over 20 years in Northern Uganda. Gradually people started returning to their villages. However, upon their return, they are now faced with land disputes some of which turn out to be violent (See Allen et al. 2010). Important to point out is after the war in the north, on one side the government of Uganda is bent on opening up Acholi land for development and on the other there is a search for opportunities by power holders. These are taking place in a period before people are fully resettled. These developments mean changing the way land is owned which is receiving opposition from the local people. Not forgetting that majority (90%) of the land in Acholi is held under customary tenure, thus when the state makes land governance reforms for example district land boards allocating land to investors for large-scale land investments then it touches the core of the Acholi existence.

3. The Multifaceted Relationship between Land and Violent Conflict: The case of Apaa Evictions in Amuru district, Northern Uganda

ABSTRACT

This paper argues that violent conflict prominently impacts on land governance and so contributes to land conflicts in post-conflict settings. In the natural resources literature, the relationship between land and conflict is often explained in terms of environmental security or political ecology, and many have pointed out that the way land is governed in itself may be a source of conflict. However, less attention has been given to the effects of violent conflict on land and its governance in post-conflict situations. This paper argues that violent conflict affects land governance in many ways and that this in turn might contribute to further violent conflict. The argument builds around an extended case study of the Apaa evictions in Amuru District in Northern Uganda. The case illustrates how conflict around land is not just the result of resource scarcity and competition, but is the outcome of a combination of political, historical and social dynamics. Past policies on land and practices of land governance play a critical role in this. However at the same time, violent conflict has a critical impact on land access, transforms land governance authority and the rules applied. The land conflicts resulting from this, in their turn, fuel ethnic tensions between local population groups, and grievances about those in power and the institutions that govern natural resources. The ways in which such problematic conflict-induced changes in land access and governance are dealt with by policy makers is critical for post-conflict stability.

Keywords: Apaa, Violent conflict, Land governance, Land conflicts, post-conflict

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Introduction

In post-conflict situations land is a necessary asset for people to rebuild their livelihoods (Huggins 2010; Rugadya 2008). At the same time, many post-conflict situations are characterized by a high number of land disputes because of displacement, disrupted structures of authority over land, and illegal occupation by powerful actors (Unruh 2003). Therefore, to achieve peace, economic and social recovery, and to prevent land disputes from culminating into new violence, strengthening land governance is considered a key component of post-conflict reconstruction programmes (See Pons-Vignon and Solignac Lecomte 2004). Likewise, post-conflict states often consider improving and reforming land governance as an important way of restoring sovereignty and legitimacy (see Peluso and Vandergeest 2011).

However, the relationship between violent conflict, land governance and continuing instability deserves further investigation. This is because most of the literature explaining the nexus between land and conflict concentrates on re-emphasizing the role land plays in violent conflicts. Land issues intersect with other factors like political mobilization that work together to contribute to violent conflict (Daudelin 2003; Pons-Vignon and Solignac Lecomte 2004). However, there exists a knowledge gap about the impact of violent conflict on land governance itself. Land governance issues resulting from violent conflict are not given appropriate attention in the peace process yet they form part of the reasons for violent conflict to continue or reoccur (Unruh 2004).

Natural resource literature often focuses on the 'root causes' of land conflict. A dominant perspective remains that of environmental security which understands conflicts about natural resources as a result of scarcity and competition (see Hardin 1968; Homer-Dixon 1999). Increasingly, proponents of a political ecology perspective gain more prominence, understanding resource conflicts as power struggles embedded in wider historical processes, contestation and institutional failure (see Peluso & Watts 2001; Turner 2004; Benjaminsen et al. 2009; Peluso and Vandergeest 2011). Such perspectives also highlight that the ways in which land is governed may be a potential cause of conflict (Anseeuw and Alden 2010). They illustrate how many resource conflicts in Africa can be traced to historical policies that assure that particular groups in society reap the benefits of resources and exclude others (See Peters 2004; Turner 2004; Cotula et al. 2004 about the Great Lakes Region, Sudan; Clover 2010 about Angola).

Moreover, it is only recently that researchers have come to highlight the diverse ways in which violent conflict *interacts* with land issues. First, violent conflict reshuffles access to land, land ownership and it also creates room for all kinds of 'injustices' in the ways in which land is appropriated (Daudelin 2003; Unruh 2003; Vircoulon 2004). When land governance is in disarray, various outsiders to the community, including government institutions may come in to appropriate land and this is what may cause land conflicts after violent conflicts. In addition, post-conflict return or resettlement of displaced people often results in competing claims on land and new tenure insecurities. For example in Rwanda after the 1994 genocide refugees returned and resettled themselves on land without supervision by the state. This resulted into violent occupation of land that did not belong to them and this contributes to the current land disputes in Rwanda (Unruh 2004).

Second, violent conflict may also significantly alter the ways in which land is governed: conflict redefines the rules of access, utilization and ownership of land. Ambiguity about who is in

charge and the rules that apply may result into a situation in which diverse land governing institutions compete for authority over land in post-conflict settings. This in turn may produce tenure insecurity and land conflicts (Clover 2010), a continuation of instability and even new violence. Distortion of land governance during the war is a significant long-term cost of violent conflict that may take generations to restore (Cf. Bannon and Collier 2003). How these violence-related transformations of land governance precisely work and what they imply for intervention is a topic that needs further analysis (Cf. Daudeline 2003; Ross 2004).

In this paper we argue for the need to better understand the long-term impacts of violent conflict on land access and land governance. Though political ecology perspectives on the land-conflict nexus may provide valuable insights into post-conflict land disputes, it is critical to bring in the conflict situation as an explanatory element to better understand conflicts around land and its governance in post-conflict settings. These land conflicts in turn create a space in which territorial struggles and contestations over identity and ethnicity are played out in new ways. Unfortunately, practitioners and policy makers often fail to take account of what violent conflict does to land access and land governance (Cf. Huggins 2010; Clover 2010). If the linkages between violent conflict and contestations over land access and ownership in post-conflict settings are not well understood post-conflict stability may continue to be an elusive dream.

We will make this argument by reflecting on the case of the 2012 eviction of land occupants in Apaa village, in northern Uganda, which was the culmination of a long history of contestations about who are the rightful owners of land in question and which laws apply. The case-study is based on ethnographic research in Apaa, which formed part of two years of fieldwork in the period 2011-2013 in Northern Uganda, in the context of a larger research project on decentralized land governance in post-conflict settings.³ The study employed qualitative methods of data collection. Fieldwork was conducted in Amuru and Gulu Districts in the Acholi sub-region and Adjumani District in West Nile sub-region all part of northern Uganda. This ensued getting data from both sides and thereby representing the case/conflict from both Acholi and Madi perspectives. This paper builds on 43 interviews, 8 focused group discussions, 1 dialogue meeting on investments in Acholi region, 2 songs composed about Apaa evictions by a local musician, 2 community meetings, 1 workshop, newspaper accounts, news broadcasts by Nation Television Uganda (NTV) and Nile Broadcast Services (NBS) Television and field observations by the main researcher who lived within the Acholi villages. People interviewed included politicians, local people, members of the area land committees, local council members, civil servants at districts, traditional leaders, the youth, game rangers in Apaa, representatives from NGOs. Secondary data is based on review of documents especially court documents, the land laws for example the 1975 Land Reform decree, the 1998 Land Act, the 1995 constitution, instruments of gazettelement and de-gazettelement⁴ and other related literature.

³This programme, 'Grounding Land Governance - Land Conflicts, Local Governance and Decentralization in Post-Conflict Uganda, Burundi and South Sudan' was funded by NWO-WOTRO Science for Global Development, grant number W 01.65.332.00

⁴ Gazettelement means to give a legal status to something which is published in an official government journal. In Uganda gazettelement is done by parliament for example putting land aside for a particular purpose like preservation and control of game reserves. On the other hand degazettelement means to remove or revoke legal/official status from something. In Uganda, this may be done by a cabinet minister, president. For example president Amin degazetted most of the game reserves in 1972.

The argument is presented as follows; the following section reflects on the contribution of environment security and political ecology perspectives to understand the relationship between land and conflict, and the need in post-conflict settings to complement those with a focus on how violent conflict plays into land access and land governance. We then turn to the case of the Apaa evictions. Applying a political ecology perspective, we demonstrate the historical and political background of the claims made by the different parties involved –the local people, the district authorities of Amuru and Adjumani Districts, the Uganda Wildlife Authority; the impact of the redrawing of district boundaries and struggles over jurisdiction of various authorities; the role of ethnic identity in local perceptions about those boundaries; as well as the power politics involved. We then argue how the resulting dispute can only be properly understood if one takes account of the diverse ways in which the violent conflict between the Lord's Resistance Army (LRA) and the National Resistance Movement (NRM) government interfered with land distribution and land governance. We show how the LRA/NRM war resulted in the opening up of Apaa to outsiders and a redistribution of land governing power. Post-conflict efforts at decentralization that aimed to enhance land governance and transform authoritarian governance practices complicated the dispute even further. This brings us to the major argument that –to better understand post-conflict land disputes– political ecology perspectives need to be complemented with a particular focus on the impact of violent conflict on land access and land governance.

Analyzing land, governance and conflict in post-conflict settings

Theorizing about the relationship between conflict and land tends to explain land disputes either in terms of scarcity and competition, or sees land disputes as embedded in wider historical and political developments (Le Billon 2001; Korf and Funfgeld 2006; Vlassenroot and Raeymaekers 2004; Cf. Cramer 2006). The proponents of the first explanation underscore the inevitability of competition and conflict in case of a high demand for and limited supply of natural resources. In such a conception the scarcity of land is presented as a 'root cause' of violent conflict, which is inevitable, and at best can be averted by putting in place the right institutions (See Van Leeuwen and Van der Haar 2016). Such a perspective – which has also become known as 'environmental security'– reduces the relationship between natural resources and conflict to an issue of a desperate search for survival or human greed (Hardin 1968; Homer-Dixon 1999; Cf. Peluso & Watts 2001).

However, such a perspective fails to explain why in certain situations of scarcity and competing interests over natural resources conflicts do not arise. It is precisely this type of question that theorists from a political ecology school of thought seek to clarify. These scholars do not dispute the relevance of scarcity and abundance, but point out that actual scarcity or availability of resources on its own cannot predict the prevalence of conflict. Instead, they consider that resource dependency and conflict-proneness of resources are always socially constructed; and that there is need to understand how certain resources become perceived as scarce or valuable (see van Leeuwen and van der Haar 2016). This requires understanding the historical, political, social context in which those resources are exploited, the distribution of resources and relations of production that come about and how those turn conflictive (Le Billon 2001; Peluso & Watts 2001). In this connection, Cramer and Richards (2011:281) emphasize to look beyond the period immediately preceding the outburst of violence, as many resource-related conflicts have a long history in the making.

This paper starts from such a political ecological perspective. It underscores that the availability of land in itself does not spark off conflicts, but explores how the contested nature of land access is politically and historically formed. It also highlights the importance of the state, its policies and power politics. The management of land is a key area in which the state manifests itself and tries to impose its power over society, not only through the use of violence, but also through legal instruments, and statutory land institutions. Land reform may mean changing the rules of access and ownership of land of the local people or among the local groups. In due course land governance becomes a tool for state expansion and formation. Literature has argued that modern African states in diverse ways continue a colonial project of state expansion and expropriation of local resource users (see Peters 2004; Peluso and Vandergeest 2011; Cramer 2006). States may design rights to resources in such a way that they benefit the state itself (Peluso 1993), thus maintaining control over territory, natural resources and people. As a result, local people might be excluded from accruing benefits from natural resources, and the interaction between state institutions and local people might turn conflictive. Peluso (1993:204) illustrates how wildlife-conservation and the promotion of nature reserves may in effect enhance a state's control over natural resources and populations, especially those that do not support the government.

Such a perspective also brings out that conflict about land is not so much about the resource itself, but primarily about its governance, regulation and the maintenance of political hierarchies. In short, the governance of land access is embedded in wider power relations. How decisions are made about access, utilization, and ownership may be a source of contestation and resistance, while ambiguity about who is in charge and what rules apply might also lead to land conflict. Further, such a perspective clarifies how land-related conflicts represent or get deeply intertwined with other contestations in society, and how issues such as identity, ethnicity and grievances about those in power may play out in land issues (van Leeuwen & van der Haar 2016).. In this connection, to understand the conflictive nature of land access, it is important to consider the different meanings of land to local people. In agrarian African economies, land means more than an economic asset to rural populations; it is simultaneously the basis of their livelihood, and the source of their identity. As a consequence, disputes about land are more than resource conflicts, they may in fact come down to tensions over power, identity and social relations between different social groups, or as efforts to protect livelihoods and certain ways of living (Turner 2004).

Nonetheless, such a perspective still considers violent conflict essentially as the outcome of contestation over land. It is only recently that researchers have come to highlight the diverse ways in which violent conflict *interacts* with land issues. While the ways in which land is governed may create resentment and resistance, violent conflict in itself may have an enormous impact on how land is governed. Violent conflict may reshuffle the rules of access, utilization and ownership of land. This in turn may produce tenure insecurity and new contestation over land, and even new violence. The gist of this paper is to clarify the impact of violent conflict on land governance which in turn, acts as a catalyst to conflicts about land.

The case of Apaa evictions brings out the necessity of such a perspective. It illustrates the multi-dimensional relationship between land and conflict, illustrating how land conflict in northern Uganda and the competition over land ownership should be understood in the context of a longer history of contested politics of access to land, as well as contestation about

who is in charge and what rules apply, and how violent conflict instigates new contestation about land and its governance.

Governance, war and land disputes: the Apaa evictions, Amuru district

On the 13th of February 2012, amidst gunshots and tear gas, over 10 police trucks ferried people from Apaa village to Pabbo sub-county offices, in Amuru District. During the forceful evictions carried out by the Uganda Wildlife Authority (UWA) and the police, 2 people were killed, 25 youths were imprisoned, 2,730 huts were demolished, 1,365 households were displaced and over 6,000 people were evicted from their land (Cf. Lawino 2012; Makumbi 2012; RLP 2012; Lenhart 2013). This was the second eviction of the people of Apaa in less than a year. The first eviction in Apaa took place in May 2011, when armed UWA rangers moved around Apaa village demolishing people's huts without explanation or notice of eviction. After the first eviction, people were told to go back to Apaa by their leaders and the land dispute went silent until the second eviction in February 2012.

The evictions were the outcome of a long-standing dispute over land ownership and land governing authority. Apaa village⁵ is the main locality in the disputed area, which comprises about 825 square kilometers, and is found in Pabbo sub-county, Kilak County, Amuru District in Northern Uganda. The land in question is at the border between the Districts of Amuru and Adjumani. The dispute has come to encompass various actors with conflicting interests: while initially a dispute between the community of Apaa and the Uganda Wildlife Authority (UWA), over time, the police, army and the district authorities of Amuru and Adjumani Districts got involved (Cf. RLP 2012; Lenhart, 2013). Due to the intermingling of various members of parliament, the dispute eventually became an issue between two communities, the Acholi and Madi people, and was even understood as an issue between the Acholi and the state.

UWA claims that Apaa is located in East Madi Game Reserve that is found in Adjumani District, and that the current inhabitants of Apaa are illegally 'encroaching' on the game reserve. UWA has announced that further evictions will be carried out once marking of the district borders between Adjumani and Amuru Districts is complete. On the other hand, the residents of Apaa believe that the land in question is their ancestral land, from which they were displaced over the course of two decades of civil war between the LRA and the NRM government. The local people claim that UWA leased out the area to a South African investor interested in developing tourism and exporting game meat. Both the District authorities of Amuru and Adjumani maintain that Apaa village falls within their jurisdiction, and that each district is the rightful authority to determine what happens to the land in Apaa. Like UWA, Adjumani District also claims that the people of Apaa are illegal encroachers that have to vacate the village and the land as those are located in a reserve gazetted for wild animals. Amuru District acknowledges the claims of the local residents to the land on the basis that Apaa is part of the former Kilak Controlled Hunting Area, which was de-gazetted by President Idi Amin in 1972.

How to understand those different claims? One might argue that the problem is basically one of irreconcilable claims on the same, scarce resource, that lead to competition and conflict; or the failure of institutions to properly deal with those unavoidable conflicts (see Turner

⁵ Apaa village has a total population of 17,541 people or 5,000 households. The major economic activities in Apaa are farming, basically subsistence agriculture of crops like rice, cassava, sesame, ground nuts, and sorghum and they rear a few goats and cattle, bee keeping, charcoal burning and hunting.

2004:864-5). Such an explanation, building around the notion of 'scarcity' certainly plays a role in local people's explanations of the conflict. For instance, people interviewed pointed out that land is so central to people's lives that they are willing to die for land: land is both their life and their identity. They would argue that land is a source of livelihood, from land people get food, and an income to pay school fees for their children and medical bills. At the same time, they point out how land defines them, and embodies their ancestry. The Acholi, who inhabit the village claim that their forefathers were born on that land, occupied and started cultivating it. They cannot relocate because past generations were buried on the land. This affiliation between land and ancestry concerns not only the direct family, but also the clans and even the tribe to which people feel they belong. To those interviewees, land disputes were inevitable in Northern Uganda, considering that the amount of land was incompatible to the number of claimants.

On the other hand, one could explain the claims of local people in terms of opportunistic competition for scarce resources. In this connection, UWA representatives sometimes pointed out that those residing in Apaa village had prospectively come from other localities after the LRA/NRM war ended because the land was lying idle. Likewise, local people underscore the financial benefits that UWA and other parties may accrue from the land. For instance, a prominent politician from Adjumani District, who held ministerial posts in the past regimes, was said to have played a key role in driving the evictions in Apaa. In the past, this politician had never made claims that the land in Apaa belonged to Adjumani District. His recent interest in the case is locally attributed to personal benefit he may gain from the 4 billion Uganda shillings deal between the district, UWA and a South African investor, who will turn Apaa into a tourist destination with safari lodges. Under his chairmanship, discussions in cabinet resulted in a resolution that it was illegal for people to encroach on East Madi Game Reserve, and that the encroachment by the people from Apaa had to be stopped immediately. This resolution was reached prior to a visit to Apaa by the parliamentary commission to establish the facts on the ground. UWA and other security agencies were then called in to stop the encroachment and protect the game reserve.

However, such stories of scarcity, competition and self-interest are only part of the explanation, and need to be complemented by a more historical and political analysis of the dispute.

Contestation of local people's claims to the ownership of the land in question has a long history. A key historical event occurred in 1922, when for administrative reasons the British forcefully relocated part of the residents of the contested area to Pabbo and Gulu town. The formal justification for the relocation was an epidemic of small-pox and sleeping sickness transmitted by tsetse flies, which had their breeding grounds in Zoka forest⁶. Between 1945 and 1955 people slowly returned to Apaa, yet did not cross river Ceri, because of the sleeping sickness quarantine. In 1963 the area was gazetted and it became part of the Kilak Controlled Hunting Area, which occupied an area of approximately 1,800 square kilometres⁷. In 1972, Kilak Controlled Hunting Area was de-gazetted by President Amin⁸. After the revocation, in

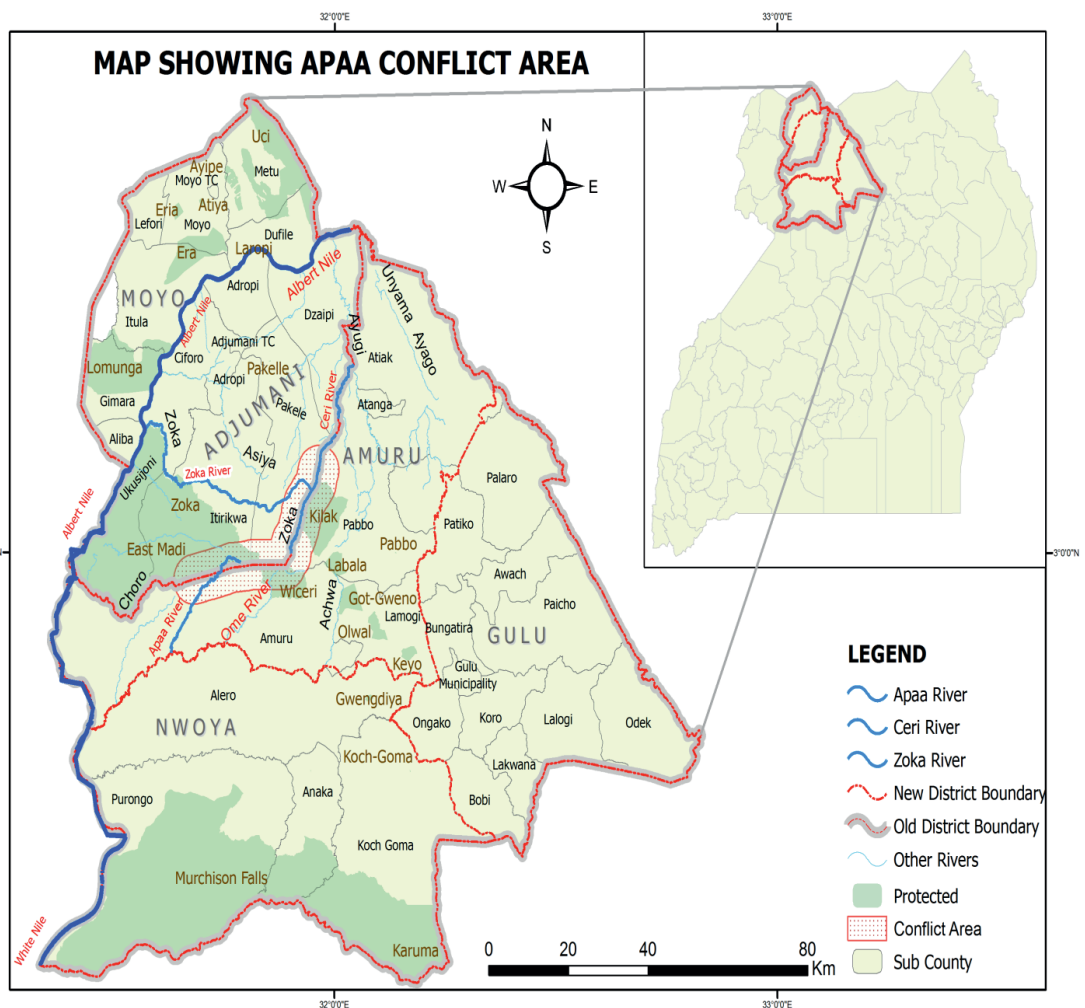
⁶ See Fishbourne, 1909; Good 1972; Selby et al. 2013 for more information about small pox, sleeping sickness and other epidemics and how they were used by colonialists to influence local people's settlements.

⁷ Statutory instrument No. 226-25

⁸ Statutory instrument No. 55

1973, descendants of the original residents returned to the land they claimed to be occupied by their ancestors.

However, their return was short-lived, because in 1986 the LRA/NRM war broke out and the Lord's Resistance Army (LRA) used the forests of Apaa as their training grounds. The government of Uganda then asked the people of Apaa to relocate to Gulu railway-station camp. Though initially not all people relocated, intensification of the civil war in 1996 forced all residents to move to the main IDP camp in Pabbo. In May 2002, the area was still insecure, nonetheless, people started to re-occupy and cultivate the land. Instead of residing in Apaa itself, they moved to a satellite camp called Acu, near Apaa, so that they could access their land from a distance. It was not until 2006 and after the Juba peace talks between the LRA and the NRM government that relative peace prevailed, and people finally settled again in



Map 3: Showing Apaa conflict area and other localities mentioned in the case study.

Apaa. They were led by the chief of Pabbo clan, the Local Council 3 chairman of Pabbo, and an army general currently serving in the Uganda Peoples Defense Forces (UPDF) who is locally described as ‘a son of Pabbo’.

From history, we see that people have always been moving out and into the area, either because of colonial policies, sleeping sickness, government policies for wildlife conservation, or war-related insecurity. Unfortunately, these movements have contributed to ambiguity about who are the rightful owners of the land and the authorities in charge.

Table 1: A history of population movements and evolution of Apaa conflict

Time	Event
1922	People displaced from Apaa by the colonial authorities
1945-1955	People returned to Apaa
1962	Uganda gets independence, end of colonial period
1963	Area gazetted as part of Kilak Controlled Hunting Area
1971	Idi Amin becomes president of Uganda through a coup
1972	Area de-gazetted by President Idi Amin
1973	People return to Apaa
1986	NRM government takes power after 5 years of a guerrilla war. The same year there was an outbreak of war between LRA and NRM, people left Apaa yet again
1996	At the height of the civil war, everybody is displaced from Apaa to IDP camps
1997	Adjumani District was split from Moyo District
2002	Though the war was going on, people started re-accessing their land in Apaa. At the same time Adjumani District offered Apaa land for gazettelement to become part of East-Madi game reserve
2006	End of the LRA/NRM civil war, and official return of people to Apaa satellite camp. Amuru District was carved out of Gulu district.
May 2011	First eviction
February 2012	Second eviction
September 2015	Third eviction. The conflict is yet to be resolved

The creation of new districts: putting into question the jurisdiction over Apaa land

Confusion about the status of the land and its ownership resulting from the consecutive gazettelement and de-gazettelement of the game reserve is further compounded by the creation of new districts with unclear boundaries. Apaa finds itself at the boundary between Amuru and Adjumani Districts, which again were split-offs of the districts of Gulu in 2006 and Moyo in 1997 respectively (Cf. RLP 2012). However, the boundaries of those new districts were never clearly demarcated, turning the dispute about the gazetted or de-gazetted nature of the land into a conflict over powers of jurisdiction.

To local residents, the division is clear: local people from both Apaa and across the river Zoka (Adjumani) point out that the boundary between Adjumani and Amuru Districts is the river Zoka. In previous elections, residents of Apaa voted for political candidates from Amuru District. During fieldwork, the main researcher observed Amuru District cars traversing the area, Amuru health workers providing services like immunization of children. Likewise, people in Apaa possessed identity cards from Gulu District, from which Amuru District was carved out in 2006.

However, both districts claim authority over the area. To support their claims, they make reference to its status of a gazetted or de-gazetted game reserve. Amuru District claims that Apaa is part of the former Kilak Controlled Hunting Area, which was located within the boundaries of the former Gulu district. Kilak Controlled Hunting Area was de-gazetted on 30th March 1972 under statutory instrument of 1972 no. 55. This converted the area into a place for human settlement. Some residents of Apaa even attained lease-hold titles, issued by the Gulu district Land Board. The authorities of Adjumani District, on the other hand, claim that Apaa belongs to Adjumani District. At the beginning of the new Millennium, Adjumani District offered the land for gazettelement and it became part of East-Madi game reserve, and this gazettelement was approved by Parliament on 27 March 2002.

As a result of those actions by the two districts, the area now appears to have a dual legal status, being legally recognized as a de-gazetted area, and at the same time as a gazetted game reserve. Either legal status has significant consequences for the extent to which the residents of Apaa are allowed to use of the land.

An important role in the ambiguity about which district is in charge, and thus about the status of the land, is played by the Uganda Wildlife Authority (UWA). UWA was created in 1996 and is charged with a mandate to conserve resources within national parks and other wildlife areas, so that people may accrue benefits from wildlife. In 1998 during the LRA/NRM war, Uganda Wildlife Authority requested the district council of Gulu District to gazette Apaa and Lakang⁹ to become a game reserve. According to UWA, Apaa provides a strategic wild life corridor between the East Madi game reserve and Murchison falls National Park, and UWA wanted to stop 'encroachers' (poachers) from killing the animals travelling between these areas. UWA suggested also that the area had good potential for tourism, if the insecurity resulting from the LRA/NRM-conflict could be resolved. At that time, UWA recognized that the area was vacant, because most of the land holdings had been abandoned as a result of

⁹ Lakang is another contested area where Amuru district land board allocated 10,000 hectares of land to Amuru Sugar Works Limited to start up a sugar complex. Lakang is also part of Kilak Controlled Hunting Area which was degazetted on 30th March 1972 under statutory instrument of 1972 no. 55. For more information about Lakang land dispute see Kobusingye forth coming

the LRA/NRM-insurgency (see below). However, Gulu District council did not accept the proposal. The episode suggests that, at that time, UWA acknowledged that the Apaa area was part of Greater Gulu District –and of what later became Amuru District; and *not* of Moyo District –and of what later became Adjumani District.

Currently, however, UWA considers the area to be located in Adjumani District. There appears to be a good understanding between the UWA and Adjumani District, and the latter promotes the establishment of the reserve. Repeatedly, UWA has underscored how the land was proposed for gazettelement by Adjumani District at the beginning of the Millennium. Adjumani District may well be interested in supporting UWA's perspective on the district boundaries and the establishment of the game reserve for financial reasons as well. 20 percent of the total revenue generated from the reserve will go to the district in which Apaa is located, in the form of infrastructure development, such as schools, health centres and roads. The sub-county under which Apaa falls will also get a certain percentage of the revenues. This may entice Adjumani District to claim that Apaa is under their jurisdiction. Moreover, decentralization seems to further articulate ethnic boundaries and identities between the Acholi and the Madi. Decentralization means that both communities now each have their own administrators to provide them with development services and resolve their disputes and their own Land Boards to govern land. It is important to note that because of limited funds it has taken a long time for these new districts to establish these District Land Boards that should govern land.

After the violent evictions in February 2012, a resolution was reached by central government to establish and demarcate boundaries between the two districts. On the 20th of August 2012, surveyors from the Ministry of Lands came to Apaa to demarcate the border between Amuru and Adjumani Districts. On that very same day, people of Apaa had come together to receive the surveyors, Resident District Commissioner (RDC) and district officials to discuss solutions to the Apaa land conflict. When the people in the meeting heard that the surveyors were already putting marker stones demarcating the boundary in such a way that Apaa was included in Adjumani District, they went to the scene, got rowdy and confiscated the tools of the surveyors. The police started firing bullets and tear gas to disperse the crowd and the surveyors returned to Kampala.

Over the same period, community members and some politicians from Amuru district filed the case before the High Court, asking the Court to decide whether Apaa belongs to Amuru or Adjumani District. A court injunction was secured, which halted further evictions, destruction and interfering with land rights in Apaa. At the time of writing, the case was still awaiting an outcome. If the Court grants the authority over Apaa to Amuru District there will be no further evictions of people of Apaa. However, if Adjumani District is granted authority over Apaa then evictions will continue, considering that Adjumani District has already destined the land to become a game reserve.

Later efforts at surveying the land in May 2015 drew widespread media attention in Uganda and even abroad,¹⁰ when a group of elderly women stripped naked in front of two government ministers that accompanied the surveyors. The ministers called off the exercise and the land was not surveyed. Four months later, on the 7th of September 2015, the Member of Parliament representing people of Apaa was arrested and detained for 4 days on allegations of inciting

¹⁰ See BBC News, 'The Ugandan women who strip to defend their land', <http://www.bbc.com/news/world-africa-32938779>

violence and organizing the people of Apaa to reject planting of mark stones which effectively located Apaa in Adjumani District. At that time, police and the army were deployed in large numbers in Apaa and on the 9th of September a third eviction was carried out. This left 2 more people dead, 5 badly injured with limbs amputated and 30 people from Apaa were arrested. Finally a few mark stones were planted in the area where Adjumani District wanted the boundary to be located. Soon after, on the 14th of September, a United Nations team and members of parliament from other regions of Uganda came to the area for a fact finding mission about the conflict but were denied access to Apaa by police and army, under orders of the Adjumani RDC. The team then returned to Kampala after exchanging heated conversation with the police and soldiers.

Land, ethnicity and identity

To complicate matters even further, underneath this controversy about territorial demarcations simmer disputes about ethnic identities. Amuru District is mainly inhabited by the Acholi people, while Adjumani District is mainly inhabited by the Madi. Before the colonial period there was rivalry between the two tribes of Acholi and Madi. The Acholi and Madi used to fight in order to expand their territories into the lands of the other group, and Apaa was one of the areas that were contested. On several occasions, the Acholi defeated the Madi and chased them up to a river called Lalopi.¹¹ However, the story goes that, tired of these constant wars, and after the death of some Madi chiefs, elders from both sides decided 'to bend a spear': to show reconciliation and put an end to tribal wars. They came to the agreement that river Zoka would become the boundary between the two groups. Zoka means 'stop me': the river had to stop the Acholi from crossing to the Madi side and vice-versa. Both communities could still cross the river on good terms, for instance for hunting, and the improved relationships resulted in intermarriages in Apaa between the Madi and Acholi.

The Apaa land conflict and the contestation over the precise location of the district boundaries reawakened tensions between the two ethnic groups. In Uganda, political constituencies are often mobilized on the basis of ethnic identity. Politicians strategically play on ethnic sentiments or antagonisms to acquire political relevancy and votes during elections. In the case of Apaa, to politicians, representing the dispute in ethnic terms, turned out an easy way to garner support from one's own ethnic group. Political representatives from both sides strategically played on the memory of past competition and hostility. After the evictions, political leaders from both the Madi and Acholi incited their fellow community members to take up bows and arrows to fight for their land. Acholi leaders pointed out that the game rangers who evicted people from Apaa came from the direction of Adjumani District, and to the local people of Apaa, the 'people' responsible for their eviction were Madi. Authorities from Adjumani have complained that the Acholi deny the Madi access to the land in Apaa, stay illegally in Apaa, and should go back to their 'original homes'. Some claim that, even if the Acholi occupy land in Apaa, it still belongs to Adjumani District.¹² This introduction of an ethnic dimension in the Apaa conflict was evident for instance in August 2012, when Adjumani District erected sign-posts in Apaa, welcoming travellers to Adjumani District. This act angered the Acholi residents, who uprooted the sign-posts, pointing out that Apaa belongs to the Acholi tribe of Amuru District, and not to the Madi tribe of Adjumani District.

¹¹ The River's name Lalopi signifies something like: "rush to the river or the Acholi will finish you up".

¹² Interview, Itirikwa, Adjumani 06-05-2013

The role of the LRA/NRM war in the conflict about the land in Apaa

In the preceding sections we explored the historical and political background of the Apaa evictions. As mentioned before, Apaa is located in an area which was heavily affected by the 20 years of civil war between the LRA and the NRM government in Northern Uganda. To understand the Apaa evictions properly, an assessment of the impacts of this violent context is necessary.

Displacement opened up space for land grabbing

War creates 'free' land, which facilitates land grabbing. During and immediately after war land appears to be vacant, free or ungoverned due to displacement that took place. This attracts both outsiders and local people to appropriate land. In particular communal land –land which is collectively owned by the community for example hunting grounds and grazing lands– is vulnerable to such land grabbing (Cf. Wiley, 2006).

In 1996 at the height of the LRA/NRM insurgency, the NRM government forcefully relocated people to Internally Displaced People's (IDP) camps in northern Uganda. People were taken from Apaa to Pabbo and Amuru camp, while others were moved to Adjumani District. There is a strong belief among local people that if they had not been displaced to the camps, they would not have been evicted from their land by UWA. As a result of this displacement their land became apparently vacant. The fact that it was not used contributed to the flourishing of wildlife. Interviewees pointed out that this was the reason why UWA asked Adjumani District for the gazettelement of the land as a game reserve in 2002. When the insurgency ended and people could safely return from the camps, they found out that their land had been allocated to a game reserve.

Having been absent, people were not in a position to contest the changes in land ownership, or provide evidence for their previous claims. Officials from Adjumani District claim that the Acholi in Apaa illegally occupied the land after the war and that they should go back to their original lands.¹³ Likewise, UWA asserts that the people of Apaa cannot prove ownership of the land, and only settled in Apaa after the end of the LRA/NRM war. UWA claims that the community is in fact composed of a mixture of tribes, coming from different areas, which settled in the area after the war, but should eventually return to their home areas.¹⁴ However, during interviews and observation by the main researcher, representatives of the Apaa community consistently pointed out that Apaa was occupied by the Acholi tribe, even if a few Acholi men had married Madi wives. Against the argument that the Acholi occupied Apaa illegally, even documents proving land ownership were of no avail: some interviewees possessed valid lease-hold titles dating back to the 1970s, but they were nonetheless evicted from their land during the Apaa evictions.¹⁵

Moreover, the people of Apaa interviewed noticed how the war brought in new stakeholders with an interest in land, and even facilitated the acquisition of land by people from outside. Over the course of the civil war (1986-2006), as part of counter insurgency operations, soldiers from different regions got to know about the potential and expansion of lands in Northern Uganda. In particular, people from the south and the wealthy are believed to have acquired

¹³ Interview with sub-county official, Itirikwa, Adjumani 06-05-2013

¹⁴ Interview with game ranger, Apaa 31-05-2012

¹⁵ According to a leasehold title of one of the people evicted 06-03-2012

land in this way. Indeed during fieldwork, the main researcher visited lands in Apaa that belonged to army generals. The Acholi were convinced that this thirst for Acholi land by external people would not have been there if the war had not occurred and introduced these people to their area.¹⁶ Moreover, the war also opened up the area. In 1999, the government created numerous security roads in Northern Uganda, to patrol and drive LRA rebels out of the region. A security road was constructed through Apaa village as well. Local people believed that this road not only served security interests, but was mainly constructed for the sake of Lake Albert Safaris Company limited¹⁷, which wanted to exploit the area as a tourist site and game reserve.¹⁸

Another important dynamic in post-conflict settings is that land virtually becomes the only source of livelihood, fuelling the potential for land disputes. Interviewees pointed out how during the civil war in northern Uganda, Karamajong cattle rustlers, the Uganda People's Defense Forces (UPDF) and the LRA rebels took away all their cattle.¹⁹ When living in the IDP camps people could not access their land and lived on hand-outs. After the war, they felt that the only resource they were left with was land. As elders in a group discussion emphasized: 'we lost our animals during the war and now we hear that the government took the land too'.²⁰ As a result of the war and its impact on local livelihoods, the emotional value of the land had increased as well.

Ambiguity of land governing authority and political competition

Another important consequence of the LRA/NRM war is that land governance institutions are in disarray. This has resulted in ambiguity among government institutions about who is in charge of land governance, and the rules that should apply. On 15th of February 2012 the High Court in Gulu issued an injunction and ordered UWA to stop evicting the people of Apaa. However, UWA continued to terrorize the residents of Apaa, by demolishing their huts and confiscating their hoes when they went to their gardens, while soldiers and policemen moved around the village carrying guns. UWA claimed the court order was void, considering that Apaa is part of Adjumani District, and that the High Court of Gulu district has no jurisdiction there. The example shows contestation between different government institutions, the judiciary, and UWA, about who is in charge of the governance of natural resources. Likewise, the government surveyors went ahead with planting mark stones to demarcate the presumed boundary of Apaa, even before another branch of government –the judiciary– had given its verdict.

This institutional confusion and ambiguity provides important opportunities for politicians to get involved in post-conflict land governance. Through taking positions and putting their weight behind either of the two sides in the conflict they may increase their popularity, and so assure support in the next elections. One politician in Adjumani promised during the elections that he was going to get land for local residents. Residents of Apaa claim that this politician has meddled in the Apaa evictions, precisely to show that he is fulfilling his election promise. Further still, politicians can use their offices (power) to antagonize society by

¹⁶ Interview with LC3 Councillor Pabbo 20-03-2012)

¹⁷ Lake Albert Safaris Company Limited is a registered private company owned by a white South African national couple

¹⁸ Focus group discussion with Apaa elders 06-03-2012

¹⁹ Interview Pabbo 07-03-2013

²⁰ Focus group discussion with elders of Apaa 06-03-2012

choosing to take sides in land disputes yet they hold public offices that are supposed to serve all citizens. For example, a politician on his way to his constituency would casually park his car and chat with the UWA game rangers in Apaa. Local people would interpret this action to mean that this politician was responsible for their eviction from the land. On the other hand, during a September 2012 community meeting that was called by the chief of Pabbo to find solutions to Apaa evictions, politicians from the government used the opportunity to intimidate politicians from the opposition that had pointed out the role of government in the evictions, portraying them as sabotaging government programs. Likewise, politicians from the opposition instead tried to capitalize on the argument that those in power have failed to protect people's rights to land.

Some politicians try to use contestation around land to show that they are more powerful than the institutions responsible for land governance. In a post-conflict situation where the land governance institutions are still weak or struggling to regain authority, they can easily be influenced by strong politicians.

The identity factor in a post-conflict setting

The Apaa evictions turned out very problematic as they were re-interpreted locally in terms of larger, ongoing contestations between the Acholi and the Uganda state. The dispute was no longer seen only as a local issue between UWA, the District authorities and the residents of Apaa, but rather as an issue between the state and the Acholi community at large. Even Acholi people from outside Apaa felt affected by what happened in Apaa, and referred to the case as an illustration of how the rights of their ethnic community were infringed upon (Cf. Lenhart 2013). In the same way, the people of Apaa interpreted the eviction as a ploy by government to chase them off their land and in the long run wipe out the Acholi tribe because the Apaa conflict is not the only land conflict in Acholiland. As women in Apaa lamented, 'there is no tribe in Uganda that is tortured like the Acholi and especially the Acholi from Amuru District. [...] In Kololo and Lakang 10,000 hectares of land have been allotted for sugar cane growing, Wicere is a national forest, Apaa is a game reserve and all are in Amuru district. Where are the Acholi supposed to live?'²¹ The fact that elder women resorted to stripping before the ministers and authorities illustrates how high frustrations have risen. The conflict in Apaa turned into a significant event for defining the relation between people of Acholi and the state. Their attitude towards the state may come to depend strongly on how the land dispute will be resolved by government institutions. Therefore, the evictions are closely connected to the larger issue of the re-establishment of the state in northern Uganda.

Discussion and conclusion

The case of Apaa underscores that to better understand land disputes in post-conflict settings requires one to take into account the impacts of violent conflict on land access and land governance. A political ecology perspective may help explain how post-conflict land disputes are the outcome of contested land governance practices and histories of exclusion and misappropriation. In the case of the Apaa evictions, colonial policies of creating reserves (game and forest reserves) were repeated and reinforced through gazettelement and de-

²¹ Focus Group Discussion with women in Apaa 27-05-2012

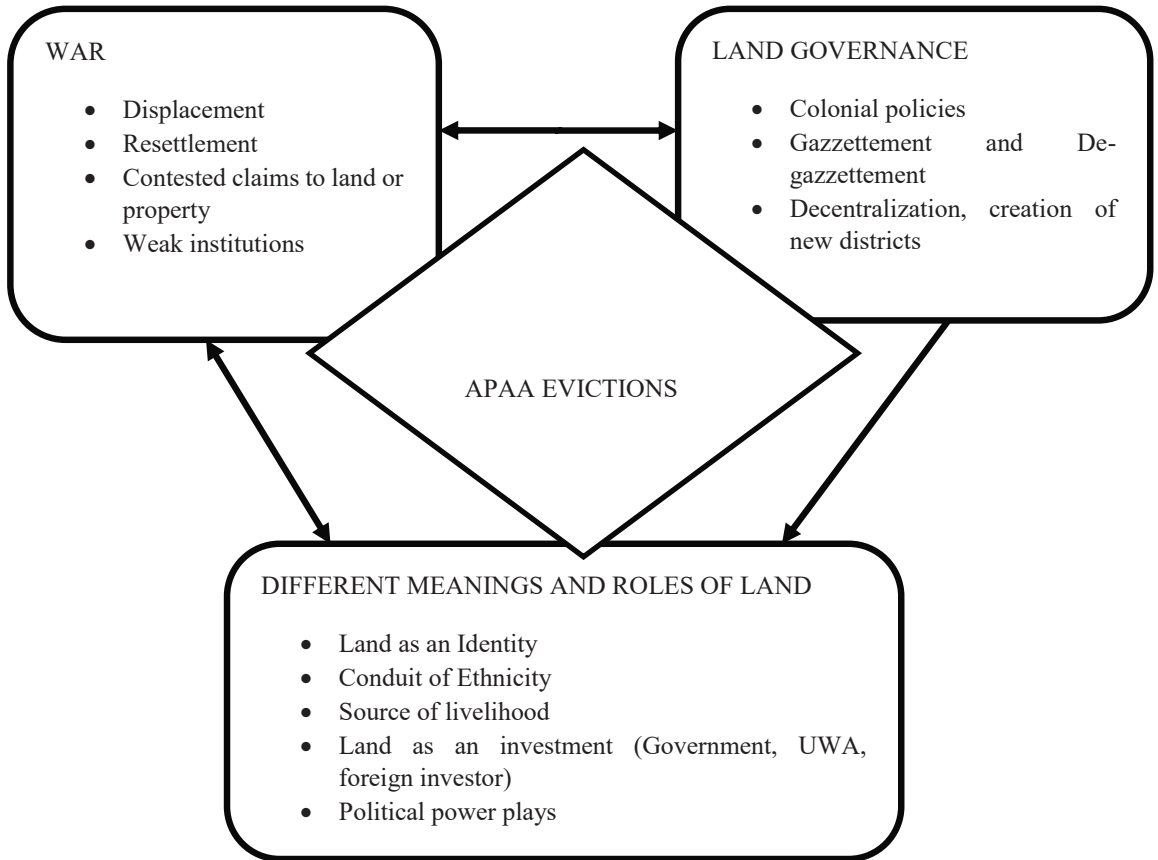
gazettement policies after independence, thereby creating uncertainty over land ownership and the laws applicable. The creation of new administrative units (districts) without clearly drawn boundaries resulted in struggles over territory and the jurisdiction of districts. Moreover, in combination with the conflict about Apaa this led to the articulation of tensions about ethnicity and grievances about those in power and the institutions that govern natural resources.

The Apaa conflict has negatively affected the already poor relations between the Acholi and the state. In an attempt of the Ugandan state to demonstrate its control over the Acholi territory, it used heavy violence against the people of Apaa. Local land rights have been negated, in favour of the interests of a foreign investor from South Africa, who is believed to have obtained a lease contract on the contested land of Apaa. In a nut shell: through its institutions (like UWA, army), the state uses land governance to regain control over these post-conflict territories. This resonates with Unruh (2003) who notes that the way state handles land disputes in post-conflict situations can strongly shape people's perception of (dis)trust in the state.

However, to better understand post-conflict land disputes requires not only to consider how land and its access have resulted in conflict, but also to explore the impacts of violent conflict on land distribution and land governance. The LRA/NRM war significantly reshuffled the rules of access, utilization and ownership of land. The post-conflict phase brought in various new actors, including diverse new government institutions, military, and foreign investors that appropriated land, claiming that it was vacant. Violent conflict uprooted people from their land and displaced them to IDP camps, and upon their return local land governing institutions had weakened and were not capable to deal with the ensuing land disputes and a more powerful presence of the state and army. Land disputes are specifically difficult in post-conflict settings because people may not have trust in land institutions (Unruh 2003; Kobusingye et al. 2016). The case of Apaa strongly brings out that, a focus on the impacts of violent conflict on land governance may help to understand why land governance becomes part of wider contestations about power in conflict-affected settings.

In the case of Apaa, politicians used the chaos and confusion brought about by land disputes to promote their own interests, as a result of which land disputes became a playing field in which power relations were fought out by politicians and institutions. As a result, issues such as ethnicity, identity and political power games get a new meaning because of these new actors. This in turn produces tenure insecurity and new land conflicts. In the case of Apaa, while the Acholi and Madi have been coexisting harmoniously for a long time, the land dispute is antagonizing these relations again. Therefore, the way in which the Apaa conflict is resolved will have implications for the extent to which peace is restored, or conflict reignites. This all underscores the significant impact that violent conflict may have on land access and its governance, and the importance of taking these dynamics into account when trying to address land conflicts in post-conflict settings.

Figure 1: An Illustration of the drivers of conflict in the Apaa Evictions



4. Decentralized Land Governance and Power Complexities in Large Scale Land Allocations: The Case of Amuru Sugar Project in Uganda.

ABSTRACT

Initial international enthusiasm for decentralization as a way to give small-scale producers in sub-Saharan Africa better access to land services is slowly giving way to awareness that decentralized land governance often fails to fulfil its promises of more transparent land governance and improved tenure security. Most analysts attribute this to unclearness in state legislation, governance failures, and resource inadequacies. However, this paper underscores the importance of power relations as a determinant of the extent to which decision making is truly decentralized. The paper builds on a case study in Uganda, where since 1993 decentralization has been embraced as a policy for fostering national unity, transforming authoritarian, centralized practices of governance, and improving service delivery. Ethnographic research conducted between 2011 and 2013 in Amuru district in Northern Uganda demonstrates that, despite decentralization, decisions about land allocation at lower levels of government tend to reflect the interests of those at higher levels of governance. This is due to restricted powers attributed to local land governing authorities, ambiguous legislation and political appointments. As a consequence, instead of handing over power to local decision takers, decentralized land governance helps to increase the presence of the state at local level and has served to expand its power over local resources. As such, decentralized land structures end up protecting interests of powerful actors instead of local land rights.

Key words; Decentralization, Decision making, Land governance, Power and Tenure security

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Introduction

Decentralization of land governance has been a key element of many land reforms in Africa, in order to improve tenure security of local small-holders (Boone and Duku, 2012; Kjær, 2017). Decentralizing land governance entails a transfer of powers from higher level authorities to decentralized land structures so that they are empowered to make independent decisions but also include views of local people in land governance. Proponents of decentralization argue that decentralization results in decisions that are more responsive to the demands and interests of local stakeholders (Shah and Thompson, 2004; Siegle and O'Mahony, 2006; Benjamin, 2008) and assures that local stakeholders are better represented in decision making (Quan, 2000). A key assumption is that this will lead to better protection of local land rights (Bartley et al. 2008; Hilhorst, 2010).

Unfortunately, in many settings, decentralized land governance fails to result in transparent land governance and improved tenure security. Most researchers attribute these failures to ambiguities in state legislation and resource related inadequacies, like insufficient funding and poor staffing (Golola, 2001; Hilhorst, 2010; Joireman, 2007; Kjær, 2017). Some analysts suggest as a major problem that only limited decision-making powers are transferred to local institutions (Ribot, 2003; Andersson and Ostrom 2008). So far, this has received little attention in the literature. In this connection, important to note is that there are often also other (hidden and open) ambitions behind land reforms. These may include building electoral support (Kjær, 2017) or maintaining the prevailing political order for example in Ghana where customary institutions are left to govern rural lands (Boone and Duku, 2012). Such ambitions significantly influence how land reforms turn out and the actual impact they have on tenure security. Consequently, decentralized land governance may not effectively promote popular representation and downward accountability in land governance, and effectively ignore the role of customary authorities in providing some measure of tenure security (Sjaastad and Cousins, 2008).

This paper starts from the premise that decentralization provides space for new interactions among all actors involved in land governance (Golola, 2001; Agrawal and Gupta, 2005; Van der Haar et al. 2009). However, these actors interact from different power positions which has a bearing on the decision making process. Boone and Duku 2012 show how the chiefs in Ghana have powers and influence national land policy, In the case of Uganda, although the new constitution recognizes the land governing capacities and authority of local customary institutions, in practice, national and decentralized statutory institutions at the local level continue to call the shots in land governance. Their bypassing of customary rights may lead to disempowerment, and a greater influence of the state in governing land at the local level. The case of Amuru demonstrates how the administrative set-up of decentralized land governance provides room for manoeuvre (Cf. Kjær, 2017) to powerful actors (including central government, wealthy business people, companies, elites, army officers, politicians etc) to expand their power in local land governance. As a result, decentralization of land governance fails to create tenure security and protect the land rights of local people. Instead, powerful actors determine how decisions are made about land allocation, land disputes, land ownership, land utilization by decentralized land governance structures.

The case demonstrates that the real impediment to localizing land governance lies in the distribution of power between different levels of government, rather than in a lack of resources only. Moreover, in a post-conflict environment, decentralization provides an

important opportunity to diverse local state and non-state institutions to gain legitimacy and claim decision taking power in land governance. At the same time, the paper demonstrates that popular perceptions about central government and the decentralization reform are very important in the legitimacy of decentralized land structures.

This paper is an output of the research programme 'Grounding Land Governance' that studied post-conflict decentralized land governance²². Section one shows that local governments without power, which are driven by mandates from above, are ineffective in creating space for popular participation and representation in land governance. Decentralization in post-conflict settings may also be just another way of asserting control over post-conflict areas by the central government. Section two discusses Uganda's approach to and ambitions behind decentralization which have led to creation of numerous districts and increased the presence of the state at the local levels. It also presents the history of land governance in Uganda and how ambiguities in legislation related to land created room for the state and the powerful to influence local land governance. Section two further discusses the civil war in northern Uganda and its role in shaping perceptions of people of the north in relation to the state and land governance. The third section presents the case study of sugarcane plantation in Amuru district. The case demonstrates that despite decentralized land governance, important decisions on the allocation of land remain the domain of central authorities and popular participation in those decisions remains limited. Consequently decentralized land structures cannot effectively provide tenure security to local people vis-à-vis large scale land allocations.

Decentralization, power and accountability

Due to the wide spread failure of post-independence African states to provide adequate services decentralization was identified as an approach of rolling out the role of states in service delivery (Prud'homme, 1995). The rationale for decentralization was bringing services closer to the people (Ribot et al. 2008) where local views and ideas would be included in governance. It was argued that people would be empowered to make decisions about local issues that affect them and that decentralization would improve the quality of governance because decisions are made at the local level and local administration could be held accountable (Golola, 2001). However the sharing of powers among different levels of government may not always have been the primary reason for decentralization (Shah and

²²This paper is based on ethnographic research about decentralized land governance in post conflict settings that was conducted for a period of 2 years from 2011 to 2013 in northern Uganda. The research is part of the Grounding Land Governance Program which is funded by WOTRO Science for Global Development grant number W 01.65.332.00 Fieldwork was conducted in both Amuru and Gulu districts in the Acholi sub-region, in northern Uganda. This paper is based on a number of interviews that provided data about understanding how power influences decisions that are made by decentralized land structures at lower levels. The study employed purely qualitative methods of data collection. Primary data was obtained from 31 interviews, 6 focus group discussions, 1 dialogue meeting on investments in Acholi region, 1 community meeting at the proposed site of Amuru sugar factory, 2 meetings with all leaders from Acholi sub region, 1 swearing-in ceremony of area land committee in Amuru, 2 northern Uganda land platform meetings and through field observations by the researcher who lived with the community. Categories of people interviewed included; politicians, local people, members of district land board, members of area land committee, local council members, civil servants at districts, traditional leaders, the youth, representatives from NGOs. Secondary data is based on review of documents especially the land laws for example the 2013 National Land Policy, the 1998 land act, the 1995 constitution, the 1975 Land Reform decree and other related literature. Additional data for this paper was obtained from interviews conducted for two weeks between April and May 2014 for a short research entitled "governing commercial pressure on land: what is the role of local government" that was commissioned by Landac.

Thompson, 2004) because African states are not willing to share power (Olowu, 2003, Larson and Soto, 2008). Yet, this is a critical determinant of decision making. As Ribot et al. categorically stated “without powers, no authorities are worth influencing - even if they are accountable” (Ribot et al. 2008:6). Inevitably local governments without power and which are driven by mandates from above may be ineffective in creating space for popular participation and representation in governance. Based on such circumstances district level authorities may not always be accountable to local communities (Peluso, 2007). Therefore, though decentralization may be portrayed as a channel of taking services closer to the people, in practice it might be a cover-up to actual increasing local presence of the state for more effective control and governance of people (Romeo, 2002). Under such circumstances people may start to resent devolved local government structures because they perceive them as agents of the state, instead of representing their local interests.

In addition, decentralization is supposed to create space for interaction between the actors involved in governance processes (these include; central government, local government, traditional institutions, local people, civil society and outsiders) (Golola, 2001; Benjamin, 2008). However, these actors dispose of different sources of power and in most cases local people may be disadvantaged and decentralization may increase their exposure to external influences (Siegle and O’Mahony, 2006). Local governments may engage in non-transparent allocation of resources to powerful groups like elites, army generals and wealthy businessmen for example by registering customary land. This may lead to frustration of the powerless and result into violence (Jackson and Scott, 2007). In post-conflict settings violence, defined as a social process where violent actions shape new structures and new forms of behaviour, thereby redefining the forms of societal organization (Bakony & Stuvøy (2005), may be one of the means local actors use to influence decisions. Local people often resort to use of violence when they perceive local government as inefficient and unresponsive structures (Olowu, 2003; Peluso, 2007) and in cases where local institutions are manipulated by the powerful. Moreover, in a post-conflict situation where most of the formal land institutions are broken down and weakened, population and the state may be accustomed to use violence in order to enforce their own land claims. Therefore violence also plays a critical role in shaping decentralized land governance in post-conflict situations.

Post-conflict settings are characterized by extraordinary conditions like mass displacement, rapid land access by returning populations, weak institutions, communities accustomed to use of violence, and low levels of trust between the community and the state (Siegle and O’Mahony, 2006). Such circumstances pose enormous challenges for decentralized land governance in post-conflict settings. Local governments, especially in a post-conflict setting, face various political pressures from actors at local, national and international levels (Van der Haar et al. 2009). Therefore interactions and pressure from various actors in governance influence how post-conflict decentralized land governance takes shape. Due to low levels of trust between community and state, decentralized land institutions in post-conflict settings may fail to provide tenure security because people perceive local governments as instruments for actualizing goals at higher level (Van der Haar et al. 2009). Decentralization in post-conflict settings may also be just another way of asserting control over post-conflict areas by the central government. During violent conflicts states tend to lose authority over some territories or areas. Therefore, at the end of war, decentralization might be seen as a way through which this lost authority over such areas can be regained.

Decentralization in Uganda

Decentralization of land governance in Uganda should be seen as part of policies to transform the ways in which governance is performed at the local level. Uganda took up decentralization as a governance reform in 1993, 7 years after the National Resistance Movement (NRM) seized power in 1986 under international pressure as a condition to obtain aid or support (Golola, 2001; Onyach, 2003). Decentralization in Uganda specifically aimed to transform previous practices of centralized, authoritarian, non-participative governance of the Amin and Obote regimes through transferring powers and responsibilities to districts (local governments). Resistance councils (RC) that were used by the NRM rebels to organize and mobilize support from the community during the 1981-1986 guerrilla war were later transformed into Local Councils (LC) by the 1993 local government (Resistance Councils) statute. Decentralization was further entrenched in the 1995 constitution under article 176 where the districts became a unit of local government. Then the 1997 local government act made local councils the official tools through which decentralization was implemented. Decentralization involves transferring some functions, powers and responsibilities from central government to local governments so that all stakeholders are involved in governance decisions (GOU, 1995). Some of the powers and functions transferred to local governments include; ensuring democratic participation in and control of decision making by local people, establishing sources of revenue and financial accountability (GOU, 1997).

To this end, a five layer system of elected councils was set-up that starts from local council 1 (village level LC1), upwards to local council 2 (parish level LC2), local council 3 (sub-county level LC3), local council 4 (county level LC4) and finally local council 5 (district level LC5). Important to note is these reforms were made hastily in the bid to decentralize yet the institutional structure was still weak. Local council members or councillors are elected into office after every 5 years and it was envisaged by government that elected leaders would represent views from the local people and in turn the local people would make these elected leaders accountable through elections. However, since 2001 there have been no elections for LC1 and LC2 and consequently the members currently holding office lack a legal mandate. Critics have argued that decentralization has done little to increase popular participation in government. The Ugandan way of decentralization has also led to an enormous increase in the number of districts from 33 when the NRM came to power to 112 districts as of 2014 and more districts are in the pipeline to be approved by parliament. The usual justification for creating new districts given by government is effective administration and taking services closer to people (New Vision, 2012). Some academics suggest, however, that the creation of new districts should be seen as part of strategies to maintain a loyal electorate.

Creation of districts is often used to manipulate elections in order to prolong NRM's stay in power by tactfully gaining loyalty of the new districts and gaining votes (Green, 2008: 16). New districts are always promised by president Museveni during presidential campaigns as has been the case in the 1996, 2001, 2006 elections (Green 2010: 94). People in new districts are compelled to vote for Museveni because gaining a district status is considered a political reward. Although the constitution stipulates devolution of powers to local governments, in reality local governments only carry out administrative procedures or roles, with the actual power to make decisions left to the central government. This "districtification" of Uganda has contributed to the creation of powerless local governments that cannot make independent decisions because they are always reliant on the central government for their existence.

Various authors point out that in fact those promoting decentralization in Uganda were not interested in increasing citizen participation but rather in strengthening the presence of the state at local levels, increasing the grip of their political party on power and the population, complying to demands from donors even if political will for real devolution of power was lacking and getting rid of difficult political issues like development inequalities by putting them on the plate of lower government levels (Golola, 2001; Green, 2008; Nsamba, 2009; Manyak and Katono, 2010). Such arguments correspond to Smoke's observation that decentralization is often driven by a political desire to appear to be decentralizing, while political will to actually devolve power is lacking (Smoke, 2003: 12). Therefore under such motives district/devolved institutions like the district land board cannot perform their mandates without interference from the central government (cf. Nsamba-Gayiiya, 1999). And without a doubt, when local administrative structures are weak, enforcement of property laws is uncertain (Joireman, 2007: 467).

Decentralized land governance in Uganda

In this section we analyze legislation and policy changes which indicate a lot of unclearness and ambiguity, the implications of which are explored in the case study. On paper, decentralization plays an important role in policy reforms to improve tenure security, it provided for popular participation and representation in land governance. Uganda has had two major land tenure reforms since independence notably the 1975 land reform decree by President Idi Amin and the 1995 constitution of Uganda followed by the 1998 Land Act. The 1975 land reform decree by president Idi Amin made all land in Uganda public which was administered by the Uganda land commission in accordance with the Public Lands Act of 1969 (Section 1 (o) of 1998 Land Act). The 1995 constitution overturned the 1975 land reform by stipulating that land in Uganda belongs to the citizens of Uganda and shall be held under four tenure systems which include; customary, freehold, Mailo and leasehold (Article 237 section 1 of the constitution). Important to note is the 80 percent of the land in Uganda is held under customary tenure and only 20 percent is registered land (MISR, 2003). This signifies that land in Uganda is largely locally governed.

The 1998 Land Act was created to further elaborate the constitutional provisions and to make steps towards actualizing decentralized land governance in the country. The Act elaborates the roles and functions of local government land institutions that are charged with the provision of decentralized land administration services. The local government structures that work on land include the district land board, the district land office – both at LC5 (district) level, the area land committee and the sub-county court committee – both at LC3 (sub-county) level. In relation to decentralized land governance, the 1998 Land Act gives power to district land boards to administer public land and allocate land that is not owned in a district (Section 59 (1) a and b of the 1998 Land Act)²³. In addition, the district land boards also facilitate the registration and transfer of interests in land. The area land committees are mandated to work on applications for land allocation and land registration. Area land committees also determine, verify and mark the boundaries of all interest in the land which is the subject for the

²³ Section 59 of the 1998 Land Act elaborates the functions of a district land board. Some of which include; 59 (1) (a) states; hold and allocate land in the district which is not owned by any person or authority. And 59 (1) (c) take over the role and exercise the powers of the lessor in the case of a lease granted by a former controlling authority (Uganda Land Commission)

application. The area land committee then advises and makes recommendations to the district land board after inspecting the land.

On the other hand the Land Act also recognizes a parallel system where customary institutions govern land under the customary tenure system. In order to increase tenure security, customary tenure received formal recognition from the state and it attained legal status as a form of land tenure in the country in the 1995 constitution. Customary tenure is defined as a form of tenure where people's access and ownership of land is governed by rules generally accepted as binding and authoritative by the class of persons to which it applies, under this form of tenure land is owned in perpetuity (Land Act 1998). In a move to increase tenure security under customary tenure, article 237(4a) of the constitution provides for any person, family or community holding land under customary tenure to acquire a certificate of customary ownership (CCO). The 1998 Land Act further elaborates under section 4 (2-3) that applicants for CCOs shall submit their applications to Area Land Committees at Sub-county level who are mandated to carry out land inspections, mark boundaries, verify if there are no disputes on the land and then make recommendations to the district land board. The District land board has the power to reject an application or to issue the CCO. It also provides for land under customary tenure to be converted to freehold tenure through land registration. There is a desire by government to formalize previous informal rights to land. However a number of impediments exist in the way to achieve that, therefore insufficient legal changes have been made (Joireman 2007). These include provisions in the Land Act for converting customary tenure to statutory tenure through registration of land. However, the recognition of customary tenure or rights is increasing state control over property and territory (Martiniello, 2015: 658).

This legal reform has created a number of ambiguities. Whereas the 1975 land reform decree declared all land public, the 1995 Constitution distinguishes only 4 types of land, technically this means that there is no longer public land and that land not under (registered) freehold, leasehold and Mailo tenure regimes is by default under customary tenure. However, this leaves the question on the status of land that was officially designated as public land before the 1995 constitution. As we will see in the case of Amuru, this is a legal gap that creates room for manoeuvre for government to take land. Whilst land belongs to the citizens of Uganda, the government or local government can acquire land for public interest (GoU, 1995).²⁴ The controversial issue is that public interest is not well defined; the constitution just describes public interest as in the interest of defence, public safety, public order, public morality or public health without a clear set of criteria. This ambiguity in land laws gives power to government to acquire land in disguise of public interest. Therefore, large-scale land allocations to investors can be categorized as public interest by the government since they are seen as projects that will bring development to the country. Kjær 2017, argues that in most cases land governance is maintained as a grey zone by government in order to attract investors, maintain the ruling coalition. This ambiguity or legal gap in land laws may be a

²⁴ Article 237 (1) of the 1995 constitution stipulates that Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the 4 land tenure systems. Then still Article 237 (2) (a) the Government or a local government may acquire land in the public interest and the conditions governing such acquisition shall be as prescribed by parliament. Article 26 (2) (a) of the 1995 Constitution states that; the taking of possession or acquisition is necessary for public use or in the interest of defense, public safety, public order, public morality or public health

deliberate political choice because there are political benefits of non-enforcement of land laws for example using land as a political resource for political settlements (Kjær, 2017).

The provision to formally record customary rights to land through the district land board did not have any effect. Fourteen years after this provision by the land act the implementation of this law did not take effect. Firstly, the decentralized structures like the district land boards, the area land committees which were to offer the CCOs were not operational in most of the districts in the country. With funding from non-governmental organizations like Norwegian Refugee Council, the government of Uganda launched the first 15 CCOs which were to be given out to the applicants in February 2012. However, by 2014 not a single person had received any CCO in Acholi region. Issues like how will transactions, deaths and births be updated on a CCO, the degree of detail of the sketch maps that are attached to the CCO, how to determine the Customary Land Identification Number, and the costs involved like transport costs for area land committee could be the reasons why the Acholi community is reluctant to embrace CCOs or why no single person has received CCO in Acholi-land. It is also difficult to see what is left of the customary character of tenure when land has been registered. The nature of customary tenure is that it is regulated and sanctioned by local customary authorities. The very fact of registering land takes it out of the customary realm and annihilates the authority of those administering land under customary tenure.

Customary tenure in Acholi region

To explore how decentralization of land governance works out in practice and to comprehend the role of decentralized land institutions such as the district land board in a large-scale land allocation, the research was conducted in Amuru district which is part of Acholi sub-region, a post conflict area in northern Uganda. Acholi sub-region forms part of the greater northern Uganda, it is made up of seven district including; Agago, Amuru, Gulu, Kitgum, Lamwo, Nwoya, and Pader district. It is in majority inhabited by the Acholi tribe and it is a region that was affected the most by the activities of a series of rebel movements that occurred between 1986 and 2006 in Northern Uganda.

90 percent of the land in Acholi and Northern Uganda at large is customary land and customary institutions or authorities play a major role in governing this land (Burke and Egaru, 2011; ARLPI, 2012; Atkinson and Owor 2013; Martiniello, 2015). Customary institutions determine how land is accessed, how rights are transferred, how use rights are determined, size of the land that extended families access and also resolve land disputes. Customary land in Acholi, northern Uganda is largely communal (Atkinson and Owor 2013). In Acholi land is held in different ways and it is utilized for various purposes for example for; settlement, agriculture, grazing, hunting and for forests. Clans organize and perform activities such as controlled hunting; this shows that customary institutions have some power to govern land.

Before colonialism, Acholi land governance was highly decentralized. Small chiefdoms that were headed by chiefs existed. These various chiefs governed land in their chiefdoms (Atkinson and Owor 2013). The chiefs and clans had power over land and not individuals. During colonialism the British created a system of paramount chief to whom all other chiefs reported, inspired by how governance was organized in Buganda in the south (Cf. Burke and Egaru 2011). However this system was not well rooted in the Acholi custom –in which authority was less centralized than in the southern Kingdoms- and recognized among the Acholi. Presently chiefs have some powers to govern land though the structure is highly

interfered by the statutory system especially statutory institutions (whether central or devolved local government land institutions).

In Acholi, there exists a system of Rwot Kweri (chief of the hoe), who are very knowledgeable about people's boundaries and they act as the first court of instance for land disputes. Customary land rights cannot easily be transferred through sales, there is need for clan or family approval to sell land (Burke and Egaru, 2011; Lenhart 2013). It is important to mention that the war significantly disrupted and weakened the Acholi customary system. The authority that customary institutions have over land cannot be compared to that before the war when they commanded considerable of authority (Kobusingye et al. 2016).

Though customary institutions play a major role in local land governance they were not consulted in the Amuru sugar land dispute when the district land board allocated land to Amuru Sugar Works Limited. After the allocation of this land and the case being taken to court, both central government and Amuru Sugar Works Limited tried to lobby for support from customary institutions and traditional chiefs so that they appreciate the development project. The case demonstrates how non statutory local land institutions were circumvented and statutory institutions took the centre stage in governance of customary land (Cf. Martiniello, 2015). The interesting part with the Amuru sugar project case is that land was already presumed to be public (out of the realms of customary authority) and under the authority of statutory decentralized Amuru district land board. Which virtually allocated land to Amuru Sugar Company before it was clear whether the land was customary or public. Another fascinating factor is that the central government through the ministry of trade already instructed the district land board to allocate land, the board had no option but to execute the orders. What this case shows is the dependency of the district land board on the central government and that powers are not actually devolved.

A brief history of the LRA conflict

The LRA/NRA conflict started in 1986 to overthrow the National Resistance Army/Movement (NRM) government because it had toppled the Uganda National Liberation Army (UNLA) government that was led by Acholi officers. The rebellion against the NRM government underwent several transformations and took on new motives and new actors. The rebel movement went through a series of leadership changes. At first it was called the Uganda People's Democratic Army (UPDA) and then changed to Holy Spirit Movement (HSM) led by Alice Lakwena which led the rebellion between 1986 and 1988. Then Lukoya Severino the father of Alice Lakwena took on from 1988 to 1989 under Holy Spirit Movement ii (Also see Branch, 2010; Atkinson, 2010). During the same period (1987) armed Karamojong cattle rustlers also terrorised the region, raiding almost 98% of the cattle in all of Acholi region (HURIFO, 2002). From 1989 onwards, the Lord's Resistance Army (LRA) under the leadership of Joseph Kony became the face of the guerrilla movement. The LRA which was getting support from the government of Sudan, abducted children and youths, mutilated people by cutting off their limbs, lips and ears and massacred civilians. However atrocities were committed by both the LRA and the Uganda People's Defence Army (UPDF) (Also see Branch 2007; Atkinson 2010).

In 1996 because of intensified brutalities, the government of Uganda forcefully ordered all people of Northern Uganda specifically in the Acholi region to relocate to protected camps so that the UPDF could drive the LRA rebels out of the villages where they had access to food and

could disguise as civilians. The Acholi population stayed in these camps until 2006 when the fighting and violence gradually phased out.²⁵ The conflict in Northern Uganda led to the death of more than 30,000 people and the displacement of over 2,000,000 people (ARLPI, 2010; Mabikke, 2011). Literally all families in Acholi land were displaced to Internally Displaced People's camps (IDP). In 2006 after peace talks held in Juba between the NRM government and the LRA rebels, there was cease of hostilities bringing an end to the civil war that had lasted for over 20 years in Northern Uganda. Gradually people started returning to their lands however upon their return, they are now faced with rampant land disputes some of which turn out to be violent. These include intra-family land conflicts, clan conflicts, and large scale land investments displacing communities. Land conflicts as a result of land acquisition in illegal ways, land allocations done by area land committees and district land boards (Mabikke, 2011; Lenhart, 2013:3). This displacement also facilitated that apparently empty lands run the risk of being taken over by others, as happened in the case of Amuru.

Power plays in decentralized land governance - the case of Sugar cane plantation in Amuru district

Amuru is a comparatively new district that was carved out of Gulu district. It gained a district status in 2006 by the Act of Parliament of Uganda. However due to the 20 year civil war and the district being a relatively new creation, the local government institutional structure is still weak. The land dispute between the community of Amuru and the district land board over allocation of 10,000 hectares of land to Amuru Sugar Works Limited shows the complexity of the problems in land governance in Uganda. The case involves diverse actors with different power sources and representing different interests in the disputed land. The actors include the ministry of trade, district land board, the area land committee, the high court, politicians, customary institutions and local people and Acholi community at large.

The conflict over the allocation of the land to Amuru Sugar Works found its origins in February 2008, when the ministry of tourism, trade and industry wrote a letter to Kakira Sugar Works Limited giving approval to establish a sugar complex in Amuru district on the basis of an investment proposal by this company. It was agreed in the letter that 20,000 hectares of land would be allocated to the company by the relevant authorities for a sugar cane plantation and setting up a sugar factory. This investment would create employment to over 8,000 people and other farmers would benefit as out growers and it would also contribute to infrastructural development (Cf. Atkinson and Owor, 2013). The government of Uganda would hold 40% of the shares and the sugar company 60% shares and both government and the company would solicit financing from international agencies for the project. In March 2008 Amuru sugar works which is part of Madhvani²⁶ group of companies wrote a letter to Amuru district land board informing the board that after discussions with various government authorities the company

²⁵ The conflict was never formally ended, because peace negotiations never led to an official cease-fire. The LRA was gradually weakened militarily and the remnants retreated via South Sudan and Northern Congo to the Central African Republic, where Joseph Kony is still hiding in the forest.

²⁶ The local people use the name Madhvani when they want to refer to the land dispute between Amuru district land board and the community over allocation of 10,000 hectares of land to Amuru Sugar Works Limited. The Madhvani family owns Madhvani group of companies which comprises of Amuru sugar works and Kakira sugar works in Jinja. The proprietors are Ugandans but of Indian descent. The group started in 1914 and it is the largest private sector investor in industry in Uganda. The group deals in agriculture, agro-processing, soup, steel, packaging, tourism and many more; it has a turnover of USD 100 million and with assets valued at USD 200 million.

had identified a site at Amuru where it wanted to set up a sugar factory. On the same day the company formally requested for allocation of 20,000 hectares and a letter from the ministry of tourism was attached to the application. The district land board approved the allocation of 10,000 hectares with the remaining 10,000 hectares to be approved after the commencement of the project. In November 2008, the Amuru district land board approved the allocation of 10,000 hectares of land in Paillec parish, Amuru sub-county for a period of 49 years to Amuru Sugar Works Limited.

However, different parties with various interests contested this land allocation and decided to seek justice from higher authorities. Consequently, on 28 November 2008, two weeks after the allocation of the land to Amuru sugar factory, the community of Amuru (including local people and politicians) filed a case in the high court suing both Amuru district land board and Amuru sugar works for unlawful allocation of customary land to Amuru sugar works limited and depriving the community of their customary rights to land.

After the case had been in high court for more than 3 years, in February 2012 the judge ruled that the disputed land was public land and that the district land board acted within its authority to allocate the land and that the right procedures were followed. "The land in question is not customary land but public land which has and is still available for allocation by Amuru district land board²⁷". The judge of Gulu High Court during that time applauded Amuru district land board in the judgment that "Whatever the district land board did in the circumstances was in the interests of development, not only for Amuru district but for Uganda as a whole²⁸". The rulings angered the Acholi fraternity and the case was taken to the court of appeal. In September 2012 the court of appeal put on hold the commencement of the sugar project in order to try the case again. As of 2017 a final ruling about the case has not been made yet but the community of Amuru has maintained access to the disputed land through use of violence.

There is a lot of debate about whether the proper procedures were followed. The formal procedure for acquiring a lease on public land according the Land Act is, persons or companies with interest in land should go to the sub-county verify if the land they are interested in is available for leasing, then pay an application fee of 20,000shs (8 USD) to the sub-county chief. The applicant is then given an application form which is filled in and returned to the recorder's office. Then a notice of hearing is written in 3 copies one is filed, another is displayed at the sub-county notice board, and the last one at the location of the land. After 14 days the area land committee goes to inspect the land, mark boundaries and ascertain rights to land, this is done by consulting all the neighbours bordering the land which is the subject of application. Then the area land committee makes recommendations to the district land board. For leasehold applications the land has to be surveyed. When all the procedures are followed then the district land board can approve the application. In reality the duration of this process can drag on from months to years because of issues like lack of sitting allowances and transport facilitation for the district land boards. In this case, these procedures were not followed

Some members of the district land board interviewed said that;

²⁷ Gulu High Court judgment HCT-02-CV-MA-No. 126 of 2008

²⁸ Gulu High Court judgment HCT-02-CV-MA-No. 126 of 2008

“A board meeting that approved allocation of land to the sugar company was illegal because; it was abruptly called, members were sent messages on their phones in the night before, it had no quorum, the documents and minutes were fabricated and the acting chairperson of that meeting had been fired from the board.”²⁹ This contributed to a perception among other board members and the community that the member who called that meeting was acting under pressure from ‘above’ and they were in a hurry to finalize the allocation before all procedures were followed.

Although we failed to have interviews with representatives from Madhvani group of companies, they no longer wanted to discuss the case that was before the court of Appeal. Other researchers noted that a Madhvani representative (director of corporate affairs) claims that the company used proper procedures at the district to obtain land because the company knew that the land was owned by Amuru district land board. (Van Leeuwen et al. 2015). This testifies to the fact that there is a grey zone as regards rules around land governance.

The dispute about the allocation of land to Amuru sugar should be seen in the context of a prominent perception that people from Northern Uganda have about the central government and the whole decentralization reform. There is a perception of the people in Amuru that every program that the central government undertakes in the region is not for their benefit but for the continuity of discrimination and exclusion of people from the north by people from the south and central parts of the country which they have been subjected to since the colonial times. The British rule created a socio-economic division between the north and the south, this contributed to marginalization of the north (Omara Otunu 1995; Doom and Vlassenroot, 1999; Atkinson 2010; Branch 2010). The region has lagged behind in terms of development compared to the south; essentially it has been designated as a labour reserve for security services (like army and police) and plantations in the south. There is a general conviction among the population that it was systematically calculated by the NRM government to force people into IDP camps so that their land can be used for large-scale farms³⁰. There is doubt among the local people whether the wish by government to bring development to the region is real because of the many other land grabs going on since land is considered empty and redundant and other interests in the land by the investors because of presence of oil in the area (Atkinson and Owor, 2013). Too much support of the land allocation to Amuru Sugar Works Limited by government and bribery by the state to make Amuru community accept the project make people suspicious of the intension of the project to be development (Cf. Serwajja, 2014; Martiniello, 2015).

The people from Acholi region attribute their perceptions to the fact that they have never received explanations from government substantiating why the civil war that started to claim people’s lives in 1986 only became publicised after 1996. The Acholi lived under terror, massacre and displacement in secrecy for 10 years without the government stepping in to curtail the conflict.³¹ People in the northern region believe that people from the south want to get access to their land because there is land scarcity in the south. Consequently whatever land policies or reforms that are made by the central government are treated with scepticism in the northern region. The expansion of state intervention and institutions in local affairs in

²⁹ Letter to CAO Amuru, 19-01-2009, Interview with a key informant 06-05-2014,

³⁰ Focused group discussion with elders, 22-09-2012, focused group discussion with youths, 21-06-2012, interview with a politician, Gulu 17-03-2012.

³¹ Interview with a politician, Gulu 17-03-2012

Amuru justifies the general perception that government is after the land in Acholi (Cf. Martiniello, 2015). The Acholi who are the main tribe in Amuru district have interpreted land allocation to Amuru Sugar Works Limited as an indirect way through which the government has collaborated with the district land board to deny them their customary rights to land.

Finally, an important dynamic is the strong local perception that decentralization mainly serves the interests of power holders, making the reforms severely contested. The way decisions about land are made at local level reflects power relations between national level institutions and local government institutions. When large scale land allocations are not done under clear procedures, they create mistrust and a general feeling of tenure insecurity develops among the local community. The interview excerpts below about the procedure used to allocate land to the sugar company speak volumes about the importance of transparency in land governance.

An elder in Amuru said during an interview;

“Don’t we need factories for development, don’t we need schools for our children, don’t we need hospitals for our children, and don’t we need roads for our farmers? We need them but we want them to come through the door and not through the window. The government wants to come through the window and we are saying no there is a door let us use the door.”³²

Then a cultural leader said;

“People are not happy when you overlook them, Madhvani used crooked means to get land... if Madhvani had come clearly and openly to ask people for land by now people would be taking the sugar in tea.”³³

And then from a community meeting;

“We want a clear procedure to be followed, if an Indian came and begged us to give him land, we will not refuse but if he comes fighting, then we will fight back.”³⁴

The views of local people as expressed in the excerpts demonstrate that transparency is of critical importance in land governance but also they confirm people’s mistrusts and perceptions about statutory decentralized land institutions. The local people are not against development but are not happy with the procedures used (Lenhart, 2013). It is therefore imperative to note that when local people feel that decisions about land are made over their heads and that statutory decentralized land structures are manipulated by the powerful and the government then they gradually start to lose trust in land institutions. After the allocation of land to Amuru sugar works, there are now over 8 land cases in court against the Amuru district land board all the cases contest the manner in which land allocations were made by the board³⁵. This challenges and crushes the authority of statutory decentralized land structures among the local people even though they are formally or legally recognized. Land tenure security cannot be provided by decentralized land structures that have lost credibility and trust from the local people. This justifies that the failure of statutory decentralized land

³² Interview with 65 year old resident, Amuru 04-05-2013

³³ Interview with cultural leader 06-11-2012

³⁴ Community meeting at Kololo, Amuru 04-05-2013

³⁵ Interview with civil servant, Amuru 29-04-2014

structures to provide tenure security does not only emanate from resource inadequacy but availability of power to make independent decisions about land.

From the time when the high court ruled that the contested land was public and that the district land board had the authority to allocate it, the community of Amuru retaliated by using violence to “protect” their land. The youth on several occasions have beaten up outsiders and local government officials who go to Lakang³⁶ to try to mediate over the land dispute. To the community the use of violence in protest of large scale land allocation is attributed to failure of statutory decentralized institutions to provide tenure security to local people. Local people equally perceive the court as being corrupt; the people of Amuru felt that there was a predetermination in court that land should go to Madhvani and that is why the Acholi chose to go the “native way”³⁷ because the state institutions had disappointed them. People perceive statutory decentralized structures as organs working for interests of the regime or state and not for the local people. In most cases local people assert their agency through violence when their tenure rights are threatened (Kandel, 2015). Ineffective legal systems both traditional and statutory are responsible for the way people respond to land tenure threats. The violence that the community of Amuru has put up resonates with what Hall et al. (2015) note as rural communities resisting land enclosures, commodification and commercialization and seeking land sovereignty and autonomy from the state and markets.

There is a general feeling that the state has a lot of influence in the way local decentralized land structures make decisions about land. For instance politicians in Amuru categorically stated that Madhvani has turned the president or the government into a land agent working on behalf of Madhvani³⁸. A district official stated for example “Madhvani wanted land in Amuru and went to the government and then the government directed the district land board to give the land. With ‘something given’ (bribes) to the area land committee, they sat in one day and endorsed all Madhvani’s requests.”³⁹ Common people describe Madhvani as a face of powerful persons and the powerful persons who are in government.⁴⁰ This has created a desire for a change of regimes among the community for it is seen as the only way through which power relations between the national and local institutions can be reshuffled and probably create room for the (re)establishment of decentralized land structures that can protect people’s rights to land. But also people patiently wait for a change of government so that they punish or rebuke however gave away their land.⁴¹

Analysis - Decentralized Land Governance in Practice

The decisions made by decentralized land governance structures have contributed to local people feeling excluded from the process of land allocation. The dispute about the allocation of land to Amuru Sugar Works demonstrates the extensive pressure that external actors exact on decentralized land structures during land attribution. The civil war in northern Uganda

³⁶ Lakang is the proposed site for sugar factory in Amuru district

³⁷ By native way or (let us go Acholi Acholi) people mean putting dialogue and reasoning aside and use violence to resolve conflicts. Interview with a lawyer in Amuru, 13-06-2012.

³⁸ Dialogue meeting on investment in Acholi, 17-03-2012.

³⁹ Interview with district official, Amuru 07-11-2012

⁴⁰ Interview, Amuru 13-06-2012

⁴¹ Interview with cultural leader 06-11-2012

opened up the Acholi sub-region to outsiders, these include people from the south and central parts of the country, army generals and investors came to know about the availability of extensive land resources in the region and hence they want to gain access to this land. However, this has created tenure insecurity for the local people who now have to compete for land access and ownership with external powerful actors. Powerful external actors have an advantage in acquiring land over the local population because they use both national institutions (like line ministries) and local institutions (like area land committees and district land boards) to acquire land. This may be described as decentralized land grabbing where the powerful use decentralized land structure like land boards to acquire land fraudulently. Apart from outsiders making the competition for land access with the community harder, once they gain access to land it becomes very easy to expand their access to land because not only do they have the connections to land institutions but also economic power in terms of money to buy off customary land owners willingly or unwillingly. This then puts tenure security of local land owners at risk.

When merely administrative powers are transferred to decentralized land structures, room is created for irregularities such as in this case to occur during decentralized land attribution. However, from the Amuru case we see that the process started from above at ministry level. The land had already been allocated: it only needed official approval of the district land board which was supposed to execute the orders from above by taking a decision about the land in an incorrect procedure. The failure by national authorities like line ministries to let local government authorities to independently make decisions undermines the relevance of decentralized structures like land boards in land governance, and make them part of the executive arm of the government instead of decentralized government. The case also shows clearly that the way in which power and authority have been distributed among different levels of land governance influences decision making and the protection of local land rights. Under such circumstances, governing commercial land acquisition and protection of local land rights by decentralized land structures becomes a challenge when they are faced by powerful external actors with connections to government. Such structures end up allocating land based on directives, rather than following procedures and land laws.

Popular participation in land governance cannot be realized and encouraged in statutory decentralized land structures where the members are politically appointed. Although members of decentralized structures are expected to front local interests, this is not the case in practice, especially when they are politically appointed. For example, the area land committee are appointed by the sub-county council and approved by the district council and the members of the district land board are appointed by the district council and approved by the ministry of lands. This type of appointment has a bearing on the way decisions about land allocations are made, as one civil servant lamented that;

"It is difficult to hire and fire area land committees who do not perform well because their coming to office is political....they come through the interest of the sub-county chairperson, he always appoints people who are close to him so firing them is hard although sub-county council has the power to fire them.... for example a list of area land committee for sub-county X came from the chairman and all were approved yet there are names of some area land committee that the sub-county council wanted to throw away but the chairman refused."⁴²

⁴² Interview with sub-county official 19-03-2012

In most cases such members are accountable to, and they make decisions about land that replicate the interest of the appointing authorities where their allegiance is placed. This does not necessarily reflect the interests of all stakeholders. In the Amuru case, local people wanted to maintain their customary access to land well as the government and powerful actors (Madhvani and central government) wanted the land to be used for commercial purposes which required a change of land ownership to statutory forms of land holding. Hence it is the interest of those at the higher level of authority that are implemented vis-à-vis protection of local land rights.

Ambiguities and lack of clear definitions in land laws and policies which are embedded in a weak institutional structure create opportunities for interpretations according to the interests of the powerful including government. Undeniably conflicts on land in Northern Uganda emanate from contradictory customary and statutory land tenure systems (Burke and Egaru, 2011; Lenhart, 2013:3). For instance when the high court ruled that the disputed land in Amuru was public land and unutilized, this was a question of playing with the ambiguities in complex land laws⁴³. The contested land is part of former Kilak hunting area that was gazetted by the colonial government in 1959, however the area was de-gazetted by Idi Amin in 1972. This means the land went back to the community and re-assumed the status of customary land⁴⁴ (Kobusingye forthcoming). But also going by the law, public land may have ceased to exist by the 1995 constitution because it recognizes only four land tenure systems of which public land is not part.

Interestingly, during a community meeting where lawyers representing the community of Amuru were giving feedback to the local people on the progress of the court case, the lawyers informed the people that from the negotiations between the lawyers and government, the attorney general accepted that the disputed land is customary and that people were going to be compensated. Through the lawyers, the government advised people to form and register an association so that it works and negotiates with government about how the local people will benefit from some shares in the sugar company.⁴⁵ This contradicted the court ruling that the land is public. And therefore this change of goal posts could be taken to mean that the government can declare customary land to be alienated on the basis of 'public interest' thereby denying customary authority power to govern that land. Such judgments about land allocation create jurisprudence that any land that is presumed "unoccupied" is likely to become public land and at risk of being mismanaged by the district land boards. This confusion works in the interest of the powerful because they have the capability to manipulate and influence state land governance bodies in a situation where land laws are ambiguous.

As noticed during this research study in Acholi region, it is imperative to point out that this ambiguity on acquiring land for 'public' interest is mainly affecting customary land, which happens to be not only the type of tenure that is most common in the country but whose ownership is also very insecure and unregistered. Decentralized land governance has proved to be more of a predator than a protector of customary land in Uganda. Hence not only do most of the large land acquisitions take place on customary land but also customary land

⁴³ Gulu High Court judgment HCT-02-CV-MA-No. 126 of 2008

⁴⁴ Dialogue meeting on investments in Acholi 17-03-2012

⁴⁵ Community meeting at Kololo 04-05-2013

governance creates space for interaction which in turn becomes a stage for power play among formal, informal institutions and external actors.

Conclusion

This paper sought to understand how power influences decision making about land at local levels, and the role of decentralized governance institutions in large scale land acquisitions. From the way land was allocated to Amuru Sugar Company, it shows that decentralization in Uganda has contributed to the establishment of powerless/weak structures or institutions that promote national policies with little consideration for local issues and customary rights. This contrasts with the intended objectives of decentralization like encouraging popular participation and representation in governance. The case demonstrates that decentralization creates an array of opportunities for the state to have greater control or influence over what happens at local levels, because these local institutions serve to justify and legalize (rubber stamp) higher order decisions. Paradoxically decentralization was supposed to aid the devolution of powers from the central government to the local government or districts, this has taken place on paper but in reality the central government continues to pull strings of power at local levels especially through implementing national policies. The research findings resonate with Ribot that lower authorities become subjects of higher authorities with little discretion of their own (Ribot, 2003: 58) especially when power to make decisions is restricted by the central government. Therefore by creating numerous districts in Uganda without transfer of real power to decentralized structures, decentralization will continue to be ineffective as a channel of incorporating popular participation in decision making, but will rather increase control of the state over land allocation.

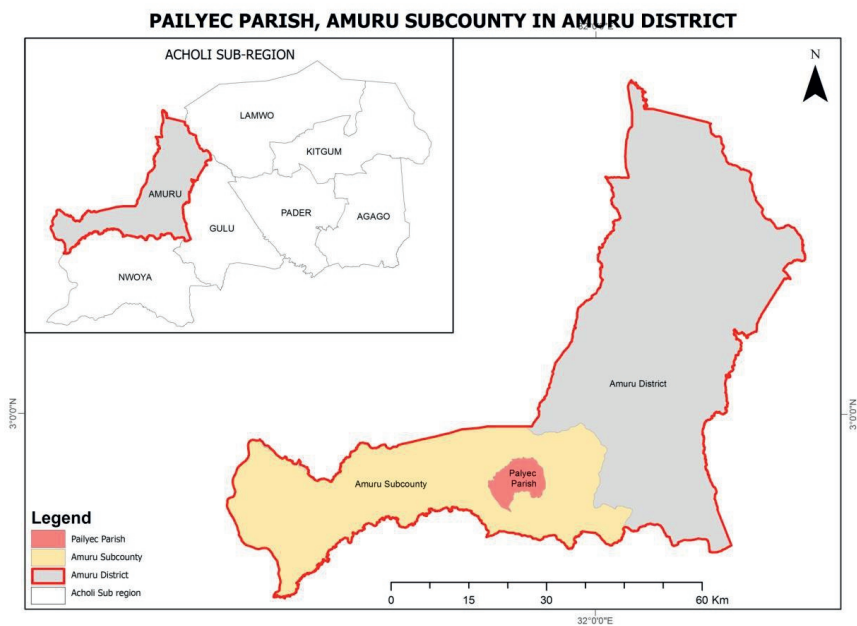
From the Amuru case we see orders vertically flowing from higher authorities to lower authorities and eventually influencing the way decisions about land allocations are made at a local level. This is contrary to section 60(1) of the land act which states that the district land board shall be independent and shall not be subject to the direction or control of any person or authority. This therefore leads to an analysis that local land rights can only be protected through decentralized land structures if these institutions have real power to make decisions about land. Similarly the case demonstrates that large scale land allocation cannot be effectively governed through decentralization. Unless the issue of power distribution among different administrative levels in relation to land governance is sorted out, decentralization of land governance may not protect local rights vis-à-vis powerful external actors. This paper asserts that the real impediment to local governance lies in the distribution of power between levels of authority and not only lack of resources as most scholars and researchers emphasize. Decentralization in itself is not a bad governance policy. However to be successful real powers should be transferred from central government to local governments in order for local government structures to make independent decision. Cosmetic reform in the form of administrative decentralization cannot empower decentralized land structures to make decisions that can guarantee local tenure security and protect local land rights in the era of large scale land acquisition for commercial agriculture.

There is a big disparity between how land tenure security was foreseen from the decentralized land laws and how the tenure security is in practice. The research shows that it is difficult to strike a balance between national objectives and interests at the local level. While the cabinet ministers who approved the sugar complex at Amuru wanted to achieve the national objectives and policy of commercialization of agriculture, the protection of local rights to land

was disregarded. Therefore under such circumstances decentralized land governance fails to translate into transparent land governance and improved tenure security. People of Amuru have strongly opposed the sugar project/land allocation to the sugar company not because they do not want development but because decisions about their land were made at higher levels and they were bypassed during the process of land allocation. Yet whatever decision that is made about land directly affects the local people and their tenure security. Popular participation in statutory decentralized land governance should be encouraged not only because it contributes to making decentralized land structures accountable but also it improves people's perception and trust in decentralized structures.

Important to note is while decentralization was being implemented in 1993, northern Uganda was deeply engrossed in a civil war. Therefore this makes decentralization not to be rooted in the local system; this may also explain why people of northern Uganda do not have a strong attachment to the decentralized structures and have not been able to re-occupy them and make them work for their interests. On the other hand the government has given a lot of power to statutory decentralized structure especially district land board and area land committee to govern customary land. Despite the fact that majority of land in northern Uganda is held under customary tenure, the formal procedure for land allocation has neglected customary institutions. For instance in the process of area land committees inspecting land for issuance of CCOs customary institutions are not consulted, only neighbours bordering the land which is the subject of application are involved. Large land allocation orders come from national authorities to local level authorities for implementation and in the process customary authorities are ignored. This could be a source of land disputes in future as communities will contest the authority of formal institutions in allocating customary land. There is an appeal to government to establish clear guidelines for investors in northern Uganda (ARLPI, 2012).

The main study area for this chapter is shown below;



Map 4: Showing Study Area of Paillec Parish, Amuru Sub County in Amuru district

5. Where do I report my land dispute? The impact of institutional proliferation on land governance in post-conflict Northern Uganda.

ABSTRACT

In Sub-Saharan Africa, Uganda has been hailed for embarking on an intensive decentralization program. Whereas a lot of literature assumes that decentralization leads to improved service delivery, it is unclear to what extent this is the case in practice, especially when it comes down to decentralized land governance. This paper, which is based on ethnographic research carried out between 2011 and 2013, argues that decentralization of land governance in post-conflict Northern Uganda fails to realize the expected benefits and instead has increased tenure insecurity. Decentralization of land governance gave rise to institutional multiplicity by creating new institutions that add on to the already existing authorities and regulations. Institutional proliferation in land governance that is fuelled by legal pluralism and decentralization results into confusion in land dispute resolution and the failure of institutions to effectively resolve land disputes in post-conflict settings. This exacerbates the dilemma of people who do not know where to go to seek redress to land disputes. While this multiplicity of both statutory and customary institutions creates choices and opportunities for both people and institutions in relation to land governance and in particular land conflict resolution, they are also used by power holders and authorities in political competition at local level, complicating the process of land dispute resolution. The struggle for authority between representatives of the state and of customary land institutions becomes especially problematic because it merges with local and national politics.

Key Words: Decentralization, Legal pluralism, Institutional multiplicity, tenure security, Land dispute resolution

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Introduction

Decentralization has been a core component of land reforms implemented by many African governments, with the ambition to improve land governance, increase agricultural production and economic growth (Toulmin and Quan, 2000, Peters, 2004). Decentralization is the devolution of governance from higher to lower level organizations in the governmental hierarchy, most commonly from a central government to provincial, regional, district, and sub-district levels (Bartley et al, 2008). Proponents of decentralization argue that decentralization creates space for popular participation, representation of all stakeholders in decision making and encourages accountability in governance (Ribot, 2003). Overall, decentralization is believed to improve state-society interactions significantly (Meinzen-Dick et al. 2008). Regarding the governance of land, policy makers hope that decentralization improves land tenure security and the resolution of land disputes. It is from such anticipated benefits that over the past two decades decentralization has been a core strategy of Uganda's National Resistance Movement (NRM) government efforts at reforming land governance.

The question is of course how decentralized land governance works out in practice. Like in many other African countries, in Uganda, decentralization of land governing authority by the state does not take place in isolation, but comes down to a re-division of land governing roles at the local level and restructuring the relations between customary and statutory institutions. In the case of Uganda, decentralization strongly plays into the division of responsibilities between state and customary institutions.

Before the colonial period, land in Uganda was governed by customary institutions according to different cultural norms, practices and rules, and these were different among the various ethnic groups. Generally, such customary systems build around collective rights to land: rights to land were vested in the group (clan, lineage) and the membership of people of these entities. The colonizers introduced statutory tenure, which was significantly different from customary tenure as it granted opportunities for acquiring individual land rights directly from the state and not from an intermediate authority. Yet, the introduction of statutory tenure by the colonial authorities did not replace customary tenure, but instead resulted in a dual tenure system (G.o.U. 2013), with customary tenure systems continuing to exist alongside (and to a certain extent intermixing with) statutory systems. Up to today, 80 percent of the land in Uganda is held under customary tenure, and only 20 percent of the land is subject to statutory tenure combining freehold, leasehold and Mailo land (MISR, 2003). In Northern Uganda, even 90 percent of the land is still held under customary tenure, administered by customary chiefs, who are considered to be the custodians of land while the land is owned by individual families (See ARLPI, 2010). The Ugandan situation is not unusual: The majority of the people in developing countries continue to access land through customary tenure systems (See Deininger, 2003; Wiley, 2006; Deininger and Castagnini, 2006).

Considering this situation, there is an ongoing debate about the extent to which customary tenure should be replaced or instead might serve as an alternative to provide tenure security instead of statutory systems based on private property and land titles. In the past, customary tenure was considered as irrelevant and in need of replacement by state tenure. Yet, increasingly there is acknowledgement of the often valuable role customary tenure may play in securing local tenure, and of the ineffectiveness or failures to establish state tenure systems. An evolutionist perspective, which is increasingly influential, even argues that the evolution of land tenure towards individual ownership is a gradual process and that one

should not interfere in local land tenure systems but leave them to evolve and determine their own outcomes and eventually result into well-defined property rights (See Platteau, 1996; Peters, 2004; Fitzpatrick, 2005).

In the case of Uganda, a more positive assessment of customary tenure certainly plays a role in the government's approach to tenure reform, which combines decentralization of land governance with legal acknowledgement of the valuable roles of customary institutions in protecting local tenure. The reform of tenure administration in Uganda has been regarded as the most extensive and decentralized of any of Sub Saharan African countries (Tripp, 2004). The 1998 Land Act, which was to strengthen tenure on customarily held land and enhance the resolution of land disputes, aims at comprehensive decentralization of land governance. It extensively elaborates the roles and functions of statutory decentralized land structures like Land Tribunals, District Land Boards, District Land Offices, Area Land Committees and Recorders at the sub-county levels (1998 Land Act), even though up to date land tribunals are not in operation. In addition, the 1995 constitution legally recognized customary tenure as one of the four tenure systems in Uganda. According to the 1998 Land Act, customary land is supposed to be governed according to the norms and practices of a community, and provides for so-called Certificates of Customary Ownership (CCO),⁴⁶ for persons, families and communities holding customary land who wish to document their claims on land.

The question is of course how this works out in practice. So far, despite elaborate legislation and policy guidelines with respect to the decentralized land institutions that need to be established, their respective responsibilities, and the regulations that apply, unresolved land disputes and tenure insecurity continue to be present at local level in northern Uganda. The majority of the cases in local courts, both customary and statutory, are land related, and in the villages land dispute mediations have become a daily routine⁴⁷. This resonates with findings by the Ministry of Justice (2008) which reported that land disputes ranked the highest among all conflicts in the country.

This paper demonstrates that decentralization of land governance in northern Uganda itself is part of the problem. The establishment of decentralized institutions is erratic, incomplete and contested. Moreover, though the government had the ambition to decentralize land governance and enable customary authorities to take charge of land governance, it effectively resulted in the establishment of new decentralized state institutions, next to already existing authorities and regulations about land, while the division of responsibilities between those institutions remains unclear. This institutional multiplication and unclearness fuels rivalry and competition between representatives of decentralized state and customary institutions. This local competition is made even more complex as a result of the interference by national politicians in local disputes. Institutional multiplicity and competition, combined with a large number of contested land claims in post-conflict settings creates confusion among people over which institution (customary or statutory) to approach with their land disputes. Local people navigate through multiple institutions to promote their claims on land. Representatives of these institutions even use land disputes to try to (re) establish their authority.

⁴⁶ cap.227 section 4 (1) of 1998 Land Act

⁴⁷ Interview with district official Amuru, 7-11-2012, interview with court official, Amuru 22-05-2012 and field observations 2011-2013

A very problematic consequence of this is indecision in land dispute resolution. Land governing authorities fail to effectively resolve land disputes, either because decisions continue to be contested or are never implemented, due to unclearness and competition about who is in charge. As a result, land disputes remain undecided upon, which undermines tenure security of small land owners and trust in the system of land governance.

Methodology

This paper is based on extensive ethnographic fieldwork conducted in the Acholi sub-region in Northern Uganda. We will focus on one detailed case study; the Kigwe land dispute in Pader district and other smaller land disputes to illustrate our argument. Data for this paper was gathered from 52 interviews, 6 focus group discussion, 4 land dispute mediations and 3 workshops about land issues across the 7 districts of Acholi region including Gulu, Amuru, Pader, Kitigum, Nwoya, Lamwo and Agago districts in Northern Uganda. Interviews were conducted between November 2011 to May 2013 and people interviewed included chairpersons and representatives of the different levels of the local council system from LC1, LC2, LC3 and LC5, traditional leaders (chiefs and rwod kweri), Area land Committees, District land board members, lawyers, politicians, policemen, NGO employees, conflicting parties and local people. Various topics related to land governance were discussed such as the impact of decentralization, issues of institutional competition, authority of land institutions in the communities, where people report their land disputes, reasons why people choose those institutions, why people use violence in land matters and effects of war on land institutions. One of the researchers worked with a local organization of Acholi leadership called Ker Kwaro Acholi (KKA) that helped her to access the field and later she made independent field visits to verify the data obtained about the different topics⁴⁸.

The paper is structured as follows; the next section discusses the notion of legal pluralism which is the co-existence of multiple legal systems and competition between formal and informal land institutions. It further shows how decentralization feeds into institutional multiplicity. Section 3 illustrates how, despite the existence of a well-elaborated decentralized land structures on paper, land dispute resolution continues to be problematic. The Kigwe land dispute in Pader district shows how a land dispute can go through many forums but fails to get resolved. Section 4 shows that the presence of many forums for dispute resolution leads to fierce competition among land institutions while trying to authorize land claims but also contributes to weakening of those land institutions because people lose trust in them.

Legal pluralism and institutional competition

In Sub-Saharan Africa conflict over land is intensifying at the local level (Peters, 2004). Escalating land conflicts raise questions about the authority of land institutions that are supposed to resolve land disputes and sanction claims on land. Looking through the lenses of legal pluralism, the co-existence of multiple systems of legal order within a society or confines of the state (Hooker, 1975; Griffiths 1986; Unruh, 2003), might be a useful way of better understanding how people organize land governance when plural legal systems are in existence and how this fosters struggles and intensifies land disputes. Unruh (2003) notes that

⁴⁸ This research is part of a PhD project on land governance reform in northern Uganda, which is a component of the larger Grounding Land Governance program that was funded by NWO-WOTRO, Science for Global Development grant number W 01.65.332.00.

legal pluralism with regard to land tenure signifies the presence of different sets of rights and obligations concerning land and property. Legal pluralism does not necessarily mean that systems are equal but that they interact with, influence and oppose each other (Peters, 2004). State institutions significantly determine the space in which representatives of customary institutions may operate. The state can choose to recognize customary institutions or curtail the scope of their powers (Fitzpatrick, 2005). In this context of a state, customary institutions cannot be regarded as autonomous but as institutions whose representatives may challenge the authority of statutory institutions (Benjaminsen and Lund, 2003). Lastly, customary tenure is not static it keeps on evolving and this process is also shaped by interactions with state institutions, market policies and political crises like war.

FAO defines land governance as a process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way conflicting interests in land are reconciled (FAO, 2007). In a post-conflict setting land governance becomes challenging and problematic in practice after the guns have gone silent because of the unique circumstances created by war especially in relation to tenure security. In our case, people were displaced for a long time and many died in the IDP camps. The LRA war in Acholi land led to a reshuffle of power because of increasing influence of the Ugandan government. As a result of the war both statutory and customary institutions which are supposed to administer property rights were in disarray (Daudelin, 2003; Unruh, 2003). War erodes the institutional order in place, and puts it adrift; therefore new modes of organizing land both customary and statutory may proliferate in order to fill the institutional void created by war. After violent conflict customary and statutory institutions may compete to sanction land claims. This is because those institutions might have “overlapping jurisdiction of authority” (Ribot and Peluso, 2003:170) but also in order to regain their pre-war authority. Areas going out of violent conflict are prone to land disputes because there are multiple actors seeking to access and utilize land (Unruh, 2003; Clover, 2010). It is thus important to understand how both customary and statutory institutions work to sanction the competing claims to land in post-conflict environments.

In many places in Sub-Saharan Africa there is hardly any land formally registered by the state; most land is effectively under customary tenure; yet there is institutional multiplicity and ambiguity because it is unclear when and where state legislation or custom apply. Different tenure systems may apply simultaneously to the same piece of land. In Africa over 90 percent of the land is accessed through customary tenure arrangements and formal tenure covers less than 10 percent of the area (Wiley, 2006; Deininger and Castagnini, 2006). Little land is formally registered but that does not imply that the land is not governed. Instead most land is still held under customary tenure arrangements and customary institutions govern the land.

Reform programmes do not necessarily resolve this ambiguity. Instead, reforms often result in new struggles between people that try to use these systems and the opportunities provided by legislation and acknowledgement of particular forms of authority by the state to their advantage. Statutory institutions may in fact be created to oversee land matters in customary tenure. However the introduction of statutory tenure does not necessarily lead to increased tenure security (Peters, 2004) but rather this gives opportunity to conflicting parties to manipulate the overlapping jurisdiction which is put in place when statutory institutions come in to manage customary tenure (Fitzpatrick, 2005). But also since customary and statutory land systems were never merged, it might not be clear who has the authority to define rights

and deal with land disputes (Carfield, 2011). Literature on legal pluralism fronts the notion that the presence of more than one legal order in land governance provides individuals and institutions with opportunities to use either of the systems (Fitzpatrick, 2005; Carfield, 2011). However important to note is there might be conflicting rules between these institutions over authority to determine land rights but also conflict between local people and institutions that govern land (Cf. Lund 1998b: 2).

Institutional competition promotes forum shopping by people that approach those institutions that might best serve their interests in a conflict (Von Benda-Beckmann, 1981; Firmin-Sellers, 2000). Forum shopping is the ability of some actors to select the arena of law or custom that will favour their objectives (Ribot and Peluso, 2003). In situations of post-conflict where there is lack of clarity about the role of statutory and customary institutions in land governance (Cf. Deininger and Castagnini, 2006) room is created for forum shopping in land governance institutions according to what suites people's interests (See Lund, 1998a, Unruh, 2003). Legal pluralism may facilitate the resolution of land disputes by providing choices (Unruh, 2003) or contribute to confusion (Ramirez, 2002) because there might not be a clear structure to follow and this might contribute to indecision in land dispute resolution. In sum legal pluralism fuels into institutional competition among land governance institutions and this competition between different authorities may make both customary and statutory systems dysfunctional (Eck, 2014). This might explain the persistence of land disputes in post-conflict settings.

The other side of the story is that institutional pluralism provides representatives of institutions that govern land with opportunities to look for claims to authorize in order to solidify their legitimacy in relation to competitors (See Boege, 2006; Sikor and Lund, 2009; Huber, 2010). This is not a level playing field; power is very important in the extent to which certain people may use institutions to their advantage, and some in particular fail to reap the benefits of institutional competition for example single women. Institutions are not neutral, but often reflect power relations in a given society thus conflicting parties may take advantage of a situation where power holders are competing for authority to achieve their interests in land (cf. Okuku, 2006; Lund et al. 2006; Bartley et al. 2008). Therefore power struggles and competition that occur among institutions create opportunities for conflicting parties. The important question is how people representing competing land institutions are able to assert their authority and influence the resolution of land disputes and tenure security.

Recently more attention has been given the renegotiation of authority and legitimacy in situations of institutional multiplicity. In particular, the paper demonstrates that a major consequence of institutional multiplicity is not just the negotiability of regulations and authority (See Francis and James, 2003; Ribot and Peluso, 2003) but also the indecision in land dispute resolution. Indecision in land dispute resolution is a result of many processes for example limited authority to implement and sanction decisions, as a consequence resolutions of such institutions may not be binding; lack of commitment of dispute resolvers that are more interested in establishing their authority than in solving disputes; the fact that in a situation of institutional multiplicity those involved in conflict may always approach another institution to present their land disputes or interests; and the reality that one of the conflicting parties does not recognize the legitimacy of one of the institutions in case they get a negative decision.

Decentralization of land governance in Northern Uganda

Decentralization in Uganda is regarded as a strategy of taking services closer to the people, and it is implemented through a hierarchical local government structure. Through decentralization some functions, powers and responsibilities are devolved and transferred from the central government to local governments (GoU 1995). Uganda's decentralization has often been hailed and taken as an example for the rest of Africa especially by the way power has been devolved to lower levels of government (Cf. Francis and James, 2003; Green, 2008). However the way decentralization is implemented has instead contributed to the mushrooming of local governments in form of new local government units (Green, 2008; Hilhorst, 2009; Kobusingye, 2010).

The decentralized government structures have their origin in the Resistance Councils (RCs) that had their roots in the civil war staged by the National Resistance Army which were a system of organizing the community. These RCs were later moulded to become local councils (LC) by the 1995 Constitution. The local council system of local government has five levels ranging from village to the district. These include LC1 at village, LC2 at parish, LC3 at Sub-county, LC4 at County and LC5 at district level. With this decentralization of the administration, decentralized land governance structures like district land boards, land tribunals, area land committees were put in place. Despite the decentralized statutory structures being closer to the people, management of land disputes continues to be problematic and a source of further conflict in land governance. As we will see in the case of Kigwe there is decentralized land governance on paper, but in reality it is largely the informal system that is dealing with conflicts about land on the ground. Land disputes are still rampant in Northern Uganda despite the existence of these well elaborated decentralized land administration structures. This requires us to further explore how decentralized land governance works out locally.

The 1995 constitution clearly stipulates the various functions of decentralized land structures for example district land boards are charged with holding and allocating land in the district which is not owned by any person or authority and facilitating the registration and transfer of interests in land. The district land tribunals are charged with a role of determining of disputes concerning land matters within the district⁴⁹. Section 38 (1) of the Land Act provides for Area Land committees at the sub-county level that are responsible for inspecting land, determine if there are no land disputes and aid in the process of issuing certificates of customary ownership (CCOs) on customary land. CCOs as earlier mentioned were envisaged by government to increase tenure security under customary tenure. There is also a provision for the CCOs to be converted to freehold titles. The area land committees undertake the process of issuing CCOs without consulting customary leaders or chiefs whereas before the war the chiefs made all the decisions on customary land. Therefore the issuance of CCOs by statutory land institutions is perceived by the Acholi as a mechanism by the state to take away their customary rights to land. And it is seen as a starting point of aiding the process of converting customary tenure into statutory tenure. Thus policies to enhance the role of customary tenure in land administration and land dispute resolution in fact seem to contribute to the contrary.

Formal structures (statutory) that directly deal with land dispute resolution include; the LC2 which is the first court of instance for land disputes, the sub-county court committee at LC3

⁴⁹ Article 243 (2a) of the 1995 constitution

which handles land disputes that are referred from LC2, the chief magistrate's court which adjudicates land cases that are referred from LC3, and the Resident District Commissioner (RDC) at the district level (LC5). Conflicting parties can also take their land disputes to the president's representative, High court and police. However, the police only comes in when a civil land case/dispute turns criminal in nature through assault, malicious damage or murder. These decentralized land governance structures are a contributing factor to the confusion in land conflict resolution and institutional multiplicity as we will see in the Kigwe case.

The customary structures that handle disputes in Acholi region include; Rwodi Kweri (chief of hoe), the first instance to handle land disputes at village level under the Acholi customary system, the Rwodi Moo (council of chiefs) to mediate land disputes at clan level that fail to be resolved at the Rwodi Kweri level, and the Ker Kwaro Acholi at regional level which is headed by the paramount chief, which consists of customary chiefs and is the highest institution in the Acholi customary system. Other institutions that are outside statutory and customary spheres but engage in land matters include NGOs and religious leaders who offer legal and financial assistance and also engage in mediation of land disputes. In practice, all the mentioned structures above have some powers to resolve land disputes but lack a clear structure to follow.

The decentralized statutory land governance structures were created by the state in a hasty without proper planning and a clear division of power between the different levels of government but also between state and customary institutions. For example the land tribunals at LC5 that were mandated to deal with land disputes and were part of decentralized land governance could not resolve land disputes due to lack of funding. The LC2 is taken to be the first court of instance of land disputes in decentralized land governance while traditionally in Acholi that same role is played by the Rwot Kweri (the chief of the hoe) who existed since time immemorial⁵⁰. So at this level there is a parallel offer of services in land governance. The institutions do not collaborate and thereby contribute to confusion, because people are in dilemma over which institutions to approach in order to resolve their land disputes. Local people continued to suggest that the best system to manage land disputes is the customary institution through the Rwot Kweri because they live with the community and know the boundaries of people's land more than anyone else⁵¹.

In addition in the last 10 years, there have not been elections of members of local council 1 and 2, yet these decentralized structures are supposed play a big role in the administration of land disputes. Local people pointed out that the LC 1 and LC2 chairpersons and their committees were last elected in 2001 and now they lack legitimacy due to the expiration of their mandate. In reverse, LC1 and LC2 committees do not feel obliged to serve their people but it also unclear whether their decisions will eventually be legally binding, considering that elections did not take place. The structures are closer to the people and they are supposed to be the first court of instance of land disputes at parish level. However despite these structures being "illegal" people continue to take their land disputes to them. Local people are not interested in the legal status of institutions but in the legitimacy of their operations and decisions. This explains why in Uganda people continue taking their land disputes to LC2 despite the structure being regarded illegal by the judiciary.

⁵⁰ Interview with a customary leader, Gulu 14-11-2011

⁵¹ FGD with elders, Pabbo 28-09-2012

In the rest of the paper we will discuss some cases from northern Uganda, and demonstrate the unpredictability of outcomes of reform that result from this. This argument is made by exploring the case of Kigwe land dispute in Pader district, northern Uganda and interviews across the Acholi region. According to interviews and field observations, the common types of land disputes experienced in Acholi region include; boundary disputes, these occur between neighbours and between neighbouring clans especially over hunting and grazing lands, double sales where the owner of the land sells it more than once, false sales where people pretend to be the owners of land and sell it, land grabbing where the targeted land is usually for the widows and other vulnerable groups, retracted land gifts where the youth or younger generations demand back land that was given by their grandparents.

Institutional proliferation and land dispute resolution - the case of Kigwe dispute in Pader district.

Northern Uganda experienced one of Africa's most brutal civil wars which resulted into the displacement of over 2,000,000 people. The war that started in 1986 and ended in 2006 destabilized the entire greater northern region and specifically displacing 90 percent of the population in Acholi region. When the war ended, there were a large number of competing claims on land because of previous displacement, return and re-accessing of land. People took the opportunity to claim land that belonged to others but also people may have forgotten their boundaries. To make matters worse this took place in a situation where the institutions that deal with land were incapacitated to carry out land conflict resolutions. People lost trust in these land governance institutions when they failed to ascertain or protect people's claims on land. This situation not only created opportunities but also reasons for people to leap from one institution to another in order to find a solution to land disputes.

The Kigwe land dispute is an interesting case, because it has been taken to over six forums but a settlement of the conflict has never been reached. It is a unique case that meticulously explains why a land dispute can go through many institutions but a resolution is not arrived at. It demonstrates; 1. The ambiguity of land governance attributes of different institutions; 2. Decentralization and institutional competition evolving between customary and statutory decentralized land institutions; 3. The failure of those institutions to reach a conclusion on the case or to implement it; and 4. The particular role of the post-conflict context in Acholi land in this process.

The dispute is about land that was acquired or given in the past before the LRA war but contentions over the land came up after the end of war. The actors that are involved in the land dispute include; the two conflicting families, the local council structures and the customary institutions.

The two families are the family of Obalim which received land and the family of Akena which gave land. The contested land is over 1,000 acres and located in Laguti sub-county, Aruu county, Pader district. The family of Akena gave land to the family of Obalim as a gift around 1967 and the two families lived peacefully together until the war between the LRA and NRM government broke out and everybody left for IDP camps in 1997. The two families stayed in different IDP camps during the war for 10 years. The family that gave the land went to Pajule camp and the family that received the land went to Lacekocot camp, all the camps were in Pader district. When the war came to an end in 2006, the government disbanded IDP camps and both the families returned to their land in 2008.

After returning from the IDP camp, the family of Obalim started to cultivate their land in 2009 and then the dispute began. While working in the garden, the family of Obalim was disturbed with gun shots by soldiers who were acting on the orders of the family of Akena. The family of Akena claims the land belongs to them because the family of Obalim only stayed on that land for only three years and relocated to two other areas before the war so they argued that the family of Obalim no longer had a right to the land in question. The family of Obalim took the case to the LC3 chairman of Laguti sub-county who referred them to go to the police because it was now also a criminal case since the family of Akena had used violence. The police dealt with the criminal part of the case and told the families that land disputes are civil cases that are not handled by the police. The family of Obalim then took the case to the RDC and LC5 they both advised the families to resolve the dispute through mediation. The RDC and the LC5 chairperson tried to solve the land dispute and advised the family of Obalim to go back home and ordered the family of Akena to stop accessing the contested land until a solution was found. However the family of Akena did not heed to that advice and continued utilizing the contested land. When the family of Akena continued to utilize the land despite the recommendation from the RDC and LC5, the family of Obalim reacted by accessing the contested land too.

In 2010 the family of Obalim returned to cultivate the land and they were intercepted by a group of 30 people from the family of Akena with machetes, spears, bows and arrows. Family members of Obalim were beaten and injured; they reported the case to the LC3 chairman again. The case was transferred to police, and 6 people from the family of Akena were arrested and taken to Pader police station. A customary chief of the clan to which the family of Akena belongs visited the 6 suspects at the police station and they were immediately released. The family of Obalim was disappointed by the release of the suspects from police under unclear procedures before the suspects could be tried before courts of law and then decided to take the land dispute case to the magistrate court. The magistrate court then referred the case to Ker Kwaro Acholi (KKA), the highest institution of the Acholi for mediation.

In 2012 on the 22nd of February and the 1st of March mediations organized by KKA were conducted to find a solution to the land dispute. During the first mediation a resolution was not found because the mediation team did not manage to visit the locus (the disputed land) because the team's car broke down and arrived late for the mediation. In the second mediation by KKA on the 1st of March, traditional leaders started the mediation by applauding the family of Obalim for choosing to resolve the land dispute under the customary institution and immediately started pointing out what they felt were shortfalls of statutory institutions. For example "We should leave out government courts and appreciate Obalim for seeking redress to this land dispute from the chiefs, formal courts fill people's hearts with anger, they are not good and people should not waste their time in them".⁵²

The mediation team from KKA then invited the conflicting families to present their sides of the story before the gathered congregation. The family of Obalim talked about existence of a tomb of a particular family member in the disputed land as proof of owning that land. The mediation team, elders and other people eventually visited the place and found the tomb however according to all those present; the tomb belonged to a different person. During the mediation the sons of Akena refused their father to speak claiming that he was deaf. It was later discovered that he was not deaf and he was forced by his sons to demand back the land from

⁵² Land dispute mediation in Kigwe 01-03-2012

the family of Obalim. The chiefs then concluded the land dispute mediation by asking the family of Obalim to apologize to the family of Akena. And the chiefs promised that later (time unspecified) they would come back to divide the land between the two families. However they did not yet return to help the two families divide the land. Therefore no definite resolution has been reached to settle the land dispute and by 2015 the dispute was still ongoing.

From interviews with the conflicting families it appeared that the family of Obalim had relatives within the LC3 and LC5 administrations and this explains why it was easy for the family of Obalim to approach these institutions. The family of Akena could not accept the resolutions made by LC3 and LC5 because they felt they were not neutral. On the other hand the family of Akena is related to the chief who heads a clan and this chief has contributed to the indecision of the conflict. He talked to the police and the 6 suspects who allegedly beat up members of the Obalim family were released. But the chief also wants the disputed land to go to his clan mates. He is accused of holding secretive meetings with the family of Akena encouraging them not to accept the land to go to the family of Obalim which belongs to a different clan⁵³. The family of Obalim also feels that chief was inclined towards the Akena family because of those relations.

Discussion

Although this study was conducted in a post-conflict setting, the issues of land governance that are discussed are not limited to only post-conflict environments. These also occur and are relevant in non conflict situations. This case demonstrates that in this post-conflict setting the problem of land disputes is expounded by the confusion about the administration of land disputes. There are so many land governance institutions that people can go to different institutions to seek redress or solutions for their land disputes. The various land institutions kept on tossing the conflicting families without clearly resolving the land dispute because neither of the land institutions has ultimate authority to make a ruling over the dispute. The family of Obalim kept on moving from one land institution to another because they did not know right procedure to follow. Important to point out is that the procedure to follow in the case of land dispute is not well stipulated that is why there is confusion in land dispute resolution. Conflicting parties moving from one institution to another and the land institutions meddling in land disputes.

But there is also the mixing up of official and informal relations, which is the downside of the local level government whether from one side or the other. This contributes to lack of legitimacy of these institutions. From the Kigwe case we see that all the conflicting parties had connections or support from representatives of the different institutions and exploited these relation networks. These relation networks contribute to persistence of land disputes in situations of legal pluralism.

We also see that decentralization changes local politics and land governance. The establishment of various decentralized administrative structures from LC 1-5 and formal courts created a parallel structure for the governance of land and the resolution of conflict next to customary chiefs. This invites confusion, further conflict and corruption in land conflict resolution. The Kigwe case shows that the initiation of local politics, decentralization and

⁵³ Land dispute mediation in Kigwe 01-03-2012

competition between representatives from these institutions contribute to the politicization of land disputes and the process of land dispute resolution.

Customary institutions basically employ mediation as the major form of land conflict resolution and try to sell their way of dealing with land disputes. For example customary leader opened mediation session by stating that; “we have not come as judges but as customary leaders, when children fight in the house the father takes control that is why this land conflict is going to be finished at the Acholi level”⁵⁴. Customary leaders believe that they are best suited to deal with land disputes under customary tenure. However the resolutions from mediations made by customary institutions are not binding legally because they do not have a legal status: it is up to the conflicting parties to choose to accept the resolutions or not. Customary institutions are relevant where there is dialogue but when it comes to litigation they become irrelevant. Customary institutions make decisions but they do not have the authority to enforce their decisions. For example a cultural leader noted that “people who have money do not respect our rulings on land and our poverty contributes to people not honouring our decisions”⁵⁵. However it is also important to note that mediation teams are not always neutral, there is preferential treatment given to conflicting parties because of the relations that these conflicting parties have with institutions or people acting on behalf of the institutions. The fact that people do not believe that mediation teams are independent contributes to persistence of land disputes and land dispute going to many forums. The issue of legitimacy of both institutions is important not only based on what people think but also political alliances and relations. Both the customary and state institutions use these relations to become legitimate before one party and lose legitimacy before the other. But this also influences conflict resolution. The lack of impartiality undercuts the legitimacy of these institutions.

Competition between customary and statutory land institutions is displayed as representatives of one institution try to sell their mediation to the litigants while tarnishing the other institution. The land dispute mediation was used as a strategy to tell people that in case of a land dispute they should seek the services of traditional chiefs. Therefore, as well as on the one hand people want their land disputes resolved or land rights recognized by institutions, the institutions use land dispute resolution to legitimize their power and authority on the other hand. The multiplicity of land institutions gives an opportunity to their representatives to prove their relevancy and market themselves in land governance. Important to emphasize is that institutional competition and ambiguity explored in the previous section is not only a single case study but a condition that is prevalent in all post-conflict settings. This is shown by other interviews not specifically related to the Kigwe case that were conducted throughout the Acholi sub-region.

The impact of war on land institutions

Some Acholi people still believe that clan leaders have authority and control over land governance. They still envisage the pre-war picture of land governance, where people adhered to what traditional chiefs said in relation to land, where cultural norms, traditional practices and customs applied to land and where the population was smaller with less land disputes. However land governance in Acholi has changed due to the 20 years’ war and in reality

⁵⁴ Land dispute mediation in Kigwe 01-03-2012

⁵⁵ Interview with a customary leader, Pabbo 09-11-2012

customary institutions no longer have the authority to manage land. This is also attributed to the deliberate effort by the state not to respect or recognize the authority of customary chiefs to govern land. Statutory institutions claimed a greater role in managing land under customary tenure through the issuance of CCOs on customary land which makes them competitors for power over land under customary tenure.

The war created a vacuum in land governance, for both customary and statutory institutions that deal with land governance, because there was a power vacuum. People were displaced and land institutions became non-operational since people were not in position to demand for their services. War devastates the authority of cultural leaders that would have checked land disputes. Before the war the cultural institutions had a lot of authority over land but now it has reduced⁵⁶. All the land disputes were solved by traditional leaders but now some people bypass traditional institutions and go to judicial courts. Clan leaders were wealthy and commanded a lot of respect and authority and did not need to be corrupted.⁵⁷ However, during the war the customary chiefs of Acholi lived in the same IDP camps with their subjects, struggled for basic necessities of life like food, clothing, shelter like their subjects and this had a detrimental effect on the authority that the chiefs commanded. The consequences of this, is that decisions that are made by chiefs about land governance are no longer respected. "After war we even need to be facilitated to go to locus to mediate conflicts. Yes we speak but there is nothing to make our ruling firm"⁵⁸. Thus in such circumstances when the traditional chiefs who are the custodians of customary tenure no longer have the authority to determine land claims then space is created for land disputes to linger on without proper resolutions.

Simultaneously, the government put in place new administrative structures to better administer and control Achol land when it took over power. Despite the fact that many of these institutions were not fully operational it led to the creation of parallel structures. As we observe this leads to confusion and strategic manoeuvring by people having conflicts. This leads to the exclusion of the poor or vulnerable groups in land matters because they may not have the money to shop from one institution to another in the pursuit of justice to land disputes. Both customary and statutory institutions have problems while dealing with land disputes. Customary leaders may settle the vast majority of disputes but their decisions cannot be legally enforced, so they are dependent on their moral authority, which is jeopardized by the war. The formal justice system is marred with corruption, time wastage and it is expensive but its rulings can be executed. Like one respondent noted that the "magistrate court favours people with money this makes me fear to take my land dispute to the courts of law"⁵⁹. Local people indicated that they prefer reporting land disputes to customary leaders or authorities like chiefs and structures closer to them because they are cost effective, time saving and they employ friendly means of dealing with land disputes like mediation. "We should go back to the traditional means of solving land disputes, the Rwodi Kweri know where boundaries pass and the size of land people own".⁶⁰ The government should take away land management from the LCs and leave it to the chiefs because LCs are minting money from land cases, for a land case to be heard one has to part with over

⁵⁶ Interview with customary leader, Appa 06-05-2013

⁵⁷ Interview with a cultural leader 14-11-2011

⁵⁸ Interview with a cultural leader 20-11-2012

⁵⁹ Interview with a 56 year old, Unyama 18-09-2012

⁶⁰ Interviews with an elder, Gulu 02-03-2012, 12-11-2012

80,000shs which is equivalent to 32 US Dollars⁶¹. The people who can afford to pay that money win the cases. This has contributed to land disputes not being solved but also people who do not have money accept to die on their land. The real poor owners of the land may lose their land rights because they do not have money to pay to LCs or make appeals in the higher courts.

LC2 chairpersons disputed the bribery allegations and claimed that even if a poor person wins a land dispute, the party that loses always says that the person who won the case gave the LC committee a bribe. LC2 chairpersons interviewed continued to emphasize that the problem is that the first person who takes the case to the LC even if they are wrong or the offenders; they expect sympathy and the LC to rule in their favour. "And if the LC is not careful he might make mistakes and people will say that the LC was bribed"⁶².

However, as we have seen, traditional leaders also have personal interests in mediating land disputes; some of them do not handle land disputes in the right manner because of poverty and power relations. The moral values of traditional institutions have been infected by corruption and harsh economic conditions.⁶³ Some traditional leaders are not neutral while dealing with land disputes they tend to ally with the state and combine land matters with politics at the expense of the local people's land rights. During elections chiefs become politicians, chiefs are not neutral, chiefs make decisions without consultation⁶⁴.

The case of Kigwe also shows that when confusion about land conflict management and the multiplicity of land institutions soar, the use of violence in land disputes is escalated. People resort to violence because they do not know where to report their land dispute or approached multiple land institutions that fail to resolve land disputes. For example, during an interview with the family of Akena, they expounded that "we use violence because it brings quicker solutions than following the law and other structures"⁶⁵. When we cross checked with the records of one police post, in a month more than 10 cases had been received and recorded by police about malicious damage, assault, threatening violence which were all related to land disputes.⁶⁶ From the Kigwe case we can infer that the use of violence in land conflict resolution is connected to loss of confidence in land institutions. When people lose trust in land administration institutions that handle land disputes, they use violence to solve their land dispute cases and protect their interests or rights to land.

However on the other hand the multiplicity of land institutions might create opportunities for land conflict resolution because people have options to choose from. The result of people not knowing where to report their land disputes is forum shopping, where people go to as many institutions until their interests in land are served even if they are the perpetrators of the land dispute. For such individuals it is not about having the right claims to land but being able to validate those claims through the various land institutions. Based on field observations, competition among land governance institutions may contribute to land conflict resolution. As a result of competition some land institutions become strengthened and better equipped to manage land disputes. When people choose a particular institution or forum to take their land disputes, those that are not chosen improve their services to have more clients. Or those

⁶¹ Focus group discussion Pabbo 22-09-2012

⁶² Interviews with LC 2 chairmen 19-09-2012 and 10-11-2012

⁶³ informal discussion in a judge 14-11-2011

⁶⁴ interview with cultural leader, 06-11-2012

⁶⁵ Interview with a family with a land dispute, 11-03-2013

⁶⁶ interview with police man and records at the police post, 18-11-2012

institutions might close down because they do not have clients and they leave the stronger better institutions to deal with land matters. In northern Uganda customary structures are becoming stronger, for example a traditional leader noted that the cases that are referred back to the chiefs from the magistrate courts bring back honour and authority to the chiefs.⁶⁷ In the process of confusion in land conflict resolution, customary institutions have become a preference for the people because they are regarded to be cheaper, accessible, employ more friendly means of land conflict resolution like mediation. Therefore if customary chiefs manage to organize themselves better and improve their reputation by judging in an impartial way in land disputes they might become an attractive option for the people. On the contrary statutory structures that are charged with land conflict resolution like LC and magistrate courts are regarded expensive, time wasting, easily corruptible and for the rich.

Conclusion

Decentralization in northern Uganda pushes aside or takes over roles of customary institutions by creating parallel structures. Customary institutions are made less relevant when decentralized land structures such as area land committee are introduced or created and the relationship between the state and customary tenure becomes more antagonistic. By introducing CCOs the state undermines customary authority over land. At the most, one can say that the “state effectively bypasses customary institutions” in order to govern customary land directly. The relationship between state and land is shaped by both statutory and customary institutions. However customary institutions can operate within the boundaries set by statutory institutions. The state significantly impacts on the way customary land institutions operate either by legitimizing their authority over land governance or by coercing them to forcefully evolve and become more like statutory institutions. The politics that is played by both customary and statutory land institutions during land governance contributes to the process of state formation by “gathering authority over persons and resources” (Lund and Boone 2013:2).

Despite decentralization, land conflicts are still rampant in northern Uganda. Therefore decentralization is ineffective in ensuring better treatment of land disputes in post-conflict northern Uganda. The presence of many forums for dispute resolution leads to fierce competition among representatives of these institutions who become entangled in political struggles while trying to authorize land claims. This may lead to the weakening of those land institution because people lose trust in them. Example is the Kigwe land dispute which was taken to 6 forums/institutions but not resolved. Therefore it might not be about the number and character of land governance institutions but about their legitimacy and their ability to authorize people’s claims to land. Local people prefer a better division of tasks and responsibilities among the institutions that deal with land matters in order to make the institutions relevant. In post-conflict North Uganda a large number of land institutions came into play leading to indecision in the solution of land conflicts therefore harmonizing the activities and normative frameworks of these land institutions to resolve land disputes and protect land rights is critical.

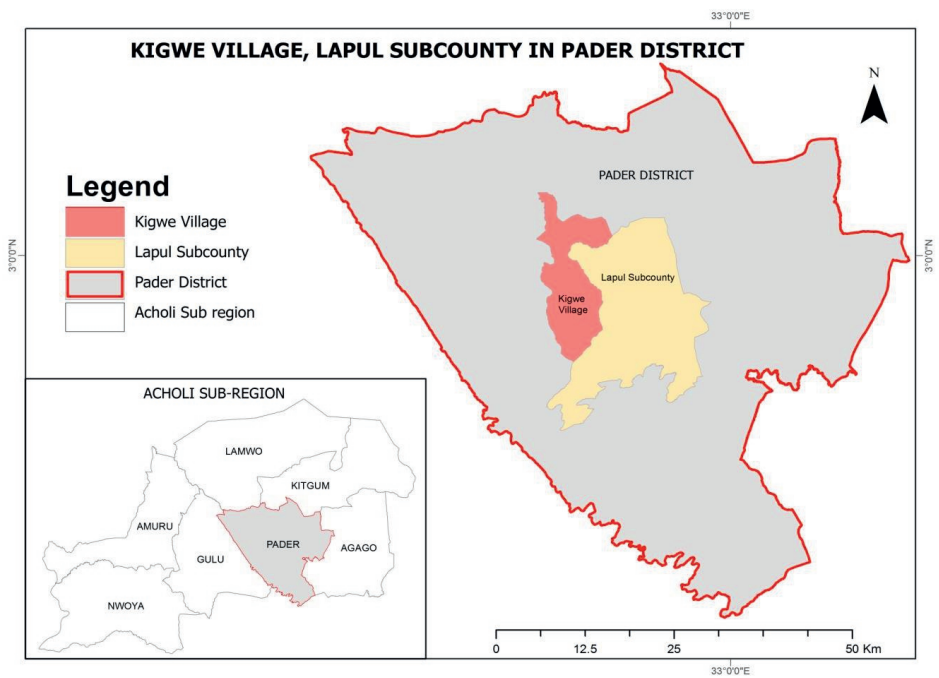
The availability of options or choices in land dispute resolution that is brought in by decentralization further complicates the process of resolving land disputes. Not only do people resort to land governance institutions to have their land disputes resolved, but also

⁶⁷ Interview with cultural leader, 06-11-2012

these institutions use that opportunity to rebuild their authority in post-conflict setting for example in the case of Kigwe where the customary institution used the mediation to sell itself to local people. In many cases, the result is unresolved land disputes and intensification of conflicts as people leap from one institution to another because of the fierce competition between the statutory and customary land institutions over who has authority. However confusion in land conflict resolution is one of the avenues through which institutions can achieve their legitimacy and this process of resolving land disputes makes some institutions more powerful and relevant than others. When conflicts emerge, space is created for institutions which can then deal with such conflicts. The state of confusion in land resolution may only be a phase that leads to legitimizing land rights and strengthening land institutions.

Legal pluralism is a reality and a situation which will not go away soon, therefore there is need to understand how both customary and statutory institutions can work together in order to improve tenure security and land dispute resolution. Local people in Northern Uganda prefer approaching customary institutions while seeking redress to land disputes however it is very critical to enhance the authority and legitimacy of customary institutions so that their resolutions on land conflicts can be legally enforced. Critical to mention is customary tenure should be left to evolve gradually since is not static rather than imposing the superiority of statutory systems on customary tenure in the bid to change it like the case of issuing CCOs. This is possible because natural evolution of customary tenure is affected by state and market policies and in certain cases by violent conflict. The state can create more space for customary institutions to locally determine their rules. Therefore there should not be a replacement of customary with statutory systems but an adaptation of the two systems (Migot-Adholla and Bruce, 1994) because their interactions can give rise to new legal shopping platforms. Integration of the two systems is the way to go because each system working alone cannot adequately respond to the rampant land conflicts so fostering an atmosphere of coordination between them is of critical importance. To reduce the confusion in land conflict resolution and to optimally benefit from the two land systems, clarifying responsibilities of customary institutions and statutory institutions is of fundamental essence.

The main study area for this chapter is shown below;



Map 5: Showing the Study Area of Kigwe village, Lapul Sub County in Pader District

6. African Youths; The Forgotten Category in land governance. A Case study of Post-conflict Acholi Region, Northern Uganda.

ABSTRACT

This paper demonstrates how war may significantly enhance the authority of male youths in land governance, at the expense of the elders and customary authority. Conventional analyses of rural youth in Africa describe their migration to cities in search of education and employment, and due to pressure on rural land, which leaves elders and customary institutions firmly in charge of land governance. This paper, in contrast, suggests that in post-conflict environments an entirely different dynamic may take place, as the majority of youths remain in rural communities and become the new power holders over or managers of land. This argument builds on findings from ethnographic research conducted between 2011 and 2013 in Acholi sub-region in Northern Uganda. The analysis highlights different war-related processes through which youth claim and establish authority in land governance. First, after war, youth fill up the vacuum in land governance left by the death of elders during the violence. Moreover, war favours youth in the ongoing struggle for authority between youth and elders, in particular when staying in IDP camps and participation in the war have eroded conventional legitimacy of the elders. Third, the youth are better disposed to seize opportunities created by war, notably the commoditization of land. An important dynamic is also that war legitimizes violence as a way of accessing land, a strategy which is mainly employed by youth. The paper concludes by asserting that this new (claims to) authority of youth in land governance may have irreversible effects on customary tenure, as ownership of rural land is becoming increasingly individualized and conflicts become more difficult to solve.

Key words: Youth, Land governance, War, Post-conflict, Authority

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Introduction

Literature on rural youth in Africa sketches a picture of youths migrating to cities or urban areas in search of better opportunities to make a living like education, employment, health services, leisure, and due to pressure on rural land (Hope, 1998; Ruble et al. 2003; Tulchin et al. 2003; Abbink, 2005; Bannon and Ricardo, 2006; Sommers, 2006). This effectively leaves the elders who stay behind firmly in charge of rural land ownership and land governance. Some literature highlights that youth migrate to towns precisely because of power struggles about land occupation and land governance between the youth and elders (Richards, 2006). In this paper, we suggest that in post-conflict environments an entirely different dynamic may take place, as a result of which land tenure dramatically changes, and youth become the new power holders or managers of land. We build our argument on the basis of case-material from the Acholi sub-region in Northern Uganda. To start with, in post-conflict Northern Uganda the push and pull factors for urban migration identified in existing literature might be less prominent. For instance, a UNICEF report on war-affected youth in northern Uganda mentions that one third of the youth interviewed reported that a parent had died violently (Annan et al. 2006). Consequently, youth may be able to take over properties of their parents. The report also notices that the number of youth that can be absorbed in the urban employment sector is limited, while youth lack relatives in urban centres to receive them there. We are interested here in how the youth make new claims to land governing authority and actually take over authority over land, and how this is facilitated by particular circumstances related to the violent conflict. The brunt of our argument is not that land governance transforms because youth in Northern Uganda tend to stay in the rural areas, but because of their changing position because of the LRA war.

My argument deviates from existing literature on rural youth in important ways. First, our paper underscores the critical *agency* that rural youth have in post-conflict northern Uganda. In that, it contrasts publications that depict youth as vulnerable, marginalized, victims of war, child soldiers, at risk of HIV/AIDS, unemployed and uneducated (See Abbink 2005; Kagwanja, 2005; Sommers, 2006; Blattman and Annan, 2008; Van Dijk et al. 2011; Chinsinga and Chasukwa, 2012). Berckmoes and White (2014), for instance, highlight how youth in post-conflict Burundi find it difficult to rebuild their lives, due to lack of alternative sources of livelihoods and scarcity of land. Most research on youth in northern Uganda has focused on child soldiers and formerly abducted youth (see Annan et al. 2006) and their problems in reintegrating in the community and gaining access to land, depicting them as the 'lost generation' (See Blattman and Annan, 2008). Research on agricultural reform underscores how youth are often marginalized in the process (See Chinsinga and Chasukwa, 2012). The so-called 'youth bulge' theory equally depicts the young generation as having barely any future, and due to their numbers pose a risk to stability (see Cincotta et. al, 2003; Barker and Ricardo, 2006). This understanding of youth as victims of war and a potential structural security threat explains policy makers' and funding agencies' concern with reintegration and rehabilitation of youth. This paper, instead, points out the need to understand the youth not only as a vulnerable category, but as a cohort of people with significant potential. Our case material illustrates the many ways in which youth in Northern Uganda have devised ways to cope with the circumstances caused by war, challenging the notion of the youth as vulnerable, but instead as important and powerful stakeholders in land governance, as a result of which social relations radically alter.

Second, several existing studies indeed take the agency of youth seriously, highlighting their involvement in struggles for political power, seeing the youth as a vanguard for political change (see Kagwanja, 2005; Burgess, 2005). In Uganda, struggles between the youth and elder generations are witnessed in social, political and economic spheres. In the political sphere, younger politicians clash with the old guards, demanding for more political space for their new ideas (Daily Monitor, 2015, The Observer, 2015). For instance, the youth demand the retirement age for those employed by government to be brought down from 60 to 50 years, in order to create chances for young people to enter the civil service sector, which is currently dominated by older officials. My paper focuses on local politics and power struggles between generations within communities and within families. Land and its governance may be an important stake in such conflicts, constituting a critical factor of production in rural livelihoods; but may also serve as an important theme around which youngsters may try to assert their authority vis-à-vis the elder generation.

This paper is based on ethnographic research that was conducted for a period of 2 years from 2011 to 2013 in Northern Uganda. The research studied decentralized land governance in a post-conflict context and it was part of the Grounding Land Governance Program⁶⁸. The study employed qualitative methods of data collection. Fieldwork was conducted from all the 7 districts (Gulu, Amuru, Pader, Kitgum, Nwoya, Lamwo and Agago) of the Acholi sub-region, northern Uganda. This paper is based on 37 interviews, 12 focus group discussion, 2 land dispute mediations, 2 community dialogues, 1 workshop, life histories of youths and field observations by the researcher who lived with the community. Categories of people interviewed included; youths both male and female, elders (adult men and women), traditional leaders (chiefs), clergy, politicians, members of area land committee, local council members, civil servants at districts, representatives from NGOs and local people. Secondary data is based on review of documents such as the Uganda Youth Policy, books, publications from Acholi Cultural Institution (Ker Kwaro) and other related literature.

The paper is organized as follows. Section 2 discusses our notion of the concepts of authority, violence, vulnerability, access and masculinity, and how these impinge on the role of youth in land governance in post-conflict settings. Section 3 presents case material from the Acholi region, Northern Uganda, illustrating the different practices through which land governing authority of youth transforms. The discussion and conclusion highlight the implications of these developments for customary tenure, underscoring how rural land is individualized, customary institutions are side-tracked, and intra-family conflicts become more frequent and difficult to solve.

How intergenerational conflicts, power and violence shape the role of youth in land governance

There is limited literature that explores the connection between violent conflict and the position of youth, with Chauveau and Richards (2008) as a notable exception. Their analysis points out how patriarchal tenure relations – in which youngsters highly depend on the elders for accessing land, being able to marry, and acquiring esteem and manhood – may constitute an important source of grievance for young men. While in peaceful settings, elders may be able to suppress demands for change by the youth, a context of civil war can provide an

⁶⁸ Grounding Land Governance Program was funded by WOTRO Science for Global Development grant number W 01.65.332.00.

opportunity to escape from patriarchal control by joining a rebel group, or to violently settle the scores and acquire local land and power. Likewise, after war, poverty levels may soar so much that elders become incapable of contributing to their son's marriages, which further weakens elders' legitimate hold on power (Chauveau and Richards, 2008). Their analysis aptly shows how war disrupts existing social relations between the generations, and youth roles (see on this also Richards 2006), and reshuffles prevailing ways of accessing and owning land.

To understand how this works, the notion of 'access' comes in particularly useful. Access is defined as "the ability to derive benefits from things" (Ribot and Peluso, 2003: 153). Access to land is achieved and conditioned by a variety of social mechanisms, including formal property rights, but also the extent to which claims to land have local legitimacy; local power relations and authority; illegal access; and access to technology, markets, and labour (Ribot & Peluso 2003: 156). People may derive benefits from land even without holding land titles, for instance through occupation or market exchange. Likewise, people may hold formal property rights, yet fail to derive benefits from the land, for instance, if this requires particular knowledge, additional labour capacity, or wealth to invest in its exploitation. All forms of access are embedded in power relations. Though the elder generation may formally have the right to benefit from land according to customary system, the youth may instead be able to derive benefits from land by their better knowledge of and connections to the market. Similarly, after war, youth may challenge the customary authority of elders in land governance and so transform the ways in which land has been accessed so far, because they fought themselves up in the power hierarchy by getting access to other sources of income and maybe even weaponry. The youth gaining authority over land in post-conflict settings may be seen as an outcome of the "versatility and survival skills of the youngsters" (Abbink, 2005:2) they gained during the conflict. Other than that it is also important to note that communities always have more youths compared to elders (Richards, 2006) and this can be used as an advantage by youth to exert leverage in land governance in post-conflict settings. Therefore, power shift in land governance as a result of war may enable the youth to benefit from land, yet constrain the elders from benefiting from their right to land.

In this paper, an important avenue for gaining access to land by the youth is through violence. There are different reasons for this predisposition towards the use of violence. Violence may become a normal way to assert one's claims in post-conflict environments, with some authors even talking of the coming about of a 'culture' of violence (Ryter, 2001; Peluso 2007). Critical to emphasize is that violent acts tend to increase when daily life is disrupted, like through displacements or war (Gómez and García, 2006: 97). Youth in post-conflict communities may have become accustomed to the use of violence because they were abducted, heard gun shots, witnessed killings, or were beaten while living in the IDP camps. Some researchers, policy makers and NGOs point out that youth in Africa are relatively violent anyway (Abbink, 2005; Blattman and Annan, 2008; etc). For instance, Abbink (2005) notes that African youth often grow up in communities that are not well integrated may be because of violence and forces of global capitalism. The youth's resort to violence in post-conflict settings may be rather a manifestation of this general lack of communal integration. Other authors have pointed out that the youth's resort to violence plays an important role in building masculinity. As mentioned before, the struggle for authority over land governance between the youths and elders may be deeply rooted in unequal, sometimes exploitative relations of patriarchy. This struggle is ongoing, and not just the result of conflict-related poverty and unemployment: to enter into adulthood, male youth need to access land so that they can build a house, marry,

start a family and so prove their masculinity and adulthood. This inevitably pitches them against their elders, who tend to refrain from relinquishing power over the land. In more stable countries like Rwanda, youth may opt to migrate to urban centres so that they can escape the pressure of obtaining adulthood (Sommers, 2012). In post-conflict settings, where conditions such as poverty delay or obstruct male youth to attain adulthood but no alternative livelihoods are available, young men may resort to violence to express their manhood (See Barker, 2006). The case-study material suggests that violence is indeed a very important strategy for male youth in Northern Uganda to access land and assure their survival, as there are few other possibilities to make a livelihood, and has significant consequences for land governance practices.

Power struggles between generations are not a new phenomenon, and academic literature points out how these have been going on since time immemorial (see, for instance, Burgess 2005 on youth revolutions in Zanzibar; and Last 2005, on youth politics in northern Nigeria). However in this paper, we emphasise the particularities of how such power-struggles evolve in conflict-affected settings. The case material demonstrates that war significantly accelerates societal and political change, contributing to abrupt shifts in power as well as social relations (cf. Richards 2006), effectively enhancing the roles of male youth in land governance, at the expense of elders and customary land governing authorities.

In Northern Uganda, different processes change the position and claims to authority of the youth.⁶⁹ In many instances, youth become in charge of holding and governing land simply by replacing members of the elder generation that have died during the violence. In many families, youth no longer patiently wait to inherit authority over land from the elders, but pressure their fathers to relinquish authority over land while they are still alive, legitimizing themselves with new rationales for land inheritance for example use of force. Commoditization of land, which saw an upsurge during the war, enhances the interests of the youth to control and govern land. Moreover, war favours youth in the ongoing struggle for authority between youth and elders, in particular when staying in IDP camps and participation in the war have disrupted the customary system or have eroded the conventional legitimacy of the elders. Further, the youth profit from post-war policies of decentralization of land governance. Finally, an important dynamics is that national and regional politicians manage to mobilize the youth around land conflicts, turning them into very visible players in transformations of land governance. It needs to be seen to what extent this co-optation of youth in large-scale contestations over land amounts to a real increase in the role of youth in land governance.

The paper is careful, though, to assume that all youth benefit from these trends. Clearly, the case material brings out that some youth are more capable than others to actually strengthen their authority in land governance. Youth is a diverse category, and there are important differences between urban and rural youth, educated and illiterate youth, orphans and youth with parents, disabled, youth with HIV and other illnesses, employed and unemployed youth, and between those who that were displaced due to violence from the LRA insurgency, those that participated in it, and those that lived through the war in relatively stable environments.

⁶⁹The policy definition of youth in Uganda encompasses all young people both females and males aged 12 to 30 years (GoU, 2001). According to the National Youth Policy (2004) the youth constitute between 65-75% of Uganda's total population and majority of the youth live in rural areas. Important to mention is that 63% of inmates in Ugandan prisons are youth, this is alarming and indicates that the youth are not productive.

The examples in the case studies notably underscore the differences between young men and women in how they have expanded their landed properties and gained authority in land governance.

The Role of Youth in Land Governance – the case of Acholi Region, Northern Uganda

Northern Uganda experienced one of Africa's most ferocious civil wars which resulted into the displacement of over 2,000,000 people. The 1986–2006 war between the LRA and the National Resistance Movement in Northern Uganda destabilized the entire northern region, displacing 90 percent of the population. Many of them moved into displacement sites, which strongly affected social relations and how people relate to land. When the war ended and people returned to their home communities, numerous competing claims on land emerged. Initially, land disputes were mostly between communities and clans. However, at the time of fieldwork, after 6 years of relative peace, the majority of land disputes are now witnessed within families: between sons and fathers, between brothers, uncles and nephews. This is connected to the shift in authority over land governance where the youth challenge the customary authority of elders.

In Acholi the term youth is used to mean young men and women and not specifically young people aged between 14 and 35 years as conventionally portrayed. Males and females as young as 12 years and as old as 45 years can still be regarded as youths in the Acholi setting for as long as they have not achieved some traits and attained assets that society expects adult men to possess such as marriage, children and wealth. For example boys aged 12 years and above are not expected to share a hut (housing) with their parents, they are supposed to build and sleep in their own huts. These are some of the expectations of the youth from elders yet also such social expectations make the youth to yearn for adulthood. . Masculinity is represented by assertiveness and dominance which traits are always possessed by elders. The patriarchy system instills such traits in male youths as a way of initiating the youth into adulthood. Marriage is one of the ways through which youth are initiated into young adults. The actions of the youth with regard to land governance may be just a means of asserting their masculinity in society so that they can be considered adults.

To ascertain how youth's access to land as well as their involvement in land governance changed, we look at three levels: transformations of land holding and authority over land within the family; land governance practices at community level, and the involvement of youth in political contestation about land.

Changes in land governance relations within the family

"After the war in 2006, I returned to my home and stayed with my sons, but I had to return to the camp on the 1st of April, 2012 because of the land dispute with my sons. My sons from my first wife do not want to share land with the children from my second wife. That land is my personal land which I got from my father who died in 1959. My sons have beaten me two times and they were taken to the police, but I forgave them and we withdrew the case from police. The police officer told them that this should be the last time they were behaving like that" (Interview with a 70 year old man, Pabbo 20-09-2012)

Although the case was withdrawn from police the sons continued to use the land while their father continued to stay in a former IDP camp. The above quote provides a clear example of the ways in which youth have gained more authority over land within their families in post-conflict northern Uganda. The way in which the sons acquired the land of their father strongly contrasts earlier practices.

People in the communities describe a past in which strong kinship relations played an important role, and sons lived with or stayed near their fathers. Sons or youth in Acholi did not have a voice in land matters for as long as the fathers or the generation of their fathers were still alive, but nonetheless were granted user rights on some of the land for farming and grazing while growing up. "The elders had a lot of authority in land matters and the youth patiently waited for their turn to become elders and assume powers over land".⁷⁰ When boys reached the marriage age then they were given portions of land to start a family and some land was left for the girls in case their marriages did not work out. A father would administer land until his old age and the power to govern land would only be transferred to the younger generation (son) upon the death of the father or elders. The fathers expect their sons to look after them in old age. As one youth said: "when I was born I found when my parents were using the land to feed me, now that my parents are old the responsibility is upon me to use the land and feed my old parents".⁷¹

These conventional relations certainly included an element of competition over the land, between sons and fathers, but also among the sons. A struggle for power to govern land comes in when the youth do not wait for this 'natural' transfer of authority to occur. For example two sons forced their father to go back and live in a former IDP camp. The sons claimed that their father was mentally unstable but they actually wanted to manage the land without their father.⁷² Some youth for their own interests determine when their parents get old and when they should assume authority to control land for example the 2 sons who forced their old father back to the former IDP camp. Some youth have now taken up the positions of their parents and the youth are the ones managing land. Because they are energetic they have taken over the management of land from the other family members. The youth do not agree with what the elders tell them in relation to accessing, utilizing and owning land for not to sell land⁷³. Another example to show that youth had become the new custodians of land was during a land dispute mediation between two youths that was organized by sub-county officials. One elder told the mediation team that; "the grandparents of these children did not have boundaries on this land but it is the youth who have started demarcating the land. These youth now say that this is mine and individualization is setting in."⁷⁴ It was agreed during the mediation that the land would be divided among the youth in the next visit.

After the 20 years war in northern Uganda, the elders are now under pressure from the youth to relinquish authority over land like in the case of sons chasing their father from land⁷⁵. Paradoxically the elders are vulnerable and powerless, elders are waiting for their death and thus they are just observers in land governance. On the contrary the youth have gained

⁷⁰Interview with civil servant, Gulu 05-02-2013

⁷¹ Interview with a youth leader, Apaa, Amuru 28-05-2012

⁷² Interview with one of the son who claimed the father was mentally unstable, Pabbo, 10-11-2012

⁷³ Focus Group Discussion with members of area land committee, Amuru 21-03-2012

⁷⁴ Land mediation in Kal Parish, Pabbo sub-county, Amuru district 21-09-2012.

⁷⁵ See excerpt from Interview with 70 year old father, Pabbo 20-09-2012

authority to govern land as a result of the war disrupting the customary setting under which the elders possessed land governing authority. Some youth feel that they are victims of war who were trapped in and affected by the war that is older than them. The youth believe that if the elders had made right choices then the war would not have occurred so they blame the mess of the 23 years on their parents⁷⁶. In the discussions below I will present the processes that explain why youth have gained more important roles in land governance within families in post-conflict northern Uganda.

First is the death of elders, the youth fill up the vacuum in land governance. Death of elders affects most the customary tenure system where land rights are not documented but are orally passed on from elders to the youth or younger generations. After war the demand for land access is always high because of the increase in the youth population due to the high birth rates in the camps. As the youths struggle to access land without the elders to manage land, land disputes are bound to happen in post-conflict settings. Some elders lamented that people were idle in the camps, and most of the time was spent reproducing, on coming back home, the population had swollen with young ones but the elderly had died. "We lost many elders who could be instrumental in showing demarcations"⁷⁷. War reorganizes the population structure of a community. War leads to death of elders and a shrink in their numbers while the youth population surges because of high birth rates in camps linked to redundancy. Under customary tenure, the authority to govern land is embedded in elders therefore their abrupt demise due to war contributes to an increase in intra family land disputes especially disputes over land boundaries.

Secondly, the youth utilized opportunities created by the war especially to turn land into a commodity. Initially the clan owned land and everybody had access to it but after war communal ownership is steadily changing to individual ownership. The desire to acquire and accumulate more land has risen because land has become a commodity, it can be sold and it can exchange hands. Commoditization of land has contributed to the sudden interest by the youth to control and govern land because they want to benefit from land sales. The new perception that land is wealth which is a result of the war, and the high poverty levels among the youth have contributed to the youth selling land. Due to the need for money by the youth to get themselves out of poverty, youth opt to sell part of the land without consulting their fathers or elders⁷⁸. Such actions disregard the authority of elders in land governance. The reasons for selling off land by the youth include; getting start-up capital so that they can invest in small scale businesses, pay dowry for their wives, pay school fees for their children and buy motor cycles commonly known as boda-boda to transport passengers and earn a living out of it⁷⁹. The youth have a belief that the only wealth they have is land and they should use this land to improve their lives. On the contrary the elders argue that the youth want to get powers to control land so that they sell it off and indulge in risky life styles like alcoholism because the youth are no longer interested in agriculture. The elders further say that this is foolishness of the youth because they will sell all the land including where they will be buried. Therefore the

⁷⁶ Interview with land officer 31-01-2013

⁷⁷ Interview with an elder, Amuru 17-11-2012

⁷⁸ FGD with the youth of Unyama 19-09-2012

⁷⁹ FGD with the youth of Unyama 19-09-2012

elders do not allow selling land yet the youth want to sell, and this has contributed to land disputes within families⁸⁰.

Finally an important trend is also that due to commoditization of land, some youth want to also benefit from historical land gifts that were given by their forefathers to institutions and individuals. Before the LRA war land was not sold but it was given as gifts. However the young generation is demanding back such land gifts claiming that their ancestors did not know the value of land or the gifts were extravagant. These can be referred to as retracted gifts. The retracted gifts are affecting most of the health centres, schools and churches in Amuru district because elders gave out land for development purposes⁸¹. Such demands by the youth become complicated because most of the institutions that received land gifts never surveyed the land and it becomes difficult to determine boundaries of such lands. But also in most cases the elders who gave out those land gifts passed on and it is the youth that have assumed the responsibility of governing land. Interesting to point out is that some youths know that such developments cannot be demolished so they demand compensation from government. Some youth who were born in the camps claim that they were not consulted when their forefathers gave land gifts even though some land gifts date from the 1940s before the youths were born⁸². Therefore it all goes back to land gaining value after the war that the youth feel they should benefit from land gifts that were given before they were born. This reflects a change in the management of land because before the war in the Acholi tradition young people never had a say in land gifts. These trends (disruption of the customary system, death of elders and youth utilizing opportunities created by war) all contribute to change of land governance within the family.

Changes in land governance at the community level

After the war, the youth increasingly present themselves as a stakeholder in their own right in land governance, positioning themselves as apart from the elders and local authorities, and promoting their own ideas about how land should be governed.

"I want to talk on behalf of the youth of Apaa. I was born from Apaa but brought up from the camp. After the war, our elders led us back home. When we got to our land, the effects of the war started to manifest themselves. To us the youth if land conflict could be solved through boxing, it would not have lasted for this long. For those of us who grew up in the camps saw a lot of bad things and never studied. Some of us served in the bush as child soldiers. So when we look at what is happening in Apaa, we feel like the government wants to clear the Acholi as a tribe. We did not go to school, we know little and we believe we can only survive through digging the land to send our children to school. Once we are denied to access our gardens, then we are ready to be killed in Apaa because it is impossible to go and live with other people outside your home. We have not rejected development, but we request that our opinion must be sought. We will not leave the land even when we do not have weapons to fight the government"⁸³.

⁸⁰ Purong community dialogue, interviews with clergy 22-06-2012, elder representing women at KKA 23-05-2012, clan leader in Unyama 12-03-2013

⁸¹ Interview with cultural leader, Gulu, representative from a local NGO, Gulu, Informal discussion with a magistrate 07-03-2012

⁸² Interviews with land officer, civil servants Amuru 22-03-2012 and 23-03-2012

⁸³ Interview with a 28 year old youth, Pabbo 27-09-2012

This quote is from a youth in his late twenties, he tries to assert that the opinions of youth in decision making on land should be considered by other actors in land governance. He talked about a dispute between the community of Apaa and a government agency that culminated into violent eviction of people and where 2 youths were killed by police and 25 youths were imprisoned.

The youth have become vanguards in land governance at the community level in post-conflict northern Uganda. The youth are more in numbers compared to the elders. The youth have used their numbers to their advantage, to organize themselves and refute decisions on land that are made both by the government and elders that do not work in the interest of the youth. They have become actors in social change because they have motives to benefit from authority or control of land. A big population of or many youth in a family can strategically be used as an asset by the youth to access land that does not belong to them. There are clans that have many children and others have few children, the clans with many children forcefully grab the land of the clans with few children. The clans and families that have many children always prefer to resolve land conflict in the local way (through fighting)⁸⁴. For example in one of land conflicts that I followed during fieldwork, two families peacefully co-existed and shared land before the war, but the relations changed after war. The reason for change is that the population of one family had grown bigger and it wanted the other family with fewer boys to look for land elsewhere. The family with more boys used the advantage of numbers to coercively displace the family with fewer boys⁸⁵. Before the war nephews and nieces stayed with relatives peacefully but after the war the uncles tell the nephews to search for their own homes and land because numbers in families increased. Therefore increase in the youth population after war significantly offers the youth an opportunity of using their numbers (numeric strength) to determine what happens to land.

Local people allege that during the war the Acholi community was opened up and exposed to a series of new behaviours and circumstances for example many evangelists from America and other places went to the camps preaching the word of God this exposed the youth to western culture⁸⁶. Then youth base on such a background to challenge and drop the Acholi traditions that are considered evil yet they were used to peacefully organize or structure society for example consulting rain makers and visiting shrines. Both the youth and elders learnt new practices which are considered vices in the Acholi culture. These included; alcoholism, addiction to drugs, paid sex, gambling, opting for violence instead of dialogue during disputes. In the camps elders struggled and lined up for food from world food program with everybody this reduced their respect⁸⁷. But also poverty that is attributed to the war has contributed to children/youths losing respect for their parents. For example parents used to marry wives for their sons but now sons can work and can marry their own wives and they do not see why they should respect their parents. Before the war traditional leaders such as chiefs commanded authority in land governance especially during conflict resolution and they even fined people who did not respect them but after the war the youth ignore their resolutions.

⁸⁴ The local way is called "Acholi" meaning using violence to settle disputes. Based on community dialogue in Purongo, Nwoya district.

⁸⁵ Land mediation and interviews with two families conflicting over land in Laguti sub-county, Pader district.

⁸⁶ Interview with member of Area Land Committee, Amuru 07-03-2013

⁸⁷ Interview with elder, Agago 17-03-2012

After war authority of elders to govern land is challenged by the youth. One elder expounded that “Our land is part of our culture, we are now suffering because the war destroyed our culture”⁸⁸. People in Acholi asserted that the post-conflict generation is in conflict with culture, there is a ‘cold war’ between the youth and elders. The dynamics of participating in the war and staying in IDP camps contributed to deterioration of moral values and the breakdown of the Acholi social fabric. The insurgency created a new situation in Acholi land where the children born in the IDP camps are now over 20 years, they are now fathers and mothers but they know nothing about the Acholi culture.⁸⁹ The Acholi community claims that, the custom of the Acholi were diluted when people stayed in the camps, customs and norms from other tribes were imported into the Acholi culture. Most of the good Acholi cultural norms were lost for example before the war vulnerable people were protected nephews, nieces and aunts, orphans, widows and widowers could not be chased from the land. The Wangoo⁹⁰ (bonfire) is a cultural norm that was used by elders to educate and share experiences with the youth but it was lost during the camp life.

It is also important to point out that elders have equally contributed to the youth capturing power to govern land from the elders. Majority of the youth interviewed said that elders advised them that if the youth do not defend their land and other people take it then it will be the youth to suffer and lose out. In addition the youth suggested that the elders of these days (after the war) also behave like the youth, they too like discos and drinking alcohol and to sustain this new life style the elders sell land to get money. Therefore conflict of authority to govern land then comes in when the youth refuse to accept or endorse such sales⁹¹. Under such circumstances the elders leave the youth with no option but to manage the land on behalf of the elders.

There is also the use of violence as a new form of access to land by the youth; this may be attributed to getting accustomed to violence during the war, ignorance about customary way of governing land but also to the fact that the youth are energetic. Some elders make decisions about land in favour of the youth because they are scared of facing the wrath of violent youths if the elders do not succumb to their land demands. For example in response to the son’s violence, a father ‘cuts’ off a piece of their land and gives it to his son when a son wants to sell it and get money to buy a boda-boda. The use of violence works in the benefit of the youth because they get access to land and govern it the way they please. This was demonstrated through a land conflict between a 58 year old man (Otim) and 33 year old youth (Odong). The youthful Odong has used force and violence to stay on the land that belongs to Otim. The youth has been summoned over 10 times by different land governing institution to resolve the conflict but the youth refused to honour the summons of any of the land institution. However Odong continues to utilize and benefit from the land while the true owner (Otim) of the land cannot access the disputed land.

The inability to find jobs outside agriculture influences the role of youth in land governance. Majority of the youths cannot be absorbed in the formal economy (unemployed youth); this leaves them with only land as a source of livelihood. They were denied education because

⁸⁸ Interview with a retired politician, Gulu 17-03-2012

⁸⁹ Interview with an elderly clergy, Gulu 22-06-2012

⁹⁰ Wangoo means a bonfire where elders and the youth sit and discuss social, political and economic issues. The forum was used by elders to instill cultural norms and good values into the youth.

⁹¹ FGD with the youth of Unyama, 19-09-2012

they were confined in IDP camps. Most of them are not competitive in the labour market therefore they cannot get formal employment because they do not have the required skills. The youth are so energetic and this energy has to be sunk into productive work but since they cannot get jobs elsewhere, the energy is diverted to land but in most cases in a negative way. "If you want a job elsewhere you should have gone to school, if you did not go to school you then work on the land"⁹². For example the youth are not employed and when they want to marry then land has to be sold to pay for dowry but if the father refuses the son to sell the land violence erupts⁹³.

On the other hand education elevates the status of the educated youth in land governance and in the society at large. The educated and wealthy youths assume the responsibility of land governance. When investors are interested in land for large scale agricultural investments elders consult the educated youth whether the land should be given to investors or not. On the other hand elders also pointed out that the educated youth disrespect and challenge the authority of elders in land governance. The educated youth are contributing to individualization of land that was once communally owned under the customary setting. This is because education makes people to understand the profitability of land and the educated youth are now claiming big chunks of land in former communal hunting grounds called Aker.⁹⁴ Education equally determines how the youth handle land matters especially land conflicts. Where the family is educated a widow might not be chased from land after the demise of her husband and where a family is not educated they might not hesitate to chase away a widow⁹⁵.

Another important issue is that decentralization in a way contributes to increasing the role of youth in land governance in the community. The youth are elected into positions in decentralized structures which give them authority to govern land. This reshuffles power relations between the youth and elders in customary settings because authority to govern land was entrusted to elders. In Uganda the central government devolved some powers to local government structures to govern land. These include the district land board, the area land committee, the sub-county court committee and the local council structures such as local council 1, 2, 3 and 5. The members of these local government structures play a role in land dispute resolution especially by being part of land mediation teams. It is imperative to point out that it is the youth who are being appointed or elected to take up positions in the decentralized land governance structures and these youths make decisions on the way land is accessed, owned and how land disputes are resolved. For example in Pabbo sub-county in Amuru district the sub-county court committee, the area land committee and Local Council 3 were all headed by young men and they were actively involved in land dispute mediations⁹⁶. The elders believed that the youth who head decentralized structures do not have the knowledge about the customary system of land governance, they are not cooperative thus they fight amongst themselves and they contribute to more land disputes⁹⁷. The elders further claimed that the youth use their positions in decentralized land structures to allocate land fraudulently and to resolve land disputes unfairly because they are easily corrupted.

⁹² FGD with women from Apaa center, 27-05-2012

⁹³ Interview with traditional leader, Gulu 12-11-2012

⁹⁴ Interview with elder, Gulu 22-06-2012

⁹⁵ Interview with youth, Amuru 07-03-2013

⁹⁶ Field observations by the researcher 2011 to 2014

⁹⁷ Interview with female elder, Amuru 07-03-2013 and Interview with a youth in Pugwang, Pabbo 20-11-2012

The role of youth in political contestation about land

The youth have also assumed important roles in land governance issues when it comes to contentious land matters at political level. At this level, the youth mainly seem to have gained leverage through the use of violence. In one of the prominent land dispute in Acholi region which is about allocation of 10,000 hectares of land to a sugar factory. The youth have put up strong resistance against the allocation of land to the sugar factory to the extent that they have managed to block the commencement of sugar cane growing in this disputed land for 8 years. In a bid to recognize the importance of the youth in land governance the government decided to bring the youth on board and make them to appreciate large scale land investments. This was done through government taking a group of youth from the disputed land to a sugar factory in another part of the country (Eastern region) so that they appreciate the development done by that sugar factory and when the youth return home they would convince the other youths to support the sugar factory in their area (Acholi region). However this has not yielded much result as some youths said that they cannot be bought to give away their land.⁹⁸ Due to the continued demonstration by the youth in Acholi region that they are the new managers of land, various actors in land governance especially land institutions have come to recognize the role of the youth in land governance.

Furthermore, at the regional level, politicians in post-conflict situations have the ability to mobilize the youth and use the power of the youth to their advantage. This in turn influences the role of the youth in land governance. When politicians are dissatisfied with the way statutory land institution govern land or the way a particular land conflict is resolved they organize the youth through community meetings and over FM radios to show their grievances. But also the politicians use the youth to achieve their individual interests such as self-realization, popularity and to gain votes for the next elections. The politicians have the power to manipulate the youth because the youth perceive the politicians as fighting for their plight. Therefore the politicians can organize the youth to use violence in retaliation of perceived violation or denial of land rights. In post-conflict Acholi region the youth do not know much about customary land governance because they were born in the camps therefore the politicians drive on this ignorance to influence the way the youth relate to land. The youth are more than the elders but the elders no longer have the power to mobilize the youth to take on their ideas in land matters therefore the youth are easily mobilized by the youthful politicians. In the land dispute between the community and government where 10,000 hectares were allocated to a sugar factory for sugar cane growing a youthful popular politician has been so prominent in organizing the youth to resist this land allocation. He told the youth; "Our land should not be played with and if it is to be given out it should be done in the right way, many people have been arrested for no good reason. The youth of Lakang you should not be fearful like the people of Apaa. The persistence of the people of Apaa has made them to stay on their land. I urge you people not to fear even if the government has put a barracks on standby to execute government orders like evicting you from the land"⁹⁹. Such statements from popular youthful politicians can unite the youths to refute some decisions made on land by land institutions.

⁹⁸ FGD with the Youth from Lakang 21-06-2012

⁹⁹ Community meeting in Kololo, Amuru 04-05-2013

In another land conflict, the Apaa eviction another youthful politician was able to organize the youth from Apaa to chase away government surveyors who had come to demarcate land. Before the surveyors came, some youths had been mobilized to use boda-bodas to do surveillance around the villages in Apaa. When the youth saw the government surveyors demarcating land without first informing the community, the youth rushed and informed the politicians. The politicians dashed to the scene, the youth then asked the politicians what they we supposed to do to the surveyors and the politicians responded with a question that; what do the Acholi do when they are angry or annoyed? The youth then beat up the surveyors, put them in a truck, collected the mark stones and sand and wanted to head to Apaa centre so that the surveyors could explain to the community of Apaa what they had come to do. By this time the police arrived and rescued the surveyors and dispersed the youth with tear gas and bullets¹⁰⁰. Therefore the youth can be mobilized of by politicians to resist changes in the way land is governed.

The youth in Acholi region believe that land institutions have failed to govern land properly. Not only have they used violence as a form of land governance but also as a response to land governing institutions that have failed to provide tenure security to the youth. Both customary and statutory institutions that govern land are considered corrupt and have contributed to the youth using violence to settle land disputes. As the youth vented out; the Local Council structure resolve land disputes according to money and not the truth and, the elders go to land management institutions first and bribe the officials who even arrest the youth and since the youths do not have the money they lose out and end up using anger¹⁰¹. The youth further justified the use of violence in the land dispute with Amuru Sugar Company by saying that “we have decided to deal with lands issue with very high tempers and self-help or violence; we have caned so many people who have come to our land whom we are suspicious of. We have thrown stones at people we regard as invaders. We have blocked the road on so many occasions and we are going to do more of these actions”¹⁰². These actions point to use of violence to settle land issues. The youth in Lakang, Amuru district (the site of the proposed sugar factory) vowed to continue to fight for their land on the ground even if the land dispute is in courts of law because they do not trust them¹⁰³. To sum up, the youth use violence because they want land governance institution to respect their rights to land.

On the other hand the youth claimed that the elders encourage them to use violence in land matters. During interviews some youth pointed out that they just follow orders from the elders. For example in case of a land conflict, fathers advise their sons to fight for the land indicating to them that it is the youth who suffer if they do not have access to land. Most youth get involved in land conflicts because they are ignorant and sometimes elders drag the youth into land conflicts that the youth do not know about. But also the youth end up acting with violence while relating with land because they were raised in Camps and are ignorant about the customary way of owning land¹⁰⁴. Some elders do not tell the truth to the youth especially about boundaries and instead the elders use the youth to guard their land. The elders extend their land boundaries verbally and the youth put it in action through using force or violence to protect the verbal boundaries communicated by elders. In addition some elders

¹⁰⁰ Interview with a youth politician, Amuru 07-03-2013

¹⁰¹ Interview with 28 year old youth, Pabbo 21-09-2012 and FGD with youth of Pabbo 22-09-2012.

¹⁰² FGD with youth from Lakang 21-06-2012

¹⁰³ Community meeting in Kololo, Amuru 04-05-2013

¹⁰⁴ FGD with the youth of Unyama 19-09-2012

take advantage of the outcomes of the war such as the death of elders to grab land that belongs to the youth whose parents died and the youth retaliate by using violence to get back their land. After war some youths went back home as heads of households and they had to protect the land but in most cases they did not know how big their land was. The elders take advantage of the situation and take the land away from the youth because their parents passed on.

Discussion and conclusion

This paper has presented the different ways in which in a post-conflict setting, authority around land is redefined, which may have significant implications for the roles that the youth play in land governance. After war, the authority of elders to govern land is challenged by the youth and in various instances, the youth claim new roles in land governance or effectively become the new managers of land within their local communities. The case studies have highlighted four important trends in this process.

First, after war, youth take over roles in land governance that are no longer fulfilled by the elders, who have died during the violence. The inability to find jobs outside agriculture implies that many youth remain in the rural communities with only land as a source of livelihood. Moreover, war favours youth in the ongoing struggle for authority between youth and elders, in particular when staying in IDP camps and participation in the war have eroded conventional legitimacy of the elders. The youth are also better disposed to seize the opportunities created by war. Advancing commoditization of land contributes to increasing interest by the youth to control and govern land and to benefit from land sales. In addition, after conflict, the state plays an important role in restructuring land governing authority at the advantage of the youth. Post-conflict policies such as decentralization that are carried out by the state in practice tend to come down to a transfer of land governing authority to youth.

An important dynamic is also that war has legitimized violence as a way of imposing authority over land, which is the most accessible strategy for acquiring authority over land in post-conflict settings by the youth. In Northern Uganda, youth tended to be the specific target for rebels or fighting factions, for recruitment purposes. Those experiences may have made youth to conclude that violence is a legitimate, if not a very effective way to get what you want. However after war most of the youth go directly to their communities or homes without rehabilitation or counselling. This may explain why the youth opt to use violence to solve land disputes in Acholi region. Youth happen to be better disposed in the use of violence than others because they are energetic, accustomed to the use of violence, they perceive land as the only source of livelihood and the youth do not patiently wait for land governing structures to be re-established to take charge of land matters in post-conflict settings. But also violence as a response to land governing institutions that fail to provide tenure security to the youth. Consequently, politicians in post-conflict situations have the ability to mobilize the youth and influence the way the youth deal with land matters. Politicians use the youth to achieve their individual interests such as self-realization, popularity and to gain votes for the next elections.

While the case study materials highlight the new claims and increasing role of the youth in land governance, at the same time they underscore that this is an uneven process, benefiting particular youth more than others. Despite the fact that in post-conflict settings the youth gain prominence in land governance, this is true for a category of youth who are powerful either through use of violence or attaining education. On the contrary, various categories of youth

fail to strengthen their influence on post-conflict land governance or Their rights to land are instead denied or violated. Notably widows, girls/female youths, and orphaned youth that were previously catered for under customary tenure, may become more vulnerable.

The female youth can only access land through their fathers, husbands, and brothers. However when the war disorganizes the social fabric and these relations are severed, accessing and utilizing land by female youth becomes a problem. This is illustrated by the life history of a 16 year old female youth called Aketo. "During the LRA war my parents ran to Gulu town when I was in primary four. But later after the war my father died in 2008 and my mother died in 2009. My parents gave birth to two girls, I and my younger sister. After our parents' death my aunt (my mother's sister) brought us to our father's land in Labala parish. But my step brother chased us away saying that girls do not own land and he did not cause the death of our parents. I and my sister we left the land now we live in the trading centre with my aunt and her 3 children but she does not have land herself"¹⁰⁵.

Irrespective of their gender, youth who lost their parents during the war are equally powerless in land governance. Some of them were born in the camps and they do not know the boundaries of their father's lands so they cannot claim access to the land that they are not sure of. Most of the youth live with their uncles and whichever land their uncles show them, that is the land which the youth believe that belongs to them. Some youths are threatened to be killed by their uncles if they start claiming land or disputing what their uncles or elders showed them.¹⁰⁶ The account of a youthful police officer illustrates this: "It feels so painful when your uncle takes land that belongs to you. Our uncle has no sons of his own and he is HIV-positive, and he sold off most of his land because he thought he was going to die. Then our uncle started selling off our land too. So I and my elder brother we reported the case to the local council 2. The local council 2 chairman said that we were very young and by the time our father died land had not been divided. We then took the case to local council 3 and the same ruling was made. We proceeded to take the land dispute to a Non-Governmental Organization (NGO) but we were not helped much. Finally we took the case to a cultural leader the chief of Alokolum who helped to stop our uncle from selling our land. And then my elder brother got letters of administration for the land. However our uncle still connives with our corrupt local council chairmen to sell the land they even back date the sale agreements of land for it to appear as if the sale was done before the ruling of the chief or letters of administration"¹⁰⁷.

This study highlighted how new claims to land governing authority are made, and illustrated how in some instances these claims were effective. The study did not investigate the impact of this shift on land governance practices. Yet, it is clear that this shift is at the disadvantage of the authority of elders and of more traditional ways of gaining authority around land in northern Uganda. It may well contribute to a further individualization of land that was once communally owned under the customary setting.

Moreover, we can only speculate about the impacts of the ongoing struggles between the generations over land governance on authority more generally. The case study material makes clear, that Acholi society struggles with its own self-image after the two decades long

¹⁰⁵ Interview with female youth 16 years old, Pabbo, Amuru 21-09-2012

¹⁰⁶ FGD with the youth of Unyama 19-09-2012

¹⁰⁷ Interview with a youth police officer at a police station 18-11-2012

traumatic experience. People are left with a lot of frustration, trauma, and uncertainty about who they are. They are impoverished and their life cycles have been ruptured. On top of that, the new world comes in with new moralities, new economic opportunities, land investors, education for some but certainly not for all and a government that manifest itself much more through decentralization. This leads to a discussion in society which seems to be articulated along the axis youth-elders, not surprising because this is the moment to renegotiate authority and to question all kind of authority relations. That land is a pivotal point for this struggle is not surprising, as land provides the basic livelihood opportunities.

7. General Discussion and Conclusion

Land governance reform in Northern Uganda; decentralizing or establishing the state?

The starting point of this thesis was to find out how land reforms, notably decentralization, impacted local institutions and contributed to tenure security in conflict-affected northern Uganda. The study was sensitive because of the fact that land disputes might be connected to other contestations in society, and thus that land governance reform might have consequences beyond land disputes and tenure security. To answer this main research question, the research explored in particular:

- How has the LRA/NRM conflict in northern Uganda affected land access and land governance practices?
- How do decentralization policies of the government influence land governance? How do they impact the legitimacy and authority of local institutions and the resolution of land disputes?
- How does this amount to a restructuring of power relations among land governing institutions and how does it impact tenure security in Acholi region?
- How has the war impacted and transformed the role of youths and women in land governance in Acholi region?

The preceding chapters have shown how the LRA war not only reshuffled land ownership but also distorted and transformed prevailing land governance practices. In particular, the analysis brings out how war transformed the roles of youths and women in land governance. Decentralization, meant to deal with the legacies of conflict and improve tenure security, turned out to have mixed results. An important dynamic observed in the fieldwork is that decentralization increased state power over local-level decision-making on land. Moreover, all case studies illustrate how local changes in land governing authority do not necessarily result in more tenure security, yet are often understood as efforts by outsiders to acquire local land.

Over the course of the research, I came to realize that land governance reform in northern Uganda in fact amounts to a contested political programme of re-establishing the state. The state uses land governance and its reform as a means of building a strong state in post-conflict areas where previously state control and power were not felt. In this final chapter, I elaborate this argument, exploring how post-conflict land governance and its reform are fundamental in the process of state formation.

To make this argument, the following sections bring together the main findings from the preceding chapters. I review the impacts of the LRA war on land governance in northern Uganda. I assess how current land reforms continue to be interpreted in terms of historical divides between the North and the South of Uganda, and of ongoing contestations between the Acholi community and the state. I highlight how decentralization does not result in a fundamental change in power relations between local citizens and the state, while it adds to local institutional competition which makes it even more difficult to resolve land disputes.

After this assessment of ongoing struggles around land governance, I then argue that these are actually part of a larger process of state formation in northern Uganda. The re-establishment of the state that they result in is contested, though. The imposition of a new land governance regime and of the state entails the use of state violence and provokes violent responses by local people.

The impact of LRA war on land governance in northern Uganda

The 20 year civil war in northern Uganda significantly reshuffled access and occupation of land, culminating in disputes and tenure insecurity after the war. In both cases of the Apaa evictions (chapter 3) and the Amuru sugar project (chapter 4), the war displaced people from their land and when people returned after the war, their land had been occupied by others in their absence. The cases illustrate the important 'window of opportunity' provided by post-conflict settings (Chauvet et. al 2010). In the case of Apaa evictions, the land had been gazetted into a game reserve in the absence of its occupants, while in the case of Amuru sugar project, the district land board had allocated land to a sugar company before people could fully resettle on their land. Many of the evolving conflicts around land in post-conflict settings are directly connected to the past violent conflict.

However, conflict not only distorted land access and distribution, but also transformed practices of land governance in the Acholi region. War affects the authority of both customary and statutory institutions. In the case of Kigwe (chapter 5) we see that war creates a vacuum in land governance, as both customary and statutory institutions lost authority and legitimacy. People could not effectively demand for their land services due to displacement, while these institutions themselves also became non-operational. After the war, these weak land institutions start competing and struggling to regain their authority. In the process, people lose trust in them, as they question the capability of such institutions to enforce rights to property or natural resources (cf. Daudelin, 2003; Unruh, 2003). The consequence is that people's claims to land cannot be sanctioned by these weak institutions and this escalates conflicts around land. Moreover, when war displaced people from their land, their absence created space for introducing new arrangements and rules governing access to land. In the Amuru sugar project (chapter 4) land was changed from customary land accessed by local people to leasehold accessed by investors. In the Kigwe case (chapter 5), war contributed to the breakdown of both customary and statutory land institutions. Because people had stayed in IDP camps for a long time, families that had peacefully co-existed together before the war were no longer willing to share land with their neighbors upon their return.

Analyses on the consequences of civil war in terms of land occupation and governance (e.g. Daudelin, 2003; Unruh 2003), tend to emphasize how this contributes to tenure insecurity and disempowerment of local resource users. Likewise, literature on youth tends to show how the younger cohorts are vulnerable when there is competition for resources especially land (Jacobs, 1999; Odgaard, 2005). The case-study on the role of youth in land governance in post-conflict settings (chapter 6) instead demonstrates how war may also create opportunities. In particular, war restructures relations between generations, and provides opportunities for the youth to gain authority in land governance. The breakdown of both customary and statutory institutions, the extended stays of rural communities in the IDP camps, the commoditization of land, youth's increased (military) power and status due to participation in the war, and opportunities to participate in decentralized structures of land governance result in a shift in land governing authority from elders to youth. Important to note, though, is that this social

change is uneven: while some youth become powerful and prominent, especially young women and orphans lose power in land governance. At the same time, the important roles of the youth in mobilizing around land, like in the case of Amuru sugar project, make local land authorities recognize the important role the youth may play in contributing to their own authority. This makes youth a valuable constituency in political struggles around land.

Such shifts in land governance are always contested. As a consequence, violent conflict not only directly distorts land governance, but may easily set the stage for a reoccurrence of conflict over the ways in which land is governed. Such findings underline that land conflicts are not the result of scarcity (Homer-Dixon 1999) but rather of contested governance. In these contestations over land governance, all kinds of historical and political issues may be played out. Conflicts about land and its governance are not only just territorial struggles, but also relate to issues of identity and ethnicity, wider power struggles, historical processes and institutional failures (see Peluso & Watts, 2001; Turner, 2004; Benjaminsen et. Al. 2009; Peluso and Vandergeest, 2011). Hence, the way in which land issues are dealt with by policy makers touches also on these other contestations, and makes land reform not only critical for reconstruction and development, but also risky and potentially jeopardizing political stability. This is also very problematic in the case of Uganda, where post-conflict land governance reform gets interpreted in terms of political divides in the country.

Land reform and the continuing struggle between the North and the South

Land and its governance are a critical element in dealing with the LRA legacy. Land and its governance did not play a central role in the development of the LRA war. However, the ways in which the Uganda government deals with contemporary land issues is locally assessed in light of earlier episodes of exclusion that contributed to the LRA war.

In Uganda there is not only a visible inequality between the northern and southern regions but also a continuous struggle between the north of the country and the Ugandan state, which is often perceived as mainly representing the south, where its political basis is found. This inequality and struggle can be traced back to colonialism when the south was favored and the north neglected by the British (see chapter one). Land reforms by the British, especially gazettlement of land into nature reserves, limited northerners' ability to utilize local land resources to improve their livelihoods. People from the north, especially the Acholi, were targeted for recruitment for military service, contributing to their dominance in the security system. Before 1986, the Acholi enjoyed state power under the different post-independence regimes (1962-1985) of Obote and Amin. However, when the NRM government came to power in 1986, the position of the Acholi in the Ugandan state strongly reduced. Well as the Acholi are still nursing the wounds of being removed from power by the NRM, the NRM government is perceived as trying to expand its control and restore order in Acholi, notably through its dealings with land and its governance.

Many Acholi believe that the 20 year civil war in northern Uganda, and in particular the forced resettlement in IDP camps, was meant to keep the land in Acholi in turmoil, in order for the NRM government to maintain control over the land and its people. From such an understanding of the intentions of the government, few Acholi believe that the NRM government will now carry out land reforms that are against the interests of the Acholi. In the case of Apaa, people see strong continuity between the colonial displacements to create game reserves, and contemporary land reforms by the government that again include the

gazettelement that was so detrimental to the people of the north. Also, many Acholi are convinced that the NRM government is paving the way for the people from southern Uganda to have access to land in Acholi. Local people refer to the examples of the Amuru district land board allocating 10,000 hectares of land to Amuru sugar works limited (chapter 4); the evictions in Apaa (chapter 3); and the fencing off of thousands of hectares of land in Nwoya district, because of prospects of oil, which they consider as an effort by the government to acquire their customary land. Even interventions, court judgements, and government actions around land that are not meant as such are interpreted by local people as part of efforts to subdue the north.

The fieldwork makes clear that land and its governance are a central theme around which relationships between the government and people in the Acholi region are renegotiated after the war. Interventions in land governance by the state -but also the appalling service delivery in northern Uganda- contribute to the fact that many Acholi do not perceive themselves as citizens, and as part of the Ugandan state. Instead, they identify themselves primarily as belonging to the Acholi tribe. Large-scale land allocations, evictions, and gazettelement in the Acholi region are seen as an encroachment on Acholi territory, and as deliberate state efforts to wipe them out. Such perceptions pose real dangers because they nurture resistance and instability. It is clear that the Uganda government should take very good care to prevent that land governance reforms undermine the land rights of particular ethnic groups (cf. Borras and Franco 2010).

Decentralization and power relations among land governing institutions

Important in the development of relationships between the government and people from the north is decentralization. Decentralization was portrayed as a key strategy of the Uganda government to deal with land disputes and tenure insecurity, and was also considered as an alternative to the centralized, authoritarian practices of governance of the predecessors of the NRM regime.

Contemporary literature on decentralization emphasises the different ways in which decentralization may contribute to better governance (Shah and Thompson, 2004; Siegle and O'Mahony, 2006; Benjamin, 2008) and the mitigation of resource conflicts at local levels (GTZ, 2006; Diprose and Ukiwo, 2008). Uganda's decentralization programme has often been hailed and taken as an example for the rest of Africa, especially the ways in which power has been devolved to lower levels of government (Francis and James, 2003; Green, 2008).

In contrast, findings from northern Uganda demonstrate that decentralization does not necessarily result in better governance, but has divergent and very important consequences. Many of those are related to the fact that elites manipulate the process of decentralization in such a way that it comes to serve their interests. Moreover, decentralization turned out to be largely ineffective, because no real devolution of power took place: despite decentralization, the central government still tends to make decisions on land allocation. While literature on decentralization emphasizes how it may potentially create space for interactions, representation and participation of all stakeholders (Bigombe et al. 2000; Golola, 2001; Agrawal and Gupta, 2005; Meinzen-Dick et al. 2008; Van der Haar et al. 2009) in practice, power relations play an important role determining who participates and who is represented in decentralized land governance.

The case of the land allocation Amuru sugar company by the district land board illustrates how decentralization leads to elite appropriation of the decision making process. State legislation provides for the creation of decentralized structures such as the district land board, the area land committee, district land tribunals and sub-county court committees. The functions of these structures are well stipulated in the 1998 Land Act, and include responsibility for ascertaining people's land rights, allocating land that is not owned and hearing and resolving disputes related to land. However, In the Amuru sugar project case, these bodies took decisions that failed to reflect the interests of majority of stakeholders and without representing all the actors in land governance. Line ministries effectively instructed the District Land Board of Amuru to allocate land to Amuru Sugar Works Limited. This government power over local affairs seems to result from the fact that members of decentralized structures are politically appointed. Therefore, in practice, decentralization leads not so much to improve land tenure security and local participation in land governance, but rather seems to further state interests.

The allocation of land to investors with the implication of decentralized land structures creates major tenure insecurity among people of northern Uganda. Moreover, the actual practices of decentralization strongly suggest that, rather than enhancing local tenure security, the reform aims to secure government control over local resources and expand local state power. Instead of devolving power to local governments, we see the expansion of the state in Uganda in the areas where authority is weak, a concentration of power in central (statutory) institutions (See Leftwich, 1995) and resistance to transfer of power to local governments (Ribot et al. 2006: 1866). Such practices contribute to people losing trust in decentralized land institutions. Likewise, such dynamics are again locally interpreted in terms of the North South divide. Decentralized land governance is viewed by the people of Acholi as a mechanism put in place by the state to take away their customary rights to land. To them the state has proved to be more of a 'predator' than a 'protector' of customary land.

Institutional competition and the acknowledgement of customary tenure

Another important consequence of decentralization is that it leads to the creation of partially new institutions that add on to and compete with the already existing authorities and regulations about land. The resulting legal and institutional pluralism (also see Benjaminsen and Lund, 2003) increase unclarity and ambiguity about which rules apply and who has the authority to deal with land issues. While ideally customary and statutory institutions may work together, this is often not the case, as certain people and institutions benefit from competition.

A prominent example is unclarity about the distribution of responsibilities between the local council 2, which is the first court of instance of land disputes under the decentralization system; and the *rwot kweri* (chief of hoe), which is the first court of instance of land disputes under the customary system in the Acholi region. These two structures from different legal settings (statutory and customary) both work to solve disputes about land under customary tenure, but they do not speak to each other. This duplication of land services creates confusion among local people who do not know which institutions to approach in order to have their land disputes resolved. The Kigwe case (chapter five) showed that institutional competition and rivalry among land governance institutions at a local level contributes to that land disputes never come to a final closure. Because of competition between the customary and state institutions about who has the right to decide, land conflicts remain unresolved and conflicts

become more complex as people move from one land governing institution to another. Moreover, while diverse land institutions may hope to gain authority in this process of institutional competition (also see Sikor and Lund, 2009), in practice, competition seems to further weaken land governing institutions because people lose trust in them. And while the presence of many forums for dispute resolution may broaden the opportunities for people involved in land conflicts, it is at the disadvantage of the poor who lack the money to strategically move from one structure to another.

An important trend noted in this thesis on the institutional competition accompanying decentralization is that it may result in an increasing role of youth in land governance (see the youth case in chapter six). The youth may be elected into positions in statutory decentralized structures. This gives them authority to govern land, and changes power relations between the youth and elders, considering that in customary settings the authority to govern land was entrusted to elders. As a consequence of this reshuffle, land disputes may escalate and disadvantaged groups like orphans, widows and the aged may become more vulnerable in land governance. On the positive side, however, when youth gain access to land then they can improve their livelihoods.

At the same time, the reforms effectively disqualify customary institutions. Considering that the majority of small scale farmers access land through customary arrangements, this weaker position of customary institutions reduces local tenure security. Publicly, the government promotes the protection of customary rights and customary authorities. In 1995, customary tenure received formal recognition from the state and attained legal status as a form of land tenure in the country. However, at the same time, the government reserves the right of appropriation if land is required for development, which poses a threat particularly to customary rights. Moreover, while the constitution provides for recording customary land rights through a Certificate of Customary Ownership (CCO), these CCOs can be converted to freehold if the holder of the land wishes to do so. The reverse procedure does not exist. This implicitly shows that customary tenure has an inferior position compared to the other forms of tenure like freehold. The CCOs actually change the rules and rights of land access and ownership under customary tenure: the issuance of CCOs by decentralized land governance structures (Area Land Committee and District Land Board) negates the role of customary institutions in the governance of customary land (Chapter 4). Local people in northern Uganda believe that the issuance of CCOs by statutory land institutions is a mechanism designed by the state to take away their customary rights to land. Considering that in northern Uganda 90 percent of the land is held under customary tenure, the increased role of statutory land institutions in the governance of customary is creating tension and conflict between statutory and customary institutions. Likewise, the appropriation of (customary) land for large scale commercial farming in Uganda, is done by state institutions like the district land board. In the case of Amuru Sugar, this board singlehandedly, with little involvement of customary institutions, changed rules of access and ownership, and introduced leasehold titles on that land.

Overall, rather than protection of customary tenure, local people see an increased interference in customary land governance by the state. Important to note here is that decentralization started in 1993. At that time, violent conflict was at its height, and in 1996 many people were forced to move to IDP camps. Being associated with war-time displacement, decentralized statutory institutions are not well accepted in the Acholi region,

and many people see them as a coup d'état to customary institutions. The un-sincere acknowledgement of customary tenure is interpreted in north in terms of the dynamics that will further entrench the division between the north and the south.

The struggle for authority between state and customary institutions significantly impacts on tenure security and land dispute resolution as discussed under the Kigwe case (Chapter 5). Legal pluralism is a reality and a situation which will not go away soon, therefore there is need to understand the different ways in which customary tenure may be acknowledged. There is also need to explore further how both state and customary systems can work together in order to improve tenure security and land dispute resolution. We have seen that communities vehemently oppose land reforms when the government tries to impose statutory tenure on communities. I therefore conclude that customary tenure should be left to gradually evolve as a result of interactions with other institutional frameworks for example instead of registering customary land, people should be first helped to demarcate land by planting trees along their boundaries. When abrupt changes are made in the ways in which customary land is governed, then more land disputes are likely to ensue and competition between customary and statutory institutions over authority for customary land governance will escalate. However it is important to note that customary institutions can only operate the way they do within the boundaries set by statutory institutions. The state significantly impacts on the way customary land institutions operate either by legitimizing their authority over land governance or by coercing them to forcefully evolve and become more like statutory institutions.

Land governance as a means of state formation

The different case studies in this thesis demonstrate that - irrespective of their official aims - land governance reform tends to result in a further imposition of the state. The findings show a government that uses state power to advance the interests of a group of elites and (re)establish a system of patronage rather than represent the interests of its people.

During colonialism, states displaced people through appropriating property, especially land. Similar means were used by post-independence states. While the state appropriates and uses land to impose its rule, simultaneously powerful actors take advantage of the state to get their interests realized: they cannot do this without the state. Vice versa, states may mobilize political support through clientelism (Robinson and Parsons 2006) and by providing powerful actors with resources of the state. Thus, a state becomes strong by rewarding the interests of the powerful elites. Allocating land to regime supporters by the state works to increase the state's grip over power and territory.

Therefore land reforms in Uganda basically work as a project to promote the interests (in this case access to land) of the elites. In post-conflict settings politicians (both national and local) use the state to advance their own agendas. In this, they do not refrain from using violence and so contribute to the further erosion of legitimacy of the state. In all the four cases, politicians have influenced land disputes. In Apaa (chapter three) the battle between prominent politicians has contributed to drawing in more actors into the conflict, all taking sides and contributing to the use of violence in the conflict. In the Amuru sugar plantation conflict (chapter 4) politicians mobilized the youth to resist the land allocation but they also attracted attention of other external actors in land governance to this particular land dispute. In the case of Kigwe (chapter 5), politicians took sides with the conflicting families and this has partly contributed to the failure to arrive at solutions during the mediations. And lastly in the

case of the youth (chapter 6), politicians are at the forefront of influencing how the youth relate with land. When politicians are dissatisfied with the way statutory land institution govern or the way a particular land conflict is resolved they organize the youth to show their grievances. But also the politicians use the youth to achieve their individual interests such as self-realization, popularity and to gain votes for the next elections. The politicians have the power to implant ideologies into the youth because the youth perceive the politicians as their role models and fighting for their plight.

Patterns of state formation depend on the interests of the ruling government and the state's ability to promote those interests (Eriksen 2011: 261). The interests and ability of the state are the driving force behind what path state formation takes. For example, a strong army helps to control territory that is considered to oppose the state. The interests of the NRM government include incorporating the northern region into the mainstream governance of the Ugandan state and controlling northern Uganda in order to check the activities of Joseph Kony in neighbouring countries of South Sudan, Democratic Republic of Congo and Central African Republic where the LRA is currently based (Mwenda, 2010). In order to achieve these motives, the NRM government must be able to implant itself locally among the communities of northern Uganda. For these reasons, the Uganda state is interested in manifesting itself at the local level. Post-conflict land governance reform and decentralization may create an entrance for this. And while this may also benefit the citizens, in northern Uganda local imaginations of the state and of state penetration are highly negative. People of the north perceive the state as land grabber and one that is out to exploit their resources. This is due to the overwhelming interference of the state in local land governance and unwillingness to devolve real power to local governments and the way in which the land conflicts discussed above are handled.

Ultimately land governance contributes to state formation or penetration. In northern Uganda decentralized land governance led to the creation of new rules of land access, ownership, utilization and dispute resolution. Statutory land institutions like the District Land Board were put in place to enforce these new rules of land governance and the new rules and institutions undermined the customary institutions that previously governed land in Acholi region. All the above resonate with what Agrawal (2001:12-13) identifies as activities that contribute to state formation. The state of Uganda is trying to use integration in the process of state formation. By interfering in land governance the state feels it attempts to integrate the region of northern Uganda into the Ugandan state because northern Uganda has for long since independence seemed to be a region of its own, not wholly integrated into the Ugandan State.

On the one hand the state wants to assert its power and control over territory through land governance yet on the other hand the local communities (the Acholi) want to control their land or natural resource through customary institutions or arrangements. The imposition of new land institutions like the District Land Board in areas that were previously governed by customary institutions properly fits into a definition of a successful state that has to destroy institutions or customs that stand in the way of development (Huntington 1968). As the Uganda Developmental State under the NRM government seeks to foster development through modernizing agriculture, it has to do away with customary land institutions and replace them with decentralized statutory land structures so that they make land available for large scale investments like Amuru sugar works for growing sugar cane and developing a sugar industry in Acholi sub-region. Through bypassing customary institutions in land governance, the government of Uganda weakens the institutions and incorporates them in the state

administration as it was the case in Botswana according to Eriksen (2011). Decentralization in Uganda seems to be more about state expansion and implantation (establishing the state physically and legally) than about creating legitimacy/authority. This might be an explanation also for the limited interest of the state in strengthening customary tenure. However, focusing on strengthening state institutions without bringing on board other institutions like customary could in the long run pose risks and be detrimental to building a strong state. States require local legitimacy in order to become sustainable, and if this is not considered by states then local communities may start perceiving statutory institutions as foreign and also see themselves as oppressed, disadvantaged and resist.

States use land governance to increase their grip over certain territories and to show or reinstate their power over post-conflict areas. By interfering in land governance in northern Uganda, the state is trying to manifest itself as the highest political authority within the territory with the capacity to effectively enforce its rule (Cf. Eriksen 2011). In the Apaa and Amuru Sugar project cases (chapter three and chapter four respectively) the state uses the state machinery (violence) to impose what happens to land and who gets access to land. In this way, local people are reminded who has power and who is in control of land governance – the state. However, this cannot be done without using other state institutions to influence the way land is governed. For example in the Amuru Sugar project case (chapter four) government ministries directed the district land board to allocate land to Amuru sugar works limited. Therefore even though decentralized land governance structures are put in place, decisions on land are still determined by the central government. All these factors interrelate and have a negative impact on post-conflict tenure security.

The violent imposition of a new land governance regime

Literature shows that state formation is inherently a violent process as it was in the history of formation of western states and about early state formation where chiefdoms came into being through military imposition (See Flannery 1999; Boege et al. 2008). Current states are still imposing themselves through coercive means. Institutionalized violence carried out by state institutions especially security organs help states or governments to maintain order over its territories (See Fjelde and De Soysa 2009).

Violence contributes to the constitution of the state and what we see in this study is a retake of power and territory in northern Uganda. Violence is a cross-cutting theme in all the cases that were followed during the study. Violence has become a means through which land governance is reformed, and through which the rules of access and ownership of land are reorganized. The case of Apaa (chapter 3) and the case of Amuru sugar project (chapter 4) demonstrate that the state is willing to use violence to enforce land governance rules and to reinstate its power over northern Uganda.

Whether these cases are part of a deliberate strategy to control land in northern Uganda or are an accidental byproduct (circumstantial consequences) of the way in which the government wants to secure its power is an open question. The police and army have been implicated in numerous land disputes in northern Uganda. Although strong state institutions that serve the interests of all citizens are seen as a condition for achieving sustainable development (Boege et al. 2008), this is different in the Ugandan setting: instead, strong institutions are those that are able to exert force or violence to serve the interests of the state and elites.

The use of violence should be understood in connection to wider politics and antagonisms in society, notably efforts by the state to re-establish itself after the LRA war. The erratic way in which land is governed and state violence is used, promotes the use of violence by local people. The case of Kigwe in chapter five and the youth case in chapter six show the use of violence by local people in land matters. The use of violence by local people is a response to decentralized land governance structures' failure to deal with land disputes and provide tenure security. The Kigwe and youth cases confirm what Olowu, 2003 and Peluso, 2007 noted that local people use violence when they perceive local governments as unjust. The youth in Lakang in Amuru district have resorted to the use of violence, including flogging and throwing stones at people from central and local government, because they feel land governance structures have overlooked local land rights in favor of land investors from outside (Amuru Sugar Works Limited in chapter four). If land disputes are intertwined with issues of identity and ethnicity they may become more violent. Similarly Unruh 2003 noted that identity plays an important role in land issues. This is because land gives people a sense of belonging, it is used a form of identity therefore denial of land rights (access and ownership) to some groups of people tantamount to denial of people's identity and this results into the use of violence.

Implications for policy

Post-conflict land governance plays an important role in the peace process in post-conflict north Uganda and any land reforms like decentralized land governance ought to be implemented cautiously. This section presents the implications of this study to government and other actors in land governance.

There should be clear division of power and responsibility among statutory and customary land institutions. Government and other actors in land governance should work to create some order among land governance institutions, the kinds of power that these institutions have should be clear. Institutional competition plays a big role in decreasing tenure security. Power relations and elite agendas play a critical role in how land reforms take shape. Unless the issues of power distribution among different levels of authority and political power plays among all actors in relation to land governance are sorted out, decentralized land governance will not be an effective instrument to protect local rights vis-à-vis powerful external actors. The real impediment to local governance lies in the distribution of power between levels of authority and not only lack of resources as most scholars and researchers emphasize. Without relinquishing power from central government to local government, decentralized land governance reforms are not going to work because decentralized land structures will not independently perform their roles in land governance.

Most policies and legislation in African have their basis in the colonial state. Governments should not continue with policies that were put in place by colonialism for the sake of it but revisit them and make land policies that reflect people's needs in land and changing situations. Colonialist (the British) started the policies of creating reserves (game and forest reserves) but the post-independence governments are continuing with the same through the politics of gazettelement and degazettelement. From the Apaa evictions (chapter three) we see that past policies on land governance significantly contributed to current land conflicts. The Apaa case shows that the government is building on colonial policies that continue to create uncertainty over land ownership and laws that are supposed to apply to that land.

Despite the fact that majority of land in northern Uganda is held under customary tenure, the formal procedure for land allocation has neglected customary institutions. For instance in the process of area land committees inspecting land for issuance of CCOs customary institutions are not consulted, only neighbors bordering the land which is the subject of application are involved. Large land allocation orders come from national authorities to local level authorities for implementation and in the process customary authorities are ignored. This could be a source of land disputes in future as communities will contest the authority of formal institutions in allocating customary land. The state should realize that to get more legitimacy in the north the state should check how it relates with customary institutions of the north.

The objective of social sciences is the study of dynamic societal change (Lund, 2010) therefore the output from this research can be used as a baseline for improvement and positive change in decentralized land governance. Probably avenues of improving tenure security and dealing with land disputes through decentralized land governance may be improved basing on the findings of the study.

Final remarks

The overall aim of this study was to understand how post-conflict land governance takes shape, that is how decentralization influences land governance, how it impacts the legitimacy and authority of local institutions, the resolution of land disputes and how those land governance reforms would end tenure insecurity caused by contested claims resulting from the violent LRA conflict in post-conflict northern Uganda. But also through the land reforms prevent a relapse into further violence and enhance local stability. All these in the long run might contribute to the re-establishment of a legitimate state especially in northern Uganda.

This thesis demonstrates that we should sober our high expectations of land governance reforms in post-conflict settings. Theorizing about land governance reform considers it as a smooth, technical problem solving exercise, and the failures of land governance reform are often interpreted in terms of policy failures and misunderstanding. This thesis highlights how land governance reform is a critical arena in which power relations and access to the state are fought out. Not surprisingly, violence plays a critical role in that, enforcing new land governance practices rather than renegotiating them.

The way land is governed in post-conflict settings is very crucial for the restoration of peace or the continuation of conflict. Most literature on land in post-conflict areas concentrates on reaffirming how land is important in post-conflict reconstruction (Unruh, 2003; Rugadya, 2009) without clearly explaining the relation between land and conflict. If the linkages between land and conflict in post-conflict settings are not well understood by researchers and policy makers then post-conflict stability will continue to be merely a fantasy. The Apaa case and the Amuru sugar cane project (chapter 3 and 4) show that the way decisions are made about access, utilization, and ownership may be a source of contestation and resistance, while ambiguity about who is in charge and what rules apply might also lead to land conflict. Ethnicity and identity issues drive land conflicts and land being the only source of livelihood makes it a conflictive resource.

Well as the youth in post-conflict settings gain a prominent place in land governance and this probably will restructure intergenerational relations. From the case of northern Uganda some youth are misusing the opportunities that the war has opened for them (youth case chapter

six). If land institutions both customary and statutory are not capable to manage the way youth relate with land then serious conflicts are likely to arise between the youth and the elders over land governance. The new role attained by the youth in land governance in post-conflict settings has irreversible effects on customary tenure where authority to govern land is embedded in elders and will increase intra-family land disputes.

Areas for Future Research /Limitations of the study

This study focused on land governance which included studying the issues of land access, ownership, utilization and land dispute resolution in post-conflict settings. However the study did not investigate the notion of land utilization. The case studies of Apaa and Amuru in a way showed conflict between different ways of land utilization for example between wild game conservation and human settlement in Apaa case (chapter three) and in Amuru Sugar project case (chapter four) a conflict between large scale agriculture and peasant farming (small scale agriculture). Therefore further research can be conducted to understand how effective land use and the desire to change land utilization contribute to how the rules of land access and ownership are renegotiated. In Uganda there is an ongoing political debate on 'effective land use', this debate can further be explored to understand its political consequences, and its implications for development and protection of livelihoods of the poor.

Over the course of the research I became more and more aware of the importance of youth in post-conflict land governance yet the focus of my research was on land disputes and the increasing role of youth in land governance. Further research should be conducted on the successful cases of youth's role in post-conflict land governance in order to understand how transformations in power relation between the generations affect land governance.

Currently, the NRM government is championing a move to amend the constitution in Uganda in order for government to acquire people's land for development or public interest without compensating them first. There is also a motion to lift the presidential age limit from 75 years, after the limits on presidential terms were already removed in 2005. All these developments work to benefit the current government. With the NRM government clinging to power (31 years since 1986) and being over authoritarian through undermining the proper devolution of power to local governments, this does not help improve natural resource governance in Uganda. The situation of land conflicts in Acholi could fuel into another civil conflict because strong perceptions about the current land reform process feed into the north-south divide that could effectively decrease stability. The cases also show what could happen if more land evictions were to take place for the development of large-scale agriculture. Therefore, the problem of poor natural resource governance is not limited to northern Uganda. Presently, there are cases in the central part of the country over the Buganda land question, in Bulisa over the oil resources and in Karamoja over the presence of valuable mineral resources like gold. In all these situations the government is trying to get control over natural resources territory. By doing so government is seen as an imposition on communities and as an organ that serves the interests of certain elites and contributes to appropriation of local people's properties which is a recipe for conflict. This study recommends that the state should let decentralized land governance structures to operate independently if tenure security is to be achieved and reconsider its role as guardian of public interests.

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Summary

After more than two decades of a civil war between the Lord's Resistance Army (LRA) and the National Resistance Movement (NRM) government of Uganda, which resulted in the displacement of over two million people, life in Northern Uganda is returning to normalcy. Following the inconclusive 2006 Juba peace talks between the LRA rebels and the NRM government, former refugees and internally displaced people started returning home and re-accessing their land in northern Uganda. However, people in the Acholi region are confronted with contestations and competition over ownership and access to land: among relatives, between those who returned first and those that returned later, between clans, between the Acholi and other tribes like the Madi, and between local communities and institutions like the Uganda Wildlife Authority and foreign companies. In the difficult transition from war to peace, land disputes are considered a serious threat to the stability of Northern Uganda. To deal with tenure insecurity and land disputes, the NRM government initiated a series of policy reforms, in which decentralization features prominently. This justifies an exploration of how decentralized land governance actually works out in Uganda.

The situation in northern Uganda is similar to other conflict-affected settings, where tenure insecurity is a common phenomenon. This situation is characterized by huge numbers of people re-accessing land within a short period of time, a large number of contested land claims, involving IDPs who find their land occupied by others or have settled on land belonging to others (Meinzen-Dick et al. 2008; Van Leeuwen, 2008). This makes post-conflict land governance an enormous challenge. Violent conflicts might undermine the functioning of formal property rights institutions in a situation where people might question the capability and legitimacy of such institutions to enforce rights to property or natural resources (See Daudelin, 2003; Unruh, 2003). Nowadays, land governance reforms are seen as a necessary measure after conflict to solve land disputes, which might also deal with other general tensions in societies (See Cotula et al, 2004; Wiley, 2006; Anseeuw and Alden, 2010). Yet, land governance and its reform are very sensitive affairs in post-conflict setting, as they touch not only on the possibilities for people to rebuild their livelihoods after conflict, but also on the issues that the peace process is all about.

The starting point of this thesis was to analyze how post-conflict land governance and its reform take shape in post-conflict northern Uganda. It explored how the LRA war transformed land governance; how post-conflict land reform and notably decentralization works out, how it impacts the legitimacy and authority of local institutions, and contributes to the resolution of land disputes. In particular, the research investigated the question of how such reforms contribute to the process of state formation.¹⁰⁸

The findings of the study demonstrate how the LRA war not only reshuffled land ownership but also distorted and transformed prevailing land governance practices. In particular, the analysis brings out how war transformed the roles of youths and women in land governance. Decentralization turned out to have mixed results, as it contributed to institutional

¹⁰⁸ Research for this thesis was conducted as part of the programme 'Grounding Land Governance' which was funded by NWO-WOTRO Science for Global Development grant number W 01.65.332.00. This programme was a collaboration between African Studies Centre at Leiden University, Wageningen University, the Centre for International Conflict Analysis & Management at Radboud University, Nijmegen and Mbarara University of Science and Technology in Ugandan. The programme investigated how land governance evolves in conflict-affected Uganda, Burundi and South Sudan, as the outcome of interaction between multiple stakeholders.

proliferation, and competition between state and customary institutions. Despite decentralization, state actors continue to determine decision-making on land at the local level. All case studies illustrate how local changes in land governing authority do not necessarily result in more tenure security, yet, are often understood as efforts by outsiders to acquire local land. An overarching finding is that land governance reform in northern Uganda in fact amounts to a contested political programme of re-establishing the state.

The study paid particular attention to gender issues in post-conflict land governance. Women are often affected differently than men in war-time situations, and fieldwork explored how the war impacted women's ownership and access to land, and their vulnerabilities in post-conflict settings. A specific chapter on gender issues in land governance in North Uganda is in preparation, but forms no part of this thesis. Some of the findings appear in a documentary entitled 'Governance off the Ground' which was a product of the Grounding Land Governance programme in general and my research project in particular.

Fieldwork for this thesis was conducted in Acholi sub-region, Northern Uganda. Fieldwork was of an ethnographic nature and diverse qualitative methods were utilized, including participant observation, a review of secondary literature, 25 focus group discussions, and 133 interviews with local people, men and women, youth (female and male), local council members, elders, representatives of area land committees and district land boards, civil servants at sub-county and district level, policemen and game rangers, , NGO staff, cultural leaders, lawyers, officials from the Ministry of Lands, Housing and Urban Development, and politicians.

Chapter three shows that violent conflict and war prominently impact on land governance and significantly contribute to land conflicts in post-conflict settings. The case of Apaa evictions in Amuru district discusses the intricate causal connection between the 20 year civil war in northern Uganda and current land disputes in Acholi region. While literature tends to explain land conflicts in terms of either environmental security or political ecology, the analysis illustrates that political ecology approaches may be further strengthened by acknowledging that land governance is not only a cause of conflict, but that violent conflict in turn also has an important influence on land governance. Political, historical and social dynamics interconnect and contribute to the conflictiveness of land or natural resources. Violent conflicts are fueled by tensions between local groups about social issues such as ethnicity, grievances about those in power, limited or unequal access to land and the institutions that govern natural resources. This chapter highlights that how those issues are dealt with by policy makers is critical for successful post-conflict recovery and stability.

The case study of Amuru Sugar Project in chapter four reflects on decentralized land governance and its role in large scale land allocation. Most analysts attribute the unsuccessfulness of decentralization to unclearness in state legislation and resource inadequacies. This study instead points out that decisions about land attribution at lower levels of government reflect the interests of those at higher levels of governance, and are the outcome of manipulation and intermingling in local affairs by politicians from higher levels. The chapter concludes that without devolution of real power to decentralized structures, decentralization will continue to be ineffective as a channel of incorporating popular participation in decision making.

Chapter five, which is based on a land dispute case in Pader district, reflects on the notion of institutional pluralism and how it impacts on land dispute resolution. The analysis highlights how decentralization further contributes to institutional multiplicity by creating new institutions that add on to the already existing authorities and regulations about land, rather

than devolving power to existing local institutions. This results in confusion among people having land disputes about which institutions to approach, and fuels into institutional competition at local level, thereby contributing to a situation where land dispute resolution never reaches a final solution. This intensifies land disputes and thus deviates from the essence of improved service delivery propelled by decentralization.

Chapter six elucidates the pivotal role of the youth in post-conflict land governance. It demonstrates that although intergenerational conflicts are part and parcel of society, war significantly accelerates social and political change which results in placing land governance in the custody of the male youths in post-conflict settings. The shift in power relations fuels into struggles for authority over land governance between the youth and the elders. Yet, while some youth gain power and prominence in land governance, other youths especially the female and orphaned youth become powerless in land governance. The chapter shows how the dynamics of staying in IDP camps, participation in the war, assuming positions in decentralized structures and inability to find jobs outside agriculture significantly influence the role of youth in land governance in post-conflict settings. It concludes that the new roles attained by the youth in land governance may have irreversible effects on customary tenure where authority to govern land is embedded in elders.

On the basis of these different case studies, the thesis arrives at the overall conclusion that land governance reform in Uganda in fact amounts to the contested re-establishing of the state. States use post-conflict land governance as a tool for regaining control over and asserting authority in post-conflict areas that were previously under some other form of control. This argument is elaborated in chapter 7, which also brings together the main findings on the initial research questions.

- The 20 year civil war in northern Uganda did not just reshuffle access and occupation of land, but transformed practices of land governance in Acholi region. Land and its governance are a critical element in dealing with the LRA legacy: not so much in that contestation around land and its governance generated the LRA conflict, but rather that any current intervention, court judgement, or government action on land is assessed in light of earlier episodes of exclusion that contributed to the LRA war. Land turns out to be a very critical issue around which the struggle between the North and South plays out, or seen to take place.
- Decentralization was a key strategy of the government to deal with land disputes and tenure insecurity. However, decentralization has turned out to be largely ineffective because no real devolution of power took place. The actual involvement of state actors in local decision taking around land suggests that the central government tries to maintain or strengthen its control over local governments, especially in the areas of Uganda where authority is weak.
- At a local level, reform programmes effectively disqualify customary institutions and contribute to institutional multiplicity and competition. This puts customary authorities on a side track at the benefit of the state, and fails to protect tenure security of small scale farmers, who mostly access land through customary arrangements.
- These practices in Uganda show that land governance reform may serve as an avenue for state formation, and a means to increase its grip over territory and to show or reinstate power over post-conflict areas. By interfering in land governance in northern

Uganda, the state is trying to establish itself as the highest political authority within the territory with the capacity to effectively enforce its rule.

- Moreover, land reform is often considered as a smooth, technical procedure to better organize the ways in which land is governed. However, this thesis demonstrates that actually land reform is a very contested and violent process. In Uganda, violence, both by the state and by local people, has become an important means through which land governance is reformed, and through which access and ownership of land are reordered.

Implications for policy-makers

Post-conflict land governance plays an important role in the peace process in post-conflict settings. Considering its contested nature, any land reforms like decentralized land governance ought to be implemented cautiously. To be effective, there should be clear division of power and responsibilities among statutory and customary land institutions. This can help reduce the number of land disputes that crisscross among institutions. In a post-conflict situation land policies should prioritize local people's needs in terms of tenure insecurity and land disputes. Only in such a way, the Uganda state may gain more legitimacy in the North.

Samenvatting

Na meer dan twee decennia burgeroorlog tussen het Verzetsleger van de Heer (*Lord's Resistance Army*, LRA) en regering van Oeganda geleid door de Nationale Weerstandsbeweging (National Resistance Movement, NRM), die resulteerde in meer dan twee miljoen mensen ontheemden, wordt het leven in Noord Oeganda weer rustig. Na onvoltooide vredesonderhandelingen in Juba in 2006 tussen LRA rebellen en de NRM regering, begonnen voormalige vluchtelingen en ontheemden terug te keren naar hun huizen en namen ze hun land in Noord Uganda weer in. Echter, mensen in de Acholi regio worden geconfronteerd met conflicten over eigendom en toegang tot het land: tussen familieleden, tussen degenen die eerst terugkeerden en degenen die pas later kwamen, tussen clans, tussen de Acholi en andere etnische groepen als de Madi, en tussen plaatselijke gemeenschappen en organisaties zoals de Uganda Wildlife Authority en buitenlandse bedrijven. In de moeilijke overgang van oorlog naar vrede, worden geschillen over land beschouwd als een ernstige bedreiging voor de stabiliteit van Noord-Oeganda. In reactie op deze onzekerheid over land eigendom en land conflicten heeft de regering van de NRM de aanzet gegeven tot een reeks hervormingen, waarin decentralisatie een prominente plek inneemt. Dit rechtvaardigt een verkenning van hoe gedecentraliseerd land bestuur eigenlijk werkt in Oeganda.

De situatie in Noord-Oeganda is vergelijkbaar met andere door conflict getroffen gebieden, waar onzekerheid over land eigendom een veel voorkomend verschijnsel is. Deze situatie wordt gekenmerkt door grote aantallen mensen die opnieuw hun land innemen binnen een kort tijdsbestek, en veel geschillen over eigendomsrechten, waarbij ontheemden hun land bezet vinden door anderen, of zich juist zelf gevestigd hebben op het land van anderen (Meinzen-Dick et al. 2008; Van Leeuwen, 2008). Daardoor wordt het ontwikkelen van post-conflict bestuur en beleid van land een enorme uitdaging. Gewelddadige conflicten kunnen het functioneren van de verantwoordelijke overheidsinstanties ondermijnen, in een situatie mensen vaak twijfels hebben over de capaciteiten en de legitimiteit van die instanties om eigendomsrechten over land en natuurlijke hulpbronnen af te dwingen (zie Daudelin, 2003; Unruh, 2003). Tegenwoordig worden hervormingen van bestuur en beleid ten aanzien van land gezien als een noodzakelijke maatregel na een conflict, om geschillen over land te beslechten, aangezien deze vaak gerelateerd zijn aan andere spanningen in de samenleving (zie Cotula et al., 2004; Wiley, 2006; Anseeuw en Alden, 2010). Dit zijn echter zeer gevoelige zaken in post-conflict samenlevingen, aangezien verdeling van land niet alleen invloed heeft op de mogelijkheden voor mensen om na conflict weer in hun dagelijkse levensonderhoud te voorzien, maar ook omdat het ook de kern raakt waar het in het vredesproces om gaat.

Het startpunt van deze thesis was om te analyseren hoe beleid en bestuur van en landhervorming vorm krijgen in post-conflict Noord-Oeganda. De thesis onderzocht hoe de LRA oorlog land bestuur veranderde; hoe landhervorming na conflict uitpakt, met name decentralisatie; hoe dit van invloed is op de legitimiteit en het gezag van lokale autoriteiten en bijdraagt aan de beslechting van land conflicten. Het onderzoek keek met name naar de vraag hoe dergelijke hervormingen bijdroegen aan het proces van staatsvorming.¹⁰⁹

¹⁰⁹ Het onderzoek voor dit proefschrift was onderdeel van het programma "Grounding Land Governance", dat gefinancierd werd door NWO-WOTRO Science for Global Development, onder nummer W 01.65.332.00. Dit programma was een samenwerking tussen het Afrika-Studiecentrum van Leiden Universiteit, Wageningen Universiteit, het Centrum voor Internationaal Conflict Analyse & Management van de Radboud Universiteit te Nijmegen en Mbarara University of Science and Technology in Oeganda. Dit programma onderzocht hoe land

De bevindingen van de studie tonen aan hoe de LRA-oorlog niet alleen grondeigendom door elkaar schudde, maar ook bestaande praktijken van land management verstoorde en veranderde. De analyse laat met name zien hoe de oorlog de rol van jongeren en vrouwen in het bestuur van land transformeerde. Decentralisatie bleek gemengde resultaten te hebben, in de zin dat het bijdroeg aan een toename van het aantal instituties en concurrentie tussen statelijk en op gewoonterecht gebaseerd gezag. Ondanks decentralisatie blijven vertegenwoordigers van de centrale overheid het voor het zeggen hebben in besluitvorming over land op lokaal niveau. Alle case studies illustreren hoe lokale wijzigingen in landbestuur niet noodzakelijkerwijs resulteren in meer zekerheid van land eigendom, maar vaak worden opgevat als pogingen door buitenstaanders om lokaal land te verwerven. Een algemene bevinding is dat hervorming van land bestuur in Noord-Oeganda deel uitmaakt van een omstreden politiek programma om de staat weer op te bouwen.

Het onderzoek besteedde bijzondere aandacht aan man-vrouw verhoudingen in land bestuur na conflict. Vrouwen worden vaak op andere manieren getroffen dan mannen in oorlogssituaties, en veldwerk onderzocht hoe de oorlog invloed had op eigendom van en toegang tot land van vrouwen en hun specifieke kwetsbaarheden in postconflict situaties. Een specifiek hoofdstuk over gender-problematiek in land bestuur in Noord-Oeganda is in voorbereiding, maar maakt geen deel uit van dit proefschrift. Enkele van de bevindingen zijn terug te zien in een documentaire getiteld "Governance off the Ground " die een van de resultaten was van het grotere programma 'Grounding Land Governance' en van mijn onderzoeksproject in het bijzonder.

Veldwerk voor dit proefschrift werd uitgevoerd in Acholi sub-regio, Noord-Oeganda. Veldwerk was etnografische van karakter en maakte gebruik van diverse kwalitatieve methoden, onder andere participatieve observatie, een analyse van secundaire literatuur, 25 focus-groep discussies, en 133 interviews met lokale mensen, mannen en vrouwen, jeugd (zowel vrouwelijk als mannelijk), leden van 'local councils', ouderen, vertegenwoordigers van 'area land committees' en 'district land boards', ambtenaren op sub-county en districts niveau, politieagenten en parkwachters, medewerkers van NGOs, culturele leiders, advocaten, ambtenaren van het ministerie van Land, Huisvesting en Stedelijke ontwikkeling, en politici.

Hoofdstuk drie laat zien dat gewelddadige conflicten en oorlog belangrijke gevolgen hebben voor land bestuur en geschillen over land na conflict. De casestudie van de uitzetting van lokale bewoners van hun land in Apaa, in Amuru district, bespreekt de ingewikkelde causale relaties tussen de 20-jarige burgeroorlog in Noord-Oeganda en huidige geschillen over land in de Acholi regio. Terwijl wetenschappelijke literatuur land conflicten meestal uitlegt in termen van schaarste dan wel politieke ecologie blijkt uit de analyse dat politiek ecologische benaderingen verder versterkt kunnen worden door erkenning dat beleid ten aanzien van land niet alleen een oorzaak is van conflict, maar dat gewelddadige conflicten op hun beurt ook een belangrijke invloed op beleid hebben. Politieke, historische en sociale ontwikkelingen raken met elkaar verweven en dragen bij aan de conflictiviteit van land of natuurlijke hulpbronnen. Gewelddadige conflicten worden aangewakkerd door spanningen tussen lokale groepen over sociale kwesties zoals etniciteit, grieven over machthebbers, beperkte of ongelijke toegang tot land en de instanties die natuurlijke hulpbronnen beheren. Dit

bestuur zich ontwikkeld in door conflict getroffen Oeganda, Burundi en Zuid-Soedan, en resulteert uit de interactie tussen meerdere belanghebbenden.

hoofdstuk laat zien dat hoe deze kwesties worden aangepakt door beleidsmakers van cruciaal belang is voor succesvolle wederopbouw en stabiliteit na conflict.

De casestudie van *Amuru Sugar Project* in hoofdstuk vier reflecteert op decentralisatie van land bestuur en de rol daarvan in grootschalige toewijzingen van land. De meeste experts wijten het gebrek aan succes van decentralisatie aan onduidelijkheden in regelgeving en beperkte beschikbaarheid van financiële middelen. Dit onderzoek wijst er echter op dat besluiten over toewijzingen van land op lagere overheidsniveaus vaak de belangen van degenen op hogere overheidsniveaus weerspiegelen, en het resultaat zijn van manipulatie en inmenging in lokale kwesties door politici van hogere niveaus. Het hoofdstuk concludeert dat zonder werkelijke overdracht van macht aan gedecentraliseerde structuren, decentralisatie ineffectief zal blijven als een middel om participatie in lokale besluitvorming te realiseren

Hoofdstuk vijf, dat is gebaseerd op een conflict over land in Pader district, reflecteert op de notie van institutioneel pluralisme, en welke invloed dit heeft op het oplossen van geschillen over land. De analyse laat met name zien hoe decentralisatie bijdraagt aan een toename van lokale instituties door het oprichten van nieuwe instituties naast de reeds bestaande autoriteiten en regelgeving over land, in plaats van dat het resulteert in de overdracht van macht aan bestaande lokale instellingen. Dit leidt tot onduidelijkheid onder mensen die conflicten hebben over land over welke instituties ze zouden moeten benaderen, en draagt bij aan concurrentie tussen instituties op lokaal niveau, wat bijdraagt aan een situatie waarin land conflicten nooit tot een definitieve oplossing komen. Dit zorgt ervoor dat land conflicten toenemen en wijkt daarmee af van de ambitie om door decentralisatie tot betere dienstverlening te komen.

Hoofdstuk zes belicht de centrale rol van de jeugd in post-conflict land bestuur. Dit hoofdstuk laat zien dat hoewel intergenerationele conflicten onlosmakelijk deel van de samenleving uitmaken, oorlog sociale en politieke verandering aanzienlijk versnelt, wat resulteert in een verschuiving van rollen in land bestuur richting jonge mannen. Deze verschuiving van de macht resulteert in strijd over zeggenschap over land bestuur tussen de jeugd en de oudere generatie. Echter, terwijl sommige jongeren aan zeggenschap en dominantie in het bestuur van het land winnen, verliezen andere jongeren juist aan zeggenschap, vooral vrouwen en wezen. Het hoofdstuk laat zien hoe de dynamiek van het verblijf in kampen voor ontheemden, deelname aan de oorlog, het verwerven van posities in de gedecentraliseerde overheid, en het onvermogen om werkgelegenheid buiten de landbouw te vinden een aanzienlijke invloed hebben op de rol van de jeugd in land bestuur na conflict. Het hoofdstuk concludeert dat de nieuw verkregen rollen van de jeugd in land bestuur onherstelbare consequenties hebben voor land beheer op basis van gewoonterecht, waarbij zeggenschap over land juist berust bij de oudere generatie.

Op basis van deze verschillende casestudies komt dit proefschrift tot de algemene conclusie dat hervorming van landbestuur in Oeganda in feite neerkomt op een omstreten project van wederopbouw van de staat. Staten gebruiken post-conflict land bestuur als een middel om weer controle te krijgen en autoriteit te claimen in gebieden waar tijdens het conflict andere vormen van gezag de dienst uitmaakten. Dit argument wordt uitgewerkt in hoofdstuk 7, waarin ook de belangrijkste bevindingen met betrekking tot de onderzoeksvragen besproken worden.

- 20 jaar burgeroorlog in Noord-Oeganda reorganiseerde niet alleen toegang tot land en land bezit, maar veranderde praktijken van land bestuur in de Acholi regio. Land en land bestuur zijn een cruciaal onderdeel in hoe om te gaan met de erfenis van de LRA:

niet zozeer in dat onenigheid over land en land bestuur het LRA conflict veroorzaakten, maar in dat elke huidige interventie, gerechtelijke uitspraak, of elk overheidsoptreden rondom land beoordeeld wordt in het licht van eerdere ervaringen van uitsluiting die ten grondslag lagen aan de LRA-oorlog. Land blijkt een zeer kritieke kwestie in de werkelijke dan wel veronderstelde competitie tussen het noorden en het zuiden van Oeganda.

- Decentralisatie is een belangrijke strategie van de regering om om te gaan met land conflicten en onzekerheid over landeigendom. Echter, decentralisatie blijkt grotendeels ineffectief, omdat geen werkelijke overdracht van macht naar lagere niveaus plaatsgevonden heeft. De hoge mate van betrokkenheid van vertegenwoordigers van de staat in lokale besluitvorming over land suggereert dat de centrale regering probeert om haar controle over lokaal bestuur te handhaven of te versterken, met name in die regio's van Oeganda waar haar autoriteit zwak is.
- Op lokaal niveau diskwalificeren hervormingsprogramma's in feite op gewoonterecht gebaseerde instituties en dragen ze bij aan de toename van concurrentie tussen instituties. Dit zet op gewoonterecht gebaseerde autoriteiten op een zijspoor, ten voordele van de staat, en resulteert niet in meer zekerheid over landeigendom van kleinschalige landbouwers, die meestal toegang hebben tot land gebaseerd op gewoonterecht.
- Deze praktijken in Oeganda laten zien hoe hervorming van landbestuur kan dienen als een gelegenheid voor staatsvorming, en een middel voor de staat om zijn greep over zijn grondgebied te versterken en zijn macht te laten zien of te herstellen in post-conflict gebieden. Door inmenging in land bestuur in Noord-Oeganda probeert de staat om zich te vestigen als de hoogste politieke autoriteit met de capaciteit om effectief zijn wil op te leggen.
- Bovendien, landhervorming wordt vaak beschouwd als een gemakkelijke, technische procedure om de manieren waarop land bestuurd en beheerd wordt beter te organiseren. Dit proefschrift toont echter aan dat landhervorming een zeer omstreden en gewelddadige proces is. In Oeganda is geweld door zowel de staat als de lokale bevolking geworden tot een belangrijk middel om land bestuur te hervormen, en toegang tot en eigendom van land te bewerkstelligen.

Implicaties voor beleidsmakers

Land bestuur na conflict speelt een belangrijke rol in het vredesproces in post-conflict gebieden. Gezien het feit dat het vaak omstreden is, dienen land hervormingen zoals decentralisaties van land bestuur voorzichtig te worden uitgevoerd. Om doeltreffend te zijn moet er een duidelijke toewijzing van beslisbevoegdheden en verantwoordelijkheden plaatsvinden tussen statelijke en niet statelijke autoriteiten rondom land. Dit kan helpen het aantal land-conflicten te verminderen die steeds heen en weer geschoven worden tussen verschillende instituties. In een post-conflict situatie moet beleid rondom land prioriteit geven aan de behoeften van lokale mensen met betrekking tot zekerheid van land eigendom en land conflicten. Alleen op een dergelijke manier zou de Ugandese staat meer legitimiteit kunnen verwerven in het noorden van het land.

Other Outputs from the research

Documentary - Governance Off the Ground. August 2013. The documentary presents post-conflict land governance issues in Northern Uganda and South Sudan. Can be accessed at; www.youtube.com/watch?v=mkG_g3h_50g

Mathijs Van Leeuwen, Ilso Zeemeijer, Doreen Kobusingye, Charles Muchunguzi, Linda Haartsen and Claudia Piaccenza (2014). "The Continuities in Contested Land Acquisitions in Uganda", in An Ansom and Thea Hilhorst eds., *Losing your Land: Dispossession in the Great Lakes*. James Curry, African Series. Can be accessed at; www.jstor.org/stable/10.7722/j.ctt6wp9mv

Kobusingye, N. D. (forthcoming). "Gender and Socio-economic Development: The Role of LRA War in the Current Gender Relations and Development in Northern Uganda", in *The Political Economy of Post-Conflict Development in Northern Uganda*. International Alert; Kampala.

About the Author

Doreen Nancy Kobusingye was born in 1982 in Bushenyi district in Uganda. In 2001 she completed secondary school and in 2002 joined Makerere University Kampala, where she graduated with a second class upper Bachelor of Arts degree in development studies in 2005. Her BA dissertation is entitled: *An Assessment of the Challenges of Rural Electrification in Enhancing Development: A case study of Mafubira Sub-county, Jinja District, Uganda*. In 2008 Doreen attained a NUFFIC scholarship and joined the faculty of development studies at Mbarara University of Science and Technology. In 2011 she graduated with a Master of Arts degree in development studies specializing in decentralization and local governance. Her MA thesis is entitled: *The Efficacy of Creating New Districts as a Channel of Service Delivery in Uganda: A case study of Kayunga District*.

From 2008 to 2010 Doreen was a teaching assistant at Mbarara University of Science and Technology teaching a course unit called NGOs and Development. She also worked as a research assistant at KIN Development and Management Associates, Kampala. In 2011 she received a NWO-WOTRO scholarship and became a PhD candidate under Grounding Land Governance program which was funded by NWO-WOTRO Science for Global Development grant number W 01.65.332.00. The program was designed to investigate how land governance evolves in post-conflict situations. Uganda, Burundi and South Sudan were the study areas. The project in Uganda aimed to study how decentralization influences relations of land governance, the impacts the legitimacy and authority of local institutions and the resolution of land conflicts in post-conflict northern Uganda.

She conducted ethnographic research on post-conflict land governance in Northern Uganda for 2 years (2011-2013). She organized and moderated 5 workshops in Amuru, Gulu, Kampala and Entebbe to disseminate research findings to stakeholders including policy makers, NGOs, academia, researchers, central and local government and the local people. In 2013 Doreen conducted research on women's land rights in northern Uganda and traversed West Nile, Acholi, Lango, Teso and Karamoja regions, the research was commissioned by Oxfam. In March 2013 Doreen conducted research on various aspects of land governance in Yei, South Sudan, and was part of the team that shot a documentary entitled *Governance off the ground*, it depicts women stranded in former Pabbo IDP camp because of land conflicts.

Doreen prepared and presented papers at the 2014 World Bank Conference on Land and Poverty at the World Bank Washington DC and the 2014 Conference on Land Policy in Africa at African Union, Addis Ababa, Ethiopia. In 2014 Doreen and other authors wrote a book chapter entitled; *The Continuities in Contested Land Acquisitions in Uganda*. In eds. An Ansom and Thea Hilhorst. *Losing your Land: Dispossession in the Great Lakes*. Still in 2014 she conducted a research on governing commercial pressure on land: what is the role of local government? A case study of Amuru local government, northern Uganda that was commissioned by Landac. In 2016 Doreen and other authors published an article entitled; "Where Do I Report My Land Dispute? The Impact of Institutional Proliferation on Land Governance in Post-conflict Northern Uganda." *Journal of Legal Pluralism and Unofficial Law*, DOI: 10.1080/07329113.2016.1195673. In 2017 Doreen and other authors published an article entitled; "The Multifaceted Relationship between Land and Violent Conflict: The case of Apaa Evictions in Amuru district, Northern Uganda." *Journal of Modern African Studies*.

Currently Doreen works in Kampala, Uganda as a consultant on land governance, decentralization, gender and development and as a part time lecturer.

Completed Training and Learning Activities

Learning Activities

Learning Activity	Institution	Time	ECTS
Courses			
Ceres Basic Training Course	Ceres	2011	10
A practical course on the methodology of fieldwork	Ceres	2011	2
Qualitative Data Analysis for Development Research	Ceres	2011	1.5
Quantitative Methodology and Economics Quantitative	Ceres	2011	2
Ceres Summer School	Ceres	2011	1
Workshops and Conferences			
Presentation and Organization of Research Findings To Stakeholders About Apaa Evictions at Pabbo Sub-County, Amuru District	ASC	27 th -09-2012	3
Where Do I Report My Land Dispute? The Impact of Institutional Proliferation on Land Governance in Northern Uganda.	“2014 World Bank Conference On Land And Poverty” The World Bank - Washington DC,	March 24-27, 2014	1
Decentralization And Power Complexities In Large-scale Land Allocations: The Case Of Amuru Sugar Project In Uganda	Inaugural Conference On Land Policy In Africa, Addis Ababa	11-14 November 2014	1
Land In Post-Conflict Situations: The Role Of Decentralization, War And Youth In Land Governance In Northern Uganda. Presentation and organization of Research Findings to Stakeholders in Gulu (northern Uganda)	ASC	7 th November 2014	3

Land In Post-Conflict Situations: The Role Of Decentralization, War And Youth In Land Governance In Northern Uganda. National Workshop Uganda at Imperial Royale Hotel Kampala.	ASC	19 th May 2015	1
Policy note: Post-conflict land governance reform in the Great Lakes region - Insights and challenges. Regional Seminar at Imperial Botanical Beach Hotel, Entebbe.	ASC	20 th -21 st May 2015	2
Decentralization And Power Complexities In Large-scale Land Allocations: The Case Of Amuru Sugar Project In Uganda. Workshop on Land Governance in Juba, South Sudan.	ASC	25th May 2015	1
African Youths; The Forgotten Category in land governance. A Case study of Post-conflict Acholi Region, Northern Uganda.	Inaugural Conference of the Young African Researchers in Agriculture, Cape Town	06-08 February 2017	1

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