Land Injustice in Western Uganda: Select Studies from Kasese, Kabarole and Bundibugyo

Pascal Kabura and Francis Tuhaise
HUMAN RIGHTS AND PEACE CENTRE
School of Law
Makerere University
P.O. Box 7062, Kampala
Tel: +256-414-532954
E-mail: huripec@huripec.ac.ug
Web: www.huripec.ac.ug

Copyright © Human Rights & Peace Centre, 2017


All rights reserved. No Production, copy or transmission of this publication may be made without written permission.

No paragraph of this publication may be reproduced, copied or transmitted save with written permission or in accordance with the provisions of the Copyright, Designs and Patents Act, or under the terms of any licence permitting limited copying issued by the licensing agency in Uganda.

Any person who does any unauthorised act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

HURIPEC
WORKING PAPER No 40
October 2017
## CONTENTS

ACRONYMS ......................................................................................................................... iv  
ACKNOWLEDGMENTS ........................................................................................................ v  
ABOUT THE PROJECT ....................................................................................................... vi  
EXECUTIVE SUMMARY ................................................................................................... viii  

I. INTRODUCTION .................................................................................................................. 1  
1.1 Background ................................................................................................................... 1  
1.2 The Legal and Conceptual Context ............................................................................. 1  
1.3 Objectives and Research Questions ............................................................................. 4  
1.4 A Note on the Methodology ......................................................................................... 5  

II. LAND TENURE AND USAGE IN THE WESTERN REGION ............................................. 7  

III. CAUSES, ACTORS AND IMPACTS OF LAND CONFLICTS IN THE REGION ............. 14  
3.1 Causes of Land Conflicts ............................................................................................ 14  
3.2 Actors .......................................................................................................................... 23  
3.3 Impacts of Land Disputes on Special Groups and Individuals .................................... 24  

IV. FORMAL, INFORMAL AND OTHER MECHANISMS GOVERNING LAND JUSTICE IN THE REGION ................................................................. 27  

V. RECOMMENDATIONS ON CURBING LAND INJUSTICES IN THE REGION .............. 29  

REFERENCES .................................................................................................................... 34  

ANNEX SELECT DOCUMENTATION AND CITIZEN EXPERIENCES ON LAND MATTERS ........... 35  

KABAROLE DISTRICT ......................................................................................................... 35  
Case 1: Economic and land injustices in the haphazard pozzolana mining ....................... 35  
business in Harugongo sub-county ..................................................................................... 35  
Case 2: Leasing of 20 crater lakes in Kabarole district, effectively depriving ...................... 39  
locals of access to the same ............................................................................................... 39  
Case 3: Land grabbing and forceful evictions in Tooro by the Tooro queen ....................... 40  
mother; cases of Kitumba, Kyogya and Nyanduhi-Harukoto ................................................... 40  
communities in Kabarole district ........................................................................................ 40  

KASESE DISTRICT ................................................................................................................ 44  
Case 1: Land injustices orchestrated by the public land distribution ................................. 44  
bonanza .............................................................................................................................. 44  
Allegations of land distribution to powerful persons in government .................................. 45  

BUNDIBUGYO DISTRICT ................................................................................................. 46  
Case 1: ‘Ethnicisation’ of the land resource – A case of Bundibugyo district ................. 46  
Implications of ethnicisation of land ................................................................................. 46  
Case 2: Historical and contemporary land injustices associated with past ................. 49  
gazetting of land: Case studies of Queen Elizabeth and Semliki  
National Parks in Kasese and Bundibugyo districts respectively ..................................... 49  

HURIPEC WORKING PAPER .......................................................................................... 55
<table>
<thead>
<tr>
<th>ACRONYMS</th>
<th>EXPLANATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSO</td>
<td>Civil Society Organisation</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
</tr>
<tr>
<td>KRC</td>
<td>Kabarole Research and Resource Centre</td>
</tr>
<tr>
<td>LC</td>
<td>Local Council</td>
</tr>
<tr>
<td>MoLHUD</td>
<td>Ministry of Lands, Housing and Urban Development</td>
</tr>
<tr>
<td>NEMA</td>
<td>National Environmental Management Authority</td>
</tr>
<tr>
<td>NFA</td>
<td>National Forestry Authority</td>
</tr>
<tr>
<td>NRM</td>
<td>National Resistance Movement</td>
</tr>
<tr>
<td>OBB</td>
<td>Obudinginya bwa Bwamba</td>
</tr>
<tr>
<td>OBR</td>
<td>Obusinga bwa Rwenzururu</td>
</tr>
<tr>
<td>RDC</td>
<td>Residential District Commissioner</td>
</tr>
<tr>
<td>RFPJ</td>
<td>Rwenzori forum for Peace and Justice</td>
</tr>
<tr>
<td>ULC</td>
<td>Uganda Land Commission</td>
</tr>
<tr>
<td>UPDF</td>
<td>Uganda Peoples’ Defence Forces</td>
</tr>
<tr>
<td>UWA</td>
<td>Uganda Wild Life Authority</td>
</tr>
</tbody>
</table>
ACKNOWLEDGMENTS

This report is published under the Land Justice and Post-Election Governance in Uganda Project, a one-year project implemented by HURIPEC between November 2016 and October 2017. HURIPEC is grateful to a number of stakeholders that have made completion of the project a success. Firstly is the team of dedicated researchers who undertook the task of both reviewing the jurisprudence on land justice in Uganda as well as conducting regional studies to delve into the citizens’ lived experiences and perceptions of the different stakeholders regarding land (in)justice. The review of the laws and the legal jurisprudence on land governance was undertaken by Dr Rose Nakayi and Dr Monica Twesiime-Kirya with the able assistance of Ms Nona Cynthia Tamale. On their part, regional studies in a total of nine districts from the three target regions of the country – namely northern (Amuru, Agago and Otuke districts), western (Kasese, Kabarole and Bundibugyo districts all located in the Rwenzori sub-region) and central (Kayunga, Mukono and Kampala districts) – were conducted by Denis Ojok and Max Ameny (northern), the Rev. Fr Dr Pascal Kabura and Francis Tuhaise (western) as well as Yusuf Serunkuuma Kajura and Baker Batte Lule (central), who did a great job of digging out the issues.

HURIPEC is also indebted to all participants in the study who accepted to share their experiences and views on the issues under investigation both during the interview sessions and at the regional dissemination forums held on 8 June 2017 in Lira (northern region), 15 June 2017 in Fort Portal (western) and 22 June 2017 in Kampala (central). This study is all about you. In addition, HURIPEC is indebted to the experts who participated in the validation workshops for the drafts of the regional reports and the legal jurisprudence analysis report held at the School of Law on June 30 and July 6 2017, respectively. Your critical observations on the drafts opened the team’s eyes to a number of important issues that would otherwise have been ignored.

The role Prof. J. Oloka-Onyango of the School of Law, Makerere University played in guiding the conceptualisation of the project was crucial; and his views were very useful at the validation meetings for all the studies under the project. In addition, Prof. Oloka-Onyango gladly and wonderfully executed the merger of the separate studies into the combined Status Report which offers a synthetic overview of issues of generic concern across the regions specifically, and the country generally.

Also central to the successful completion of this study were the project staff at HURIPEC. These include the Director of HURIPEC, Dr Zahara Nampewo and Mr Brian Kibirango, who carried out the overall supervision and coordination for the project in the roles of Project Manager and Project Officer respectively. They also include the Administrator, Ms Maxine Twijukye, the Accountant, Ms Enid Sajabi and support staff, among whom were Ms Betty Kihangire, Ms Aidah Namatovu and Mr Simon Oluka whose efforts, collectively and variously, made it possible for the project work to progress uninterrupted.

Finally, all these efforts would not have materialised had it not been for the full financial support for the project which was generously provided by the Foundation Open Society Initiative (FOSI). We thank you.
ABOUT THE PROJECT

The Land Justice and Post-Election Governance in Uganda Project is a one-year project implemented by the Human Rights and Peace Centre (HURIPEC) between 2016 and 2017. In HURIPEC’s experience, working on the 2016 elections, with the support of OSIEA, land and natural resources became highly contentious issues. Particularly the 2016 election-related incidents of violence in the western district of Kasese and the eastern region of Kapchorwa were directly associated with the extraction, use and distribution of benefits from the natural resources, including land, in these areas.

In the aftermath of the 18 February 2016 presidential elections, the country witnessed a political crisis characterised by a disagreement which arose between the opposition, a cross section of the public especially the youth, civil society organisations and a number of election observers on the one hand, and the government, the Electoral Commission and the NRM party on the other, who were, respectively, dissatisfied and satisfied with especially the presidential election results. Although one of the presidential contestants challenged the presidential election results before the Supreme Court, which ruled in favour of the same presidential candidate who had been announced winner by the Electoral Commission, the legitimacy of the outcome of the election remains contested by a number of actors. For this reason, the Elders’ Forum and the Inter-religious Council of Uganda, together with a number of other actors, proposed a national dialogue process in order to bring about post-election reconciliation and better governance in Uganda.

HURIPEC believes that in order for the national dialogue process to achieve its objective, it must have a strong focus on issues of human rights and governance, including those relating to land and natural resources, which are undeniably critical mobilising and aggregating factors. As a group interest, also, the biggest resource for most Ugandans and with its close nexus to politics and the law, land is a strong galvanising factor that can be used to reach out to many people. Predictably, therefore, land is a central question for Uganda’s post-electoral economic recovery.

Accordingly, the Land Justice and Post-Election Governance in Uganda Project brings to the national dialogue process research-based information on land and natural resources governance, including current trends of ownership or access to land and other natural resources as well as the processes through which groups lose these resources while other individuals and groups gain them. This information was generated through the project’s interventions, which included four separate studies involving a critical examination of the legal and policy framework relating to land governance in the country and empirical studies which covered the districts of northern Uganda (Agago, Amuru and Otuke), western Uganda/ Rwenzori (Bundibugyo, Kabarole and Kasese) and central Uganda (Kampala, Kayunga and Mukono). These studies resulted in four separate reports, namely: The legal jurisprudence analysis report as well as the three reports covering issues in three of the districts surveyed in each region. On 8, 15 and 22 June 2017 HURIPEC organised dialogues in Lira (north),
Fort Portal (west) and Kampala (central) to both disseminate findings and provide a forum for the different stakeholders concerned with land justice to engage each other in order to appreciate and prescribe remedies to the emerging issues in the respective areas.

To bring the discussion forward and to the national level, HURIPEC organised a National Stakeholders’ Convention on 9 November 2017, to both enable the key stakeholders, including senior citizens, religious leaders, cultural leaders, local leaders as well as academia, to critically reflect on issues of governance as they relate to land and other natural resources, as well as to disseminate and launch the combined/national Status Report on Land Justice and Governance in Contemporary Uganda, which is a synthesis of the reports from the four separate studies undertaken under the project.

In all this, the project seeks to generate public consciousness of governance issues and, more widely, of leadership and accountability by state agencies with a focus on land and natural resources.
EXECUTIVE SUMMARY

This study was part of a larger HURIPEC project aimed at drawing a consensus on the participation and inclusion of all Ugandans in key aspects of governance, particularly natural resource – including land – governance, as part of a wider agenda for a national dialogue. In the western region examined by this paper, the study covered the districts of Kasese, Bundibugyo and Kabarole of the Rwenzori region. The selection of this region was based on its historical and contemporary governance fragility and land injustice.

The study revealed several interrelated causes of land conflicts, including:

a) Inequitable land distribution and ownership: These factors are linked to the history of land distribution and ownership in the region and to the current political and land governance system that favours the rich and well-positioned individuals and institutions. The colonial land legacies involved titling and distributing land to colonial henchmen, resulting in the mass displacement of persons and communities and the creation of landless societies. Most notably, the Omukama of Tooro specifically and the Tooro kingdom in general not only acquired large chunks of land from the colonial rulers but also the powers to distribute that land as they wished. Currently, land continues to appreciate both in urban and rural areas owing to the growing demand for the inelastic land resource. This demand is due to the growing number of investors willing to purchase land at higher prices and the pressure on the resource by the growing population in the region. Lastly, current public land distribution procedures, specifically in areas like Kabukero and Bigando in Kasese district, are marred by allegations of deliberate secrecy and the concealment of information by government agents and unfair land distribution to favour highly placed persons and groups.

b) Poor land governance: Land governance in the region is still shrouded in ‘calculated secrecy’. There is scanty and speculative information on lands that have been bought off by the government using the Land Fund to help tenants own land. The government is said to have bought off land from the Tooro queen mother in Kibiito sub-county and other places and yet tenants in these lands continue to pay busuulu and face threats of eviction from the queen mother. Some boundaries of public lands remain unclear, making these lands susceptible to encroachment. In other cases, public lands have been leased out without involving members of the public, triggering public protests and contestations.

Poor land governance in the region is also reflected in interference by political and military leaders to stifle land justice, propagate schemes of land grabbing and undermine judicial processes and decisions on land matters. Specifically, in Kabarole district, the study revealed the emergence of unlicensed land surveyors who either operate on their own or operate on behalf of licensed surveyor companies to issue wrong survey prints. Lastly, a paltry figure of less than 10% of the land in the region is surveyed and registered, creating room for deep-seated conflicts over boundaries.

c) Ethnicisation of the land resource: This study revealed that land in the region is not only an economic resource but a social and spiritual resource that defines identity and the future of persons and groups. In the ethnicisation of the land resource,
communities in the region are increasingly associating land with their ethnic identities and limiting land transactions within them. More critically, cultural institutions in the region have continued to arbitrarily assume exclusive geo-cultural spaces where they attempt to threaten the right of persons from competing ethnic groups to own and control land and other productive assets. At the centre of this ethnicisation are inter-ethnic contestations over the demand for the creation of new administrative units. Specifically, some members of the Bakonzo and Basongora ethnic groups in Kasese district and Bakonzo and Bamba/Babwisi in Bundibugyo district continue to disagree on whether their districts should be divided. Apparent among those who support the division are competing proposals on boundaries, with each ethnic group proposing boundaries that will leverage its control over land.

To improve the formal and informal handling of land disputes, this study recommends short-term and long-term actions. In the short term, this study recommends the following:

1. The Uganda Land Commission (ULC) should publicly declare all the land that has been bought by the government, in order to guarantee security of tenure and to reduce the conflicts between the landlords and tenants.

2. The Ministry of Lands, Housing and Urban Development (MLHUD) should promote openness and transparency in public land distribution. In particular, the ministry should clarify public land distribution in the region, make public a list of beneficiaries and devise means of reaching a compromise between cultivators and cattle keepers, specifically in the land conflict hotspots in Kasese district.

3. The government should respect and implement outstanding court orders on land in order to avoid nurturing lawlessness in land management. In particular, the government needs to lead by example and support the full implementation of court orders on Rwehingo land in Kasese district and any other orders on land that may in future be made by competent courts.

4. The Uganda Wildlife Authority (UWA) should promote protected land-user rights. For mutual benefit, authorities of protected land resources need to protect the user-rights of the communities surrounding these resources as one way of minimising community animosity towards these land resources.

5. District land offices should raise awareness about land issues, especially those pertaining to the rights of tenants and landlords, the land rights of widows and children with regard to inheritance, protected land-user rights, land rights under different land tenure regimes, the importance of gazetted lands, the jurisdiction of different land management structures, the functioning of the land fund and the roles of different stakeholders like the police, the office of the RDC, district chairpersons and cultural leaders in land-related matters.

6. District land surveyors (DLSs) and Protected Land Management Authorities (PLMAs) should re-open and clarify on the boundaries of public lands. Clear boundaries of protected lands will mitigate cases of encroachment and minimise conflicts involving protected lands and the communities surrounding these lands.

7. Religious leaders should unite to condemn acts of land injustice and support victims of land injustice. Condemnation of land injustices should be accompanied by leaders' commitment to support victims of land injustice to the extent possible.

8. Cultural leaders should stick to the constitutional mandate of uniting and mobilising people for development. Specifically, cultural leaders in the Rwenzori region should...
strive to unite people, desist from participating in divisive politics, and promote and mobilise people for development.

9. The Tooro kingdom administration should streamline its land management and respect the 1995 Uganda Constitution and the relevant provisions of the 1998 Land Act (as amended) that protect bona fide tenants. The kingdom administration, the queen mother and the royal family need to urgently desist from undertaking unlawful evictions and instead pursue legal processes in handling all land matters.

10. The Tooro kingdom and the MLHUD should facilitate the acquisition of land titles by tenants. The Tooro kingdom administration should support tenants on its land and acquire titles as one way of guaranteeing these tenants security of tenure and encouraging productivity. Similarly, the MLHUD should immediately facilitate tenants who are currently occupying land that was bought off by the central government from the queen mother to acquire land titles.

11. Civil society organisations (CSOs) in the Rwenzori region should mainstream land justice issues within their mandates, given the centrality of land in governance and peace processes in the Rwenzori region.

In the long term, this study recommends the following:

1. The government should authenticate and compensate historical land claims dating from the colonial period. The government needs to authenticate different historical claims on various gazetted lands and other lands in the region with a possibility of compensating persons and communities that unfairly lost their land rights.

2. The MLHUD should democratise the process of land registration by cascading the customary land registration process to every sub-county in all districts in order to enable people to acquire certificates of customary tenure. Furthermore, the ministry needs to strengthen coordination among land government structures and members of the public to weed out unlicensed surveyors from land registration processes.

3. The district land offices and production departments should promote effective and efficient land usage. Owing to the inelastic nature of land amidst a growing population, the government needs to research on and help communities undertake efficient and effective land-use practices. They should also support land preservation initiatives. Communities need to be supported to undertake land preservation activities such as tree-planting on the slopes of Mt Rwenzori in order to reduce soil erosion.

4. District land offices should build the capacities of informal land management structures. In particular, district land offices need to strengthen coordination between and among these structures and take stock of informal structures with the aim of giving them technical support in the resolution of land-related conflicts.

5. The Interreligious Council of Uganda-Rwenzori Chapter should develop a long-term plan for addressing land injustices in appreciation of the centrality of the land resource to the quest for good governance as well as social, spiritual and economic stability.

6. Universities in the Rwenzori region should invest in research on land justice to guide land justice activism in the region. Such research will guarantee timely and adequate information to guide land justice activists, CSOs, religious leaders and other relevant actors in land management.
I. INTRODUCTION

1.1 Background

This study covered the districts of Kasese, Bundibugyo and Kabarole in the Rwenzori region. The selection of this region for this study was a pragmatic decision based on its historical association with intractable violence and conflicts which are partly anchored in aspects of governance and land. Between 1962 and 1982, the region experienced the Rwenzururu rebellion triggered by the Tooro kingdom’s subjugation of other ethnic groups, in addition to land and other economic injustices. In July 2014, Bundibugyo, Ntoroko and Kasese districts experienced simultaneous attacks against formations of the military that claimed over 70 lives. Attackers in July 2014 claimed that the government had denied them political space and also worked towards socially and economically disenfranchising them, including refusing to grant district status to Bughendera county in Bundibugyo district.

The study explored key aspects of land, including: land tenure and land usage; mechanisms governing land justice; key actors in land justice; cases of land injustice; the effects of land injustice on marginalised groups; as well as the implications of land (in)justice for human rights and good governance.

1.2 The Legal and Conceptual Context

According to Article 237 of the 1995 Uganda Constitution and Section 3 of the 1998 Land Act (as amended), land in Uganda is organised under four tenure systems, namely customary, leasehold, mailo and freehold. Article 237 of the 1995 Uganda Constitution makes fundamental pronouncements on landownership and registration. On ownership, the constitution vests land in the citizens of Uganda although the government may – subject to Article 26 – acquire land in the public interest. Furthermore, the government shall hold in trust for the people and protect natural resources like lakes, national parks, gave reserves and other lands for the common good. On registration, the constitution provides room for those owning land under customary arrangements to process and acquire certificates of ownership and even convert customary land into freehold tenure. Even a lease granted to a Ugandan citizen out of public land may be converted into freehold tenure.

In a progressive way, Article 237 grants security of occupancy on mailo, freehold and leasehold land to bona fide occupants. To operationalise the protection of these occupants, Parliament enacted the 1998 Land Act. Under this Act (as amended), Section 32 explicitly prohibits the eviction of lawful or bona fide occupant except where such eviction order has been given by court and only for non-payment of ground rent. Section 92 comprehensively prescribes that a person who attempts to evict, evicts or participates in the eviction of a lawful or bona

---

2 The Land Act (1998, as amended).
fide occupant from registered land without an order of eviction, commits an offence and is liable to imprisonment not exceeding 7 years and court may further order the convict to pay compensation or damages or make an order of restitution in favour of the evictee.

The above progressive framework notwithstanding, land conflicts have persisted. There are many causes of this situation. First of all, while the constitution provides for land registration, most land remains unregistered. According to the MLHUD (2010), a paltry 1.6% of individual land is estimated to be registered in the western region. While the same ministry puts customary land tenure at 47% in the western region, the findings of this study reveal the absence of efforts to have customary land registered. Of the three districts, only Kasese, examined hereunder, had an ongoing customary land registration process which the district chairperson and district lands officer described as a success. The non-registration of land has far-reaching implications for both the eruption and the management of land conflicts. In the first instance, it exacerbates conflicts over boundaries and also complicates efforts to establish authentic ownership of land in the case of disputes. To compound matters, unregistered lands attract less value compared to registered ones and can hardly be accepted as collateral by financial institutions for agricultural funding and other purposes.

The 1995 Uganda Constitution and the 1998 Land Act (as amended) effectively protect bona fide occupants of land. However, this study established wanton cases of impunity and the extra-legal eviction of such occupants. Common cases of eviction were attributed to the queen mother of the Tooro kingdom aided by armed security personnel. The eviction of bona fide occupants and the non-registration of land point to three interrelated aspects of land governance as established in this study, namely: the weakness of land management institutions and their inability to enforce the law on land; political interference; and the vices of corruption and abuse of power in land management processes.

Land conflicts in the Rwenzori region extend back to the pre-colonial period, continuing through colonialism and after independence (Kabarole Research and Resource Centre [KRC] and Rwenzori Forum for Peace and Justice [RFPJ], 2016). During the pre-colonial period land was held communally and conflicts hinged on powerful groups ‘displacing or lording over the weaker ones.’ Under colonialism the establishment reorganised land to serve the colonial economy, resulting in the creation of mailo land, and distributing it to the Tooro king and his henchmen. Furthermore, in their colonial policies colonial agents gazetted lands such as forests and national parks, leading to the eviction of indigenous persons and inducing migrations of labour from the Kigezi region to Tooro, laying a foundation for present and future land conflicts. Uganda’s post-colonial governments have failed to remedy the land injustices orchestrated by the colonial social, political and economic establishment. In this failure, post-colonial governments have failed to compensate land losses incurred

4 Kabarole Research and Resource Centre and Rwenzori Forum for Peace and Justice (2016), The Melting Pot; Land Conflicts in the Rwenzori Region.
5 Ibid., p. 6.
during the colonial period and to undertake land redistribution in the context where colonial henchmen received free land as a reward for supporting or an inducement to support the colonial agenda.

At the heart of land conflicts in the Rwenzori region is the interplay between ethnicity, landownership and use. In Kasese district in particular, the majority Bakonzo agriculturalists and minority Basongora herders remain entangled in ethnicised land conflicts (Anna & Kristof, 2016). Each group claims marginalisation, with the Basongora asserting marginalisation by the dominant Bakonzo ethnic group and the Bakonzo claiming that the Basongora are favoured by the present government in matters pertaining to land distribution. The chairperson of the Kasese district board argues that the land conflict in Kasese district is principally between economic and occupational activities within the same area where Bakonzo cultivators and Basongora herders reside (CCFU, 2014). According to the chairperson, ‘[c]rops and animals have never been friendly. The problem is between the activities and not the people; for example, wild animals and crops, cows and maize.’ As per this contention, the land conflict between the two ethnic groups should be seen from the angle of economics and not ethnicity.

Related to the phenomenon of ethnicity, the Rwenzori region has three recognised cultural institutions, viz. the Tooro kingdom, the Obusinga bwa Rwenzururu (OBR) and the Obudhingiya bwa Bwamba (OBB). Each of them has swiftly moved towards establishing an imaginary and exclusive geo-cultural space (KRC & RFPJ, 2016). In these exclusive spaces, cultural institutions assume cultural control over land and, by extension, have triggered ethnicised land conflicts. For example, a move by the Basongora to intensify a claim for state recognition in 2012 attracted outright rejection from the OBR on the grounds that the Basongora could not create a cultural institution within an existing one. The then prime minister of the OBR, Loice Bwambale, argued:

We cannot have a kingdom within a kingdom (Rwenzururu) as claimed. The claim of the so-called Basongora on 20 sub-counties (according to press reports) is unconstitutional, redundant and laughable.

Cases have been reported of the OBB preventing the OBR leader from visiting Bundibugyo district on the grounds that it belongs to the OBB (KRC & RFPJ, 2016). Intermingled with ethnicity is politics where cultural leaders have tended to engage in direct partisan politics: ‘At a local level, “state politics” and the politics of the cultural institution are frequently enmeshed, as illustrated in the fact that many “cultural” leaders are simultaneously “political”

---

7 The Cross Cultural Foundation of Uganda (2014), Managing Inter-cultural Conflicts in the Rwenzori Region: Interventions and Aspirations, Kampala.
8 Ibid., p.13.
9 Kabarole Research and Resource Centre and Rwenzori Forum for Peace and Justice (2016), The Melting Pot; Land Conflicts in the Rwenzori Region, p. 18.
leaders. Tensions have been heightened by the demand by different ethnic groups for their own administrative units, especially districts (CCFU, 2014). Sentiments are still high regarding geo-cultural space ownership among adherents of the OBB and the OBR. This assumed space has become a source of inter-ethnic tension and attempts by different ethnic groups to discourage land transactions involving people of different ethnic groups. Cultural leaders have compounded the conflicts by getting involved in partisan politics (CCFU, 2014). Different respondents disclosed how the OBB and the OBR cultural leaders openly fronted and/or supported political candidates during the 2016 elections.

Fundamental to the land question in the Rwenzori region is the increase in population and the pressure thereby exerted on an inelastic resource. There is no doubt that population growth has triggered land conflicts (KRC & RFPJ, 2012; KRC & RFPJ, 2016). Quoting the 2014 population census results, KRC and RFPJ (2016) note that the Rwenzori region continues to experience a substantial increase in population. Kasese district is the fifth most populous district in Uganda with a population of 702,029 people. Kasese district has a total land area of 2,724 km², with 65% of this area being public, demonstrating that the smaller portion of the area is available for private use (KRC & RFPJ, 2016).

The KRC and RFPJ (2016) study identified intractable weaknesses in land management as a contributor to land conflicts. These weaknesses are also reflected in the unclear boundaries of public lands, fraud in land management and the exclusion of women under customary land management processes. Specific to the Tooro kingdom, there are cases of glaring impunity with which the Tooro queen mother conducted evictions and land grabbing using armed security personnel (KRC & RFPJ, 2016). The presidential committee on the Tooro kingdom issues (2015) identified a wide range of unresolved land matters and allegations in the kingdom rotating around the queen mother, the grabbing of kingdom land and Rukidi III royal family land, the sale of Tooro kingdom land, royal family land and land belonging to the office of the queen mother, plus the illegal eviction of tenants using armed security personnel. Allegations of the queen mother’s involvement in masterminding land injustices remain a critical concern today.

1.3 Objectives and Research Questions

The major objective of this study was to draw a consensus on the participation and inclusion of all Ugandans in key aspects of governance, particularly natural resource – including land – governance, as part of a wider agenda for a national dialogue.

The specific objectives of the project were:


11 Kabarole Research and Resource Centre and Rwenzori Forum for Peace and Justice (2012), Stuck in the Mist; Contextual Analysis of Conflicts in the Rwenzori Region, Fort Portal: KRC and RFPJ.

12 Report of the Presidential Committee on Tooro Kingdom issues presented to the people of Tooro Kingdom and the President of the Republic of Uganda on 9 December 2015.
1. To examine, through comprehensive narratives, the extent to which and the context within which different groups of persons enjoy their right to ownership of land and other natural resources in Uganda.

2. To document current practices of large-scale land acquisition and loss for marginalised communities in Uganda.

3. To document and review current patterns and trends in protecting land and natural resources by state structures, especially the courts.

4. To assess the role of state and non-state agencies in land and other natural resources, especially the military, in Uganda.

5. To provide neutral regional forums countrywide for stakeholders to express themselves on key issues affecting land rights and natural resources.

The major question of this research was: In light of the many historical and legal interventions, why are there continuing and increasing injustices on land in Uganda?

1.4 A Note on the Methodology

In conducting this study, the researcher used both quantitative and qualitative methods. The quantitative methods captured numerical details on aspects of land, such as the number of victims of land losses. The qualitative part of this study captured the voices of respondents on various aspects of land, such as the extent of the effect of land justice on various communities. Respondents were drawn from seven principal groups, namely: religious leaders; political leaders; cultural leaders; victims of land injustice; representatives from land management structures at district level; land justice activists; and elders and opinion leaders.

In selecting respondents, the researchers used snowball sampling where the first respondent introduced the research team to other respondents. The district lands officer was the principal first contact respondent in this study. Being the chief focal person on land matters in the district, the lands officer provided right from the start of data collection, a comprehensive overview of land justice issues and how these issues relate to the general enterprise of governance in the district and region. This general overview enabled the research team to authentically identify and/or reaffirm land conflict hotspots to visit and victims of land injustice and other actors from whom to collect data.

In collecting data, the research team used an interview guide. Using this guide, the research team conducted focus group discussions (FGDs) with 30 and 20 victims of land injustice in Kitumba, Kabarole district and in Hamukungu village, Hamukungu parish in Kasese district, respectively. The research team conducted extensive individual interviews with over 40 respondents drawn from among religious leaders, district chairpersons and other political leaders, representatives from cultural institutions of the Tooro kingdom, the OBB and the OBR; individual victims of land injustice; representatives from land management structures
at district level; land justice activists; and elders and opinion leaders. Lastly, the research team reviewed data capturing what other authors have documented about the issues under study.
II. LAND TENURE AND USAGE IN THE WESTERN REGION

This section of the paper interrogated the land tenure system in the western part of Uganda as well as the purpose for which that land is being used. Overall, the findings of this study reaffirmed the findings of existing studies that reveal the dominance of customary land tenure in the region over other forms of tenure. Over 80% of the land in the region is customarily owned and unregistered, though Kasese district has outstandingly embarked on registering and issuing customary land titles. In the region, over 80% of the utilised land is used for commercial and subsistence food-crop growing. The Basongora pastoral communities in Kasese district extensively rear cattle as a principal source of income and economic survival. In each of the three districts under study exist individual landowners who rent out land to the landless. Furthermore, Kabarole and Kasese districts have sizeable public land resources. Notably, 65% of the land in Kasese district is comprised of public land and protected land resources. Some of these public lands are still either in the hands of the state or have been leased out to multi-million shilling companies such as tea companies in Kabarole district. The details of these findings are provided below.

In all the three districts under study, the size of land under each of the four tenure systems is not precisely known. Absence of this precise information presents a challenge in the management of the land resource, on which over 80 % of the people depend for survival. Specifically, the absence of information complicates proper planning and other efforts in the initiation and/or strengthening of mechanisms in the land usage that would otherwise spur social, economic and political progress.

The respondents in this study estimate that customary land tenure constitutes the largest percentage of the four land tenure systems, standing at about 90 % in each of the three districts. Second to the customary tenure system is land under the freehold arrangement. In all the target districts, cases of customary and freehold land tenure were reported to be intertwined. Some individual family members residing on customary land had portions of this land partitioned into smaller blocks or pieces. These pieces are then owned exclusively by individual family members and this ownership is confirmed by wills and letters from elders or parents distributing land among siblings or relatives. In most cases, wills and letters specify the boundaries for different family members and relatives although these members may not possess exclusive rights to sell these lands to members outside of the family or clan. Overall, by estimation, land under the freehold tenure system (whether linked to customary land tenure and not) is respectively estimated to be at 80 % in Kabarole, 75 % in Kasese and 90 % in Bundibugyo.

In all the three districts, the mailo land that exists is under the ownership of the Tooro kingdom. Of the three districts under study, Kabarole had the most notable cases of
individual, institutional and public land under leasehold tenure. For example, the Anglican Church that owns large chunks of land has leased out some of its land in Kiculeta, Karamaga, Mukibimba and Kitumba and several plots on Balya Street in Fort Portal municipality. The Tooro kingdom has leased its land to different people in and around Fort Portal town in the areas of Malibo Road, Futi Butangwa and Harukooto. The central government has leased several portions to different individuals and multi-billion shilling tea companies involved in extensive commercial farming and commerce. The central government has leased its land in and around Fort Portal town, especially in the Booma settlement area, to different individuals. Tamteco, McLeod and Mukwano tea companies use expansive land under a lease arrangement from the central government for tea farming in the areas of Kiko town council as well as Busoro and Hakibaale sub-counties. In 2015, the local government of Kabarole district leased out 20 crater lakes to Fersult Engineering Services Ltd for 30 years.

While the districts under study lack information on the precise size of land under different land tenure systems, there is considerable agreement that over 80 % of the people in the target districts utilise their land to grow food crops for home consumption and, to a considerable extent, for sale. In Kabarole district, land is largely regarded by respondents to be fertile and able to support food-crop growing, especially *matooke*, beans, Irish potatoes, vegetables etc. In Kasese, land on the slopes of Mt Rwenzori supports *matooke*, Irish potatoes, tomatoes etc., while in Bundibugyo, farmers grow potatoes, beans and legumes.

Besides food-crop growing, the target districts have a sizeable cash crop economy. In Kabarole there is large-scale commercial tea farming and a sizeable number of tea out-growers. Arabica coffee is grown on the slopes of Mt Rwenzori in all three districts. Bundibugyo remains one of the largest organic cocoa producing districts in Uganda and also supports vanilla growing on a large scale. Kasese is still known for cotton production in the lowlands. All three districts support an emerging fruit growing enterprise on both small and medium scales. Commonly grown fruits include mangoes, oranges, passion fruit, pineapples and onions, especially in Kasese and Kabarole. Apples are grown on the slopes of Mt Rwenzori in Bundibugyo.

Commercial cash and food-crop farming has consequently increased the need for expansive lands. In each of the three districts, there is an emerging phenomenon of short-term renting out of land to small-, medium- and large-scale farmers. In Kasese district, for example, there are several large individual landowners, some owning as much as 300 acres in the lowlands. These landowners rent out their land to landless individuals and families, on average, at a rate of UGX 70,000 per year. One landowner in Kasese district who was interviewed during this study revealed that at times he rents out land to middlemen who, in turn, rent out the same land to cotton and maize growers and other farmers. The middlemen’s linkage with farmers guarantees their cotton and food-crop supply base. In Harugongo sub-county, Kabarole district, farmers rent out land on average at the rate of UGX 200,000 per acre per planting season.

The respondents in this study observed that the cash crop economy is reducing the amount of land available for food-crop growing and thus contributing to food scarcity. Notably, Bundibugyo district presents an extreme case of food insecurity. According to
one respondent, on average, every household in the district has an acre of cocoa. Another respondent noted:

People grow cocoa because of the ready market they have for their produce. Having a cocoa garden actually means having money in the pocket. Some farmers if they wish can even receive money from dealers in cocoa business before the harvest season.

Another respondent observed that ‘[s]ome households have cocoa trees covering all the land they possess. In some cases, cocoa trees extend up to the doorstep of the house.’

Thus, many households in Bundibugyo district utilise their land exclusively for cocoa production and rely on buying food using money from cocoa sales. The district chairperson estimates, on average, an annual financial accumulation of UGX 100 billion from cocoa sales. Amidst this financial boom, people in Bundibugyo rely on buying food and do not plant their own. They depend on Fort Portal, Kamango and Njiapanda markets in the Democratic Republic of Congo (DRC) for food supplies. One respondent during this study asserted that ‘[s]ome people move from their villages to buy food in Bundibugyo town against the common practice of urban-based people buying food from villages.’

Another respondent noted that “[h]aving cocoa in the store is more important than having matooke in the garden. Matooke sellers look for us. With my cocoa, I have the food I need.”

While the capacity to access food is a form of food security, over-reliance on money from cocoa as a means of accessing food is unreliable for two reasons. First, cocoa products are subject to price fluctuations, greatly affecting the income that farmers are able to get and, by extension, rendering farmers’ food security unpredictable. At the time of conducting this study, for example, the Bundibugyo district chairman noted a sharp decrease in cocoa prices in the previous three months from UGX 8,000 to UGX 4,000 per kilogram owing to a reduction in both the quality and quantity of cocoa produced. He attributed this reduction to poor agronomic practices and to the growing tendency of felling trees. Cocoa grows best in tree shade and, thus, wanton tree-felling overexposes the cocoa trees to sunshine, stifling both growth and productivity.

In addition to the food and cash crop economy, cattle keeping also takes place, mainly in Kasese and Kabarole. In Kasese, in particular, the economic activities of cattle keeping and food-crop growing largely assume both geographical and ethnic specialisations in the sense that one ethnic group, who also occupy a particular location, are predominantly known for a particular economic activity. That is, the lowland areas of Mt Rwenzori are occupied by Basongora pastoralists who keep large herds of cattle while most Bakonzo and other ethnic groups mainly engage in food-crop growing on the slopes of Mt Rwenzori. The Basongora still carry out some communal cattle keeping practices, especially with regard to land usage, much as cattle ownership is not necessarily communal. Communal lands are owned by families and clans. Occupying an expansive lowland that is often characterised by dry spells as well as the scarcity of water and pasture, the Basongora keep moving their cattle from one

13 Interview with the district chairperson on 21 February 2017.
place to another within their communally-owned lands. In Kabarole, both cattle keeping and food-crop growing exist side by side and do not appear to be parallel economic activities either in terms of ethnic preference of an economic activity or geographical specialization. Communal land for grazing is non-existent and people have cattle farms close to their homesteads with sufficient pasture and adequate water for their animals, supported by abundant rainfall in the district throughout the year. A few farmers have embraced zero-grazing activities that require far less land in the sub-counties of Bunyangabu and Burahya, and in the suburbs of Fort Portal municipality.

Each of the three districts supports a wide range of private and public mining and fishing activities. In Kabarole, pozzolana (ebikekya) mining has been taking place for over 20 years in Harugongo sub-county. Mined pozzolana is a raw material that feeds the Hima cement factory in Kasese district. Mining takes place on private land using hand hoes. Starting in 2015, improved machinery has been introduced by the richer commercial miners who either buy off expansive land or lease land from locals at low prices. In Kasese, mining activities take place in Kilembe alongside the small- and medium-scale mining of salt in Lake Katwe. Regulated commercial and small-scale fishing activities take place in Lakes Edward and George in Kasese district. The communities around these lakes largely depend on fish and buy other foodstuffs from the Bakonzo communities. In Kabarole, several farmers have established private fish ponds in Bunyangabu county.

The emerging and growing tourism sector in the Rwenzori region and investors in this sector have greatly altered both the land value and the land usage in the region. In the government's development plan named 'Vision 2040,' Uganda seeks to turn Fort Portal town in Kabarole district into a national tourism city, partly owing to its location at the centre of tourist attractions in the Rwenzori region, physical beauty and attractive weather and climate. One elder during this study described Fort Portal and Kabarole district as 'a place that is divinely dotted with beautiful physical features, plenty of food, fertile soils, and welcoming people who embody exceeding hospitality, elegance and royalty.'

The three districts house multiple tourist attractions, including: Mt Rwenzori and Mt Rwenzori National Park (shared by the three districts); the Equator; Queen Elizabeth National Park and Lakes Edward and George in Kasese district; Tooro Semliki Game Reserve, the Sempaya hot spring and River Semliki in Bundibugyo district; over 50 crater lakes, Amabere ga Nyina Mwiru Caves and Kibaale Forest Reserve in Kabarole district. The growing tourism sector partly explains the sporadic emergence of the hotel industry in each of the three districts where local, national and international business entrepreneurs are rushing to acquire land for farming, establishing homes as well as hotels in order to tap into the booming leisure and entertainment industry. Consequently, the region is experiencing an increase in the value of land in both urban centres and in places surrounding tourist attractions. Rural and urban areas that were largely not inhabited and unattractive, like those near the crater lakes in Kabarole district, have witnessed a rise in value and attracted local, national and international attention. Hotels like Ndali and Kyaninga lodges have been established as far as 20 km outside Fort Portal town in the crater-lake areas.
The speed at which Kasese, Kabarole and Bundibugyo districts are getting urbanised is unprecedented. Several push and pull factors are contributing to this wave of urbanisation and rural-to-urban migration. These include better social services, formal education, landlessness as well as real and/or perceived unproductivity of land in the rural areas. In Kasese and Bundibugyo, urbanisation is among other factors, which is linked to their location at the border with the DRC, better road networks linking these districts to other parts of Uganda, as well as industrialisation and commerce. The urban centres in these districts are experiencing a rise in land value, an increase in food prices and attendant housing shortages. Several businesspeople are rushing to acquire land and establish housing estates for the growing urban population. At the time of conducting this study, a prime plot of land (measuring 50 by 100 feet) was said to cost between UGX 40-50 million and over UGX 100 million in Bundibugyo and Fort Portal town, respectively. Given these high prices, landownership and control in urban settings are fast falling into the hands of the rich and those privileged by history or politics to the disadvantage of the poor and other marginalised groups. As one respondent noted during this study, the urban poor who are currently selling off their land for attractive cash will definitely regret their actions. They will find it absolutely difficult to purchase land, whether in town or in urbanised areas. For now, many urban poor are feeling the pinch. They can hardly access better housing facilities.

Of equal note is the fact that urbanisation implies a shift from the land-based peasant economy to a commercial one that thrives on the search for employment to earn income and meet basic and non-basic needs. One elder interviewed during this study observed:

> Land-based peasant economy is insurance to peace in this government. Peasants in rural areas survive without money. As the country gets more urbanised, more urban youth realise how the NRM peace-gift cannot put food on their plate and, as a result, get lured into schemes of violence for quick gain.

Another elder observed that the urban youth in Kasese and other districts of the Rwenzori region have limited opportunities and will continue being active participants in incidents of violence and conflict and in opposing government and other actors who do not meet their present and future needs. Unfortunately, non-government actors will also take advantage of this vulnerable youth population and use them to achieve their political, social, economic and other aspirations.

The target districts, especially Kasese and Kabarole, are hubs of industrial activities. These industries occupy large pieces of land, and act as areas of population concentration and as a trigger for intractable land conflicts. In Kasese district alone, there are the Hima cement factory, Kilembe mines, Katwe salt mining and Mubuku Irrigation Scheme, among others. Since 2011, Kasese district has experienced an explosion of private power generation projects, notably Tronda Power in Bugoye sub-county (2011), EMS in Kilembe, plans by a power generation company in Nyamugasani (2016) to establish two power stations in Kyondo-Kyarumba sub-county and another company working to put up a power station in Hima. These companies offer good and quick money to residents in return for large
chunks of land. In return, the residents in some cases use the money to buy smaller pieces of land than the land they sold partly owing to the unavailability of land to buy or because of the desire to save some money for other individual and family needs. In Kabarole district, agricultural industrialisation is more evident with the existence of Tamteco, McLeod and Mukwano tea farms and factories. The tea industry is currently and historically associated with the migration of people from as far away as Kigezi and other parts of Uganda to work in the booming tea industry.

Closely linked to land usage in the three districts under study is the land terrain and the geographical location of these districts that create unique land needs and challenges. According to the Kasese district lands officer, 65% of the land in the district is comprised of public land and protected land resources. These include: Mt Rwenzori, Queen Elizabeth and Kibaale National Parks; Lakes Edward and George; Mubuku Irrigation Scheme; and Uganda People’s Defence Forces (UPDF) and Uganda Prisons Service (UPS) land. Bundibugyo district is also surrounded by, among others, Mt Rwenzori National Park, Semliki Game Reserve and River Semliki. Though Kabarole district does not house public land that is as big as Kasese does, the district has a sizeable share of Mt Rwenzori inhabited by the Bakonzo in the sub-counties of Katebwa, Karangura and others. The district also has large chunks of public land, including Mt Rwenzori National Park, Kibaale and Itwaara protected areas under the National Forestry Authority (NFA), as well as Mpokya and Kisanga protected lands in Rwimi sub-county and other protected lands in Kasenda sub-county under the Uganda Wildlife Authority (UWA); and about 58 crater lakes located along the Kasenda-Rwimi stretch and around the areas of Saakain in Harugongo sub-county.

The importance of public land and protected land resources notwithstanding, these resources have serious implications for landownership, usage and governance. More specifically, the mountainous terrain and the presence of large public lands, especially for Kasese district, limit the land available for people to purchase and/or utilise to satisfy their social and economic needs in the face of an increase growing population. According to the 2014 national census results, Kasese, Kabarole and Bundibugyo districts had high populations of 702,029, 474,216, 224,145 people respectively. These high populations amidst an inelastic land resource point to present and future pressures. Demonstrably, some people have inhabited and utilised places that would ordinarily be no-go zones owing to the environmental and other risks involved. These include the slopes and tops of different ridges of Mt Rwenzori, river banks and places in close proximity to national parks and lake resources. The effects of being in these otherwise non-habitable lands on the environment and, by extension, on human life have been disastrous. Kasese district, for example, has been annually associated – normally in the month of May – with landslides and over-flooding, often leading to the loss of lives, soil erosion and unprecedented loss of property. During an FGD with residents of Hamukungu A village, Hamukungu parish, Katwe sub-county, the residents noted the hostility of Queen Elizabeth National Park to their way of life. In particular, the residents noted that, especially at

---

night, animals from the park roam their villages and kill and eat their cattle. Park authorities remain unable and/or unwilling to effectively compensate these losses. In this regard, one of the residents in this community observed:

When a stray animal from the park kills and or eats one’s cow, the cattle keeper has to show the remains of his cow before park authorities can carry out the compensation. In cases where the cow is wholly eaten up, the cattle keeper forfeits compensation.

Another resident observed:

The government loves its animals more than it loves its people. Animals from the park roam in our land looking for pasture, cows or goats to devour. Amidst this neglect, the government cannot let us graze our cows in some parts of the park during dry seasons when pastures dry up. No wonder, some of us continue to treat the park as an enemy, and not a good neighbour.
III.
CAUSES, ACTORS AND IMPACTS OF LAND CONFLICTS IN THE REGION

3.1 Causes of Land Conflicts

There is no single factor that explains the causes of land conflicts in the Rwenzori region. The following causes identified in the course of this study appeared to be interlinked.

In the first instance, there is the history of land distribution, which dates back to the early years of colonialism, which saw the government of the day declare the higher percentage of land in the region to be public land. By dint of this declaration, whole communities were forced to vacate and thereby lose their interests in these lands. During an FGD at Hamukungu in Kasese district, the ethnic-minority Basongora narrated how the British colonial regime, represented by Governor Andrew Cohen, in the early 1950s gazetted their communal grazing land as Queen Elizabeth National Park and forcefully took away their natural ownership rights over this land. In another act of subjugation, the British re-drew the land boundaries, transferring some of the Basongora's land to the Ankole and Tooro kingdoms and to the DRC. In a spectacular manner, the British gave the Hamukungu land to the king of Tooro, who then became the legal owner of Basongora land. During the FGD one elder asserted:

By the issuance of a colonial land title, the king of Tooro became the legal and not a legitimate owner of the Basongora land. Deep in our hearts, we know as the central government knows, too, this land is ours now and will ever be. Even the so-called Queen Elizabeth National Park is actually our land and nobody else's.

Several Basongora noted traces of homesteads and cattle kraals in present-day Queen Elizabeth National Park, particularly in the areas of Kasubi, Rubona, Rwamato, Mabale, Nyarugongo and Omukatuti Kabwera, and at Irangara Island. Some elders claimed that they were born at Irangara Island and lived there before it was made part of the park. They claim that traces of human settlements in these areas are proven by the presence of broken pieces of pots and tools from ancient times.

Colonial land legacies are not restricted to Queen Elizabeth National Park. The policies of the time involved grabbing and distributing land to colonial henchmen to further the colonial agenda in the region. In Kasese, for example, 65% of the land is now regarded as public land and some of these land pieces had local owners before they became public lands both during and after colonial rule. The colonial leaders gave the Tooro kingdom control over land in present-day Kabarole, Kasese and Bundibugyo districts and in other parts of the region. As the controller and owner of such land, the Tooro kingdom distributed large chunks to several institutions, such as the Anglican and Catholic churches. It is not only the
faith-based institutions that benefited, according to one elder interviewed during this study. He observed:

Batooro chiefs under Tooro kingdom, especially from [the] Basiita, Bagumba, Babiito, Bacwamba, Bagahi and Baboopi clans, got land from the king. By acquiring this free and otherwise communal land, Batooro chiefs assumed a superior economic status in an imported colonial economic state.

To date, the Tooro kingdom and the Anglican and Catholic churches as well as individual former chiefs remain some of the largest landlords in the region. The process of becoming local landlords with the help of external colonial rulers involved the titling of the land in the name of the beneficiary. In this process, the colonial government would not compensate the indigenous settlers on these lands. Instead, by the stroke of a pen, ownership of the land changed hands, to the benefit of colonial allies.

These unjust colonial land policies raise two points of moral and/or legal contention today. First of all, some communities still demand compensation for the unprecedented loss of their land, wealth and dignity due to these colonial land policies. Whether this demand fits within the current legal regime or not, many communities still feel that they were exploited by the colonial establishment and resent the current legal but illegitimate landownership. Secondly, colonial policies created a class of landlords who now own large chunks of land juxtaposed to a class of squatters. The landlord-squatter relationship remains tense, especially in areas where the Tooro kingdom and individual officials own land. In Kasese district, the Tooro kingdom’s legal possession of land resources in the district continues to rekindle feelings of past subjugation and tension.

Following on from the historical circumstances recounted above is the inequitable land distribution and ownership. In all the three districts, there are worrying trends of such inequitable land distribution and ownership. These trends are linked to the history of land distribution and ownership in the region and to the current political and land governance systems that favour rich and well-positioned individuals and institutions. In Kasese district, 65% of the land is public land, leaving only 35% in the hands of ordinary people and other non-governmental actors.

Contemporary landownership and control continues to raise numerous problems. As is the case with the other parts of the country, land in the west can be acquired through purchase, lease, inheritance or other legal means. Articles 237(1) and (2) of the 1995 Constitution guarantee every person a right to own property. Furthermore, in the free market economy, willing sellers and buyers can legally enter into a land transaction. However, in the contemporary land acquisition process, market forces have not necessarily guaranteed fair distribution and ownership. Given the growing local population, coupled with emerging demand for land by people and investors from outside the region, land has continued to appreciate in value. Low-income individuals can hardly afford to buy land, especially in and around urban areas. In some cases, these low-income persons become landless after falling prey to the temptation of selling off their land to rich companies and individuals.
Currently, the region under study has persons and groups of people who are landless and/or have small pieces of land that cannot meet their livelihood needs. Consequently, the limited land resources have triggered a host of conflicts hinged on attempts to alter local boundaries, especially in villages, fighting over family land and grabbing widows’ and orphans’ land, and other related conflicts. Furthermore, the limited land available considerably threatens local livelihoods and creates a favourable environment for conflicts and violence to erupt. In Kasese, for example, families living around Mt Rwenzori have to hire land from individual large-scale landowners in the lowlands for cultivation. One large landowner interviewed during this study noted that ‘[the] lives of some people and families literally are in our hands. If a landlord decided not to hire out my land, you would see some families starve to death.’

Similar incidents of land hiring for cultivation were reported in Rwimi sub-county in Kabarole. According to another respondent, some landless people – especially the youth – have a common option of leaving rural areas and settling in urban centres. While in the towns, these young people normally are beset by economic vulnerabilities, and easily become potential recruits into acts of violence and conflict.

Despite the historical inheritance and more contemporary modes by which land has been parcelled out, there is perceived to be unfair government land distribution. In Kasese district, in particular, several land conflicts relate to the perception that the unfair distribution of land by the government to Basongora cattle keepers and Bakonzo cultivators has led to tensions and even conflicts. In 2006 the central government decided to give away part of its land to landless cultivators and cattle keepers. The land was located in the lowlands of Bigando and originally belonged to the UPDF, the UPS, government refugee settlements and the Mubuku Irrigation Scheme. In distributing the land, the government adopted the 3:1 ratio in favour of Basongora and Bakonzo, respectively. A similar ratio was adopted in distributing the Kabukero government land, located near Bigando.

The residents of Bigando protested three aspects of this land distribution, namely: the distribution ratio of 3:1; conflict insensitivity in the process of distribution; and allegations of land distribution to powerful persons in government. The Basongora justify the 3:1 land distribution ratio in their favour on the basis that they need expansive land on which to graze their cows. One Musongora respondent noted:

I have more than 20 head of cattle and so do many other friends of mine. To keep all these animals, one needs more than four acres. In dry seasons, even four acres may not provide enough pasture. In the 3:1 distribution ratio, the government tried to do justice by taking into account our uniqueness in land needs.

While cattle keepers view the 3:1 distribution ratio as fair, the cultivators, on the other hand, view the ratio as unfavourable and argue that they, too, need expansive land to undertake large-scale farming to meet their food and financial needs. One Mukonzo leader interviewed during this study asserted:
The argument that Basongora pastoralists need large pieces of land to graze their cows as a possible justification for the 3:1 land distribution ratio implies that Bakonzo will never undertake large-scale farming. This argument is inherently flawed and is responsible for current land conflicts in Bigando.

Some respondents noted that even the mode of distribution of the land was conflict-insensitive. This is because the distribution did not separate cattle keepers and cultivators. As a result, the Basongora’s cows often destroy the crops of the Bakonzo, leading to individual, family and communal conflicts. Lastly, some respondents alleged that some highly-placed individuals in government used the pretext of land distribution to cattle keepers and cultivators to amass large chunks of land. They also alleged that the actual land that individual powerful persons in government allocated themselves could be much larger than what was actually distributed among the cultivators and cattle keepers. Some respondents branded this form of unfair and secret self-allocation of land among powerful actors in government and politics as a covert form of land grabbing.

Some local leaders in Kasese district attributed the July 2014 violence in Kasese district to the Bigando land question and other land issues in the district. The leaders observed that any conflict in Kasese tends to be quickly branded as ‘ethnic’ in a bid to cover up the more fundamental political, economic and other issues that give rise to these conflicts, especially land. One leader noted:

Land contestations in Bigando were the main triggers of the July 2014 violence that claimed over 50 lives. Some of the acts of violence, though outwardly appearing as ethnic, actually had to do with economic factors more than with ethnic interests.

Other respondents observed that the land distribution in the district continues to rekindle ethnic tensions and outwardly portray ethnicity to be a problem as prominent people allocate themselves large pieces of public land.

Also central is the phenomenon of poor land governance. Land governance entails a broad range of actions and inactions by government in matters pertaining to regulating aspects of landownership, distribution and usage. Poor land governance is the source of several land conflicts in the region. The most problematic is the secrecy surrounding land management. During the study, the respondents noted the challenge of what they described as ‘calculated secrecy’ in the management of land by individuals and government agencies. Secrecy, in particular, was more evident in the following cases:

In Kabarole district, where the central government was said to have bought off land belonging to the Tooro kingdom and/or the Tooro queen mother under the land fund scheme. While one respondent alleged the existence of a list of lands purchased by the central government through the fund, indicating the size and location of the land bought and the amount of money paid, there are several glaring information gaps. For example, the Tooro kingdom
and/or the queen mother are said to have been bought off by the government in order to
give way to squatters in Kibiito sub-county, as well as Kitumba and Harukooto in Kabarole
district. The said transactions remain unknown to the public and, more importantly, to the
squatters in question. No matter the explanation, concealment or the lack of information
relating to transactions done under the land fund arrangement complicates the transfer of
landownership to squatters. Scanty information on these transactions creates the possibility
for landlords to continue holding claims over lands they have already sold. For example, the
queen mother was accused by some respondents in this study of continuously harassing
squatters and threatening to evict them from the land she had already sold to the central
government.

In Kasese district, some respondents alleged that several government officials within
the security agencies and political leadership as well as well-to-do persons who are not
necessarily landless took advantage of the land distribution programme in order to allocate
themselves large pieces of public land. One respondent observed that, in Bigando, land was
not given to pastoralists or cultivators. Largely, it was an avenue for land-sharing among the
rich, both within and outside Kasese district.

The respondents also noted that the continued concealment of the beneficiaries of public
land in the district was responsible for land conflicts, mutual suspicion and failed efforts to
distribute land to those who are actually landless.

The above problem is compounded by the lack of information on the boundaries of some
public lands. This is a major cause of land conflicts, especially those which involve protected
lands and the communities neighbouring them. One leader observed that some community
members resist and/or refuse to cooperate in the opening of such boundaries in order to
create an environment for them to encroach on protected land resources. Another leader
in Kabarole district disputed the boundaries between the UWA lands and communities
in Nyabweya parish in Kasenda sub-county. Such disputes can be partly attributable to
difficulties in opening UWA land boundaries. Still in Kabarole district, the lease of 20 crater
lakes in 2015 by the district local government to Ferdsult Engineering Services Ltd was said
to have been done without consulting the communities that have for long used these lakes
for spiritual, economic and social purposes. On learning about the lease, members of some
of the communities marched to the district headquarters in 2016 to protest and handed
over a petition to the Parliamentary Public Accounts Committee that was in the district at
the time. Twerwaneho Listeners’ Club – a local civil society organization (CSO) – is already in
court to challenge the lease of these lakes.

Among the many other problems which affect land governance in the region is the militarisation
of the management of land. Land governance has tended to attract the involvement of the
military in a number of different respects. Squatters in Harukooto and Kitumba in Kabarole
district complained of the Tooro kingdom and/or the queen mother using the police and
the military to threaten them. Of course, the roots of such action lie in the overall political
interference in the processes of land management. Several respondents observed that there
was high-level political interference in the management of land resources. This interference
was reflected, among others, in political leaders anchoring their political campaigns on land resources and directly or indirectly encouraging acts of lawlessness, mobilising people to resist lawful evictions, encouraging the encroachment on protected and public lands and, in some cases, inciting one ethnic group against another. Politicians were cited as part of the high-level group using their powers to allocate themselves public land and/or sometimes extract money from investors interested in leasing and/or using public land.

At the end of the day, the above factors combine to cause serious inefficiencies and serious impunity in the management of land. A number of respondents described the challenges related to the inefficiencies of existing land management structures. The lands officer of Kabarole district noted the emergence of a serious lack of professionalism within the field of land surveying. This emergence is mainly fuelled through unlicensed surveyors who either operate on their own or on behalf of licensed surveying companies. Every two weeks, the land office receives a case, complaint or issue related to wrong survey prints. As for impunity, there are cases of deliberate disregard of lawful court orders and land settlements by powerful individuals. Notable cases of impunity include the disregard of an order made by the High Court in Fort Portal on Rwehingo land in Kasese district. The order instructed that the land should be demarcated and distributed to cattle keepers and cultivators and also that the cattle keepers should vacate the cultivators’ land. According to the district leadership, the order has since been ignored and its implementation frustrated by high-level government actors.

The above problems are compounded by the existence of unregistered lands, given that less than 10% of the land in the region is surveyed and registered. Such non-registration is partly due to real and/or perceived financial costs associated with the registration process. One leader interviewed during this study observed:

In some communities, land registration is still viewed as an elite affair. As a result, even those who would afford to register their land opt not to and instead choose to stick to using *buramura* (planted marks) to separate one piece of land from another.

Though *buramura* have for long provided boundary marks in most communities, they are easily shifted, thus making it easy to erase one’s claims to the land. The respondents in both Kabarole and Kasese attributed most micro land conflicts, especially in rural areas, to boundary manipulation. On hilly terrains, local demarcations often get washed away by running water and floods, causing land conflicts at the time of re-opening boundaries.

The other cause of conflicts in the region is the phenomenon of ethnisation of the land resource. Broadly, *ethnicisation* of the land resource means the attachment of ethnic values and rights to aspects of historical and contemporary land acquisition, ownership, access and control. Through this attachment, land ceases to be a mere economic or productive asset and becomes a spiritual and cultural asset that defines identity and survival. Furthermore, by ethnisation of land, land ceases to be an individually owned asset, for example under a freehold arrangement. Propagators of this ethnisation start viewing land as a collective ethnic asset, much as this ethnic value of land remains shrouded in the intangible and
legally unsubstantiated spiritual dimensions of society. In many ways, land and identity are inseparable. The respondents revealed how land defines their history as well as their present and future identities and survival. Some respondents in this study tended to give land an ethnic value which, in a way, serves ethnic interests. This study identified the following notable aspects of ethnicisation of the land resource which have tended to trigger land conflicts in the Rwenzori region:

a) Sale of land only to members of one’s ethnic group

The Rwenzori region is an ethnically pluralistic region. Although that diversity has largely led to co-existence between the different ethnicities, tensions and conflicts have not been uncommon. For example, the 2014 and 2016 conflicts in the region had ethnic undertones much as their main drivers were not necessarily ethnic in nature. Ethnic differences and tensions have often manifested themselves in several social, political and economic spheres of life in the region. As a social, political and economic resource, land has been and remains one of the factors around which ethnic biases and tensions coalesce. Several respondents in Bundibugyo observed that there were creeping tendencies for the dominant Bamba/Babwisi and Bakonzo ethnic groups to exercise ethnic sub-nationalism in land matters by, among others, not entering into any land transactions across ethnic groups with their perceived rivals. One respondent noted that ‘[s]elling land to a member of the perceived rival ethnic group is largely seen as an act of betrayal by his ethnic kinsmen.’

In other cases, some Bamba respondents alleged that Bakonzo were pooling money as an ethnic group to buy the land of poorer Bamba/Babwisi. One Mwamba respondent alleged that when a Mukonzo buys off a Mwamba/Mubwisi’s land, he is rewarded by his ethnic kinsmen with beer and verbal praises. In Kasese, some Bakonzo respondents noted that some Basongora cannot sell land to Bakonzo on the basis of their ethnicity. One respondent noted that ‘[i]f I’m to buy land from a Musongora, I have to first hide my Mukonzo identity or go through another party who is friendly to the Musongora.’

Another respondent observed that some people, upon realising that they sold land to a person of a perceived rival ethnic group, have tried to reverse the transaction, normally owing to pressure from their ethnic kinsfolk. Failure to effect this reversal often times triggers explicit or implicit land conflicts and violence.

b) Migrants camouflaging as members of indigenous ethnic groups

The Rwenzori region is experiencing high levels of migration and many of these migrants have contributed to land conflicts in various ways. First of all, some of the migrants camouflaged themselves as members of indigenous ethnic groups, especially the Basongora of Kasese. One respondent noted:

There is a difference between Basongora of Kasese district whom everyone knows as indigenous persons in the district and the new breed of ‘Basongora’ who come from other parts of the country to occupy and/or acquire public land. Indigenous Basongora and Bakonzo have lived together peacefully for a long time. It is the desire by the new breed of
Basongora to acquire and use land at any cost that has aggravated inter-ethnic tensions in the district.

According to several accounts, newcomers have both the political protection and the economic capacity to buy land. Furthermore, some respondents claimed that the newcomers have more leverage than the members of the indigenous ethnic groups on matters pertaining to the occupancy and use of public lands in the district. This leverage comes from the stronger economic and political protection provided by powerful actors in the local and central governments.

c) Cultural institutions and the land question

The Rwenzori region has three recognised cultural institutions, i.e. the Tooro kingdom, the Obudhingiya bwa Bwamba (OBB) and the Obusinga bwa Rwenzururu (OBR), respectively headquartered in Kabarole, Bundibugyo and Kasese districts. According to Article 246 of the 1995 Uganda Constitution, these institutions do not hold executive, legislative and administrative powers. Thus, they are not territorial and cannot legally claim geographical boundaries. In the case of the Rwenzori region, cultural institutions still have an attachment to the land and have carved out their own arbitrary geo-cultural spaces to the exclusion of other ethnic groups. In these assumed exclusive spaces, some adherents of cultural institutions expect people outside of their cultural institutions to show some ‘minimum respect to their land’. For example, one respondent from the OBB gave a litany of Lwamba/Lubwisi names of different places in the current Bundibugyo district to justify his assertion that all land in Bundibugyo district, including Bughendera county, which is now dominantly occupied by Bakonzo, belongs to the Bwamba ethnic group. To this official, places were in the past named after clans and the current name of any place in Bundibugyo district explains the original owners of the said land, for example Bundibugyo for the Bandibugyo clan; Bundikyora for the Bandikyora clan; Busara for the Busaru clan etc. To this OBB official almost every sub-county in Bundibugyo district has a name that is linguistically linked to the Lwamba/Lubwisi languages. This linkage implies that the acquisition of land in Bwamba land by people from outside the Bamba/Babwisi ethnic group does not culturally take away the dominant notion that all land belongs to the Bwamba.

Similar historical claims to landownership on the basis of place names were established in the current Busongora county of present-day Kasese district. Some Basongora respondents at Hamukungu A village in Hamukungu parish in Lake Katwe sub-county referred to the history of Kasese district which, before its creation, was known as Busongora county under the Tooro kingdom. Some Basongora claim that many places in present-day Kasese district have Basongora names and use this as confirmation of their historical claims over land in the district.

Though historical claims over land may not fit into the current legal dispensation on land, these claims have frequently been at the centre of land conflicts in the region. For example, the Omusinga, who is now the cultural leader of the OBR (headquartered in Kasese district),

15 Interview with one of the leaders of the OBB.
has had difficulties visiting his Kirindi ancestral land, located in Bundibugyo district. The OBB has frequently insisted that the OBR leader should visit his Kirindi land and Bwamba land in general, not as a cultural leader but as a citizen since Bwamba has its own cultural leader. Furthermore, the OBB has always asserted that the OBR cultural leader should always first notify the OBB cultural leader before visiting Bwamba land. Some OBB adherents argue that Bakonzo in Bundibugyo district who subscribe to the OBR are free to do so but should only do so in Kasese district. Still in Bundibugyo district, the assertion has been made that, culturally, all land in Bwamba belongs to the Omudhingiya, the Bamba cultural leader. This assertion serves to reinforce ethnic tensions and discourage legitimate land transactions across ethnic groups.

In Kasese district, the cultural institution and the land question remain fundamental sources of land tensions. Since the government’s recognition of the OBR in 2009, other ethnic groups –most notably the Basongora and the Banyabindi – have also moved to crown their cultural leaders and clamour for government recognition. Some adherents of the OBR oppose the emergence of any other cultural institution within the OBR geo-cultural territory, often leading to ethnic tensions. Linked to cultural institutions, the OBR has often called for the government to buy off the Tooro kingdom’s land in Kasese district owing to the perception that the Tooro kingdom cannot possess land on another cultural institution’s territory.

Added to the above is the ‘districtisation’ drive. For example, on 13 October 2016, the Daily Monitor newspaper reported that the president had agreed to the proposal to split Kasese district into four districts of Bwera, Hima, Kasese and Katwe. The proposal was reportedly presented to the president by the Kasese district National Resistance Movement (NRM) caucus, the NRM executive committee and selected opinion leaders. The proposal to split the district was reportedly meant to address the issue of ethnic minorities, improve on service delivery and security and also improve on the supervision and monitoring of the Operation Wealth Creation (OWC) project. The proposal fuelled tensions that partly hinge on the desire to retain control over land. During the 50th coronation anniversary of the Omusinga on 19 October 2016, the district chairperson of Kasese, the Omusinga and the Woman MP for Kasese district all reiterated their reservations about the proposed split.

Even among those in favour of the division, there are contestations about the proposed district boundaries. Some want the division to be done vertically (wherein each of the districts would have a share of the mountain and the lowland areas) while others want it divided horizontally (separating the mountain from the lowland areas). Mainly, the minority ethnic groups want the division to be done horizontally so that these groups can have control over their lands and overcome what they call ethno-political subjugation by the dominant Bakonzo. Those who propagate overcoming subjugation as a justification for the creation of districts see the proposed vertical division of the district as an attempt to exacerbate the marginalisation of the minority ethnic groups in the lowland areas below Mt Rwenzori. In this exacerbation, the minority ethnic groups in the lowland would be placed under different vertically divided districts and this would take away even the current common voice they have in the current geo-ethno-political set-up of Kasese district while entrenching the
dominance of the Bakonzo ethnic group in each of the proposed districts.

Those who favour a vertical division of the district postulate that the horizontal division will financially cripple the district(s) that will take a bigger part of Mt Rwenzori while advantaging, in an unprecedented manner, the district(s) that will occupy the lowlands. Such a vertical division would keep resources in the lowland areas, including Lakes Edward and George, Queen Elizabeth National Park and most of the fertile lands.

In Bundibugyo district, the proposal to split the district has in equal measure attracted tensions around boundaries and control over land. In the run-up to the 2016 elections, while campaigning in Bundibugyo district, President Museveni promised to grant Bughendera county – which is dominated by the Bakonzo ethnic group – district status. The demand for Bughendera district emerged against the background of protracted discomfort by the Bakonzo ethnic group in Bundibugyo district over alleged marginalisation in areas of service delivery and access to other opportunities and rights in the Bamba/Babwisi-dominated Bundibugyo district.

Some of the demands made by the youth who participated in the simultaneous attacks of 5-6 July 2014 in Kasese, Bundibugyo and Ntoroko centred on the issue of district status for Bughendera county. The presidential promise continues to divide the people of both Bundibugyo and Kasese districts. To date, there is no consensus yet on whether the district should be divided. The district issue continues to cause flare-ups largely hinged on control over land and ethnic interests. Some respondents, especially those from the OBB, noted that the boundaries of the current Bughendera county include 11 parishes that are dominated by Bamba/Babwisi. To this respondent, these 11 parishes are a core part of Bwamba land and cannot be part of the Bakonzo district. One Mwamba elder argued that before a district is granted, Bughendera county boundaries must be re-drawn to retain the 11 parishes within Bundibugyo district.

3.2 Actors

There are several state and non-state actors involved in the land disputes in the Rwenzori region. These actors play different roles in contributing either to the occurrence or the resolution of these disputes. Some of the high-level actors include cultural institutions, local governments, land management structures such as UWA, NFA, the National Environment Management Agency (NEMA), the fisheries department and other authorities, area land committees, land tribunals, courts of law, CSOs, individual land and human rights activists and informal land governance structures. Others are large-scale individual landowners and institutions like the Catholic and Anglican churches as well as several government agencies and institutions; investors, banks and moneylenders. Among the actors are those who may be branded as low-level on the basis of the power and influence (or the lack thereof) they have over land resources. These include squatters; the landless; those who own smaller pieces of land; those who live in overpopulated areas; persons living in areas with competing or conflicting land use like pastoralists and cultivators; the youth; widows and orphans. Other low-level actors include persons living on communal lands; lands in close proximity to
protected areas; and lands that are prone to natural disasters.

In terms of benefit, high-level actors have the great potential to benefit from land resources and/or protect their land rights more than their low-level counterparts are able to. High-level actors have the money to buy land and also put to effective use the land they own or have access to. They have the capacity to register and safeguard their land from conflict, engage expensive formal justice mechanisms at several levels and influence the processes of land acquisition and usage to their advantage. On a positive note, some high-level actors have used their power and influence to tremendously contribute to the furtherance of land justice. Notable cases include CSOs and activists petitioning against land injustices, political leaders mediating land conflicts and courts dispensing justice even in cases that appear highly political. By and large, low-level actors are commonly affected owing to their vulnerability to land injustices, such as land losses and evictions. Low-level actors lack the economic capacity to purchase land and register their lands as one way of mitigating land conflicts. Low-level actors often suffer the adverse effects of natural disasters like floods, are more likely to sell their land for quick cash and are more likely to be arbitrarily evicted from land by ruthless landlords and other powerful actors.

3.3 Impacts of Land Disputes on Special Groups and Individuals

There are a number of common marginalised groups in the Rwenzori region with respect to land rights. These include squatters, especially on land owned by the Tooro kingdom, the Tooro queen mother and multinational companies. Others include landless cultivators and cattle keepers, especially in Kasese district; those who own smaller pieces of land; those who live in overpopulated areas; persons living in areas with competing or conflicting land use like pastoralists and cultivators; the youth, women, widows and orphans. Other marginalised groups include persons living on communal lands; lands in close proximity to protected areas; and lands that are prone to natural disasters, especially on the slopes of Mt Rwenzori.

Different marginalised groups are affected differently by the disputes over land. Squatters have often been the victims of extra-legal evictions from the land they have lived on for decades. One notable case confronted in the course of the research was the violent eviction of and threats to evict close to 50 squatters in Kitumba, Kyogya and Nyanduhi-Harukoto by the Tooro queen mother. Generally, the Tooro kingdom has been reluctant to grant land titles to squatters on kingdom land as one way of guaranteeing the stability of these squatters and encouraging them to make long-term investments on the lands they currently occupy. One squatter on Tooro kingdom land asserted:

Much as I have been on the Tooro kingdom land for over 30 years now, I cannot plant coffee on this land. I only plant beans, potatoes and other food crops that don’t really give me the income I would have loved to earn from extensive cash crop economy. I fear to plant long-term crops on someone else’s land.
Though squatters on the land belonging to the Tooro kingdom and the queen mother continue to pay their busuulu, they still live in fear of eviction, especially owing to the perceived inability of the law to protect them.

Landless cultivators and cattle keepers in Kasese district, those with small pieces of land and those who live in overpopulated areas are affected in similar ways. Though their livelihood depends on land, these groups lack the space for agricultural investment and grazing their cattle. As a result, they become more susceptible to engaging in conflicts over land boundaries, encroaching on public land and being available for recruitment into schemes of violence, especially the youth. Women as a marginalised group are affected in several ways. First, cultural factors, especially in the rural settings, tend to keep women away from influencing the public discourse and owning and controlling land and other strategic economic assets. As a result, women are either underrepresented or not represented at all in the informal land management processes. Furthermore, women’s limited control over economic resources in rural communities renders them poor and unable to purchase their own land. Culturally, in many rural communities, girls do not inherit land from their families while widows are still being placed under male family members, thus limiting their power and control over land.

Persons living in close proximity to protected lands suffer various forms of vulnerability. First of all, they have limited opportunities for expanding the land resource they have and at times suffer ravages from protected lands. During this study, for example, the Basongora complained of the attacks on their cattle by stray animals from Queen Elizabeth National Park and yet the park authorities remain reluctant to compensate this loss. Lastly, a sizeable number of some communities, especially the Bakonzo, live on the slopes of Mt Rwenzori, which is prone to natural disasters. As one respondent noted:

> Almost every year, floods have to hit Kilembe and other hilly areas in Kasese district. Thus, some people who live on the slopes of Mt Rwenzori have to bear the pain of the possibility of losing their dear ones and/or properties when these floods strike.

Some respondents observed that the Kasese district local government and the ministry responsible for disaster preparedness have not satisfactorily put in place safety measures for communities that are prone to floods. One respondent noted that the Ministry of Disaster Preparedness only waits to respond whenever floods strike and that some local communities choose to relocate during the months when floods are expected, leaving their properties and gardens behind.

From 2005 to 2015, the Rwenzori region has experienced tremendous shifts in land use, affecting food security for marginalised groups. Notable shifts include unprecedented urbanisation and the government policy of elevating trading centres to town councils. Between 2005 and 2015, Kabarole district alone has seen the emergence of eight town councils. A similar trend of creating town councils was and remains visible in Kasese and Bundibugyo. Urbanisation, although not necessarily a liability to social and economic progress, has culminated in a rise in the value of land, an increase in population and
more demand for scarce food resources. The poor have been rendered landless and more vulnerable, having been enticed into selling their land for quick cash to emerging urban entrepreneurs.

Another remarkable shift in land use in the Rwenzori region is reflected in the investment in the leisure and entertainment industry due to the booming tourism sector. Land that hosts tourist sites like the crater lakes in Kabarole district has greatly appreciated in value due to its high demand by investors. Rural communities have increasingly sold off their land to create room for these investors.

Other shifts are reflected in the increased rate of mining pozzolana in Kabarole district and industrialisation in Kasese district. These activities have raised the value of land, attracted investors, and made local communities sell their land and/or join the employment sector for cash and thus neglect the growing of food crops. Remarkably, the region is experiencing an increase in investments in the cash crop economy, especially tea, coffee and cotton in Kabarole and Kasese, and cocoa in Bundibugyo. Over-reliance on a cash crop economy has made several communities abandon food-crop growing. As such, the communities are increasingly relying on the rather insecure funds from the cash crops to meet their food needs.
IV.
FORMAL, INFORMAL AND OTHER
MECHANISMS GOVERNING LAND JUSTICE IN THE
REGION

Formal mechanisms governing land justice are provided for under the land laws, in particular the 1998 Land Act (as amended). These mechanisms include the land boards, land tribunals, as well as magistrates’ and other courts. Formal mechanisms tend to be used most in cases involving registered lands, especially those which fall outside of the communal ownership arrangement, and also in urban centres where people are not so firmly attached to their traditional systems.

Notwithstanding the existence of formal mechanisms, communities have several other informal devices that govern land justice systems. These tend to be rooted in each local justice system and in the social, political and economic organisation of each community. Furthermore, they depend on commonly used means of conflict management, the type of land tenure in question, the actors involved in the justice system and whether the community in question is rural or urban.

For land that is communally owned, cultural structures tend to have a bigger role and mandate in resolving land conflicts. These structures include the bakulu babulambo/isebulambo among the Bakonzo, elders and Omugwetwa (heir) and clan leaders among the Batooro and Bamba/Babwisi. Among the Basongora ethnic group, Bataka committees have powers to allocate communally owned land and to resolve any emerging land conflicts. In rural settings, cultural structures remain more vibrant than they are in the urban context and thus play a more active role in resolving land disputes no matter the tenure of the land in dispute. Overall, informal mechanisms normally rely on locally improvised systems to mitigate land conflicts and these include demarcating land using local trees known as Oburamura. These mechanisms also tend to rely on the memory of elders who know the family land history and the wills of the dead.

Of the informal and formal mechanisms of conflict resolution, the former are said to be more efficient and overall, more likely to be used to resolve land conflicts. Many respondents criticised formal mechanisms for being too elitist, bureaucratic, expensive and a tool of the rich and the powerful. Other respondents criticised these formal mechanisms for delays in granting relief to persons demanding land justice owing to the bureaucratic nature of the mechanism. One respondent noted that ‘[o]ne can easily suffer land losses or any other irreparable land injustice as the powerful use the law fairly or not to obtain injunctions, orders or [to] delay justice.’

Another respondent, while also criticising formal mechanisms, noted that formal legal

16 The Oburamura (plural) are ever-green, long-lasting plants used as land boundary marks. The name buramura literally means ‘settling disputes’.
mechanisms cannot be a solution to cultural and social perceptions about land and that, in part, they are responsible for land conflicts in the region. To expound on the complications of formal means in resolving the land conflicts, this respondent observed that ‘[l]and is not merely a legal asset. Attached to it are social and spiritual aspects which can never be adjudicated in formal courts.’

On the other hand, informal mechanisms were viewed as less expensive, as based on local realities and contexts, as settling conflicts within a shorter period of time and as being easy to follow and understand.

Whether formal or informal, there are several forces that affect land justice in the Rwenzori region. These include gender, politics, corruption, militarism and one’s status in society. Throughout this study, several respondents pointed to how extrajudicial legal actors and institutions like the military, office of the RDC, LCV, politicians, cultural leaders and their institutions use their social, economic and political leverage to secure unfair access to and control over land and to influence land conflict resolution efforts. These extrajudicial actors use various means, such as circumventing the law, ignoring lawful court orders, conniving with investors, bribery, luring vulnerable people to sell their land in exchange for quick money, allocating themselves public land, harassing and intimidating squatters and, in some cases, carrying out illegal evictions, as enumerated in some case studies in this report.

It is important to point out that the issue of gender is both an old and an emerging force affecting land justice in the region. Some respondents criticised informal mechanisms for being patriarchal and gender-insensitive. For example, one respondent observed:

By design, women are not members of the traditional land management structures. Women are not represented on Bakulhu ba bulambo or Bataka informal structures.

The disenfranchisement of women complicates efforts to further gender justice in land management and to tap into the innate potential of women to resolve conflicts. Though there is considerable progress in women’s land rights, some communities, especially in the rural areas, still marginalise women and girls in matters pertaining to control over land and land inheritance. In the formal land justice mechanisms, women – who constitute the largest percentage of low-income earners – face intractable challenges in accessing formal justice mechanisms and securing timely justice.

The most common practice utilised by the various actors at land purchase is an LCI stamp that gives local legitimacy to the transaction. The LCI stamp has become not only a customary legal requirement but has also been institutionalised. For example, banks demand that a land sales agreement bear ‘an official’ LCI stamp before it is accepted as collateral at the time of acquiring loans. LCI leaders in all the districts under study charge some fee to witness the land sale and stamp the sales agreement.
V.
RECOMMENDATIONS ON CURBING LAND INJUSTICES IN THE REGION

To improve the formal and informal handling of land disputes, this study recommends the following short- and long-term actions. In the short term, the following need to be undertaken:

1. **The Uganda Land Commission (ULC) should promote openness in the land fund management.** It is clear that there is a gross lack of information by tenants and leaders on lands that are purported to have been bought by government under the land fund. In Kabarole district in particular, there is a lot of speculation about land transactions derived from media reports and the presidential directive to the Hon. Omara Atubo, the former Minister of Lands, instructing him to buy off certain pieces of land to enable tenants to own them. Lands bought by the government from the Tooro kingdom and/or queen mother, in particular, remain unknown to tenants and leaders in Kabarole district, resulting in insecurity, allegations of corruption in the purported land transactions, continued threats of eviction of tenants by landlords, and reduced tenant investment in land due to uncertainties and lack of information regarding their status on these lands. There is urgent need for the ULC to disclose any lands that have been bought by the government to both Kabarole district leaders and tenants. This would, in effect, give these tenants security on these lands and also stave off the possibility of conflicts between landlords and tenants. This disclosure should be in the form of publishing in newspapers those parcels of land that have been bought. Furthermore, government agents need to meet and give correct information to district leaders and tenants living on lands that have been bought by the government.

2. **The Ministry of Lands, Housing and Urban Development (MLHUD) should promote openness and transparency in public land distribution.** The study districts suffer from a grossly unequal land distribution and ownership. Specifically on the issue of land distribution, we came across incidents of secrecy and unfairness in the distribution of public land in Kasese district. For example, Bigando land remains a time bomb as cultivators and cattle keepers remain embroiled in dispute over the 3:1 distribution ratio. There are also allegations that highly-placed persons from the formations of the military, police and politics have unfairly appropriated part of Bigando land, further limiting the amount of land available for distribution to the landless. As a matter of urgency, the MLHUD needs to clarify the land distribution in Bigando, make public a list of beneficiaries and devise means of reaching a compromise between cultivators and cattle keepers.
3. **The central government should respect and implement outstanding court orders on land.** There are several incidents in which lawful court orders on land have been frustrated specifically with regard to Rwehingo land in Kasese district. In order to avoid creating the possibilities of people using extra-legal means to access land justice, the central government needs to lead by example and support the full implementation of court orders on Rwehingo land in Kasese district and any other orders on land that may in future be made by competent courts.

4. **Uganda Wildlife Authority (UWA) should promote protected land-user rights.** The growing tension between communities surrounding protected areas like Queen Elizabeth National Park and other protected land resources needs to be addressed as a matter of urgency. While communities insist on using these protected lands in a manner that is sustainable and supportive of their livelihoods, at the same time they expressed dissatisfaction with the way the protected land authorities remain unwilling to let them sustainably interact with protected land resources. Thus, for mutual benefit, authorities of the protected land resources need to protect the user-rights of the communities surrounding these resources as one way of minimising the possibilities of community animosity towards these land resources.

5. **District land offices should raise awareness on land issues.** Several land conflicts partly emanate from limited awareness of land rights and issues, including the rights of tenants and landlords, the land rights of widows and children in matters pertaining to inheritance, protected land-user rights, land rights under different land tenure systems, and the importance of gazetted lands. Also of concern is the jurisdiction of different land management structures, the functioning of the land fund and the roles of different stakeholders such as the police, the office of the RDC, the district chairperson and cultural leaders, in land-related matters. The district land offices may raise awareness about land issues using radio platforms and community meetings.

6. **District land surveyors and protected land management authorities (PLMAs) should re-open and clarify the boundaries of public lands.** The boundaries in areas where public lands are under dispute, as is the case between the UWA and the communities of Nyabweya parish in Kasenda sub-county in Kabarole district, need to be urgently re-opened and clarified. Clear boundaries of protected lands will mitigate cases of encroachment and minimise conflicts between the protected lands and the communities surrounding these lands.

7. **Religious leaders should unite to condemn acts of land injustice and support victims of land injustice.** Religious leaders command considerable influence and, as such, they need to proactively and jointly condemn glaring cases of land injustice in the region. Condemnation of land injustice should be accompanied by these leaders’ commitment to support the victims of land injustice to the greatest extent possible. This support may take a number of forms: mediating between victims and alleged perpetrators of land injustice; petitioning the relevant land management authorities and the central government; and encouraging peaceful means of resolving land
conflicts.

8. Cultural leaders should stick to the constitutional mandate of uniting and mobilising people for development. There have been several incidents of community members and leaders manipulating cultural differences to trigger land conflicts. Furthermore, in their quest to create arbitrary geo-cultural spaces, cultural institutions in the Rwenzori region continue to divide people along ethnic lines. These divisions, by extension, translate into the hyper-ethnicisation of politics, land and social relations. Thus, cultural leaders in the Rwenzori region should strive to unite people, desist from participating in divisive politics, and promote and mobilise people for development.

9. The Tooro kingdom administration should streamline its land management and respect the 1995 Uganda Constitution and provisions of the 1998 Land Act (as amended) that protect bona fide tenants. Given the high levels of ambiguity in matters pertaining to landownership and control within the Tooro kingdom, there is need to revert to the basic principles outlined in the constitutional and legal order. More specifically, there is a lack of clarity among members of the public and tenants about which pieces of land are owned and controlled by the Tooro kingdom, the queen mother or the royal family. This ambiguity coupled with the silence of the kingdom administration on the high-handedness by the queen mother in evicting tenants has accelerated tensions, fear and vulnerabilities among tenants. Thus, the kingdom administration, the queen mother and the royal family need to urgently desist from undertaking unlawful evictions and instead pursue legal processes in handling all land matters.

10. The Tooro kingdom and the MLHUD should facilitate tenants’ acquisition of land titles. The Tooro kingdom administration should support tenants on its land to acquire land titles as one way of guaranteeing their security of tenure and encourage productivity. Similarly, the MLHUD should immediately facilitate tenants who are currently occupying land that was bought off by the central government from the queen mother to acquire land titles.

11. CSOs in the Rwenzori region should mainstream land justice issues within their mandates. Land remains an indispensable factor in the furtherance of good governance, deepening electoral democracy and guaranteeing sustainable peace. As such, CSOs interested in furthering good governance in the Rwenzori region should invest in mobilising and organising land justice activists to further land justice and to amplify the voices of victims and potential victims of land injustices.

In the long term, the following need to be undertaken:

1. The Ministry of Lands, Housing and Urban Development (MLHUD) should democratise land registration. While this study confirmed the completion of
the regional land office located in Fort Portal and the ongoing customary land registration in Kasese district, more needs to be done to facilitate as many people as possible to register their land. In this facilitation, the MLHUD should in each district of the region cascade the customary land registration process to every sub-county in order to enable people to acquire certificates of customary tenure. Furthermore, the ministry needs to strengthen coordination among land government structures and members of the public to weed out unlicensed surveyors from land registration processes. Land registration will greatly reduce boundary-related conflicts, raise the value of land and enable landowners to easily use their land as collateral to access financing.

2. **The central government should authenticate and compensate historical land claims.** The government needs to authenticate different historical claims on various gazetted lands in the region with the possibility of compensating persons and communities who unfairly lost their land rights. The Basongora in Kasese district, for example, continue to explicitly express the land injustice inflicted on them by colonial rulers by evicting them from their land and establishing Queen Elizabeth National Park.

3. **District land offices and production departments should promote effective and efficient land usage and preservation.** Owing to the inelastic nature of land amidst the pressures of a growing population, the government needs to research and assist communities in undertaking efficient and effective land-use practices. Those with small pieces of land need to be supported to maximise the productivity of their land. Farmers in dry areas, especially in Kasese district, need to be supported to undertake small- and medium-scale irrigation while cattle keepers need to be supported to have dams as a reliable source of water for their cattle. Communities need to be supported to undertake land preservation activities like tree-planting on the slopes of Mt Rwenzori to reduce erosion. Furthermore, agricultural extension workers need to sensitise communities regarding best farming and cattle keeping practices that preserve land, carry out outreach to farmers and offer exposure visits to these farmers for purposes of learning and replicating good practices.

4. **District land offices should build the capacities of informal land management structures.** Informal and formal land management structures remain equally paramount in handling and resolving land disputes. District land offices need to strengthen coordination between and among these structures, and take stock of informal structures with the aim of giving them technical support in the resolution of land-related conflicts.

5. **The Interreligious Council of Uganda-Rwenzori Chapter should develop a long-term plan for addressing land injustices.** Religious leaders need to appreciate the centrality of the land question to the quest for good governance as well as social, spiritual and economic stability. As such, religious leaders need to place land justice
at the centre of their long-term plans and work in the region and country at large.

6. **Universities in the Rwenzori region should invest in research on land justice to guide land justice activism in the region.**

As centres of research and learning, universities in the Rwenzori region should place land justice at the centre of their existing research, teaching and learning mandates. This placement will guarantee timely and adequate information to guide land justice activists, CSOs, religious leaders and other relevant actors in land management.
REFERENCES


Kabarole Research and Resource Centre (KRC) and Rwenzori Forum for Peace and Justice (RFPJ) (2016), The Melting Pot: Land Conflicts in the Rwenzori Region.

________ (2012), Stuck in the Mist: Contextual Analysis of Conflicts in the Rwenzori Region.


The Cross Cultural Foundation of Uganda (2014), Managing Inter-cultural Conflicts in the Rwenzori Region: Interventions and Aspirations.

Kabarole Research and Resource Centre and Rwenzori Forum for Peace and Justice.

Report of the Presidential Committee on Tooro Kingdom issues presented to the people of Tooro Kingdom and the President of the Republic of Uganda on 9 December 2015.

Uganda Bureau of Statistics (2014), National Population and Housing Census, UBOS, Kampala
ANNEX
SELECT DOCUMENTATION AND CITIZEN EXPERIENCES ON LAND MATTERS

KABAROLE DISTRICT

Case 1: Economic and land injustices in the haphazard pozzolana mining business in Harugongo sub-county

This case was generated after interviewing Mr Mujogya Atwooki, a retired geological engineer and community members of Harugongo sub-county, in Kabarole district. According to this expert, pozzolana (locally known as ebikenkya) is a material containing reactive silica and/or alumina. In Harugongo sub-county, pozzolana came from volcanic ash that was spewed out by volcanic eruptions which took place some millions of years ago. With time, the volcanic ash consolidated to form the current rock. Pozzolana is used in cement manufacturing by blending it with ordinary Portland cement (OPC) to produce portland-pozzolana cement. Pozzolana is crushed and mixed with clinker and gypsum in the ratios 25-30% pozzolana, 65-70% clinker and 5% gypsum. Then it is milled into a final product called cement. Clinker is obtained from limestone rocks.

The expert was concerned that the pozzolana mining activities in the sub-county are not well streamlined, defined or regulated. At the centre of this non-regulation and associated injustices are elements of administrative, political, legal and policy failure. It is important to note that the informality in the mining sector has exacerbated exploitation of the land resource in the form of environmental degradation, mining by proxy and the associated exploitation of miners and landowners under the guise of willing-seller, willing-buyer arrangements, corruption and the deterioration of miners’ working conditions.

In Harugongo sub-county, the pozzolana mining process involves four principal processes, namely: identification of pozzolana deposits; stripping (removal) of black soils; physical mechanical extraction of pozzolana; and piling pozzolana in heaps ready to be loaded onto heavy-duty dump trucks for transportation. The mining activities in Harugongo sub-county are characterised by the following:

Environmental impact assessments are not undertaken to mitigate environmental destruction. As a result, dangerous post-mine areas such as unfilled excavations often become mosquito-breeding places. Furthermore, mining activities have resulted in the destruction of the vegetation cover and no efforts have been put in place to plant grass or trees after pozzolana extraction.
The district road network is also stressed beyond capacity. A truck carrying pozzolana weighs between 35 and 40 tonnes. Trucks of this size and weight require a specially designed road network that is wide and durable. In the case of Harugongo sub-county and Kabarole district, these trucks use existing narrow and less durable roads meant for light vehicles. As a result, these trucks have greatly contributed to the destruction of the road network in and around Harugongo sub-county and Fort Portal municipality as well as the Fort Portal-Kasese road. Trucks, too, have often contributed to road accidents, especially in Fort Portal town. During rainy seasons, residents of Harungazo sub-county often protest about the poor state of their road network and block heavy trucks from accessing their main access road.

In Harugongo sub-county, one of the key contributors to the shift in land use, ownership and control has been pozzolana mining. While the volcanic soils in Harugongo sub-county are extremely fertile, communities in the sub-county have since abandoned farming activities and embraced mining activities that fetch a daily income. This shift in land use has created current and future food shortages owing to limited physical and economic access to food. Faced with economic exploitation, local miners do not get enough funds to purchase adequate food from markets.

Furthermore, as regards landownership and control, there is a growing trend among indigenous landowners in Harugongo sub-county to either sell or hire out their land to business persons. Some of the persons who are buying or hiring land come from outside the sub-county and district, give ready cash to indigenous landowners and use improved technology to mine. Consequently, indigenous landowners are quickly becoming landless as they continue to sell their land resources. Furthermore, in 2015, middlemen introduced improved mining technology. This technology involves mining and loading of pozzolana onto trucks with the aid of excavators and wheel loaders. Consequently, local miners and labourers are gradually being pushed out of employment, triggering intermittent local protests against this technological advancement.

Pozzolana mining has further contributed to the creation and exploitation of marginalised groups and has, itself, created new marginalised groups. These include indigenous landowners who cheaply hire out or sell their land to middlemen. Even landowners who choose to keep their land but sell their pozzolana still get exploited since they receive only a paltry of UGX 220,000 per tonne of pozzolana sold, loading costs inclusive. According to Mr Mujogya these local miners are experiencing gross economic exploitation. He shared that after being loaded onto trucks by hand, the mined pozzolana is transported to the Hima cement factory. This factory used to be owned by Lafarge, a French company and one of the largest cement manufacturers in the world. In 2015, Lafarge merged with Holcim, a Canadian company, to form LafargeHolcim. This is the largest cement manufacturing company in the world. LafargeHolcim is found in 90 countries, has 100,000 employees, and owns 2,500 plants of installed capacity of 374.0 metric tonnes and a turnover of USD 29.8 billion per annum. There is no direct relationship between Hima Cement (LafargeHolcim) and the locals in the Harugongo mining community. LafargeHolcim mines by proxy through buying pozzolana from middlemen. According to expert analysis of the economics of pozzolana
mining, LafargeHolcim buys 35 tonnes of pozzolana (which is one truck of pozzolana) at a cost of UGX 220,000 from a local miner, pays UGX 20,000 as levy fees to Kabarole district local government and also incurs transport and other processing costs to turn pozzolana into cement. By estimation, LafargeHolcim gets from one truck of pozzolana 700 bags of cement, fetching UGX20, 300,000. Getting these bags of cement from one truck of pozzolana, as Mr Mujogya elucidated, is not a surprise. The expert elucidated:

Entrepreneurs at Hima Cement Factory do not buy pozzolana from Harugongo sub-county per se. Rather, they buy cement in the form of pozzolana and just refine it for sale. They literally cheat locals, destroy their road network as leaders watch on under the guise of the willing-seller, willing-buyer economic dictum.

In summary, LafargeHolcim is said to be earning a profit of 14,175,000 from every truck of pozzolana after deducting all purchase, transport and processing costs.

Another notable marginalised group is comprised of local miners who face intractable incidents of exploitation at the hands of middlemen. Local miners, especially the youth, use lots of physical energy to mine and load pozzolana onto trucks. On average, though, one earns not more than UGX 50,000 for loading one truck. As a result, the youth have resorted to using drugs in the hope to acquire extra physical energy to better execute their mining tasks. The consumption of drugs has been and remains both a health and security risk not only for the youth but also for the community of Harugongo sub-county and Kabarole district at large. Besides, the local miners are using rudimentary and archaic hand tools such as pickaxes, shovels, old vehicle springs, crowbars and iron bars to execute mining activities. Also, the miners do not use any safety gear during the extraction activities such as helmets, gloves, goggles, dust masks and overalls. As a result, the miners have sustained serious accidents in the process of mining, frequently resulting in death, loss of eyesight and fingers, and other serious physical injuries. The miners also get exposed to serious risks of contracting respiratory diseases due to their being directly exposed to dust.

At the centre of the injustices in the pozzolana mining industry is integral governance failure both at Kabarole district level and at national level. At the district level, community members in Harugongo sub-county allege that the district leadership has been bribed to levy an insignificant tax on pozzolana trucks leaving the district and to ignore devastating forms of exploitation that the indigenous miners suffer at the hands of middlemen and LafargeHolcim. Governance failure is also exhibited in the failure by the Fort Portal municipal and Kabarole district leadership to pay attention to the aforementioned social and economic insecurities and drug abuse associated with the mining industry as well as to the visible destruction of the local road infrastructure by heavy pozzolana trucks. Importantly, the failure of district and national leadership to enforce mining and environmental laws has exacerbated environmental destruction as well as social and economic injustices against local miners and the community where mining continues to take place. Lastly, the district leadership has failed to mobilise and support local miners and landowners in Harugongo sub-county to organise themselves into marketing associations as a basis for negotiating for better terms of trade and ameliorating exploitation at the hands of middlemen.
Pozzolana mining is so central an issue in Kabarole that during every election period, injustices associated with pozzolana mining tend to inform electoral discussions, contestations and conflicts. One respondent from Harugongo sub-county observed:

Every time we go for elections, every candidate promises to improve on the Harugongo road in order to gain electoral leverage. Our destroyed road has become a tool for candidates to discredit one another and make empty promises to the electorate.

Another respondent noted that ‘whenever leaders improve on our road, they wantonly expect heaps of endless praises and electoral appreciation from the community as if road improvement is a privilege to us.’

Significantly, some community members observed that election time presents an appropriate moment for them to push for their interests since leaders tend to pay more attention to citizens’ demands during election time than they do after winning elections. One respondent in Harugongo sub-county noted that it has become a custom for community members, especially boda riders and car owners, to protest against the poor state of their road network during election time and that protests will continue as long as leaders continue to pay lip service to their interests.

The major actors in the pozzolana mining industry include the Kabarole district local government, which levies taxes on trucks carrying pozzolana, local landowners and miners, middlemen involved in the mining and sale of pozzolana, truck owners, transporters and LafargeHolcim, which runs the Hima cement factory. Processes guiding the mining industry remain informal, unregulated and haphazard. Communities, especially local miners, have not sought any formal remedies to the economic exploitation they are subjected to. Efforts to seek remedies have also remained scanty partly owing to the poor organisation of miners and landowners. As a result, community members have at times resorted to demonstrations against real and/or perceived injustices. In a rather progressive way, in December 2016, the Tooro People’s Conference, under Resolution 26, made a landmark resolution that may become a basis for addressing injustices in the pozzolana mining sector. Resolution 26 observed that pozzolana mining in Tooro is shrouded in informalities and has not benefitted local communities. Furthermore, the conference requested Tooro Elders’ Forum to engage the Kabarole district leadership over the matter.

Overall, these injustices coalesce around three areas, namely: economic exploitation of local miners by the Hima cement factory and middlemen; the destruction of the road infrastructure by heavy trucks; and failure by the local government to use its regulatory powers to promote miners’ economic interests. These injustices exist even within a legal framework where the National Environment Management Authority (NEMA) and mining Acts respectively protect the environment and protect the interests of miners. The failure

---

17 Tooro People’s Conference is an annual gathering of the peoples of Tooro to deliberate on key social, economic and political issues affecting the region.
of NEMA and the local governments to address the injustices associated with pozzolana mining point at governance failure, which is reflected in the inability of these institutions to exercise their mandates to reverse the course of informal mining and associated injustices.

**Case 2:** Leasing of 20 crater lakes in Kabarole district, effectively depriving locals of access to the same

On 29 May 2015, Ferdsult Engineering Services Ltd and the Kabarole district local government entered into a memorandum of understanding (MOU) where the latter leased out 20 crater lakes to the former. The MOU lasts 30 years. The MOU has attracted resentment from communities that depend on these crater lakes on the grounds that the district did not consult them before it entered into theme with Ferdsult Engineering Services Ltd. The contradictions arising from the lease of crater lakes include: non-involvement of communities that surround crater lakes in the transaction; secrecy surrounding the transaction; disregard of the existing MOU between Mountains of the Moon University (MMU) and NEMA; and ambiguities regarding how long-standing community interests in these lake resources will be protected during the lease period. These contradictions, by extension, point to bad governance and deliberate efforts by the Kabarole district local government to usurp people's power relating to matters of public interest. Communities argue that for long they have used these lakes for their spiritual, economic and social purposes and that the leasing out denies and/or limits public access and use of these water resources. MMU, which neighbours and uses Saaka Crater Lake, one of the leased out lakes, is a notable stakeholder that has been affected by the lease. The university, in particular, uses the lake for research and other academic purposes. In an interview, one of the university stakeholders contended that the university had signed an MOU with NEMA to use Saaka Crater Lake before the district decided to lease it out alongside other lakes. In total disregard of the MOU between the university and NEMA, armed personnel attempted to evict the university after the lake was leased out, prompting protests by the university authorities.

Out of over 50 crater lakes in the district, the district chose to lease out the most beautiful, water-rich and most accessible 20 lakes. Coupled with the increased cases of purchase of land surrounding crater lakes by both foreigners and rich entrepreneurs from among the locals, the lease of crater lakes by the district has exacerbated vulnerabilities on the part of communities that have for long settled near and around these lakes. As a result of the lease, the livelihoods of individuals and families around these lakes continue to be threatened. In addition, as individuals and families around crater lakes rush to sell their land for quick cash, there is fear that these individuals and families are forfeiting valuable land and also subjecting themselves to the possibilities of becoming landless.

The actors in the crater lakes leasing venture include the Kabarole district local government and Ferdsult Engineering Services Ltd that have entered into a lease MOU. Others include stakeholders that feel offended by the lease, including communities surrounding the leased crater lakes, civil society organisations (CSOs) and the people of the Tooro sub-region. The
offended stakeholders view the process of leasing out of crater lakes as being tainted by corruption, shrouded in secrecy and marked by disregard of community interests. By the time this research was conducted, as part of seeking remedies, Twerwaneho Listeners' Club, a local CSO, had proceeded to court in Fort Portal to challenge the lease of these lakes. Before the court process, on learning about the lease, some aggrieved community members marched to the Kabarole district headquarters in 2016 to protest against the transaction and also handed over a petition to the Parliamentary Public Accounts Committee that was in the district then.

Case 3:  Land grabbing and forceful evictions in Tooro by the Tooro queen mother; cases of Kitumba, Kyogya and Nyanduhi-Harukoto communities in Kabarole district

Kitumba and Kyogya villages are located about 3 km from Fort Portal on the Fort Portal- Kampala road. In these villages, the queen mother owns over 2 mi² of land. Nyanduhi-Harukoto is located just below the Tooro kingdom palace in Fort Portal town and in this place, the queen mother claims to own 4 acres of land.

Originally, the Tooro kingdom, Tooro royals and the king are said to have been the owners of the pieces of land in question but since then, albeit under unclear circumstances, ownership of the pieces of land has been transferred to the queen mother. The queen mother has since obtained powers of attorney over these land resources. Since the 1950s over 40 families have been tenants on Kitumba and Kyogya land while over four families have been tenants on Nyanduhi-Harukoto land for over 20 years now. These tenants have been paying ground rent to the Tooro kingdom and know these places and not any other as their home. To these lands, they have strong historical, ancestral and spiritual attachment. In a rather unprecedented manner, the queen mother has been using security agencies to intimidate and evict tenants, grab their land and destroy their gardens and other property. She has also proceeded not to accept busulu, something which is viewed by tenants as an attempt to erase their historical and contemporary legitimacy over this land.

Demonstrably, in 2003, the queen mother, aided by armed security agencies, and without any court order, conducted a series of land-grabbing and forceful evictions in Kitumba and Kyogya communities. The victims of land grabbing and evictions in these places included one Kabahuma Layer. Layer’s house, trees and other property were destroyed in the process of eviction. In the same year, other people, including Kusemererwa Richard, Kalenzi Julius, Mwesige Patrick and Isingoma Jacob, were threatened with eviction and had their food crops and other property destroyed. In 2013, one Katebwa Morgan was evicted and has since then never regained her land. In 2016, one Kevin Isaaya was evicted from his land and his property was also destroyed.
Similar incidents of threats of eviction and destruction of the property of tenants took place in the Nyanduhi-Harukoto community in 2003, 2008 and 2012.

Excerpts from the New Vision of 6 June 2008 and Orumuri of 17-23 September 2012 covering stories about the forceful eviction of families from land by the Tooro queen mother. The Orumuri paper bears a photo of destroyed banana plantations belonging to the families.

Beatrice Kulabako, Amooti Nyangoma and Businge John became notable victims of the brutality of armed security personnel attached to the Tooro queen mother. These armed security personnel, on the orders and supervision of the queen mother, descended on the aforementioned victims, destroyed their gardens and fenced off the land, leaving a small piece of land on which the family house sits.
In this case, the major actors involved include: the Tooro queen mother, the Tooro kingdom, armed security agencies attached to the queen mother and State House. Eviction processes are high-handed and extrajudicial. As part of seeking remedies, community members in Kitumba and Kyongya, as early as 2003, sought help from LC1 and III leaders in vain. These leaders expressed fear and admitted they were unable to handle such grievances that involved such a high-profile person as the queen mother. The local leaders referred the complainants to the office of the RDC. The RDC advised the community members to try legal aid services and initiate a legal challenge against incidents of land grabbing and eviction by the Queen Mother. The legal aid officials discouraged the community members from pursuing a legal course, citing the costs and the bureaucracy involved. As a last resort, the community members resolved to seek audience with the queen mother for negotiation. She promised to find an amicable solution, including possibly relocating them. Unfortunately, eviction threats from the queen mother continued and the community members remained insecure.

In 2016, immediately after the general elections, a local district councillor, one Bintamanya, led a team of about 50 people from Kitumba and Kyogya to pick camp at the state lodge in Fort Portal town. The local councillor and community members hoped to draw the attention of President Yoweri Museveni, who was in town then, to their grievances. After two days of protests outside the state lodge, the president was not able to meet the protestors. He delegated the first lady to listen to their grievances. The first lady then promised to send one Kiconco, a legal officer from State House, to address the plight of the community members. Kiconco intervened later on by holding a meeting with the community members and also instructed them to remain on the land they now live on and also assured them of government protection from any evictions.

In addressing forceful evictions in Nyanduhi-Harukooto, one John Businge, a victim of these evictions, sought help from local leaders and the Tooro kingdom in 2003, 2008 and 2012 in vain. He presented his complaints to the Directorate of Land at State House in 2013. An official from State House, one Kyohairwe Charlotte, summoned the Tooro queen mother on 8 January 2014 with a view to helping resolve the matter but she declined to turn up. Kyohairwe then verbally advised Businge John to go back to his land and report any further threats from the queen mother. From State House, Businge was not given any document for reference but only a phone number to call in case of any further disturbance by the queen mother.

While State House interventions in stopping vices of land grabbing and evictions by the queen mother are commendable, these vices depict serious challenges in land governance, notably:

1. Sections 32 and 92 of the 1998 Land Act (as amended) protect bona-fide tenants from unlawful evictions. Furthermore, the Constitution, under Article 26 (1), guarantees the right of everyone to own property while under sub-article (2) of the same Article, compulsory deprivation of property is prohibited; unless such a deprivation is
done within the confines of the law. The inability of the law, for whatever reasons, to protect tenants, threatens the rule of law and portrays the existence of weak and/or weakening formal and informal justice mechanisms that would otherwise mitigate land injustices. At worst, this inability is a recipe for more violence and land injustices.

b) The queen mother’s use of security personnel in extrajudicial land eviction and grabbing processes portrays a wrong image of the national security institution that is otherwise mandated to be at the forefront of protecting people and their properties without fear or favour. In addition, the involvement of security agencies in extra-legal land eviction and grabbing schemes points to not only the growing lawlessness but also the redundancy of the law in guaranteeing land justice.

c) While commendable, interventions by State House have remained informal and, in essence, not guaranteed long-term land security to tenants. During a focus group discussion (FGD) with Kitumba and Kyogya community members, the members noted that State House interventions seemed to be superficial in many ways. State House did not give these tenants any written communication for future reference. They noted that all the discussions held and the resolutions made were verbal, and that the State House official simply left the community members with a phone number to call in case of any further threats from the queen mother. Yet, as was revealed by one of the community members during the FGD, the people fear to make any heavy investment in the land for fear of the unknown. This notwithstanding the fact that some of them have lived on this land since their childhood. The people expressed the fear that the queen mother and her armed security personnel were bound to strike again at any time and that State House’s informal interventions would not be of help in the face of such a strike.

d) The continued rush by victims of land injustices to State House hints on two realities. First, State House has become an agency in land decision-making and land conflict management. However, the powerful State House agency remains hard to access by victims of land injustice without assistance from powerful and highly connected political and other actors. Second, the rush by victims of land injustices to State House depicts loss of public trust in land governance structures that are closer to victims, especially at sub-county and district levels. During an FGD with residents of Kitumba and Kyongya, one person noted:

> Lower land governance structures, including magistrates’ courts, cannot handle omuntu w’amaaniliike the Tooro queen mother. In case of land injustices, I can only seek help from State House or choose to negotiate and get as little as the queen mother chooses to give me in compensation.

*Omuntu w’amaani* literally means a powerful person. This notion of powerful person implies an inability of the land justice system to impartially serve all, especially those who are socially, politically and economically not well placed.
KASESE DISTRICT

Case 1: Land injustices orchestrated by the public land distribution bonanza

Facts: In Kasese district, exist land conflicts related to the perceived unfair land distribution by the government to Basongora cattle keepers and Bakonzo cultivators. In 2006, the central government that owns large chunks of land in Kasese decided to give away part of its land to landless cultivators and cattle keepers. Specifically, the government decided to give away land in Bigando in the lowlands originally belonging to the UPDF and the Prisons Service and that housed refugees and the Mubuku irrigation scheme. In distributing this land, the government adopted the 3:1 ratio in favour of Basongora and Bakonzo respectively. A similar ratio was adopted in distributing the Kabukero government land, located near Bigando.

The residents of Bigando protested against four aspects of this land distribution scheme, namely: the distribution ratio of 3:1; conflict insensitivity in the process of distribution; allegations of land distribution to powerful persons in government; and failure to demarcate and place distinctive landmarks to act as clear boundaries that separate the land that was offered to cultivators and pastoralists.

The distribution ratio of 3:1

In the view of the cultivators, the distribution ratio of 3:1 is unfavourable to them and they argue that they, too, need expansive land to undertake large-scale farming to meet their food and financial needs. One leader interviewed during this study asserted:

The argument that Basongora pastoralists need large pieces of land to graze their cows as a possible justification for the 3:1 ratio implies that Bakonzo will never undertake large-scale farming. This argument is inherently flawed and is responsible for current land conflicts in Bigando.

Indeed, during this study some respondents noted that even the mode of distribution was conflict-insensitive. They observed how the distribution did not separate cattle keepers from cultivators. Much as the government distributed land to both pastoralists and cultivators, there are still no clear boundaries to separate pastoralists and cultivators. In Kabukero, for example, attempts to survey the land and put in place demarcations have often stalled, leading to sporadic land conflicts between the cultivators and pastoralists. As a result, Basongora cows often destroy the crops of the Bakonzo, leading to individual, family and communal conflicts.

Some local leaders in Kasese district attributed the July 2014 violence in Kasese district to the Bigando land question and other land issues in the district. One leader noted:
Land contestations in Bigando were the main triggers of the July 2014 violence that claimed over 50 lives. Some of the acts of violence, though outwardly appearing as ethnic, actually had to do with economic factors more than with ethnic interests.

More recently, on Saturday, 18 March 2016, land boundary conflicts between cattle keepers and farmers erupted in Kabukero, leaving more than 10 farmers injured after they were attacked by cattle keepers for allegedly encroaching on the land that the government had given them. The use of violence in addressing land conflicts in Kasese district indicate either loss of public trust in formal and informal land management mechanisms or the failure of these mechanisms to amicably resolve existing and emerging conflicts.

A photo extracted from the Daily Monitor of 20 March 2017 showing Mr Fenehasi Blaze who was allegedly tortured by cattle keepers after being accused of encroaching on the land that was allocated to them.

**Allegations of land distribution to powerful persons in government**

Some respondents alleged that some highly placed persons in government used the pretext of land distribution to cattle keepers and cultivators to amass large chunks of land. They also alleged that the actual land that individual powerful persons in government allocated themselves could be way larger than what was actually distributed among the cultivators and cattle keepers. Some respondents branded this form of unfair and secret self-allocation of land among powerful actors in government and politics as a covert form of land grabbing. Other respondents observed that when land conflicts break out, powerful persons who allocated themselves land rush to portray these conflicts as ethnic conflicts. This deliberate portrayal is meant to cover up fundamental political, economic and other issues that give rise to these conflicts, especially land injustices and unfair land distribution.
BUNDIBUGYO DISTRICT

**Case 1:** ‘Ethnicisation’ of the land resource – A case of Bundibugyo district

Broadly, *ethnicisation* of the land resource means the attachment of ethnic values and rights to aspects of historical and contemporary land acquisition, ownership, access and control. By this attachment, land ceases being a mere economic or productive asset and becomes a spiritual and cultural asset that defines identity and survival. Furthermore, by ethnicisation of land, land ceases to be an individually owned asset, for example under a freehold arrangement. Propagators of this ethnicisation start viewing land as a collective ethnic asset, much as this ethnic value of land remains shrouded in the intangible and legally unsubstantiated spiritual dimensions of society.

During this study, the research team interfaced with political and cultural leaders, representatives of security agencies and civil servants. From these respondents, *ethnicisation* of land resource emerged as one of the predominant subjects that continue to substantially affect the pursuit of land justice in the district. For example, one of the officials from the Obundhingiya bwa Bwamba (OBB) cultural institution referred to all Bundibugyo land as Bwamba land. To this official, Bwamba as a geographical place historically belongs to the Bamba ethnic group, much as several other ethnic groups now reside on this Bwamba land. In addition, to this official, anybody from another ethnic group, such as a Mutooro or a Mukonzo, legally owning a piece of *Bwamba land* does not necessarily deprive this land of its Bwamba identity. Furthermore, the OBB official explained that land in Bundibugyo district is named after Bamba clans, for example Bundibugyo for the Bandibugyo clan, Bundikyora for the Bandikyora clan, Busara for the Busaru clan etc. To this OBB official, almost every sub-county in Bundibugyo district has a name that is linguistically linked to the Lwamba/Lubwisi languages as a confirmation of the notion of Bwamba land.

Related to ethnicisation of land resources, the OBB, like other cultural institutions in the Rwenzori region, namely the Tooro kingdom and the Obusinga bwa Rwenzururu (OBR), have arbitrarily assumed geographical territories as their geo-cultural spaces to the exclusion of other cultural groups. Land in these assumed spaces is then taken to be a spiritual asset of the cultural institution in question. As a result, land has been made to acquire cultural names like Tooro land in the Tooro kingdom, Bwamba land in Bundibugyo district and Ekithaka N’ekyethu¹⁸ in Kasese district. In these assumed geo-cultural spaces, some adherents of cultural institutions expect people outside of their cultural institutions and/or groups to show some ‘minimum respect to their land’.

**Implications of ethnicisation of land**

Ethnicisation of land has generated unprecedented land conflicts and injustices in Bundibugyo district and in the Rwenzori region at large. The following are notable examples.

¹⁸ Lukhonzo term meaning ‘this land is ours’.
a) **Intractable conflicts between the OBB and the OBR**: The Omusinga, who is now the cultural leader of the OBR (headquartered in Kasese district), has had difficulties visiting his Kirindi ancestral land, located in Bundibugyo district. The OBB has frequently insisted that the OBR leader should visit his Kirindi land and Bwamba land in general, not as a cultural leader but as a private citizen. Furthermore, the OBB has always asserted that the OBR cultural leader should always first notify the OBB cultural leader before visiting Bwamba land. Some OBB adherents argue that Bakonzo in Bundibugyo district who subscribe to the OBR are free to do so but should only meet the Omusinga in Kasese district. As a demonstration of inter-cultural tensions, in 2012 the Omusinga was blocked by armed security personnel from visiting Bundibugyo district after OBB adherents in the district expressed resentment against the visit of the Omusinga, in his capacity as a cultural leader, to Bwamba cultural territory (without permission from the Bamba leader). Blocking the Omusinga from visiting Bundibugyo district exacerbated inter-ethnic tensions and also became one of the areas of discontent highlighted by architects of the July 2014 simultaneous attacks in Bundibugyo, Ntoroko and Kasese districts.

b) **Treatment of Bwamba land as Omudhingiya land**: During the study, some respondents described all Bwamba land as Omudhingiya land and further asserted that the Omudhingiya has the powers to safeguard Bwamba land from intrusion and external abuse. One respondent during this study observed that ‘[a]ll Bwamba land belongs to the Omudhingiya while cocoa on this land belongs to the owner of the cocoa plantation.’ This assertion arbitrarily implies that one can buy and use land but the authentic ownership of this land resides in the Omudhingiya and Obudhingya cultural institution. Treatment of Bwamba land as Omudhingiya land has tremendously exacerbated inter-ethnic tensions in the land justice systems and process. During this study, one leader noted that when the ADF war broke out in the 1990s, many Bakonzo fled their homes on the slopes of Mt Rwenzori and settled in the lowlands predominantly occupied by Bamba/Babwisi cultural groups. Consequently, many Bakonzo legitimately bought land in the lowlands but, to date, a section of Bamba/Babwisi has not embraced these Bakonzo in the lowlands as legitimate owners of the land they legally bought. Demonstrably, in the post-2016 election violence, over 20 Bakonzo families living in the lowlands were forced to vacate their lands and return to the mountain and also had their property destroyed. Over 10 homes of Bamba/Babwisi living on the Bakonzo-dominated slopes of Mt Rwenzori experienced a similar attack from the Bakonzo and the occupants had to relocate to the lowlands.

c) **Ethnicisation of land transactions**: During this study, the respondents in Bundibugyo district observed creeping tendencies among the dominant Bamba/Babwisi and Bakonzo ethnic groups to exercise ethnic sub-nationalism in land matters by, among others, not entering into any land transactions with each other owing to their perceived rivalries. One respondent noted that selling land to a member of the perceived rival ethnic group is largely seen as an act of betrayal by his ethnic kinsmen. In other cases, some Bamba respondents alleged that Bakonzo are pooling money as an ethnic group to buy land from poor Bamba/Babwisi. One Mwamba respondent alleged that when a Mukonzo buys a piece of Mwamba/Mubwisi land, he is rewarded by his ethnic kinsmen with beer and verbal praises.

---

19 The Omudhingiya is the OBB cultural leader.
d) **Ethnic rivalries over boundaries of proposed administrative units:** In Bundibugyo district, the proposal to split the district has in equal measure attracted tensions around boundaries and control over land. During the presidential campaign in 2016, the president, while campaigning in Bundibugyo district, promised to make Bughendera county a district. The Bakonzo ethnic group dominates Bughendera county. The demand for Bughendera district was against a background of protracted discomfort by the Bakonzo ethnic group in Bundibugyo district over alleged marginalisation in the areas of service delivery and access to other opportunities and rights in the Bamba/Babwisi-dominated Bundibugyo district. The Bakonzo felt the need to demand a separate district to end the Bamba/Babwisi subjugation. Importantly, one of the demands made by the youth who participated in the simultaneous attacks of 5-6 July 2014 in Kasese, Bundibugyo and Ntoroko was that Bughendera county should be granted district status. The presidential promise to create Bughendera district continues to divide the people of both Bundibugyo and Kasese districts. To date, there is no consensus yet on whether the district should be divided. Furthermore, the proposed boundaries continue to trigger contestations, largely hinged on control over land and other ethnic interests. Notably, during this study some respondents, especially those from the OBB, noted that the boundaries of the current Bughendera county include 11 parishes that are dominated by Bamba/Babwisi. To this respondent, these 11 parishes are a core part of Bwamba land and cannot be part of the Bakonzo district. Before a district is granted, one Mwamba elder argued that the Bughendera county boundaries must be re-drawn to keep the 11 parishes inside Bundibugyo district.

e) Ethnicisation of the land resource is both a cause and an effect of governance challenges in many ways and also portrays several contradictions.

f) This ethnicisation of land squarely challenges Article 29 (2) (a) of the 1995 Uganda Constitution that provides for the right of every Ugandan to reside and settle in any part of Uganda and Article 26 (1) that guarantees the right of everyone to own property. Thus, the architects of this ethnicisation of the land resource, some of whom are leaders in the community, are either ignorant of these constitutional provisions and/or deliberately choose to ignore these provisions for geo-ethno-political leverage.

g) Conscious and/or unconscious assumption of exclusive geo-cultural spaces by cultural institutions is a direct contradiction to Article 246 of the 1995 Uganda Constitution and to the spirit of the 2011 Institution of Traditional or Cultural Leaders’ Act. Specifically, Article 246 (3) (f) of the 1995 Uganda Constitution provides that cultural institutions shall not have or exercise any administrative, legislative or executive powers of government or local government. By implication, therefore, cultural institutions are virtual and not territorial. Thus, the assumption of geo-cultural spaces is a recipe for more ethnic tensions, land conflicts and governance fragility in the region.

h) Ethnicisation of land has an effect on elections. In the 2016 elections, land became a critical subject around which the public made electoral decisions. The OBB, for example, is said to have fronted political candidates who would, in turn, guarantee the Bwamba land interests. Some candidates competed to present themselves as guarantors of land security for different ethnically clustered electorates in the
district. The president’s promise to grant Bakonzo-dominated Bughendera county district status was perceived as a reward to the Bakonzo who, in turn, were expected to vote for the National Resistance Movement (NRM). One respondent during this study actually attributed the NRM’s electoral fortunes in Bughendera county to the presidential promise to grant the county district status.

Actors in the ethnicisation of land resource include OBB and OBR cultural institutions that, by and large, continue to assume exclusive geo-cultural spaces and political actors that rely on ethnic loyalties for political leverage.

Case 2: Historical and contemporary land injustices associated with past gazetting of land: Case studies of Queen Elizabeth and Semliki National Parks in Kasese and Bundibugyo districts respectively

Facts: Colonial land legacies entailed grabbing and displacing indigenous people from their lands. This grabbing was well facilitated through the introduction of a formal legal landownership status that was otherwise foreign to the indigenous landownership systems. Legal landownership was controlled by the colonial political and administrative system which the colonial authorities used to entrench their control over indigenous communities, punish real and/or perceived adversaries and reward real and/or perceived friends. Overall, the legal landownership system that depended on land titling as confirmation of exclusive ownership primarily served colonial interests and laid a foundation for intractable contemporary land injustices. Using titles, the colonial establishment ‘gave’ the indigenous land to whoever they chose to.

Views of the Basongora ethnic group in Kasese district

During the FGD at Hamukungu A village in Hamukungu parish, Katwe sub-county in Kasese district, members of the Basongora, an ethnic minority group, narrated how the British colonial regime, represented by Governor Andrew Cohen, in the early 1950s gazetted their communal grazing land as Queen Elizabeth National Park and forcefully took away their natural ownership and rights over this land. In total, Queen Elizabeth National Park sits approximately on 2 mi² of land. During the FGD with the Basongora in Hamukungu A village, several Basongoran noted traces of homesteads and cattle kraals in the present-day Queen Elizabeth National Park, particularly in areas of Kasubi, Rubona, Rwamato, Mabale, Nyarugongo, Omukatuti Kabwera and at Irangara Island. During the discussion, some elders claimed that they had been born at Irangara Island and had lived on this island before it was made part of Queen Elizabeth National Park. They added that traces of human settlements in these areas were proven by the presence of broken pieces of pots and tools from ancient times. Overall, the Basongora estimate that about 600 Basongora were displaced by the colonial government decision to gazette their land as a national park.

In another act of subjugation, the British re-drew Basongora land boundaries, making over 6,000 Basongora lose their four counties then, namely Kisaka, Kitagwenda, Kazingo-Kabuyondo and Makara. The first three counties were lost to the present-day Ankole and...
Tooro kingdoms while Makara was lost to the Democratic Republic of Congo (DRC). In total, the four counties in their original size take up about 10 mi² of land. In one notable example, the British gave Hamukungu land in the then Kitagwenda county of Busongora to the king of Tooro, who then became the legal owner of this land. During the FGD one elder asserted:

By the issuance of a colonial land title, the king of Tooro became the legal and not a legitimate owner of the Basongora land. Deep in our hearts, we know as the central government knows, too, this land is ours now and will ever be. Even the so-called Queen Elizabeth National Park is actually our land and nobody else's.

Views of the Bamba, Babwisi and Batwa ethnic groups in Bundibugyo district

In their written submission to the research team, Bamba and Babwisi elders contended that the area on which the current Semliki National Park sits was originally inhabited by Bamba, Babwisi and Batwa communities. The area was demarcated according to some historical sites of the people who formerly lived there. These persons include: all sub-clans of Bahanda; all sub-clans of Banyamwera; four sub-clans of Babandi, namely Bandikulya, Bandimagwara, Bandikiteganwa and Babulongu; and some sub-clans of Bahombi and Bamagga.

Elders contend that between 1900 and the 1930s, a sleeping sickness epidemic attacked the people who then lived in the current land occupied by the park. For the safety of these people, the outbreak of this sickness made the colonial government carry out temporary eviction of residents, totalling about 25% of the current population of Bundibugyo district. Some residents fled to areas like Kichanga, Lwanoli, Kamango, Kahondo and Buddimu in the DRC, while others took the direction of Boga-Zaïre. Yet others migrated to other districts of Uganda, such as Mubende and Kibaale. Thick vegetation grew on the abandoned land and came to be locally known as Matongo (forest cover).

Once the Bamba, Babwisi and Batwa ethnic groups felt that the sleeping sickness was no longer a threat, they mobilised themselves in 1972, petitioned and met the president then, Idi Amin Dada, at Margaret Hotel in Kasese district. President Idi Amin Dada, by decree, authorised the Bamba, Babwisi and Batwa communities to return to their ancestral Matongo land. However, during the Obote II administration (1981-85), the government issued an eviction order for all persons in Matonga land on the grounds that this land was protected. Without receiving any compensation, they left behind their food and cash crops. They also lost their spiritual, social and economic sites. Many of those evicted persons were from the Bahanda, Banyamwera, Babandi, Bahombi and Bamagga clans and a sizeable number was from the Batwa community.

Issues at stake in the gazetting of Queen Elizabeth National Park

The process followed by the colonial establishment to gazette Queen Elizabeth National Park and to establish boundaries for different communities and administrative units was said to have been arbitrary. The process was primarily informed by the colonial desire to cement colonial rule in Africa at any cost. The process was neither preceded nor followed by any
form of compensation of original land users and/or owners. The indigenous Basongora communities that owned and used these lands were either unable to defend their land rights or actually did not know they were losing land in the process of the colonial establishment legally taking control of these lands through acts of giving it away or gazetting it under the colonial law then.

As a remedy, the Basongora today continue to seek compensation from the central government for the land losses they suffered during colonial rule due to the establishment of Queen Elizabeth National Park and during the arbitrary dividing up of Busongora land among the Tooro and Ankole kingdoms and the DRC. They also seek to have landowners in Hamukungu village, especially Tooro kingdom, to be bought off under the land fund to enable the Basongora to own the Humukungu land. They also demand to have their national park user rights streamlined to enable them to sustainably use the park for their livelihood, especially as grazing grounds for their cattle during dry spells. During the FGD with residents of Hamukungu A village in Hamukungu parish in Katwe sub-county, the residents noted the hostility of Queen Elizabeth National Park to their way of life. In particular, the residents noted that animals from the park roam around their villages, especially at night, kill and eat their cattle, and that park authorities remain unable and/or unwilling to effectively compensate the resultant losses. To elucidate their ordeal, one resident observed:

When a stray animal from the park kills and or eats one’s cow, the cattle keeper has to show the remains of his cow before park authorities can carry out the compensation. In cases where the cow is wholly eaten up, the cattle keeper forfeits compensation.

Many Basongora desire to be protected from animals in the park that destroy their crops and that in case of destruction, they must be compensated fully and on time.

The historical massive land loss by Basongora and the current effort for remedies for the land injustices they suffered and/or continue to suffer reflect governance failure in many ways. Historically, colonial rulers and their agents, as actors in the Basongora land loss question, disregarded indigenous people’s land rights and prioritised their colonial agenda. In yet another form of governance failure, the immediate and subsequent post-independence governments did not address colonial land injustices. They instead upheld colonial land laws and legacies as a result of which indigenous people had suffered unspeakable land injustices. To date, the Uganda Wildlife Authority (UWA), as the primary agency of the state in charge of wildlife, has failed to pay attention to complaints from the Basongora on matters pertaining to their relations with Queen Elizabeth National Park.

**Issues at stake in the gazetting of Semliki National Park**

While the safety of communities could have been a justifiable reason for the eviction of communities from their land during the colonial period, this eviction ought to have been treated as a temporary measure. The communities in question ought to have been given free and unconditional access to their land once it was declared or considered to be free of
the sleeping sickness epidemic. For whatever reasons, in lieu of granting them unconditional access to their land, the government then ought to have fully compensated evictees. Bamba and Babwisi elders have in their letters dated 5 May 2010, 2 January 2011, 25 May 2012, 11 July 2013 and 26 February 2015 petitioned the central government for compensation in vain.

**General comments on past gazetting of land**

Todate, several contradictions remain at the centre of colonial land legacies. First, while post-independence governments detested colonial rule, the same governments dismally failed to remedy colonial land injustices as one way of giving meaning to self-determination. Second, the current legal framework on land does not explicitly address historical claims to land before such lands became legally gazetted.


24. Christopher Mbazira, Public Interest Litigation and Judicial Activism in Uganda (February, 2009).


29. Zahara Nampewo, Uphill Progress or Downhill Degeneration? Local Council Courts and Access To Justice For Local Users (August 2010).


35. Zahara Nampewo, Too Few To Worry About? Young, Disabled, HIV positive and Female (March, 2012).


38. Rose Nakayi & Monica Twesiime-Kirya, The Legal Jurisprudential Analysis Report on Land
Justice in Uganda (October, 2017).


41. Denis Ojok & Max Ameny, Land Injustice in Northern Uganda: Select Studies from Amuru, Agago and Otuke (October, 2017).