

RFPJ

THE MELTING POT

Land Conflicts in the Rwenzori Region



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AN ANALYSIS OF LAND CONFLICTS IN THE RWENZORI REGION



Abstract

This study examines the centrality of land in the conflict situation in the Rwenzori region of western Uganda. By exploring the factors underlying the incidences of land conflicts, the study derives vital implications of these conflicts to the region's peace and security situation. The findings indicate that land remains at the centre of the prevailing conflict narrative in the Region. Notwithstanding the narratives that may mask land, such as references to ethno-political and sociolinguistic pluralities and antagonisms, land is the fulcrum around which these struggles revolve. Narratives like ethnic tensions have been researched and told time and again, thus masking the fundamental problem: land governance. Land conflicts tend to draw many different people and agencies into their fold, thus impacting on the peace and security measures and potentialities in the region's entire community. The study proposes institutional and structural measures for overcoming these interlocking conflicts.

**Kabarole Research and Resource Centre (KRC)
and Rwenzori Forum for Peace and Justice (RFPJ)**

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Acronyms

BMU	Beach Management Unit
CCFU	Cross Cultural Foundation Uganda
CFR	Central Forest Reserve
CSOs	Civil Society Organizations
DHO	District Health Officer
DLG	District Local Government
DRC	Democratic Republic of Congo
GTT	Government Technical Team
GoU	Government of Uganda
ID	Identification
KRC	Kabarole Research and Resource Centre
KIs	Key Informants
LC	Local Council
MAAIF	Ministry of Agriculture Animal Industry and Fisheries
MoFPED	Ministry of Finance Planning and Economic Development
NALU	National Army for Liberation of Uganda
NFA	National Forest Authority
NP	National Park
NGO	Non-Governmental Organization
OAU	Organization of African Unity
OBB	Obudingiya Bwa Bwamba
QENP	Queen Elizabeth National Park
RFPJ	Rwenzori Forum for Peace and Justice
RDC	Resident District Commissioner
UNLF	Uganda National Liberation Front
UPDF	Uganda Peoples Defence Forces
UPF	Uganda Police Force
UWA	Uganda Wildlife Authority
WEMNET-U	Water and Environment Media Network-Uganda

Executive Summary

This in-depth inquiry interrogates the place of land in the conflict situation of the Rwenzori region, western Uganda. The study discusses the issue of land and the dynamic conflicts that have evolved out of the struggle for access to, control over, and utilization of, land, and the authority structures and institutions involved in these struggles. History describes the Rwenzori region as a place where more immigration than emigration took place. The influx of migrants often created tensions between different groups, indigenous and migrants, especially over land. Therefore, land conflicts are not a new phenomenon in the region. However, the renewed interest, and thus the motivation for this study, is the status that land conflicts have gained in the recent past and the information gap on these changing land-related contentions since the mid-2000s. Several conflict studies¹ in the Rwenzori region have previously mentioned land as a source of conflict. These analyses present land as one of the many other drivers of conflict but hardly make it the subject of study. Besides, little attempt is made to link land conflicts with the region's overall conflict situation in the past decade. This literature is therefore inconclusive on the extent and significance of land conflicts in the region's overall conflict context.

Against the objective of establishing how and why land generates conflicts and affects their trends in the region, the report provides an extensive account of land conflicts and their link to other conflicts, such as the often-mentioned ethnic conflicts. This approach reaches the heart of the different kinds of conflicts the people of the region have endured, and continue to endure, and underscores effects of these tensions on the peace and security of the region.

Majority (94%) of the respondents came from 52 out of the 7 districts of the Rwenzori region. These were selected based on the presence of KRC and RFPJ programmes in these districts where joint peace programs are being implemented. Other respondents were drawn from Kampala to represent central government institutions that are active in the region. The study employed qualitative techniques, particularly key informant interviews with selected informants who included: LCs, RDCs, Police Officers, UWA personnel, NGO leaders, Cultural Leaders, and Opinion Leaders reached individually in their homes or offices.

Key informant interviews at various levels revealed a high incidence of land conflicts and appreciation of the same. All informants and group discussion participants understood too well the land conflict problem, having interfaced with it through individual experiences or by association with people and communities experiencing land conflict situations. Starting from community to institutions like police and local councils, land disputes dominate the story of dispute resolution and contention between people and institutions.

Reports obtained from police stations, RDCs and local councils offices, indicated a high reporting rate of land-related cases compared to all the other cases combined. On average, about 60% of the cases received at police stations are land related. RDCs handle more land-related disputes than other disputes combined. Besides being widespread, land conflicts have unique dimensions and are quite differentiable across space given the unique histories of each district. There are, however, some convergences and similarities because the same land tenure system is shared across the board in the region.

Majority of the land cases occur at family level. They mainly stem from death of household heads without bequeathing, or husbands selling or mortgaging land without consent of the wives and children. There are also instances of land grabbing especially from the widows by their in-laws after the death of their spouses. Polygamy also features as one of the causes. Such land conflicts were revealed to the study team, indicating their intensity and extensity. Outside the families, individuals and companies are also involved in land conflicts with the communities. Most of these cases are now publically known as a result of people reaching out to relevant authorities in pursuit of justice. There are well known land conflicts between communities and authorities responsible for protected areas to which a rich body of literature already exists. In Bundibugyo and Kasese districts, particularly, land conflicts are far too many, more complex, and pose a real threat to the security given their relationship with ethnicity.

¹ KRC and RFPJ, *Stuck in the mist: Contextual Analysis of the Conflicts in the Rwenzori Region*, Fort Portal: KRC and RFPJ, 2012; KRC, *Unmasking the Truth*, Fort Portal: KRC, 2014; Crosscultural Foundation of Uganda (CCFU), *Managing inter-cultural conflict in the Rwenzori Region: Interventions and aspirations*, Kampala: CCFU, 2014.

² Kabarole, Kasese, Bundibugyo, Ntoroko and Kyenjojo.

The study uncovered an institutional dimension to land conflicts. Different institutions, such as churches and mosques, cultural institutions, private companies, protected areas and government institutions such as schools, prisons, sub counties and district local governments, are engrossed in conflicts both internally and externally with other actors. Disputes of government against itself were bewildering. Kabarole district, for instance, has disagreements with Ntoroko over the boundary in Kicwamba Sub County, Nyamisingiri parish. The conflict, still ongoing, is expressed at every opportunity. For example, during National ID registration, both districts deployed their agents. During immunization, both districts deploy their staff. During tax collection, especially trade licenses, both districts go to the same people. This has resulted in clashes between community members and government officials from both sides. The leaders from both sides of Kabarole and Ntoroko district have been engaged in verbal exchanges yet the issue has not been resolved.

Regarding drivers of land conflicts, the nature of these conflicts shows multiple drivers, including: historical claims, land tenure, and ineffective land administration. Key among the drivers is the failure in land management reforms and competition for geo-political space. Land registration, a vital step in land administration, is the least explored. Customary ownership (with its demerits) predominates at 47%. The restoration of Kingdoms in 1993 as cultural institutions without political and economic power, and without official geographical boundaries, is partly to blame for the escalation of land conflicts in the Region.

Key actors in these land conflicts include: the government through its institutions like UWA and NFA, politicians, cultural leaders, the rich and powerful members of the society. For every category of actor, there are competing land interests. Some of these interests have brought these actors into confrontation with local people. Government institutions like UWA and NFA deal with encroachment and boundary issues with the surrounding communities and are marred into misunderstandings over who is violating the other's land rights. Politicians, driven by power ambitions, give away land which is neither theirs nor have the mandate to distribute. Equally, the rich and powerful are going every length to buy and amass land, sometimes fraudulently supported by a land governance system which works in their favour. The cultural leaders who once held the land in trust are now selling as is the case in Tooro kingdom.

Land conflicts contribute to insecurity in the communities, where murders, property destruction, explicit rifts in families, and tensions between ethno-linguistic communities and prejudices erupt and persist. These effects form a cascade of second level effects of poverty, retarded development, dependence, family break-ups, land fragmentation and landlessness.

Whether these land conflicts can disrupt the peace and security in the region, it is possible but beyond empirical prediction with certainty given the paradox of the experience of previous armed conflicts that had little to do with land as well as the possibilities of land conflicts to metamorphose into high-level armed violence. While many respondents revealed that the level of land conflicts can hardly upset the peace and security of the region, and that the region's past, present, and future insecurity will likely result from the bio-physical environment and geopolitical proximity to conflict prone areas (i.e. DRC), conflict processes are difficult to predict in a study, such as this one, which hardly assesses the strategic imperatives linking land conflicts and broader civil and other armed violence. A more detailed assessment, approaching futures research methods and strategic prediction/analysis, might be more helpful in this endeavor.

The physical environment includes several forest reserves and game parks, which provide a safe haven for criminals to hide. Secondly, the proximity to the DRC, which has not been stable for a very long time, puts Uganda's security at stake. Armed people come and hit and retreat to DRC with little consequence on their part. Additionally, the new divide and rule politics based on ethno-linguistic identities and struggle for supremacy by different cultural institutions far threatens the peace and security in the region more than does land conflicts. The problem, then, is not land per se but the pursuit of loyalty to these authority structures which has gone out of hand. Land shortages remain largely at individual level and these conflicts will remain low-intensity and at community level.

Besides, there are pockets of land conflicts with potential to upset the peace and security of the region. One case is the Katunguru conflicts involving communities around the Kazinga channel. The conflict stems from Government's failure to degazette the area into an animal sanctuary. The land in question has never been degazetted although government allowed people to settle there on the understanding that the fishing activity (which then was the preoccupation of the local community) was compatible with wildlife conservation. Violent demonstrations in this community are a common occurrence and the constant confrontations between the park authorities and the community are moving toward a tipping point.

The other equally fearsome source of conflict entails the contentious historical claims coming to light following the restoration of cultural institutions. For example, the Omukama of Toro had a hunting shelter in Katwe sub-county and holds titles for land in Kahendero and Hamukungu. Yet, if he made claims over these lands and sites, or expressed desire to visit his former territory, that would upset the leadership in the Obusinga Bwa Rwenzururu as it might be interpreted as a sign of provocation. As it stands, this conflict is a significant threat to inter-kingdom, inter-community, and intra-state peace and security.

Regarding the mitigation of these conflicts, the government through its legislative and executive bodies, plays a leading role. Most land conflict cases are normally reported at LC 1 courts and magistrates' courts. But the conflicts are not resolved at the same pace they are reported, leading to a case backlog. To reduce the incidence of land conflicts, some interventions are district-specific; others national; targeted at different stakeholders; and all are needed to address the unique land conflicts as recommended below:

Central government

1. Government should roll out the Land Information System (LIS) in the Rwenzori Region to digitalize land titles and avoid multiple land ownerships, grabbing, and forgeries. This would also speed up legal land purchases, and make it easy and safe to sale or use land as security to acquire loans from financial institutions. The study recognizes that it is easier to deal with registered land than with unregistered land.
2. For conflicts arising from competition for geo-cultural space, Government should constitute a Truth and Reconciliation Committee (TRC) to investigate the 5th July 2014 attacks in Kasese, Bundibugyo and Ntoroko and all the historical issues in the region, in order to foster unity, harmony, and reconciliation among the people of the Rwenzori Region. The TRC should work toward understanding the interests of the different actors, uncovering the truth about what happened in the past (unearthing the truth) and then move toward reconciliation. For long, this has been a missing link in the peace efforts in the Rwenzori Region: the Obusinga Bwa Rwenzururu Peace Committee proposed by President Museveni is yet to take-off.
3. On land conflict between the Tooro kingdom and the tenants occupying kingdom estates: Government should institute a Commission of Inquiry into land disputes in Toro Kingdom to avert the likely massive forceful land evictions by kingdom agents. The Land Fund should be rolled out to benefit the people of Rwenzori Region such that absentee land lords are compensated to allow the bona fide occupants to acquire security of tenure.
4. Land conflicts resulting from government's effort to resettle displaced populations: the government should implement the recommendations of various Committees on the problem of Basongora and other minority ethnic groups under the restitution program (to return land to people who were dispossessed as a consequence of government action). In particular, land for the Basongora should be expeditiously demarcated, land titles processed and issued to rightful owners.
5. National Forest Authority and Uganda Wildlife Authority should open up boundaries of the estates under their management to iron out challenges of increased boundary disputes between protected areas and frontline communities. Permanent boundary demarcation infrastructures should be put in place and a formidable unit of law enforcement and surveillance established.
6. Government should streamline and build the capacity of land administration institutions to enhance coordination and efficiency in handling land matters. Currently, there are a multiplicity of such institutions and individuals that need to be coordinated.
7. Government should expedite legitimization of the current Local Council Court system as well as support existing initiatives such as mediation by clan/family forums, community elders, religious leaders, NGO-supported peace actors and emerging informal community dispute resolution interventions.
8. As a matter of urgency it's important that the border demarcation process stipulated in the Ndurgoto Agreement and its addendum be revived and completed by GoU and DRC.

Local governments and civil society organizations

9. Since conflicts prolong because conflicting parties fail to dialogue, there is need for inter-ethnic, inter-cultural institutions and political dialogues on issues that tend to crisscross. The dialogues should be organized up to the lowest levels possible, at least up to sub county level, for them to have meaningful impact on the minds of the masses.
10. There is need for mass sensitization on land matters at community level and continuous discussion over land by the stakeholders using the already existing structures. A stable forum like the Kasunga regional leaders' forum can constitute a team on land and charge it with the responsibility of synthesizing land issues in the region and fostering continuous debate on land matters at regional level.
11. Local governments in the Rwenzori Region should pass bye-laws requiring each household in the region to demarcate its land with live fencing materials to help in mitigating land disputes arising from unclear boundaries or trespass. This approach would appear to be more desirable in areas where the parties do not feel at home with formal procedures (such as application for title to land which involves very slow and costly procedures).

12. To erase family level conflicts, development actors with mandate in land administration and peace building should encourage family heads to write wills and share information transparently with their family members. There is need for attitudinal change on writing wills by stressing the benefits and value of doing the same. There is still a negative attitude toward writing wills, which equates the act to inviting early death. Such negative stereotypes need to be overcome through sensitization and behavioral change messages.
13. A detailed analysis of the potential linkage between land conflicts with the region's armed-conflict situation in future is needed, in order to inform government interventions for conflict early warning, analysis, prevention, de-escalation, resolution, and transformation.

In Bundibugyo and Kasese districts, where land conflicts are far too many, more complex and pose somewhat a threat to the region's security, the study recommends the following to the government:

1. There is need to construct cattle fences or barriers to prevent animals from destroying crops like were the case in Ibuga, Kasese District. Government has to have its way on this issue despite resistance from the community. Otherwise, this conflict will never end. UWA was initially willing to put barriers but the communities rejected them. If business remains 'as usual', cultivators and grazers in Mubuku and Ibuga can only conflict because cattle and crops cannot naturally co-exist unless separation measures are put in place.
2. Government should promote family planning to check on population pressure on land. As long as the population continues to grow at current rates, cases of siblings fighting one another over land will remain.
3. Government needs to rationalize land. For example, it may not be necessary to have two prison farms in Kasese. Government needs to free up more land for human activities.
4. The government needs to put the land held in trust at work so it does not pass as idle land when people barely have enough to support their families. Options available to government include (i) cultivating the land and selling the produce to the community at a subsidized price, or (ii) lending the land to the people for cultivation on a rotational basis.
5. Government needs to settle the conflict in Nyakatonzi. The conflict has persisted for a very long time. Government's response has never been sufficient, hence the conflict keeps recurring.
6. Government should solve the case back log of land matters by utilizing alternative dispute resolution structures such as *Abisemalhamalambo* (ridge leaders) and *Bakulu ba'Bulambo* (chieftains) who can trace for true ownership of pieces of land under contestation from the community and sole ownership conflicts.

Organisation of the Report

The rest of the report is organized under seven chapters. Chapter one provides background information. Chapter two gives a review of the literature highlighting previous research on land tenure, land distribution and the people of the Rwenzori Region. Chapter three analyses the incidences and nature of land conflicts in the Rwenzori Region. Chapter 4 discusses the major factors underlying land conflicts and the actors that are involved in land conflict generation and resolution. Chapter five discusses the conflict-resolution mechanisms used and the various actors, involved in managing land conflicts in the region. Chapter six analyses the link between land conflicts and the overall conflict situation in the Rwenzori region, while chapter seven concludes and discusses local and national strategies for managing these conflicts.

INTRODUCTION

1.1 Background

Land, like water, is life. It supports all living things on and below its surface. Access to this surface upon which people live, an economic asset upon which humanity depends, a point of access for other resources like minerals, a territorial asset for states and peoples, and a central element informing certain communities' identities and spiritual worldviews³, access to, ownership, and control over land is an existential question. However, this important resource has been a source of conflicts across time and space and in no small measure in Uganda's Rwenzori Region. Several conflict studies⁴ in the Rwenzori region have mentioned land as one of the sources of conflict, presenting land among other drivers of conflict without making it the central variable in these studies. Those that attempt to link land and conflicts hardly analyse the relationship between land conflicts and the region's general peace and security situation. Instead, the available literature is inconclusive on the extent and significance of land conflicts in the region's overall conflict context.

The Rwenzori region has unimaginably beautiful sceneries due to Mount Rwenzori and other natural attractions. Yet, it is also highly vulnerable to armed and unarmed, ethnic and other forms of, conflicts. Over the years, these conflicts have resulted in destruction of life and property. Important to note, conflicts may be constructive or destructive⁵. Constructive conflicts represent the productive interaction of competing interests and values, an ever present function in a dynamic society. Well managed conflicts can engender opportunities for the identification of problems, and for achieving progress. However, in recent times land-related conflicts have been majorly destructive and counterproductive, leading to detrimental results and hostile relationships as evidenced from the 5th July 2014 ethnic attacks (discussed in subsequent chapters) in the region that left over 100 people dead and property destroyed.

The situation is not getting any better as evidenced by the many land related cases in court: for example, from the Magistrates Courts of Fort Portal at Kyenjojo out of the registered 61 civil cases in 2015, 54 (88.5%) were related to land disputes. Some analysts have linked these conflicts to the increasing population in the region: Provisional results of the National Population and Housing Census 2014 show Kasese as the 5th most populated district in Uganda with 702,029 people; Kabarole with 474,216; Kyenjojo 423,991 people; Bundibugyo with 224,149, and Ntoroko with 66,422 people. Generally, Uganda's population is estimated to increase to 46.7 million in the year 2025 and increase of 11.8 million persons in 11 years.⁶

Against that background, KRC and RFPJ sought to explicitly explore land as a factor in the region's conflict situation. In so doing, KRC and RFPJ would quantify the impact of this phenomenon, which hitherto was not well articulated except for the anecdotal evidence, on the region's conflict situation.

3 Rugadya, M.A. 'A review of Literature on Post Conflict Land Policy and Administration Issues, During Return and Resettlement of IDPs: International Experience and Lessons from Uganda', Washington DC: World Bank, 2006 (http://www.globalprotectioncluster.org/assets/files/field_protection_clusters/Uganda/files/HLP%20AoR/Uganda_Post-conflict_Land_Administration_and_IDP_Return_2006_EN.pdf). Accessed on 1/10/2015 at 8.46am.

4 Kabarole Research and Resource Centre (KRC), *Stuck in the mist 2012*, *Unmasking the Truth 2014*, *Managing Intercultural Conflict in the Rwenzori Region (2014)*, Fort Portal: KRC

5 See Gwayaka, M.G. and Byaruhanga, A.B.. *Resource Based Conflicts and Human Rights Violations in Uganda. A case study of Selected Protected Areas*. Kampala: Human Rights Network Uganda, Kampala, 2010.

6 Uganda Bureau of Statistics, *National Population and Housing Census (Provisional Results)*. UBOS, Kampala, 2014, p. 16

1.2 Study Objective and Research Questions

The purpose of the study was to explore the factors underlying the occurrence of land conflicts in the Rwenzori region. This would be achieved by seeking answers to the following questions:

- a) What explains a rise in land conflicts in the region? Who are the actors?
- b) What are the existing mechanisms for dealing with the prevailing land conflicts, and what are their in/adequacies?
- c) What are the available opportunities for resolving land conflicts in the Rwenzori region?
- d) What are the current and likely future impacts of land conflicts on the general peace and security in the region? What are the possible conflict-prevention measures?

1.3 Methodology

The study combined desk review and qualitative interviews with a purposive sample of 105 respondents in the selected districts: Kabarole, Kasese, Ntoroko, Kyenjojo and Bundibugyo. At the national level, mainly with policy makers, key informant interviews were also held. The study also applied snow ball sampling/chain referral sampling—a non-probability sampling technique where existing study subjects recruit future subjects from among their acquaintances. Below are the areas that were visited.

Table 1: Sampled Study Areas

District	Number of Respondents
Kabarole	19
Kyenjojo	17
Ntoroko	19
Bundibugyo	16
Kasese	28
National level (Kampala)	06
Total	105

To ensure representation of land related conflicts, the study elicited respondents from the community level up to institutional structures relating to land. Attention was paid to communities affected by land conflicts in the past. The study's findings and recommendations are therefore rooted in:

- Ordinary community members affected by land conflicts
- Lower local government council leaders (LCIIIs from sub counties where land conflicts are most prevalent)
- Opinion leaders
- Religious leaders
- Representatives from the land boards of cultural institutions
- Representative from Districts' land offices and district land boards
- Representatives from NGOs doing conflict related work in the region
- Management agencies for Protected Areas like Uganda Wildlife Authority, National Parks authorities, and National Forest Authority
- Community-based land management structures especially around protected areas like National Parks located within the region

Data was collected using interview guides (see annex I), coded and entered into Ms Excel for part of the analysis. Qualitative data was interpreted and narratives drawn.

1.4 Study Area and Population

The Rwenzori Region derives its name from the Rwenzori Mountains historically known by the Runyakitara-speaking communities as *Rwenjura*, and among the Bakonzo as *Rwenzururu*. It is made up of seven (7) districts of Kasese, Bundibugyo, Kabarole, Kyenjojo, Kyegegwa, Ntoroko and Kasese. Out of the 7 districts, 5 districts–Kabarole, Kasese, Bundibugyo, Ntoroko and Kyenjojo–were considered for this study on land conflicts where Kabarole Research and Resource Centre (KRC) and Rwenzori Forum for Peace and Justice (RFPJ) implement a joint peace building project .

The Region has experienced a wave of ethnic conflicts prior to and during colonial rule. The earliest ethno-linguistic conflict recorded during the colonial period was the anti-colonial Abayora rebellion of 1919-1921. Since then, a wave of ethnic conflicts has dotted the history of the Rwenzori Region involving the following sociolinguistic communities: Bakonzo, Baamba/Babwisi, Basongora, Banyabindi, Batuku, Batooro, and the “Bafuruki”⁷.

The population in the study districts was divided into two distinct categories: duty bearers⁸ and victims of land conflicts. The study employed unstructured interviews which were used on selected key informants, mainly LCs, RDCs, Police Officers, UWA personnel, NGO leaders, Cultural Leaders, and Opinion Leaders. These were interviewed in their places of convenience, from within the communities or offices where they work.

The study was carried over a cross section of respondents representing different categories of duty bearers and community members sharing their experiences either as victims of land-related conflicts or having dealt with the problem in their own right. Clarification meetings and follow-ups were organized with RDCs, cultural leaders and LCs. The above methods were supplemented by observations, voice recording, evidence searching, photography carried out by the study team in cases where property destruction related to land wrangles was readily visible.

1.5 Quality Control

The study covered both factual and perceptual issues related to land conflicts. Capturing factual and perceptual issues was important because perceptions shape the nature of conflicts. Perceptions are also important in reducing or increasing conflicts in the community. In order to ensure reliability and quality of data, collected data underwent several checks and verifications. Data from interviews was first verified through crosschecking with key informants within the communities where the interviews were held. Key issues were also discussed with government officials (local and central government) and UWA staff in those areas. This ensured consistency and reliability of the data collected. A feedback meeting [KRC and RFPJ] staff was organized on 28 September 2015. A validation meeting with stakeholders drawn from the study districts, as well as involving expert analysis, was held on 8th December 2015. During and prior to these meetings, preliminary findings were presented to the technical team(s) of the two institutions and regional stakeholders who provided feedback and clarifications that further guided the study team in finalizing the report.

7 *Bafuruki* are not an ethno-linguistic community but a popular word used to describe various immigrants who have occupied vast areas in the districts that make up the Rwenzori Region.

8 Important to note that some of the duty bearers interviewed during the study were equally victims of land conflicts.



*Figure 1: Stakeholders attending the regional validation workshop at Gardens Restaurant, Fort Portal.
Credit: Andrew B*

1.6 Limitations of the Study

There are limitations to qualitative studies which are well documented in the social studies literature on Uganda and beyond. This study is no exception. The foremost limitation is about the relatively small number of respondents: 105 respondents against a general population of 1,890,803 people.⁹ However, being a qualitative study, we could only talk in depth to only tens of people: and in attempt to cover each , category of respondents, we covered most segments of the population, and unraveled most of the silent issues related to land conflicts in the region. There is also subjectivity, which may be inevitable in qualitative investigations, but having experts on conflict analysis and peace building engaged directly with the respondents, we significantly reduced the biases in the information collected to the extent possible.

There was a possibility of recall error since in some areas the study was carried out more than a year after the conflicts. The study team, however, avoided such errors by seeking evidence on responses given and through review of other sources of data. The review meetings held, which many knowledgeable local and opinion leaders attended after every field visit, helped to correct possible errors, omissions, and data loss.

The fact that the study was carried out during the time of political campaigns [August/September 2015], in preparation for party primaries and national elections, could have affected the responses from mainly local leaders and members of the community hoping for political solutions to their challenges. Political leaders might have made guarded responses for fear of losing out in the elections. These fears were mitigated by double-checking the answers given with other leaders and referring to existing legal and policy frameworks.

9 @UBO;S, National Population and Housing Census (Provisional Results), 2014, p 21.

THE PEOPLE, LAND TENURE AND DISTRIBUTION IN THE RWENZORI REGION - A HISTORICAL RETROSPECT

2.1 Land Tenure in the Rwenzori Region

Most of the communities in the Rwenzori Region own land individually under the traditional customary land ownership system, except the Basongora and Batuku who own land communally as grazing land. However, besides customary family-based ownerships, individual ownership is prevalent. Much as the individual appears to possess rights to use his/her land as s/he pleases, there are certain definite checks on issues like sale of land. In other words, control of the land is not wholly on the individual. The land held is also virtually typical for subsistence production as opposed to capitalist or commercial agriculture.

According to the Ministry of Lands, Housing and Urban Development, Uganda has four (04) land tenure systems: Customary tenure is at 68.6%, Freehold 18.6%, Mailo 9.2% and Leasehold 3.6%. In the Rwenzori Region, very little land is held under the title. In Western Uganda, taken as a whole, individual land registration is only estimated at 1.6%, and the most common customary ownership is at 47%.¹⁰ Explanations for this include, firstly, that many of the people living in the areas where the study was conducted are peasants who cannot afford the cost of acquiring land titles/or acquiring a lease. Ignorance about the importance of acquiring a land title is another reason. Many of the people, especially in Kabarole, Ntoroko, Bundibugyo and Kyenjojo districts, still have a sense of security over their land in their traditional system of tenure. Therefore, they seem to see no reason of getting their land titled in the name of ascertaining security of tenure. Many of the respondents from these areas said that no one would ever grab their land citing that the whole village knows everybody's land and the boundaries.

The colonial government in Uganda, among other development policy problems, grappled with the question of whether plantation or peasant production should be the basis of agricultural change¹¹. In other words, it was a question of whether individual capitalist forms of tenure or the traditional forms (often referred to as customary) should be the basis to commercialize the Ugandan economy mainly agriculture. For instance, the Buganda, Toro and Nkore agreements of 1900, 1903 and 1901 respectively, had a number of consequences on relations of the people to land. This was because the colonialists believed that the native systems of land tenure were incapable of bringing about agricultural development—for the type of agriculture which was meant to furnish agro-based industries in Europe with raw materials.

Debate on agricultural development, therefore, hinged around the “traditional” system of land tenure versus the “western” or modern capitalist systems. Customary land tenure was, in most cases, condemned by the colonialists. This condemnation is repeated by most of today's scholars, for being an obstacle to agricultural development, without sufficient empirical analysis of what rights exist under customary tenure, and how these rights are distributed among the individuals. Thus there was no serious attempt to understand the question of “ownership”, not in the Western sense but as understood in the African customary/traditional system and the production relations therein.

¹⁰ Ministry of Lands, Housing and Urban Development, *Statistical Abstract*, Vol. 1, Kampala: MoLHUD, 2010

¹¹ Otim, P. *Aspects of the land question in Mbale District*. Centre for Basic Study, Kampala. Working paper No.35., 1993

In the Rwenzori Region prior to the advent of colonialism, there was an array of different ethno-linguistic communities (Batooro, Bakonzo, Bamba, Batuku, Basongora, Bagabo, Bakingwe, Batwa, Babwisi, etc.). It was a heterogeneous area, with a variety of customary practices and social structures until the advent of the Babiito dynasty in what later became Bunyoro-Kitara empire from which the kingdom of Tooro split during the early 1800s. During the formative and consolidation process of the then kingdom of Tooro, the Babiito royal family turned the Bakonzo/Bamba into serfs and kind of second-class citizens in the new kingdom¹². The British colonialists ruled through the Babiito who were the traditional rulers. Mwambusya-Ndebesa, commenting on the genesis of inequality, noted that what came to form Tooro kingdom was not the pre-colonial kingdom of Tooro. What came to be Tooro “proper,” namely, Burahya County, is what Tooro kingdom was, originally. He continues to point out that the British added Bamba/Babwisi and Bakonzo areas, which were not monarchical societies, to the Tooro kingdom for ease of administration and as part of the indirect rule policy.¹³

In Buganda kingdom, the British created a landed gentry of collaborative chiefs. The British rewarded these chiefs for the role played in helping them to administer and control the masses; by giving chiefs big chunks of land measured in square miles, hence the name *mailo land*. Half of the total area of Buganda totaling to 8,385 square miles was given to chiefs as official estates. The remaining half was taken over by the government as crown land shared between government and church institutions. From 1900 onwards, the peasantry who had hitherto lived and tilled their land with minimum interference started paying taxes to their landlords in different forms. The 1900 agreement generated situations in which *obusulu* and *envujjo* taxes later came to be paid to the landlords by the tenants. This action of dispossessing the majority of the people of their major means of production was to create for Uganda the worst form of inequality.¹⁴

From the pre-colonial era, different societies often conflicted, especially over land ownership which was more communal with more powerful groups displacing or lording over the weaker ones. Early attempts to re-organize land tenure systems into the productive framework of the colonial economy led to the ‘*mailo-land*’ (mile land) system, which included the demise of the customary communal ownership and the private ownership of large tracts of land by the *Omukama* and the nobility (chiefs), . Other vagaries of the colonial system, such as creation of forest reserves and national parks in the region (resulting in the forcible eviction of many prior residents) and colonial driven migration of productive labour from the already over populated Kigezi (Bakiga) into the region, set in motion land conflicts which, through time, have been exacerbated by high population growth rates, unsustainable agricultural practices, and policy and institutional weaknesses. The colonial administrators operated a dual land tenure system, in which they granted land rights to the *Biito* ruling class under freehold/*Mailo* arrangements, reserved substantial plots for the Crown, and denied security of tenure to the small-scale cultivators who occupied the land. The rest of the land in the region remained under customary tenure system.

Before colonialism, land was governed by customary laws which differed among the diverse ethnic groups that resided within the region.¹⁵ Despite the diversity, individual ownership of the land did not exist. However, at times the community agreed together to allow some individuals to occupy and use the land. ¹⁶ Among the Bakonzo, land was owned and administered by the *Abaisemalhambo* who used [and still do to a smaller extent] to govern the ridges before the advent of colonialism. The major *Abaisemalhambo* included the families of Tibamwenda, Busongerwa, Kisyenene, and Ruhandika. From these families and their subsequent successors people obtained land. The system operated in such a way that there was no paramount chief as it is today; rule was done through the traditional system of ridge leaders. Land had not been a contentious issue, because when a young man became of age and needed land, he would approach the *Mukulu wa Bulambo* and be given land.

The chieftain and the ridge leaders ‘owned’ land from which each of its members was free to get a piece. Each male member of the ridge/chieftain could claim a piece of land which then becomes his property and is owned by him and his family. In need of more land, the individual physically cleared the forest by cutting down the trees and the bushes, but in the area demarcated by the ridge leader or the chieftain as belonging to the people of that ridge. The subdivision would be done upwards towards the mountain because of two major reasons. Firstly, there was fear of the rival ethnic communities living in the lowlands if the mainly cultivator Bakonzo came low to the plains. Secondly, the land uphill is more fertile and conducive for crop production than the land on the plains, hence favoring the cultivator-Konzo community.

12 Mukirane, C. and Muhesi, P. *Obusinga Bwa Rwenzururu. A critical Analysis and Revealing Facts about the “Institution”* (No publisher), 2005, P.38.

13 Ibid Mwambutsya Ndebesa . ‘Kingship and political developments in Uganda, 1900-1994.’ In *Uganda: A century of Existence*, by P. Godfrey Okoth, Kampala: Fountain Publishers, 1995, p.50.

14 Ndebesa, , P.48.

15 See, https://www.uri.org/files/resource_files/Mitigating%20Land%20Book%20final.pdf. Accessed on 6/8/2015 at 5.23pm.

16 Ibid.

Much as the individual held individual use rights over land, the ridge leader had definite checks over it. He determined the boundary and, therefore, the limit of expansion as more land was brought under arable use. The chieftain and the ridge leader had the following powers and rights over the land:

- Settlement of land disputes
- Exercising a right of option to buy in any land offered for sale by a member of the group or by an adopted member through prior purchase
- Power to prohibit the sale of land to an undesirable person
- Power to declare as void any transaction which has not received his approval.

The *Isemalambo* (controller of several ridges stretching a sizeable territory) and the *isebulambo* (controller of an inhabited area constituting a small territory) respectively, controlled the mode of acquisition of land. The major modes through which individuals acquired land included

- (i) Inheritance, where on the death of a father his land was divided between the sons. Adult sons could, however, receive their share of land before the father's death (regarded as donation).
- (ii) share of mother-inhabited land, where the sons of different mothers inherited from the pieces of land and fields which were under their mother's care; and
- (iii) The crosscutting mother custody, where women were seen as custodians of productive resources and yet are not given "control" of these resources – especially in terms of the rights to alienate.
- (iv) Land purchase was another mode through which one would acquire land. The transaction had to have the approval of the ridge leader whose members had the first option to buy. Gifting of land also existed and the practice was common in the cases of relatives who would give land to the needy relatives.
- (v) There was also loaning and temporary leasing of land, for instance, when one wanted to grow crops which could not be grown in one's ecological zone (like cotton for the Bakonzo staying on the mountain slopes).

However, the type of transaction was clearly spelt out as a loan and not a gift. One often got such a loan for one to three seasons after which the land would revert to the owner.

Colonial rule changed land relations in the area. Busongora was part of Belgian Congo. The British slowly claimed it from the Belgians and annexed it to Tooro Kingdom. This sowed seeds of future problems on land had been sown.

Among the pre-colonial Batooro, the head of the household acquired land through a process called "*Okutembura*" [freely getting and appropriating land from virgin areas], or through buying or a gift from the *Omukama* for those who were closely associated with the kingdom. As such, there exists no land under clans but families. The clan elders, however, witnessed boundary demarcations when a father was distributing his land to the sons, and arbitrated when land wrangles occurred. Some of these practices still remain. Added to the above mode of land acquisition in Tooro, one of the kingdom officials interviewed during this study stated that there are five important things that the king gives in Tooro culture:

- *Itaka* (Land)¹⁷
- *Ente* (Cows)
- *Ebikwatwa* (royal artifacts these could be a spear, beads, crown, or a seat)
- *Amata* (milk).

Despite the historical land struggles, ethnic identity assumes a defining role in the current conflict analysis of the Rwenzori region because the media has regularly reported on the phenomenon of ethnic tensions as different sociolinguistic groups clamour for districts and recognition of their cultural institutions to insure their identity. So far, all dimensions of ethnicity in the conflict situation have been explored but there are still many questions unanswered. For example, the violent incidents of 5 July 2014 that left over 100 people dead in Bundibugyo, Ntoroko and Kasese districts remain inconclusive to date. It is only alleged that the attacks were led by 'misguided youths' aiming at fighting the newly installed kingship in Bundibugyo. The attacks resulted in deaths of security agents and innocent civilians, as well as loss of guns.

¹⁷ Land is specifically mentioned because of its relative importance in Toro culture.

Today, the Republic of Uganda recognizes the following land tenure systems¹⁸ as provided for under article 237 (3) of the 1995 Ugandan Constitution and section 3 of the 1998 Land Act (as amended): *mailo* land, leasehold, freehold and customary tenure systems. Over 70% of land in Uganda falls under customary land, while the owners are entitled to customary land tenure and boundaries are usually determined by specific landmarks such as trees, rivers and hills.¹⁹

2.3 Land Distribution in the Rwenzori Region

The distribution of land varies from district to district as a result of a combination of factors. First, it is related to variations in location and levels of fertility, with land located on mountain areas having rich soils and steady precipitation, while lowland areas on the plains have less fertile soils, especially in Kasese district. Some respondents asserted that fertile areas, like Mahango in Kasese, have drawn large populations. As a result individual land holdings are increasingly becoming smaller and smaller. This dwindling of land has a bearing on what has earlier been explained, the historical traditional mode of settlement patterns where, for security and production reasons, the Bakonzo settle on the mountains clearing the forest as their population increased. This is basically because Mount Rwenzori is a sanctuary with numerous caves and hideouts where they retreat to when attacked by their enemies. This distinct pattern of the Bakonzo is traceable to the anti-Bunyoro-Kitara expansion and later to the armed rebellion of the Rwenzururu Liberation Movement that began in 1962.

The second factor that contributes to differential land distribution in the different districts in the region is the history of land alienation. Most of the land on the plains (for the case of Kasese) was alienated and is owned by the Government and investors, either as a national park or investor-controlled areas. The people, therefore, have no choice but to struggle for any available land outside these establishments where they feel more 'secure' in tenure.

The third explanation is status differences. Different socioeconomic categories of the people have different land-purchasing and acquisition capabilities. There are differences between those who can afford to purchase more land on top of what they receive as inheritance and those who solely rely on what they receive from their toil. The findings indicate that whereas sale of land is often a last resort by the seller, mainly as a result of economic pressures, people who have economic means are more able to purchase the land on sale, since it is highly priced.²⁰ There is, therefore, a growing tendency of more land concentrating in the hands of the few who have the means to acquire it, with long-term implications for land distribution, access, and ownership

Fourth, outright land grabbing by powerful and rich people in the communities prevails. These powerful people include politicians, cultural leaders, and business people. These powerful and rich people 'hide under', and acting from behind the scenes instigate the 'idle' youth to grab land. Once acquired, the land is sold off to other people. A similar approach to land acquisition was first used by the Basongora pastoralists when they forcefully occupied Queen Elizabeth National Park in 2006. This opened a Pandora's Box for other forceful land grabs in the region. Other pieces of land that have been forcefully taken include: the Basongora land at Muhokya; Kilembe Mines land at Katadooba in Kasese Municipality; Mr. Benezere Kisembo's pieces of land in Karugutu grabbed by UPDF with no compensation; Mr. Daniel Kashagama's land near Kasese town though the land grabbers were chased away and in the process 9 people dead); the Kasese Municipality land at Kidoodo, among others. The study established a strong element of greed among the powerful and the rich who are using the unsuspecting idle youth to grab other people's lands. The study further confirmed that most of the people currently occupying

18 Section 1(t) and 3(4) of the 1998 Land Act (as amended): Mailo Land Tenure is more prevalent in Buganda (Central region) and in some parts of Western Uganda. The system originated from the allocation of land granted by the colonial government in order to secure political cooperation. This was 'institutionalized' in the '1900 Buganda Agreement'. Mailo Land Tenure recognizes the occupancy of *bibanja* holders' (tenants), whose relationship with the landlords is governed and guided by the provisions of the '1998 Land Act'. The leasehold land tenure system refers to the use of land for a set period of time. In Uganda, a person can receive a lease from an individual, local authority or government for a period up to 99 years with agreed terms and conditions. Leasehold land is granted by the owner of freehold, customary, or mailo land as well as the Uganda Land Commission with the grantee eligible for a certificate of title for the agreed period of time, according to Section 1(p) and 3(2) of the 1998 Land Act as amended. While a very small amount of land in Uganda falls under the freehold tenure system, this type of land was granted by the British government and later by the Uganda Land Commission. Freehold is a system that allows ownership of land in 'perpetuity' (unceasingly) giving full powers over its use and disposition. Such land was primarily given to church missionaries, academic institutions, as well as some select individuals, and is traceable in Sections 1(l) and 3(1) of the 1998 Land Act. Communal as well as customary land is owned by a particular group of people (family, clan, ethno-linguistic community, community), that is used and managed under regulations agreed upon by the group. The use of the land is usually overseen by elders, clan heads or other assigned committees to ensure that the rights of the entire group are being honored. Customary law is considered to be 'informal' and generally is not codified or documented with the agreed upon conditions and rules are passed orally from generation to generation. However, customary laws are recognized by Courts of Law

19 *ibid.*

20 Otim, P. (1993). Aspects of the land question in Mbale District. Centre for Basic Study. P.13.

the grabbed pieces of land are either second or third generation owners – affirming that those who forcefully grab land never settle on it but sale it to other people. The lack of alternative income-generating activities in the villages has also fueled the situation. Some of the respondents were seasonal migrants to low lands in Muhokya and Kikorongo in Kasese District where they hire land from landlords for cotton cultivation on a seasonal basis and go back to the mountains after harvest.

2.4 About the People of Rwenzori Region

The main ethno-linguistic communities in the Rwenzori region are: the Bakonzo, Bamba, Babwisi, Batwa, Basongora, Banyabindi Batuku²¹ Batooro, Bakingwe, Abarondo, Banyabutumbi, Bagabo²². Other sociolinguistic communities in the Region are:- Baganda, Bagisu, Basoga, Itesot, Acholi, Alur, Lugbara, Bafumbira, Bakiga, BanyNkore and Banyoro.²³

Among the study districts, Kasese district has the highest population standing at 702, 029 people followed by Kabarole district (474,216 people), Kyenjojo (423,991 people), Bundibugyo (224,145 people) and Ntoroko with the least population of 66,422 people.²⁴ These population figures are, however, not inconsistent with Uganda's population trends. Table 2 below provides Uganda's population figures since 1969-todate adopted from the provisional results of the National Population and Housing Census (2014). The statistics are as follows:-

Table 1: Uganda's Population Figures since 1969

Year	1969	1980	1991	2002	2014
Population	9,535,051	12,636,179	16,671,705	24,227,297	34,856,813

During the period 1969-2014, Uganda's population increased by 25.3 million, from 9.5 million in 1969 to 34.8 million in 2014. This is despite the high mortality rates caused by state collapse, 1966-1987; HIV/AIDS infections since 1980s; civil wars; and other disease-caused deaths. Between 2002 and 2014, Uganda's population increased by 10.7 million in a period of 12 years, at an average annual growth rate of 3.03 percent, a slight decline from the rate of 3.20 observed between 1991 and 2002. This trend suggests that, the population of Uganda could reach 40.4 million by 2020, and 46.7 by 2025. More than half of the population (52 percent) is female, and due to the country's high fertility rate, estimated at an average of 6.2 children per woman, half of the population is under the age of 15 years. On the other hand, the proportion of older persons (60 and above), has slightly decreased from 4.6 percent in 2002 to 4.2 percent in 2014. Owing to the high population increase against fixed land, the average population density of Uganda increased from 48 persons per square kilometers in 1969, 123 in 2002 to 174 in 2014.²⁵

21 Republic of Uganda, *Report of the Ministerial Committee on the Controversy Surrounding Obusinga Bwa Rwenzuru Cultural Institution*, Kampala: Cabinet Office, 2005, p. 10.

22 The Bagabo and Bakingwe are not yet recognized among the 59 Uganda indigenous communities outlined under Third Schedule of the Constitution of the Republic of Uganda, 1995. The Bagabo claim to be the "owners" of Lake George. Their leader, the late Simpirisio Barozi, is believed to have opened up Kahendero fishing village, Kasese District. Among the Bagabo, there are clans like Abatenge, Abanyambogo, Abanyakazige, Abanyaihembe, Abanyaitera with their different totems that remain undocumented.

23 Ibid.p.10.

24 UBOS, National Population and Housing Census (Provisional Results), 2014, p. 21.

25 National Development Authority, *Second National Development Plan (NDPII) 2015/16-2019/20*, Kampala: NDA, 2015, P.29.

INCIDENCE AND NATURE OF LAND CONFLICTS IN THE RWENZORI REGION

This chapter demonstrates that land conflicts are a stark reality. The measured incidence of land conflicts in the study population was at 100%, implying that all respondents understood too well the land conflict problem through individual experiences or by association with people and communities in land conflict situations. At the time of the study, there was a staggering 54 (88.5%) land related cases out of the 61 registered civil cases at the Magistrates Court of Fort Portal in Kyenjojo. The Deputy RDC for Kabarole district noted that out of 100 complaints received in her office, 70% are land related.²⁶ Out of the 100, apart from being wide spread, land conflicts have unique dimensions and are quite differentiable given the unique histories of each district. There are, as well, some convergences given the land tenure systems shared across the region.

3.1 Levels of Land Conflict

3.1.1 Land Conflicts at Family Level

The commonest and fundamentally similar land conflicts are observed at household level. Family members feud over land, partly due to contested family land sharing among siblings, death of household heads without bequeathing, contested inheritance of land by women, husbands selling or mortgaging land without consent of the wives and children, land grabbing especially from the widows by their in-laws after death of their spouses, and polygamy. All respondents interviewed could relate to one or more of these events at a personal or family level. A few real life cases shared in this section apply to the tens of people interviewed and indeed a lot more people in the region.

In Kabarole district, Bukuku Town Council, Bukumba zone, Karago parish, an elderly man Baguma (not real-name) was involved in a land conflict with his son Asiimwe (not real name). The two totally turned against each other. The land was idle and Asiimwe decided to use it but later claimed ownership over it, yet his father had also given him some other piece of land. The two are estranged and cannot talk to or see each other eye to eye. In Kyenjojo, Bufunjo Sub-County, the Vice Chairperson LC111 for Bufunjo Sub-County, who is also a peace-building practitioner, was mediating in a land conflict where Mr. Kigambo (not real-name), the head of a household, passed on but left a clear will on how his land should be shared among his 6 children. One of the children sold his share but later came back claiming more land to construct his house. It was a big family conflict where both parties were threatening violence against each other but thankfully, the local leaders mediated it without shedding blood. Land conflicts within families arising from polygamy are also common according to Vice Chairperson LC5, Kyenjojo district. When a husband attempts to bring a second or third partner on family land acquired with the first wife, a conflict brews and in most cases ends in domestic violence.

Such land conflicts within families were wide spread, reported in all districts but more pronounced in Kyenjojo, Ntoroko, Bundibugyo and Kabarole.²⁷ Where reported, such family land conflicts had resulted in enmity among family members with some totally turned against each other and others resulting into crimes like murder and domestic violence. Women were found to be more affected by land conflicts of this nature because women virtually have no land rights in the traditional sense when the men on the other hand assume all the rights to solely decide to mortgage, sell and giveaway without seeking consent of their spouses.

Between families, the land conflicts manifest mainly as disagreements over boundaries leading to trespass

²⁶ Mrs. Rosemary Byabasaija at the Regional Validation Workshop at Gardens Restaurant, Fort Portal on 8th December 2016.

²⁷ It remains to be investigated why family-level land conflicts were higher in prevalence in these districts than in Kasese

and fraudulent transactions in which buyers are led to buy disputed land, inheriting the problems therein subsequently. Fraudulent land transactions were found to be deliberate and orchestrated by some corrupt duty bearers who officiate in land transactions like the lands officials at both district and national level. These officials are responsible for official land registration, while the LCs and community land management structures deal with customary land transactions. The District Lands Officer, Bundibugyo, accused LC1 chairpersons of signing multiple sale agreements for a single piece of land. This led to multiple ownerships and land conflicts. In Matiri, Kihura Sub County, a pastor (name withheld), who was one of the victims of the Matiri Forest Reserve evictions, reported that many people who settled in the Reserve from Kabale and Kisoro districts of Kigezi sub-region were duped by fraudulent individuals (names withheld).

These individuals, it is claimed, enticed the migrants and exploited their ignorance of the place to fraudulently buy land in the forest reserve as the indigenous fraudsters claimed that land belonged to them (the fraudsters). These fraudulent transactions were always endorsed by local leaders, indicating complicity of local government leaders in such fraud. One lady Ntakalimaze (not real name), who was also evicted, claimed that the fraudsters are still at large. Ironically, they continued to solicit for money from the evictees, claiming they would help them with their judicial struggle, forcing the evictees to sell all their other property to pay court fees. She said, they were asked to contribute UGX 15 million for the lawyer who would defend them in court but since they did not always come to court for hearings, they do not actually know whether the lawyer was hired or not. During the study, the lady was sorting maize which she had mortgaged while still in the garden and acquired UGX 200,000 loan to make her contribution for the 'lawyer'. It was alleged in the same discussion that the Catholic Church had a title of the land in Matiri (Mukonomura enclave) which was also acquired fraudulently.

Between individual/families, land conflicts manifest mainly in form of unclear land demarcations.

3.1.2 Community-Level Land Conflicts

Community land conflicts involve several families with a shared grievance or viewpoint opposing another organized unit (or the other way round). One case involves communities living adjacent to protected areas; another is the conflict and between different ethno-linguistic communities especially in Kasese and Bundibugyo districts. Community land conflicts are most prevalent in Kasese owing to the history of movements of people with different ways of life and a colonial legacy of creating protected areas within these settlements. For a long time, differences in livelihood activities stumbled sociolinguistic communities in Kasese where the pastoral Basongora were in constant conflict with the crop cultivating ethno-linguistic communities, mainly the Bakonzo. These conflicts stem from animal trespass, constant movement of the pastoralists in search for pasture and water, and misguided traditional beliefs that prompt pastoralists to move to different places whenever they lost their cows. On return, they would find their land already occupied by other people, hence land disputes. These conflicts date to hundreds of years ago and have stretched to this day. They are not easy to resolve as ownership claims are complex.

Conflicts between communities and agencies responsible for protected areas are commonly based on encroachment accusations and counteraccusations between the protected areas agencies and communities neighboring such areas as game parks and reserves. The distinctive feature of these conflicts is that protected areas have coordinates and/or pillars in some places and maps (that are hitherto contested by community members). A good starting point, in determining who owns what in those contested areas, is the use of those coordinates, maps and mark-stones. There is a wealth of literature on conflicts between communities and protected areas which generally agrees that conflicts between the community and protected areas stem from encroachment and attempts by responsible agencies to apprehend offenders, thus producing a vicious cycle of conflicts.

Because of the already existing communal tensions, land conflicts quickly evolve from individual level to communal level especially when a particular conflict involves two parties of different ethno-linguistic communities. For example, if the conflict is between a Mwamba and a Mukonzo, it easily takes a sociolinguistic outlook and people cease to look at the actual problem and judge the case subjectively.

3.1.3 Institutional Land Conflicts

Different institutions, such as churches and mosques, cultural institutions, private companies, protected areas and government institutions like schools, prisons, sub counties and district local governments are engrossed in conflicts both internally and externally with other actors. Tooro kingdom, for instance, has been in conflict with

communities due to a variety of reasons as reported by the respondents such as corruption, influence peddling and fraud. Available evidence implicates Government and Tooro Kingdom in unclear land transactions that have dragged the kingdom in land wrangles with the local people.

In a letter written by the then Minister of State for Water, Lands and Environment, dated August 13, 2004, to the Chairperson of the Uganda Land Commission in reference is made to the Purchase of 13 parcels of land belonging to the Omukama of Tooro. The letter confirms the existence of land transactions between the Government of Uganda and the Tooro queen, Best Kemigisa. These transactions have been a source of many conflicts in Toro Kingdom because occupants of the land in question have not been officially informed about the land transactions. Simultaneously, Tooro Kingdom has continued to collect *Obusuuru* (land tax). The Queen Best Kemigisa, through her agents, has also carried out several evictions under unclear circumstances. These allegations were mainly reported by communities in Bukuku Sub-County, where there were several land conflicts between Tooro Kingdom and bona-fide occupants in Kitaka, Nyamiryango, Mandako, Kiguma and Katunguru (Block 58, 59 and 89). The local people who are affected have been imploring the government to clearly explain to them the status of the land in question and to pronounce itself on its possible interest in the said land. In addition to directly participating in land transactions, the Government is also said to have provided security to Tooro's Queen, Best Kemigisa. This powered her actions and offered her protection while she is carrying out evictions and other allegedly dubious land transactions. These revelations indicate a complex relationship, including complicity, between government, Tooro royalty, and land conflicts

Bodies managing protected areas are no stranger to conflicts with adjacent communities accusing them of encroaching on community land. For instance, the 417 households evicted from Matiri Forest Reserve claim that eviction was done beyond the known boundaries of the central reserve. However, judgment by the Chief Magistrate's Court of Fort Portal at Kyenjojo confirms that people had encroached on the forest reserve. Other claims by the evictees from the Matiri Central Forest Reserve implicate the local leaders, like the area MP: it is said that the MP connived with NFA officials to fraudulently acquire land from communities during evictions from the central reserve so that he can use it for personal gains. In Kasese district, communities surrounding the protected areas also claim the same and during the interviews, one respondent had this to say as criticism of the management of QENP:

The Park developed a plan of monitoring its boundaries each year and whenever it realizes that there is more free land during the monitoring, it takes it. Even up to now we are still dissatisfied and we have tried talking to the media, political leaders and other institutions about the original boundaries of the 1960s but to no avail. When they came back to measure the boundaries in preparation for the visit of the minister they came with a GPS to trace the boundaries so we wondered why they had come to measure again yet they had already measured before and this time they instead left more land on our side. This showed us that there was something that was not proper about what they were doing and that more of people's land was still there. We even recently came across disposed off property and broken furniture that remained as people were migrating and this was evidence that people used to stay in the land that had been taken by the park. Therefore we are still in the struggle to gain back our land and we believe that we shall win. There are stones inside the park that show the rightful demarcations of our boundaries. For example the people of Katunguru had the same problem like us but when they came to an agreement with the park about the boundaries, they took surveyors and showed them the stones and their land was returned to them.

The expression above carries the community sentiments and indicates the enduring struggle to re-possess the disputed land against all odds.

Other Government institutions like the UPDF were named as 'land grabbers'. It is alleged that the UPDF in Karugutu grabbed Mr. Benezeri Kitembo's piece of land. To date, Kitembo has never been compensated. Religious institutions like churches and mosques too are in land disputes with the community over ownership: the Estate's Manager of Rwenzori Diocese explained the land conflict between the church and licensees and squatters on church land in Matiri – Kyankaramata. The church's attempts to open boundaries of their 3 sq miles were foiled by the licensees and squatters. Instead, the church was sued by the very offenders. At the time of the interview, the church had 32 cases in court where it is defending itself against different litigant licensees and squatters. The conflicts mainly stem from the church deciding to re-possess their land at the expiry of a lease. The lease holders refused to let go of the land. The licensees and the squatters also failed to meet their responsibilities.

In Bundibugyo, Christians under the Catholic Church are said to have encroached on Muslim land at Kirumya mosque. The matter was reported to the RDC who resolved it through mediation. During the dialogue, Christians who had encroached on Muslim's land were able to compensate the mosque and the issue was solved amicably. Some of these institutional level conflicts start when individuals offer parts of family land to the church or mosque. Later, when the individual seeks to repossess the same land, believers refuse. In the past, such transactions were never documented. This lack of historical evidence of claims of ownership makes the conflicts more complex. There are many such cases in Bundibugyo, some of which include: Mantoroba church – where the land was given to the church by the grandfathers of the family which is currently in conflict with the church reclaiming the land; in Ntotoro sub-county, where the pastor was beaten in the church as a result of land conflicts; and in Kisungu– where the Late Samson Matikolo evicted the church on the land that was given to the church by his father. Land conflicts that involve churches/mosques are very dangerous because they easily degenerate into violence since they directly affect the larger society's belief systems.

3.1.4 Local Government Land Conflicts

Local governments were also found to be marred in various land conflicts. Kabarole district, for instance, had disagreements with Ntoroko in regard to the boundary in Kicwamba Sub County, Nyamisingiri parish. The conflict is still ongoing and expressed at every opportunity. For example, during National ID registration, both districts deployed their agents. During immunization, both districts deploy their staff and during tax collection, especially trade licenses, both districts go to the people. This duality of competing claims has resulted into clashes between community members and government officials from both sides. The leaders from both sides, especially the LC5 Chairperson of Kabarole district and the Speaker of Ntoroko district, have been engaged in verbal exchange yet the issue has not been resolved.

New local government units such as sub counties and town councils curved out of the old units also fuel land conflicts within government entities disputing boundaries, ownership and area of jurisdiction. Such were reported in Kihura Sub County and Butunduzi Town Council in Kyenjojo, Karugutu Town Council and Bweramule Sub County in Ntoroko, among others. From the outside, some lower local governments are faced with individual encroachers fraudulently attempting to gain ownership of government land. In other cases, fraud is committed from the inside: in Bufunjo Sub County, the Chairperson LCII of Mbale Parish allegedly sold land belonging to the Parish. When the community complained, he proposed compensating the Parish with alternative land but the community refused for it was not viable for parish activities given its distance from the parish's location. This case is still ongoing in the Kyenjojo Magistrate Grade 1 Court.

ACTORS AND FACTORS UNDERLYING LAND CONFLICTS IN THE RWENZORI REGION

4.1 Factors Underlying Land Conflicts

There is no single source of information or document that precisely contains information on land conflicts in the Rwenzori region. But there is a wealth of broader literature and publications that offer some insights on land conflicts specific to the Rwenzori region. This study reveals a high incidence and the available literature confirms it.

The literature suggests that conflicts over land exist due to its scarcity in the face of a fast growing population, varied land use between pastoralists and cultivators, access to protected areas, migrations, an inadequate land registration process, and the recent discovery of oil and gas in the Albertine Graben region.²⁸

From the a comprehensive survey of land disputes by the Ministry of Justice and Constitutional Affairs in 2008, land disputes rank the highest among conflicts countrywide and are often the cause of other disputes including family and domestic violence, assaults and murder. Land conflicts are expected to escalate in at least 30 districts in Uganda unless urgent measures are taken to resolve them. Three (i.e. Kasese, Bundibugyo and Kabarole) of these districts are located in the Rwenzori region.

According to Rugadya , the high incidence of land conflict is the failure of the prevailing land tenure systems to respond to the challenges posed by appreciation of the value of land in a way that would enhance effective tenure security. If land value increases in an environment where access to land across groups is highly unequal or governed by other factors such as ethnicity, it can give rise to conflicts that run along ethnic lines and spread to areas completely unrelated to land.²⁹ As an agrarian economy, the value of land in Uganda is naturally high. Over half of Ugandan households consider agriculture to be the single most important source of their livelihood and as such, land is a critical resource for the 42 percent of households that earn a living from subsistence farming.³⁰ Taken together, land is of critical importance to many Ugandans, especially considering that 85 percent of the rural population depends on land for their livelihoods and income.

All the 105 respondents interviewed confirmed the existence of land conflicts in their areas despite the fact that there were different factors to which the existence of land conflicts in different areas could be attributed. These factors were either internal or external to the community, with some factors combining both internal and external dimensions. For instance, a discussion with Detective Sergeant Andrew Rwakabale, in charge of the land desk at Kyenjojo police station, revealed that 60% of the cases they receive at the station were land-related. He noted that more than 100 land cases were reported at the station every month by different actors ranging from individual households, churches and other social groups to protected areas. The situation is no better in other districts. For example, the Vice Chairperson LC5, Kyenjojo district, notes that land conflicts were widespread in all sub counties.³¹ The study established multiple drivers (i.e. history, land tenure and ineffective land administration) which are by no means new discoveries but perhaps the evolving story in these narratives in the contemporary Rwenzori region. These are:

28 KRC and RFPJ, *Stuck in the Mist: Contextual Analysis of the Conflicts in the Rwenzori Region*, Fort Portal: KRC and RFPJ, 2012

29 Rugadya, *Escalating land conflicts in Uganda*

30 Uganda Bureau of Statistics, *Statistical Abstract*, Kampala, UBOS, 2010 and 2011.

31 Field interview.

4.1.1 Competition for Geo-Cultural Space

The earliest recorded land conflict in the Rwenzori Region was the *Bayora revolt* of 1917 arising from land alienation that caused a major ethno-nationalistic revolt led by Nyamutswa, a local medicine man from Bwamba. Nyamutswa teamed up with Tibamwenda, a grandson of Ngoni and a *Mukulhu wa Bulhambo* in Kisinga, present-day Kasese district, as well as with a one Kapoli (Kapolyo), who was Nyamutswa's aide.³² The three engaged the colonial authorities and Tooro kingdom in a confrontation which became violent, and resulted in the capture of the Bakonzo leaders. The captured leaders/rebels were subsequently hanged publicly in 1921 near Nyabirongo in Bukonzo County, Kasese district, after their appeal had been dismissed by the East African Court of Appeal³³. This forced the Bakonzo and Bamba struggles to go underground. Large tracks of land as at Hamukungu, Katwe-Kabatooro, Kilembe, Mweya, Kitholhu, among other areas, were declared *omukama's* land, crown land or Tooro official estates.³⁴

In 1954 a small group of the Bakonzo, led by a Primary School teacher Isaya Mukirania, started a liberation struggle under the guise of the "Bakonzo Life History Study Society" (BLHRS). The members started demanding for their own District(s) as well as constitutional recognition. The BLHRS graduated into an armed political struggle in 1962. On February 18, 1962 a memorandum requesting for a separate District for Bakonzo/Bamba was submitted to H.E. the Governor of Uganda by the representatives of the Bakonzo/Bamba in the Tooro parliament. The Bazonzo and Bamba cited their continued subjugation by the Tooro kingdom as reason for their liberation. The proposal was rejected. This led to the March 1962 walkout in which 17 out of 21 Bakonzo/Bamba representatives in the *Rukurato* (Parliament of Tooro) walked out in protest. Following the unrest that ensued in the Region after the *Rukurato* walk-out, the Central Government sanctioned the Sembeguya Commission that declined to recommend a separate district for Bakonzo/Bamba. Among other recommendations, the Sembeguya Commission had reported that any tendency of secession be rejected without reservation and national unity be encouraged especially because Uganda was just a few days on its brink to independence. He recommended that a separate district for the counties of Busongora, Burahya, Bunyangabu and Bwamba would be not only uneconomical but also difficult to administer³⁵.

Soon after the walkout, four leaders of the Bakonzo/Bamba were arrested and charged with abusing the *Omukama* of Tooro. These included Isaya Mukirania, Yerima Kawamara, Petero Mupalya and one Mbirika. In July 1962, the four appeared in the High Court and secured bail pending disposal of their appeal. They were ordered to return in November 1962. However, in October 1962, Isaya Mukirania disappeared without informing his colleagues. Jumping bail, Mukirania took refuge in the Rwenzori Mountains. From there, he started an armed rebellion. Mukirania's option for a military approach led to displacement and destruction of social services that had been put in place. In 1963 some founder members of what came to be known as the Rwenzururu Liberation Movement, on realizing the magnitude of the destruction, opted for peaceful means of achieving their objectives through dialogue with government. This marked a turning point in the movement.

The traditional Rwenzururu anthem³⁶, which was composed during the Rwenzururu struggle, depicts the struggle and aspirations over land. The third stanza goes like;

Amalima wethu, amalima wethu, amalima wethu w'emusithu (ayirehe?) Thukabya thwamalhaba-lhaba eyowabya "Amalima" abere luhendo

[Loosely translated: "Our farms, Our farms near the forest, (whither have they disappeared) When we walk around where we used to grow crops, it all became forest reserves].³⁷

Isaya Mukirania was engaged in the formation of the kingdom-state throughout most of the 1964 and 1965. Mukirania thought that the Bakonzo and Bamba had mandate over all the land stretching from Muzizi near Bunyoro-Kitara kingdom to the present Kivu province in Congo. This territorial claim encompassed the counties of Kyaka, Mwenge, Burahya and Bunyangabu [in present day Kabarole, Kyenjojo and Kyegegwa districts]; Bulembyo, Buthale, Bughendera, Kambasa in present Kasese District; parts of Bushenyi District stretching up to Mitoma. In the Democratic Republic of the Congo, the kingdom-State, to be named Yira Republic

32 Report of the Ministerial Committee on the Controversy Surrounding Obusinga Bwa Rwenzururu Cultural Institution, 2005. P.13.

33 Mukiraneand Muhesi, Obusinga Bwa Rwenzururu, P. 10.

34 Ibid. p.10.

35 Mukiraneand Muhesi, P.13.

36 This traditional anthem has since been replaced with a new Anthem.

37 Obusinga Bwa Rwenzururu Charter, 2005.

after the Bayira/Bakonzo, covered present-day Busongya, Beni, Mangarazipe, Butembo, Bunia, Butalinga, Owica and Lubero. These Congolese territories would be part of the new province called Kyatenga.³⁸

Bamusede and Kyaminyawandi, in their 2000 book titled *The Faces of the Rwenzururu Movement*, note that in 1968, the Rwenzururu kingdom authorities facilitated three of their ministers - Yoweri Nziabake for Regional Cooperation, Yoweri Musyenene for Finance, and Blasio Baluku for Foreign Affairs—to attend the OAU summit in Addis Ababa, Ethiopia. However, the trio was intercepted in Rwanda enroute to the summit. The nascent state under Mukirania even started issuing state letters to international bodies like the United Nations, the OAU and the Vatican. In these letters, Mukirania claimed that the Government of Uganda was encroaching on his State by deploying there her troops in violation of the Rwenzururu's territorial integrity. Mukirania's dreams informed the claim that the fragmentation of this area into small chiefdoms was responsible for the easy subjugation of the Bakonzo by the 'foreigners'. Therefore, if these people would be united under one strong unitary Government, they would be able to repulse the forces of colonialism that separated them and placed them under two sovereign states, Uganda and then Zaire (now DRC). Those opposed to Mukirania's idea of seceding from Uganda moved on the low lands where they could get Government protection. Those who supported him remained in the mountains and sometimes grabbed lands of those who had fled, becoming rebel collaborators.³⁹

The 1968 and 1969 period was challenging to the Rwenzururu and its leadership. The Obote Government had abolished kingdoms in Uganda. However, most of the Rwenzururu founders had taken a moderate line and found the Republic of Uganda a conducive environment for equality in all fields of life. Bamusede and Kyaminyawandi note that the Rwenzururu leaders were still on their tip-toes to wait for the slightest opportunity to demand for a separate district again. The military takeover by Idi Amin on 25th January 1971 changed the situation in the region. Amin called for a meeting of Bakonzo, Bamba and Batooro on 4th and 5th of May 1971 in Kasese town. After the meetings, the Argus newspaper published a map of Uganda demarcating what would have been the boundaries of Bamba/Bakonzo district which included the present Kasese and Bundibugyo districts. The map included Bunyaruguru County [present-day Ryeru district] and the counties of Bunyangabu, Kibale, Kamwenge and part of Burahya counties in present Kabarole District [and Kamwenge District].

In August 1971, President Idi Amin declared the creation of Semuliki and Rwenzori districts, and their demarcations were to be as follows:

- a) Tooro District: Three counties of Kyaka, Mwenge and Kibale.
- b) Semuliki District: Two counties of Burahya and Bwamba.
- c) Rwenzori District: two counties of Bunyangab[u] and Busongora.

This arrangement is said to have been rejected by the Tooro representatives because they argued that their town Fort-Portal, the palace, Nyakasura School and Kicwamba Technical College, would have been taken away. According to the Boundary Committee of Bundibugyo District, the boundary is said to have been altered so that three sub-counties, namely Hakibale, Bukuku and Kicwamba, instead of the whole Burahya County, were to form Semuliki District. From Fort-Portal, Semuliki district would have started four miles at the hill ridges following a line towards the crater lakes near Muhoti barracks to Kijura down along River Muzizi to Lake Albert⁴⁰.

In spite of Amin's creation of Rwenzori and Semuliki districts in 1974, the leaders of the struggle were never invited nor considered in the leadership structure. Amin first considered his army men in the administrative positions in Kasese. A notorious, aggressive and totalitarian dictator, Amin scared even the extremist Rwenzururu rebels who, from deep in the mountains, had formed a kingdom state separate from Uganda but could not dare confront Amin's forces.⁴¹ Amin was satisfied with their silence which he mistook for being satisfied with the districts he had granted. However, the kingdom-state in hiding developed its own administrative structure and clandestinely levied taxes ["small levies" though] on all citizens to whom they had access to.⁴² There were Rwenzururu Ranger courts spread all over Rwenzori mountains territory unknown to the government of Uganda. These measures contributed a lot to the sustenance of the Kingdom-state in hiding⁴³.

When the Uganda National Liberation Front (UNLF) seized power from Idi Amin on 10th and 11th April 1979, there was suspicion from some of the Bakonzo moderates as to what will happen to the newly created districts. A

38 Ibid. p.23.

39 Bwambale Bamusede and Augustine Kyaminyawandi, *The faces of the Rwenzururu Movement*, Compiler, Bamusede, 2001, p.28.

40 Ibid. p. 38.

41 Bamusede and Kyaminyawandi, P.39.

42 Ibid.p. 39.

43 Ibid.p. 39.

document was drafted and presented to the new leaders in power showing that Kasese should be a viable district under the UNLF Government. The leaders warned of the consequent instability should the new Government phase Kasese district out.

One of the reasons advanced by the Recognition Committee of the Rwenzururu Kingdom was, "That unless the Bakonzo have a cultural leader to "fight" for them, a time will come when the Batooro King will annex Kasese and Bundibugyo districts into a federal state"⁴⁴. This fear was again echoed in a letter quoted in *The New Vision* dated 14th March 2001 where Charles Wesley Mumbere Iremangoma is quoted as having said: "In 1993 Yoweri Kaguta Museveni made a secret agreement with Patrick Kaboyo, the late king of Toro, in which it was agreed that for as long as Museveni was president of Uganda, he would never allow Bakonzo/Bamba to establish their *Obusinga* as the latter was considered a risk to the Kingdom of Tooro"⁴⁵. In the latter half of 1993 he [Mumbere] issued a lordly statement, containing a threat of what would happen upon Batooro, should Patrick Kaboyo, the newly reinstated Omukama of Toro, "claim even an inch of any property or land that is within the current jurisdiction of Bundibugyo and Kasese districts"⁴⁶. He called on Government to release land for peasant farms in both the Ruwenzori highland National Park and the Ntoroko game reserve, between the mountains' northern foothills and Lake Albert declaring that "we cannot allow our Kingdom to be a zoo, or our people to be a museum piece."⁴⁷

Eventually, in 2009, the Rwenzururu Kingdom, centered in Kasese, was recognized by the Ugandan government. Though Ugandan cultural institutions today have no official geographic boundaries, Rwenzururu Kingdom, locally known as *Obusinga Bwa Rwenzururu* (OBR) was understood to stretch across the Rwenzoris, all of Kasese District, and parts of Kabarole and Bundigubyo Districts. OBR modeled itself on the autocratic pattern of the traditional cultural institutions and considered all the people in the region its "subjects." However, non-Bakonzo people never forgot the abuses inflicted by the Rwenzururu leaders during the rebellion. Popular grievances, lack of reparations, fears of future losses, and the sometimes high-handed style of Rwenzururu royalty have led several groups, including Bamba/Babwisi, Basongora, and Banyabindi, to try to secede.

Recent years have also witnessed an attempt by leaders associated with OBR to establish their cultural relevance in Bundibugyo specifically on the land in Kirindi leading to ethnic clashes. According to elders in OBR and residents of Bundibugyo, the clashes in July 2012, after the Rwenzururu king, Charles Mumbere, visited the district were a critical sign of rebellion against Mumberer's claims. The Bamba/Babwisi community felt the district belonged to them and that they belonged to a different sociolinguistic community. Thus, they regarded themselves as a different cultural institution which was still struggling for recognition, and were offended by the visit of *Omusinga*. They saw Mumbere's visit as a threat to the geo-cultural space for the Bamba/Babwisi cultural institution. *Omusinga* Mumbere had visited Bundibugyo because it is his ancestral home. He also sought to see his subjects who are living on the slopes of Rwenzori Mountains in Bundibugyo district.

Soon the Bamba/ Babwisi announced that if Mumbere wanted to visit Bundibugyo he would seek permission from the area elders. Three years later, the Bamba/Babwisi cultural leader was installed and recognized by Central Government. This escalated the conflict since many Bakonzo saw the creation of a cultural institution for the Bamba/Babwisi as a direct challenge to Rwenzururu cultural institution. At the climax of the struggle, the Basongora announced the formation of their own cultural institution in July 2012. Though it has not yet received official recognition by Central Government, the cultural institution privately crowned its leader, late Bwebale Ivan Rutakirwa Rwigy IV. Bwebare is said to be a grandson of the Busongora royal, one Queen Kogere II Ikamiro, who died in 1963. Ikamiro was later succeeded by his son, **Kyomya IV Apollo Bwebale, who upon his demise on Saturday, May 9, 2015, was succeeded by Bwebale Jr.** On June 24, 2012, *The Red Pepper* quoted the Late Rwigy IV Rutakirwa Agutamba Ivan Bwebale as having said that, Busongora Kingdom was established in 1886 by Queen Ikamiro Kogere. This was on the eve of his crowning as the King of Basongora Heritage Kingdom on July 1, 2012 at Karungibarole, Hima Town Council, present-day Kasese district. Bwebale Sr announced that his Kingdom is expected to cover 20 sub-counties of Kasese and that it would be accommodated in the Rwenzururu Kingdom Headquarters.⁴⁸ Reacting to the above, *Omusinga* Charles Wesley Mumbere condemned the action, declaring that one kingdom-theirs-could not exist within another-his-kingdom. The Rt. Hon. Loice Bwambale, the Prime Minister (*Omulerembera*), *Obusinga Bwa Rwenzururu*, released a press statement and said

44 Ibid.p. 57.

45 Ibid.

46 Stacey, T. *Tribe. The Hidden History of the Mountains of the Moon*. London: Biddles Ltd, 2003, p.377.

47 Ibid.p.378.

48 *The Red Pepper*, Tuesday June 24, 2012.

*We cannot have a Kingdom within our Kingdom [Rwenzururu] as claimed. The claim of the so-called Basongora on 20 Sub Counties (according to press reports) is unconstitutional, redundant and laughable.*⁴⁹:

The Banyabindi, also minority inhabitants of Kasese District, followed suit. They crowned their Isebantu Elisa Mugisa Entare a month later, on August 3, 2012. This, again, was done without official sanction from Central Government. The clan leaders who elected Mugisa said that their institution would not be a kingdom but a cultural institution. They also claim that during the Rwenzururu guerrilla war, most Banyabindi were driven away by the Bakonzo and have lived for 50 years in an internally displaced person's camp. They are demanding the return of their land, an increasingly scarce commodity in the region and a source of both violent and silent conflicts.



Table : The emblem of the Banyabindi cultural institution – proof of their self-recognition as a distinct cultural group. Credit: Andrew B.

When cultural institutions were reinstated in 1993 they did not assume the same status as existed prior to 1966 when they were abolished. As such, there were limitations in the manner the newly reinstated cultural institutions were to operate. Land belonging to cultural institutions was never returned at once and has been a source of agitation between royalists and tenants. All cultural institutions, despite the lack of geographical territories, claim assets. Land is the most valuable of such asset claims. Denial of access has always been a common practice and a source of tension between the monarchists and the state on one hand and between the different cultural institutions on the other. For instance, the July 2014 violent clashes in Kasese, Bundibugyo and Ntoroko, though claimed to have been planned for a long time, were sparked off by denying Omusinga Charles Wesley Mumbere access to Kirindi Shrine. Mumbere claims that the shrine is located in his ancestral home where he intends to build a palace. Oyo has been denied royal access in Ntoroko District yet it is part of Toro Kingdom: some Batuku say they are republicans and formed an anti-Obukama group led by Mr. David Steady Karwani. Mumbere was also offended by the visit of the ToOro King, Oyo, in 2014 to Kilembe Mines in Kasese District: Mumbere described Oyo's visit as 'not proper' since he [Mumbere] was not notified of another royal's visit to his kingdom.

The ToOro Youth (*Amacumu ne'Bitara bya Tooro*) walked to parliament to deliver a petition to the Speaker of Parliament demanding for the return of the Kingdom's assets. These assets are currently located in other districts under the jurisdiction of other kingdoms like the Salt Lake in Katwe, under OBR. They also demanded different pieces of kingdom land. Royalties from protected areas are all a source of grumbling within the other

⁴⁹ OBR, *Press Release on the Installation of the King of the so-called Basongora*, Kasese: OBR, P.1.

cultural institutions who claim that while Toro Kingdom was acquiring those assets, they were part of it and paid their taxes. Accordingly, the new kingdoms presume a legitimate claim which Tooro kingdom disputes. This makes asset and royalty claims a conflict trigger if such claims continue without being resolved.

With the creation of Queen Elizabeth National Park in 1954, small pockets of land were left for the people. Later, those very pieces were later turned into mailo land for the Omukama of Tooro. This was not in agreement with the people. Because of ignorance, people did not care then. Consequently they were made subjects on their own land. Such pieces of land include Block 25 land at Hamukungu, Lake Katwe Sub-county, Kasese District measuring 402 hectares.⁵⁰ The land is currently being claimed by Prince Mugenyi from Tooro Kingdom who, on 1st December 2012, visited the area and informed the people of his intention to develop the land with his personal projects. This has been a source of tension between Mugenyi and the people of Hamukungu.

The struggle for geo-cultural space is raising other tensions in relation to language both in schools and in places of worship. The Banyabindi in Kasese have since abandoned a mainstream church in the neighborhood that preaches and praises in Lukhonzu only. This followed the Bakonzu's refusal of the request by the Banyabindi to have a service dedicated to the Runyakitara speaking community at the same church. The study found out that, save for the Muslims, the rest of the religions are slowly splitting along sociolinguistic lines.



Figure 2: Church signpost of an old church and the new church situated at Kinyamaseke trading centre, Kasese District. The Runyakitara speaking community feel marginalized not only in worship places but also in trade and commerce. Credit: Andrew B.

4.1.2 Fraudulent Practices

The study established a growing trend of fraudulent land transactions involving third parties or land brokers. These transactions are mostly ambiguous and uncertain, and are increasingly leading to land disputes in the region. For instance, money lenders demand from their clients to state in the agreement that land has been “sold” as opposed to stating it as collateral security for the loan obtained. This, in effect, leaves the effective content of the agreement vague if fraudulent. Once the borrower fails to pay the money on schedule, land is taken. In most of these cases, the men do not consult their wives while entering into such agreements with money lenders. Women have been served with surprises when court brokers descend on the family to evict them.

What is being experienced in the region is a rapid increase in supply and demand for land in exchange for money. This being the case, we start from the principle that transparency is preferable to secrecy. However, concealment by the land owner of money-based transactions with parties from outside the village/district/region is the norm and a major cause of misunderstanding. In Izinga village, Mubuku Parish, Maliba Sub-county, Kasese District, Mbambu Sarah (pseudo-name) was shocked when Bamwenda Court Bailiffs descended on the family and evicted the wife and his children after her husband had secretly sold the family land in 2002.

⁵⁰ Details of the land title established during the study indicate the title holder as Franklin Joycelyn Kato Rukidi and Lucy Makulima Administrators and Administrative of the Estate of the late George Kamurasi Rukidi in Fort Portal High Court Administration cause No.42 of 1989.



Figure 3: Village notice on land for sale at Kinyamaseke, Kasese District. Credit: Andrew B.

The lack of openness in such transactions means that no boundary marks will be erected and no reference witnesses are called to witness the transactions. As such, when disputes arise there is no one witness to turn to or limitations as to the size of the land in question. Lack of openness also tends to strengthen the role played and power wielded by intermediaries, exaggerates the effects of inequality of information, and encourages manipulation and deception⁵¹. During the study, some of the respondents attributed this practice to the situation where the seller and the buyer do not want to pay the “stamp fees” normally demanded by LCs. There is also a growing culture of being secretive about acquiring loans especially when it involves illegal money lenders. They would rather treat the transaction as a land “sale” as opposed to treating it as collateral security to avoid future legal implications in case the matter is taken to court when the other party fails to pay. However, in some of the places where the study was conducted, there were visible land sale sign posts as seen in Figure 3..

4.1.3 Marginalization Driving the Demand for Separate Districts

There is perceived political marginalization by some sociolinguistic communities, which has driven the demand for separate districts in the region. Being multidisciplinary, the study deals with geopolitical space from a historical point of view. Some of the variables in geopolitics include location, size of population, climate and size of the country.⁵² What is crucial in the study of geopolitics⁵³, is the way the different ethnic groupings in the Rwenzori region conceive their position in relation to land ownership either on the low lands or up in the mountain ranges. Decentralization has been the cornerstone of the current government’s political policy since 1987. Institutionalized through a range of legislation passed between 1987 and 1997, the system claims to increase popular participation, and improve accountability and service delivery. However, in recent years, different minority ethnic groups in the Rwenzori Region have emerged to demand for autonomy driven by ethnic undertones, the recent example being that of the demand to split Kasese District to create political space for the Basongora, Banyabindi, Bakingwe and other minority groups. This local-level geopolitical struggle indicates the state of micro-state geopolitics in the Region.

51 The researcher recalls an incident while having a conversation with one of the land intermediaries in Fort-Portal. The intermediary told the researcher how he was selling a piece of land at UGX 60 million in Rwebisengo, Ntoroko District, and that in it there were three (3) oil wells! The researcher has been chanced to work closely on oil and gas issues in Uganda and understands the current oil discoveries in the location mentioned. No wet oil well has been discovered in the said land at the time of undertaking this study.

52 Okoth, P.G. 1995. “Uganda’s geopolitical significance since 1894.” In P.G. Okoth, et al, eds., *Uganda: A Century of Existence*. Kampala: Fountain Publishers..

53 P. Godfrey Okoth in an article chapter titled, “Uganda’s geopolitical significance since 1894” quotes a Swedish scientist who referred to geopolitics as a concept relating to the growth of the state using political forces. He also quotes Karl Haushofer who includes in this definition factors like size, space and location in the process of expansion. Both scientists conceived geopolitics in terms of expansion based on survival of the fittest (Darwinism) and physical expansion of territory at the expense of weaker ones. The above scientists were in contradiction with Otto Maul, a German geographer and political scientist, who defined geopolitics as once concerning itself with the state, not as a static concept but as a living being. To this, Maul meant that the main concern of geopolitics is geographic expansion of the state, leading to political control of other societies.

*A 2012 KRC study *Stuck in the mist* established that ethnic groups cite marginalization by the predominantly Bakonzo, a claim opposed by majority Bakonzo and OBR institution. The reason cited, among others, is that if this district is granted according to the wishes of the minority, they will take 90% of the natural resources that are located in the area like; the National Park, Block prospected to have oil and gas, salt mines, among others. The same study quotes a Rwenzururu veteran as having said "should that District be granted, we shall drive them out even if it means to live stones and trees standing".*

The same study quotes one official among the minorities saying;

We are tired of Bakonzo domination and hegemony; we are ready to fight for our district, we are few but very tough, one Musongora can kill 20 Bakonzo.

The 1995 constitution lists Basongora, Banyabindi, Bamba and Babwisi as distinct cultural groups. When Rwenzururu was recognized, a Ugandan government commission which came up with a report famously known as the "Kajura report", recommended that the Basongora, Baamba/Babwisi, and Banyabindi also be recognized separately if they wished. Officially, a district council must adopt a resolution approving the institution before the central government can recognize it. However, Kasese District is the seat of Rwenzururu, and predominantly Bakonzo. The district council has never accepted the petitions of the Banyabindi and the Basongora separatists on the matter. Consequently, these groups are asking for a new district (or two), where they will have political voice. There is expressed lack of faith among the Basongora that any of their demands and a district for that matter can be realized in the current repressive system. This sense of futility can potentially lead them to disruptive alternatives to get what they want.

4.1.4 Displacement as a Result of Armed Conflicts

Beginning in 1990, people in the region were displaced by a National Army for the Liberation of Uganda (NALU) offensive for almost one and a half years. While Rwenzururu has always been a touch of paradise, the ethereal freedom, NALU was a scourge.⁵⁴ It brought the weight and viciousness of the NRA, later UPDF, upon them [the Bakonzo] in response to an insurrection they had no sympathy with. On November 2, 1996 the Allied Democratic Forces (ADF) attacked Mpondwe border post, Kasese district. Tom Stacey writes that Konzo-guided, the ADF bands by night burst upon sleeping Konzo spur-villages, burning and looting, slaughtering the adults and seizing the children or youngsters.⁵⁵ The ADF war lasted till early 2000s. These displacements forced people off their lands. The war also caused pressure for land in new areas where internally-displaced people lived.

4.1.5 Unclear Land Ownership and Management in Toro Kingdom

Land conflicts emanating from the above challenge has mainly been experienced in Toro Kingdom. The genesis of land conflicts in this kingdom dates back to the 1960s when Kingdoms were abolished. To protect land from being taken over by Government, elders in Tooro opine that the late King Kaboyo transferred the kingdom land into his names. When he died, the Queen, Best Kemigisa, applied to the Senior Registrar of Titles at Fort Portal on 4th January 2000 to be entered on 25 registers as administrator of the estate of the late Prince Patrick David Mathew Kaboyo Olimi III. Thereafter, Kemigisa offered 13 parcels of land covering 15.6 sq. miles in the former Tooro Kingdom to be purchased by Government in pursuit of Section 42 of the Land Act, 1998. This was later to be confirmed by the Auditor General Reports for the FY 2007/2008 and 2008/2009 to the effect that, indeed, government had purchased 9,921 acres of kingdom land to a tune of Sh.4.5 billion.⁵⁶ How the Queen Mother got letters of administration and proceeded to sell the said land without the knowledge of the Kingdom Supreme Council has caused a lot of anger among the people in Toro Kingdom leading to protests and arrests.

According to Mr. Tom Mboijana, there are three categories of land in the Tooro kingdom: (i) private land, which a king can own for himself; (ii) official land (Omukama's land) for any reigning king; and (iii) kingdom land, that is land which belongs to the kingdom not the king. The queens own official land at Kitumba in Fort Portal Municipality, acquired by succession since 1900.⁵⁷ According to Mboijana, the late King Kaboyo only inherited

54 I bid. p.395.

55 Stacey, p.410.

56 See, *Daily Monitor*, 2010, Land and power conflicts ruffle feathers in Tooro', Report by Feliz Basiime. Kampala: *Daily Monitor* (<http://www.monitor.co.ug/SpecialReports/Elections/-/859108/1065958/-/item/1/-/m2ptuoz/-/index.html>). Accessed on 1/10/2015 at 3.38pm.

57 See, <http://www.monitor.co.ug/SpecialReports/Elections/-/859108/1065958/-/jm3cii/-/index.html>. Accessed on 2/10/2015 at

from his father 90 acres at Hamukungu. People further accuse Kemigisa of exploiting over 800 squatters occupying land belonging to Tooro Kingdom in Rubingo parish, Karambi Sub-county. She allegedly increased rent from UGX 5,000 to UGX 30, 000 in circulars issued by Hassan Isagara, the Estates Manager, Tooro Kingdom.

The State is accused of having played a significant role in the land conflicts in the Tooro Kingdom by influencing different decisions and also directly getting involved in land transactions with kingdom officials especially Ms. Best Kemigisa. Evidence is available in a letter written by the Minister of State for Water, Lands and Environment, Hon. M. Baguma Isoke, dated August 13, 2004, to Mr. Joash Mayanja Nkangi. Nkangi, was then Chairperson, Uganda Land Commission (which is today chaired by Baguma Isoke). The letter referred to the Purchase of 13 parcels of land belonging to the Omukama of Toro. This confirms the existence of land transactions between the Government of Uganda and Kemigisa. The above land transactions have been a source of many conflicts in Tooro Kingdom because occupants of the land in question have not been officially informed about the land transaction. Tooro Kingdom has continued tax collection (*Obusuuru*) upon the occupants. Kemigisa has carried out several evictions, under unclear circumstances, on the same land. These allegations were mainly reported by communities in Bukuku Sub-County, where there were several land conflicts between Tooro Kingdom and bona-fide occupants in Kitaka, Nyamiryango, Mandako, Kiguma and Katunguru (Block 58, 59 and 89).

4.1.5 Idle land: A Case of Absentee Landlords

There are land conflicts in the Rwenzori region emanating from large chunks of land owned by absentee landlords. These lands are being occupied by landless people, who are sometimes mobilized by politicians and outright powerful land grabbers. When land lords leave their land idle and not secured with a fence, community members or immigrants always tend to occupy the land after some time. When the landlord returns with intentions to open boundaries, squatters put up a lot of resistance that takes time and effort to subdue. There were many cases of this kind unearthed by the study, such as the Bufunjo land wrangles. In the year 1999 and 2000, the greater Kabarole district decided to resettle 2000 individuals in Bufunjo Sub-County. This move was prompted by the then prevailing insecurity. Since the land was idle and bushy, and was being used by the ADF as a launch pad for their attacks, the land was given out to occupants.

This was done before the split of Kabarole District into three districts of Kyenjojo, Kabarole and Kamwenge. The district leaders identified the counties of Mwenge, Kyaka and Kibale as venues for productive resettlement especially for the unemployed youth and veterans in the following areas:

1. Biguli, Mabaale, Rwamwanja and Kimuli Kidongo in Kibale County
2. Kasule and Hapuyo in Kyaka County
3. Bufunjo, Kyarusozzi and Katooke in Mwenge County

The initial productive resettlement during the 1990s was allocated to the veterans in Kyaka areas. Later a similar program was initiated in 2002 particularly for the youth and landless people in the vacant lands in Bufunjo, Mwenge County, Kyenjojo District. The youth and landless people were settled in Kijengi, Kandama and Kamata/Nkununu-Kitenga and Mbale Parishes in Bufunjo Sub-county, Kyenjojo District. An estimated 2,000 people were resettled in the area under the scheme⁵⁸. The Kabarole District leadership working, with the President's office, considered the vast land there a hideout of the ADF that hit the region in 1996. The Muzizi corridor down to Kyarusozzi, Hakibale, down to Tooro-Semuliki Game Reserve, up to the Rwenzori Mountains and DR. Congo, which the rebels used, was blocked. In Bundibugyo alone, the initially unoccupied parts of Itojo, Kibuku, Kacwankumu and parts of the game reserve were offered to the population for occupation just for the same purpose.

The ADF factor a side, there seems to have been another reason – to counter the exodus of Banyakigezi immigrants from Kigezi locally referred to as “*Bafuruki*” to the area and thus preventing them from influencing the local politics in Mwenge North Constituency.⁵⁹ The scheme seems to have succeeded by acquiring the youth

10.14am.

58 Records obtained during the study show that in 2008, there were 116 families in Nkununu, 206 families in Bitoma and 19 families in Kandama. However, the records do not show how many people had settled in Kataraza, Buringo and other areas.

59 While the initial immigration of Bakiga from Kigezi had been through negotiations between Paulo Ngorogozo and Omukama Rukiidi III in 1954, other immigrants entered Tooro after the abolition of Kingdoms in Uganda. In 1968, all land in Uganda was declared public land under the Uganda Land Act and any citizen was free to acquire land anywhere following the established rules and customs of the area of direct application for lease from the Uganda Land Board. In the neighboring Kingdom of Nkore, the Nkore Ishengerero has passed a resolution and sent to Kigezi to stop them from migrating to Nkore. Mr. Gureme, then ADC carried the resolution from Kamukuzi to Kigezi (Kabale). The leaders in Kabarole realized that such a resolution would be unconstitutional in the current times, they crafted the famous productive resettlement scheme for the veterans, the youth and the landless people which to a greater extent met their objectives albeit temporarily.

and the landless people from Bunyangabu to acquire land. On the political angle, the scheme has since failed⁶⁰. The beginning of this failure was experienced in the 2011 general elections. Col (Rtd) Tom Butiime (*a Mutooro*) lost his seat to Muhumuza (*a Mufuruki*) in a hotly contested election that was marred by ethnic clashes. Later in 2015, Mwenge North Constituency was divided into two to create Mwenge Central Constituency comprising Bugaaki sub-county, Kyarusenzi sub-county, Katooke sub-county, Katooke Town Council and the newly formed Kyembogo Sub-county⁶¹ to cater for the interests of the indigenous Batooro community and Mwenge North Constituency comprised of Bufunjo and Nyankwanzi sub-counties to cater for the political interests of *Bafuruki*. However, the situation changed shortly after the resettlement exercise and clearing of the bush. Some prominent individuals started claiming ownership of the land: Mr. Gaston Maliro, John Bwango, Dr. Philemon Mateke, Wasakira Anthony, Sindubaza Christopher, Barendire J., Ntambara Richard, Ntamukunzi, Muneza Samuel (nephew to Dr. Philemon Mateke), Wadada Kiiza (son of late F. X. Wadada Musani) and others. The contestation later turned ethnic with accusations and counteraccusations over who owns the land.

Land lords like Dr. Philemon Mateke and Mr. Muneza sued Government and won the case. They are supposed to be compensated. The Nkununu farmers, whose land was also occupied by individuals from Kabarole, are also supposed to be compensated after winning the case against Government. Mr. Gaston Maliro, who also claims that his land was occupied, is still battling it out in court. The above indicates that the presence of absentee land lords/idle land within communities is high risk and temptation to whoever is yawning for free land to appropriate.

Communities living adjacent to protected areas consider such areas as 'idle and fertile' lands in their midst. When agencies responsible for protected areas fail to make constant surveillance, communities and individuals always take advantage. When the colonial administration created most of the Protect Areas in the Rwenzori Region, there was doubtless discrepancy between the colonial government and the subsequent government's intention to create government schemes [national parks, refugee settlement schemes, irrigation schemes, army and prisons farms]. The colonial government gazetted Queen Elizabeth National Park, which was grazing land for the Basongora. Recently, the recent creation of Mount Rwenzori National Park (1993), in an areas which was a source of refuge for the landless Bakonzo, disrupted the eco-balance. Much as settlement especially for the Basongora was affected, they should have seen this change for the better, or at least they should have been made to see it that way. Like all developing societies, explanation of the rationale for change needs to be given, and lack of this sensitisation explains why the Basongora, Bakonzo, Bagabo, Bakingwe, Banyabindi negatively perceive the change on their traditional land turned to other uses.

During the study, there were several such cases of encroachment on Central Forest Reserves under the management of NFA. Example: Kitecura/Ibambiro Forest Reserves in Bufunjo Sub County, have been encroached upon by Mr. Kahindi and Ngurusi and others. The case is still in court. The NFA does not have a functional surveillance system to protect the CFRs unlike UWA. One Such example is the encroachment, with impunity, upon Matiri Central Forest Reserve whereby over 417 households entered the CFR in 2009 established homes, cut down non-degenerating tree species, developed emotional attachment and false hope that they had acquired land. It took NFA 5 years to evict them – and the damage to the CFR had been immense.

4.1.6 Imbalances in Land Allocation Processes and Delayed Resettlement

Government's land distribution and resettlement, under the Restitution Program in the Rwenzori Region, was cited by respondents as a source of conflict. The cultural leader of Banyabindi, during an interview at Kinyamaseke, complained of government's selective distribution of land. He said Government distributed land to Basongora and Bakonzo and left out Banyabindi who have been living in Internally Displaced Camps for the last 50 years. Equally, the Productive Resettlement Scheme that was adopted by the greater Kabarole District Administration in Kitega and Mabale Parish, Bufunjo Sub-county, Kyenjojo District, remains a conflict issue between Gaston Maliro J., Wadada Kiiza, Ntamukunzi, Ntambara Richard, Burengire J., Wasakira Anthony, Dr. Philemon Mateke and the people if Government fails to compensate former owners as provided for under Section 29, Clause 3 (a) of the 1998 Land Act.

Land conflicts seem to have taken a new twist since the available arable land was reduced by the Colonial Government and the successor governments through compulsory as well as persuasive acquisition (for the case of Bagabo and Bakingwe in Lake George) to establish national parks, resettlement schemes, irrigation schemes

60 The division of Kabarole into three districts interfered with the programme. The autonomy of new districts could not allow the continuation of the resettlement programme. Or otherwise, each district would implement its own programme depending on priority.

61 Curved out of Kyarusenzi Sub-county.

and other industries like Kilembe Mines. Earlier, the colonial administration had expanded the Tooro Kingdom frontier to Busongora pitting the Bakonzo against the Batooro. The resultant Rwenzururu rebellion had similar effects with the grabbing of the Banyabindi land(s).

In Kasese, in March 2006, a group of Basongora numbering around 635, who had migrated to the DRC during the 1990s and settled in the *Parc Nationale de Virunga*, returned to Uganda with 8,153 head of cattle after being evicted from *Parc Nationale de Virunga*. This group joined the mainstream Basongora community in Uganda in the area of Nyakatonzi where they had come from. However, owing to the number of cattle and the historical factors that led to the general displacement of the Basongora community from their ancestral lands in Busongora county (consisting Busongora South and North Constituencies), including establishment of Government Farms and the Queen Elizabeth National Park as well as conversion of the Rwehingo and Bukangara areas into cultivation land for cotton production, some of the Basongora invaded the National Park. Uganda Wildlife Authority (UWA), after consulting with various agencies and the Ministry of Tourism Trade and Industry, granted temporary grazing land near Nyamugasani River (western bank) for the cattle keepers awaiting Government efforts to address the matter.

In August 2006 after a series of consultative meetings, President Museveni appointed an Inter-Ministerial Committee (IMC)⁶² to assess the situation of Basongora bearing in mind the historical factors and recommend to cabinet solutions to their resettlement. The IMC started work in August 2006 and finished in June 2007 with consultations of the Basongora leaders, Members of Parliament from Kasese, technical officers from relevant ministries, Kasese District Local Government leadership, and various relevant agencies in Kasese and Kampala. Based on the above consultations, the Committee came up with the following resolutions⁶³:

- o That Government had an obligation to address the historical injustices and post-independence marginalization of the Basongora
- o That Basongora community consisting of about 8,000 people with about 50,000 heads of cattle, now occupying part of Queen Elizabeth National Park, should be resettled out of the park, urgently
- o Land totaling 15,800 acres within Ibuga Prison Farm (1,400) and Ibuga Refugee Settlement Scheme (3,500), Hima Army Production Unit (3,500), Mubuku Prison Farm (5,300), Karusandara (1,100), Muhokya (1,000) be set free and allocated to the Basongora community to own and use communally as a community trust
- o That Mubuku Irrigation Scheme remains available for crop production and to support study for modernization of agriculture in the region
- o That the Basongora ancestral lands of Bukangara and Rwehingo totaling to about 25,000 acres be freed and shared between the pastoralists and cultivators on a 3:1 ratio as earlier agreed on in 1994. Meaning cultivators get 8,000 acres while pastoralists get 17,000 acres.
- o The MAAIF, in consultation with relevant ministries and MoFPED, to develop a medium-long term plan and budget for the modernization of Basongora and other communities in Kasese District for Cabinet's approval.

Seven days were allocated for the IMC to oversee the resettlement of the Basongora in the said land and clarify any issues based on the decisions of Cabinet on this matter. The IMC's first meeting was held on 6th August 2007 and recommended that a Government Technical Team (GTT)⁶⁴ be constituted and assigned duty to oversee the implementation of the Cabinet recommendations on re-allocation of the Basongora pastoralists from the National Park. The verification of land for resettlement commenced on Friday, 21st September 2007. The Technical Team verified the land parcels using a Global Positioning Systems unit (GPS) provided by Uganda Wildlife Authority. The following was reported after the exercise:

- o The parcel at Ibuga Prison Farm was free from encroachment apart from a few cultivators. The Team identified this land for immediate allocation and occupation but did not evict the cultivators who had already encroached on the land
- o Most land on Ibuga Refugees Settlement Scheme was vacant apart from a section that was being occupied by refugees and a few Ugandan nationals. The few nationals on the land were to immediately vacate the land while the refugees⁶⁵ were to settle in the northern part bordering Rwimi River.

62 The IMC was composed of the Minister of Agriculture, Animal Industry and Fisheries as Chairman and Secretariat, Minister of Local Government, Minister of Internal Affairs, Minister of Lands, Housing and Urban Development, Inspector General of Police, Commissioner General of Prisons, Director General Internal Security Organization. The Committee co-opted the Minister of Tourism, Trade and Industry, Minister of Water and Environment, Minister of Disaster Preparedness and Refugees.

63 See, Republic Of Uganda, *Draft Report of the Committee on Defence and Internal Affairs on the Ethnic Tensions in the Rwenzori Sub-Region*, July 2013, Kampala: Cabinet Office, 2013. „, September 19, 2007.

64 The GTT comprised representatives from Office of the Prime Minister, Ministry of Agriculture Animal Industry and Fisheries (Chair), Ministry of Lands, Housing and Urban Development, Ministry of Tourism, Trade and Industry, Presidents Office, Uganda Prisons, Uganda Wildlife Authority and Kasese District Local Government (Secretary).

65 The refugees were supposed to vacate the land in December 2007 as per their request to the Office of the Prime Minister that their children in candidate classes (P.7, S4 and S6) were to be allowed to finish the forthcoming exams. However, the Basongora elders

- At Hima Army Production Unit where 3,500 acres were to be ceded for Basongora resettlement, UPDF demanded much more land than the 1,656 acres they already demarcated for them. They indicated a buffer of close to 1 km from the mark stones towards the Ibuga Prison Land. They then marked out a stretch of land to be reserved up to the Kibale National Park boundary to cater for their other military interests. So, virtually all land that was ceded at this site was already occupied by Bakonzo with an already established settlement at Bigando. As such, no land could immediately be occupied by the Basongora pastoralists at this particular site.
- At Ntakakindu and Kabukero on Mubuku Prison Farm an interesting scenario occurred. Nyakakindu area was visibly free from encroachment apart from a few Bakonzo and Basongora. The Technical Team identified that most of the encroachers had come from outside Kasese District and were asked to immediately vacate the area and land be given to Basongora. At Kabukero area was also found to have some Bakonzo. The Team recommended that the genuine settlers be compensated or reallocated elsewhere according to the IMC recommendations. However, the Prison Management requested for permission to retain the two eucalyptus plantations for firewood and the Kabukero Hill for extraction of building materials.
- On Rwehingo land, over 95% of the land was found heavily planted with cotton. The Team stayed the decision to have this particular area immediately occupied by the pastoralists until the cotton crop is harvested by January 2008. However, the patch that was not under cultivation was to be immediately taken up for grazing by the Basongora.
- Bukangara area of over 90% was found with extensive cotton fields and therefore the Team stayed the decision to have this site immediately occupied by pastoralists.

Basongora elders were asked to immediately vacate the park and occupy areas free from crops. They were further asked to avail to the GTT lists of people to be resettled and their respective numbers of cattle; and to provide a bank account number on which the UGX 70 million from UWA was to be banked to facilitate their movement and resettlement. However, as soon as the GTT finalized the verification exercise, cracks emerged in the whole verification and resettlement exercise. The received a complaint from Basongora community members that the map used to demarcate land at Rwehingo and Bukangara was not accurate and this needed to be rectified.

During the GTT wrap-up meeting held on 25th September 2007, it was observed that the pace at which the pastoralists were leaving the park was too slow. The Basongora elders had challenged the information being given by GTT on the number of Basongora that needed resettlement. They stated that their cause was/is not for the Basongora who crossed from DRC, but for all the Basongora estimated around 8,000 displaced all around the country with 50,000 head of cattle⁶⁶. It was noted that there were detractors of the exercise who were letting the team down. This was later to be followed by on spot check in the park specifically in areas of Pelican Point and Nyabubare to ascertain whether people had moved out. The Team found out that people there had large herds of cattle and were not bothered to vacate the area as required. While at Pelican Point, the Basongora elders who had been part of the GTT dropped out. However, through further negotiation and sensitization, on October 7, 2007 aerial surveys by UWA and GTT confirmed that over 97% of cattle had moved out of the park.⁶⁷

On 26th September 2007, the GTT proceeded to demarcate land at Bigando to 'formalize' the stay of the already settled Bakonzo cultivators noting that displacement of the already settled cultivators threatens economic and social unrest. A piece of land was carved out from that ceded from the Hima Army Production Unit and Ibuga Prison farmland to provide for a concentrated settlement and also farm land. A buffer zone of about 200 metres to provide a corridor for movement of the Basongora animals to graze and also to water their animals on Lake Kabaleka was left between the Hima Army Production Unit and that one identified for Bakonzo cultivators. The land between the red lines has a width of about 900 metres and a length that runs up to the Kibale National Park boundary.⁶⁸ The GTT report notes that the other piece of Ibuga Prison Farm was reserved for other land owners displaced from Rwehingo, Bukangara and other lands but falls short to name the people it refers to. In total, the GTT resettled 4,163 people⁶⁹ who were not part of the initial plan. While the GTT recommended immediate surveying and fencing land for pastoralists and Bakonzo cultivators to avoid conflicts arising from stray animals in crop land, this exercise has never been completed to-date. This was later to become a major source of land conflicts between the Bakonzo and Basongora given that the Bakonzo cultivators were allocated land encircled by Basongora in Bigando. On 8th October 2008, a group of Bakonzo attacked the Basongora and burnt their houses, robbed their property and killed their cattle.

were told to immediately occupy vacant areas of land ceded from the refugee occupants, indicating inattention to the details and time dimensions of the issue

66 Progress report on resettlement of Basongora from Queen Elizabeth National Park by the Government Technical Team, 28th September 2007.p.8.

67 Ibid. p.7.

68 Ibid. p.7

69 Ibid.p.9

While the IMC had recommended **ONLY** Bukangara and Rwehingo to be shared between cultivators and pastoralists on a 1:3 ratio⁷⁰, the GTT went ahead and applied the ratio on every piece of land that was ceded from other areas. Almost everywhere pastoralists were resettled alongside cultivators—an issue that is contested by Basongora over guarantees that their animals cannot stray to the Bakonzo gardens and destroy crops. Mid way the resettlement exercise, the GTT seems to have relinquished its powers to a district-based team in Kasese headed by Mr. Katikiro Alex, District Physical Planner, Kasese District Local Government and the district political leadership. Occasionally, the district-based team continued to get technical assistance from MAAIF but the Basongora trust in the resettlement scheme was no more. The land allocated to the Basongora community was to be owned communally as a community trust.⁷¹ No security of tenure was ensured that has led to constant fear by the Basongora that they were given ‘hot air’ by Government. This is in addition to endless wrangles with neighbors—the cultivators.

A study by HURINET-U in 2010 quotes a Musongora respondent saying

After all we have seen, it is difficult for us to trust government. You can imagine, we went to Zaire (DRC) thinking things will be ok. No one cared. They chased us from there; we came back only to find ourselves confronting park officials on one side, cultivators on another side. Then GTT comes and recommends that we leave the park, go and settle in the middle of cultivators. Can that be fair? Can we be able to leave with cultivators, a group we have been in conflict with since the times of our great grandfathers? That is why many of us thought it is just a ploy to eliminate us⁷²

To the Basongora, this was the culmination of the demise of the resettlement exercise. The Kasese District leaders are said either to have favoured the cultivators or dragged their feet to have the Basongora resettled as per the IMC recommendation to-date.

However, the forceful entry to the park by the Basongora and their successful arm-twisting of Government to allocate them land seems to have marked a new chapter in the manner in which different groups and individuals in the Rwenzori Region use the historical claims and all sorts of arguments to grab Government and other people’s land. The Basongora used force and succeeded. The Bakonzo have tested it and succeeded – in the case of Bigando, Kilembe Mines land at Katadooba, Kasese Municipality Industrial Area land at Kidoodo, Railway land in Kasese Municipality, Mukisongora in Muhokya sub-county, among other areas. This study considers that in a matter of the same scenarios may be replicated in other areas like Katunguru as narrated elsewhere in this report.



Figure : A lady standing near her house ruins destroyed during the land wrangles in Bigando, Kasese District. Credit: HURINET-U

An interview with another Musongora respondent revealed that when government gave them the Ibuga land,

70 See, Ministerial statement on resettlement of Basongora out of Queen Elizabeth National Park, September 19, 2015. P.3

71 Ibid.p.3.

72 See, Human Rights Network Uganda, Rapid Assessment Report on Resource Based Conflicts and Human Rights Violations in Uganda. A Case study of Selected Protected Areas, Kampala: HURINET, 2010.

no documentation as evidence of ownership was given to them. He claimed that the Basongora who died in the July 2014 clashes were killed from that land. In lamentation, he said:

If the Basongora had land titles they wouldn't have been killed. It all started when we were evicted from the game park and Congo, the government gave us Ibuga land as refugees but they never gave us any document and the government claimed that they were in the process of giving us a land title but even up to now they have never given us one which brought about conflicts. The Bakonjo claimed that we took the biggest share but in actual sense they took a larger share because they were living there before us. Therefore the land they were given after their complaints during the resettlement process was just additional to them while to us it was the only land that we had. When they brought us to this place as refugees, the Bakonjo also organized themselves and claimed also to be refugees yet they were not. When the President saw this, he decided to also give them some piece to please them and that is how the Bakonjo got only 1 acre and the Basongoro got 3 acres of land. Other ethnic groups claimed that the increase in our cattle is the cause of the conflicts which is not true because in 2002 we had many herds of cattle compared to now. The cattle started decreasing ever since the land conflicts begun and now are less than 400 herds.

The above narration indicates that though government has severally set up Committees to address Basongora's problems and have submitted far reaching and comprehensive reports, they have suffered the same fate: non-implementation. In cases where some of the recommendations have been considered, they have been taken out of context and implemented piece meal or without the required enthusiasm, consistency and monitoring.

4.1.7 Flawed Household Procedures of Property Ownership and Inheritance

Although Section 40 of Uganda's Land Act provides for consent by spouses or children in any family land transaction where families ordinarily resides and derives their sustenance, heads of households, especially men, tend to ignore this provision, or are ignorant of it, which results in conflicts at household level. These conflicts sometimes turn violent and result in murder and other crimes. Persistent land conflicts related to family inheritance and other governance challenges are prevalent. For instance, all the RDCs mentioned intervening in land conflicts where either a spouse had mortgaged the land without the consent of the wife and children or even selling without their consent or they end up being evicted causing homelessness and a variety of other conflicts.

While the Land Act prescribes in Section 23 (2) that, for purposes of customary land ownership, the family shall be considered as a legal person and shall be represented by the head of the family, this family head in most cases is a man who has been given power by this provision to make all transactions in respect of the family land on behalf of the others.

The customary tenure is one factor driving land wrangles in the Rwenzori Region. This results from the practice of the father apportioning the land he has to his sons – resulting in sub-division of the little land into smaller and smaller plots. This, the father has to do without discrimination, implying that the father is obliged to give equal amounts of land to all his sons leading to fragmentation of the little land one family head owned.

In the Rwenzori Region, the family structures are rapidly changing and so are the social expectations as to individual and marital rights. In Bundinyama, a one Ms. Florence and Yeremia, both community members, divorced. Florence demanded for her share on land since it had been purchased while they were still together. She received her share in cash from her husband but later, after consuming the money, returned to demand for another share. The community members were attracted to the conflict but each individual took sides: some community members supported Florence while others supported Yeremia. There were threats of violence against each other, involving the now opposing camps within the same community..

On the other hand, according to one of the Basongora respondents, the Basongora culture demands that they, the Basongora, do not hold land titles because they move from one place to another in search for pasture and water for their animals. But recently, through sensitizations from NGOs, dwindling land resources, and the accompanying conflicts and insecurities in many areas, the Basongora have reduced their nomadic practices. While they previously did not construct permanent homes, they are now building permanent houses and have started getting land titles through their cooperative societies as a community. The need for land titling has also fuelled by increases in land wrangles which sometimes turn violent and result in death of cows, people and property destruction.

4.1.8 ***Polygamous or Informal Marriages and Misconception about the Law's Position on Women's Rights***

Often land disputes originate in the complex relationships of Ugandan families. Men may have wives or partners who may not even know of each other's existence. The children of these different 'sub-families' may only find out about each other at their father's funeral. Disagreements about inheritance become inevitable. Neighbours, families or powerful clan members often turn on the weak, such as the disabled, the poor, those with no political connections, the less educated, the bereaved, the old, the sick and the orphans. In 2011, a report by the Land and Equity Movement estimated that in Lango 70% of widows had suffered from land-grabbing, and 90% of them were unmarried and divorced women. In 2008 in Mukono, the International Justice Mission (IJM) found that over a three year period (2005-2007) at least 1,750 widows had had their property grabbed. Of these victims, 28% had been threatened with violence and 26% were forcefully evicted from their homes. The IJM identified the triggers as: polygamous or informal marriages and misconceptions about the law or women's rights. Of the 119 succession-related cases in Mukono Magistrate's Court, only five resulted in convictions.

The Vice Chairperson LC5, Kyenjojo, notes that land conflicts also stem from polygamy. When a husband attempts to bring a second or third partner on family land acquired with one wife, they get into conflict which in most cases end in domestic violence.

4.1.9 ***Unclear Boundary Demarcations***

During the study, unclear land demarcation was reported, by majority of the total respondents interviewed, as a source of land conflicts involving household members, community members, protected areas like forest reserves and game parks, churches, sub-counties, schools, districts and other government institutions. At household level, this nature of land conflicts is driven by the increasing land fragmentation. Where a person has a number of pieces of land, or a long stretch of land, guarding such a long perimeter of the boundaries becomes a problem. Not only are the pieces many, but also scattered, sometimes in the neighboring parishes or sub-counties. Resulting also from the normally small sizes of the plots is the fact that individuals have the tendency of curving into the neighboring plots using the hoe in a bid to increase a little more on their land. They sometimes also have a trick of shifting the plants that are traditionally used to mark boundaries (*oburamura*). Such cases of micro-land frauds normally result in bitter exchanges and often law suits, when the affected party learns of the tricks being used to steal one's land.

Creation of new districts, sub-counties, parishes and villages, plus the promotion of institutional autonomy (whereby government creates authorities like UWA, NFA to manage natural resources) is another cause of 10.4% of the land conflicts in the region. In pursuit of their semi-autonomous positions, the different institutions try to secure assets and other resources. This institutional politics sometimes creates conflicts amongst institutions, administrative units like districts, sub counties and parishes, and between these entities and communities.

For instance, Kabarole District Local Government is currently conflicting with Ntoroko District Local Government over the boundary area at Nyamisingiri, Kicwamba-Sub-County, Kabarole District. During the National ID registration, both districts [Ntoroko and Kabarole] deployed agents. During immunization exercises, both districts deploy their staff. During tax collection, especially trade licenses on market days, both districts deploy tax-collection officials. These problems have led to clashes between community members and government officials from both districts. The leaders from both sides, especially the LC5 Chairperson of Kabarole district and the Speaker of Ntoroko district, have, from time to time, been engaged in verbal exchange. The issue has not been resolved.

Community members in the area have identity cards from both Kabarole and Ntoroko districts depending on one's choice/preference or on the district from which the officials a registrant met came. Whereas Kabarole claims to have constructed a school and a health center in the area, Ntoroko claims to have been equipping those facilities and facilitating their operations. Unclear boundary demarcations have also been a source of conflict between Mugusu and Karangura Sub Counties, both in Kabarole District. Relatedly, there has been a proposal to divide the current Kasese District into three districts, namely, Bwera, Rwenzori and Kasese⁷³. However, the Kasese District Council that is dominated by Bakonzo has failed to pronounce itself on the proposal. The disagreement over the proposal rotates around whether to divide the district horizontally or vertically. The

73 Ibid.

Kasese District Council recommended a vertical division of the district, all beginning from the mountain.⁷⁴ However, the minority communities in Kasese district, especially the Basongora and Banyabindi, proposed horizontal division of the districts creating a stalemate in the whole exercise.

UWA and community members have not been spared of the land feuds whose origin dates many years back. In 1925, the Department for Elephant Control was set up to stop elephants from marauding villages and destroying cultivation. The overall aim was to keep the huge creatures within certain boundaries, protecting both elephants and people. As a result, a series of game reserves, sanctuaries and national parks were established over the years. Across the border in the Congo, *Parc National des Virunga* was designated in 1925 by the Belgian colonial authorities, and pressure to protect the adjoining ecosystem in Uganda led to the establishment of Lake George Game Reserve and Lake Edward Game Reserve in the late 1920s and early 1930s. Several geographic and name changes followed, and Kazinga National Park eventually was gazetted in 1952, encompassing 1,978 square kilometers. However, two years later in 1954 when Queen Elizabeth II visited Uganda and travelled to this wilderness, Kazinga National Park was renamed in her honor as Queen Elizabeth National Park. It should be remembered that in 1925, Nagana, sleeping sickness, small pox and Rinderpest had erupted and killed cattle and many people, mostly pastoralists who lived in the area to the north of what is now referred to as Queen Elizabeth National Park. Consequently, the colonial government evacuated people and settled them in eleven (11) enclaves: Kasenyi, Hamukungu, Katwe-Kabatooro, Kahendero, Katunguru "A", Katunguru "B", Rwenshama, Kisenyi, Kashaka, Kazinga and Kayanza to pave way for disease control. When Lake George (L. Mahyoro) and Lake Edward (L. Butumbi) began to register high fish productivity during the 1960s, eleven (11) fishing villages were allowed to exist in the park and the TURFMARC factory was built at Kasenyi.

People continued to fish and trade while government processed the fish and exported it to the outside world. Meanwhile, wildlife numbers increased. At the same time, pressure by Belgian Congo on their British counterparts in Uganda to gazette wildlife protected areas in Uganda adjacent to the then already gazetted *Parc National des Virunga* build up. However, the legal status of these villages remained complex and processes to give them a legal status commenced. In 1964, four (4) of the eleven (11) villages: Kasenyi, Hamukungu, Katwe and Katunguru "B" were gazetted as Game Sanctuaries. The other seven (7) villages remained park enclaves, with the park controlling their activities. The study established that the legal process was influenced by the nature of economic activity of the area. At Kasenyi for example, there was TUFMARC and salt at Lake Katwe.

In 1996, the Uganda Wildlife Statute established a Wildlife Sanctuary status and conducted a countrywide assessment of all the protected areas in Uganda. The report of the assessment recommended that due to the encroachment threats happening, all park boundaries should be marked with pillars and all fishing villages given legal status and demarcated with boundary pillars as well. UWA then created a department of planning and charged it with the responsibility of conducting the boundary demarcations exercise. Between 1998 and 1999, UWA conducted a countrywide survey to find out the lost land of the National parks and which areas to protect in the country. During the consultations with communities people agreed on areas of the park that had already been encroached and degraded to be degazetted while those that were still intact to have concrete pillars installed. Areas degazetted included South Kigezi Game Reserve (Kikarara area), and Masaka crater in Kyambura. On May 2, 2001, the Minister of State for Tourism moved a motion in the 7th Parliament and the motion was passed to gazette six (6) of the seven (7) remaining fishing villages as wildlife sanctuaries. On 5th September 2003, statutory instruments number 59, 60, 62, and 63 gazetted Rwenshama, Kisenyi, Kashaka, Kahendero, Kazinga and Kayanza as wildlife sanctuaries. Katunguru "K"⁷⁵ was not gazetted because the survey team negotiated with the community to stay in areas where the boundaries never existed⁷⁶. Due to unknown reasons, and remained a park enclave, with no legal status.

However, in 1991, Uganda Wildlife Authority erected demarcation pillars which never followed the surveys and mappings of 1952, but instead encroached into people's land in Katunguru parish in Lake Katwe sub-

74 Ibid.

75 Katunguru is located along Kazinga Channel. It has a population of more than 3,000 people with one primary school, a health center II, a mosque, a catholic church, an Anglican Church, and a Seventh Day Adventist Church. However, since this area is legally considered a park enclave, the homes on the periphery of the settlement are less than one metre from the wilderness. Minute extract of the Kasese District Council obtained during the study show that the community has nowhere to bury the dead and has no space at all left for economic diversification other than fishing.

76 See, Field report of the Sessional Committee on Tourism, Trade and Industry (December 2012) on the petition of residents of Katunguru, Kahendero and Katwe-Kabatooro Town Council-Kasese District and Nyabubale-Kiko Town Council, Rurama, Kabaswiswi, Gogoya-Kabarole District. p.14.

county, Kahendero parish in Muhokya sub-county and Katwe Kabatooro town council in the areas of Nyakitale ward, Kihabule forest reserve, Rwenjuba ward and in the salt lake area adjacent to Kanyamiyomba.⁷⁷ On 9th of August 2012, Hon. Boaz Kafuda, MP, Busongora County South, presented a petition on behalf of the residents of Katunguru, Kahendero and Katwe Kabatooro in Kasese District on community land encroachment by the Uganda Wildlife Authority in Queen Elizabeth National Park. The Speaker directed the Committee on Tourism, Trade and Industry to consider the petition and therefore report back to Parliament. The petition prayed that Parliament compel Government to gazette at least four kilometers of land to enable the Katunguru community have status for its existence in Queen Elizabeth National Park. This would enable the Katunguru community to get land to bury their dead and also carry out other community tourism activities. The Committee travelled to the affected areas.⁷⁸

This confusion compelled the communities to uproot some of the demarcation pillars, in 2011, leaving one person, Mr. Mugisa David, dead. He hailed from Katwe-Kabatooro town council. The people of Katunguru staged a violent demonstration on 1st September 2015 during which they cut off traffic on the Bushenyi-Kasese highway for 3 (three) hours. This riot was quelled by police with teargas and rubber bullets. The people also boycotted the NRM primary elections and have vowed not to participate in any future election(s) until their place is gazetted and given a legal status within the Park just like the other fishing villages earlier mentioned.

Muzamiru K. Bisanga, the District Councilor for Lake Katwe, blames Uganda Wildlife Authority/ Queen Elizabeth National Park for not respecting the 1952 demarcation pillars. He noted that the colonial park managers used to respect the park boundaries that were known to both the park and the community members but trouble broke out with the coming in of PAMSU project for boundary demarcations.⁷⁹ There were a lot of contentions over the boundaries. It is reported that the community leadership resisted the PAMSU project and insisted that the park authorities shifted the old pillars, an issue that needed to be corrected. Mr. Kamuhanda Godfrey Abooki and Mr. Busobozi Peter Force, who are both community members at Kahendero landing site, claimed that over time, the park has been encroaching on their land by expanding its boundaries. During the interview, Kamuhanda had this to say:

When we came across a map of the park as per the 1960s and made more study about where our boundaries were supposed to end, we found out that some boundaries were supposed to end in the inner parts of the park.

Communities also variously reported cases where agents of Protected Areas would oftentimes shift Protected Areas (PA) boundaries at will thus encroaching on land belonging to communities despite the fact that Protected Areas have maps showing their clear boundaries. In shifting the boundaries this way, the PA agents thought that it was difficult for the communities to interpret the maps during engagements with the management of protected areas. In addition to the presumed ignorance of the communities and lack of clarity on PA boundaries, the agents of PAs use force and security officials to enforce their decisions which leaves the communities powerless and without options other than vacating the contested areas.

In April 2011, community members removed pillars demarcating the boundaries, but the park authorities re-planted them at night. After a lot of haggling between the Katunguru community and UWA officials on the legality of the status of Katunguru in Queen Elizabeth National Park and the contention of the Park boundary, a consultative meeting was held in Kasese on 25th October 2011 between the Katunguru community leaders, the Kasese District Technical Team, UWA officials and the RDC, Kasese. The consultative meeting resolved to move a motion in the Kasese District Council petitioning parliament to compel Government to legalize the existence of Katunguru in QENP. This was followed by tabling the motion in the Kasese District Council⁸⁰ and later petition to Parliament on 30th January, 2012.⁸¹ Despite these efforts, Parliament has not pronounced itself on the matter.

Mr. Busobozi Peter Force, 50, revealed that most people settling in Kahendero, Katunguru and Kasenyi came from different Islands on Lake George such as Irangara, Kakoni and Mukitoma. Busobozi said that his

77 See, Petition to the Speaker of Parliament of Uganda (June 2012) on the community land encroachment by Uganda Wildlife Authority (Queen Elizabeth National Park) from Kahendero Parish in Muhokya sub-county Katunguru parish in lake Katwe sub-county and Katwe Kabatooro Town Council all in Kasese District.

78 Kahendero, Katunguru and Katwe Kabatooro. However, along the way included other affected areas of Nyabubale-Kiko Town Council, Rurama and Isunga in Kibale National Park; and Kabaswiswi in Kibale-Semuliki Game Reserve in Kabarole District.

79 See, Minutes for the consultative Katunguru K-park boundary contention meeting held with community and Kasese District technical committee, on 25th October 2011 at Virina Gardens in Kasese.

80 See, Motion 33: KDLG/2011/2012; Motion seeking Kasese District Council seeking council to petition parliament to require Government to gazette Katunguru Parish to have a legal status in Queen Elizabeth National Park.

81 See, Petition from Kasese District Local Government to The Rt. Hon Speakers of Parliament seeking Parliament to require Government to gazette Katunguru Parish in Kasese District to have a legal status in Queen Elizabeth National Park.

grandparents had been resettled from the mentioned islands and he had also lived in Kahendero all his life since he was born 50 years ago. He therefore had very good knowledge of the land disputes in the area. He said, it all started in 1956 when the Government wanted to gazette the islands as strict conservation areas in preparation for the establishment of the present QENP and decided to resettle people who were living there. People were Promised Land in Kahendero, Katunguru, and Kasenyi as compensation but all transactions were not documented. After people settled in the areas, and after the establishment of the Park in 1965, communities claim the Park continued expanding their boundaries into community land in secrecy. Therefore, communities claim that the government then did not fulfill its undocumented promise to the people. The Chairman LC1, Mr. Muhamed Muhambo Mugisha revealed that they had written a petition to remind Uganda Wildlife Authority after which they had a meeting with the Area Conservation Manager, Nelson Bumba, in the presence of the RDC of Kasese, about the community land grabbing issue by UWA. However, lack of trust between the two parties seems to be a big issue. Both parties agreed to bring two surveyors from the government, the one on the side of UWA and another on the community side, as a way of resolving the conflict. This had not happened by the time of writing this report.

For NFA, most of the boundaries for the CFRs are now open and are no go zone areas for NFA staff. Markets, schools, and health centers now dot the former forest reserves⁸². As a result, the number of forest reserves under NFA supervision has dropped down from 698 to 506. and of the 506, some 313 are reported to be partly encroached on. In Kagora CFR, for example, the side neighboring Katooke sub-county, Kyenjojo district, farmers have encroached on more than 100 hectares of the forest.⁸³ A report on encroachment status in CFRs in Muzizi River Range indicates that part of Itwara sector, comprising nine forest reserves in Kabarole, Kyenjojo and Bundibugyo, is facing encroachment through cultivation, illegal timber harvesting, and construction of permanent houses. About 58 percent of Kabongo-Mutandi CFR in Bundibugyo is heavily encroached with permanent houses and cultivation, while 246 hectares have since been carved out of Bundikeki CFR which measured 396.⁸⁴ It is reported that the 65 hectares of Fort Portal CFR in Kabarole District have since been encroached on since 2005 and that about 21,980.1 hectares out of 109,858 hectares of Matiri Sector have been encroached on since 2005.⁸⁵

Figure :Kibako Denis escaped with a bullet scratch on his right eye by UWA/UPDF/UPF during a recent demonstration at Katunguru fishing village, Kasese District. Credit: Andrew B.



82 Robert Winyi, Acting Ranger Manager in charge of Muzizi Range.

83 See, Eco-Guardian a Water and Environment Media Network Publication (March 2014).p.14.

84 Ibid.p.13.

85 The situation might have changed with the forceful eviction of encroachers in Matiri CFR following the Fort Portal High Court ruling in favour of NFA on July 25, 2014. Patrick Karubanga and 40 others, and Omuhereza Rwakaboyo and 119 others in 2009 sued NFA contesting the forest's boundaries and claiming ownership of the forest land neighboring Mukonomura Enclave.



Figure 5: Kacancu Ivan, the Chairperson of Katunguru Land Task Force, points to one of the uprooted pillars in the contested land with QENP. Credit: Andrew B.

4.1.10 Land Tenure Systems

Uganda's 1995 Constitution and the 1998 Land Act provide that land in Uganda may be held under four tenure categories: Customary, Freehold, Mailo and Leasehold tenure systems. In Uganda, the registered owners of land are estimated to be 600,000. The total number of customary owners is estimated to be 20 million.⁸⁶ Customary land tenure system is by far the most common, accounting for about 80 percent of the total land available.⁸⁷ Customary land is largely untitled. In the Western region where individual land registration is only estimated at 1.6%, and the most common customary ownership is at 47%, conflicts on boundaries, ownership, evictions, trespass and encroachment are inevitable. Under the customary tenure, communal land holding has been the most common type in the region especially among the pastoral communities in Ntoroko (*Batuku*) and Kasese (*Basongora*). However, in the recent past, individuals in Ntoroko started fencing off the previously communal land for interests still unknown to the rest of the communities, hence denying others, pasture for their cattle. Fencing off of land in Butuku is a new phenomenon and fences are vivid everywhere.

The customary tenure, by its very nature, is a very complex system of land relations. It is not always easy to define its incidents as they often vary from community to patrilineal customs and traditions. The underlying commonality in all customary law systems is that rights are derived by reason of membership in a community and are retained as a result of performance of reciprocal obligations in that community. It is thus defined in terms of its territoriality or clan nature, existence of rules governing community, family, or individual access to land, and perpetual ownership of land and resources.

The Constitution and the Land Act restored the status of customary land tenure by recognizing it as one of the four tenure regimes with several progressive legislations. For example:

- In the administration and dispute settlement on customary land, the Land Act provides that, for any decision taken in respect of land held under customary tenure, whether by individual or communally, the decision will be in accordance with the custom, traditions and practices of the community except that a decision which denies women or children or persons with disability access to ownership or use shall be null and void.
- Section 40 provides for consent by spouses or children in any transaction on land where a family ordinarily resides and derives their sustenance. The provision gives protection to minor children, dependent children of majority age and spouses.
- The Land Act, section 23 (2), provides that for purposes of customary land ownership, the family shall be

⁸⁶ See, Hansard, Parliament of Uganda (18th November 2009).

⁸⁷ See, Second National Development Plan (NDPII) 2015/16-2019/20 (June 2015). p.40.

considered as a legal person and shall be represented by the head of the family. This family head in most cases is a man who has been given power by this provision to make all transactions in respect of the family land on behalf of the others.

Customary tenure may have been legislated but the practices and cultures of people in terms of its administration and management may not change for a long time. Customary laws rarely allow women to own land although Ugandan laws are quite clear about women being as free as men to own and dispose of property, including land. This is the point at which customary tenure becomes a source of conflict shrouded in inheritance disputes especially those related to land rights of widows and orphaned children, arising from family relations (paternal uncles or clan heads). The ownership of land is frequently in question.

The increase in land registration from the 1980's up to date has brought with it guarantee of ownership and security of tenure especially from land grabbing and illegal evictions. It has also provided security for credit because of certainty of ownership; hence landowners can invest in their land. Some people have no documentation to prove they own the land they have lived on all their lives, and their parents before them.

4.1.11 Weak land administration institutions and fraudulent officials

Added to the complexities of the customary system is the fact that many of the land administration institutions are weak, nonfunctioning and corrupt. During the study, majority of the respondents noted that fraud was most common on unregistered land/customary land. According to the District Land Officer in Bundibugyo and the RDCs in Kyenjojo and Kabarole, some LC 1 chairpersons approve fraudulent land transactions within the communities, causing conflicts. They connive with the sellers and one piece of land can be sold to several people with approval of the local leader. The study also established that the cultural leaders, *Bakulhu Bobulambo* in Kasese, have been implicated in corrupt practices while handling land related matters. One of the local government leaders interviewed in Muhokya sub-county cited a cultural leader (name withheld) who imposed himself as a *Mukulhu Wobulambo* and has been fleecing people of their land and selling it to other people yet the *Bakulhu ba Bulhambo* need not be part of the OBR hierarchy.

The Land Act (S.89) recognizes the role of traditional authorities in land administration and dispute resolution by providing that traditional authorities will determine disputes over customary tenure by acting as mediators alongside the formal land tribunal system. However, Land Committees that are responsible for recording land boundaries on customary land and recording transactions at the local level have largely not been formed due to financial constraints. However, even in areas where they were formed, they were reported as being corrupt and usually endorse fraudulent land transactions within the communities. The registrar of titles in charge of Kyenjojo confirmed the corruption tendency. She stated that because of corruption and compromise of LCs and land committees, land can be given to the wrong person. Once a land title certificate suffices to show full ownership, once issued, it can be difficult to reverse.

Other land conflicts exist between families where they mainly do not agree over boundaries leading to trespass and fraudulent transactions. Fraudulent land transactions were mainly a result of corruption among the duty holders who officiated in land transactions like the lands officials at both district and national level who were responsible for official land registration, forestry officials, the LCs and community land management structures who mainly deal with customary land transactions. According to the registrar of titles, Kyenjojo, the major causes of land conflicts are: corruption; influence peddling by the rich and powerful where land institutions work in favor of the rich; and ignorance of the local people on land matters, which makes them victims of corrupt land institutions and the rich. To reduce them, the official adds, local people have to be sensitized about the procedures they ought to follow in different land matters instead of resorting to middle men. In addition, land registration processes need to be decentralized to reduce to need for middle men. Unless there are consistent improvements in land administration, the lapse will continue to claim its victims, including institutions. For example, the Catholic Church came to a spotlight in 2014 for allegedly acquiring 220.0230 hectares (about 550.0575 acres) of land in a Central Forest Reserve under questionable circumstances.⁸⁸ Available documents show how the "Registered Trustees of the Catholic Diocese of Fort Portal" acquired block 151, plot 5, Kakole [village] in Rwaibale zone, Butunduzi Town Council, Kyenjojo District. The certificate of title of the land, which is located inside Matiri Central Forest Reserve (CFR), is dated March 14, 2014.

HURINET quotes Robert Owinyi, the Acting Range Manager of Muzizi Range, stating that according to the sketch map, this land is located between River Muzizi and River Kahombo, which places it inside the forest reserve. He notes that the River Kazizi starts, flows, and stops in Matiri CFR and Kahombo forms a boundary between Matiri and Ibambiro central forest reserves. Kakole is an illegal creation and administratively it has never existed in

⁸⁸ Eco-Guardian. Who owns land in forests? A water and Environment Media Network Publication. March 2015.

shall be published and posted in a prominent place in the parish and on the land which is the subject of the application specifying the location and approximate area of the land; requiring all persons who claim any interest in the land or in any adjacent land which may be affected by the application, including in respect of any adjacent land claims as to the boundaries of that land, to attend a meeting of the committee at a specified time and put forward their claims; and the time specified shall be not less than two weeks from the date on which the notice is published and posted as required by this subsection

The adjacent owners include Aloyzious Kyarigonza and Bataka Kwerwanaho Group, which is headed by Omuhereza Rwakaboyo. The latter had been an illegal occupant of part of the forest reserve land, and was on July 25, 2014, ordered by the High Court to vacate.⁹² The high levels of encroachment on central forest reserves like Matiri CFR⁹³ is attributed to judicial officers who issue interim and temporary orders to block NFA from evicting encroachers from the forest land.

4.1.12 Overlapping and Conflicting Land Rights

From a historical perspective, a large literature has described causes and impacts of land-related conflicts in Uganda from the impact of the 1900 Buganda agreement which set in motion, firmly and steadily, the conversion within Ugandan communities of customary property rights towards individualized property rights⁹⁴. Similar interventions were carried out in other regions of the country such as instituting restricted freeholds for local elites in NkoreNkore and Tooro, and the establishment of leasehold estates on Crown (public) land. Often these public land leaseholds were given to elites even though communities were already occupying these lands. By distributing freehold interests in land to some individuals, social inequalities were sown; peasants became tenants on private property and others became squatters by settling, farming and grazing animals on the undeveloped land of absentee landlords but could later be evicted by the landowners.

Although *mailo* tenants were legally tenants, these families continued to feel that they held customary rights to land; although they paid rent to the landowner, they considered themselves permanent holders of their land and subsequent legislation in effect acknowledged these rights by making it very difficult to evict tenants.⁹⁵ The result was a confusion of who holds what rights between the two parties (the landlord who is the legal owner of the land and the tenant who is the current user, perhaps even historical owner, of the land) over the same land. The issue of willing buyer-willing seller coined in the Act has an element of overlapping rights. Where the landlord might wish to buy the tenant off the land, the tenant must be willing to sell his/her rights to use the land and vice-versa. An unwilling tenant, therefore, cannot be bought off the land that belongs to a willing landlord. Landlordship and land ownership are thus delinked.

The award of huge land areas to absentee land lords by the British in 1900 under freehold (*mailo*) tenure and the co-existence of a number of tenure systems, has created considerable scope of overlapping rights to the same piece of land. The 1975 nationalization of land under Idi Amin added to this complexity, although it was overturned by the 1995 Constitution. Rugadya states that the 1998 Land Act's prescription for the issue of the certificate of occupancy, by which the lawful or bonafide occupant is able to demonstrate legal habitation and becomes a "statutory tenant of the registered owner", has been extensively contested.

The land conflicts associated with this tenure system include eviction of tenants when the *mailo* owner sells land. Much as tenants have statutory protection, such as being given the right of first refusal in the event of the *mailo* owner desiring to sale and non-eviction except for failure to pay rent of nominal value rather than economic value, section 36 of the Act permitting mutual agreement between tenants by occupancy and registered owners to achieve the objectives of Article 237 (9) (b) has failed to work. From the provisions of the Constitution and the Land Act, it appears like both the *mailo* owner and tenants have rights to land in perpetuity, which is a source of tension and conflict.

More generally, there is limited knowledge about laws and land reforms on the part of the tenants and the landlords as well. People have continued to occupy land they do not own without the consent of the landlords and later are evicted by the owners. This has led to many conflicts over land in the Rwenzori region today. For

92 The court order arose from the 2005 case in which Omuhereza Rwakaboyo and 199 people sued NFA challenging eviction from Matiri CFR and subsequent eviction. Another was in effect to a separate case of Patrick Karubanga and 40 others whose application to block the evictions in Mukonomura, Rwibale and Butunduzi villages in Kyenjojo District, was dismissed. The group sued NFA arguing that the move to evict them before the boundaries are opened was mere presumption that they are occupying a forest reserve.

93 At the time of undertaking this study, Matiri had a third (about 2,000 hectares) of its total 5,431 hectares encroached on.

94 Otim, P. (1993). Aspects of the land question in Mbale District. Centre for Basic Study, Kampala. Working Paper No.35.

95 Rugadya, p. 10

example, a group of people at Hamukungu A&B, Hamukungu Parish, Lake-Katwe Sub-County, Kasese District, petitioned Parliament on 7 December 2012 contesting the repossession of 402 hectares of land registered in the names of Franklin Jocelyn Kato and Lucy Makulima Administrators and Administrative of the Estate of the late George Kamurasi Rukidi in Fort Portal High Court Administration cause N0.42 of 1989.

In terms of scale, this was the most prevalent land tenure system in the study districts. However, there were strong arguments among the respondents on the need to move to individualization of tenure that customary tenure is an impediment to agricultural progress. According to this school of thought, customary tenure fails to provide security of tenure to its holders, discourages conservation and improvement of natural resources and causes uneconomic fragmentation of land. Much of this criticism has been directed toward the inability under customary tenure, to use land as security to obtain loans. This inability of getting credit is noted as constituting the most important obstacle to agricultural development, the desire for the people of Rwenzori Region.

As noted earlier, the strongest advantage cited by proponents to individualization of land rights by title is that it can be used as collateral security for acquisition of agricultural loans from financial institutions. However, the study established that in most cases, financial market distortions prevent agricultural lending. Secondly, security of tenure is another advantage attributed to individual tenure, for it results in the incentive to invest in agriculture and, therefore, portends to increases in agricultural productivity. However, the study established that even leased land (which is supposed to offer security of tenure), does not guarantee security of tenure. This can be seen from the Government intervention in attempts by lease holders to evict non-lease holders from leased land. For instance, the numerous squatters on Tooro Kingdom mailo land and Dr. Philemon Mateke's land in Bufunjo, indicate the unreliability of title holding in relation to using land as collateral security. People have equally used force to occupy leased land, by erecting permanent structures and making it difficult for the lease holders to evict them. A case in point is the Basongora communal land in Muhokya that was forcefully occupied by the Bakonzo cultivators: despite the Basongora having a land title for it and winning a court case, they have difficulty reclaiming the land. Another list of cases of: Kilembe Mines Ltd versus Muheka Family and Beneficiaries at Katadooba⁹⁶, Banyo Foundation versus tenants, Western Union in Kasese versus tenants, Daniel Kashagama⁹⁷ versus tenants, Kidoodo land area in Kasese Municipality earlier earmarked for an industrial park that has been forcefully occupied by hundreds of people, among others, indicates the complexity of using titled but occupied land for development.

The above land wrangles clearly point to the fact that land registration is not the panacea to land security in the Rwenzori Region.

4.1.13 Population Pressure

With increasing population on a fixed supply of land concurrent with limited opportunities for non-agriculture employment and productivity, pressure on the land is growing. Uganda's expanding population has increased the amount of land under cultivation, disrupting traditional access to pasture, conservation, and water, and bringing different actors into conflict with farmers. Uganda has the youngest population in the world: roughly 50% below the age of 15 and 56% below 18 (and 5% above the age of 60). It also has one of the highest population growth rates in the world, a rate of 3.03% with an average of 6 children per woman⁹⁸. Uganda's total fertility rate has generally remained high, at 6.7 in 2006, decreasing slightly to 6.2 in 2011. The reasons for high fertility include early onset of marriage and childbearing, religious and cultural beliefs, and preference for large family sizes as a source of sustenance and social security. According to the 2011 UDHS, nearly a quarter (24%) of young women aged 15-19 years had already begun childbearing. Though modern contraceptive use has increased from 18 percent in 2006 to 26% in 2011, it is still too low to cause significant reductions in fertility levels. Nevertheless, the unmet need for family planning, though slightly decreased from 38% in 2006, remained high at 34% as of 2011.

At this rate Uganda will double its population in 20 years. Its people need food and housing. Families need farmland. As a result of population growth Uganda has lost a third of its forests –and the animals which used to live in it. Marginal land–mountainside and wetlands–continues to be encroached on, and landslides, floods

96 Katadoba, also known as *Murongote*, is located in Kasese town. It legally belongs to Kilembe Mines Ltd. However, people forcefully occupied it and erected permanent structures sometimes at night. There are thousands of people staying on this piece of land, most of them third generation buyers. Kilembe Mines sued the Muheka Family and Beneficiaries in 2010 and the case has not yet been resolved.

97 During the interview, Kashagama (son of the late Amon Bazira) indicated that his land located near Kasese town was forcefully occupied by a group of people estimated to be over 250 people armed with pangas and spears who were being instigated by one Gideon Mujungu –a local National Resistance Movement (NRM) cadre and a political contestant for the 2016 general elections.

98 UBOS, National Population and Housing Census, 2014 (Provisional Results).

and death result. The implication of this population growth is that it exerts more pressure on land⁹⁹ leading to land related conflicts at household and community level. The possibility of increasing conflict is largely driven by competition of influence and power which comes with demonstrated control over land matters such as ownership, allocation and access especially as regards overlapping land rights. According to Deininger, even though many African land tenure systems are characterized by very egalitarian land access within any given group, the relative endowments of different groups, as defined on the basis of ethnicity or gender, can differ sharply from each other. If land values increase in an environment where access to land across groups is highly unequal or governed by other factors, such as ethnicity, it can give rise to conflicts that run along ethnic lines and spread to areas completely unrelated to land.

This analysis resonates with the conflict narrative of the Rwenzori region, and Kasese in particular, which is fused with a common misunderstanding that land is scarce. At the glance, the relationship between Kasese land conflicts and population growth and the establishment of protected areas such as QENP indicates limited arable land available. This seems statistically plausible considering the following statistical facts: In Kasese, Government holds 65% of the land¹⁰⁰ with people left to share the remaining 35% of the land. The 65% of the land was taken over by the Government for game parks or forest reserves. Kasese has a total land area of 2,724 square kilometers (1,052 sq mi) of which 885 square kilometers (342 sq mi) is Queen Elizabeth National Park, and 652 square kilometers (252 sq mi) is Mt. Rwenzori National Park. This leaves only **1,187** square kilometers (458 sq mi), which is about 43%, for public and private use. More still, the 43% includes public institutions like government prisons in Mubuku and Rukooki, district headquarters, Kilembe mines, Sub-County headquarters, hospitals churches and schools. This means that about 30% (817.2 sq mi) of the land is what is left for private ownership and use by the entire population inhabiting the district.

The natural reaction to the “crisis” starts to unmask what the real issues are. In the midst of this, there are general demands by the Kasese residents to de-gazette most of their land or be compensated by government on grounds that half of their territory is gazetted as game parks, forest reserves, prisons, or other government institutions; the Basongora make historical claims to what is gazetted. It appears that de-gazetting is not just about freeing up land for everyone to settle but returning to people what belonged to them – at the cost of the tourism benefits accruing from these reserves. The 2005 Ministerial Committee on the Controversy Surrounding Obusinga Bwa Rwenzururu Cultural Institution observed that a number of people in the plains, especially the Banyabindi and Basongora, were displaced during the Rwenzururu Movement Struggle. It was also observed that land shortage in Kasese and Bundibugyo districts was a general problem affecting all ethno-linguistic communities. This is supported by the 2012 report of the Committee on Tourism, Trade and Industry on the petition of residents of Katunguru, Kahendero and Katwe-Kabatooro Town Council, Kasese District, which states that population increase exacerbates the problem.¹⁰¹

Population growth was one of the immediate responses given by the respondents and interviewees in explaining the causes of land conflicts. Land being a static resource, rapid population growth results into land scarcity. Taking an example of Kyenjojo where fertility rate is at 5.9% and population growth rate at 3.9%, land as a static resource has become very competitive and a source of conflicts and crimes like murder, assault, and domestic violence. Population growth which is a function of migration, immigration, death and birth, and makes land conflicts more complex. From the interviews conducted, individuals from the indigenous nationality of the Batooro were found to be reluctant to migrate to other areas where they could get alternative land. This attitude has a traditional touch, namely the belief that one would wish to stay and be buried ‘*hamutooma*’ (at one’s ancestral place), and is responsible for land fragmentation. Every son has to get a share from ‘*hamutooma*’. This explains the ever increasing population in areas occupied by the indigenous Batooro. On a few cases of migration, it was on temporary basis, just to accumulate some income (especially through sale of labor in Kampala) with which the individual would purchase more land on return. Such a person does not sell his little land as he leaves. The study established that among the ethno-linguistic communities in the Rwenzori Region, only the Basongora and the Bakonzo have migrated. The Bakonzo have migrated in big numbers and now occupy Buwekula in Mubende District, Kagadi in Kibale District, Kasanda South in Mityana District and Ryeru District¹⁰².

99 Stuck in the Mist. Contextual Analysis of the Conflicts in the Rwenzori Region, 2012, p.11.

100 Rugadya

101 See, Field report of the Sessional Committee on Tourism, Trade and Industry (December 2012) on the petition of residents of Katunguru, Kahendero and Katwe-Kabatooro Town Council-Kasese District and Nyabubale-Kiko Town Council, Rurama, Kabaswiswi, Gogoya-Kabarole District. p.16.

102 Interview with Bamusede Bwambale in Kasese.



Figure 6: A leader addressing the community that were evicted from Mukonomura enclave, Matiri Central Forest Reserve. Credit:WEMNET-U.

Other cited pockets of immigration leading to population pressure included migrants from Kabale and Kisoro settling in Kyenjojo and Kabarole. The local people made claims that tea companies get people from Kabale and Kisoro—a practice locally dubbed as “Abakasanju” for labour during peak seasons. These people are said to be steadily absorbed within the communities, significantly increasing the number of Bakiga in the two districts. This breeds competition over land. The Basongora respondents also claimed that the Bakonzo have a planned mission to deliberately produce as many children as they could so that they can get the power of numbers which they seem to already have achieved. They claim that most Bakonzo are polygamous in pursuit of their mission. While these can be dismissed as mere allegations, the factual and scientifically defensible information from UBOS confirms high population growth –the kind that is a derailment to progress – whether or not this is attributable to demographic-strategic calculations.¹⁰³ Mr. Kiyena Joseph, Vice Chairperson, Bwenanule, Kinyabakazi, Muhokya Sub-county stated there has been pressure to young unmarried boys saying that, “*If you don’t marry, we shall not become many*” hence the alleged maxim among the Bakonzo, “*Itwe tulibake*” [we are few]. This seems to resonate well with those who believe that in order to create an independent kingdom state in central Africa, polygamy had to be promoted by the leaders of Rwenzururu rebellion as a natural means of raising the numbers for self-defence in case they are attacked by their enemies as well as for geographical expansion of both family land and the newly created Kingdom State –Rwenzururu.

4.1.14 Decline in Public Resources

A major decline in public resources during the 1960s and earlier 1970s followed a shift in the Ugandan government policy on land. In its continued and unabated pursuit of the neo-liberal policy of privatization, the Government privatized three ranches that were grazing lands. The partial privatization of the cattle corridor, by converting Bukangara and Rwehingo areas into cultivation land and creating Mubuku Irrigation Scheme to promote cotton production, greatly affected the size of public goods¹⁰⁴. The above policy led to reduction of the once large public good supporting huge herds of cattle in the cattle corridor.

Historically, QENP is located in the former Busongora. The area included the plains from River Rwimi through the present Kasese town, QENP National Park, across the Semuliki River into the present DRC up to Mulamba hills. Due to this claim, the process of resettling the Basongora has been more confrontational in the context of other ethno-linguistic communities, like the Bakonzo and Banyabindi, who altogether have been sandwiched in a narrow strip of land measuring 1,647sq km between the Ruwenzori Mountains National Park, QENP National Park and lakes George and Edward.

¹⁰³ The mission being referred to here is that of forming an independent kingdom state earlier referred to elsewhere in this report.

¹⁰⁴ Rugadya, 2009. P.14.

Starting in 1906, some Basongora migrated to other parts of Uganda such as Nkore, Bunyoro and Buganda and outside to DR Congo when the colonial government designated the area around lakes Edward and George as a game reserve and later gazetted it as Queen Elizabeth National Park in 1952. Some remained on the periphery of the park around Nyakatonzi and Bukangara. In 1964, the Mulele rebellion in DRC drove back the Basongora back to Uganda only to find that the Tooro (kingdom) Development Company (TDC) that wound up in the 1970s had leased some of their land, including present-day Mubuku and Ibuga prison farms covering 14,165 and 4,027 acres respectively, the controversial 6,597-acre Hiima Army Production Farm, Ibuga Refugee Settlement Scheme (2190.4 acres) and Mubuku Irrigation Scheme, measuring over 2,100 hectares. Rebellions that followed, such as the Rwenzururu and NALU in 1962 and 1989 respectively, added to the Basongora displacement, forcing them to share the space with the cultivators against a well-known disharmony between crops and animals. Subsequently, a group of Basongora herdsmen went to the DRC and settled in Virunga National Park, once part of their ancestral ranges. However, in March 2006, they were evicted by the DRC authorities. As a result, the Basongora cattle keepers encroached on Queen Elizabeth National Park upon their return from the DRC. Then UWA personnel intervened to protect the wild life in the QENP and chased the pastoralists. Violent clashes broke out with the UWA which tried to push them back into the survival corridor. This violence left many dead and injured or disabled.

Following the renewed conflict in QENP and the expulsion of Basongora communities from DRC, the government of Uganda, under a presidential directive and later cabinet interventions, granted new lands to the Basongora. Cabinet, in Minute Number 387 (CT2007)42 directed the Government Technical Team to allocate 15,800 acres ceded from Ibuga Prison Farm (1,400 acres), Ibuga Refugee Settlement (3,500 acres), Hima Army Production Unit (3,500 acres), Mubuku Prison Farm (5,300 acres), Karusandara (1,100 acres), and Muhokya Sub-county (1,000 acres). As already seen the conflict has resulted in various confrontations and the failure to resolve it remains a challenge to UWA, GoU, Local Governments and other stakeholders.

4.1.15 Oil and Gas Prospects

Since the announcement of commercially viable petroleum in the Albertine Graben in 2006, the region has undergone significant and continuous change. Suddenly, land that had been customarily owned for years by various ethnic groups became highly attractive to new parties, including investors and land speculators that previously expressed little or no interest in the region.¹⁰⁵ Oil prospects in Ntoroko district (though negative results have been registered so far both for the Turaco and the Kanywataba Prospect) is the latest trigger of land conflict incidences in the district. This recent development has not been widely studied, but local opinions documented by earlier studies, including KRC, confirm the link between land conflicts and oil and gas prospects. As a matter for the oil sector, land is a subject of an on-going debate on the fairness of compensation in particular for 3 groups: individual land owners under pressure to sale to speculators; communities and families forced off land to make way for oil installations; and negotiated direct purchases between oil companies and individuals. It is rumored that highly-placed government and army officials assisted by affluent families in Ntoroko are acquiring large chunks of land believed to be located in one of the oil blocks.

Other people are rushing in to buy land under the same motivation: business people and private companies such as Mineral Service Limited, Mukwano Group of Companies, Semuliki Rift Valley Trans-marine have all purchased land in Kanara Town Council because of prospected oil activities. For example, at the height of ADF insurgency, the family of Mr. Samson Rwakaikara was displaced, leaving behind their ancestral land. But on return, they found their 6 acres of land had been taken by Kanara Town council which later leased it to Heritage –an oil company which also later leased it to Mineral Services Limited, another oil company. MSL fenced off the land and constructed its camp but the house and graves of the relatives of the Rwakaikara family were left out of the fence. The family is currently struggling to get their land back. As a result, there are increased cases of landlessness, encroachment on protected areas, inter-family land conflicts due to reduced land space, and limited land available for economic production.

However, some local leaders in Ntoroko argue that with the creation of Semuliki district (that included present day Ntoroko district) in 1974, Butuku land ceased being part of Tooro kingdom. They believe that the desire by Tooro Kingdom and OBR to extend to Ntoroko district and the agitation for new cultural institutions in Kasese district relate to the desire to have access to control over oil and gas¹⁰⁶. In Kasese District, there is a lot of suspicion regarding oil and gas prospects. A Congolese oil company exploring for oil in Eastern DRC, at the time of the study was housed in the former salt factory at Katwe under the Ndurgoto Agreement framework. However, this has been treated with a lot of suspicion. As a cross-boundary issue, the absence of proper demarcation

105 Civic Response on Environment and Development (CRED), June 2015. *Up Against Giants: Oil influenced land injustices in the Albertine Graben in Uganda*.p.3.

106 Ibid.

between Uganda and DRC has led to conflicts between communities governed by different governments and local authorities. The tyranny of different legal systems means clarity must be proactively sought on land use between border communities especially since most communities share ethnic and cultural ties including common ownership or communal access. With loose immigration controls and porous borders contestable settlement can be a cause of future conflict.

4.1.16 Competing Livelihood Activities

Conflicting livelihood activities among communities, such as crop and animal husbandry practices, have also been a remarkable source of land conflicts due to incompatibility of enterprises. Such incompatibilities in farming activities were reported to be rife in Kasese and Ntoroko, where the various ethnic groups pursuing different livelihood activities were reported to have been feuding. For instance, the Basongora are known for cattle keeping. The Bakonzo are famed for crop growing. Conflictual relations arise between these communities due to animals trespassing into gardens.



Figure7: Cows grazing on near Rwehingo land that is being contested between Basongora cattle keepers and Bakonzo cultivators. Credit: Andrew B

The nomadic nature of Basongora, who are always moving in search for pasture and water for their animals, has also worked against them. They claim that Bakonzo took advantage of their absence and settled on their land in Muhokya sub-county. On return, the Bakonzo refused to vacate their land and took it forcefully. Another case is in court involves communal grazing areas in Mukisongora, Muhokya Sub-county. The Basongora sued the Bakonzo cultivators and the case is still in court.

4.2 Actors in Land Conflict Generation and Resolution

The study revealed a number of key actors, their interests and the methods they use to exert on others. These included:

- The government through its institutions like UWA and NFA, and at both local and central levels
- Politicians at different levels,
- Cultural (traditional) leaders as individuals and families
- Cultural (traditional leadership) institutions, such as kingdoms, chiefdoms, and other forms of rule, the rich and powerful members of the society, both connected and unconnected to government and traditional leadership institutions.
- Oil companies and other private companies.

For every category of actors, there is land conflicts tied to their interests. Some of these interests have brought these actors into confrontation with the local people as already extensively discussed in chapter 3. Government institutions like UWA and NFA deal with encroachment and boundary issues with the surrounding communities and are marred into misunderstanding over who is violating the other's land rights. Politicians are driven by political ambitions which give away to land conflicts, conflict of interest, complicity, and more. Land is neither theirs nor have they the mandate to distribute it. The rich and powerful are going every length to buy and amass land, sometimes fraudulently. They are supported by a land management system which works in their favour. The cultural leaders who once held the land in trust are now selling it like the case in Toro kingdom, while others are struggling against communities and other cultural institutions, making the conflicts more complex and entangled.

MECHANISMS FOR RESOLVING LAND CONFLICTS IN THE RWENZORI REGION

The study established several mechanisms used in land conflict resolution at different levels with the most widely used being mediation at 24.5% and legal redress at 17%. Mediation was mainly done by RDC's, elders, clan and family heads and NGOs. The mechanisms available are grouped under the following:

5.1 Family and Clan-Level Mechanisms

At family and clan levels, the determining factors of land ownership is bequeathal and gender dimensions. Clan leaders and elders play an important role in mediating and resolving land conflicts. Among the Bakonzo, for example, upon the death of a father his land is divided between the sons. Adult sons, however, receive their share of land before the father's death (regarded as donation), but the sons of different mothers inherit from the pieces of land and fields which are under their mother's care. Hence women are seen as custodians of productive resources and yet are not given "control" of these resources –especially in terms of the rights to alienate.

5.2 Community Level Mechanisms

Peace actors¹⁰⁷ were also reported to be involved in land conflicts resolution through mediation despite the fact that there were no responses in line with the latter being approached in case of any arising land conflicts. Peace actors were reported to be taking their own initiative to approach conflicting parties, especially households, without necessarily being approached.

5.3 Governmental Level Mechanisms

At governmental level, courts of law are the most used avenue for land conflict resolution at 28.6%. The many land-related cases in court, for example from the Magistrates Court of Fort Portal at Kyenjojo, where out of the registered 61 civil cases, 54 (88.5%) were related to land disputes, demonstrate the centrality of courts in land conflicts resolution.

However, before people could resort to legal redress, majority went through other processes like mediation by the RDCs, clan heads and elders. Courts of law were reported to be the last option when all the other avenues were exhausted. The RDCs were reported to be the highest formally known actors in land conflict mediation at 23.2%, while political leaders were at 5.4% and NGOs at 1.8%. Mediation was reported to be the most effective remedy to land conflicts since it is the cheapest option. Besides, land conflicts which were resolved through mediation were reported to be completely resolved and conflicting parties reconciled. However, whenever mediation processes fail to resolve land conflicts, parties always resort to courts of law for legal redress.

Despite the high percentage of court cases on land conflicts, respondents complained of delays in delivering judgment, corruption, influence peddling by the rich and affluent and high costs involved in the court processes. This makes the courts of law less effective in dispensing justice as people always referred to the saying that, "Justice delayed is justice denied". Besides delay, the courts were accused of wrongfully passing judgment on land cases without obtaining all the facts related to the case in the first place. Some cases are judged without ever visiting the *locus*, especially the mountainous areas in Kasese and Bundibugyo. Court officials are sometimes too lazy to visit the *loci of conflicts* in the mountainous areas, hence passing judgments without much information

107 Recently created structures by KRC and RFPJ

about contested pieces of land. This, in one sense, makes the courts of law a factor in the escalation of land conflicts. When people cannot find justice in the courts of law, they sometimes take the matters into their hands leading to some of the gruesome deaths often reported in the media.

Local Council Courts were also found to be involved in conflict resolution with LCII being the court of origin for land conflicts and LCIII being an appellant court. However, people lost interest in the LC courts due to reported rampant corruption and lack of impartiality, in addition to their questioned legitimacy since there has been no election for the LCIs and LCIIIs since 2001. To this effect, court always throws out cases originating from LC Courts because of this fact.

5.4 Traditional-Cultural Mechanisms

These measures were more pronounced in the mountainous areas of Kasese and Bundibugyo districts, among the Bakonzo community, where there are established authority structures of *Isemalambo* (chieftain) and *isebulambo* (ridge leader). While the colonial administration weakened these structures, the study established that these structures and practices persisted. The Obusinga Bwa Rwenzururu has embarked on the process of revamping their powers under the 10 chieftains that exist on the Ugandan side of Mount Rwenzori. As such, they are still called upon to settle land disputes in the community.

THE LINK BETWEEN LAND CONFLICTS AND THE OVERALL CONFLICT SITUATION IN THE RWENZORI REGION

6.1 The 5th July 2014 Attacks: From Unresolved Land Wrangles?

The 5th July 2014 coordinated attacks in the Rwenzori districts of Kasese, Bundibugyo and Ntoroko have been commented about by differently observers. But one important question that has been asked by different people is: to what extent was land a factor in these attacks? The study provides some answers combining field notes and the actual account of events before and after the attacks.

On 5th July 2014, there were coordinated attacks by a group of youth¹⁰⁸ who attacked Bundibugyo Police Station, Katumba and Kikyoo Police posts¹⁰⁹, Stanbic Bank, offices and palace of the Obudingia Bwa Bwamba, Kanyamirima barracks, and the Resident District Commissioner's residence. On the same day, Bigando village, Kicwamba sub-county, Kasese district was attacked, killing 11 people:

1. Monic Bariho (45 years)
2. Kankunda Alice (27 years)
3. Mutooro (25 years),¹¹⁰
4. Rwamigamba Patrick (50 years)
5. Margaret Rwamigamba (45 years)
6. Rwozi Yowasi (37 years)
7. Corporal Nabimanya Grace (37 years) and
8. Four (04) kids¹¹¹ of Cpl. Nabimanya Grace.

In Ntoroko District, there were attacks too. Several youth died and others were injured by Government forces. At the weigh bridge in Kasese district, one police man¹¹² is reportedly to have been stabbed to death. Another one was injured by two unknown gun men and allegedly two guns were taken¹¹³. In total there were about 180 deaths. Hon. Christopher Kibanzanga writes in his statement that:

On that fateful Saturday, Grace Biira, the commander of the attackers who had surrounded the kingdom [Obudingia Bwa Bwamba] offices, and had held us hostage for about an hour and half, had been arrested. On interrogation, she did not hesitate to say that they were the Eryomango of Obusinga Bwa Rwenzururu and that their overall coordinator was a one Kapilongo Vincent, the deputy Minister of security, Obusinga Bwa Rwenzururu.

108 According to Hon. Christopher Kibanzanga, some of the youth came from Ntandi, Karugutu, Burahya, Kazingo and Bunyangabu.

109 Assistant Superintendent of Police (ASP) Mugume Bataka Wilson, Officer-in-Charge Station, and Police Constable, Aliga Swaibu, were killed. (<https://www.facebook.com/ugandaupf/posts/631010526994711>). Accessed on 29.09.2015 at 8.47pm.

110 Mutooro was a casual worker for one Kananga Joseph. His origin is believed to have been Kabarole District.

111 The Study team was unable to establish the names of these children who were killed along with their father Cpl. Nabimanya Grace. One survivor who escaped the attack, a one Richard, noted that in some instances the attackers burnt the bodies of the victims.

112 The Uganda Police Force on their official facebook identified the dead police officer as Special Police Constable (SPC) Muhindo Jacob. (<https://www.facebook.com/ugandaupf/posts/631010526994711>). Accessed on 29.09.2015. At 8.43pm.

113 A statement by Hon. Kibanzanga Christopher on the 5th/7/2014 attacks in the Rwenzori Districts of Kasese, Bundibugyo and Ntoroko (undated).

The attackers reportedly underwent military training at Kitsangirwa camp in Bukonzo sub-county, Bundibugyo district, for six months¹¹⁴. The camp neighbors the Rwenzori National Park and belongs to the Batswagha clan. The playground is said to be located where the Rwenzururu Political Movement meetings and celebrations took place during the Rwenzururu war in the 1960s¹¹⁵.

Among the reasons cited by Hon. Kibanzanga in his statement on the attacks, most of them are related to land¹¹⁶. The reasons are:-

- To some, it was in the defence of their beloved kingdom from government repression
- To some, it was due to marginalization by particular ethno-linguistic communities and oppression
- Others cited issues of land wrangles that have moved them into action
- Some mentioned typically abstract ideas like fighting for the secession of the Bakonzo from Uganda and forming an independent Yira Republic.

Despite the willing buyer-willing seller principle determining most of the land transactions in Uganda, there seem to be bad feelings in Bundibugyo district against the Bakonzo who have in real sense genuinely bought land in the low lands from their Bamba neighbors. There has been systematic acquisition of land by the Bakonzo in the lower lands to grow cocoa and maintained their higher ground for food cultivation with some statistics stating that that 60% of the land in low areas is occupied by the Bakonzo¹¹⁷. The *Saturday Vision*, July 26, 2014 quotes Mr. Wilson Mulubya, the Prime Minister of Obudhingia Cultural Institution as having said:

We did not realise the implication of selling land to Bakonzo. The Bakonzo used to pull resources together to buy land owned by the Bamba, without making their intentions known. They contributed money and gave it to one person who would buy the land. By the time we came to know of their intentions, it was too late for us.

Land disputes, which are often ethnically based, are supporting the development of local 'politics of belonging', that is, a political culture that distinguishes between 'insiders and outsiders, indigenes and settlers', us and them. There is a feeling in the region, especially among the Bakonzo in Bundibugyo District, who feel marginalized. This has revived the much-hyped "*Akethu Kathere*", indicating that they have not been beneficiaries of what was supposedly theirs. They think they do not wield the powers they should, in district matters. The only opportunity this group thinks it can achieve or regain the "*akethu Kathere*" is through *Obusinga*¹¹⁸ and perhaps land acquisition by all means whether peacefully or through forceful means. It is these sentiments that are threaten peace and security in the region as the current order is viewed by some sections of the population as repressive and incapable of giving grieved parties a fair hearing. This sense of futility can potentially force aggrieved parties to resort to disruptive alternatives in pursuit of their interests, leading to insecurity.

The Rwenzori Region is a major tourist destination. It boasts of a host of tourist sites like the snowcapped Mount Rwenzori;, numerous national parks like Queen Elizabeth National Park, Kibale National Park, Toro-Semuliki Game Reserve, which are rich both in flora and fauna; and historical cultural sites. But the continued land conflicts, some of which are likely to metamorphose into full blown ethnic tensions, have negatively affected the ever-fragile tourism industry the Region boasts of. However, the magnitude of the impact, being beyond the scope of this study, could not be easily quantified and requires an independent study..

6.2 Can the Existing Land Conflicts in the Rwenzori Region Disrupt the Prevailing Peace and Security?

It is difficult from this study to tell whether or not land conflicts in the Rwenzori region can escalate violent conflicts, including degenerating to armed rebellions and other civil wars, in the Rwenzori region. This is because land is "at the very heart of security and survival, [and] looms behind most of the African conflicts."¹¹⁹ At the same time, land conflicts "continue to change and are extremely complex and embedded, which may lead

114 The *Saturday Vision*, July 26, 2014.

115 Ibid.

116 A statement by Hon.Kibanzanga Christopher on the 5th/7/2014 attacks in the Rwenzori Districts of Kasese, Bundibugyo and Ntoroko (undated).p.8.

117 The *Saturday Vision*, July 26, 2014.

118 Mukirane and Muhesi, *Obusinga Bwa Rwenzururu*,P.33.

119 Jina Moore, 2010 (Jan. 30), 'Africa's continental divide: land disputes', Zuluyee and Kailahun: *The Christian Science Monitor* (<http://www.csmonitor.com/World/Africa/2010/0130/Africa-s-continental-divide-land-disputes>, accessed 20 July 2016)

to the inability to deal with them and to questioning the legitimacy of the forms of intervention and prevention of conflicts.”¹²⁰ Violent conflicts are a clear disruption to peace and security wherever and whenever they occur. The level of land conflicts in the region remains low-intensity compared to previous armed rebellions in the region. While the insecurity the region has experienced and may experience in the future is likely to result from the environmental and geopolitical proximity to conflict prone areas (i.e. DRC), the role of land conflicts remains unpredictable. Three observations need to be made with regard to the foregoing issue.

First, the physical environment consisting of several forest reserves and parks provides a haven for conflict entrepreneurs to hide, as the example of Kitsangirwa training camp in Bukonzo sub-county, Bundibugyo district, demonstrates with regard to the July 2014 attacks in the region. Second, proximity to the DRC, which has not been stable for a very long time, puts the region's own security at stake. Armed groups come and hit Uganda and retreat back to Congo without much consequence on their part. Additionally, the new style of politics of divide and rule based on ethno-linguistic communities and struggle for supremacy by different cultural institutions is far more a threat to the peace and security in the region. The issue, therefore, is about the pursuit for loyalty which has gone out of hand, and may involve reconstruction of land-conflict narratives to advance such interests. Land shortages at individual, and community levels, as well as contentions between different authority structures, create difficulties of empirical conclusion.

However, there are pockets of land conflicts with potential to upset the peace and security of the region. For example, the Katunguru conflict involves communities around the Kazinga channel, and stems from claims and counter-claims of encroachment and misinformation between the local people and UWA. The land in question has never been degazetted although government allowed people to settle there on the understanding that the fishing activity (which was the major occupation of the local community) was compatible with wildlife conservation. However, over time, other economic activities like grazing and commerce have been introduced which are not acceptable within that settlement. The local people's claims of the land may be unfounded (i.e. no land titles or evidence of ownership of the land) but because generations after generations have lived there, they claim ownership.

In 2000, the park management attempted to streamline the longstanding contestation with the community by agreeing to give them a part of the land so the people can have land rights. But the community wanted all the land up to the junction going to Mweya, not just a part. This disagreement foiled the whole attempt to reach a common ground. The park authorities were willing to give part of the land which would also give land rights to the people but these negotiations have never been fruitful. The communities are requested not to go beyond certain points but they go past them, causing tension between themselves and the park authorities. Additionally, the local community is allowed to only carry out fishing but they have, over the years, ventured into other economic activities. This breeds conflict with the wild life authorities. Riots in this community are a common occurrence. Constant confrontations between the park authorities and the community are moving toward a tipping point.

The other potentially disturbing conflict trigger is the historical claims coming to light with the restoration of traditional authority structures. For example, the Omukama of Tooro had a hunting shelter in Katwe Sub County and has land titles for land in Kahendero and Hamukungu. Yet if he makes claims or suggests he wants to visit his former territory, this would cause conflict. As it stands, it is a significant conflict trigger for the Tooro royalty is unwilling to give up claims to its property located within the territorial claims of the Obusinga Bwa Rwenzururu. At the same time the OBR leadership seems unwilling to allow Tooro claim these properties and historical grounds. In other cases, the government is at war within itself over land. For example, the local government of Kasese and Katwe Sub County are disputing over the structures created by the latter in Katwe Sub County which, to-date, remain unutilized. Both parties would need a partnership to manage the structures but the district local government of Kasese signed a concession with Mweya Safari Lodge not to develop anything within the radius where the said structures were erected. Such conflicts within government institutions linger on without immediate solutions for a very long time.

At community level, land conflicts contribute to insecurity expressed as murders, property destruction, explicit rifts in families and between ethno-linguistic communities and prejudices. There is a lot of resource wastage in the process of managing these conflicts. The police force uses a lot of resources to quell down violent uprisings on top of losing trained policemen. Victims spend a lot of money as litigation in court, and also take long without guarantees that justice will be served to the aggrieved party. These effects that cascade to second level effects of poverty, retarded development, dependence, family break-ups, land fragmentation and landlessness, all confirm

¹²⁰ Alden, C. and Anseeuw, W., 2010. *The struggle over land in Africa: conflicts, politics & change*. Cape Town HSRC Press, (from <http://ecommons.hsrc.ac.za/handle/123456789/4404>, 22 July 22, 2016)

hypotheses developed at the research design as conceptualised below.

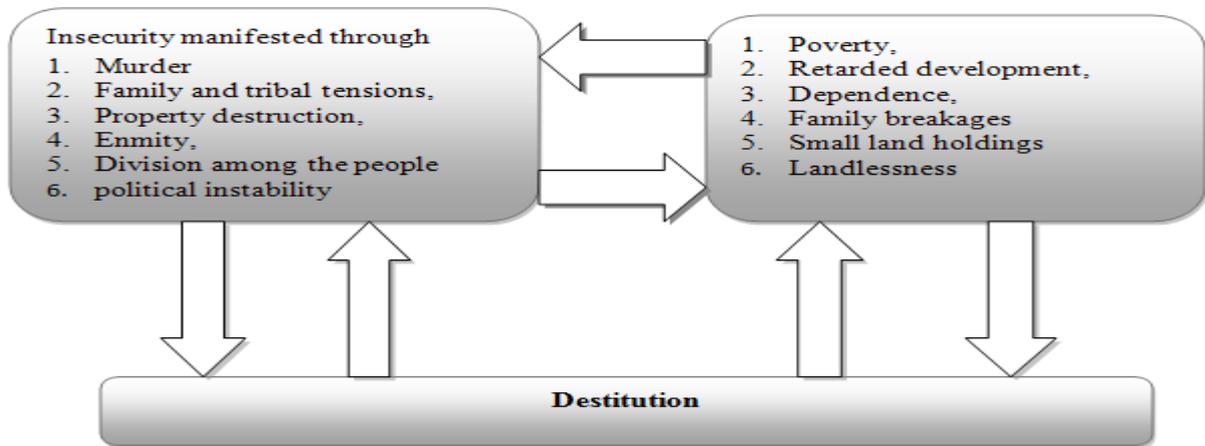


Figure : Conceptual Framework on the Manifestation of Land Conflicts and Effects.

Respondents revealed the link between land conflicts and increased crimes like murders, assault as well as increased inter-community tensions which trigger other crimes that may, at the surface, seem to be land related. However, the respondents stated the likely impact of land conflicts to peace and security in the Region as follows:

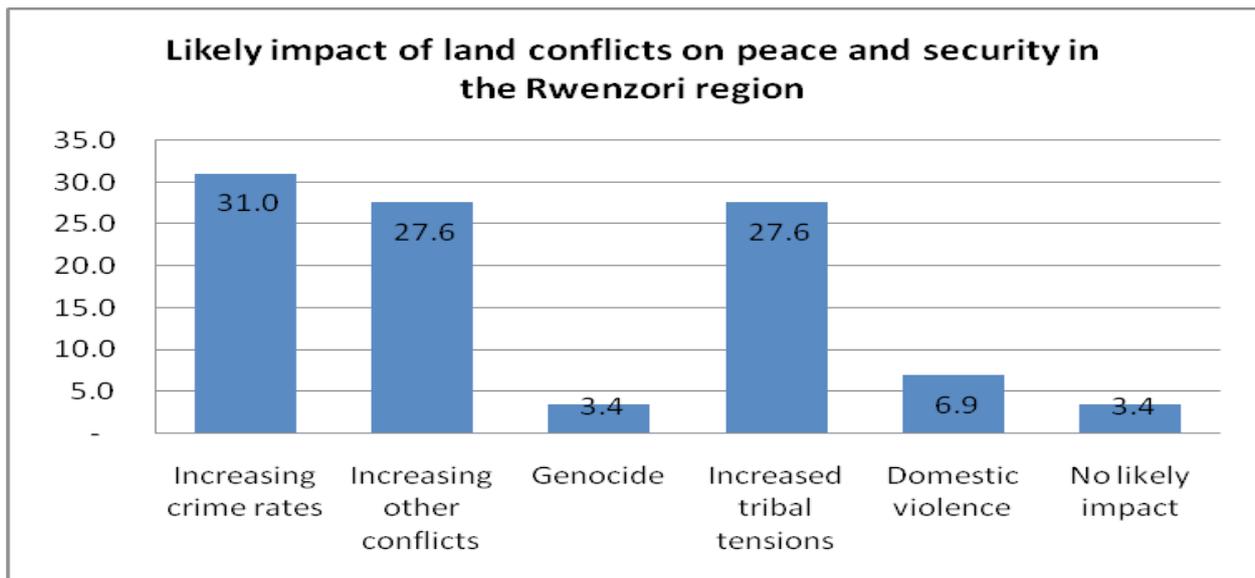


Table 2: Likely impact of land conflicts on peace and security in the region

Conflicts originating from family land sharing were also reported to be a common occurrence mainly as a result of death of the head of household without bequeathing and flawed procedures of property inheritance at household level. For instance, in Bundibugyo, there is a family with a deceased head–Karim (not real name)–where the children are fighting over the land the dead father left behind, and excludes female members of the family from access to a little piece. The Imam tried to resolve the matter following the Quran but the members were not satisfied. They took the matter to the courts of law.

There were family heads giving land to their children without clearly stipulating terms and conditions of ownership. In Bubukwanga parish, another family is fighting for a piece of land that was given to them by their father. The land did not have clear boundaries. Accusations of trespass resulted in death threats between the two families. Such land conflicts were reported to be many.

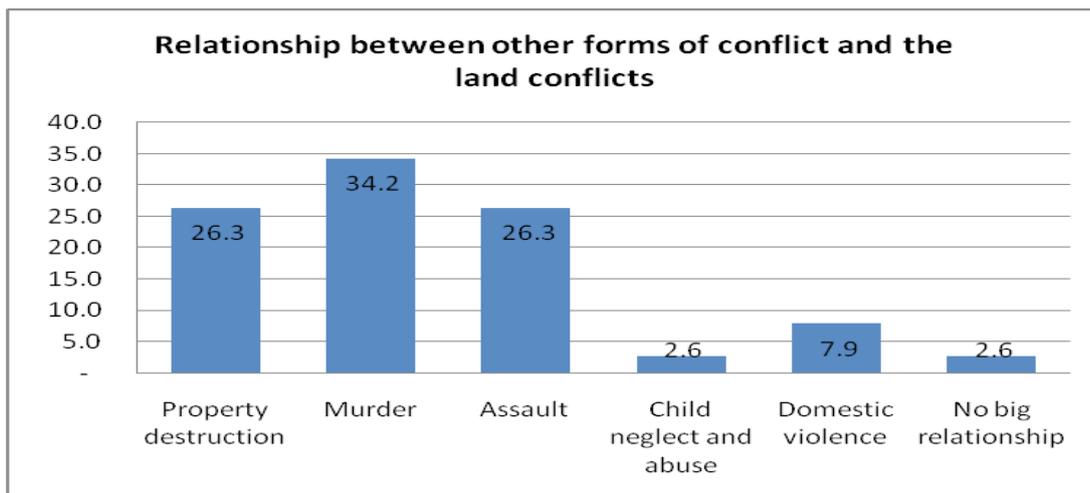


Table 3: Relationship between other forms of conflict and the land conflicts

There were cases where family land conflicts had resulted in enmity among family members with some totally turned against each other; hence crimes like murder and domestic violence. Regarding family land conflicts, women were mainly affected presumably due to the traditional belief that women do not own property especially inherited property either from spouses or parents. Men also tend to assume that property rights, especially land rights, are a preserve of men. Hence, the sole decisions to mortgage, sell and giveaway land are reached without seeking consent of wives. Some of these decisions and actions remain a major cause of conflicts.

From the foregoing, a scenario-building approach to understanding the potential linkage between land conflicts and armed conflicts in the region might require understanding three issues. First, whether or not existing land conflicts, such as those involving contention between government agencies and institutions and communities in and beyond protected areas, produce sufficient landless and/or aggrieved youth from whom a violent entrepreneur may recruit for armed conflicts; second, whether or not land conflicts involving different ethnic communities, and their respective authority structures, may be used to justify organised armed inter-ethnic conflict that then escalates to regional, national, or transnational conflicts (such as the violent attacks since 2012 evolving into full-scale civil war); and third, whether the land conflicts are instrumentalised to organise for geopolitical interests, such as cessation. Any conflict of any level can evolve from another lower conflict. Other low-level conflicts, grievances, and communal disenchantment can be used by political leaders to mobilise and organise for conflicts. It is, therefore, one issue to distinguish land conflicts in the region from previous armed conflicts, like the Abayola, Rwenzururu, NALU, and ADF rebellions; and it is another to predict how these conflicts evolve in relation to these preexisting and new conflicts. What requires caution, therefore, is the appreciation of the changing value of land and contentions related to ancestry,¹²¹ following the discovery of high value resources in the region; the evolving conflicts between preexisting and new authority structures; the border location of these conflicts; and interstate feuds over border areas.

121 Laura Zimmer-Tamakoshi, 1997. 'When land has a price: Ancestral gerrymandering and the resolution of land conflicts at Kurumbukare', *Anthropological Forum: A Journal of Social Anthropology and Comparative Sociology*, 7 (4): 649-666

CONCLUSIONS AND RECOMMENDATIONS

7.1 Conclusions

This study explores the factors underlying the incidence of land conflicts in the Rwenzori Region and draws the implications of these conflicts to peace and security in the region. The results indicate that land remains a major factor shaping the conflict narrative in the Rwenzori Region, whatever narratives may mask these conflicts. Narratives like ethnic tensions that have widely been researched and told by different scholars in the past are masks of a fundamental problem: land. The conclusion is based not so much on the number of land conflicts but how many people one conflict draws in and the impact on the peace in the community. There are many cases of one entity conflicting with a multitude of other actors and entities, and these interlocking conflicts pose the most threat because of the element of critical mass.

The very nature of land, as a static resource, implies that population growth casts doubt on solving land conflicts from the core in the short and medium term. The bulk of land conflicts occur at family level and happen mainly because the only land in a typical rural family (in terms of size) invokes every family member's interest as well as the interest of outsiders, such as land speculators and fraudsters. Siblings fight over land. Husbands sell or mortgage it without consent of the wives. Children and widows contend with their in-laws and with one another after the death of their husbands/family heads. Family planning measures have not impacted on population growth or family size. In the meantime, there is need for more practical solutions to the increasing land question in the region. Sensitisation on land laws and mechanisms to resolve land conflicts should be more accessible to reduce the occurrence of land conflicts and prevent conflicts from degenerating into hostilities. This prescription also applies to understanding the potential link between land conflicts the region's overall peace and security situation, given the complexity of land conflicts, the potential instrumentalisation of land-related grievances for new conflicts, struggles for geocultural space typifying these conflicts, and the changed value of land in the region.

It is relieving to note that most actors in land administration see the legal frameworks governing land as adequate although implementation is weak particularly with regard to customary land tenure system (which is also the dominant tenure system). This study has availed to every interested stakeholder to the challenge of seeking ways of how laws can be implemented more effectively. Presently, implementation—rather than the policies and laws—is the problem. There are many policy and legal provisions which should make land rights more attainable but are not implemented. For example, most land institutions, such as land tribunals, are not operational. The law and the practice are disconnected. The law is constantly bypassed. Alternatives like corruption and influence peddling have instead taken root. Consequently, land institutions are anxious to serve the interests of the rich and powerful at the expense of the weak and poor.

7.2 Recommendations

The recommendations from this study are based on what would truly be feasible in the real world. Some interventions have to be district-specific. Others require central government interventions, while some relate to the functionality and relevance of traditional/cultural authority structures. This is useful for addressing the unique land conflict situations and targeted at different stakeholders:

7.2.1 Central Government

1. Government should roll out the Land Information System (LIS) in the Rwenzori Region to digitalize land titles and avoid multiple land ownerships, grabbing and forgeries as well as fasten land purchase, sale or using it as security to acquire loans from financial institutions.

2. For conflicts arising from competition for geo-cultural space, government should put in place a Truth and Reconciliation Committee to investigate the 5th July 2014 attacks in Kasese, Bundibugyo and Ntoroko districts, and address all the historical grievances in order to foster unity, harmony and reconciliation among the people of the Rwenzori Region.
3. On the land conflict between Tooro kingdom and the tenants occupying kingdom land, the government should institute a commission of inquiry into land disputes in Toro Kingdom to avert the likely massive forceful land evictions by kingdom agents.
4. Conflicts resulting from government's effort to resettle displaced populations: government should implement the recommendations of the various Committees on the problems of Basongora and other minority ethnic groups under the restitution program (to return land to those people who were dispossessed as a consequence of government action). In particular, land for the Basongora should be expeditiously demarcated and communal land titles processed and issued.
5. National Forest Authority and Uganda Wildlife Authority should open up boundaries of the estates they manage to iron out challenges of increased boundary disputes between protected areas and the frontline communities. Permanent boundary demarcation infrastructures such as cairns, beacons, trenches, signposts and live-markers, and planting trees distinctively different from the surrounding vegetation, need to be put in place as well as build a formidable unit of law enforcement and surveillance.
6. Government should streamline and build the capacity of land administration institutions to enhance coordination and efficiency in handling land matters. Currently, there are a multiplicity of land administration institutions and individuals at play that need to be coordinated.
7. Government should expedite legitimization of the current Local Council court system as well as supporting existing initiatives such as mediation by clan/family forums, Community elders, religious leaders, NGO-supported peace actors, and other emerging informal community dispute resolution interventions.
8. As a matter of urgency it is important that the border demarcation process stipulated within the Ngurdoto agreement and its addendum be revived and completed by GoU and DRC

7.2.2 Local Governments and Civil Society Organisations

1. There is need for mass sensitization on land matters at community level and continuous discussion over land by the stakeholders. A stable forum like the Kasunga regional leaders' forum can constitute a team on land and charge it with the responsibility of synthesizing land issues in the region and fostering continuous debate on land matters at regional level.
2. The local governments in the Rwenzori Region should pass a bye-law for each household in the region to demarcate its land with live fencing materials to help in mitigating land disputes arising from unclear boundaries. This approach would appear to be more desirable in areas where the parties do not feel at home with formal procedures, (such as application for title to land which involves very slow and costly procedures).
3. To further reduce the incidence of family level conflicts, development actors with mandate in land administration and peace building should encourage family heads to write wills and share information transparently with their family members. There is need to promote appropriate thinking on this matter, and anew ethos evolved, where the fear of writing a will is replaced with the value of doing the same. There is still a negative attitude toward writing wills equating the act to inviting early death. Such negative views need to be overcome with sensitization and behavioral change messages.

7.2.3 Recommendations Regarding Intense Conflicts

In Bundibugyo and Kasese where land conflicts are far too many, more complex, and pose somewhat a threat to the security of the region, the study suggests the following to government:

1. There is need to construct cattle fences or a barrier to prevent animals from destroying crops like the case is in Ibuga, Kasese District. As boldly said by one official at UWA, the government has to have its way on this in the face of resistance from the community, otherwise this kind of conflict will never end. UWA was initially willing to put barriers but the communities opposed this measure. If it remains business usual, the combination of cultivators and grazers in Mubuku and Ibuga can only brew more conflicts because cattle and crops would not naturally co-exist unless animal-crop separation measures are put in place.
2. Government should intensify family planning promotion to check on population pressure on land. As long as the population continues to grow at current rates, cases of siblings fighting one another over land will remain.
3. Government needs to rationalize land and the excesses dealt with. For example, it may not be necessary to have two prison farms in Kasese. Government needs to free up more land for human activities.
4. The government needs to put the land held in trust at work so it does not pass as idle land decade after decade when people barely have enough land to raise their families. There are a number of options by

government such as cultivating the land and selling the produce to the community at a subsidized price or lending the land to the people for cultivation on a rotational basis for purposes of cultivation.

5. Government should settle the conflict in Nyakatonzi once and for all. The conflict has persisted for a very long time. Government's response has never been sufficient. The conflict has, most of the time, been superficially handled and keeps recurring.
6. Government should solve the case back log of land matters by utilizing alternative dispute structures such as Abisemalhamalambo (ridge leaders) and Bakulu ba'Bulambo (chieftains). These structures would help government to start tracing for true ownership of pieces of land under contestation from the community and allocating them to their rightful owners.
7. Government needs to clean its house, intensify the fight against corruption in government agencies, promote efficiency in the management of land matters, and employ a policy of zero tolerance to the violation of land laws or defrauding of marginalized members of the Ugandan society. These measures have important implications for effecting interventions for resolving current, and preventing future, land conflicts while also freeing contentious lands for economic activities, promoting peace and security within and between communities, and protecting the human rights of especially, youth, women, and minority groups whom the powerful threaten.
8. Government should conduct a detailed strategic assessment of the potential for land conflicts in the region to escalate to more widespread armed conflicts. This should be done with the view to understanding three issues: (a) whether or not existing land conflicts, such as those involving contention between government agencies and institutions and communities in and beyond protected areas, produce sufficient landless and/or aggrieved youth from whom a violent entrepreneur may recruit for armed conflicts and the possible hidden motives behind such instrumentalisation; (b) whether or not land conflicts involving different ethnic communities, and their respective authority structures, may be used to justify organised armed inter-ethnic conflict that then escalates to regional, national, or transnational conflicts; and (c) whether the land conflicts can be linked to geopolitical interests, such as rumored cessation demands in western Uganda/eastern DRC. Distinguishing land conflicts in the region from previous armed conflicts differs from predicting how these conflicts evolve in relation to these preexisting and new conflicts, and, accordingly, caution is needed to appreciate the changes currently taking place in the region and their broader implications for regional and national peace and security: the discovery of high value resources; evolving conflicts between preexisting and new authority structures; the border location of these conflicts; and interstate feuds over border areas.

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APPENDICES

Appendix I: List of Respondents

KYENJOJO DISTRICT

Name	Institution	Occupation	Contact
1. Detective Sergeant Andrew Rwakabale	Uganda Police	In-charge Land Desk	0772 36 02 93
2. Mr. Kawonawo Isaac	RDC 's office	Deputy RDC	0772 88 90 17
3. Mr. Bukenya	DLG	Surveyor	
4. Dr. Charles	DLG	DHO	
5. Ms. Atuhaira Grace Tumuranzye	DLG	Vice Chairperson LC5	0778 32 99 66
6. Mr. Muhenda Patrick Agaba	DLG	Principle Fisheries Officer	0772 65 82 85
7. Ms. Fosca Massaba Atenyi	Bufunjo Sub County	Vice Chairperson LC3	0782 99 28 18
8. Mr. Tibenda Patrick	Kihura Sub County	Chairperson Area Land Committee	0772 92 83 73
9. Pastor Baitwa Julius	Kihura Sub County	Community member	0771 63 43 73
10. Kunihira Florence	Kihura Sub County	Community member	0770 54 92 46
11. Ms. Kabarokole Stella	Kihura Sub County	Community member	0781 76 15 82
12. Ms. Namusoke Christine	Kihura Sub County	Community member	
13. Ms. Annet Namugerwa	Kihura Sub County	Community member	0785 89 83 61
14. Omuhereza Mugisa	Bufunjo Sub County	Community member	
15. Birungi Harriet	Bufunjo Sub County	Community member	
16. Kemigisa Rosemary	Bufunjo Sub County	Community member	0711 69 87 44
17. Nurah Businge	DLG	Registrar of Titles	0789 967055

KABAROLE DISTRICT

18. Mrs. Rose Monday Byabasiaya	RDC's office	Deputy RDC	0772 91 47 92
19. Mr. Herbert Mugisa	Fort Portal Municipality	Chairperson LC3	0772 46 28 22
20. Mr. Kankya Gerald	Twerwaneho LC	Coordinator	0782 49 99 86
21. Ms. Kansime Evelyne	Twerwaneho LC	Communications Officer	0772 08 65 59
22. Mr. Olimi Hassan	Tooro Kingdom	Estates Manager	0702 80 81 07
23. Mr. Tusiime Robert	Rwenzori Diocese	Estates Manager	0782 04 02 72
24. Mr. Tom Mboijana	Elder	Opinion leader	0772 33 93 40
25. Mr. Kagoro Wilson	UWA – Kibale NP	Community Conservation officer	0782 48 81 50
26. Mr. Bright Patrick Rwankwenge	Bukuku Sub County	Chairperson LC3	0776 64 89 23
27. Ms. Kabajweki Sarah	Bukuku Sub County	Community member	
28. Mr. Sunday Johnson	Karago Catholic Church	Head of light	
29. Mr. Kyalimpa Kabataani	Bukuku Sub county	Community member	
30. Mr. Kyalimpa George	Bukuku Sub County	Community member - LC1	0779 05 46 15
31. Mr. Kyomuhendo Chris Kateeba	Bukuku Sub County	Community member	0776 04 11 82
32. Mr. Turyamureba Joshua	Bukuku Sub County	Community member	0782 32 71 04
33. Mr. Ahaisibwe Timothy	Kicwamba Sub County	Community member	0701 54 87 33
34. Kabasambu Mary Gorrette	Kicwamba Sub County	Community member	
35. Victor Switzer	Ruteete Sub County	Community member	0785 74 29 93
36. Ms. Kabahweza Stella	Ruteete Sub County	Community member	

KASESE DISTRICT

37. Kiyena Joseph	Muhokya Sub-County	Vice Chairperson LC 1-Butakinga	0789-098942
38. Mugisha Mambo Mohamed	Kahendero, Muhokya S/C	Chairman LC II-Kahendero Parish	0785-351288
39. Kasoke Ernest	Muhokya Sub-county	Chairman LC 111	0774-626603
40. Kamuhanda Asimwe Godfrey	Muhokya Sub-county	Community Member/Fisherman	

The Melting Pot:

Land Conflicts in the Rwenzori Region

41.	Swaib	Kasese District Local Gov't	Labour Officer	0771-393257
42.	Rt. Hon. Nzaghale Noah	Obusinga Bwa Rwenzururu	Prime Minister	0772-950938
43.	Hon. Baluku M. John	Obusinga Bwa Rwenzururu	Minister of Culture	0772-669295
44.	Ndungo Nelson Sande	Rwenzori Forum for Peace Bridge	NGO	0772-481997
45.	Rev. Masereka K. Nelson	South Rwenzori Diocese	Diocese Land Officer	0772-685553
46.	Isingoma Erisania	Kasese Municipality	Community Member	0782-881095
47.	Nyamunungu Patric	Kasese Municipality	Former OBR Spokesperson	0772-400744
48.	Matebere Edward	Kasese Municipality	Elder	0777-309184
49.	Kiiza Wilson	Kasese Municipality	Chairman LC 1-Katadooba KMC	0773-254181
50.	Bamusede Bwambale	Kasese Municipality	C/M Kasese District Elders Forum	
51.	Muzamiru Bisanda	Katwe-Sub-county	District Councilor	0703-700500
52.	A/AIP Olowo Vincent	Kasese Municipality	Uganda Police Force-In-charge Land Desk	0773-471060
53.	Singoma Joseph	Kasese District Local Gov't	District Statician	0771-631966
54.	Queen Asimwe	Kasese District Local Gov't	Senior Community Dev't Officer	0772-937073
55.	Baluku James	Kasese District Local Gov't	Senior Lands Officer	0701-775040
56.	Kabasomi Salaama	Kasese District Local Gov't	Community Development Officer	0778-657511
57.	Yasin Tumwine	Kasese Municipality	National Youth Organization for Development (NAYODE)	0772-893992
58.	Busobozi Peter Force	Muhokya Sub-county	Community Member	
59.	Bamutura Norbert	Muhokya Sub-county	Chairman BMU Kahendero	
60.	Annet -Mukisongora	Muhokya Sub-county	Community Member	
61.	Makanika Edward	Kasese Municipality	Kasese Guide Radio/ Deputy Minister of Information-OBR	
62.	Omukama Isse Bantu Manzi Entale ya Banyabindi	Kinyamaseke Sub-county	Banyabindi Cultural Institution	0782-866638
63.	Richard Ikondere	Hiima Town Council	Basongora Community-Bigando	0703-177403
64.	Kacancu Ivan	Katunguru	Chairperson, Katunguru Land Task Force	0701929180

NATIONAL (KAMPALA)

65.	Venex Watebawa	Kampala	Media-WEMNET-U	0701-362018
66.	Hope Mafaranga	Kampala	Media-New Vision Group	0782-414558
67.	Dr. Philemon Mateke	Kampala	Minister East African Cooperation	0772-605035
68.	Robert Mugabe	Kampala	Community Member	0702-565725
69.	Daniel Kashagama	Kampala	Media-TV Africa	0789-756487
70.	John Makombo	Kampala	Director of Conservation; UWA	0414-355000

BUNDIBUGYO DISTRICT

71.	Tindyebwa M.	Bundibugyo	Bubukwanga LCIII Chairperson	
72.	Tibamwenda Smith	Bundibugyo	Bubukwanga Presbyterian Church in Uganda	
73.	Kabyanga David	Bundibugyo	Harugali LCIII Chairperson	
74.	Apollo Muhindo	Bundibugyo	Retired Head teacher -Harugali	
75.	Richard N.	Bundibugyo	Head Ranger, Semuliki National Park	
76.	Robert Jongiri	Bundibugyo	Social worker-Bubukwanga	
77.	Sheikh Ramadan Mwesige	Bundibugyo	District Khadi-Bundibugyo Muslim Council	
78.	RT. Hon Prime Minister OBB - Wilson Mubulya	Bundibugyo	Prime Minister-OBB	
79.	Grace G.	Bundibugyo	Records Officer-Bundibugyo DLG -Lands Office	
80.	Elias Kateeba	Bundibugyo	RDC-Political Institution	
81.	Kugonza Velonic	Bundibugyo	Secretary Social Services- DLG-Local Council Executive	
82.	Bwambale Josam	Bundibugyo	Change Agent-Busaru-Kirindi	
83.	Mr. Okoti	Bundibugyo	DPC-Bundibugyo	
84.	Kagwa Onesmus	Bundibugyo	Peace Actor-Bubukwanga	

85. Edward Kakonge	Bundibugyo	Peace Actor-Bundibugyo Town Council	
86. Kabagenyi Juliet	Bundibugyo	Peace Actor -Bundibugyo	
NTOROKO DISTRICT			
87. Patrick Kawamara	Ntoroko	Former RDC	
88. Ahmed Hussein Kyomuhendo	Ntoroko	Chairperson LC I-Rwebisengo	
89. Muntu Joshua	Ntoroko	Peace Actor-Bweramule	
90. Kato Richard	Ntoroko	Peace Actor-Rwebisengo	
91. Irumba Naphtali	Ntoroko	Change Agent-Bweramule	
92. Steady Daniel Karwana	Ntoroko	Opinion Leader –Anti –Obukama Group	
93. Mwesige Ali	Ntoroko	Change Agent- Community Member	
94. Charles Rwabuhinga	Ntoroko	Former MP	
95. Christopher Mujungu Adyeba	Ntoroko	Chairperson LCIII	
96. Tibamwenda	Ntoroko	Kanara Town Council, Community Member	
97. Komuntale Margaret,	Ntoroko	Community Member-Kanara Town Council	
98. Kalule Augustus	Ntoroko	Change agent, Kanara Town Council	
99. Betty Thembo	Ntoroko	Speaker, Ntoroko District	
100. Benezere Kisembo Kanagwa Apuuli	Ntoroko	Kanara Town Council, Community Member	
101. Tumwesigye John	Ntoroko	ASS Inspector of Police; DPC's – Office- In Charge of Land Issues	
102. Rev. Kibonwa David	Ntoroko	Religious Leader and District Inspector of Schools	
103. Kamulindwa Julius	Ntoroko	Chairperson LCIII, Karugutu Town Council	
104. Chairperson LCIII Bweramule	Ntoroko	Chairperson LCIII, Bweramule Sub-county	
105. Yahaya Kyaligonza	Ntoroko	Change Agent-Karugutu	

