



**RE-ESTABLISHING AN ASSET BASE AND PROTECTING ACCESS TO
PRODUCTIVE RESOURCES IN POST-CONFLICT AREAS OF NORTHERN UGANDA**

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Abstract

Northern Uganda is currently recovering from a 20-year long civil war that left the area in ruins. One of the groups, the Lord's Resistance Army, orchestrated brutal mass murders and abductions forcing nearly two million people to live internally displaced people's (IDP) camps for over 10 years. The war particularly affected the people of Acholi and Lango sub-regions which had previously suffered sporadic attacks by armed Karamajong cattle rustlers from north eastern Uganda. The restoration of peace in 2006 saw many people return to villages to reopen land for reconstruction of their source of livelihood, social and cultural identity. This sparked off land related conflicts due to the inherently oral nature of the customary system of tenure dominant in the area. Uganda Land Alliance used an integrated approach hinged on the Social Tenure Domain Model in Apac district to support households to resolve conflicts, re-establish an asset base and regain access to productive resources. Land parcels of over 100 households were mapped, plotted and demarcated, enabling beneficiaries to apply to the District Land Board for certificates of customary ownership. Engagements at national level prompted Uganda Law Reform Commission to consider proposals for integration of formal and informal land justice systems.

Key Words:

Customary tenure, conflict resolution, Social Tenure Domain Model

INTRODUCTION AND BACKGROUND

The coming into power of the National Resistance Movement (NRM) in 1986 immediately sparked off pockets of armed rebellion in northern Uganda against the new government. One of the rebel groups that emerged in 1987 is the Lord's Resistance Army (LRA) led by Joseph Kony (Arieff, Blanchard, Husted, 2015). The group sustained a brutal war that spread across the northern region for close to 20 years until the Uganda People's Defence Forces (UPDF) successfully flushed it out of the country into the eastern jungle of the neighbouring Democratic Republic of Congo in 2006 (Arieff, Blanchard, Husted, 2015).

The war had many dimensions: political, economic, social and humanitarian (ogenga Otunnu, 2002). It is estimated that over 20,000 children were abducted by the LRA between 1987 and 2006 for use as child soldiers, servants, or sex slaves (Arieff, Blanchard, Husted, 2015). Consequently, about two million people were forced out of their homes due to fear of abduction by rebels as well as the government strategy of depriving the LRA of potential abductees (Arieff, Blanchard, Husted, 2015). These spent between five and 15 years in internally displaced people's (IDP) camps and lost sources of livelihood (Rugadya, Nsamba-Gayiiya and Kamusiime, 2008). The LRA insurgency mostly affected the people of Acholi and Lango sub-regions in northern Uganda.

The LRA war came on the heels of decades of incursions in Acholi and Lango by armed Karamajong³ cattle rustlers from north eastern Uganda, which had impoverished many residents. Armed cattle rustling created insecurity in Acholi and Lango among other areas (CEWIGO, 2010) and decimated livestock herds in the 1980s (<https://www.hrw.org/reports/2007/uganda0907/4.htm>).

Before displacement, land ownership in villages was clear and boundaries were well known and marked with a mixture of natural features such as trees and edges of swamps. Some areas of land were held communally and there were rules guiding their usage (CSOPNU, 2004). Communal land owners were clans, sub-clans or extended families (Human Rights Focus, 2013). Much of the land was used for grazing as well as forest and hunting grounds. Hunting and forest land was held communally. Traditional leaders at the local level had authority to adjudicate in disagreements over land (CSOPNU⁴, 2004). The destruction caused by years of insurgency left the land bare and led to a breakdown in both traditional and statutory local administrative structures.

OBJECTIVES OF THIS PAPER

³ Karamajong are an ethnic group of agro-pastoral herders living in the North east of Uganda bordering Kenya (Centre for Women in Governance, 2010).

⁴ Civil Society Organisations for Peace in Northern Uganda

This paper has been prepared as evidence indicating that addressing issues pertaining to access to, ownership and control over land in post-conflict areas is a critical element in peace building and economic reconstruction. It demonstrates that resettlement and recovery programs for people affected by conflict can hardly yield results if people's tenure security is not guaranteed.

THE PROBLEM

Land in Lango is mainly held under the customary system of tenure. In the northern region, where Lango is located, 85 per cent of plots are held under customary tenure (Lands, Housing & Urban Development Sector Strategic PLAN 2013/14 - 2017/18). This system is provided for under article 237(3) of the Constitution of Uganda 1995 and Section 2 of the Land Act 1998. Incidents of customary tenure include governance by rules generally accepted as binding and authoritative by the class of persons to which it applies; provision for communal ownership and use of land; application of local customary regulation and management to individual and household ownership, use and occupation of, and transaction in land; perpetual ownership; and recognition of ownership of parcels of land by individuals, family or traditional institutions (Land Act, 1998).

A major lasting effect of the insurgency that continues to torment northern Uganda revolves around land-related conflicts that resulted from years of displacement. A study conducted in Acholi and Lango in 2008 revealed a host of land related issues that arose as a result of the war: 85 per cent of respondents experienced threats to tenure security; loss of secondary or derived rights of extremely vulnerable individuals; the trend of occurrence of land disputes increased steadily; inadequate capacity of statutory and traditional dispute resolution institutions and land administration institutions to handle disputes; dysfunctional land tribunals; and lack of information (Rugadya, Nsamba-Gayiiya and Kamusiime, 2008). Land disputes and competition over resources posed a serious threat to the sustainability of the peace that was returning to the region (International Alert, 2013).

Individualization of communal land as a result of the insurgency was on the increase in Lango and clan control was not as strong (Rugadya, Nsamba-Gayiiya and Kamusiime, 2008). Communal land disappeared in the early 1980s following the widespread theft of cattle by Karamojong rustlers (Burke and Kobusingye, February 2014). This prompted individuals to settle on what used to be grazing land owned communally. It may, therefore, be concluded that by the time the LRA insurgency reached Lango, most of what was previously communal land had been occupied by individuals.

APAC DISTRICT

Apac District, where Uganda Land Alliance's intervention has been implemented since 2009, is located in Lango sub-region, approximately 250 km from Kampala. It lies between longitudes 32° E and 34° E and latitudes 2° N and 3° N. It has a population of 366,905 people with 178,954 males and 187,951 females living in 70,552 households. At least 54,082 (76.3%) of the households are male-headed, 15,948 (22.5%) are female-headed while 851 (1.2%) are child-headed. About half of the population is aged between 15 and 65 years while only 3.5 per cent are aged 65 years and above. Up to 94 percent of the population live in rural areas (National Population and Housing Census, 2014).

The District covers a total area of 2,847 km² of 74% is for human settlement while the rest is under open water and forests. Arable land covers 1,800 km² (<http://apac.go.ug/>). The soil is suitable for rain fed agriculture. About 88 percent of the population depend on Agriculture for livelihood. The basic type of farm management system is the family farm, with an average land holding of over two hectares. The main types of food crops grown include millet, maize, sorghum, cassava, peas, beans and traditional vegetables while cash crops include cotton, tobacco, rice and sunflower (<http://apac.go.ug/>). Up to 96 per cent of the households use firewood for cooking (National Population and Housing Census, 2002).

The predominant land tenure system is customary accounting for over 95 per cent of the land holdings. Most land is not registered. The majority (95 per cent) of land owners do not have land titles to guarantee their security of tenure (Apac District Development Plan 2015/16 – 2019/20).

The district has in place a functional District Land Board (DLB), 10 sub-county Area Land Committees (ALCs) and 10 sub-county local council courts (as provided for under the Land Act 1998). These institutions help the district in the land administration and management. They are however always incapacitated by to lack of technical guidance, funds and equipment. The district does not have technical land staff to guide the operation of the lower land management institutions in dispensing their statutory obligations (Apac District Development Plan 2015/16 – 2019/20).

WHY APAC DISTRICT WAS CHOSEN

Apac was selected because of its location in an area affected by both the LRA incursions and raids by Karamajong cattle rustlers. It was considered a classic example of the problems that afflicted Lango sub-region for over two decades.

While the Acholi sub-region received support for recovery from donor agencies, Lango remained invisible for a long time (Northern Uganda early recovery Project, 2012). Even when some projects reached Lango a few years later, Apac was not a prime target. Communities which are heavily dependent on agriculture were grappling with land conflicts that threatened their physical and economic security, hence derailing the recovery process. People with no access to land, or hopes of resolving disputes over land/resources due to insecure land tenure, were likely to be trapped in a cycle of poverty (International Alert, 2013).

Access to justice eluded many partly due to ignorance, limited access to information and dysfunctional justice delivery systems. The poor and most vulnerable including women, widows, the elderly, people with disabilities and orphans were being rendered homeless in their motherland by unscrupulous individuals. Bloodshed and police cases resulting from land disputes became the order of the day. Criminal matters resulting from land conflicts were being resolved by courts without considering the root causes of the problem which were civil in nature, hence promoting a cycle of conflicts as revenge and counter vengeance became common among residents. Traditional land justice systems had broken down and the few remaining elders were overwhelmed by land disputes.

BACKGROUND TO THE INTERVENTION

Uganda Land Alliance (ULA), a consortium of non-government organisations advocating for land equity and justice in Uganda, sought to contribute to re-establishing an asset and income base for the people, and to protect their access to productive resources particularly land by addressing some of the challenges they faced. The intervention was based on the fact that peace and post recovery programs by government and development agencies could not be successfully implemented in the area unless the land question-that affected everyone was properly addressed (Mabikke, 2011).

ULA entered Apac district in 2009 and used the participatory rural appraisal approach to establish the land-related problems, needs, and potential of the communities. This reaffirmed the problems that had been cited in earlier reports by different researchers (as indicated earlier in this paper):

- Many people returned from IDP camps and found their land occupied by unauthorised persons or boundary marks tampered with;
- Violation of land rights of extremely vulnerable categories of the population including child and female-headed households, widows, orphans and children;
- Lack of /inadequate statutory and traditional land administration structures;

- Inadequate capacity of the statutory and traditional dispute resolution institutions that existed to respond to land disputes;

At national level, the District Land Tribunals (DLTs) which were to provide for accessible, expeditious and affordable mechanisms for the resolution of land disputes using simple, flexible and user-friendly and non-alienating procedures had been abolished in 2006 by the Judiciary due to financial constraints.

Different reports (Rugada, Nsamba-Gayiiya and Kamusiime, 2008, Deininger, Klaus and Castagnini, 2004) had given several recommendations to address the land issues the people were faced with. These included:

- Demarcation of the boundaries of community land
- Pursuing titling in a manner complimentary to customary tenure
- Establishing the statutory decentralized land administration structures
- Implementing customary and community-based mechanisms for conflict resolution especially Alternative Dispute Resolution (ADR) approaches such as mediation; conciliation and arbitration
- Re-aligning and strengthening customary and statutory institutions to provide better dispute resolution mechanisms and tenure security
- Identifying and supporting socially legitimate informal institutions (clans) to manage post-conflict land disputes

THE INTERVENTION

In 2009, ULA established a land rights information centre (LRIC) in Apac town to coordinate activities aimed at protecting the land rights of women, men, children and vulnerable groups whose land rights were being violated. The LRIC is a legal aid facility that provides legal and social counselling, court representation and alternative dispute resolution services. Legal aid is complemented with learning programs on land rights, law and policy, dissemination of information, education and communication (IEC) materials as well as data collection for legal and policy advocacy.

In the initial interventions, ULA used rudimentary methods to map and demarcate land boundaries. Locally identified tree species were planted on the agreed boundaries with limited documentation for future reference. These were considered as preliminary steps intended to prepare communities to apply for and acquire certificate of customary ownership as provided for in the Land Act, 1998. However, the Ministry of Lands, Housing and Urban Development halted the issuance of CCO citing technicalities and gaps identified which had been overlooked. This prompted ULA to adopt and pilot the Social Tenure

Domain Model (STDM⁵) using the Global Positioning System (GPS) to secure and protect people's security particularly for the vulnerable population categories.

It is suffice to note that in Uganda, land information infrastructure is not readily available and the land information system has its limitations as it does not cover informal and customary tenures that have not been registered. The existing land information system (LIS) requires extensions to include all existing types of tenures and yet institutional changes are hard to implement thus the need to design a pro-poor land recordation system for the urban and rural poor.

METHODOLOGY

The conventional approaches of land information systems are good but expensive to the extent that most people cannot afford the process. Informal customary tenure is not included in the LIS since it is not designed for this purpose. The Social tenure domain model (STDM) tool designed by the Global Land Tool Network closes this gap.

STDM , a pro-poor land information tool that records all social relations to land. focuses on a continuum of land rights (Figure 1) rather than focusing on individual titling. Any form of right, responsibility or restriction in a formal and informal system is considered as a social tenure relationship in STDM. Any of the rights under STDM should not be seen as a preferred form rather as one of appropriate types of tenure and claims (Lemmen, 2013).

The core of the STDM includes: parties (tribes, people, villages, co-operations, organisations, governments), social tenure relations ('people – land' relationships, which can be formal, informal, customary or even conflict), and spatial units (representations from reality where the social tenure occurs, can be represented as sketch based, point based, line based, polygon based) (Lemmen, 2013).

ULA piloted the STDM approach in Adagani Village, Inomo sub county, Apac District between 2014 and 2015. The population of Adagani village is 434 people (199 Male and 235 Female).It comprises of a total of 86 households. The reason why this sub county was selected was because ULA had already supported community members in the area to map and demarcate their land in acquiring CCOs. Besides, Apac District Local Government through its district livelihood support project (DLSP) had carried out

⁵ The STDM is an initiative of UN-HABITAT to support pro-poor land administration. The focus of STDM is on all relationships between people and land, independently from the level of formalization, or legality of those relationships (Lemmen, 2013)

systematic mapping and demarcation in some villages in the area. This was to enable communities' access certificates of customary ownership. Because of these interventions the communities in this area were more knowledgeable on land rights, benefits of mapping and demarcation and the Area Land Committees are well trained and active. The STDM process has however halted due to lack of funding.

Several activities were conducted prior to the mapping:

1. Planning and consultation
 - Baseline studies to assess community response (what did these reveal?)
 - Assessing existing land conflicts
2. Mobilisation and sensitisation to:
 - create awareness, and
 - promote community ownership of the process
3. Capacity building on STDM
 - Equipping the team with knowledge on relevant land laws and policies
 - Equipping the team with skills on use of GPS and STDM software
4. Data collection
 - Household survey approach through interviews
5. Dispute Resolution
 - Orienting Area Land Committee members on their responsibility in dispute resolution
 - Raising awareness of traditional leaders on their role
6. Boundary Clearing
 - Working with community members responsible for their respective parcels
7. Plotting using GPS
 - Plotting of parcels (Figure 3)
 - Giving parcels numbers
 - Taking photos of beneficiaries
8. Data Capture and Analysis
 - Entering of data into software
 - Generation of reports (Figure 2)

This methodology was combined with land demarcation with support of the ALC, traditional leaders, ULA staff, Local Council I and II, among others.

ADDRESSING GENDER ISSUES

As pointed out earlier in this paper, some categories of the population were rendered more vulnerable by the long period of insurgency. These included poor men and women, widows, female and child-headed households whose access to, control and ownership of land, the key productive resource in the area, was made more difficult by years of displacement and death of some heads of households.

Piloting the STDM happened at the lowest community level (village) in a participatory manner that ensured that land tenure interests of all parties were captured. The process was integrated with other interventions particularly land rights awareness, alternative dispute resolution and capacity enhancement for community structures to ensure that issues that would prevent some individuals from participating in the different exercises were addressed.

ADVOCACY WORK AT NATIONAL LEVEL

Although community based interventions were prioritized to enable the resettling community to re-establish their asset base, ULA appreciates that sustaining benefits from such efforts requires a standard framework that is recognized and embraced by all stakeholders. ULA successfully brought together stakeholders including representatives from the judiciary, Justice, Office of the President, Law and Order sector (including police, prisons, Uganda Law Reform Commission, Uganda Law Society), civil society organizations, court bailiffs, academicians, donor representatives and relevant government ministries. Through quarterly meetings, the stakeholders discussed pertinent issues pertaining to land conflict resolution and came up with proposals for harmonizing traditional and statutory dispute resolution mechanisms.

RESULTS

The pilot activity provided a valuable opportunity for resolving land conflicts in the area. ULA registered 10 cases related to claims over ownership, refusal of land allocation to kin, boundary dispute, and retraction of land gift especially by children of deceased and forceful acquisition (ULA). At least 6 cases were resolved through ADR involving ULA, Area Land Committees and traditional leaders while 1 case was filed in court after failing with other mechanisms. Resolution of conflicts enhanced tenure security of beneficiaries. Minor disputes such as boundary disputes were resolved during the exercise.

By the end of 2014, land measuring over 4,900 acres had been mapped and demarcated. As a result, land ownership for beneficiaries had been ascertained and they were now able to undertake income generating projects without fear. At least 22 beneficiaries of the mapping and demarcation exercise applied to the District Land Board for certificates of customary ownership (CCOs). ULA was able to map and plot parcels of land belonging to 32 households.

The intervention promoted protection of land rights of the extremely vulnerable that is women, orphans and elderly since all interests on a parcel of land were recorded.

The invaluable benefit the community realised from the different activities is the increased level of awareness and knowledge on land rights under statutory laws and customary rules. Community members are aware of the different mechanisms available and the procedure for seeking redress if one's land rights are threatened.

As a result of engagements with stakeholders at national level, the Uganda Law Reform Commission is currently working on proposals for reforming laws to provide for harmonizing formal and informal justice mechanisms to ease access to land justice.

CHALLENGES

Piloting the STDM and other support activities was a very expensive venture due to complexities that surrounded land issues in the area. Awareness levels on land rights were so low while the traditional and statutory land administration institutions that would support the process were grossly incapacitated. Some target beneficiaries had more than one parcel of land located in different locations which made the process of plotting difficult. On a rather unfortunate note, the passive lifestyle people led in IDP camps had continued to influence their behavior to the extent that alcoholism engaged in by some community members delayed implementation of some activities. Accurate information could be obtained from members only when they were not drunk, which was rare in some households.

LESSONS LEARNT

Addressing gender issues is critical in resolving land conflicts and documenting interests in land in post-conflict areas. It was apparent that negative attitudes towards land ownership by women and girls still existed hence traumatizing those whose vulnerability was primarily a result of death of relatives during the war. Attempts to take advantage of vulnerable categories of the population and deny them enjoyment

of land rights were common. Care must, therefore, be taken to ensure that interests of all parties in a particular parcel of land in a post-conflict area are well presented.

Generating simple reports to show results of the seemingly simple activities undertaken is very important to community members. The reports generated provide a powerful tool for land use planning and advocacy.

CONCLUSION

This paper demonstrates that land is a critical element in peace building and economic reconstruction in post- conflict situations as observed by Rugadya, Nsamba-Gayiiya and Kamusiime (2008). Despite the cessation of rebel activities and people's return to villages after living in IDP camps for years, many continued to feel insecure and could not engage in productive activities due to land-related conflicts. In such a setting where the customary system of tenure is dominant, conventional dispute resolution mechanisms are never practicable. The STDM integrated with other conflict resolution approaches helped to enable people to regain access, control and ownership of productive resources. Community members who participated in the different activities implemented are, to a large extent, tenure secure and can easily transit to a more formal system of land ownership. The appreciation by stakeholders in the land justice system that formal and informal dispute resolution mechanisms should be harmonized provides a stepping stone for protecting rights of customary land owners.

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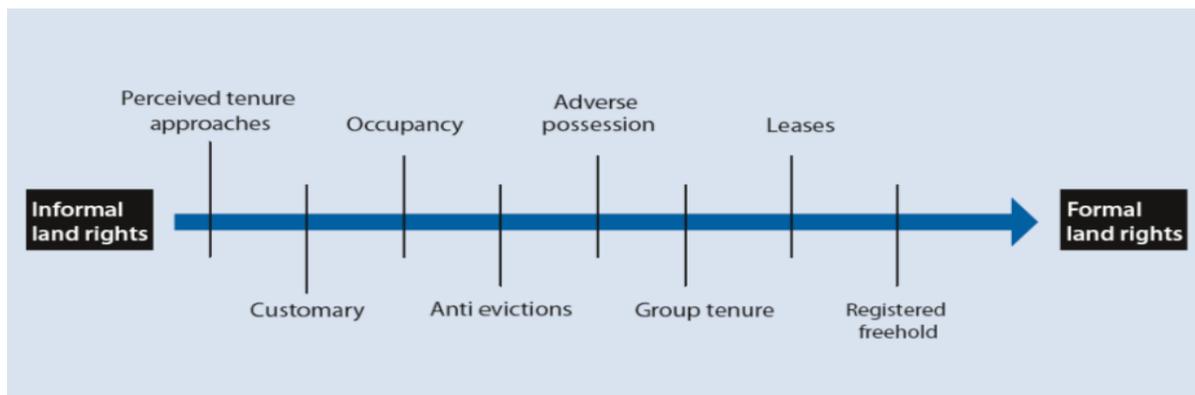
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The New Vision newspaper, Thursday October 8, 2015, page 42

Figure 1: Continuum of rights



Source: GLTN

Figure 2: A certificate showing different parcels of land owned by a project beneficiary

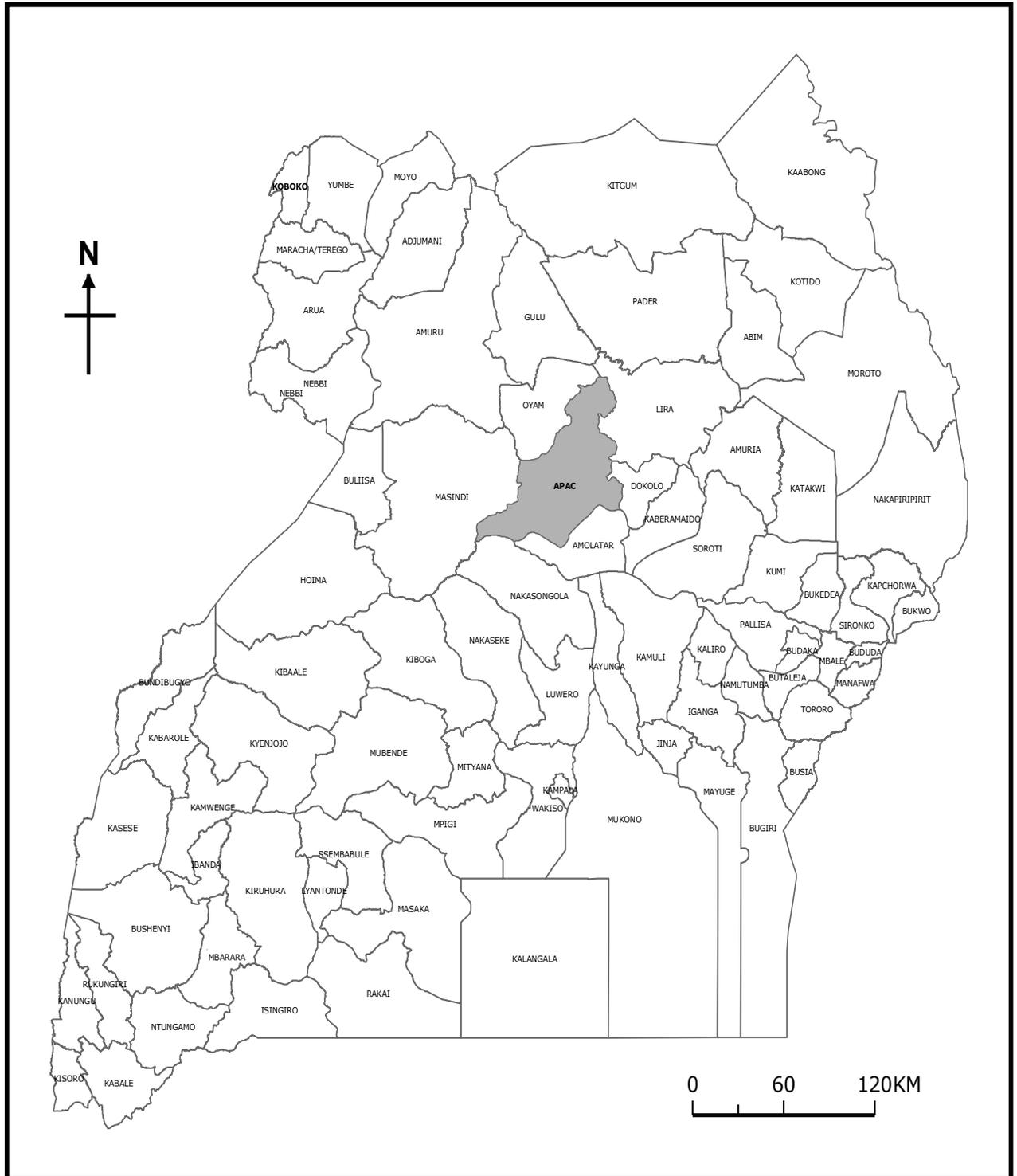


Source: Uganda Land Alliance, Trocaire Project Report, 2015.



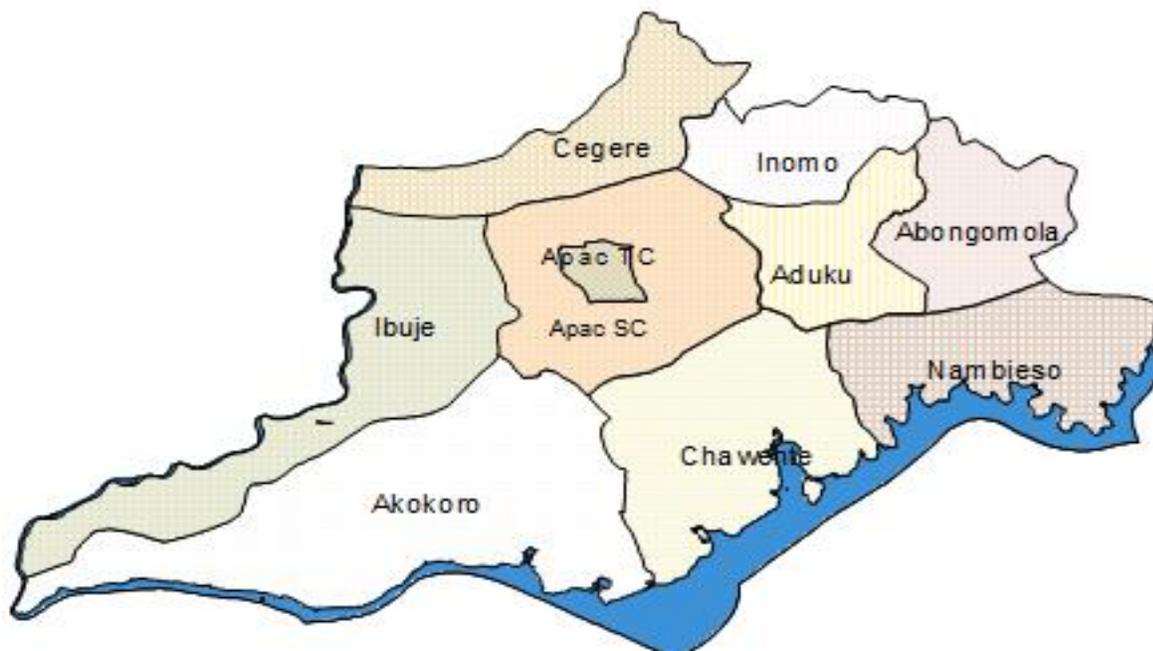
Figure 3: Left to right: A local leader, ULA staff and a member of the area land committee use a handheld GPS gadget in the field. Source: Uganda Land Alliance

MAP OF UGANDA SHOWING LOCATION OF APAC DISTRICT



Source: Apac District Development Plan 2015/2016-2019/2020

MAP OF APAC DISTRICT SHOWING SUB-COUNTIES



Source: Apac District Development Plan 2015/2016-2019/2020