FIROZ LALJI CENTRE FOR AFRICA

How NGOs can deal with a multiplicity of justice mechanisms in post-war contexts in absence of reform initiatives

Summary

Uganda's justice system, like for many countries in the sub Saharan Africa, is characterized by a multiplicity of dispute resolution mechanisms. In order to resolve land disputes, the disputants in the post-war Acholi Ugandan sub region exploit the different justice mechanisms – both mandated and not mandated – ranging from the clan or family; local council courts; magistrate courts; elected or appointed administrative offices, such as the Chief Administrative Officer, Resident District Commissioner and Local Council V Chair Persons; and Non-Governmental Organisations (NGO), including churches and church agencies.

In Uganda, however, there is no coordination mechanism between and among the many justice mechanisms that intervene in customary land disputes. This has led to the duplication of efforts and provides fertile ground for competition between and among the respective mechanisms. The question then is how best can the Non-Governmental Organizations (NGOs) work within the context of a multiplicity of justice mechanisms.

Background

The return by formerly displaced persons in post-war Northern Uganda was, among other factors, characterised by numerous land disputes (Hopwood, J., & Atkinson, R. 2013; Mabikke, S. B. 2011). The magnitude of the problem prompted local governments, NGOs, donors and media to give prominence to land issues in the Sub-region. The extent to which this emphasis on land issues dominated civil society involvement in the region is illustrated by the fact that there were upward of 45 NGOs involved in land matters in the sub region (Burke, C., & Egaru, E. O. 2011). The rise of the role of NGOs coincided with Government courts (both national and local) being unable to handle the increased volume of land rights disputes that arose following the return of displaced persons at the end of the war.

Method and approach

This policy brief draws on field research conducted between 2016 and 2018, where a number of land disputes were followed using extended case study method. Two cases in particular were followed for a period of 16 months. The extended case method was triangulated with in-depth interviews with 120 individuals comprising local community members as well as key informants such as NGO staff, local government officials and customary/traditional leaders, in addition to 10 focus group discussion Additionally, a review was conducted of NGO reports, case record books and court records, to understand the nature of land cases.

Key findings

The findings of this study suggest that the NGOs have contributed towards improving the coordination between and among the respective forums that participate in land justice through a number of informal or unofficial ways including creation of an enabling space/environment, where all the forums are drawn in to participate. When the NGOs organise mediation meetings, they involve all dispute resolution mechanisms including the traditional leaders, the Local Council Court members and the non-mandated government offices such as the office of the sub county chief. The

strategy of bringing together all justice mechanisms promotes cooperation between them, reduces competition and the duplication of efforts.

The study further indicated that the strategy of bringing together all justice mechanisms, albeit informally, provides space within which customs are interpreted and reinterpreted in the context of human rights and state laws. It further enables an understanding of customary 'law' to be applied, in a space and environment that does not require very stringent rules of procedure in as far as proving customary law regulating land tenure is concerned.

Additionally, working together within the same space creates a non-competitive relationship and environment between and among the justice mechanisms. The joint space created by the NGOs enables each mechanism to maintain significant authority and autonomy and a willingness to work towards shared goals.

Recommendations

- At a programmatic level, engage with all the justice mechanisms, state and non-state, without prioritization to seek to understand each system, without placing a dichotomy between and among the respective mechanisms.
- Understand the linkage between and among the various justice mechanisms, both mandated and non-mandated, as an effective strategy towards enhancing cooperation between different justice providers.
- Create common strategies and guidelines as practitioners.
- Facilitate informed and participatory dialogue to define policies and legislation.

Contact:

Name: Laurence Radford
Title: Communications Manager, the Firoz Lalji Centre for Africa, London School of Economics and Political Science.
Email: l.radford@lse.ac.uk