

Lessons from the Field on Conflict Resolution in Community Land Protection



WRITTEN BY Suzanne Irau, Program Manager LEMU
and Judy Adoko Executive Director LEMU

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With the ultimate goal of empowering communities to protect their communal lands themselves in order to foster peaceful coexistence and prosperity within communities, LEMU has worked with Namati since 2009 and with USAID SAFE since 2014 in Lango Sub Region in Northern Uganda to tackle conflict of different kinds at different stages of the communal land protection program. The purpose of these lessons from the field is to share our experiences in conflict resolution and strategies that worked and did not work in our bid to resolve outstanding conflicts in different communities across Lango sub region. In 2015, LEMU adopted an integrated conflict resolution strategy that tackles conflict at every stage of the community land protection programme rather than keep in the last stages. Previous experience was that many communities had stalled at these last stage of conflict resolution and boundary harmonization. This was seen as avoiding and postponing conflict up to the very last stage. The sections below describe experiences from and difficulties faced in the field:

Lesson 1 Know the conflict well and who is involved; In conflict resolution, a “one shoe fits them all” predetermined strategy for conflict resolution to come at every stage may not work. Different communities’ demands did not follow the CLPP steps. In Bar Odir and Anyomorem, LEMU followed the logical CLPP steps and resolved all the conflicts however, Awita community asked for conflict mediation after first draft of the rules since tensions continued to rise. Some communities dictated that the conflict should first be resolved before rules writing is completed and adopted and in some cases, steps proposed by the community were not part of the CLPP. For example, in Agudu, the community requested LEMU to invite the Senior Environment Officer for restoration of the wetland before progressing into first draft and when this did not happen, the community stalled. Land conflicts are either genuine or deliberate attempts to grab land by powerful people from vulnerable people. In order to draw conclusions whether the conflict is genuine or land grabbing attempts and not to be seen to be taking sides, one needs to understand very many aspects of the conflict - **a)** who are involved and where they get their power and support from; **b)** whether the

encroachment is internal or external because outsiders are not affected by the outcomes because they do not live in those communities as in the case of Burlobo community where the lead encroacher did not live amongst the communities and therefore took community members, including his relatives to court. Where the encroachers lived in the community and drew water from the same well as in the case of Bar Odir, Anyomorem communities in Lira district and Aketo community in Apac district, the conflicts were resolved amicably. Sometimes, the conflict is a result of previous attempts to resolve conflicts by the community, although meant in good faith, actually sets a precedent that is then exploited by others. In Oding community when the lead encroacher sold all of his family land and migrated into the community land in the first community mediation, a compromise was reached and some portion of the land was left to the encroacher with an understanding that he did not have anywhere else to go. Unfortunately, this set a bad precedence and many more people took advantage of this and also encroached onto the community land, leading to escalating conflict.

Lesson 2 is that the customary land tenure laws being oral are exploited by community members who are selling communal land which then leads to conflict. Customary land tenure oral rules prohibit the sale of communal and family land without consent of the family members and the clans. Unfortunately, parts of the community lands have been sold with no regard whatsoever to the oral rules for consent. A second learning is that there is no other state institution that has an interest or understands the oral customary land rights to support them to re-claim their sold communal land. The solution to this problem lies in documenting these rules and electing leaders as it is done under the CLPP. The evidence of this impact is from the example of Bar Odir community who wrote down their rules and no further conflict or sale of land has occurred and in Okeng community where three new encroachers entered into the land to cultivate and the management committee did not enforce the rules until the community replaced the Chairperson for being incompetent and the new chairperson quickly enforced

the rules and successfully ordered the encroachers out of the communal land. Having written rules fosters clarity. In Awita, some members of Olaka clan that gave the land to the community were selling communal land and had reclaimed parts of it as family land with support of some clan members against the wider community. Through our work, we learnt that some communities like Aketo and Langodyang, had sections of the communal land sold in complete disregard of the oral rules and with the existence of a management committee in the case of Awita who were not able to enforce the oral rules

Lesson 3 – Both the traditional and state institutions do not provide for conflict resolution institutions and referral pathways. One of the vulnerabilities of resolving conflict on communal land is that there is no provision for a structure because traditional institutions are organized on individual clan basis and yet community lands are owned by more than one clan. Likewise, the state system requires communities to first register as “a legal” entity before it can sue or be sued or bring cases under representative suits which require signatures and gazettment. This process is therefore beyond the reach of communities. LEMU proposed a structure for community conflict resolution based on individual merit elections. Despite this 60% of those elected in the phase three sites were from clan leadership. LEMU revisited the election criteria and proposed that those to be elected should come from clan leadership. The proposed LEMU structure provides for appeals from the lowest structure at village level to a constituent assembly to Chiefs/Rwodis and the hierarchy continues. In practice though, the tendency has been to rely on an outsider who is not party to the conflict to mediate and lead the two parties into a compromise, the state law on the other hand gives the powers to the district registrar to preside over conflict resolution. There are two issues with this namely; a) most communities have not as yet registered as Communal Land Association (CLA) and b) most districts have not recruited district registrars. With no appeal pathways, where communities fail to resolve their conflicts at the lower levels, their conflict remains unresolved and probably get worse

Lesson 4 is that the involvement of mandated institutions in conflict resolution is key; In the community land protection work, many issues arise such as wetland issues, use of power for grabbing community land, abuse of land rights and the need to mark boundaries. LEMU’s learning is that for each issue, the institutions responsible for these must be present to deal with the issue. So, if there is wetland encroachment, the District Environment officer must deal with wetland encroachment first if the CLPP is to progress; if it is land grabbing issue, as was the case of Burlobo community, then police officers of the area must be present, especially at the community boundary demarcation process and where they decline then the District Police Commander needs to be involved to provide a directive to lower level police posts to perform their role; Our experience is that the police are reluctant to participate in a boundary walk or any land matters without a directive from their superiors and this affects the pace of the process. In Oding, the boundary walk could not take place because an attempt to involve the police did not yield fruits due to the ongoing court case even when not all the communal land was contested. When the community leaders visited the police post to inform them about the planned boundary walk, they found the encroachers there and the local police referred the matter to the District Police Commander who advised that since the matter is in court, the community should wait for the court ruling. On the other hand, the involvement of the cultural institution will send a strong message of unity and truth as was in the case in Aketo where the chief mediator appreciated the leaders for resolving to hold a separate meeting to agree on the boundary of the land before the community wide meeting but cautioned them from diverting from the community vision.

Lesson 5: An important step to resolve communal land conflict is to first meet with Encroachers; the principle of justice requires that both parties to the conflict are informed. Our experience of dealing with a bad faith encroacher is very difficult at three levels: a) they do not attend CLPP meetings; b) they spread rumors about LEMU wanting to grab community land and discourage others from attending; c) Even

when served an encroacher will say they are not served. In some cases, the communities have no proof of serving encroachers because of fear of aggressive encroachers. They might serve the encroachers through their children coming from school and not follow up. Some encroachers live outside communities and their homes are not known or are too far. This difficulty can set back the work of CLPP at the last stage of boundary harmonization. In the case of Burlobo community, 32 community members were dragged to court for alleged criminal trespass and malicious damage by the encroachers who claimed not to have been informed. Bringing on board the mandated institutions might not help as the powerful encroachers reach them before the communities or LEMU and they take the sides of the encroachers or act as though they have not taken the encroachers side. After two failed meetings and an attempted boundary walk, the encroachers in Burlobo eventually turned up for the meeting to understand the objectives of the boundary walk although this did not yield the expected result. In Anyomorem and Bar Odir on the other hand, the encroachers were pleased to note that the community was willing to negotiate and give them time to leave the land at their own convenience. The ability to win them over is key in determining whether the matter will be concluded amicably or not. All the encroachers in Anyomorem and Bar Odir were reached, given an opportunity to speak out and agreed to leave the land as compared to Burlobo where the lead encroacher does not reside in the community

Lesson 6 it is important to monitor impacts of the boundary harmonization exercise; after six months to one year period after consent agreements are signed, it is important to assess the impact of the conflict resolution process to ensure that it did not give birth to new conflicts and whether the parties continue to respect the agreements. In cases where the encroachers have asked for time to enable them leave, it is important to monitor the progress of the attainment of the commitments. In Anyomorem, they agreed on a timeline for exit but by one month to expiry, there were no signs of exit except for one of the encroachers who had built a hut in the land and left the land within the agreed period. If this is not followed up closely, the terms and conditions in

the agreement will be violated. Documenting this impact is important for measuring success of all the conflict resolution efforts.

In the flow chart below, conflict is tackled at every step in order to avoid escalating and degenerating into violence. The importance of understanding the nature and magnitude of the conflict will determine the nature and type of interventions employed to resolve a particular conflict. Inability to analyze the conflict and attempt to resolve using inappropriate means will leave the conflict worse than it was before the intervention especially when dealing with deliberate Land grabbers or encroachers

- **Stage 0: Assessment (New Site) and Re-engagement (Old Site)**

1. Introduce LEMU to the community
2. Assessment through a map get information on encroachers (no and who) and attempts by communities to resolve conflict
3. Community land right/use tree. Discussion on whether land is redeemable or not. We do not work where: $\frac{3}{4}$ of the land; permanent house is built
4. Site Inspection
5. Site Selection

- **Stage 1: Orientation/sensitization**

1. Leaders' Orientation to sensitize the leaders on community land protection
2. Community-wide Visioning to facilitate community document a common vision for their communal land, also use this to confirm information on conflicts as stated in previous meeting and seek community consent for CLPP
3. Also continue to find out on conflict dynamic, encroachment levels and who the encroachers are? What they are doing on the land? What their power base is? To triangulate information provided by leaders from last meeting.
4. Determine all the right bearers for the community land and its resources (full time and seasonal users), number of villages, population of users (HHs and

total number)

5. Feedback to share LEMU's feedback on communities vision
6. Identify and train Community Support Persons/ Para legal

• **Stage 2: Rules**

1. Writing 1st Draft of rules (Shout outs at village level to document all the existing oral rules, what rules are violated, what mechanisms do they suggest for conflict resolution)
2. Holding Youth, Women and Men Rules Writing Conferences to review 1st draft of rules and discuss what rules are being violated and what the community has done so far plus what else can be done after all the rules have been documented.
3. Writing 2nd Draft of rules
4. Writing 3rd Draft of rules
5. Community Adopts Rules
6. Implementation of rules

• **Stage 3 : Committee Formation**

1. Election of Governing Committee
2. Train Governing Committee
3. Sharing rules with leaders who do not show up during swearing in ceremony
4. Committee enforces rules

• **Stage 4: Conflict resolution and rights determination**

1. Meeting the encroachers
2. Drawing of community land rights tree
3. Sharing the rules with leaders who do not show during for swearing in
4. Resort to state law opportunities

• **Stage 5: Boundary Harmonization**

1. Preparatory meeting for boundary harmonization of

leaders

2. Walking the boundary
3. Final community approval and signing of consent agreements and drawing community land rights tree
4. Mapping
5. Planting trees

• **Stage 6: Living out Protection**

1. Rules enforced/respected
2. Registration
 - Application Forms
 - Surveying
 - Certificate Awarded
3. Livelihoods (land used for production/development)

Conclusion; Conflict resolution is a process that requires a lot more investigation, analysis, time and resources due to the number of people involved in the resolution. Secondly, due to the uniqueness of the issues in each of the community, a more flexible approach is required when tackling the conflict because a predetermined strategy may not be appropriate in each scenario. This could also depend on the whether the encroachers are deliberate, opportunistic or vulnerable because in all four communities of Anyomorem, Bar Odir, Aketo and Alemere, those found to have encroached into the communal land and caused conflict were either opportunistic or vulnerable and where the conflict reach unprecedented proportions like in the case of Burlobo, the encroachment was deliberate and with the intension to grab land. An understanding of this should inform the steps taken to resolve the conflict

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For more information please contact LEMU

Kampala:

Plot 4, Close 13-8th Street,
Industrial Area, Namwongo Road

P.O. Box 23722, Kampala.

Tel : +256 414 576 818

Mob: 0772 856 212

Email: info@land-in-uganda.org