

Evaluation of Traditional Land Dispute Resolution Mechanisms in Liberia

ABSTRACT

Land dispute is ubiquitous in Liberia. Most problems arise from people who squat on land illegally and in some instance sell the same parcel of land to more than one person. Usually, this issue is resolved by traditional land dispute resolution mechanisms. Therefore, this study aimed to evaluate the effectiveness of the traditional land dispute resolution mechanisms in Liberia by employing an empirical and comparative approach and drawing on data collected from 110 farming households. The nature of the conflict, causes of land dispute, individuals' characteristics, the mandate of the traditional mediators, the linkage between the legal process and traditional land dispute resolution mechanisms, the forms of the resolution mechanisms, the acceptance of the outcomes, and political and social situations were carefully studied. The findings of this study thus supported the notion that traditional means for resolving land disputes are more efficient than the statutory system. Additionally, it was demonstrated that the traditional and the statutory land dispute resolution mechanisms complement one another. However, there is an indication that land dispute will continue to be the biggest concern in the future as many people have started squatting and exploring open areas throughout the country. This is because the country's land laws and policies are not widely known by the citizens. Thus, policy intervention is needed.

Keywords: Conflict; human rights; land dispute; land use; property rights; resolution mechanisms; Liberia

1. INTRODUCTION

A dispute involves at least two parties with divergent interests or social positions (Hussein and Al-Mamary, 2019). It can result from actual or perceived competition for resources like land (Koubi, 2019). It can be symmetrical or asymmetrical, depending on how the power dynamics between the parties are balanced. Asymmetric conflicts occur when parties with different levels of power engage in conflict, as opposed to symmetric disputes, which arise when parties with equivalent levels of power engage in conflict (Toukan, 2019).

Land disputes can arise from having the right to own the land; managing the property; producing an income from it; excluding others from having legitimate access of the land; transferring the land; and having the right to receive compensation from the land (Peluso and Lund, 2011; Wubneh, 2018). It may occur in rural, peri-urban, and urban areas due to an actual or fictitious conflict over land ownership (Barry and Danso, 2014). The area that links the rural and urban land uses are peri-urban areas. They are located between the rural environment and the boundaries of urban and regional centers. As urban growth spreads into a rural and industrial territory, the peri-urban region's borders are permeable and ill-defined. Peri-urban areas will always exist no matter how the boundaries change

(Maheshwari et al., 2016). Due to the encroachment of urban activity, peri-urban regions are vulnerable receptors of customary land rights dispute (Owusu and Chigbu, 2020).

In Liberia, the economy and the lives of individual households are impacted negatively by land dispute. They increase costs, impede investments, and could lead to the legitimate disputants losing their property. Land dispute also exacerbate instabilities in society and politics. People grab or squat on the land illegally; they sell the same portion of land to more than one person, leading to distrust in the land transaction among others, thereby creating complications in the administration and governance in land acquisition. Land dispute is a serious subject in Liberia although it is not given the attention it needs. It is a motivating force behind the onset of armed conflict, so it needs to be resolved quickly with the right tactics and strategies. In most cases, it is handled by traditional land-resolving mechanisms. Thus, the country is facing some of its most pressing issues in managing and resolving land dispute due to increased competition over diminishing land resources.

In Liberia, traditional methods are mostly used to resolve land dispute. Depending on various considerations, including time, money, effectiveness, trust, and the intensity of the conflict, people choose how they want to settle the land dispute. Traditional methods take the form of compromises in some cases, owing their allegiance to clan relationships or a common historical past (tribal connections). Customary land ownership was once considered to be communal property, with each member of a clan claiming ownership without payment. Therefore, this research was aimed to evaluate the effectiveness of the traditional land dispute resolution mechanisms in Liberia mainly in Bong County.

2. MATERIAL AND METHODS

2.1 Study area

The study was carried out in Bong County (Gbarnga, Totota, Zowienta, Palala, Suakoko, Phebe, Gbatala, Folokoleh, Gbaota, and Weinzu), central Liberia (Fig 1), West Africa. It is home to many types of grass, trees, and shrub species. It possesses about 40% of the remaining Upper Guinean rainforest. The mean annual temperature and rainfall are 20.7 °C and 2195 mm, respectively. Most of the rainfall occurs from May to October. Most of the original forest in the County has degenerated into a secondary forest through anthropogenic activities. The main soil types of the study area include *Latosols*, *Lithosols*, *Regosols*, and alluvial or swamp soils. Cassava, rice, and maize farming are the dominant crops grown in the area.

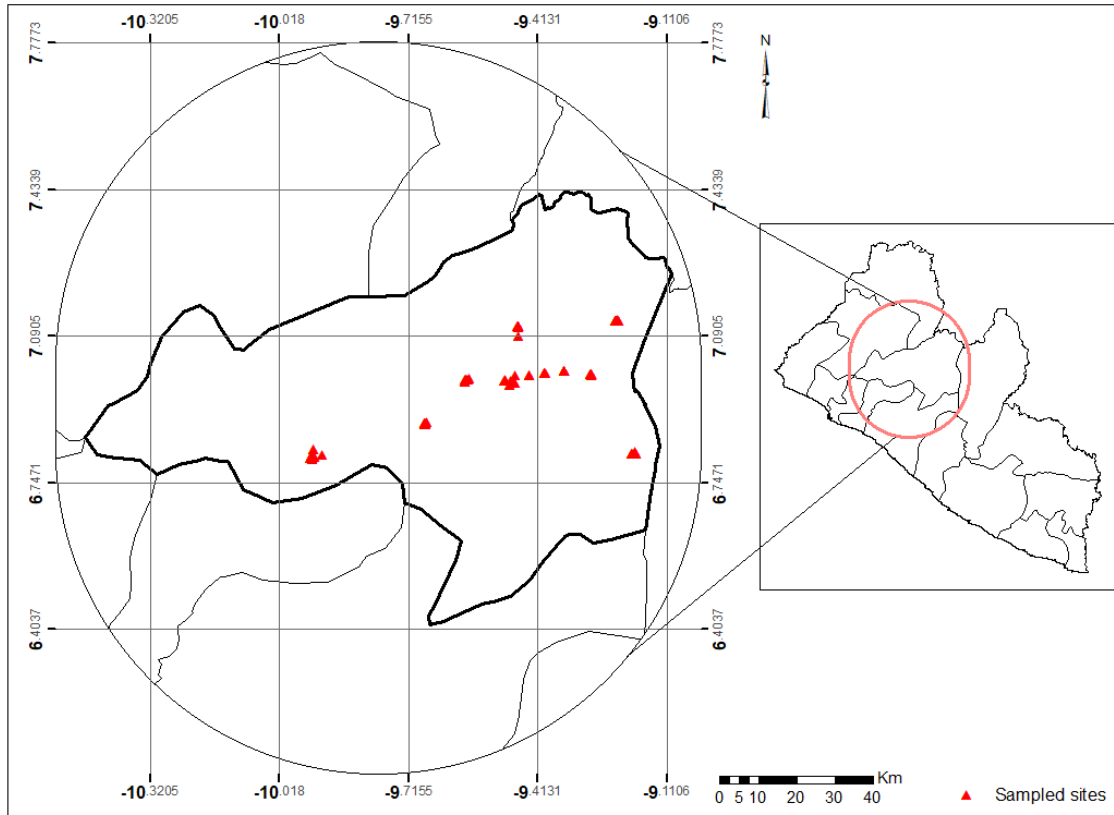


Fig 1. Map of Liberia, Bong County (the study site, red triangles)

2.2 Sampling approaches

The study employed an empirical and comparative approach to examine the effectiveness of traditional land dispute resolution mechanisms. After conducting a comprehensive situational analysis, some variables that are determined to affect its effectiveness were embedded: the nature of the conflict; causes of land dispute; individuals' characteristics; the mandate of the traditional mediators; the linkage between the traditional and legal land dispute resolution mechanisms; the forms of the resolution mechanisms; the acceptance of the outcomes; and political and social situations.

2.3 Data collection methods

To maintain a balance between flexibility and consistency, semi-structured questions were designed, suitably coded, and deployed into the Kobotool Box App. The tool was pre-tested before the actual survey was conducted. The data was then gathered through face-to-face interviews with traditional leaders/town chiefs, local land authorities, individuals involved in land dispute, court-appointed experts, and non-governmental organizations (NGOs) working on conflict resolution. This method allowed the researcher to collect credible data from the respondents as the interviewer helped them to understand the questions better. In addition, a checklist was prepared, and three focus group discussions (FGD) were administered to gather pertinent information. This helped to triangulate the survey data from the individual respondents (n = 110). Secondary data from previous land dispute were gathered from the archives of the local land authorities and the nearby court.

2.4 Data analysis

We tested the selected variables to see how they could affect the effectiveness of the traditional land dispute resolution mechanisms in the study area. Descriptive statistics such as frequency and percentage were performed to summarize the outcome of the variables. A five-scale Likert analysis was used to solicit the respondents' opinions on the effectiveness of the traditional land dispute resolution mechanisms. Statistical analysis was performed using the Statistical Package for the Social Sciences (IBM SPSS Statistics 25) software.

3. RESULTS AND DISCUSSION

3.1 Respondents' characteristic

Data was collected from 110 respondents, of whom 58 (53%) were male and 52 (47%) female. About 50% of the respondents were in the age range of 22 and 46, while the remaining 50% were older than 46. The majority of the respondents 55 (50%) were married; 27 (25%) were single; 15 (14%) were widows; 10 (9%) were divorced; and a few others (2%). The average land holding was 27.94 acres per household, while the minimum and maximum were 0.5 and 500 acres, respectively.

3.2 Major types of land dispute

As a critical variable, it was necessary to identify the nature of the land dispute in the study area. Results showed that boundary dispute (42, 38.18%) were the most common type, followed by inheritance dispute (28, 25.46%), and rival dispute (17, 15.46%) (Fig 2). Another major challenge was a form of fraud involving the sale of a piece of land to more than one person, particularly in suburban areas; this was reported by 12 (10.91%) of the respondents. This dispute is mainly reported as farmer-to-farmer conflicts. Most of these conflicts occurred on private land, as stated by 91% of the respondents. Females and poor farmers were acknowledged to be the most victimized groups in the study area by 82% of the respondents. In most cases, land disputes on private land or farmer-to-farmer conflicts are given little attention or are simply ignored. However, these kinds of land disputes are a bottleneck to any development on the land and are more challenging for land governors.

Boundary dispute constituted the most common form of land dispute across the study area. Non-permanent indicators were commonly used in land boundary demarcations as opposed to permanent boundary indicators. It was gathered from the key informant interviews that the prevalence of boundary dispute was attributable to the unstable land boundary, which uses trees, oral agreements, swamps, and rivers and streams for land boundaries, which renders them highly vulnerable to dispute. Policy makers and governors should insure proper boundaries protection mechanisms, achievements, or records and accessibility and availability of information to help speedy resolutions and determent in terms of fines and penalty in events of trespassing or encroachments.

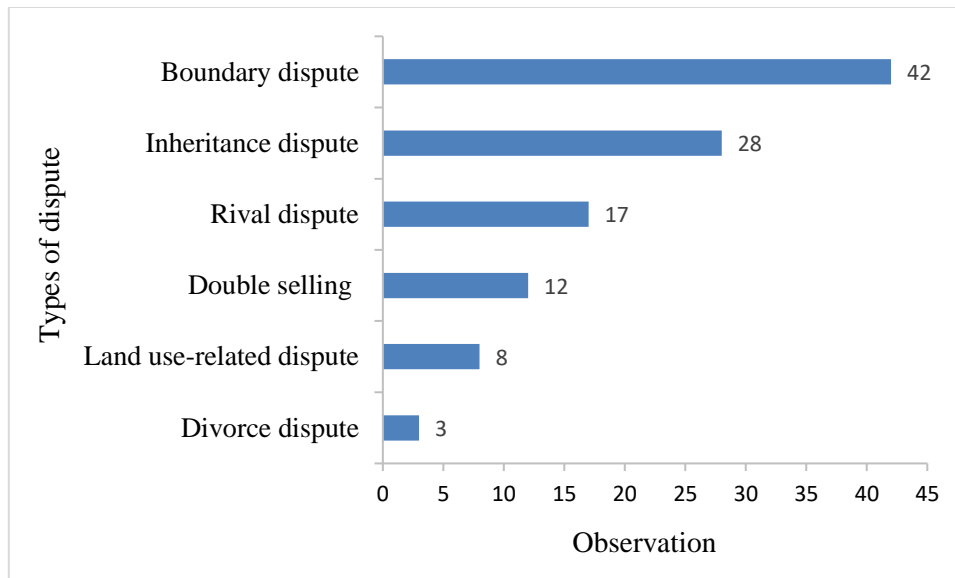


Fig 2. Major types of land dispute in the study area

3.3 Land dispute resolution mechanisms

Over the years, customary law has regulated and controlled access to customary lands under the local customs in each jurisdiction in Liberia. As a result, most of the land dispute types in the country are resolved by traditional methods. This was confirmed by 68% of the respondents, while 27% of them noted that the legal procedure was their first choice. Only 5% of people witnessed land conflicts resolved through administrative decisions. It is deducible from the data enumerated during the study that fear of rebukes from family or community members and poverty perhaps constitute the underlying reasons for respondents' preference for the traditional land dispute mechanism. Furthermore, the low levels of awareness could also be a potential barrier to the enforcement of land rights via the formal adjudicatory mechanisms, especially in the case of poor farmers and women who might be intimidated by the formal procedures that characterize the state courts. This observation is supported by the fact that a smaller proportion of respondents (27%) in the study area noted that the legal procedure and/or statutory dispute resolution mechanisms were their first choice.

Smallholder farmers and women are particularly vulnerable because they constitute the largest segment of the poor, with limited access to necessary financial resources and education, particularly in rural areas. However, the legal procedure and/or statutory mechanisms are touted as expensive and bureaucratic, which habitually implies that seeking enforcement or protection of land rights within such mechanisms could be less preferable for the poor and vulnerable. A subsequent question was asked to those who preferred the traditional land dispute mechanism to indicate the mechanism they used. They stated that negotiation (51%) and mediation (46%) were the two most commonly used mechanisms.

3.4 Effectiveness of the traditional land dispute resolution mechanisms

Respondents were asked to forward their opinion on the effectiveness of the traditional land dispute resolution mechanisms. As a result, 72 (66%) rated the mechanism as "good" or "very good", 27 (24%) rated it as "poor" or "very poor", and 11(10%) were not able to decide

(Fig 3). This result was in line with Perpetua and Razak (2011), who reported that the traditional method was effective and helped achieve the current state of peace in the Volta Region of Ghana. Those who consider the traditional resolution mechanism as poor or below were asked to give their reasons. Most of the reasons raised by the respondents were lack of equity, lack of accountability, inefficiency, corruption, and political influence. Generally, 62% of the respondents prefer the traditional land dispute resolution mechanism mainly due to its accessibility and low cost. Interviewees pointed out that traditional leaders are acquainted with the historicity of the land and boundaries and that they can suitably harmonize disputed boundaries. According to an excerpt from the respondents, the court process is costly and inefficient due to the limited number of assigned judges or lawyers, which results in a lengthy processing time for land dispute-related issues.

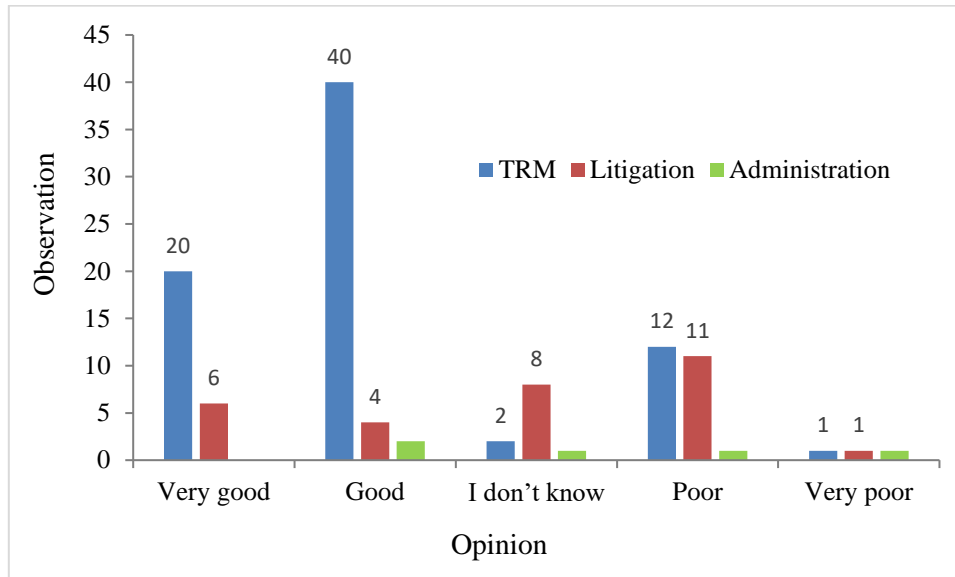


Fig 3. Forms of land dispute resolution mechanisms and perceptions of the respondents on their effectiveness

However, 38% of the respondents believe that the legal procedure is the best way due to its equity and accountability, though some of those who carried their cases to court were dissatisfied with the process and re-considered their decisions. For instance, if poor farmers take their land cases to the court or the Liberia Land Authority, they will likely have to spend a lot on processing fees, transportation, and other expenses. This was captured during the study as participants explained that in the event of land dispute, they preferred the traditional resolution mechanism through negotiation moderated by the traditional leaders in the first instance.

3.5 Political and social situations

This research was also intended to investigate the linkage between the traditional and the litigation approaches. Land conflict in Liberia has alarmingly increased and taken center stage in the last decade. As such, few efforts have been made toward developing alternative resolution mechanisms for the numerous land disputes in the country. One such mechanism was replacing the traditional method with an alternative dispute resolution mechanism (ADRM). None of the respondents, however, recognized this approach. This might be due to

a lack of awareness and improper introduction and incorporation into the system. Thus, the traditional way is still in place, and the government still works with it. This was confirmed by 93 (85%) of the respondents. Regarding collaboration, 102 (93%) of the respondents acknowledged that the traditional leaders/town chiefs and the nearby court work hand in hand, although few respondents did not appreciate its existence.

It was observed that in the context of land management and governance, Liberia is characterized by a pluralistic legal framework consisting of customary and statutory law operationalized. As a result, customary law is formally recognized and remains an important body of law in all of Liberian society. Respondents confirmed that there have been instances where land cases filed in court have been redirected to the community for traditional leaders to preside over the matters using the traditional resolution mechanism, which is based on customary law.

Awareness creation, land registration, and certification were raised as issues that exacerbated the land dispute in their local. Most of the respondents (82, 75%) reported that they are not fully aware of the land policies of the country. They stated that lack of awareness was the major problem for almost every dispute in their community. Another problem was due to land registration issues. About 44% of the respondents reported that their land was not registered with the government. According to the respondents, this problem exposed many farmers to be involved in land dispute and made many people lose their land and their properties. Among the people whose land was registered, 45% did not receive a land-holding certificate and felt insecure.

The data gathered from the traditional leaders/town chiefs, local land authorities, court-appointed experts, FGD, and NGOs working on conflict resolution helped validate the information from the individual respondents and fully understand the situation on the ground. This confirmed that traditional resolution mechanisms remain the first preference for land dispute. Residents have limited knowledge of the 2018 Land Rights Law of Liberia. Delaying land case processing at the court, coupled with understaffing and the limited capacity of the land authority were raised as the major bottlenecks on the ground. Speedy trials for land cases at the court level and effective land registration and boundary harmonization can reduce the occurrence of land dispute in the study area.

4. CONCLUSION

Land dispute in the study area mainly arises from boundary disagreements, inheritance-related issues, rival dispute, fraud, or double selling. These land disputes primarily occurred on private land as farmer-to-farmer conflicts. In this case, customary law plays a great role in solving these land disputes. Thus, this study aimed to assess the effectiveness of this customary law or traditional land dispute resolution mechanism, considering various social, cultural, and political variables. It was noted that most of the land dispute are resolved by traditional methods through negotiation and mediation mechanisms. This has helped the less fortunate, especially women, due to its swift nature and low cost. As a result, residents rated it as an excellent option and more effective than the statutory system. It was also proven that both the statutory and traditional land dispute mechanisms work hand in hand. However, a lack of awareness of the country's land law remains unaddressed, and land dispute will remain the biggest threat in the future as many people have started squatting and exploring open areas everywhere in the country.

Disclaimer (Artificial intelligence)

Author(s) hereby declare that NO generative AI technologies have been used during writing or editing of manuscripts.

REFERENCES

1. Barry, M., & Danso, E. K. (2014). Tenure security, land registration and customary tenure in a Peri-urban Accra community. *Land use policy*, 39, 358-365.
2. Hussein, A. F. F., & Al-Mamary, Y. H. S. (2019). Conflicts: Their types, and their negative and positive effects on organizations. *International Journal of Scientific & Technology Research*, 8(8), 10-13.
3. Koubi, V. (2019). Climate change and conflict. *Annual Review of Political Science*, 22, 343-360.
4. Maheshwari, B., Singh, V. P., & Thoradeniya, B. (2016). Balanced urban development: is it a myth or reality? In *Balanced urban development: Options and strategies for liveable cities* (pp. 3-13). Springer, Cham.
5. Owusu Ansah, B., & Chigbu, U. E. (2020). The nexus between peri-urban transformation and customary land rights disputes: Effects on peri-urban development in Trade, Ghana. *Land*, 9(6), 187.
6. Peluso, N. L., & Lund, C. (2011). New frontiers of land control: *Introduction*. *Journal of peasant studies*, 38(4), 667-681.
7. Perpertia, F. M., & Razak, J. (2011). Assessing the effectiveness of the alternative dispute resolution mechanism in the Alavanyo-Nkonya conflict in the Volta region of Ghana. *International Journal of Peace and Development Studies*, 2(7), 195-202.
8. Toukan, M. (2019). International politics by other means: External sources of civil war. *Journal of Peace Research*, 56(6), 812-826.
9. Von Der Dunk, A., Grêt-Regamey, A., Dalang, T., & Hersperger, A. M. (2011). Defining a typology of peri-urban land-use conflicts—A case study from Switzerland. *Landscape and urban planning*, 101(2), 149-156.
10. Wubneh, M. (2018). Policies and praxis of land acquisition, use, and development in Ethiopia. *Land use policy*, 73, 170-183.