LAND CONFLICTS AND ALTERNATIVE DISPUTE RESOLUTION IN SUB-SAHARAN AFRICA – THE CASE OF BOTSWANA

Faustin T. Kalabamu
Department of Architecture & Planning, University of Botswana, Botswana

ABSTRACT

As a result of increasing population, rapid urban urbanisation, socio-economic transformations, changes in land values and a milliard of other factors, most countries in Sub-Saharan Africa are seized with various forms of land conflicts. Until a few years ago, litigation and, to a lesser extent, administrative interventions, were the popular ways of resolving land related conflicts. These routes have, however, been criticised for being costly, time consuming, inequitable and unjust to the poor, vulnerable and minority groups. To decrease pressure on legal systems as well as improve access and justice for all, some countries (including Botswana) have introduced Alternative Dispute Resolution (ADR) mechanisms to complement and, ultimately, replace court processes. The primary aim of this paper is to assess the extent to which ADR have reduced court cases, dispensed justice and promoted or restored peace and cordial relationships among affected parties. The Botswana case study reveals critical flaws and limitations inherent in current ADR practices with regard to trust and impartiality because the Land Tribunal, which is expected to be the mediator/arbitrator, is viewed as a state agent and a standard court. The paper ends with recommendations on establishing and operating a trustworthy and effective alternative land dispute resolution organ.