

Land or Else

Land-Based Conflict, Vulnerability,
and Disintegration in Northern Uganda



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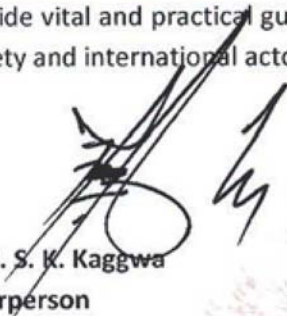
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FOREWORD

The study aims to provide readers with a concrete-based understanding of land issues in northern Uganda. The first section explores the relationships between former combatants, young people, communities and their ancestral lands in the Acholi sub-region. The second section analyses land access and ownership issues and identifies bottlenecks that are affecting systems for land dispute resolution and ownership.

As the Uganda Human Rights Commission is constitutionally mandated to monitor Government's compliance with international human rights standards, it is of great interest to the Commission to keep abreast of human rights issues that are raised in relation to land in Northern Uganda. Indeed, the study raises important human rights issues that include the social and economic difficulties of former LRA combatants and Internally Displaced Persons who are unable to access land and use it to improve their livelihood due to land grabbing and land based conflicts, the difficulties women face in exercising their rights related to land, and the obstacles to accessing justice in land-related cases because of case backlog and poor judicial administration at LC2 Courts and the lack of capacity of sub-country court committees.

The study stands out as it explains in exemplary detail how land issues have affected specific categories of persons and the structural problems faced in resolving such issues. This study has strong potential to provide vital and practical guidance for the development of targeted interventions by Government, civil society and international actors to help address the various land-related issues.



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The International Organization for Migration (IOM) and United Nations Development Programme (UNDP) through the Community Based Reintegration Programme in Northern Uganda recognized early on the dynamic relationship between land and reintegration. The impetus for the research and analysis contained within this report was the critical need for an evidenced based understanding of land-related conflict, local dispute resolution, and related vulnerabilities of key sub-groups in the Acholi sub-region.

This report is the culmination of a strong partnership between IOM and the Norwegian Refugee Council (NRC), in particular the meaningful support provided by NRC staff including Lamin Manjang, Isaac Robinson, Charles Awici Churchill, Dorcas Akello, Sandra Oryema, Harriet Atim Okello, and Alfred Ochwo Ogolla.

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The statistical analysis underpinning this report was primarily performed by Gareth McKibben. Secondary analyses were performed by Gareth McKibben and James Bean.

The authors of this report are Gareth McKibben (M.A.) and James Bean (LLB)

List of abbreviations

ALC	Area Land Committee
CBO	Community-Based Organisation
CCO	Certificate of Customary Ownership
CECORE	Centre for Conflict Resolution
CSOPNU	Civil Society Organisations for Peace in Northern Uganda
DLB	District Land Board
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
FIDA	Federation of Women Lawyers
GUSCO	Gulu Support the Children Organisation
GoU	Government of Uganda
HURINET	Human Rights Network
IASC	Inter-Agency Standing Committee
ICLA	Information, Counseling and Legal Assistance Programme
IDP	Internally Displaced Person
IFPRI	International Food Policy Research Institute
IGO	Inter-Governmental Organisation
IMS	Information Management System
IOM	International Organization for Migration
IRIN	Integrated Regional Information Networks
LAP	Legal Aid Provider
LC	Local Council
LEMU	Land Equity Movement in Uganda
LRA	Lord's Resistance Army
LSE	London School of Economics
NGO	Non-Governmental Organisation
NRC	Norwegian Refugee Council
NUTI	Northern Uganda Transition Initiative
PRDP	Peace Recovery and Development Plan for Northern Uganda
SPRING	Stability, Peace, and Reconciliation in Northern Uganda Programme
SPSS	Statistical Package for the Social Sciences
SWAY	The Survey of War Affected Youth
UGX	Ugandan Shilling
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees
UPDF	Uganda People's Defence Force
USAID	United States Agency for International Development
WFP	World Food Programme

Certificate of Customary Ownership (CCO)	CCOs are a means of documenting unwritten customary tenure of land. Land is not historically documented in the Acholi sub-region. CCOs are catered for in the Ugandan Constitution 1995 and Land Act 1998. See sub-section entitled “Certificate of Customary Ownership (CCO) – is it an option?” of this report for more detailed information.
Customary Tenure	Traditional undocumented land ownership arrangements in the Acholi sub-region. See sub-section entitled “Escalating demand for documentation” of this report for more detailed information.
Freehold Title	Freehold title is the strongest of proprietary rights over land, where the owner(s) hold registered land indefinitely subject to statutory and common law qualifications. See sub-section entitled “Freehold Title – is it an option?” of this report for more detailed information.
Internally displaced persons (IDPs)	Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised state order. In the context of the Acholi sub-region, IDPs resided or reside in internal displacement camps first established by the GoU during the height of the LRA insurgency in 1996. These were officially erected for security purposes. The rationale being that it is easier to protect a concentrated group of people than a scattered one.
Land grabbing	The acquisition of land by a public or private enterprise or individual in a manner that is considered to be illegal, underhanded or unfair. See sub-section entitled “Drivers behind demand for documentation” of this report for more detailed information.
Leasehold Title	Leasehold title is where a landowner (lessor) grants a tenant (lessee) land usage rights for a specified period of time. See sub-section entitled “Leasehold Title – is it an option?” of this report for more detailed information.
Reintegration	The process by which ex-combatants acquire civilian status and gain sustainable employment and income. Reintegration is essentially a social and economic process with an open time-frame, primarily taking place in communities at the local level. It is part of the general development of a country and a national responsibility, and often necessitates long-term external assistance. ²

1 Walter Kälin, *Guiding Principles on Internal Displacement – Annotations*, Studies in Transnational Legal Policy, No. 32, 2000, pg 2.

2 UN Secretary-General, note to the General Assembly, A/C.5/59/31, May 2005.

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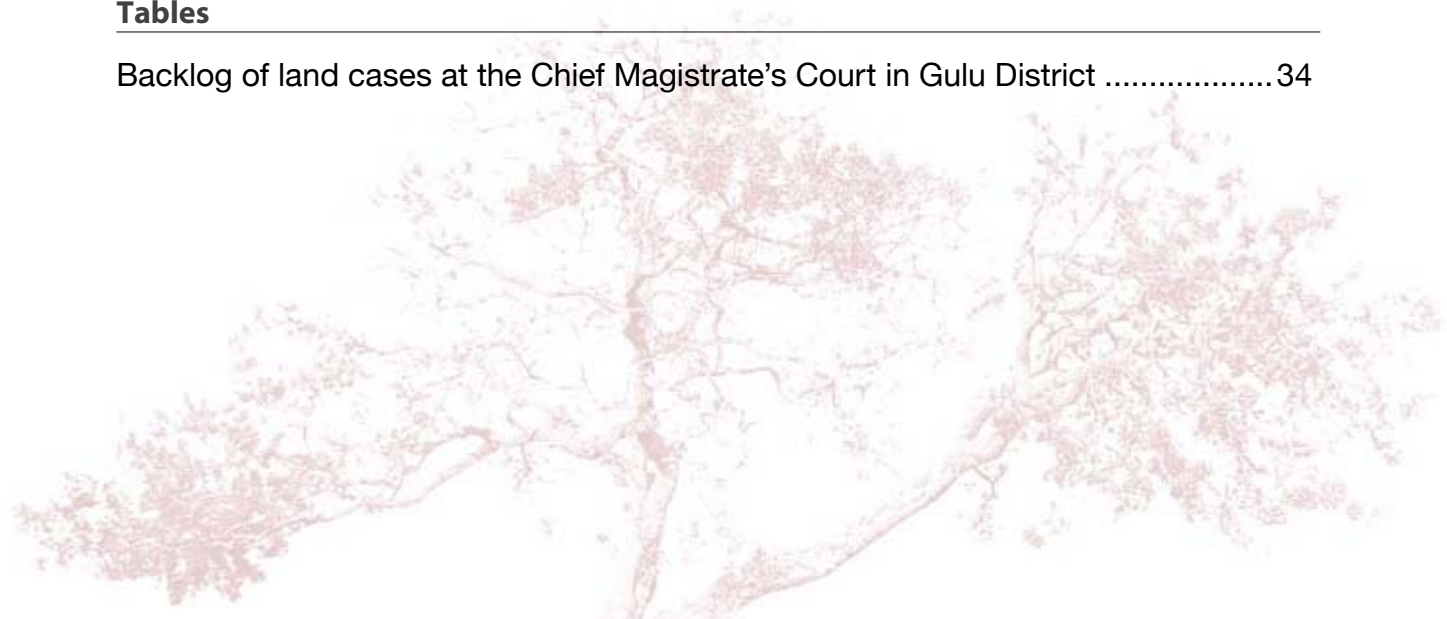
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In August 2009, the International Organization for Migration (IOM) and the Norwegian Refugee Council (NRC), supported by the United Nations Development Programme (UNDP), commenced a joint study on land and reintegration in northern Uganda. This study is intended to be a first-step towards an evidentiary approach to understanding land issues in northern Uganda.

Northern Uganda is the scene of one of the world's most volatile and spontaneous processes of reintegration. There are approximately 1.1 to 1.4 million people in the Acholi sub-region at the time of writing³; 295,000 internally-displaced persons (IDPs) remain displaced either in IDP camps or transit sites. Approximately 800,000 Acholis have already left the camps and spontaneously returned home over the last three years. Within this massive return movement, there are over 32,000 former LRA combatants who defected, escaped, were captured, or simply auto-demobilised back into Acholi civil society.⁴ Almost none of these ex-combatants have been incorporated into any structured attempt to help them and their communities socially and economically reintegrate.⁵ No reintegration programmes exist in the Acholi sub-region to deal with vulnerable sub-groups within this massive cohort of ex-combatants and young people who have been exposed to sustained levels of trauma and personalized forms of violence (whether as victims or perpetrators). In the absence of meaningful action to address land-based conflict and reintegration in the Acholi sub-region, it by default comes down to the resilience and wisdom of individuals and communities to spontaneously help returning IDPs, ex-combatants, and vulnerable young people to fit in as best they can. One thing above all draws Acholis back home; their land.

"Land or Else" - Core Evidentiary Basis

1. Sample of 441 land claimants from NRC's database;
2. Survey data on 254 Lord's Resistance Army ex-combatants;
3. Two focus groups discussions with 25 participants;
4. Forty-nine (49) key informants consulted including government officials, inter- and non-governmental organisations, private contractors, commercial farmers, judicial figures, and academics;
5. Findings that emerged out of an IOM-led workshop attended by 21 people; and
6. An independent peer review process.

³Population figures from the Uganda Bureau of Statistics (UBOS) report entitled, "The 2002 Uganda Population and Housing Census, Population Size and Distribution"(October 2006, Kampala, Uganda; see www.ubos.org) record the population size of the Acholi sub-region as 1,083,973. Subsequent projections published by UBOS in 2009 mention a figure 1,383,000.

⁴The Survey of War-Affected Youth (SWAY) in its April 2008 report entitled, "The State of Female Youth in Northern Uganda: Findings from the Survey Of War-Affected Youth Phase II," calculates that approximately 66,000 youth were abducted. Approximately 10,800 former LRA combatants have been granted amnesty by the Uganda Amnesty Commission, and SWAY further estimates that as many as two-thirds of formerly-abducted youth have not applied for formal amnesty. By deduction, this suggests that well over 32,000 ex-combatants have returned home to the Acholi sub-region. It also implies that that some 30,000-35,000 may have died in the bush (or possibly, and much less likely, relocated elsewhere in Central Africa).

⁵This point should be qualified with IOM explicit acknowledgement that ex-combatants who reinserted back into Acholi civil society through reception and rehabilitation centres run by the likes of Gulu Support the Children Organisation, World Vision, Kitgum Concerned Women's Association, and others achieved one thing above all; it re-institutionalised returning ex-combatants prior to their reinsertion back into civil society. Without a doubt these programmes save lives.

Acholis have a profound relationship with the land; land is the epicentre of economic behaviour in Acholiland, and an indivisible part of the social fabric. It is essential for housing (most people reside in self-made mud-huts on their land) and it is the means of livelihood subsistence, food security, and primary production for 85% of people in the sub-region. Spiritually, Acholi culture emphasizes the importance of being buried on ancestral land; otherwise the deceased's spirit will remain earthbound in an indeterminate state, unable to reach the afterlife, and forever haunting the deceased's family.

Over the last five years the media has regularly reported on the phenomenon of land-grabbing and land-based conflicts as people attempt to return from IDP camps and the bush. There is ample anecdotal evidence to suggest that large swathes of displaced individuals and communities are experiencing so-called 'land wrangles' and related patterns of communal conflict and violence. Put simply, there is no escaping the fact that land-based conflict is presentation of social disintegration in the Acholi sub-region. If left unaddressed, unresolved land disputes threaten the nascent stability in northern Uganda.

The process by which internally-displaced persons, returnees, ex-combatants, and acutely war affected young men and women within the sub-region attain sustainable livelihoods and play a productive role in their communities appears to be a matter for Acholi civil society to address on their own. The manifest challenges experienced by this sub-set of the population in relation to land represent the very coal face of reintegration. And their exclusion and continued marginalization of these sub-groups is in distinct contrast to the platitudinous impressions many actors in the North have of Acholi communities' spontaneous and overwhelmingly positive reintegration process.

Headline Findings and Recommendations

This report is organised into two sections: (a) Land and reintegration in northern Uganda; and (b) Structural bottlenecks, documentation, and the issue of investment in northern Uganda. The central findings and recommendations that materialized out of this study are as follows:

SECTION A: LAND AND REINTEGRATION IN NORTHERN UGANDA

FINDING: Marginalization of young people over land

Only 13% of all cases reported to NRC from November 2008 to October 2009 were by young men and women between the ages of 18-30. This is not because young people do not have as many land access problems as people in older age brackets; it is because they are intimidated out of challenging senior members of their communities on land matters. Qualitative data suggests that young people are in fact experiencing acute land access barriers. The mean age of men and women in the sub-region is 13 and 14 respectively. Older people typically describe young people as unable and unwilling to cultivate land, or that they will sell off their family's land. Paradoxically, this reasoning is frequently employed by older people to justify land grabbing! There is no evidence to indicate that young people do not want to engage in agriculture. For instance, IOM's Community Based Reintegration Programme in Northern Uganda found the opposite to be true: when 481 vulnerable youth aged between 18 and 30 years old were presented with a list of viable agriculture and non-agriculture based employment options in January 2010, about half elected to start agriculture-related self-help groups or get a job within the agricultural sector.

FINDING: Ex-combatants struggle to reintegrate and return home

Ex-combatants in Acholiland experience systematic exclusion in relation to land. Some 90% of male former LRA respondents reported experiencing acute isolation and/or fear or revenge upon return. Nearly all (155/166) former Lord's Resistance Army combatants surveyed in Gulu municipality reported being unable to access land upon return; 111 pointed to their inability to access land as a key driver behind their being unable to reintegrate into their original communities and as a result shifting to the municipality. Viewed as a scheme, ex-combatants perceive a withering set of barriers to their social and economic reintegration, including as follows:

1. Death of recognizable chiefs, elders and/or parents; when asked, nearly half of former LRA respondents (43%) reported that the death of these traditional figures practically equates to loss of evidence, and therefore, loss of their land⁶;
2. Sale of land; 20% of respondents noted that their family's land had been sold to third parties by their brothers or uncles before they returned; and
3. Greed of home communities; 17% of respondents pointed to excess land grabs, and highlighted examples whereby existing land owners illicitly occupied land owned by former LRA combatants thereby increasing their acreage.

Former LRA are an easy sub-group to take advantage of because they are frequently stigmatised by and cut off from their communities. To make matters worse, any defence by former LRA is often dismissively referred to as aggressive behaviour cultivated in the bush, as opposed to a reasonable or legitimate complaint.

"That is why you see many of the men on boda-bodas and the women in the restaurants and saloons in town. They can't access their land and they feel the stigma that everyone has towards them in their villages. Their neighbours actually steal their mattresses and tools and seeds that they get when they go through the amnesty process, but don't want to give them anything back, especially land. That's why they head to Gulu town. They want to start a new life. They don't want to be associated with their former life."

– Anonymous civil servant in Gulu District

FINDING: Female ex-combatants experience acute marginalization in relation to land access and reintegration, but there is hope!

Thirty percent (30%) of households in the Acholi sub-region are estimated to be female-headed⁷; the potential for marginalization of women's access, economic recovery, and subsistence livelihoods is manifest. Female ex-combatants (e.g. gun-carrying combatants, cooks, logisticians, spies, abductees, sex partners, porters, etc.), female-headed IDP and returnee households have experienced extraordinary levels of trauma. The marginalization of female ex-combatants in relation to land, and thereby a means to economically reintegrate, stands to negate their participation in the nascent processes of reintegration and recovery in the North.

⁶ Traditionally, access and ownership rights as regards land are undocumented across the sub-region. Accordingly, proof of ownership is equivalent to the oral knowledge amassed by chiefs, elders and, in the case of inheritance, parents. Therefore, without the elders, rwodi, and parents to confirm land ownership, communities have very little sympathy for former LRA combatants trying to assert their interests over ancestral lands.

⁷ Civil Society Organisations for Peace in Northern Uganda (CSOPNU) and Land Equity Movement in Uganda (LEMU), Land Matters in Displacement: The Importance of Land Rights in Acholiland and What Threatens Them (Kampala, Uganda: CSOPNU and LEMU, December 2004), pg 51. This estimate of 30% of households being female-headed should be compared with similar findings in the Northern Uganda Livelihood Study which found that 24% of households in the Acholi sub-region were female headed (n = 2,575); as published in the 2007 report entitled Returning to Uncertainty: Addressing Vulnerabilities in Northern Uganda (Ingunn Bjorkhaug et al, Kampala, Uganda: UNDP, 2007).

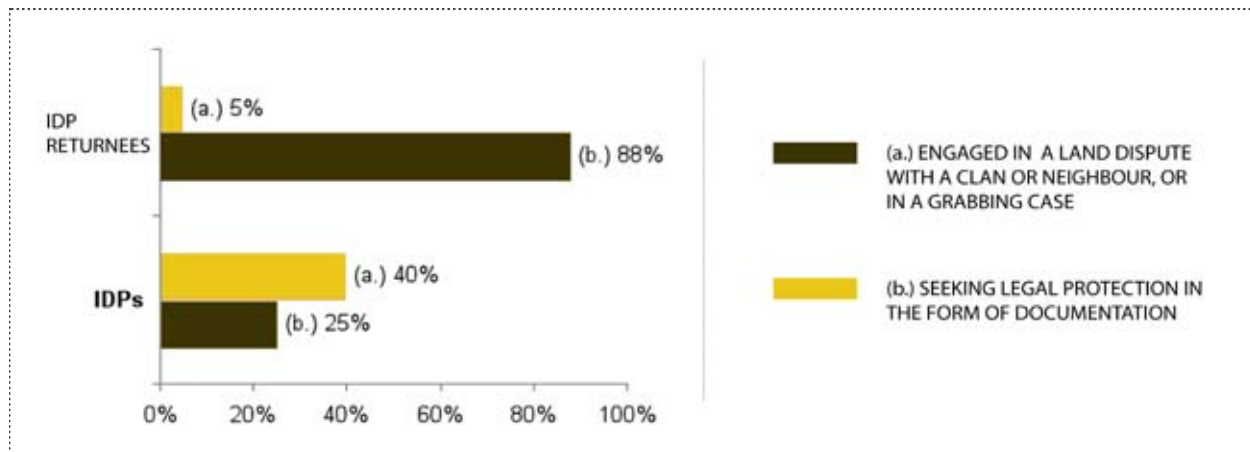
How Female Ex-Combatants in Kasubi are Spiralling into Deeper Cycles of Vulnerability:

There are between 200-300 female ex-LRA commercial sex workers in Kasubi parish, which is nearby the UPDF's northern barracks in Gulu municipality. The mean age of these women is 27 and the majority (62%) are single mothers. All women and their children could not reintegrate upon return to their communities of origin. Eighty-seven percent (87%) could not access land, and 64% and 63% were outright rejected by their families and communities respectively. These women relocated to Kasubi to start a new life. However, unable to secure employment, prostitution offered the only reliable income generating activity in the municipality for these women. Sleeping with 2-6 clients per night these women typically earn about UGX 72,000 per month; sex is often in exchange for food items.

Interestingly, the majority of responses of female former LRA (including the women from Kasubi parish) shows a preference to resettle within Northern Uganda in either a rural area or a town that is not their original homestead. Viewed alongside the desire of these women to own their own home (83%), access land (51%), and put their children through school (68%), significant potential exists for these women to (re)integrate. However, it will require deliberate and meaningful assistance to make this potential a reality.

FINDING: Discord and distrust between IDPs and IDP returnees

Figure 1 Disparities between IDPs and IDP returnees from November 2008 to October 2009



Forty percent (40%) of IDPs in NRC's 2008-09 Dataset (n = 321) reported land based conflict upon return. Many of these cases led to violent disputes between early IDP returnees and late IDP returnees. Those who had returned at an earlier date typically captured land or 'pushed out' boundaries, and recently sought out documentation to secure this extra acreage – 80% of IDP returnees who sought assistance from NRC between November 2008 to October 2009 did so in order to obtain documentation. Conflict between recently returning IDPs and early IDP returnees is rife. Roughly one-third of IDPs (estimated 295,000) remain in camps or transit sites and many of these are projected to return their pre-war land over the next two years. These imminent returnees are highly likely to be confronted by early IDP returnees who have seized land or 'pushed out' boundaries. Land-based conflicts are inevitable.

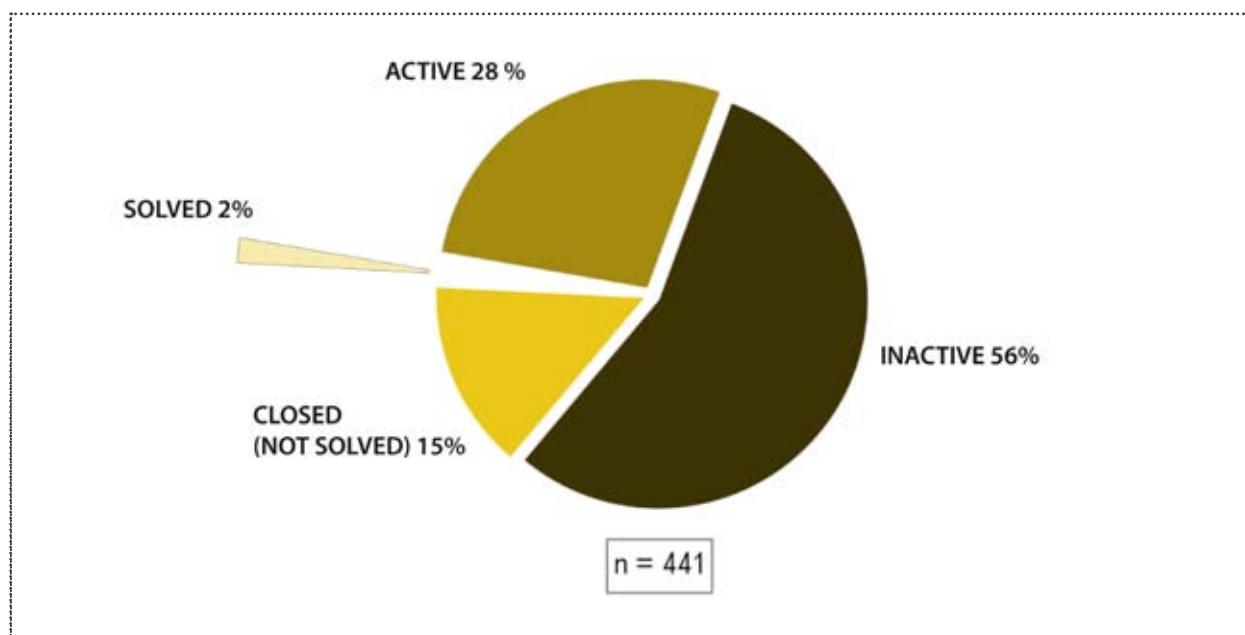
FINDING: Women are sidelined by tradition but protected by law

Out of a total of 321 of NRC's cases from November 2008 to October 2009 only 34 of these were filed by women. Acholiland's traditional customary tenure system allows women to utilize and benefit from the land of their family or husband, but women do not traditionally 'own' land in a proprietary sense. So it is hardly surprising to learn that most women are disinclined to approach clan elders, rwodi, community leaders, and officials for assistance in relation to a land matter. The fact that only men effectively own land leads to enormous livelihood barriers for women. On the other hand, Ugandan law strictly prohibits customs that alienate or undermine women as they are to be 'accorded full and equal dignity of the person with men'; however, like clan-level avenues of recourse, government officials are time and again not addressing women's and girls' needs in northern Uganda.

Amongst women land claimants, of particular concern are widows. In the Acholi culture, when a woman is widowed and does not get remarried or decide of her own accord to return to her natural family (and their land), then she is supposed to be allowed ownership of her deceased husband's land. Sadly, many women in this situation often face strong resistance from their late husband's clan or family if she asserts her usage rights. This resistance is manifested in NRC's caseload; for instance, between November 2008 to October 2009, 75% of the caseload of 34 women that came to NRC for legal assistance were widows.

FINDING: "Land disputes are not being resolved!"

Figure 2 August 2003 to October 2009 status of cases⁸



⁸ Based on NRC's ICLA Database, "active" refers to client matters in which a hearing is in place, a client is awaiting a hearing notice, the client is to be provided with feedback by NRC, or NRC is waiting for the client to provide further information. "Inactive" refers to matters that are not being pursued without clear instructions from the client or are pending action. A "closed" matter is one which has been closed or referred to another service provider.

Just two percent (2%) of land cases were reported to have been resolved by NRC from August 2003 to October 2009. This reflects the enormous difficulties and substantial bottlenecks faced by land claimants in resolving land disputes in the Acholi sub-region. LC2 Courts and Sub-County Court Committees are dysfunctional. The Chief Magistrates' Courts are overloaded by a backlog of cases. Respondents shared their declining trust in the objectivity and fairness of traditional mediators, especially elders. This 2% figure also underlines the utter desperation that colours the entire sub-region in the aftermath of conflict. Most people plainly cannot afford to lose a legal court case or mediated dispute concerning land access, which in turn is leading to forum-shopping within and amongst traditional, legal, and illegal avenues for recourse. This finding strongly suggests that a narrative is forming around which land disputes do not get resolved. Not only does this fuel desperation and people taking matters into their own hands, but the fact is that land-based conflict is undeniably presentation of social disintegration. Put simply, unresolved land disputes threaten nascent stability in northern Uganda.

Recommendations for Addressing Land and Reintegration Challenges in Northern Uganda:

- 1. Specialist legal aid and land mediation services focusing on young land claimants**, who are being overlooked at the risk of gross marginalization. These services could take the form of new legal aid providers or supporting existing legal aid actors in the North. Within this sub-group, namely young land claimants, targeting of specific sub-groups should be considered. Of particular concern are former LRA ex-combatants. Complimenting this specialised assistance should be practical efforts to improve referral networks between key government actors like the Amnesty Commission and legal aid providers so that land claimants do not fall through the cracks.
- 2. Specialised reintegration and integration programmes for female-headed IDP, returnee, widow, and ex-combatants households.** The challenges peculiar to female-headed households needs special attention in order to prevent key vulnerable groups (viz. IDP, returnee, widow, and ex-combatants households) from backsliding into deeper cycles of vulnerability with the attendant social consequences (e.g. prostitution, destitution). A broad approach should encapsulate access to services such as legal aid, and safe and voluntary resettlement and return packages that focus on both the livelihood needs of women and the needs of their children and dependents. However, self-sufficiency by way of land access or paid employment should be at the forefront of efforts to assist caseloads like the women in Kasubi.
- 3. Assisted and voluntary return and reintegration assistance for IDPs:** district-level governments and external actors should be systematically identifying IDPs intending on returning to their villages of origin, and engage clan representatives in order to negotiate a pre-return settlement in advance of their arrival. A programme of assisted voluntary return and (re)integration of the remaining 295,000 IDPs would go a long way to reducing conflict and disintegration amongst returning IDPs and their communities.
- 4. Cultivation and encouragement of grassroots women's groups** may be an excellent way of preventing land grabs and enforcing land rulings at the local level. Clusters of women can protect each other through approaching male elders to complain about a land grab as a unified group, collective savings to fund land mediation or legal fees, and/or verbal public humiliation of typically male perpetrators of land grabbing at local marketplaces as a means of social pressure.

5. **Using local media to understand if the situation is changing;** in the event that very little can be done to avert exacerbation of land dispute backlogs in courts, equitable investment and land access, and addressing the marginalisation of youth and women, there is one thing that can be done for very little resources. This involves monitoring land disputes, particularly land disputes that have become a locus of community resentment, communal violence, and/or politically volatile. By mapping the reporting of these incidents on locally available media (viz. print and broadcast media) what will emerge is a dataset showing trends, including the tempo of land disputes, the densities of land disputes, and provide some forewarning to policy-makers, the police, and local government.

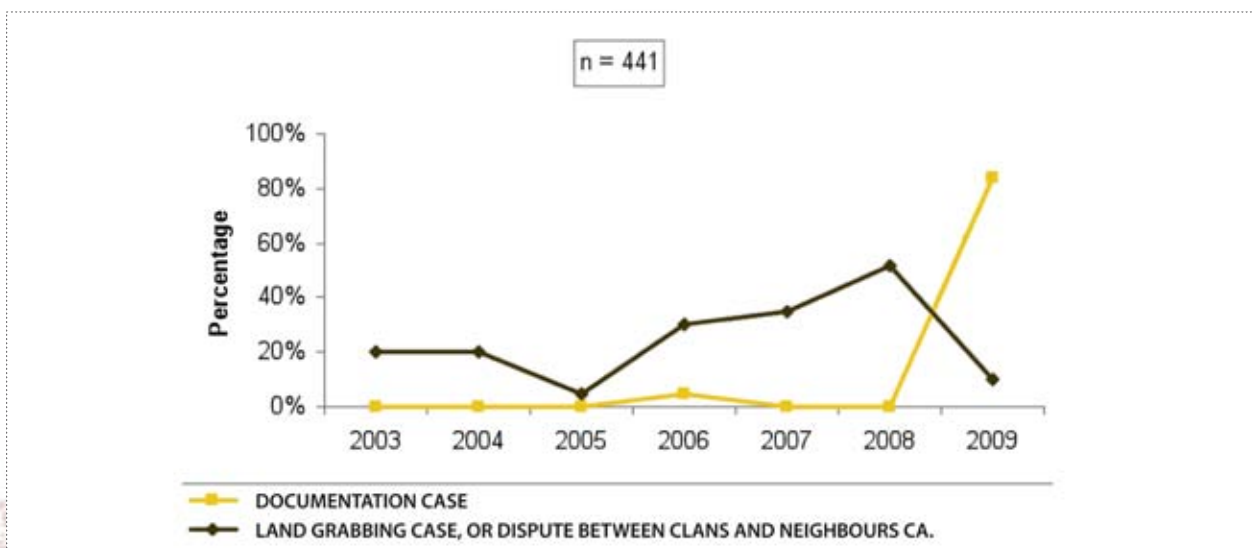
SECTION B: STRUCTURAL BOTTLENECKS, DOCUMENTATION, AND THE ISSUE OF INVESTMENT IN NORTHERN UGANDA

FINDING: LC2 Courts and Sub-County Court Committees do not possess the capacity to solve or decide land disputes; meanwhile Chief Magistrates’ Courts are backlogged!

Chief Magistrates’ Courts are functioning and effective in Gulu and Kitgum, but are overburdened by a colossal backlog of cases. For instance, in Gulu, 1,045 out of a total of 2,001 land cases as at July 2010 remained outstanding. To make matters worse fresh applications are being made at an alarmingly faster rate than those being resolved or decided. Moreover, criminal cases and civil litigation are further clogging up the courts. Entry points for capacity building are not at the Chief Magistrates’ Court; rather it is the poor capacities of Sub-County Court Committees and LC2 Courts that need immediate and sustained attention. The resources and capacity required for local-level tribunals to successfully manage and respond to the magnitude of demand for land disputes to be heard and decided is the touchstone issue for judicial administration. Demands upon these tribunals will continue to increase as many of the some 295,000 remaining IDPs return to their pre-war land. Swift and decisive interventions will be required to avoid local populations taking matters into their own hands.

FINDING: Escalating demand for documentation

Figure 3 Increase in documentation cases; decrease in land grabbing and dispute type cases



Documentation is increasingly becoming a perceived protection and/or market requirement in the sub-region. In 2009 84% of all cases received by NRC related to assistance to acquire documentation for land; contrast this with the fact that less than 1% of cases between 2003 and 2008 concerned documentation. Historically, proof of ownership was demonstrated by way of occupation/possession, utilization, knowledge and natural landmarks, and protection was safeguarded by the local clan. Trust in unwritten or customary forms of ownership is manifestly declining. In spite of the fact that some 93% of land in the sub-region is held under customary tenure⁹, and mindful of the fact that customary tenure is legally equivalent to other common law forms of ownership, the rising assumption amongst local populations is that “getting papers is a must”.

The Norwegian Refugee Council (NRC) received 231 documentation cases from November 2008 to October 2009 relating specifically to Certificates of Customary Ownership (CCOs). The CCO scheme was operationalized in 2008 in the spirit of certificate-based documentation of proprietary interests in land being made unanimously accessible to all in Uganda. Unfortunately, at the time of writing, not one CCO has been issued in the Acholi sub-region.

FINDING: Investment is fuelling relative deprivation

A perception is forming amongst local populations in the Acholi sub-region that domestic investors (viz. including but not limited to Acholi Diaspora returning home to reclaim their land or increase their land holdings) are unfairly benefiting from inexpensive post-war labour, raw materials, land, and other property. This perception, whether it is fair or not, is further aggravated by the fact that recent investor interest coincides with the efforts of the majority of conflict affected families to return back to their abandoned pre-war land and scratch out a livelihood with very little in the way of capital or outside assistance.

“I’ve seen young men from the camps and the villages and the towns shouting and abusing these big businessmen as they walk by. Some of them try and steal from these people too. They’re frustrated and angry because they don’t have any money, and they see these big men go by in their expensive, shiny cars. I can understand why they do it.”

– Anonymous civil servant in Gulu District

A related and very common misunderstanding about the North is that land is either scarce, or paradoxically, land is not being used. To a certain extent, both statements are true. As mentioned above, some 93% of land in the sub-region is held under customary tenure. Being that as it may, land is not scarce in Acholiland. Land without owners, land not subject to customary tenure, land that can be easily bought up in the form of valid freehold title; this sort of land is scarce. Furthermore, land is not being properly used in the sense that agriculture could be much more productive in the sub-region. There are very clear reasons for this. Consider that in 2009 when IOM surveyed 116 producers in the Acholi sub-region, 115 producers (99%) said they intend to improve their agricultural production. Inquired about the means required to do this, 79% stated that they need access to financial services.¹⁰

Alarmingly, not one surveyed producer recalled applying for or receiving finance in the form of an institutional bank loan. Put simply, land is not scarce, but it is scarcely used.

⁹ Ker Kwaro Acholi, Principles and Practices of Customary Tenure in Acholiland (Gulu, Uganda: Ker Kwaro Acholi, June 2008), pg 1.

¹⁰ James Bean and Gareth McKibben, Labour Market Analysis: Amuru, Gulu, Kitgum and Pader (Gulu and Kampala, Uganda: IOM, October 2009), pgs 14, 18, 24, 31 and 36.

In order to combat relative deprivation, incoming investors (including Acholi Diaspora) must create jobs and be seen to be supporting economic recovery in northern Uganda; not taking advantage of it at the expense of local populations.

Recommendations for Addressing Structural Bottlenecks, Documentation Challenges, and the Issue of Investment in Northern Uganda:

1. **Payment for Area Land Committee members needs** to be resolved quickly. On top of this, training and mentoring in land claim processes and related procedures should be provided to Area Land Committee and District Land Board staff by qualified Ugandan lawyers with twice-annual refresher training for at least the first five years.
2. **A comprehensive appraisal of LC2 Courts and Sub-County Court Committees should be carried out**; this appraisal should be quickly followed by intensive and long-term training, provision of necessary equipment, and re-staffing as necessary. In terms of sequencing, this assessment should prioritize parishes and sub-counties with high- and medium-densities of land disputes and key vulnerable groups (e.g. female-headed households, ex-combatants, etc.) expanding out to eventually cover the entire Acholi sub-region.
3. Database specialists should be seconded to LC2 courts, and Sub-Country Court Committees to **design and implement a user-friendly database of land claims and disputes**. It is strongly recommended that databases are established in hardcopy format rather than electronic given the unreliable power supply in Acholiland and limited computer skills of public officials. Lastly, if a simple hardcopy database is installed, it should be done so at the same time as providing typewriters, file-storage equipment, photocopy machines, and an external power supply. Efforts should also be made to ensure that sub-county offices have a regular supply of all application forms.
4. **Individuals and communities deserve to be better informed about CCOs** so that they can make an informed decision. Efforts should be made to educate local people on CCOs through local opinion shapers, role models and leaders that people trust. The national Government should spearhead a simple and comprehensive information campaign in the sub-region as part of PRDP implementation in order to clearly communicate people's rights in relation to land. To be effective, this campaign must be both locally designed and supported by district politicians, legal representatives including Chief Magistrates and Judges, clan-level elders and Chiefs, and civil society groups. It is obviously very important that those engaged in awareness-raising programmes fully understand CCO processes and related legislation themselves and are effective communicators. Further misinformation is the last thing Northerners need.
5. Mindful of the concerns and shortcomings expressed by Acholis about the objectivity and fairness of clan leaders and elders, international actors should focus on how to prevent the erosion of Ker Kwaro Acholi in close cooperation with the Government of Uganda. **Traditional institutions should be seen as a credible avenue for assistance, dispute resolution, and recourse within the Acholi sub-region**. Consultations led by the Government of Uganda and Ker Kwaro Acholi should be undertaken in order to determine the true running costs of Ker Kwaro Acholi, including rwodi, clan elders, hearing costs, transport, accommodation, and support staff and office costs.

If appropriately sequenced, sustainable institutional-strengthening of Ker Kwaro Acholi through public funding is exactly the kind of locally led and transparent type of external on-budget support that Uganda's donors should be considering.

6. The United States Agency for International Development (USAID) – Stability, Peace, and Reconciliation in Northern Uganda (SPRING) Programme's **practical eight-stage method of securing land agreements warrants further study** as a potential model for due diligence in relation to securing agreements with communities over land use for investment.

Methodology at a glance

The purpose of this study is to describe qualitative and quantitative patterns of vulnerability in relation to land and reintegration in northern Uganda. The study's findings and recommendations are rooted in:

1. A sample of 441 land claimants in northern Uganda from the Norwegian Refugee Council's (NRC's) ICLA database;
2. Survey data taken from 254 LRA ex-combatants including two Focus Group Discussions (FGDs) with 25 participants;
3. One-to-one interviews with 49 key informants and stakeholders;
4. Workshop with 21 participants in Gulu municipality; and
5. An independent peer review process.

Details on these sources are as follows:

1. The Norwegian Refugee Council's (NRC's) ICLA database.

The Norwegian Refugee Council (NRC) has collected data on land claimants in all six districts in the Acholi sub-region from August 2003 and continues to do so. These data are stored in the organisation's ICLA database. This study utilises 441 cases collected from August 2003 to October 2009: 321 cases from November 2008 to October 2009, and 20 cases per year from August 2003 to October 2008 (120).

These data-sets will be referenced as 2003-08 ICLA Dataset and 2008-09 ICLA Dataset throughout the course of this report for the purposes of clarity.

The total number of cases in NRC's ICLA database from August 2003 to October 2009 equates to more than 3,000, but most of these could not be used for this study because of inadequate data capture. NRC made a concerted effort in November 2008 to ensure that Client Registration Forms were completed in full from that date onwards, but before that time the majority of these forms were largely incomplete – this data was not considered to be a priority by most preceding project managers in part due to NRC's stretched workload; the result of NRC being one of just two international Legal Aid Providers (LAPs) operating in the Acholi sub-region.

The 120 cases chosen by IOM from August 2003 to October 2008 were selected at random (20 per year) from a limited number of cases available with sufficient data to undertake analyses. Satisfactorily complete cases range from 20-40 from August 2003 to October 2008 depending on the year. Twenty (20) cases per year were settled on because this integer represents the lowest common dominator.

The entire collection of completed land related cases from November 2008 to October 2009 (321) and 20 cases per year from August 2003 to October 2008 (120) were entered into SPSS.

Quantitative analyses were performed on all these cases. Land claimants' cases history information was additionally made use of to better understand the statistical data.

It should be stressed that NRC's claimants were not selected at random or in a stratified manner and that their geographical locations and specific requests are shaped to some extent by NRC's programmatic focuses at that time and the organisation's preferences vis-à-vis methods of assistance.

By way of example, NRC ICLA's global 'Core Activity Policy Document' pays attention to "obtaining documents relating to [...] accumulated rights (Section 4.1.5 (A))." In the case of NRC's legal aid activities in northern Uganda, this means assisting their clients to apply for certificate-based documentation over their land claims. In 2009, 84% of all cases received by NRC related to assistance to acquire documentation for land. No more than 1% of cases from 2003-2008 concerned documentation. Certificates of Customary Ownership, as catered for in the Ugandan Constitution 1995¹¹ and the Land Act 1998¹², became operational in late 2008. These – in theory – are documented traditional customary tenure arrangements (see section X of this report for more information). Therefore, it is highly likely that NRC's preferred method of assistance (i.e. documentation) played a large part in the very dramatic increase in 2009 of claimants interested in acquiring documentation. This line of reasoning is further strengthened by the very fact that NRC carried out CCO awareness-raising activities in the Acholi sub-region ahead of the anticipated implementation of CCOs in 2008.

It must also be noted that this sample of the 441 land claimants can be used to generate inferences about broader trends and population sets, but it is important to recognise it for exactly what it is: a sample, which is inescapably prone to error regarding all-inclusive representativeness and bound by specific timeframes.

2. Survey data taken from 254 LRA ex-combatants including two Focus Group Discussions (FGDs) with 25 participants.

Fifty-nine (59) male and 20 female LRA ex-combatants were surveyed in Gulu municipality between 5 and 11 May 2010. Snowball sampling was employed for this particular survey. Existing respondents identified additional respondents amongst their acquaintances to increase the sample size. This method is often used for hard-to-reach sub-groups. But it is not random. So it can create a biased sample. Less accessible amnestied reporters or auto-demobilisers may have therefore been overlooked. This municipality-based survey was followed by an identical survey of a small sample of IOM's clients (58 males and 30 females) between 21 June and 25 July 2010. IOM assisted 481 LRA ex-combatants to set-up new businesses or to secure paid employment in 2010. Almost all of IOM's ex-combatant clients were already residing at their original homesteads (in rural areas) at the time of project commencement, whereas the 79 former LRA members surveyed in Gulu municipality had all fled their communities of origin and resettled to the municipality upon return because they could not reintegrate into their original communities. IOM's clients were therefore surveyed to try to determine discrepancies between those LRA ex-combatants who could reintegrate into their pre-bush homesteads and those who could not. It must be noted that because convenience sampling was utilised in this particular instance, it

¹¹ Constitution of the Republic of Uganda 1995, Article 237 (4)(a).

¹² Land Act 1998, Section 4(1).

is problematic to construct broader generalisations based on this data. These 167 respondents were inquired to identify land access and dispute problems that they personally encountered, and to present IOM with potential solutions to these problems. These were essentially problem structuring and solving exercises. Problems and solutions were thereafter categorised as variables and inputted and analysed in MS Excel.

One FGD was carried out in Kasubi parish on 5 May 2010 and another on 23 July 2010. The first FGD on 5 May was attended by the LC1 of Kay A cell, two clan chiefs, two elders, one retired teacher, two former members of the LRA (one male and one female), and one community mobiliser. The second FGD was attended by 14 female LRA ex-combatants who are now commercial sex workers, one retired police officer, and one retired teacher. Both FGDs focused mainly on women and land access. These FGDs were followed by an in-depth survey of 87 female LRA ex-combatants who are now commercial sex workers in Kasubi parish; this survey was carried out from 23-30 July 2010 to better understand this particularly vulnerable sub-group's difficulties vis-à-vis reintegration and land access upon return.

3. One-to-one interviews with 49 key informants.

Forty-nine (49) people were interviewed or consulted by IOM staff or consultants between December 2009 and August 2010. These included all LC5s from the district governments of Amuru, Gulu, Kitgum and Pader; the Resident District Commissioners of Amuru and Kitgum; Gulu District's Speaker of the House; LC3s, LC2s and LC1s from the sub-region; Gulu District's Chief Magistrate; Area Land Committee members; the Chairman of Gulu District's Chamber of Commerce; and commercial farmers. Organisations interviewed or consulted included the Acholi Private Sector Development Company Ltd., the Acholi Religious Leaders Peace Initiative, the Amnesty Commission, Athletes for Africa, CECORE, FIDA, Gulu NGO Forum, Gulu University, GUSCO, HURINET, Ker Kwaro Acholi, Legal Aid Project, LEMU, LSE, Northern Uganda Rehabilitation Programme (Contractor: Cardno Ltd.), NRC, OCHA, OHCHR, Oxfam, Salisbury University, Trocaire, Uganda Human Rights Commission, UNFPA, USAID SPRING (Contractor: Cardno Ltd.), WFP, and World Vision.

4. Workshop with 21 participants in Gulu municipality.

Twenty-one (21) people attended and participated in an IOM led workshop on land and reintegration on 27 May 2010 in Gulu municipality. Organisations represented included Athletes for Africa, AVSI, ChildVoice International, Comboni Samaritans of Gulu, Concerned Parents Association, Gulu University, LSE, NRC, Uganda Human Rights Commission, USAID, USAID SPRING (Contractors: Cardno Ltd.), USAID NUDEIL (Contractor: Winrock International), WHO, and World Vision. There was in addition an independent expatriate journalist.

"They want to get rich quick. They look at land as an asset that they can easily sell. There has been a breakdown in cultural norms. The sub-region's social fabric has been torn. It has left young people uncontrollable."

– Mr. Edwin Komakech, Resident District Commissioner, Amuru District¹⁴

Participants were consulted on the study's preliminary findings, and grouped into teams of seven to deliberate evidence-based problem statements relating to land and reintegration in northern Uganda, and to present on possible solutions to these problems.

5. Independent peer review process.

In the months of August and September 2010, comments and feedback on draft versions of the study were received and incorporated by representatives from Ker Kwaro Acholi, the London School of Economics (LSE), NRC, Trocaire, and Salisbury University.

SECTION A: LAND AND REINTEGRATION IN NORTHERN UGANDA

Introduction

Northern Uganda is the scene of one of the world's most volatile and spontaneous processes of reintegration. There are approximately 1,100,000 people in the Acholi sub-region at the time of writing, 295,000 internally-displaced persons (IDPs) remain displaced either in IDP camps or transit sites.¹³ Approximately 800,000 Acholis have already left the camps and spontaneously returned home over the last three years. This was a huge and arguably mismanaged movement of people when one considers what returning IDPs have had to contend with back home; poor access to basic necessities like water, food, shelter, education, and employment. Being that as it may, one thing above all draws people back home; their land.

On top of this enormous return movement, there are over 32,000 former LRA combatants who defected, escaped, were captured or simply auto-demobilised back into Acholi civil society.¹⁴ Almost none of these ex-combatants have been incorporated into any structured attempt to help them and their communities socially and economically reintegrate.¹⁵ No reintegration programmes exist in the Acholi sub-region to deal with vulnerable sub-groups within this massive cohort of ex-combatants and young people who have been exposed to sustained levels of trauma and personalised forms of violence (whether as victims or perpetrators). Many donors see the problem but don't know where to lend their support. In the absence of meaningful action to address land-based conflict and reintegration in the Acholi sub-region, by default it comes down to the resilience and wisdom of individuals and communities to spontaneously help returning IDPs, ex-combatants, and vulnerable young people to fit in as best they can. This is plainly not a durable or desirable default position.

Meanwhile, preying on the mind of these newly (re)formed communities is the ever-present fear that the LRA may return. It is an open secret that the so-called control altar of the LRA is almost solely Acholi. The LRA went viral in 2005 and left Acholiland for Central African Republic, D.R. Congo, and Southern Sudan. During 2008-2010, the Government of Uganda, the United Nations (MONUSCO), and the United States Government have attempted to pursue a military campaign to hunt down - at times re-recruiting captured LRA and using them as scouts - the LRA and annihilate them. Sadly, these operations have not arrested the LRA or removed the fear amongst Acholi people that the LRA may come home.¹⁶

This section explores the relationships between ex-combatants, young people, communities and their ancestral lands in the Acholi sub-region. Where inferences could not be drawn from NRC's ICLA Database in respect of ex-combatants and young people more generally, IOM commissioned separate studies of its existing caseload of 481 ex-combatant and vulnerable youth

¹³ UNHCR Gulu Sub-Office, 'IDP Population Update,' June 2010. See <http://www.internal-displacement.org>.

¹⁴ The Survey of War-Affected Youth (SWAY) in its April 2008 report entitled, "The State of Female Youth in Northern Uganda: Findings from the Survey Of War-Affected Youth Phase II," calculates that approximately 66,000 youth were abducted. Approximately 10,800 former LRA combatants have been granted amnesty by the Uganda Amnesty Commission, and SWAY further estimates that as many as two-thirds of formerly-abducted youth have not applied for formal amnesty. By deduction, this suggests that well over 32,000 ex-combatants have returned home to the Acholi sub-region. It also implies that that some 30,000-35,000 may have died in the bush (or possibly, and much less likely, relocated elsewhere in Central Africa).

¹⁵ This point should be qualified with IOM explicit acknowledgement that ex-combatants who reinserted back into Acholi civil society through reception and rehabilitation centres run by the likes of Gulu Support the Children Organisation, World Vision, Kitgum Concerned Women's Association, and others achieved one thing above all; it re-institutionalised returning ex-combatants prior to their reinsertion back into civil society. Without a doubt these programmes save lives.

¹⁶ No accurate information exists on the number of presently active LRA combatants. However, there are an estimated 500 armed combatants forming the group's hardcore weapon-carrying cohort. There are also a fluctuating number of abductees reflecting defections, LRA fragmentation, battle tempo, and proximity to local populations in D.R. Congo, C.A.R., and Sudan.

clients that it is providing reintegration assistance to in addition to other cohorts such as female ex-LRA combatants living in Kasubi, Gulu.

Marginalisation of young people over land

Just 13% of all NRC cases from November 2008 to October 2009 (2008-2009 ICLA Dataset) and 22% of all cases from August 2003 to October 2008 (2003-2008 ICLA Dataset) were filed by young adults between the ages of 18 and 30.¹⁷ Based on interviews, this should not be read as indicating that young men and women do not face as many land access difficulties, but rather that they are:

- 1. Intimidated and reluctant to challenge senior members of their families or clans through open channels:** It is true that NRC maintains strict client-attorney discretion, but many young adults do not fully understand and/or trust in this duty of confidentiality, and are further put off by the prospect of actually assuming action against senior members of their families or communities. It should also be noted that 75% of NRC's client intake from November 2008 to October 2009 was through mobile outreach activities or centres in communities – so if someone approaches or is approached by NRC, s/he will in most cases be fully observable to his/her respective family or community;
- 2. Poorly informed of their options:** Young adults, especially those returning from the bush and IDP camps, are oftentimes unfamiliar with Legal Aid Providers (LAPs). The reason for this is that land disputes were historically settled by the clan. More recently, religious leaders, politicians, and local government officials are assuming what was once the traditional role of clan elders and rwodi. Therefore, the notion of attaining external assistance in relation to land access is to some degree an alien concept. It is also worth noting that organisations (e.g. LAPs) offering land advice and related support services are in relatively short supply in the sub-region. There are a mere five LAPs namely the Federation of Women Lawyers (FIDA), Legal Aid Project, NRC, Uganda Land Alliance, and War Child Canada.

Nonetheless, there is a distinctly noticeable pattern amongst claimants between the ages of 18 and 30. Exactly 50% of all succession and inheritance cases between August 2003 and October 2009 were filed by young adults (18-30).¹⁸ This quantitative data correlates closely with the messages that emerged through interviews in the sub-region too, which in turn reveals apparent misunderstandings between young adults and people in older age brackets.

Senior interviewees constantly communicated their apprehensions about young adults. Commonly cited themes included the following:

1. Young people only want to acquire land so that they can sell it off and obtain an instant source capital to expend on alcohol, gambling, high-priced clothes, mobile phones, beat boxes, and so on; and
2. Young people are not able to and do not want to cultivate land; they do not possess the skills or desire required because they were for the most part raised in IDP camps and became dependent on food aid handouts.

¹⁷ A very small number of cases were filed by women. Three (3) cases in the 2008-09 dataset and four (4) cases in the 2003-08 dataset were filed by women between the ages of 19 and 30. See sub-section entitled “Women are sidelined by tradition but protected by law” for analyses concerning women in particular.

¹⁸ This refers to 16 cases in total.

However, the messages that emerged through interviews with young adults and officials were very different. The foremost of these being that older generational groups argue that young adults are irresponsible vis-à-vis land ownership and are incapable of properly weeding, cultivating the soil, establishing seed nurseries, transplanting, maintaining, and harvesting the land. Paradoxically, this reasoning is frequently employed by older people to justify land grabbing! There is no evidence to indicate that young people do not want to engage in agriculture. For instance, IOM's Community Based Reintegration Programme in Northern Uganda found the opposite to be true: when 481 vulnerable youth aged between 18 and 30 years old were presented with a list of viable agriculture and non-agriculture based employment options in January 2010, over half elected to start agriculture-related self-help groups or to attain employment on a commercial farm. Reports of land grabbing by families and neighbours and denied inheritance rights were common complaints in all interviews.¹⁹

The 2007 Northern Uganda Livelihood Survey indicates that the median age of men and women in the sub-region is 13 and 14 respectively.²⁰ Accordingly, the recurring impression that young men and women are unable and unwilling to preserve and utilise land effectively serves to disenfranchise a large part of the population.

LRA ex-combatants struggle to reintegrate and return home

Data indicates that amongst key economic sub-sets of the population (viz. producers and traders) an openness exists in relation to former LRA combatants in the Acholi sub-region. Out of a total sample of 213 producers and traders some 96% claimed that they are open to employing former abductees and 93% ex-combatants.²¹ Throughout the course of this study, IOM continually posed a variant of the same question to senior interviewees:

"Do you and your clan earnestly receive and assist former members of the LRA upon return?"

Each and every interviewee responded in an almost identical fashion by simply stating:

"Yes, we welcome them."

In interviews with LRA ex-combatants and their families the picture provided by them is, however, diametrically opposite. Many former LRA respondents contend that their families and/or communities did not respond positively to their homecoming, and that land access was definitely a focus of friction. In a small snowball sample survey of 79 former LRA living in Gulu municipality, all respondents claimed to seek recourse to the municipality in part because they could not access land in their home communities upon return. Some 90% of all 59 male respondents actually reported experiencing acute isolation and/or fear or revenge upon return. Reasons presented by 59 male former LRA for being unable to access land included:

1. **Death of recognizable chiefs**, elders and/or parents (43%). Traditionally access and ownership rights as regards land are undocumented in the sub-region. Proof is essentially oral knowledge amassed by chiefs, elders and, in the case of inheritance, parents. Hence, sudden death of these figures can equate to loss of evidence and as a result loss of land;
2. **Sale of land (20%)**. Some respondents noted that their family's land had been sold to third parties by their brothers or uncles before they returned; and

¹⁹ IOM interview with Mr. Edwin Komakech, Resident District Commissioner, Amuru District, 8 January 2010.

²⁰ Ingunn Bjorkhaug et al, *Returning to Uncertainty: Addressing Vulnerabilities in Northern Uganda* (Kampala, Uganda: UNDP, 2007), pg 6.

²¹ James Bean and Gareth McKibben, *Labour Market Analysis: Amuru, Gulu, Kitgum and Pader* (Kampala, Uganda: IOM, UNDP and USAID, October 2009), pg 10.

3. **Greed of home communities (17%).** Some respondents pointed to excess land grabs, and highlighted examples whereby existing land owners illicitly occupied land owned by former LRA combatants thereby increasing their acreage. It was noted in FGDs in Kasubi parish on 5 May and 23 July 2010 that former LRA are a particularly easy sub-group to take advantage of because they are frequently stigmatised by and cut off from communities. Furthermore, any defence by former LRA is often dismissively referred to as aggressive behaviour that was cultivated in the bush, as opposed to a reasonable or legitimate complaint.

Explanations asserted by 20 female former LRA included death of parents (65%), outright rejection by communities (65%), sale of land (65%), and gender biased customary law practices (70%).²²

One civil servant who requested anonymity said:

“That is why you see many of the men on boda-bodas and the women in the restaurants and saloons in town. They can’t access their land and they feel the stigma that everyone has towards them in their villages. Their neighbours actually steal their mattresses and tools and seeds that they get when they go through the amnesty process, but don’t want to give them anything back, especially land. That’s why they head to Gulu town. They want to start a new life. They don’t want to be associated with their former life.”

That same civil servant explained that many community members describe former members of the LRA as “time bombs waiting to explode.”

Former LRA fall through the cracks in referral networks between service providers

The Norwegian Refugee Council’s (NRC’s) caseload of 441 cases utilised by this study did not contain one former member of the LRA. Questioned about this, NRC staffers commented that former LRA are more likely to approach the Amnesty Commission – certainly in the case of amnestied reporters. The AC does not provide legal aid services in relation to land, nevertheless reporters tend to approach the Commission on all or most legal matters that they confront. Furthermore, NRC usually refers reporters directly to the Commission.

The AC receives about four cases per month. The Commission’s standard first-stage response is to suggest to the reporter that he or she re-approach the dispute’s adversary unaccompanied to renegotiate the contention in question. If that does not produce results, the AC oftentimes attempts to refer or re-refer the case to NRC, but more often than not the case will simply be passed on to the local authorities i.e. the police (the rationale being that they require protection). In all cases, these matters were not resolved.

There are an estimated 2,000 former LRA who have resettled in Gulu municipality because they could not reintegrate into their original homesteads upon return.²³

Thousands of former LRA shifting to the municipality to start a new life. This may not be a problem in and of itself – after all, there are more jobs in town and trading centres in the North – but this sub-group is oftentimes perceived by communities in the municipality to be a serious strain on the rest of the community.

²² This refers to women being unable to utilise land unless they are married or resident at their family’s homestead.

²³ This was a conservative estimate given to IOM by the Amnesty Commission on 6 August 2010. It is based on anecdotal observation only. In a separate and rapid survey of 88 former LRA in rural areas in the districts of Gulu and Pader, some 67% reported being able to access land immediately upon return; the remaining 33% said that their clan’s elders and chiefs eventually secured land for them after time. Ascertaining the number of former LRA who fled to urban areas is imperative to gaining a better understanding of the size of this vulnerable urban-based caseload.

For instance, Highland sub-ward in Gulu municipality hosts more than 100 male former LRA combatants. Most are between 21 and 35 years old. Save for infrequent and underpaid casual labour (e.g. at quarries, on- and offloading timber at industrial sites, and weeding/cultivation for large-scale farmers), almost all are unemployed, spending the majority of their time consuming “Waragi” and local beverages such as “Gulu Gulu” and “Lcoyi” and gambling. The local population often cites this group’s general misbehaviour, delinquency, and more worryingly, their frequent verbal and physical abuse. Theft is rampant and often attributed to this group. Traders report not wanting to enter the sub-ward and do business. Police officers are becoming increasingly aggressive in their dealings with this sub-group, and the sub-ward’s LC1 reportedly wants all these former LRA to leave and relocate elsewhere. Viewed as a scheme, these perceptions, whether or not they are substantiated in part or whole, represent the coal face of reintegration; they provide a distinct contrast to the platitudinous impression one so often hears of communities’ spontaneous and overwhelmingly positive process of return and reintegration.

It is worth reflecting on customary inheritance rights and Ker Kwaro Acholi’s Principles and Practices of Customary Tenure in Acholiland, which states that all clan members have the right to ‘return to family land after a period of emigration, displacement or divorce (Part 2, Section 3(VI)).’ Customary norms in relation to return are therefore encouraging, and these norms clearly reinforce the positive responses of producers, traders and senior interviewees noted at the beginning of this section. However, it is not clear whether these positive customs are always practiced or whether they at times merely represent culturally-engrained rhetoric.

Inquired about potential solutions to those land access problems outlined above, just 7% of those 59 male former LRA surveyed said they want assistance to renegotiate land access to their homesteads of origin; this suggests that the desire to return home may not in fact be significant. However, the better view in light of 90% of all 59 male respondents reporting fear or revenge upon return suggests that fears and anxiety of revenge outweigh the desire to return home.

Female former LRA turn to commercial sex work because they cannot reintegrate²⁴

Between 200-300 female former members of the LRA residing in Kasubi parish – close to the UPDF’s northern barracks and about a 30 minute walk for most from Gulu town’s post office – are commercial sex workers. Many of these women received amnesty packages (35%) and/or were afforded short-term assistance including skills training and counselling (41%)²⁵ upon immediate return, but all struggled to reintegrate into their original homesteads and as a result readdressed to Kasubi parish to kick-start a new life.

To subsist, and renting grass-thatched mud huts for about UGX 7,000-8,000 each month, some wash clothes (40%), weed neglected land (33%), fetch water (29%), cement-rendering cattle manure on newly constructed or sullied huts (23%), and/or brew and sell local spirits (11%) in exchange for cash or food items from business persons, government officials, police officers, and UPDF soldiers. These forms of casual labour are inconsistent and underpaid, however, and so they engage in commercial sex work also. These women earn on average a mere UGX 72,000 per month or approximately \$1 per day – those non-commercial sex work related activities outlined above tend to contribute to less than 20% of this monthly total.

24 Unless otherwise stated or referenced, the findings in this section are based entirely on two FGDs in Kasubi parish on 5 May and 23 July 2010, and a survey carried out from 23-30 July 2010 in that same parish of 87 female former members of the LRA who are now commercial sex workers.

25 Various assistance interventions including skills training, counselling, and provision of non-food items was provided by Gulu Support the Children Organization (GUSCO), World Vision, Amnesty Commission, Red Cross Uganda, Windle Trust, and community based organisation Poko-Waribi. When asked about the duration of this assistance, respondents claimed that all assistance was for between one-to-three months.

The majority (87%) were unable to access land in their original homesteads upon return from the bush, and a significant number (37%) recounted their inability to access land as a key reason for their being unable to reintegrate. Land is a decisive motivational return factor in northern Uganda. It is essential for:

1. Housing. Most people in the North reside in mud-huts constructed from mud bricks which are rendered with manure *on their land*;
2. The production of agricultural produce for livelihood subsistence or products for trading to generate an income. Eighty-five percent (85%) of the Acholi sub-region are estimated to sustain themselves and their families through agricultural activities²⁶; and
3. Traditional burial. Nearly all Acholi stress the importance of being buried on their ancestral land. If not, most clans contend that the deceased's spirit will exist in an indeterminate state on earth, not reaching the afterlife, persistently haunting his or her respective family.

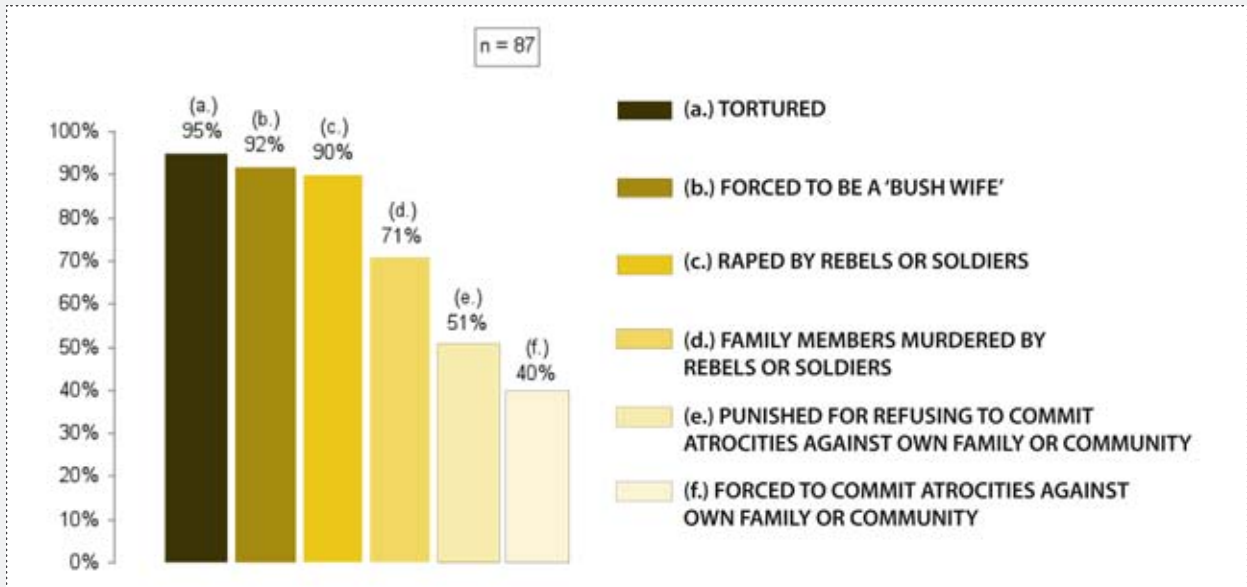
In addition to being unable to access land, a large portion of these women were outright rejected by their families (64%) and communities (65%) upon return. In spite of clear coercion – some 97% were abducted – most were labelled as 'cen' (i.e. demonic) because they were formerly members of the LRA. Functions in the bush ranged from 'bush-wife' (92%) to carrier of supplies (45%) to armed combatant (42%), but the nature of their role(s) did not seem to be a factor, according to FGDs. It was the very fact that they in effect contributed to an insurgency that ravaged so many people's lives in the sub-region for two decades.

The mean age of these women is 27, but some (9%) are still teenagers. Most (62%) are single mothers of between one and five children. They have been working as commercial sex workers for between one to eight years. Their main clients are UPDF soldiers (79%), boda-boda drivers (46%), casual labourers (29%), and businessmen (25%), and they usually host between 2-6 clients per night. Prices range from UGX 1,000-7,000 for protected sex and UGX 1,000-12,000 for unprotected sex. The 'brothel' is frequently the same mud-hut that they rent. Sometimes these mud-huts are shared by up to four women and their children. These women, oftentimes alongside their children, interchange between standing outside these mud-huts at night as they and their co-workers oscillate between partners.

The severe degree of trauma in the form of personalised forms of violence that this sub-group has experienced is extraordinary. Indeed, this on its own emphasizes the appalling neglect of government, donors, and international agencies in overlooking the reintegration of female ex-combatants. The graph below provides further detail of the types and extent of trauma experienced by these women.

²⁶ James Bean and Gareth McKibben, *Labour Market Analysis: Amuru, Gulu, Kitgum and Pader* (Kampala, Uganda: IOM, UNDP and USAID, October 2009), pg 12.

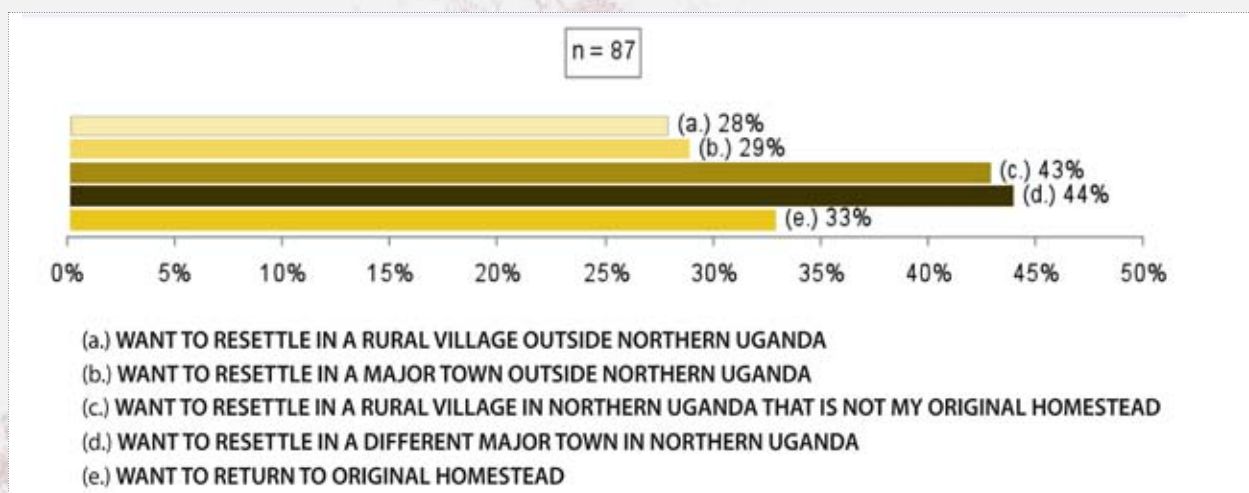
Figure 4 Types of trauma in the form of personalised forms of violence experienced by female former LRA who are now commercial sex workers



Eighty-seven percent (87%) profess that they often feel sad (87%), lonely (86%) and angry (86%). Most (67%) of these women would like to be able to sustain themselves and their children without resorting to commercial sex work, but do not know where to locate reasonably well-paid jobs, and just one in four (25%) presently access to land in Kasubi parish – those that do access land tend to rent a meagerly sized area that is too small to properly subsist of or to produce to trade to generate a profit; some women estimated this area to be just one-tenth of a hectare.

Most (69%) have established friendships in Kasubi and 47% of these women indicate a desire to remain in the parish. However this desire to remain in Kasubi should be contrasted with the 33% of these women, who want to return to their original homesteads. It should be also noted that this means that 58 of the 87 women sampled or 67% do not wish to return to their village of origin (see Figure 5 below). The succeeding graph describes the return and resettlement preferences of the women.

Figure 5 Resettlement preferences of female former LRA who are now commercial sex workers

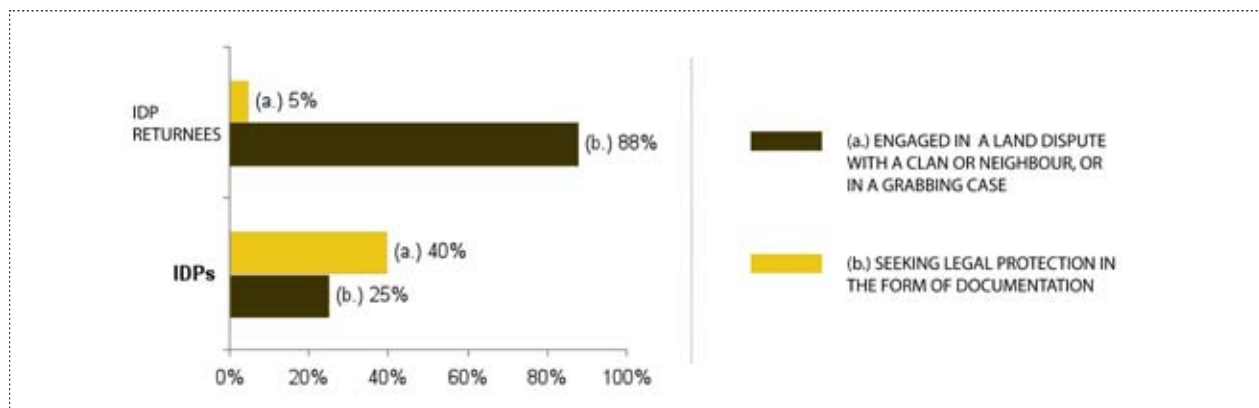


These resettlement and return responses should be viewed alongside the desire of 83% of these women to own their own home, 51% want to access land, and 68% want to be able to put their children through school. One way of interpreting these responses is that despite the huge personal toll that the conflict has had on female ex-combatants living in Kasubi and their deplorable living circumstances, the desire to reintegrate and provide a better life for their children remains strong. This phenomenon, in and of itself, is unique and offers critical clues to the Government of Uganda and the international community about the very real potential for harmony and recovery that exists in the North; moreover, that this potential will not become reality without deliberate and meaningful assistance (i.e. it is not happening spontaneously).

Discord and distrust between IDPs and IDP returnees

The types of cases that IDPs report are significantly different than those reported by IDP returnees. This message must be borne in mind by existing and prospective land focused actors in the sub-region to ensure suitably targeted interventions. The figure underneath, which is based on NRC's 2008-09 ICLA Dataset, highlights the central differences between IDP and IDP returnee case types.

Figure 1 Disparities between IDPs and IDP returnees from November 2008 to October 2009



One way of understanding these findings is to say that returnees and IDPs are simply at different stages of their recovery and reintegration processes. Many IDP returnees are already residing on and cultivating land. Accordingly, the rush for documentation should be viewed critically; in some cases it is land claimants protecting their possession (whether legitimate or otherwise) through certificate-based documentation. IDPs, on the other hand, often find that upon return their family's land is currently occupied and they require dispute resolution assistance before contemplating documentation. However, it is revealing to note that the first point of conflict upon return for significant numbers of IDPs (40%) is a land dispute, and that most returnees (88%) are attempting to secure land ownership through documentation as a means of protection at the same time. Many interviewees pointed to dangerous levels of discord between early and late IDP returnees; discord that could easily metastasize into deeper cycles of instability and threaten Northern Uganda's nascent process of recovery.

Selected case studies: Discord and distrust between IDPs and returnees

Location of dispute: Atiak Kaal parish, Atiak sub-county, Gulu district

Source and incident date: FIDA, February 2010

A man of about 20 years of age was admitted to Lacor Hospital on or about 17 February 2010 after receiving serious shoulder injuries when he was attacked by his own cousins because of a land dispute. His shoulder had been lacerated by a machete, causing internal bleeding. The contention was between a 40 year old man and his three sons – one of which was the 20 year old man admitted to hospital – who had all returned from Atiak IDP camp to Atiak Kaal parish in April 2009, and seven of their cousins who had returned from the same camp to the same parish four months later in August 2009; the dispute revolved around two acres of land. The attacks continued and worsened through and past February 2010, and the family who had first returned in April 2009 is now residing Pabbo IDP camp as a result.

Location of dispute: Pabit parish, Purongo sub-county, Nwoya district

Source and incident date: Legal Aid Project, December 2009

Two half-brothers, aged 30 and 24, clashed over three acres of land in December 2009 to the point where the younger of the two was reported to having been nearly killed. The younger half-brother had returned from Purongo IDP camp in January 2008; the older followed suit in November 2009. Both of their respective mothers' claim ownership over their deceased father's land. The elders in Pabit parish resolved to split the land in two, but neither party accepted this resolution. At the time of writing, the case is before the LC2 courts.

Location of dispute: Lukwor parish, Odek sub-county, Gulu district

Source and incident date: UNHCR, February 2009

One hundred and twenty (120) returning households were forced to regress into transit or IDP camps because of violence enacted by an opposing clan that disputed these households' claims to land. John Komakech who had as a result fled and returned to Acet IDP camp said:

"Men wielding spears, bows, arrows, machetes and axes attacked the village, burning huts indiscriminately. My home was also attacked on the night of 29 February. I was sleeping and at about 2.00am angry men came into my home and started torching huts, including mine. The men said I should leave the land or they would hit me. I narrowly escaped being speared. I can't sleep in my home now; you can see all my family is back in Acet IDP camp."²⁷

It should be noted that as at June 2010 some 295,000 IDPs still remained in camps or transit sites²⁸, and NRC staffers report that most of these want to return to their former land. Some IDPs do intend on remaining in these camps as these localities materialise into villages and markets and service centers, but these people also expect to at the very least reclaim or be compensated for their family's respective land. Additional caseloads of returnees and land-based conflicts upon return will almost certainly continue throughout and beyond 2010.

²⁷ Integrated Regional Information Networks (IRIN), 'Uganda: Land Rows Reverse Resettlement,' 17 March 2009. See <http://www.unhcr.org/refworld/docid/49c3708d1e.html>.

²⁸ UNHCR Gulu Sub-Office, 'IDP Population Update,' June 2010. See <http://www.internal-displacement.org>

Women are sidelined by tradition but protected by law

Out of a total of 321 NRC cases only 34 of these were filed by female claimants from November 2008 to October 2009. The discrepancies between those cases reported by men and women are unable to provide further details and descriptions on why this is so, but the under-representation of women amongst the NRC client roster is instructive.

Tradition

In a customary tenure system, women have the right to utilise and benefit from the land of their family or husband; clan elders are expected to protect these rights. Being that as it may, women do not traditionally 'own' land in a proprietary sense, except in the event of a deceased husband, and even then, only so long as the woman does not remarry or voluntarily return to her maiden family's land/homestead. The so-called "protector" (which is akin to guardianship in relation to a minor under common law) is conventionally a male relative and he retains ultimate ownership subject to the usage rights of the widow and her children. It is therefore hardly surprising that women who demonstrate the initiative to obtain assistance in a land access matter or land-based disputes present in low numbers.

Interviewees reported that in rural areas women do not tend to believe that they are entitled to land tenure at all – a notion that is unchallenged and reinforced by the common arbiters of land conflicts; namely elders (whom are typically male in Acholiland). In urban areas women at times communicate that they should be able to acquire ownership, but are usually reluctant to reach out for land tenure assistance because they are concerned about the consequences, e.g. domestic abuse, public beatings, etc.

In a focus group discussion ("FGD") in Kasubi parish in Gulu municipality on 23 July 2010, female participants stated that women typically function as the sub-region's agricultural backbone, undertaking most of the labour, and should therefore be able to secure land tenure. However, when asked about actually acquiring land tenure, they all laughed, stressing those violent implications outlined above. It was humorous because it was perceived to be absurd.

The challenge that gender-biased land practices pose should not be excused or condoned as indigenous cultural habits and practices. Thirty percent (30%) of households in the Acholi sub-region were estimated to be female-headed in 2004²⁹. The eroding role of the clan in addressing the social protection to women, female orphans, and widows speaks to a huge gap in land access, economic recovery, and subsistence livelihoods. The results are predictable: marginalisation of women in the post-conflict recovery and reintegration period.

Legal rights

Conversely, whereas women are effectively marginalized by traditional customary land tenure practices in the Acholi sub-region, women do possess the same rights as men according to Ugandan law.

²⁹ Civil Society Organisations for Peace in Northern Uganda (CSOPNU) and Land Equity Movement in Uganda (LEMU), *Land Matters in Displacement: The Importance of Land Rights in Acholiland and What Threatens Them* (Kampala, Uganda: CSOPNU and LEMU, December 2004), pg 51. This estimate of 30% of households being female-headed should be compared with similar findings in the Northern Uganda Livelihood Study which found that 24% of households in the Acholi sub-region were female headed (n = 2,575); as published in the 2007 report entitled *Returning to Uncertainty: Addressing Vulnerabilities in Northern Uganda* (Ingunn Bjorkhaug et al, Kampala, Uganda: UNDP, 2007).

Widows: Divested of traditional ownership rights that relate to the death of a husband

In the Acholi sub-region, if a woman is widowed and does not get remarried or decide of her own accord to return to her natural family and their land, she is supposed to be allowed ownership of her deceased husband's land. But oftentimes women face strong resistance from their late husband's clan or family. This resistance is in part evidenced by the fact that three-quarters of the caseload of 34 women that came to NRC for assistance from November 2008 to October 2009 were widows. Examples of these cases are as follows:

- ***In Kitgum, a 45 year-old widow with seven children sought support as her late husband's land and six-bedroom house was sold from underneath her by the late husband's clan without her consent. The clan, she learned, intended on evicting her in due course;***
- ***In Pader, a 38 year-old widow with three children reported that her deceased husband's land had been seized by her brother-in-law – again without her consent; and***
- ***In Gulu, a 60 year-old widowed IDP failed to access either the land of her deceased husband or her birth family upon return.***

Section 27 of the Land Act 1998 states that:

'Any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall be in accordance with the customs, traditions and practices of the community concerned, except that a decision which denies women or children or persons with a disability access to ownership, occupation or use of any land or imposes conditions which violate articles 33, 34 and 35 of the Constitution on any ownership, occupation or use of any land shall be null and void.'

Particular to women, Uganda's Constitution 1995 states that:

1. 'Women shall be accorded full and equal dignity of the person with men (Article 33 (1));'
2. 'Women shall have the right to equal treatment and that right shall include opportunities in political, economic and social activities (Article 33 (4));'
3. 'Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this Constitution (Article 33 (6)).'

There are obvious inconsistencies between legislative provisions and protections on the one hand, and rules governing customary land tenure in the Acholi sub-region on the other. These inconsistencies are further complicated by the legal proviso that '[a]ny decision taken in respect of land held under customary tenure [...] shall be in accordance with the customs, traditions and practices of the community concerned (Land Act 1997, Section 27).' This manifestly opens up space for interpretation, which can (at least in practice) lead to unequal power (and rights) between men and women in land matters.

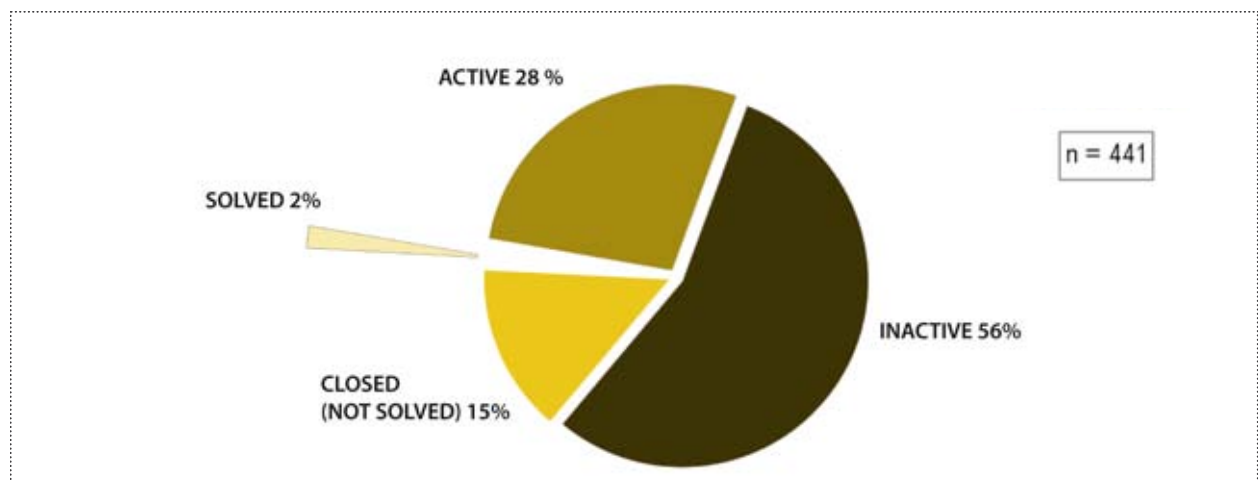
This report consciously does not engage in constitutional considerations of land rights within the pluralist context of Northern Uganda. There are, however, excellent resources readily available on this by the likes of the Land Equity Movement in Uganda and others (see the referenced section at the end of this document).

There are clear standards of response in relation to the responsibility of the international community to respond to the special needs of women and girls in reintegration and post-conflict reconstruction. The United Nations Security Council and the European Parliament have set out what is meant when persons associated with armed groups are being referred to in the context of aid/development and post-conflict programming.³⁰ The Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS) is an institutionalized set of guiding principles for UN agencies and international organizations in relation to post-conflict economic development and socio-economic reintegration; IDDRS Chapters 5.10 on Women, Gender and DDR, 4.30 on Social and Economic Reintegration, and 5.20 on Youth and DDR not only set out benchmarks for reintegration within larger peace-building and recovery processes, but provide comprehensive guidance on the class of persons who are contemplated as people associated with armed groups and forces. Contemporary understandings of the term ‘ex-combatant’ demand a more inclusive definition of combatant in reintegration work, one that goes beyond young men with guns and necessarily covers those associated and at risk during the conflict, such as cooks, logisticians, spies, sex partners, porters, etc. This is why porters and other people abducted or associated with the LRA may legitimately be considered ex-combatants. Women ex-combatants and other young women (e.g. IDPs and returnees) remain a key vulnerable group, whose participation and access to land and assistance clearly necessitates special attention.

“Land disputes are not being resolved!”³¹

Just two percent (2%) of cases were reported to have been resolved by NRC from August 2003 to October 2009. The authors hasten to add that this should not be seen as a failing by NRC; it simply reflects the enormous difficulties and substantial bottlenecks faced by land claimants in resolving land disputes in the Acholi sub-region.³²

Figure 2 August 2003 to October 2009 status of cases³³



30 See United Nations Security Council Resolution 1325 on Women, Peace, and Security, which was unanimously passed in October 2000; and the European Parliament Resolution on the Participation of Women in Peaceful Conflict passed in November 2000.

31 IOM interview with Kenneth Oketta, Prime Minister, Ker Kwaro Acholi, Gulu District, 11 January 2010.

32 Nonetheless, there is evidence to suggest that there are significant gaps in NRC’s case management practices and services. Forty-six percent (46%) of cases from August 2003 to October 2008 were (a) inactive, or (b) NRC was awaiting further information from a claimant, or (c) a claimant was in anticipation of a response from NRC. From November 2008 to October 2009, 29% of cases were situated at one or more of the three abovementioned scenarios. Being that as it may, the gaps in NRC’s case management appear to be the result of difficulties and delays inherent to the nature of pursuing traditional mediation or legal action over land in northern Uganda. See sub-sections entitled “The pros and cons of traditional mediation,” “LC2 Courts and Sub-County Committees are not functional,” and “Chief Magistrates’ Courts are inundated by a backlog of cases” in this report for more detailed information.

The fact that land disputes are not getting resolved reflects the enormous difficulties and substantial bottlenecks faced by land claimants in resolving land disputes in the Acholi sub-region. Put simply, LC2 Courts and Sub-County Court Committees are dysfunctional. Meanwhile, the Chief Magistrates' Courts are overloaded with a backlog of cases. Respondents also shared their declining trust in the objectivity and fairness of traditional mediators, especially elders. This trend also underscores the sheer desperation that colours the entire sub-region in the aftermath of conflict. Most people plainly cannot afford to lose a legal court case or mediated dispute concerning land access. This argument was asserted and is lucidly illustrated by Ker Kwaro Acholi's Prime Minister Kenneth Oketta, who observed as follows:

“Land disputes are not being resolved! Acceptance of verdicts by losing parties are unheard of. People feel they must win even when the evidence is clearly against them. They are adamant because of the trauma of war. People use land as a tool for revenge for all war crimes and injustices they feel they went through. The concept of everyone for themselves was bred in the camps during the war. Many point to the inability of elders to protect them or take care of them. Now everyone takes an individual step to protect their land.”³⁴

The pie graph at Figure 2 describes the situation specific to a sub-set of land claimants from NRC's ICLA database. What this graph and the related commentary of Kenneth Oketta suggests is that a narrative is forming around which land disputes do not get resolved. Not only does this fuel desperation and people taking matters into their own hands, but the fact is that land-based conflict is undeniably presentation of social disintegration. Put simply, unresolved land disputes threaten the nascent stability in northern Uganda.

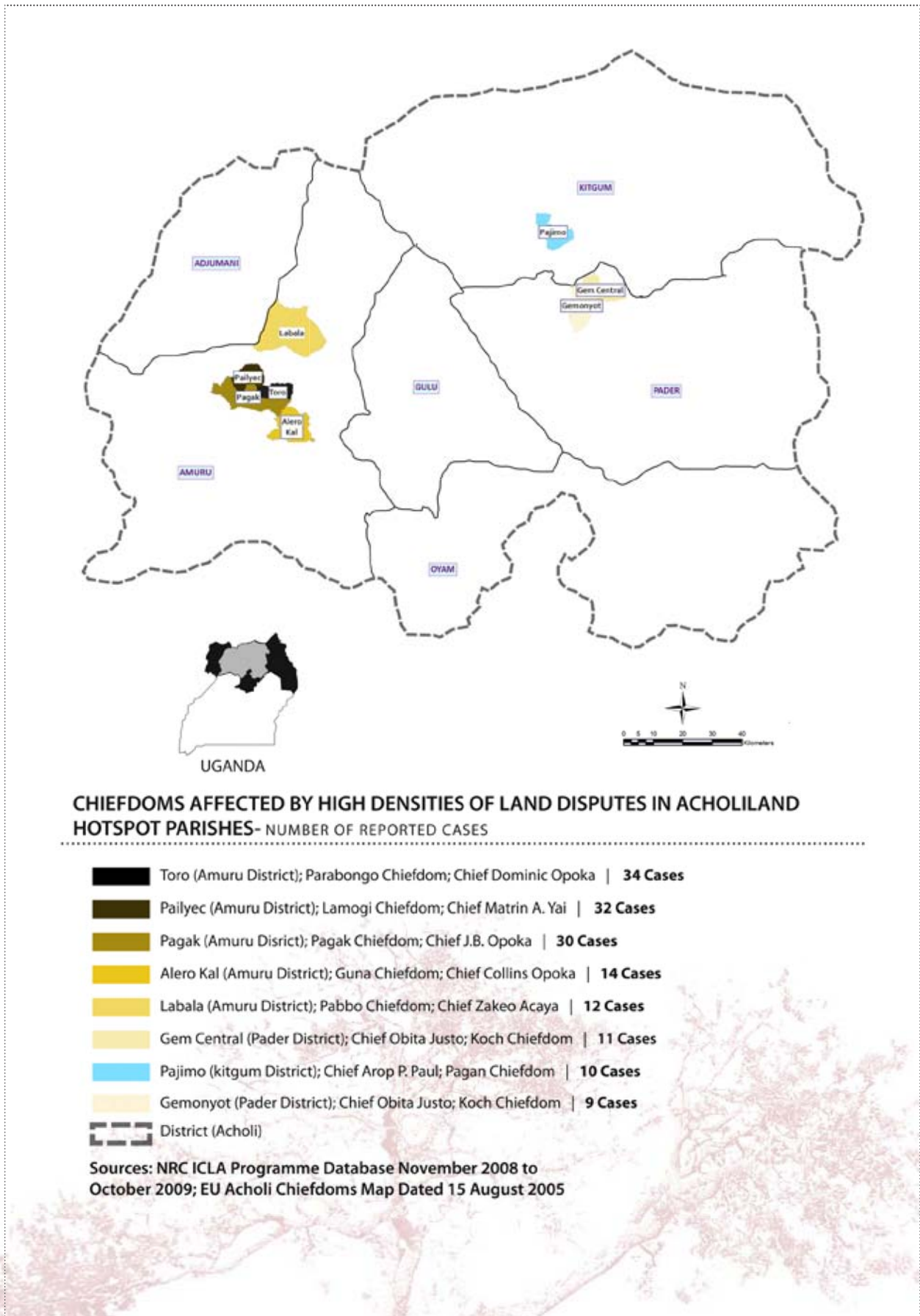
Geographic land dispute hotspots

The succeeding bar chart highlights parishes and chiefdoms containing high densities of land disputes, which were reported to NRC from November 2008 to October 2009. These breakdowns offer evidence-based opportunities for targeted programming to address many of the land related stressors underlined in this report. By way of example, amongst 152 cases sourced from NRC's ICLA Database between November 2008 and October 2009, and spatially mapped overleaf, it appears that 63% of land disputes in this timeframe measured occurred in the district of Amuru. A possible explanation for this is that the time period also coincided with the establishment of Amuru as a new district. At the time, misconceptions were prevalent that there was a lot of vacant land potentially available for sugarcane development and oil exploration. The associated pressures emanating from outside investor interests over land in Amuru were being brought to bear on communities at the same time as IDPs were returning to their pre-war land

33 Based on NRC's ICLA Database, “active” refers to client matters in which a hearing is in place, a client is awaiting a hearing notice, the client is to be provided with feedback by NRC, or NRC is waiting for the client to provide further information. “Inactive” refers to matters that are not being pursued without clear instructions from the client or are pending action. A “closed” matter is one which has been closed or referred to another service provider

34 Ibid.

Figure 6 Parish-level land dispute hotspots in Acholiland



SECTION B: STRUCTURAL BOTTLENECKS, DOCUMENTATION, AND THE ISSUE OF INVESTMENT IN NORTHERN UGANDA

Introduction

In the Acholi sub-region, state-led and traditional systems in relation to land dispute resolution and ownership coexist and typically overlap. Most (93%³⁵) land is owned under customary tenure and is not documented; in matters of dispute, traditional leaders are called in to mediate and resolve. On the other hand, there is a clear increase in demand for paper-based forms of ownership as a means of protection (or, in some cases, as a market requirement e.g. to be used as collateral to obtain a bank loan). In addition, there are a host of tribunals that are competent to hear and decide land cases. The number and confusion amongst these tribunals to some extent reinforces the practice of forum-shopping amongst land claimants in Northern Uganda.

This plethora of options may appear to enhance public choice and voice³⁶ in northern Uganda, but poorly funded services, plain incompetence, corruption and distorted information flows instead creates a climate of confusion and suspicion. This section analyses land access and ownership issues and pinpoints structural and informational bottlenecks that are clogging the systems; mainly for the purposes of targeted interventions to afford assistance to those vulnerable sub-groups outlined in Section A of this report, but also for investors contemplating investing in northern Uganda.

Guide to traditional and state-led land dispute resolution mechanisms

It has been noticed that many land claimants continue forum-shopping notwithstanding the fact that they may have sought NRC assistance and/or have already scheduled a courtroom hearing. The phenomenon of forum-shopping is causing significant bottlenecks within the judicial system. There are five systems in place to manage land disputes in northern Uganda:

1. **Traditional Institutions** – cultural institutions accepted and utilised by communities in mediation and settlement of disputes, including land disputes. They are legally recognised by way of Section 88(1) of the Land Act 1998. Mediators tend to be entrusted chiefs or elders. Courts can in fact refer parties to non-court mediators agreed upon by both parties. ALBs very often refer land dispute matters to these institutions.
2. **LC2 Courts** – settle disputes at the village- and parish-level. Their decisions are legally binding, but they require the Chief Magistrate Court to execute their orders.
3. **Sub-County Court Committees** – attend to and settle land disputes at the sub-county level. Unlike LC2 Courts, these courts are appellate tribunals, but often necessitate the Chief Magistrate Court to execute their orders.
4. **Chief Magistrates' Courts** – created by Article 243(2) of the Constitution 1995 and replaced Land Tribunals in 2002. The Magistrates' Courts can initiate cases and hear cases on appeal

³⁵ Ker Kwaro Acholi, *Principles and Practices of Customary Tenure in Acholiland* (Gulu, Uganda: Ker Kwaro Acholi, June 2008), pg 1.

³⁶ Albert O. Hirschman's renowned treatise *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations, and States* (1970) suggests that accountability can be achieved through either exit or voice. The user can simply withdraw from the service and go elsewhere, or s/he can attempt to repair or improve the service through communication of the complaint, grievance or proposal for change.

from the Sub-County Court Committee and execute orders or decisions passed by the LC2 or Sub-County Court Committees. This tribunal functions at the district-level, and despite its competency to hear matters at first instance, in practice land disputes are referred back to LC2 courts.

5. **High Court** – hears appeals from the Chief Magistrates' Courts and can also act as courts of first instance in land dispute matters, especially those concerning the verification of certificates of title. The High Court is located in Kampala, but like the Chief Magistrate's Court at the district-level, in practice this tribunal refers land disputes back to Chief Magistrate's Court and/or LC2 courts.

The above description of tribunals gives the impression that there are in fact several options for pursuing matters due to the courts' original jurisdiction. However, it is worth underscoring once again that public perceptions of available tribunals negatively reinforce the practice of forum-shopping.

The pros and cons of traditional mediation

The traditional leadership institution, Ker Kwaro Acholi, is starting to play a key role in the implementation and promotion of customary land conflict mediation, and the June 2008 publication *Principles and Practices of Customary Tenure in Acholiland* is illustrative of Ker Kwaro Acholi's efforts to provide clarity in customary law and procedures.

The so-called traditional method of land dispute resolution is claimed by Ker Kwaro Acholi to be more effective because:

1. It is time- and cost-effective;
2. Chiefs and elders frequently possess complimentary understandings of natural boundaries and the relationships and connections required to ascertain pre-war land ownership between clans, families, and communities; and
3. Chiefs and elders are respected by local communities, which is an essential element to ensuring that final decisions obtain full compliance.

That being said, there are fault lines that should be considered by actors who are considering strengthening Ker Kwaro Acholi. Gender- and age-biases, that are in part a normative feature of the cultural landscape, could potentially erode certain sub-groups' (e.g. women's) trust in the capacity of elders and chiefs to exercise sound judgment in the post-war reckoning with respect to land disputes.

It should also be noted that throughout the year of research and analysis underpinning this study many complaints by and misgivings of key vulnerable groups and members of the local population were shared with IOM in relation to Ker Kwaro Acholi. Broadly speaking, most people seem to accept the competency of Ker Kwaro Acholi, however their credibility (evinced by perceptions of fairness and impartiality) was constantly the subject of contempt and suspicion. More apparent from discussions with key informants was the strong sense that *rwodi* and clan elders comprising Ker Kwaro Acholi have variable capacity. Lawyers also reported that while Ker Kwaro Acholi as an institution may have a comprehensive understanding of customary tenure, the situation is very different amongst individual clan leaders and elders.

These shortcomings may in part explain why some land claimants are alleged to be utilising elected government officials and religious leaders to mediate in land disputes instead. Simply depending on the objectivity and fairness of chiefs and elders by default is not always seen as the most reliable avenue for assistance, dispute resolution, and recourse in the Acholi sub-region. Of particular concern to the international community should be the many actors providing assistance to Ker Kwaro Acholi; these range from EU support, NRC, and USAID's Northern-focused programmes known as SPRING and the Northern Uganda Transition Initiative (NUTI). At the time of writing this document, the total quantum of assistance over a defined timeframe could not be established, however the very real possibility exists that Ker Kwaro Acholi the cultural institution is being displaced for Ker Kwaro Acholi 'the project.'

LC2 Courts and Sub-County Court Committees are not functional

LC2 Courts and **Sub-County Court** Committees are operational, but they are poorly funded and facilitated. The media has almost daily coverage usually reporting on corruption and poorly trained and unpaid officials. In one qualitative field report submitted to UNDP by Uganda-based Economic Policy Research Centre³⁷, parish- and sub-county-level courts monitored did not possess legal texts for reference purposes. Moreover court officials demonstrated inadequate understanding of Ugandan law, the obvious assertion being that land access and disputes were partly caused through incompetence.³⁸ Gulu District's Chief Magistrate Omodo Nyanga Joseph has observed that in the limited number of land hearings before these lower tribunals that court committees typically do not maintain records of proceedings. This further compounds the problem of poor arbitration because in the event a case is adjourned or delayed, for whatever reason, without records of proceedings, this means that matters must often be heard afresh.³⁹

Chief Magistrates' Courts are inundated by a backlog of cases

Chief Magistrates' Courts are functional in Gulu and Kitgum, but overburdened by a huge backlog of cases. This build up of cases includes but is not limited to land disputes, and the backlog is not significantly shifting (see Table 1 below). It should also be borne in mind that criminal matters take precedence over land disputes for reasons of public interest.

Table 1. Backlog of land cases at the Chief Magistrate's Court in Gulu District⁴⁰

Types of land cases	Registered land cases from January 2003 to July 2010	Completed land cases as at July 2010	Outstanding land cases as at July 2010	Percentage of land cases outstanding as at July 2010
Civil suits	444	196	248	55.9%
Civil appeals	575	274	301	52.3%
Misc applications	982	486	496	50.5%

37 Economic Policy Research Centre, 'Poverty and Social Impact Analysis of the Proposed National Land Use Policy,' November 2007. See http://www.undp.org/poverty/docs/projects/Uganda_Land_Policy_PSIA.pdf

38 *Ibid.*, pg 16.

39 Omodo Nyanga Joseph (Gulu District Chief Magistrate), 'Procedure and Practice: Resolving Land Disputes in Northern Uganda,' presented at Gulu Support the Children Organization's Conference Hall in Gulu District on 21 and 22 December 2009.

40 The data informing this table was provided by Gulu District's Chief Magistrate Omodo Nyanga Joseph on 12 August 2010.

There are many observed causes for the enormous backlog of unresolved land cases, including but not limited to the following:

1. The Chief Magistrates' Courts inherited a surfeit of land cases from the former District Land Tribunals;
2. LC2 Courts and Sub-County Court Committees critically lack capacity to the point of being dysfunctional; cases that could have been resolved or decided within these lower tribunals end up on the workbenches of the Chief Magistrates' Courts;
3. Fresh applications are being made at an alarmingly faster rate than those being resolved or decided. These Courts will continue to be stretched as 295,000 IDPs still situated in IDP camps or transit sites in the sub-region⁴¹ continue their process of return to their places of origin; and
4. Chief Magistrates' Courts are shouldered with a vast geographical jurisdiction. For instance, the jurisdiction of the Gulu Chief Magistrate's Court spans Amuru, Nwoya, and Gulu districts, whilst Kitgum Chief Magistrate's Court covers Pader, Agago, Lamwo, and Kitgum districts. Part of the reason for this is re-districting, but the fact remains that the huge geographical area Chief Magistrate's Courts are required to cover is creating insurmountable obstacles for already overworked legal officers.

The other issue people experience when facing Chief Magistrates' Courts is the high cost of litigation. Most people cannot afford to seek legal recourse for land disputes.⁴² In addition to a litigation fee of UGX 30,000, the disputing parties must meet the costs of the Chief Magistrate's movement in the event that the Chief Magistrate is compelled to visit the disputed site. These costs are around UGX 100,000, mainly for transport and security. Further costs incurred are dependent on the number of witnesses summoned; witnesses usually demand an allowance for transport and accommodation. Legal fees are on top of these costs. Being that as it may, according to some legal aid experts these costs are still lower than the illegal exactions demanded by LC2 courts. Legal aid is plagued by inadequate resources given the huge demand for LAPs in the Acholi sub-region. It is worth bearing in mind that there are only five LAPs working in Acholiland, namely FIDA, Legal Aid Project, NRC, Uganda Land Alliance, and War Child Canada.

Cost considerations and the impecuniosity of land claimants applies equally in relation to the **High Court**, which is also located in Kampala (a 4-6 hour bus ride from Gulu).

Escalating demand for documentation

Documentation is increasingly becoming a perceived protection and/or market requirement in the sub-region. Historically, proof of ownership was demonstrated through occupation/possession, utilisation, knowledge, natural landmarks, and protection; these modes of ownership were safeguarded by the local clan. In today's post-conflict context (however temporary), trust in unwritten or customary forms of ownership is declining. In spite of the fact that some 93% of land in the sub-region is held under customary tenure⁴³, and mindful of the fact that customary tenure is legally equivalent to other common law forms of ownership⁴⁴, the rising assumption amongst local populations is that "getting papers is a must."⁴⁵

41 UNHCR Gulu Sub-Office, 'IDP Population Update,' June 2010. See <http://www.internal-displacement.org>.

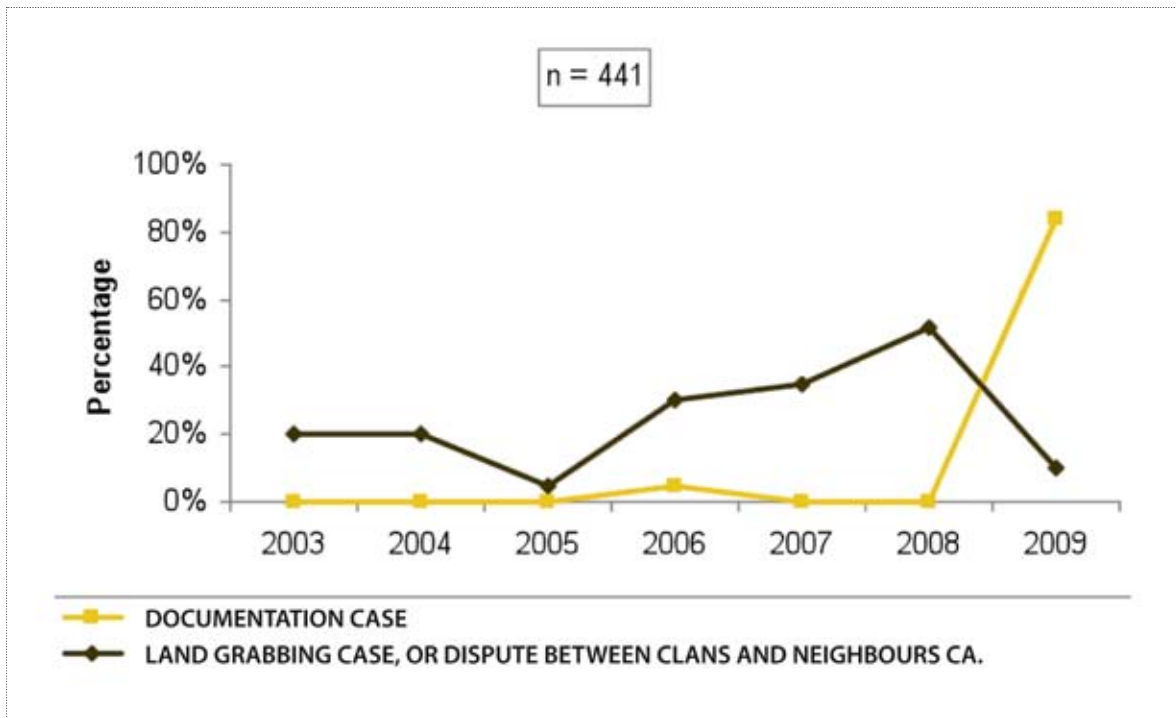
42 The proportion of poor people in the North – defined as those unable to meet their basic needs – sat at 64% in 2002. See FAO, Food and Security and Agricultural Livelihoods Cluster: Plan of Action for Northern Uganda 2008-2009 (Kampala, Uganda: FAO, 2008), pg 3.

43 Ker Kwaro Acholi, *Principles and Practices of Customary Tenure in Acholiland* (Gulu, Uganda: Ker Kwaro Acholi, June 2008), pg 1.

44 Constitution of the Republic of Uganda 1995, Section 237 (3)(a).

45 IOM interview with Noah Opwonya, Chairman, Gulu District Chamber of Commerce, Gulu District, 2 December 2009.

Figure 3 Increase in documentation cases; decrease in land grabbing and dispute type cases



In 2009 84% of all cases received by NRC related to assistance to acquire documentation for land. No more than 1% of cases from 2003-08 concerned documentation.

However, there is an important provision to note as regards interpreting this finding. Certificates of Customary Ownership, as catered for in the Ugandan Constitution 1995⁴⁶ and the Land Act 1998⁴⁷, became operational in 2008. These – at least in theory – are documented traditional customary tenure arrangements (see sub-section entitled “Certificate of Customary Ownership (CCO) – is it an option?” of this report for more information). NRC ICLA’s global ‘Core Activity Policy Document’ pays attention to “obtaining documents relating to [...] accumulated rights (Section 4.1.5 (A)).” In the case of organisation’s land related legal aid activities in northern Uganda, this means documenting land. Therefore, it is highly likely that NRC’s preferred method of assistance (i.e. documentation) played a large part in the very dramatic increase in 2009 of claimants interested in acquiring documentation

46 Constitution of the Republic of Uganda 1995, Article 237 (4)(a).

47 Land Act 1998, Section 4(1).

What exactly does customary tenure mean?

Customary ownership of land is ownership that is recognised locally, notwithstanding whether or not the party in question possesses formal documentation as evidence. It is legally equivalent to a certificate of title under the Uganda's Constitution 1995 and Land Act 1998.

Land held under customary tenure is subject to local customary rules of ownership, including inheritance, burial, and access privileges for family members; rights of passageway (viz. easement) for all clan members to access communal areas and markets; and rules that relate to land preservation and maintenance. These are traditionally not in written form, but because of the profusion of land conflicts that arose as IDPs returned to their places of origin, traditional leaders in the North – led by Ker Kwaro Acholi – are attempting to define customary practices and laws in English and Luo. It must be stressed that these rules, despite their best efforts to be all-inclusive and all-encompassing in geographical scope, as recorded in booklets published by Ker Kwaro Acholi and funded by the EU and NRC⁴³, are not necessarily representative of all clans within the Acholi sub-region.⁴⁴

Land in Acholiland is owned by families and households; it is rarely, despite frequently cited reports to the contrary, communally owned by the clan. The only land that can usually be described as communal are specific areas set aside by the clan for:

- **Grazing – grasslands;**
- **Hunting – grasslands and forests;**
- **Collecting firewood – forests; and**
- **Retrieving water from local wells – wetlands.**

By convention, the clan has an original jurisdiction or competency to create and enforce local regulations that govern ownership and land management; these regulations are analogous to municipal regulations covering matters such as zoning, building standards/code, and planning coordination arrangements.⁴⁵

Owners of land held under customary tenure tend not to be authorised by the clan to alienate their land. It is also difficult for owners to effectively utilise their verbal customary ownership status to persuade a bank to provide finance or a loan.

Drivers behind demand for documentation

The reasons for this intensifying demand for documentation of all forms of proprietary paper-based forms of ownership are many and include:

1. Perceived decline in the clan's authority, capacity and benevolence to protect those who are most vulnerable. In interview, many respondents pointed to the failure of the clan to protect their communities from police and military personnel who were allegedly acquiring land

⁴⁸ Ker Kwaro Acholi, *Law to Declare The Acholi Customary Law* (Gulu, Uganda: J.B. Enterprises, June 2009); Ker Kwaro Acholi, *Principles and Practices of Customary Tenure in Acholiland* (Gulu, Uganda: Ker Kwaro Acholi, June 2008).

⁴⁹ Indeed the very process of codification, and the associated issue of approximating some 50 or more clans' pluralized conventions and practices, may in fact constrain the dynamic nature of customary law in Acholiland.

⁵⁰ Simon Levine and Judy Adoko, 'Land Rights and Displacement in Northern Uganda,' *Humanitarian Practice Network – Overseas Development Institute*, Issue 34, July 2006.

throughout the course of the conflict without the affected clans' consent. Allegedly under duress, clan chiefs and elders succumbed to the pressures of conflict. Consequently, respect for and faith in the clan on the part of communities has attenuated and become so eroded that its authority is potentially under threat. Interviewees also called into question the clans' capacity to successfully negotiate land matters with families and communities, public officials and interested business parties. Other reports hinted at clan chiefs and elders extorting capital in exchange for allocating land to private companies and individual business concerns. It must nonetheless be stressed that, because of the highly subjective (and secretive) nature of these events and allegations, empirical data on their prevalence does not exist; this raises the possibility that these reports may refer to isolated incidents.

2. Partial or distorted information about land and ownership rights and documentation. NGOs, media outlets and other stakeholders are reportedly offering mixed messages to local populations concerning land rights. This is sometimes the result of uninformed, ideologically, and/or politically motivated agendas and programming. Other sources of this confusion are individual staff members' communication errors and English–Luo translation inconsistencies, especially in the case of international organizations. It is submitted that these mixed messages have led to the impression that documentation is essential, and in other cases, fuelled suspicion amongst local people that they are being misled – either way documentation is being perceived as a safe port in the gathering storm.
3. Distrust of external investors. Documentation promises legal protection to better negotiate with prospective investors if owners want to alienate or lease their land (or if they want to hold onto it). Local populations are increasingly expressing their concern that if they do not possess documentation, they will eventually be disenfranchised from their land by large-scale private interests. This apprehension has been fuelled by reported cases of land being sold to investors – without the occupant families' or households' consent – by government officials, distant and/or hostile family members, clan chiefs and elders, and mendacious land claimants. Alarmist media attention to proposals such as that of the Madhvani Group to secure 40,000 hectares of land in Amuru District to produce, process and package sugar⁵¹ further fan the flames of suspicion amongst an anxious and still returning Acholi population. Conspiracy and intrigue run unchecked; for instance, a rumour continues to persist that Acholis were interred in IDP camps for twenty years because the Government sought to capitalise on the sub-region's vast and fertile farm land.
4. Land grabbing and boundary disputes between clans, neighbours and families. During the preliminary stages of IDP return from 2006-2008 (see Figure 3 above), these types of disputes were prevalent. Numerous returnees had prior resided in IDP camps for 10-20 years. Environmental and conflict-related factors radically altered the sub-region's landscape, and proof of ownership in the form of clan chiefs and elders was no longer available – many had died in the camps. Early IDP returnees reportedly seized upon these factors and their early return and either captured land or 'pushed out' traditional boundaries in their favour. Those who lost out were mostly young people, particularly those who had spent all or most of their lives in the camps – not having beforehand set eyes on their ancestral land – and whose parents and grandparents had died during the conflict. Documentation is readily being perceived as a means of safeguarding against future boundary disputes.

⁵¹ Cissy Makumbi, 'Amuru Land Shouldn't go to Madhvani, says Bishop Odama,' Daily Monitor, 8 April 2009.

5. Population growth. Uganda is experiencing an annual population growth of more than 3.3% as at 2008.⁵² Suffice to say this trend, which is projected not only to continue but to increase⁵³, restricts the available acreage per head in the sub-region. These escalating population figures are frequently referenced in national newspapers and on local radio stations. Legal aid practitioners consulted noted occasions where local people had relayed these figures and their impact on the sum of land available in the sub-region.
6. Perception that compensation for land previously damaged or occupied by UPDF military garrisons, IDP camps, NGOs, health clinics, schools, or private businesses can be obtained only if the claimant possesses documentation. Thirty-eight percent (38%) of NRC's cases from August 2003 to October 2008 related to claims of this type – all of which sought compensation and damages for loss of land. During the course of the conflict, many governmental and non-governmental agencies and private businesses inhabited and built on land that was owned by IDPs as they remained in the camps.
7. Panic caused by word of mouth. People in the villages spot their neighbours attempting to acquire documentation, and simply follow suit. According to legal practitioners in Acholiland, panic and rumour in relation to land ownership shrouds the sub-region creating a climate of misapprehension and irrational fear of dispossession and adversity.

Desire for documentation may actually reflect the desire for investment, trade, and business development by Northerners

Many banks in northern Uganda will not accept undocumented land as a security asset. Traditional customary tenure arrangements are more often than not insufficient to successfully negotiate with financial institutions in the sub-region. IOM surveyed 116 producers in the Acholi sub-region in April and May 2009; 115 said they intend on enhancing the quality and quantity of their agricultural production. Inquired about the means required to do this, 79% stated that they need access to financial services. But not one surveyed producer recalled seeking or receiving finance in the form of an institutional bank loan.⁵⁴ Increased demand for documented land may therefore be a proxy indicator of post-conflict recovery in the sub-region. The fact that not one Certificate of Customary Ownership (CCO) has been issued in Acholiland at the time of writing this document clearly demonstrates that the desire for documentation is being denied. It's quite besides the point that this effective denial is caused through incompetence and dysfunctional lower tribunals' incapacity; the narratives that local populations will develop will inevitably focus on this 'denial' as somehow intentional and yet another example of Acholis being disenfranchised.

Documentation options available to Northerners

There are technically three paper-based options available for people in the Acholi sub-region:

- **Certificate of Customary Ownership (CCO);**
- **Freehold; and**
- **Leasehold.**

⁵² See <http://data.worldbank.org/country/uganda>.

⁵³ Ole Hagen Jørgensen – World Bank, 'Population Dynamics and Agricultural Land Depletion,' 4 October 2006, pg 2. See http://www.cebr.dk/upload/population_dynamics_and_agricultural_land_depletion.pdf.

⁵⁴ James Bean and Gareth McKibben, Labour Market Analysis: Amuru, Gulu, Kitgum and Pader (Gulu and Kampala, Uganda: IOM, October 2009), pgs 14, 18, 24, 31 and 36.

The succeeding sections briefly outline these three types of proprietary interests in land.

Certificate of Customary Ownership (CCO) – is it an option?

The Norwegian Refugee Council (NRC) received 231 documentation cases from January to October 2009 relating specifically to Certificates of Customary Ownership (CCOs). CCOs are expressly referred to in Uganda’s Constitution 1995 (viz. Article 237 (4)(a)) and the Land Act 1998 (viz. Section 4(1)). CCOs were initiated so that proprietors of land held under customary tenure can obtain many of the same rights encompassed in freehold title (e.g. rights to lease, mortgage, and alienate land) without the hassle of going through the lengthier and more expensive procedures associated with acquiring a freehold title.

The CCO scheme was released in the spirit of documentation being made unanimously accessible to all in Uganda, but at the time of writing not one CCO has been issued in all of northern Uganda.⁵⁵ To better understand why this initiative has not yet progressed, outlined below are the five steps designed to be undertaken by claimants or officials to obtain a CCO, and seven factors that are currently encumbering this process.

Five steps required to ‘document’ a CCO

Steps necessitated to be undertaken by claimants or officials to release a CCO are as follows:

STEP 1 - APPLICATION

Claimant acquires three copies of a CCO application form (see Annex A) from their respective sub-county office and should be given an issuance receipt. The total cost of three copies is UGX 5,000. This amount is consolidated within the sub-county’s public revenue.

Claimant fills out the CCO application forms. Details include all names of those persons that the claimant wants the CCO to be applicable to – usually family members – all of which must sign all three copies of the application form. These forms are then re-presented to the claimant’s relevant sub-county office, and are to be concurrently passed on to the sub-county’s Area Land Committee (ALC). The ALC consists of five elders and the sub-county Chief, and tends to sit at the sub-county’s office.

STEP 2 - NOTICE

The sub-county’s ALC sits, assesses the application, and puts out a public notice – this notice is displayed both at the sub-county’s office and at the claimant in question’s parish. It runs for 14 days and specifies the name of claimant, the date of their application, and the date that the ALC will visit the claimant’s land to determine the case’s viability. This is to encourage individuals and communities to come forward if they oppose the claimant’s request.

⁵⁵ At the time of writing this document, eighty-four (84) applications were at the recommendation stage in Amuru District and seven in Kitgum District; twelve (12) applications were at the inspection stage in Gulu District.

STEP 3 - INSPECTION

All ALC members – to ensure that there is a safety net against corruption – visit the claimant’s land to verify the boundaries underpinning the application and to provide an opportunity for potential parish- and village-level objections to be heard. If the case is clear, the ALC accordingly demarcates the borders of the claimant’s land by means of trees, shrubs, or lines of uncut grass, and hand sketches a map of the land in question and the land’s surrounding area and landmarks (see Annex B for an example).

STEP 4 - RECOMMENDATION

The ALC assembles to discuss the case in hand and prepare findings-based recommendations, which are subsequently sent to the appropriate District Land Board (DLB). The ALC sends three documents to the DLB: a letter stating the ALC’s findings and recommendations, the original application form presented by the claimant to the ALC, and the ALC’s hand sketched map. In receipt of a CCO claim, DLBs can accept the ALB’s recommendation, reject it, provide an alternative recommendation, request further information, or instigate an investigation and/or hearing.⁵¹

DLBs were created in order to administer land at the district-level under Article 241 of the Constitution 1995. All un-owned or publicly owned land is vested in DLBs, and they are responsible for approving or rejecting CCOs and for processing titles. This is in line with broader decentralisation shifts from the national- to district-level.⁵² National agencies such as the Uganda Land Commission no longer maintain the district land registers.

DLBs are supposed to encompass the respective district’s urban and rural planner, and its land officer, valuer, surveyor and registrar.

STEP 5 - ISSUANCE OF CCO

Theoretically, if the client’s case is clear and unobjectionable the DLB is to issue its verdict alongside all prior process documentation to the ‘Land Recorder,’ which is legally the respective sub-county’s Chief.⁵³ Subsequently, the Chief, or more specifically the land registrar that reports to the Chief, is to document the land and the case’s details, and issue a CCO in duplicate form. One copy is delivered to the claimant; the other remains at the sub-county’s office. The cost to the claimant for issuance is UGX 5,000.

Seven factors encumbering the GoU's CCO initiative

Impeding factors to the GoU's CCO scheme include as follows:

- 1. Many applicants are illiterate and require assistance to fill out the CCO application form.** There are a number of Legal Aid Providers (LAPs) that afford this type of assistance, but according to interviewees demand clearly outweighs the supply and resource capacity of LAPs available in the Acholi sub-region. Sixty-four percent (64%) of all clients in search of CCO application assistance from NRC between November 2008 and October 2009 were illiterate.
- 2. District Land Boards (DLBs) are holding up the process. A major problem is the delays of DLBs in shifting their backlog of CCO applications.** This is partly due to re-districting, DLBs staffing structure being in flux, and existing members of DLBs are moving to new districts' yet-to-be established DLBs. It is also due to the sheer capacity problems experienced by DLB staff (and land claimants).
- 3. Most sub-county offices do not have the resources to print out or photocopy sufficient numbers of CCO application forms to meet the demand on-the-ground.** Because of this, claimants are habitually issued application forms for freehold and leasehold title instead, according to legal aid practitioners and ALC members consulted. This serves not only to limit the number of CCO applications being processed, but it also creates excess confusion and difficulties on-the-ground. To most applicants all these forms are one and of the same and sub-county officers do not tend to inform applicants of the differences between these forms and claimants' documentation options.
- 4. Despite being provided for in the Land Act 1998, ALCs only became operational 10 years later in 2008.** Almost all sub-counties have identified ALC members, and most ALCs are functioning. But **ALCs' members have not been presented with formal letters of appointment and remain unpaid.** This obviously affects their perception of job security. Legally, the District is meant to determine and pay their respective salaries, alongside reimbursements for costs incurred pertaining to steps 2 and 3 of the CCO process outlined above (e.g. for transport, accommodation etc), but this has not yet ensued. Consequently, ALCs tend to assemble, review applications, and issue public notices once every one or two months only – as opposed to each and every time an application form is presented to the sub-county's office. These latencies considerably dilate the CCO application process for land claimants.
- 5. Furthermore, ALCs are presently transferring administrative costs to CCO applicants.** The costs vary across sub-counties, but in some instances ALCs are requesting up to UGX 800,000 from applicants for all three steps – notice, inspection and recommendation stages – that they are involved in. The sheer volume of cases received renders it almost impossible for ALC members to perform their duties without payment, but this amount is clearly out of reach for most people in northern Uganda, and effectively serves to kill off the driver behind the CCO initiative: to ensure that documentation is a genuine option for all citizens in Uganda regardless of income and social status.
- 6. In practice, if disputes arise during any of the above mentioned steps, the ALC tends to resign from the case.** This resignation is not communicated to the claimant and claimant's objectors, and is also usually not deliberate; instead, the case tends to get de-prioritized as less complicated claims accumulate on ALC member's desks. ALCs are theoretically assumed

to sit as LC2 courts in land conflict cases, but this does not happen. It is also questionable whether ALC members possess the knowledge and skills required to professionally mediate land disputes. Most legal aid practitioners interviewed reported that more often than not CCO cases are disputed.

- 7. There is reported to be at best partial awareness in DLBs about CCOs.** Most DLB civil servants are reported to be for the most part acquainted with freehold and leasehold titles only. Accordingly, district-driven pressure on sub-county offices and ALCs in respect of CCOs is unlikely. The Ministry of Lands, Housing and Urban Development is attentive to this problem, and has created a training manual for DLBs to better understand and put into operation the CCO process, but this has not yet been distributed at the time of writing this report.

Freehold Title – is it an option?

Freehold title is the holding of registered land indefinitely subject to statutory and common law qualifications. Under these arrangements, the owner may lease, mortgage, encumber, or in any way assign the land to another person or persons (e.g. as a gift or under his/her will). The titleholder can also use this documentation to acquire an official bank loan in the form of a mortgage.

Registered freehold title remains the exception not the rule in the Acholi sub-region⁵⁶, not least because of the implicated costs and the individualistic nature of this proprietary interest(s).

Northern Uganda's customary tenure arrangements are largely centered on households and families. Male children possess inheritance rights in a customary tenure structure, and women benefit from rights relating to land usage and retention of stewardship in the event that their spouse passes away.⁵⁷ Whereas with freehold title, the state is the only legal arbiter; not the clan or traditional leadership. It should be noted, however, that freehold title can be held jointly or in defined shares. Freehold title, because it does not discriminate or apportion rights according to gender or role(s) within the community, offers more protection for women. People in Acholiland consider their family-owned land to be the only reliable form of social security left for them in the post-war context. People can and do return to their family's land if life in cities and towns becomes too demanding, or if they have reached the age of retirement; this also explains the protective behaviour exhibited by families in seeking formal documentation and registration of their freehold interests.⁵⁸

Obtaining freehold title is the most costly of land documentation processes. Formal costs incurred include between UGX 250,000-750,000⁵⁹ for a surveyor to properly demarcate the land's boundaries and between UGX 140,000-200,000 for the actual certificate of title. Informal process fees and/or illegal exactions can put the total cost of obtaining freehold title in excess of UGX 2 million or USD 1,000.⁶⁰

⁵⁶ Current estimates indicate that the larger Northern region comprises just 0.6% of people possessing Freehold Titles, but this figure is in all probability slightly higher in the Acholi sub-region because the Karamoja region's districts will most likely diminish the total percentage. See Carly K. Petracco and John Pender, 'Evaluating the Impact of Land Tenure and Titling on Access to Credit in Uganda,' IFPRI Discussion Paper 853, International Food Policy Research Institute, March 2009, pg 12 at <http://www.ifpri.org/sites/default/files/publications/ifpridp00853.pdf>.

⁵⁷ Ker Kwaro Acholi, Principles and Practices of Customary Tenure in Acholiland (Gulu, Uganda: Ker Kwaro Acholi, June 2008), Part 2, Section 6.

⁵⁸ Land Equity Movement in Uganda (LEMU), 'Policy Discussion Paper 2 – Titling Customary Land,' pg 3.

⁵⁹ Economic Policy Research Centre, 'Poverty and Social Impact Analysis of the Proposed National Land Use Policy,' November 2007, pg 22. See http://www.undp.org/poverty/docs/projects/Uganda_Land_Policy_PSIA.pdf. Note here that these are rates estimated in 2007 and have most likely increased considerably.

⁶⁰ Bouke Thomas Berns, 'The Uganda Land Issue,' Kampala, Uganda: Royal Netherlands Embassy, October 2009, pg 58.

Leasehold Title – is it an option?

Leaseholds are a system whereby a landowner grants a tenant land usage rights for a specified period of time – in the case of Uganda this is usually 49 or 99 years. The terms and conditions of leases are agreed upon by the landowner and tenant. The tenant tends to pay rent or render services on behalf of the landowner in exchange. More often than not the 'landowner' is the Ugandan state.

There is reported to be a number of long-standing leases in the Acholi sub-region obtained before Uganda's Constitution 1995 and Land Act 1998 came into effect. Preceding these legal directives, all land in Uganda was vested in the Uganda Land Commission and individuals could only apply for a lease. Land was, in effect, nationalised, and these leases tended to be for 49 or 99 years.⁶¹

Present-day leases are usually acquired or registered through District Land Boards (DLBs). Under the Land Act 1998, land not owned by recognised tenure or the Uganda Land Commission became absorbed into DLBs. DLBs usually lease or utilise this land for urban development and/or to private businesses. Leasehold interests of privately owned land (i.e. freehold) are also registered with DLBs in order to ensure the leasehold interest is recorded as an encumbrance on the freehold certificate of title.

That being said, because CCOs are not yet fully operational and freehold title(s) are costly, not to mention the fact that leasehold interest(s) essentially equate to an additional form of district-level revenue for DLBs, DLB officers regularly advise land claimants to opt for a leasehold title – even in matters where the leaseholders are the actual customary owners!⁶²

Leaseholders in the sub-region are predominantly situated inside the vicinities of Gulu municipality and the town councils of Kitgum and Pader.

Commercial agricultural investment: Problem or opportunity?

This combination of relative deprivation and land ownership complexities presents considerable obstacles to development in the Acholi sub-region. Spearheaded by both individuals from the sub-region and domestic investors, there are commercial interests looking at the agriculture potential of Acholi sub-region in this post-conflict transitional period. Nearly all localities in Acholiland have arable land, forgiving topography, agreeable patterns of rainfall, and two harvest cycles per year. Excellent opportunities exist for small- to medium-scale farmers and investors alike; the sub-region's offers immense agricultural potential through the production and trading of high demand raw materials such as upland rice, cassava, sorghum, beans, simsim (sesame), coffee (robusta), tea, cotton and tobacco. However, profitability, job creation, and agricultural sector growth will only occur if investment integrates the agriculture industry and the necessary enabling infrastructure required (viz. irrigation, electricity, feeder roads, etc)

61 Land Reform Decree 1975.

62 Civil Society Organisations for Peace in Northern Uganda (CSOPNU) and Land Equity Movement in Uganda (LEMU), *Land Matters in Displacement: The Importance of Land Rights in Acholiland and What Threatens Them* (Kampala, Uganda: CSOPNU and LEMU, December 2004), pg 11.

Investment that relies heavily on land is far from straightforward in northern Uganda, and a plethora of obstacles stand in the way, including as follows:

1. The majority of land (93%) is owned under customary tenure⁶³, rendering the buying and selling of most land outside of towns and municipalities problematic. The principles and practices of customary tenure in the Acholi sub-region, as outlined and advocated by Ker Kwaro Acholi emphasise that all customary land is inalienable.⁶⁴ This customary principle does not appear to apply equally across all of the Acholi sub-region; investors have been able to negotiate around inalienability in particular sub-counties and parishes. Nevertheless, serious difficulties arise between local people (who risk being dispossessed and disenfranchised), but also external investors, who risk being defrauded.
2. At the time of writing this document, some 30% of the sub-region or approximately 295,000 people reside in IDP camps and transit sites⁶⁵ and many of these people are likely to return to their pre-war land over the next two years. This continual stream of potential land-claimants returning home is likely to fuel more confusion and stoke communities' frustration in relation to land ownership in the North. The Land Equity Movement in Uganda (LEMU) stresses that there is 'very little 'free' land' in northern Uganda, noting that this fact is 'not necessarily obvious to an outsider' in part because of the legacies of massive internal displacement.⁶⁶
3. The perception amongst many of those who suffered through the sub-region's protracted conflict that outsiders, including domestic and foreign investors and the Acholi sub-region's returning Diaspora, are unfairly benefiting from inexpensive post-war labour, raw materials, land and property, at the same time as the majority of directly conflict-affected individuals and communities persist in struggling to meet their basic daily needs. This relative deprivation must be treated as a both a human security concern and a critical security consideration for internal and external actors with an interest in stability in the North.

Negotiating with whom?

In one case, narrated by a legal aid practitioner in interview in Gulu District, two young family members brokered a contract with an incoming investor, without the knowledge and consent of their respective household, and subsequently ran off with the investor's upfront capital. The investor remained without choice but to renegotiate with the incumbents' relatives who simply parroted—intentionally or otherwise—sections of Ker Kwaro Acholi's 'Principles of Customary Tenure.' Namely Part 2, Section 1(b), which reads: 'Customary land is not for sale'; and Part 2, Section 1(f), which reads: 'Land will always remain in the family or household.' The investor found himself both landless and out-of-pocket!

63 Ker Kwaro Acholi, *Principles and Practices of Customary Tenure in Acholiland* (Gulu, Uganda: Ker Kwaro Acholi, June 2008), pg 1.

64 *Ibid*, Part 2, Section 1 (b).

65 UNHCR Gulu Sub-Office, 'IDP Population Update,' June 2010. See <http://www.internal-displacement.org>.

66 Civil Society Organisations for Peace in Northern Uganda (CSOPNU) and Land Equity Movement in Uganda (LEMU), *Land Matters in Displacement: The Importance of Land Rights in Acholiland and What Threatens Them* (Kampala, Uganda: CSOPNU and LEMU, December 2004), pg 4.

Recommendations

1. SPECIAL NEEDS OF WOMEN AND GIRLS

Just 10% of NRC's caseload from November 2008 to October 2009 were women. Three-quarters of those 34 women that did reach out for support from NRC in 2008 or 2009 were widows. Explicit rights are afforded to women both customarily and legally, but they are disproportionately advantageous to men. Accordingly, women are not inclined to be assertive in land disputes or to obtain external assistance. Indeed, women claimants are oftentimes not aware of their legal rights. This is particularly problematic in the case of orphans and widows.

Thirty percent (30%) of households in the Acholi sub-region are estimated to be female-headed; the potential for marginalization of women's access, economic recovery, and subsistence livelihoods is manifest. Female ex-combatants (e.g. gun-carrying combatants, cooks, logisticians, spies, abductees, sex partners, porters, etc.) and female-headed IDP and returnee households have experienced extraordinary levels of trauma (see Figure 4 above). The marginalization of women's rights, especially the key sub-groups already mentioned, in relation to land and thereby a means to prosper stands to negate their participation in the nascent processes of reintegration and recovery in the North. International actors and the Government of Uganda have a special duty and standard of care in relation to this group because they are vulnerable now and are at risk of backsliding into deeper patterns of vulnerability. Looking to the purpose of UN Security Council Resolution 1325, the emphasis is on equal participation of women and girls in the negotiation and decision-making processes, determination of benefits and eligibility, programme design, project implementation, and the staffing of such programmes. Res. 1325 also talks about gender perspective, disaggregating data, and differentiating between the needs of male and female ex-combatants (also taking into account dependents) in DDR programming. Accordingly, it is submitted that the purposive elements of Res. 1325 warrant special attention by the international community through practical action.⁶⁷ Recommended avenues for putting women and girls back on the agenda include as follows:

- **Specialised reintegration and integration programmes for female-headed, IDP, returnee, and ex-combatants households.** A strong focus should be given to areas like Kasubi, where women are clearly backsliding (and becoming more vulnerable in the process). A broad approach should encapsulate access to services such as legal aid, and safe and voluntary resettlement and return packages that focus on both the livelihood needs of women and the needs of their children and dependents. Self-sufficiency by way of land access or paid employment should be at the forefront of efforts to assist this particular caseload; 67% of women in Kasubi report that they would like to be in a position to sustain themselves and their children without resorting to commercial sex work. Interventions that focus merely on their social reintegration (e.g. through awareness-raising and sensitization) will not be sufficient. Gulu district government should approach donors on this matter. These are the very types of people that public funding is supposed to protect and support.

⁶⁷ It is now common to encounter the expression "implementation of UNSC Res. 1325". As a document, Res. 1325 is a call to action; therefore, a narrow focus on the expression "special needs of women and girls" (e.g. during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction) which results in seminars and ubiquitous awareness-raising is not really action and it will not help Acholi women.

- **Cultivation and encouragement of grassroots women’s groups may be an excellent way of preventing land grabs and enforcing land rulings at the local level.** Clusters of women can protect each other through approaching male elders to complain about a land grab as a unified group, collective savings to fund land mediation or legal fees, and/or public humiliation of typically male perpetrators of land grabbing at local marketplaces as a means of social pressure. Government and clan-level structural support systems are time and again not addressing women’s and girls’ needs in northern Uganda.

2. LEGAL AID SHOULD FOCUS ON WOMEN AND YOUNG LAND CLAIMANTS

Specialist legal aid and land mediation services should be funded for female-headed households and/or youth more generally. Women and youth claimants, regardless of cultural restrictions that existed prior to the full-scale conflict that laid the North to waste, deserve to be specifically targeted and provided assistance in order to prevent their double victimization in the post-conflict transition. All Legal Aid Providers (LAPs) need to focus more of their attention on woman and young land claimants, who are being overlooked at the risk of gross marginalization. If this presages inconsistency between common law and customary avenues for recourse, it is submitted that LAPs should focus on the best interests of the client. Whilst there are five LAPs in the Acholi sub-region, NRC is by far the largest and most comprehensive. NRC should lead the way!

3. CERTIFICATE OF CUSTOMARY OWNERSHIP (CCO) – MAKE IT HAPPEN!

There is clear demand for and benefits associated with CCOs, and the Ministry of Lands, Housing and Urban Development’s collation of a district-level training manual demonstrates the Government’s intentions to ensure that CCOs finally come into being subsequent to their enactment in the Land Act 1998. CCOs are – at least in theory – easier to obtain and less expensive than freehold title(s), and may potentially provide the impetus for finance/loans and the right to safely lease land to investors. Furthermore, CCOs guarantee that the role of the clan and that of elders and Chiefs remains intact. Recommendations to ‘mobilize’ the CCO initiative are as follows:

- **The issue of payment for ALC members needs to be resolved and quickly.** This small matter of remuneration is delaying land administration. District-level governments do not possess the resources required to remunerate ALCs – the net effect is that necessitated costs are being squeezed out of the pockets of claimants instead. Donors, agencies and the Ministry of Lands, Housing and Urban Development should coordinate with district governments to determine fixed prices for CCO processes and fixed salaries and reimbursement (e.g. for travel to and from sites) costs for ALC members, and assist with meeting these respective expenditures. Public announcement of these statutory charges would also go a long way towards enhancing transparency and clearing up confusion over costs and the CCO application process.
- **Training and mentoring in CCO processes and related procedures should be provided to ALC and DLB staff by qualified Ugandan lawyers with twice-annual refresher training for at least the first five years.** Manifest knowledge gaps exist and must be addressed to ensure land claimants get accurate information on CCOs and appropriate assistance. The most effective training method would be to employ teams of qualified Ugandan lawyers to provide on-the-job training to ALC and DLB staff. However the training modality is devised, it should not involve off-site training or the construction of training institutes – the time for this has well and truly passed!

- **Database specialists should be seconded to ALCs, DLBs, LC2 courts, and Sub-Country Court Committees to design and implement a user-friendly database of CCO applications and land-disputes.** This should be complimented by on-site training of record-keeping staff. It is strongly recommended that databases are established in hardcopy format rather than electronic given the unreliable power supply in Acholiland and limited computer skills of public officials. Lastly, if a simple hardcopy database is installed, it should be done so at the same time as providing typewriters, file-storage equipment, photocopy machines, and an external power supply.
- **Efforts should be made to ensure that sub-county and ALC offices receive a regular supply of all CCO application and related forms in line with demand for documentation.**
- **Individuals and communities deserve to be better informed about CCOs so that they can make an informed decision. By empowering people in Acholiland, they are in a position to question possible misinformation supplied by ALCs, LC2 courts, Sub-Country Court Committees, and DLBs.** Efforts should be made to educate local people on CCOs through local opinion shapers, role models and leaders that people trust. Land is an acutely sensitive and politically charged issue – getting the right messages out is crucial. The national Government should spearhead a simple and comprehensive information campaign in the sub-region as part of PRDP implementation in order to clearly communicate people’s rights in relation to land. One of the most popular forms of media in Acholiland is radio. To be effective, this campaign must be both locally designed and supported by district politicians, legal representatives including Chief Magistrates and Judges, clan-level elders and Chiefs, and civil society groups. It is obviously very important that those engaged in awareness-raising programmes fully understand CCO processes and related legislation themselves and are effective communicators. Further misinformation is the last thing Northerners need.

4. BETTER REFERRAL NETWORKS BETWEEN SPECIALIST ACTORS

Misapprehensions exist between young adults and ex-combatants and senior members of families or communities in the sub-region. These misunderstandings are not only encumbering land access for at-risk young adults, but they negatively reinforce the sub-region’s fragile post-conflict security environment. Referral networks between specialist actors should be planned and jointly established for mediation and resolution of land disputes between key vulnerable groups such as ex-combatants, female-headed households, and recently returned IDPs. For instance, the Amnesty Commission should be identifying and referring amnestied reporters, auto-demobilised ex-combatants, and other young war affected men and women struggling to access land to qualified and experienced (and adequately funded) LAPs such as NRC for legal aid and mediation assistance.

5. ASSISTED (RE)INTEGRATION OF REMAINING IDPs

Roughly one-third of IDPs remain in camps or transit sites⁶⁸ and many of these are projected to return their pre-war land over the next two years. These imminent returnees are highly likely to be confronted early IDP returnees who have seized land or ‘pushed out’ boundaries. Land-based conflicts are inevitable. Nearly one in every two cases reported by IDPs from November 2008 to October 2009 related to land access, ownership and land-grabbing. Sub-section entitled “Discord and distrust between IDPs and IDP returnees” of this report point to a number of violent land-based disputes too. District-level governments and external actors should implement

⁶⁸ UNHCR Gulu Sub-Office, ‘IDP Population Update,’ June 2010. See <http://www.internal-displacement.org>.

preventative measures at once. One approach is to systematically identify IDPs intending on returning to their villages of origin, and engaging their clan representatives in order to negotiate a pre-return settlement in advance of their arrival. A programme of assisted voluntary return and (re)integration of the remaining 295,000 IDPs would go a long way to reducing conflict and disintegration amongst returning IDPs and their communities.

6. CAPACITY BUILDING: LC2 COURTS AND SUB-COUNTRY COURT COMMITTEES

The resources and capacity required for local-level tribunals to successfully manage and respond to the magnitude of demand for land disputes to be heard and decided is the touchstone issue for judicial administration. Chief Magistrate's Courts are operational in Gulu and Kitgum. However, these courts are struggling to cope with a huge backlog of cases; moreover criminal cases and civil litigation are further clogging up the courts. Accordingly, entry points for capacity building are not at the Chief Magistrate's Court; rather it is the poor capacities of Sub-County Court Committees and LC2 Courts that need immediate and sustained attention. Demands upon these tribunals will continue to increase as many of the some 295,000 remaining IDPs⁶⁹ return to their pre-war land. Swift and decisive interventions will be required to avoid local populations taking matters into their own hands. A comprehensive appraisal of LC2 Courts and Sub-County Court Committees should be carried out; this appraisal should be quickly followed by intensive and long-term training, provision of necessary equipment, and re-staffing as necessary. In terms of sequencing, this assessment should prioritize parishes and sub-counties with high- and medium-densities of land disputes and key vulnerable groups (e.g. female-headed households, ex-combatants, etc.) expanding out to eventually cover the entire Acholi sub-region.

7. ON-BUDGET SUPPORT FOR KER KWARO ACHOLI

Mindful of the concerns and shortcomings expressed by Acholis about the objectivity and fairness of clan leaders and elders, international actors should focus on how to prevent the erosion of Ker Kwaro Acholi and it being seen as 'a project' rather than a credible institution for assistance, dispute resolution, and recourse within the Acholi sub-region. The Government of Uganda should establish precisely the total quantum of assistance received by Ker Kwaro Acholi over the last five years (2005-2010). Once this is established, consultations led by the Government of Uganda and Ker Kwaro Acholi should be undertaken in order to determine the true running costs of Ker Kwaro Acholi, including rwodi, clan elders, hearing costs, transport, accommodation, and support staff and office costs. If appropriately sequenced, sustainable institutional-strengthening of Ker Kwaro Acholi through public funding is exactly the kind of locally led and transparent type of external on-budget support that Uganda's donors should be considering.

8. INVESTMENT MUST AVOID ANTAGONISING THE LOCAL POPULATION

Profit-maximizing individuals and businesses breed resentment in the post-conflict populations because of their relative affluence. In order to combat relative deprivation, incoming investors (including Acholi Diaspora) must create jobs and be seen to be supporting recovery and reintegration in northern Uganda; not taking advantage of it. For instance, if a trained workforce is important to an investor, staffing should take into account key vulnerable groups and consult communities extensively rather than be tempted to recruit externally. Most people in northern Uganda are either underemployed or entirely unemployed. Successfully managing the way in which investment enters Acholiland is a process of securing local acceptance and being sensitive to the legacies of conflict in the north. Ensuring suitably negotiated land access is also crucial if investors want to avoid a land dispute that could quickly deteriorate into a threat to their investment(s). Lessons have been learnt and investors should consult broadly before trust-

⁶⁹ Ibid.

ing any one party as to the availability of land for lease or acquisition. This process is often called due diligence. The United States Agency for International Development (USAID) – Stability, Peace, and Reconciliation in Northern Uganda (SPRING) programme’s practical eight-stage method of securing land agreements deserves special mention in this respect (viz. the February 2010 briefing paper entitled, “Model for Land Tenure Security”). SPRING’s approach entails identification of land; determination of existing ownership; preparation of a land agreement draft; acquisition of extensive land agreement signatories by way of community-level consultations; formal execution of the land agreement; and registration of the final land agreement at the sub-county government’s offices.

“I’ve seen young men from the camps and the villages and the towns shouting and abusing these big businessmen as they walk by. Some of them try and steal from these people too. They’re frustrated and angry because they don’t have any money, and they see these big men go by in their expensive, shiny cars. I can understand why they do it.”

– Anonymous civil servant in Gulu District

9. INTEGRATED DATABASE FOR LEGAL AID PROVIDERS

This report is an important first step for evidence-based programming on the subject of land and conflict in the Acholi sub-region. Very little in the way evidentiary analyses existed beforehand, and this study should serve as a precedent for future engagement on the subject of land. Uganda has a clear and well-drafted set of land laws and delegated legislation; the problem is land administration. Further debate that focuses on the constitutional aspects of land law in Uganda will not identify practical solutions for what are administrative bottlenecks in land administration. To ensure an empirical debate on current trends occurs, LAPs should collaborate to initiate a shared management information system (Legal MIS) for the sub-region. This MIS database should contain non-confidential information only and be periodically analysed to demonstrate changes-over-time and to highlight land access stressors for better directed interventions.

10. MEDIA MAPPING

In the event that very little can be done to avert exacerbation of land dispute backlogs in courts, equitable investment and land access, and addressing the marginalisation of women, there is one thing that can be done for very little resources. This involves monitoring land disputes, particularly land disputes that have become a locus of community resentment, communal violence, and/or politically volatile. By mapping the reporting of these incidents on locally available media (viz. print and broadcast media) what will emerge is a dataset showing trends, including the tempo of land disputes, the densities of land disputes, and provide some forewarning to policy-makers, the police, and local government. Media mapping has been carried out as part of post-conflict recovery processes all over the world and is usually best performed by a non-governmental or international organisation that is seen by both government and local populations as impartial.

References

James Bean, *Preliminary Analysis: Reporter Profiling from the Amnesty Commission of Uganda ICRS Database* (International Organization for Migration and the Uganda Amnesty Commission, December 2008). See <http://uganda.iom.int/publications.htm>.

James Bean and Gareth McKibben, *Labour Market Analysis: Amuru, Gulu, Kitgum and Pader* (Kampala, Uganda: IOM, UNDP and USAID, October 2009). See <http://uganda.iom.int/publications.htm>.

Bouke Thomas Berns, 'The Uganda Land Issue,' Kampala, Uganda: Royal Netherlands Embassy, October 2009.

Ingunn Bjorkhaug et al, *Returning to Uncertainty: Addressing Vulnerabilities in Northern Uganda* (Kampala, Uganda: UNDP, 2007).

Civil Society Organisations for Peace in Northern Uganda (CSOPNU) and Land Equity Movement in Uganda (LEMU), *Land Matters in Displacement: The Importance of Land Rights in Acholiland and What Threatens Them* (Kampala, Uganda: CSOPNU and LEMU, December 2004).

Constitution of the Republic of Uganda 1995.

Economic Policy Research Centre, 'Poverty and Social Impact Analysis of the Proposed National Land Use Policy,' November 2007.

European Union – Acholi Programme, 'Acholi Chiefdoms' map, 15 August 2005.

FAO, *Food and Security and Agricultural Livelihoods Cluster: Plan of Action for Northern Uganda 2008-2009* (Kampala, Uganda: FAO, 2008).

Albert O. Hirschman, *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, MA: Harvard University Press, 1970).

Jessica Huber, 'Briefing Paper: Model for Land Tenure Security,' submitted on behalf of Emerging Markets Group, Ltd. (Stability Peace and Reconciliation in Northern Uganda (SPRING)) to USAID Kampala in February 2010.

Integrated Regional Information Networks (IRIN), 'Uganda: Land Rows Reverse Resettlement,' 17 March 2009. See <http://www.unhcr.org/refworld/docid/49c3708d1e.html>.

Ole Hagen Jørgensen, 'Population Dynamics and Agricultural Land Depletion,' 4 October 2006. See http://www.cebr.dk/upload/population_dynamics_and_agricultural_land_depletion.pdf.

Omodo Nyanga Joseph (Gulu District Chief Magistrate), 'Procedure and Practice: Resolving Land Disputes in Northern Uganda,' presented at Gulu Support the Children Organization's Conference Hall in Gulu District on 21 and 22 December 2009.

Walter Kälin, *Guiding Principles on Internal Displacement – Annotations*, Studies in Transnational Legal Policy, No. 32, 2000.

Ker Kwaro Acholi, *Law to Declare The Acholi Customary Law* (Gulu, Uganda: J.B. Enterprises, June 2009).

Ker Kwaro Acholi, *Principles and Practices of Customary Tenure in Acholiland* (Gulu, Uganda: Ker Kwaro Acholi, June 2008).

Land Act 1998.

Land Equity Movement in Uganda (LEMU), 'Policy Discussion Paper 2 – Titling Customary Land.'

Land Reform Decree 1975.

Simon Levine and Judy Adoko, 'Land Rights and Displacement in Northern Uganda,' *Humanitarian Practice Network – Overseas Development Institute*, Issue 34, July 2006.

Cissy Makumbi, 'Amuru Land Shouldn't go to Madhvani, says Bishop Odama,' *Daily Monitor*, 8 April 2009.

Carly K. Petracco and John Pender, 'Evaluating the Impact of Land Tenure and Titling on Access to Credit in Uganda,' IFPRI Discussion Paper 853, International Food Policy Research Institute, March 2009. See <http://www.ifpri.org/sites/default/files/publications/ifpridp00853.pdf>.

Survey of War-Affected Youth ("SWAY"), 'The State of Female Youth in Northern Uganda: Findings from the Survey Of War-Affected Youth Phase II', Jeannie Annan, Christopher Blattman, Khristopher Carlson and Dyan Mazurana, April 2008.

UNHCR Gulu Sub-Office, 'IDP Population Update,' June 2010. See <http://www.internal-displacement.org>.

UN Secretary-General, note to the General Assembly, A/C.5/59/31, May 2005.

World Bank: online dataset for Uganda. See <http://data.worldbank.org/country/uganda>.



Annex A



The Republic of Uganda

**THE LAND ACT, CAP 227
THE LAND REGULATIONS, 2004.**

Regulation 3

Form 1

APPLICATION FOR CERTIFICATE OF CUSTOMARY OWNERSHIP

PART I: (To be filled by the applicant in triplicate)

1. Full Name (Surname first)	Sex (M/F)	Age	Marital Status	Citizenship
(i)
(ii)
(iii)
(iv)
(v)
(Add as necessary)				

2. Address (i) Permanent.....
(ii) Contact.....

3. Location of land:
Village/Zone.....
Parish/ Ward.....
Sub County/ Town.....
County/ Division.....
District.....

4. Approximate area (ha).....

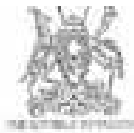
5. Use or occupation of land (e.g. farming, housing, family dwelling).
.....
.....

6. Names of owners of adjacent land
.....
.....
.....

7. (a) Do you want to hold the land as a family? YES/NO
(b) Do you want to hold the land as a community? YES/NO
If yes, state shares (fractions or percentages)

(c) Do you want to hold the land as individual(s)? YES/NO
Signature/ Thumbprint of applicant(s)
(i)
(ii)
(iii)
(iv)

Date of application



Regulation 28

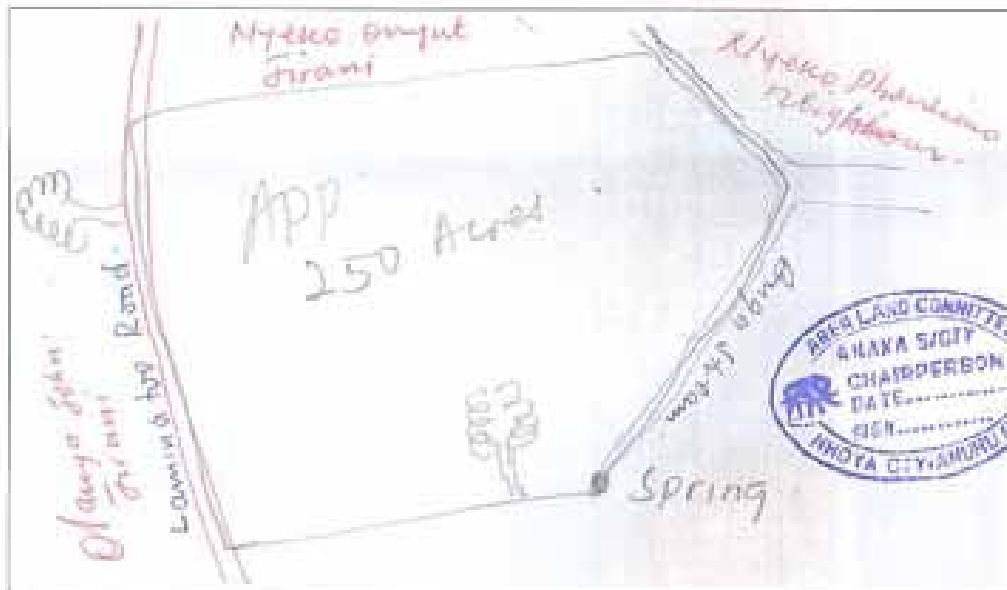
THE LAND ACT, CAP 227
THE LAND REGULATIONS, 2004

Form 23

DEMARICATION FORM FOR CERTIFICATE OF CUSTOMARY OWNERSHIP
(to be filled in triplicate)

PIN _____
District County/Municipal Sub-county/ _____
Division/Parish/ _____
Ward/Village/ _____
Zone/Parcel No. _____
Owner(s) _____

Sketch (not drawn to scale)



Description of rights of way or other easements (if any):

Road from Arua Sub County through the
sketch land going to Kach Naminata in Kach
Jirani Sub county.