



IDENTIFICATION OF GOOD PRACTICES IN LAND CONFLICT RESOLUTION IN ACHOLI



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UGANDA

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All omissions and errors of interpretation within this report naturally remain the sole responsibility of the authors.



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ACRONYMS

ADR	Alternative Dispute Resolution
ACORD	Association for Cooperative Operations Research and Development
ARC	American Refugee Committee
ARLPI	Acholi Religious Leader's Peace Initiative
AVSI	Association of Volunteers in International Service
CAO	Chief Administrative Officer
CBO	Community Based Organisation
CCO	Certificate of Customary Ownership
COOPI	Cooperazione Internazionale
CESVI	Cooperazione e Sviluppo
CRS	Catholic Relief Services
EVI	Extremely Vulnerable Individuals
GWEDG	Gulu Women's Economic Development and Globalization
HURIFO	Human Rights Focus
IASC	Inter-Agency Standing Committee
IDP	Internally Displaced Person
IOM	International Organization for Migration
IRC	International Rescue Committee
JPC	Justice and Peace Commission
JRS	Jesuit Refugee Service
KAS	Konrad Adnauer Stiftung
LEMU	Land Equity Movement Uganda
LC I	Local Councillor I
LC II	Local Councillor II
LC III	Local Councillor III
LC IV	Local Councillor IV
LRA	Lord's Resistance Army
MP	Member of Parliament
NEMA	National Environment Management Authority
NFA	National Forestry Authority
NGO	Non Government Organisation
NRM	National Resistance Movement
NRC	Norwegian Refugee Council
NULPP	Northern Uganda Land Partners Platform

OXFAM	Oxford Committee for Famine Relief
PEAP	Poverty Eradication Action Plan
PMA	Plan for the Modernization of Agriculture
PPRR	Principles, Practices, Rights and Responsibilities
PRDP	Peace Recovery and Development Plan
P7	Primary Seven
RDC	Resident District Commissioner
TAO	Trust for Africa's Orphans
UJCC	Uganda Joint Christian Council
ULA	Uganda Land Alliance
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNRCO	United Nations Resident Coordinator's Office
USAID	United States Agency for International Development
UWA	Uganda Wildlife Authority

FOREWORD

In a farming region affected by two decades of conflict, land, a crucial element for the livelihood of the Acholi, has become simultaneously a major stake and a source of conflict. At the height of the civil war that pitted the Lord's Resistance Army against the Government of Uganda, approximately 1.8 million people were displaced in camps.

Internally Displaced Persons started to leave camps in 2008. Figures emerging from an assessment by UNHCR on the return process show that 35% of returnees in Acholi demarcated the boundary of the land they returned to and nearly 25% encroached on someone else's land. In some cases (5%) people hurried to cut down all trees demarcating the old land boundaries. While the situation could potentially degenerate, the return reaches its ending stage in an overall peaceful way. However, the otherwise encouraging economic recovery of the region has been affected by an unprecedented wave of land disputes.

One of the objectives of this study is to provide a reliable projection on the magnitude of land conflict in Acholi. The study aims at highlighting the existing practices that prove to be effective in the resolution of land related cases. There are an estimated 12.000 land cases dealt with every year by Local Councillors I and II. To counterbalance this projection, the mediation provided by these institutions and local leaders proves to be effective and long-lasting. By highlighting the most successful practices in land conflict resolution and analysing the current systems of tenure, this report proposes policy recommendations to overcome a considerable constraint to development.

Future programming for the development of northern Uganda should not rely on the assumption that peace is a constant factor. In this regard, the prevention of the conflict, such as the land one, becomes of utmost importance.

This report is part of five studies commissioned by the United Nations under the Peacebuilding Programme. Through joint action by different UN agencies, funds, programmes and organisations, the UN aims at contributing to Government and other institutions efforts in defusing the potential triggers of conflict in the region. Land, youth unemployment and marginalization of vulnerable groups, are the areas that the research component of the programme seeks to shed light on.

Lasting peace will be possible if we as development actors integrate peacebuilding in our programmes.

Theophane Nikyema
UN Resident Coordinator

EXECUTIVE SUMMARY

Conflict associated with land has increased substantially following the return of peace to the Acholi Region with the return of internally displaced people (IDP), population growth, and increases in the value of land. The area is heavily dependent on agriculture and conflict related to land access seriously threatens to undermine development and the social, political and economic stability of the Acholi Region.

This study involved community members, key informants, and statutory and traditional leaders in three sub counties in each of the seven Acholi districts. The research examined existing practices for the sustainable transformation of land related conflict. It identifies and explores the interaction between the key actors with a particular focus on traditional leaders and LCILs at the forefront of resolving disputes within the community: providing a clearer understanding of the capacity of these two institutions to peacefully resolve land related conflict.

The study reveals the efficacy of existing community level mechanisms in effectively resolving land disputes. While neither statutory nor customary mechanisms are without weaknesses, they continue to function and resolve the majority of land disputes to the satisfaction of all parties involved. The traditional leaders generally have the trust of the community, a sound knowledge of the situation and the immediate actors involved, and are well positioned to engage in ADR. Where this fails, they are well placed to document existing boundaries and the relationship between the parties to the dispute that can be used in evidence in statutory courts.

The findings of the study underscore the need to resolve the legal status of the local councils; strengthen their knowledge of the relevant laws and procedures of arbitration; provide them with more detailed evidence compiled by the traditional leaders; and formalize their interaction with superior courts to make them more effective and address issues of corruption.

Recommendations

- Sensitize the public on statutory and traditional land laws and the statutory and traditional mechanisms and processes available to peacefully resolve land disputes
- Government to strengthen the capacity of all statutory mechanisms
- Government to finalise and legitimise the role of LCIs and LCIIIs
- Strengthen capacity of LC courts: training on relevant laws, arbitration procedure and record keeping
- Standardize fees and/or develop objective criteria for determining the contributions of plaintiff and complainants for court fees and site inspections
- Enforce existing laws concerning the involvement of traditional leaders in government
- Strengthen links between statutory mechanisms and traditional leaders
- Explore the formalization of a role for traditional leaders in alternative dispute resolution and the preparation of evidence
- Strengthen capacity of traditional leaders: sensitization on customary law, ADR and record keeping
- Develop a uniform format for records for submission to higher courts as evidence
- Streamline and formalize the appeals process: starting with ADR administered by the traditional leaders before proceeding to LCIIIs and subsequent courts
- Revise the Acholi Practices, Principles, Rights and Responsibilities (PPRR) or develop a more comprehensive version in close consultation with the rank and file of traditional leaders to: 1) maximise awareness of traditional law, 2) ownership of the document
- Encourage the traditional leaders through the Ker Kwaro Acholi to consider a revision of the roles and responsibly of women in Acholi traditional law—possibly in association with the preceding point.
- Improve understanding of land grabbing through further research

INTRODUCTION

Land related conflict across the Acholi Sub-region has increased substantially with the massive return of approximately 92% of the internally displaced people (IDP) following the end of the war in the area.¹ The land related conflicts have been compounded by demographic distortions associated with the protracted civil conflict.

Northern Uganda has not been immune to the global increase in food and commodity prices exacerbated in recent months by rising inflation.² The primary economic activity in the Acholi Sub-region is subsistence agriculture with household disposable income at approximately UGSH 15,000 (US\$5.90) per month.³ There are few alternatives to access capital, apart from agriculture for both livelihoods and food security. As elsewhere on the continent, acute population pressures and increased awareness of land as a capital asset have contributed to an escalation in land disputes in recent years.⁴ Such disputes are increasingly violent and clearly inhibit agricultural production.⁵

The study identifies effective practices for the peaceful transformation of conflict into durable solutions and maps land related conflict across the Acholi Sub-region. It identifies and explores the interaction between the key actors with a particular focus on traditional leaders and the LCIIIs at the forefront of resolving disputes within local communities: providing a clearer understanding of the capacity of these two institutions to peacefully resolve land related conflict.

Key Findings

- Local Council II and traditional courts both functional
- Approximately 94% of cases before Local Council Courts related directly to land
- Legal status of Local Council Courts is ambiguous
- Significant respect amongst the community for Local Council II (LCII) and traditional leaders in solving land disputes
- Community members have strong preference to solve land issues at local levels
- Considerable confusion exists concerning procedures, courts and institutional bodies responsible for land
- Significant disparities in costs associated with accessing justice: court fees and site visits
- Little knowledge amongst the community of statutory and customary land laws

METHODOLOGY

This study draws on an analysis of both quantitative and qualitative data. The latter involved a thorough review of primary sources including the media, relevant government legislation, project and policy reports, and monitoring and evaluations. Secondary sources comprised primarily of literature and editorials. These sources identified previous studies related to land law, management, and conflict in the Acholi Sub-region and provided a context for the study. A considerable amount of good quality complementary research has been conducted on issues related to land. Northern Uganda has been the focus of substantial research since the late 1990s and without surprise a disproportionate number of these have been related to conflict. Land related conflict, and potential conflict, is currently amongst the most salient forms of conflict in the region.⁶

The quantitative component focussed primarily on local councillor twos (LCIIs) and traditional leaders. Survey tools (refer to appendices) were designed for these two groups to determine the quantity and types of cases they handle and their capacity to deal with cases. The direct interviews with the LCIIs and traditional leaders were supported with interviews of prominent stakeholders: key informants and members of the general community.

Key informants comprised a broad range of social, economic and political actors including representatives of local and international relief, emergency and development assistance institutions, elected officials and civil servants comprising members of the District Land Boards, Area Land Committees, magistrates, Police, NEMA, NFA, UWA representatives, lawyers, academics, journalists, religious leaders, businessmen and other prominent members of the community. Approximately 600 respondents comprising 150 LCIIs, 173 traditional leaders, 176 community members and over 100 key informants were interviewed by a team of six researchers through August and September 2011. All the interviews were conducted in Acholi.

The study focused on three sub counties in each of the seven districts, Agago, Amuru, Gulu, Kitgum, Lamwo, Nwoya, Pader in the Acholi Region (refer to attached map). The sub-counties in each district were selected in consultation with district officials in an attempt to capture a broad cross section of the community and identify any variations in land related conflict across the Acholi Region.

LAND IN THE ACHOLI SUB-REGION

The inhabitants of the Acholi Region are traditionally agro-pastoralists and depend on land for subsistence farming. Although living conditions have improved significantly over recent years with the conclusion of the war, a large number of people continue to live in chronic poverty.⁷ The majority of the population remain illiterate and are poorly informed about their rights.⁸

According to the 1991 Uganda census, the population of the Acholi Sub-region was 746,796.⁹ By 2002 the population had increased to 1,124,983 and projections based on the 2002 census put the figure at 1,572,900 in 2011,¹⁰ representing a 110% increase in population in 20 years. In 1991 life expectancy at birth in the Acholi Sub-region was 40.9 years compared to the national average of 48.1,¹¹ and today 50% of the population in the region is below 15 years of age.¹²

A. Population of the Acholi Sub-region¹³

District ¹⁴	Population by Year	
	2002	2011
Agago	184,018	285,400
Amuru	176,733	226,600
Gulu	298,527	385,600
Kitgum	167,030	238,300
Lamwo	115,345	164,600
Nwoya	41,010	52,600
Pader	142,320	220,800
Total	1,124,983	1,573,900

The protracted conflict in northern Uganda and the massive internal displacement buttressed by customary ownership froze development on land tenure for over two decades. The tremendous demographic distortions and the dramatic reduction in the number of elders custodians of cultural norms, rules and principles responsible for mental records of land ownership and boundaries--were overwhelmed by the scramble for land as people returned to their homes and villages from the IDP camps with the end of the protracted civil conflict around 2006. The IDP camps were first established in 1996. While displacement was widespread, the majority of IDPs were in camps less than 6km from their land.¹⁵ Many were able to return to their homes at intervals during the war and maintained a vague knowledge of their land, but the illegal occupation of land by neighbours (early returnees) and land grabbing made boundary disputes the most common form of dispute within families and with neighbours, followed by perceptions of land scarcity resulting from the surge in population.¹⁶

Land use in northern Uganda is administered through both statutory and customary law as stipulated by the 1995 Constitution and the 1998 Land Act.¹⁷ The extent of tenure insecurity between the two tenure systems is a matter of debate.¹⁸ The two systems suffer a variety of ambiguities and contradictions and the main discourse in government and civil society currently focuses on the reconciliation of statutory and customary law and how they can be effectively implemented in a meaningful and cost effective way.¹⁹

Acholi culture is by no means homogenous and there are significant differences across the region related to population densities, the condition of public infrastructure, proximity to other ethnic groups and international borders.

While efforts are currently underway to accurately monitor and map land related conflict across the region,²⁰ reliable data on the total number of land related conflicts in the region remains scarce. Definitions relating to human security are elusive.²¹ It was observed that the vast majority of land holders have land disputes. However, as a recent debate amongst practitioners working on land tenure in northern Uganda highlighted, there is little consensus amongst them on what constitutes a land conflict and only vague agreement on definitions or typologies making qualitative and quantitative comparisons and analysis extremely difficult.²² A recent Uganda-wide study suggested 20% of all land disputes that occur are never reported to any dispute resolution institution.²³ While even rough estimates are difficult to ascertain, the findings of this study suggest a significantly greater number of land disputes remain unreported — especially disputes involving marginalized individuals comprising women, children, elderly, sick, and the disabled. A great many disputes are settled amicably between the people themselves without the involvement of third parties, while others are mediated domestically by an extended family member, neighbour or friend.

A recent study by the Inter-Agency Standing Committee's (IASC) reported 29% of the population across the Acholi Sub-region has had direct experience with land conflict in the past four years,²⁴ while a study by Phuong and Vinck reported 35% of the respondents have experienced a land conflict or quarrel since 2006.²⁵ This would appear to correlate with other recent country-wide studies that report 33% to 50% of Acholi have experienced land conflicts.²⁶ A very recent study implemented by CESVI involving 400 randomly selected individuals across four sub counties in Agago District reported 59% percent of respondents had experienced a land dispute since 2009.²⁷

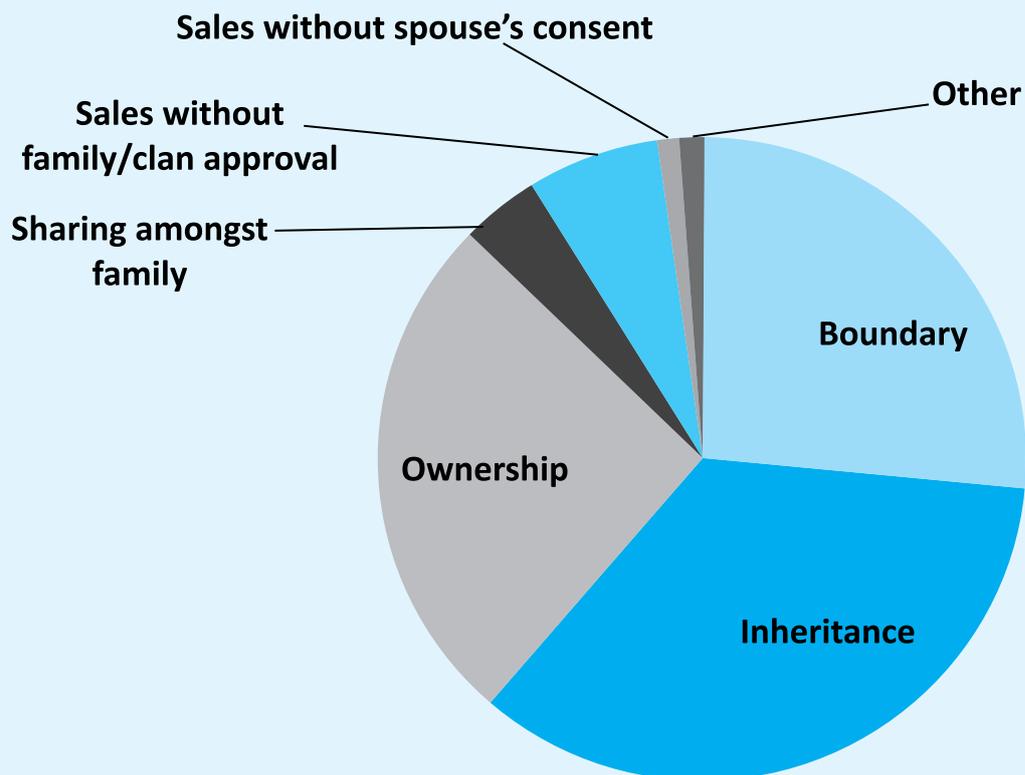
PRESENTATION OF FINDINGS

The study identified little variation in the types or intensity of land related conflict or the actors involved across the Acholi Sub-region. While Amuru and Nwoya Districts in the western Acholi Sub-region which are known to have oil reserves provided slight exceptions, there was little to no evidence to suggest that particular areas are more susceptible to land conflict than other areas. The areas often referred to as “hot spots”²⁸ for land conflict were found to be more accurately described as “hot moments.” Disputes related to land can and do occur anywhere.

Land disputes are undoubtedly a serious problem across the Acholi sub-region. As discussed in more detail below, 94% of all cases presented to LCII executive court committees and 70% of all cases presented to traditional leaders were directly related to land issues. For the LCII, the remaining cases consist of domestic violence and criminal cases: many of which are also related to land disputes.

As mentioned above, there is little consensus amongst practitioners on the typologies of land disputes. Land related disputes are usually complex and difficult to define and categorize.²⁹ Boundary disputes were identified as the most common form of dispute reported to LC IIs in the districts of Lamwo, Kitgum, and Agago. Elsewhere, disputes relating to inheritance³⁰ and the ownership or management of land were the most common. Lamwo, Kitgum, and Agago are among the least densely populated districts examined and have experienced the most recent large scale return of IDPs from the camps. The exception was Pader where boundary disputes were minimal within the Town Council and the non-existent in Lapul and Puranga: the two outlying sub-counties examined which were less affected in the latter stages of the war. Puranga in particular was experiencing considerable more pressing issues associated with alleged land grabbing from the neighbouring Lango sub-region.³¹

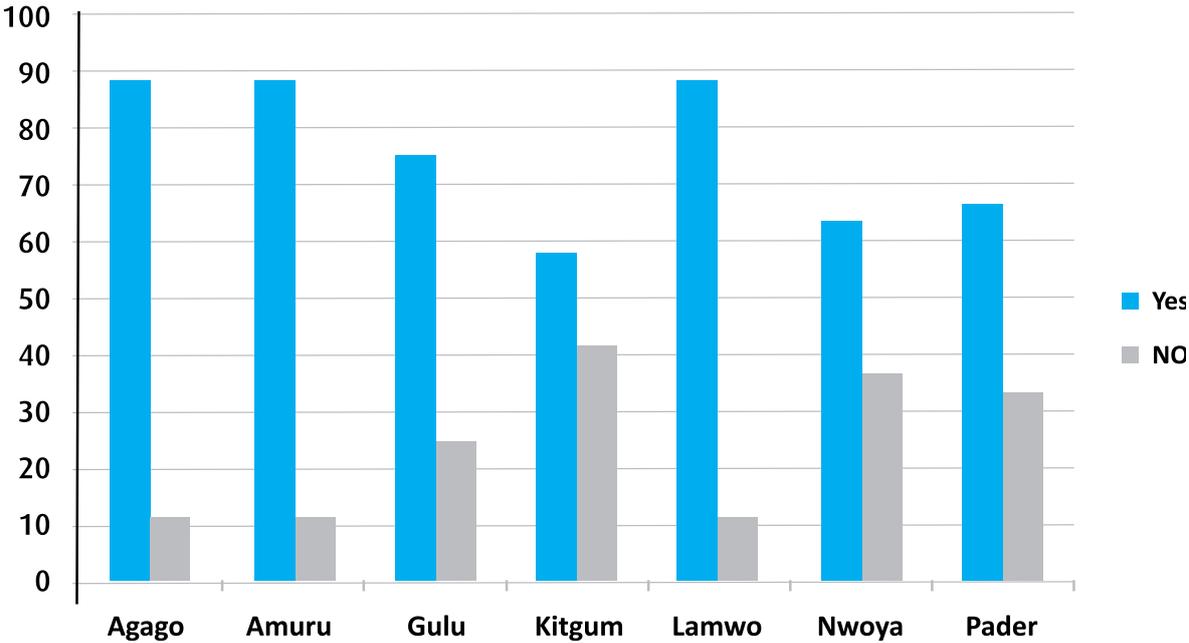
1. Categories of Land Dispute across the Acholi Sub-region



The survey found that boundary disputes accounted for 26%, inheritance 35%, ownership 26%, sharing land amongst family members 4%, land sales without clan/family approval 7% and sale without spouse approval 1% across the region over the past year. The findings of this study were very similar to the findings of Pham and Vinck who described the three most common disputes reported by the LCIs to be boundaries at 34%, land being taken by someone else 32%, and competing claims to ownership 32% with little variation between districts.³²

While there is significant variation across the Sub-region, the majority of community members who were aware of or involved in land disputes reported satisfaction with the resolution and reported they were usually resolved within three months.

2. Satisfaction with Resolution (Percentage)



Statutory Mechanisms

In 1988, the Government of Uganda enacted a law creating Local Council (LC) courts to replace the lower level Magistrate Courts and provide them with the authority to deal with land rights issues. “The LC courts were intended to be less formal and more accessible than the Magistrate Courts and to enable local leaders to deliver justice to their own communities by drawing on the formal legal principles and customary law.”³³ The LCIs were elected at the parish level and the LCII chairman appointed key positions within the executive comprising the vice LCII, secretary, defence, finance, information, and production. The age of the LCIs was found to vary considerably, however they are usually among the more prominent and/or respected members of the community. Literacy is generally low amongst them, though most have a basic education to the level of Primary Seven (P7). The LCIs consulted had held their positions for an average of almost 9 years with little variance across the Acholi Sub-region.

The majority of the litigants and legal practitioners perceive the LCII as the first court of instance; however, the study identified different interpretations or positions of the law with regard to the court of first instance in local council courts concerning land disputes. While some courts perceive the LCII council courts at the parish level as the court of first instance, others recognize the LCI courts at the village level. The reason for this discrepancy relates to the amendments and enactments in the laws relating to the customary land disputes settlement.

Statutory law on land continues to evolve; however new laws and directives from the Chief Justice have not always made reference or repealed existing laws and directives causing some degree of confusion in interpretation by legal practitioners, litigants and the judiciary. The Executive Committees (Judicial Powers) Act Cap 8 of 1988 empowered the village court as the first court of instance with appeals to the parish executive court.³⁴ In 1998, the Land Act Cap 227 was enacted, but only referred to the sub-county and urban land tribunal and not the parish or village courts. Furthermore, it only provided the pecuniary jurisdiction of the sub-county and urban tribunals. In 2004, the Land Amendment Act created section 76A which established the Parish Executive Court and the District Tribunal with appeals from Sub-County Courts going to the District Tribunals. However, in 2006 a Practice Direction No.1 was issued after the expiry of the contracts of the chairpersons and members of the District Tribunals to restore the jurisdiction of the Magistrates Courts presided over by a Magistrate Grade One and above to exercise jurisdictions over land matters in accordance with Section 95(7) of the Land Act. This practice direction did not repeal or make reference to previous laws other than restoring the powers to the Magistrate and made no reference to the Parish/Ward Executive Committees Court in respect to land nor referred to the Sub-County or Urban Tribunal. It remained unclear whether the appeals from the Sub-County Courts before the District Tribunal would go to Magistrate Grade One or the Chief Magistrates Courts since the chairperson of the District Tribunal had the same level of authority as a Magistrate Grade One. Finally the Local Council Courts Act was enacted and section 10 1 (b) provided the Local Council Courts with the jurisdiction to try and determine cases of a civil nature governed by the customary law specified in the third schedule of the same Act whereby land held under customary tenure is listed. The Local Council Courts Act also designated the village local council courts as the court of first instance with the parish local council court is an appellate court.

The situation is amenable to forum shopping with some disputants simultaneously appealing to LCI, LCII, Sub-county Courts, Chief Magistrates Courts , RDC, LCV, Land Officer, traditional leaders and CBO, District Land Board, MPs, police, religious leaders. The study identified two parallel positions and interpretations in operation by the courts concerning the first court of instance in land disputes before local council courts. While some court appeals to the Chief Magistrates Courts from the Sub-County Council Courts are dismissed if the proceedings did not commence in the Village Council Courts, other courts are following the land amendment Act of 2006 that established the LCII courts at the parish level as the first court of instance.

Furthermore, in 2006 a prominent opposition leader brought a case before the Constitutional Court contending the current LCs I and II were elected under the National Resistance Movement (NRM) and became unconstitutional when the country adopted a multiparty political system in 2005.³⁵ In April 2007 the court nullified the election of village and parish local councils and declared the need for an amendment to existing electoral laws before new elections for these positions under the multiparty political system.³⁶ Parliament passed the Local Government (Amendment) Bill 2007 providing for election of village and parish councils under the multiparty system; however, no fresh LC elections have been held to date. Analysts suggest the current LCs hold office illegally and government has remained quiet on the issue. While many within the court system continue to work with the LCIs, there is growing confusion concerning the role of LCIs and LCIs and an urgent need for government to address the matter.

The Chief Magistrates Courts in Gulu and Kitgum cover a substantial geographical jurisdiction and were heavily overburdened with insufficient resources and a substantial backlog in land related cases.

B. Land Cases at the Chief Magistrates’ Courts in the Acholi Region³⁷
(January 2010 – Sept 2011)

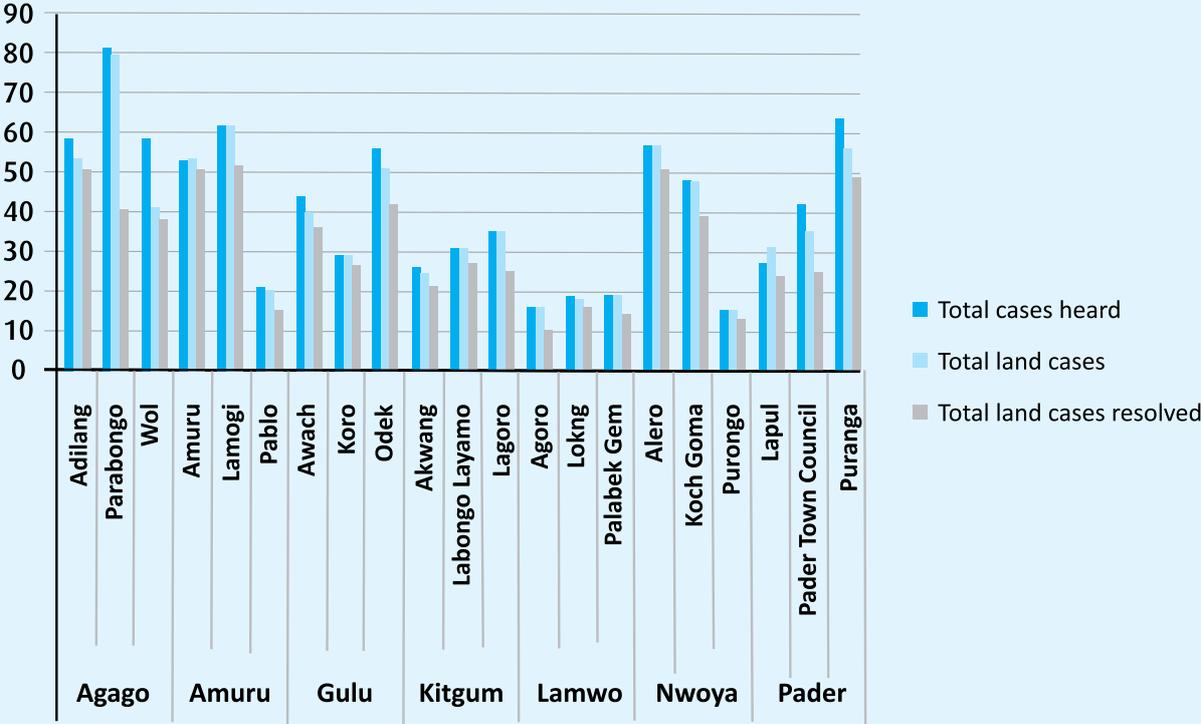
Region	Type of Land Cases	Cases Registered	Cases Completed	Cases Pending	Percentage Outstanding
Gulu	Civil Suits	70	13	57	81%
	Civil Appeals	136	14	122	90%
	Miscellaneous Applications	437	181	256	59%
Kitgum	Civil Suits	90	39	51	57%
	Civil Appeals	217	169	48	22%
	Miscellaneous Applications	253	162	91	36%

The study found that each of the LCII Courts registers approximately 38.5 land cases per year across the sub-region. With over sixty sub-counties and each comprised of approximately six parishes, we may estimate well in excess of 12,000 cases are brought before the LCIs each year. Contrary to the findings of McKibben and Bean, the number of cases brought before Chief Magistrate’s Courts represent an extremely small fraction of the total number of land cases handled by the statutory system.³⁸ The Magistrates Courts are extremely expensive in terms of court fees, legal representation and transport ³⁹ and beyond the reach of the vast majority of the population.

The LCII Courts were reported to be fully operational in all the sub-counties studied with the exception of Lokung, in Lamwo District, where several members of the LCII executive had recently died or resigned their positions. The study found that 94% of all the cases handled by the LCII are directly related to land with little variance across the region. Although certain aspects remain in need of improvement and the capacity of the LCII courts varies substantially, the majority of LCII courts apparently function well, suggesting a general improvement since Adoko and Levine reported in 2004 that the LCs at all levels do not know statutory law or understand their roles in the land judicial process.⁴⁰

The study found that differences in the number of cases being heard by the LCII Courts in each sub-county over the past year can mostly be attributed to the general capacity and effectiveness of the courts with some of the courts in Lamwo District demonstrating a poorer knowledge of relevant laws and procedure of arbitration. Another variable was clearly population density which is relatively low in Nwoya and Lamwo, especially Purongo Sub-County. Another possible variable which proved more difficult to identify is the role of NGOs that were relatively active in Agago, Amuru, Gulu and Nwoya and less active in Kitgum and Lamwo as discussed below.

3. Cases handled by LCII (Number)



The local councillors consulted claimed that on average, 80% of the cases brought before them over the past year were successfully resolved with remarkably little variation across the Acholi Sub-region. Most of the LCII's claimed to take less than one month to dispose of a case with very few going beyond three months. The LCII court executives interviewed for this study generally had a basic knowledge of the relevant primary and substantive land laws relating to land disputes including the Land Act, the Local Council Court Act and the Constitution with a broad understanding of the necessary procedures and arbitration.

Over 80 percent of the LCII's questioned were aware that the Local Court Act stipulates the quorum of the court is "five members including the person presiding, two of whom shall be women."⁴¹ However, none of the eight respondents from Pader Town Council were aware that "in the case of a town, division or sub-county, three including the person presiding ..."⁴² The vast majority of the LCII's consulted for this study were aware that it is mandatory to have at least two women on the court committee during the hearing of the case.

Almost 90 percent of the LCII respondents stated that they inquired whether the litigants had attempted Alternative Dispute Resolution (ADR) before they presented their cases to the LCII Court with little variance across the region. All of the respondents claimed to be aware that it is mandatory for the court committee to explain the right to appeal to the litigants immediately after the hearing as stipulated in the Local Council Court Act.⁴³

All of the LCII's consulted claimed to record the proceedings of court in accordance with the Local Court Act which stipulates the court "shall keep records of all court proceedings."⁴⁴ However, the study observed considerable variance in the quality of records maintained and the storage of such documents was generally found to be very poor. Several respondents reported that their courts had lost all or a substantial portion of their records to fire and rodents. The Local Court Act stipulates that the records must include the following particulars and documents:

- (a) the serial number of the case;
- (b) the statement of claim;
- (c) the date of witness summons;
- (d) the date of hearing the case;
- (e) the names and addresses of the claimant and his or her witnesses;
- (f) the names and addresses of the defendant and his or her witnesses;
- (g) a brief description of the case;
- (h) the documentary exhibits, if any;

- (i) the judgment or final orders of the court and the date of the judgment or final orders;
- (j) the date of payment of the judgment debt;
- (k) the particulars of execution of the judgment, if any.⁴⁵

The 2005/6 Ugandan National Household Survey reported literacy rates in Northern Uganda for women at 45% and 59% for men;⁴⁶ however, functional literacy amongst the majority of the respondents was found to be very low. The secretary of the LCII court is usually literate, and as stipulated in the Local Court Act, where necessary the court “may co-opt a person for the purpose of recording the proceedings.”⁴⁷

While the LCII’s generally conduct themselves in a professional manner, approximately 10% of the LCII’s consulted across the region explained that they reach their final ruling according to public opinion: comprising the surrounding community and individuals involved in or witnessing the arbitration. Sixty percent of the LCII executives consulted claimed they would disqualify themselves, while 18% stated they would continue to arbitrate. The remaining 22% claimed they would continue with the acceptance of both litigants or remain as observers to the arbitration process, despite stipulations in the Local Court Act “that any member of the local council court who directly or indirectly has an interest of whatever nature, in the issue in dispute is disqualified from hearing the case.”⁴⁸

While approximately 40% of the respondents in Pader and Agago Districts reportedly rely on the police to enforce rulings, only around 20% of the courts in Gulu and Amuru District rely on the police. The most common ways to ensure compliance were attributed to the counsellor for defence and the youth who presumably use force and/or public opinion. Approximately half of the respondents reported that at least one of their cases were appealed against in a superior court in the past year and approximately half of these were aware of the findings of the appeal — however, the majority reported that their ruling had been upheld. After the LCII courts, disputants appeal to the Sub-County. Many believe the Sub-County must provide a letter before proceeding to superior courts and are not they may appeal directly to the higher court. Chief Magistrates regularly overturn LCII court rulings because of faults in following procedure, lack of quorum and other illegalities of the local council courts. There is a distinct need for better reporting and recording at lower courts and for them to follow correct procedures as stipulate by law.

The lack of resources and facilitation to the LCII courts presents a major challenge in the discharge of their duties inhibiting their capacity to effectively execute their duties and rendering them more susceptible to corrupt practices. The LCII courts charge beyond stipulated amounts to sustain themselves. There is no procedure to correctly manage the fees received or accountability to the sub-county on the handling of such finances and the Chief Magistrates that are supposed oversee such issues lack the capacity to do so. In contrast to the LCV and LCIII's who receive a sitting allowance, the LCII's receive no financial support from the central government and this situation is unlikely to change given the Government's financial situation and the fierce debate currently underway concerning salary increases for civil servants.⁴⁹ And as already described, Chief Magistrate Courts are already overwhelmed with no additional capacity to supervise the local council courts as stipulated by law, leaving the local council courts to operate without much-needed supervision or guidance.

Another challenge results from the creation of four new districts (Agago, Amuru, Lamwo and Nwoya) in the Acholi Sub-region over the past five years which has increased pressure on the capacity of the local government system.⁵⁰ Many district positions related to land management remain vacant severely hampering capacity of local government to effectively deal with land disputes.

The LCII courts are generally accessible by the community in terms of their proximity and schedules. The average community member consulted across the Acholi Sub-region claimed to be approximately 3.6km or 1 hour and 15 minutes walk from the closest court and with the exception of Lamogi in Amuru and Agoro and Lokung in Lamwo, all of the LCII's consulted stated that they meet once a week or as often as required with the time between summoning the defendant and that the actual hearing of the case to be between one to two weeks. This is in accordance with the Local Court Act that instructs that the LCII Court "shall sit as often as the business of the court requires for the speedy discharge of cases."⁵¹

One important area presenting a challenge to the community in terms of access to justice is court fees. The relevant legislature stipulates a fee of UGSH1,500 (US\$0.60).⁵² However, the study found considerable variance across the region in the court fee charged when initially registering the case. While some reportedly charge nothing or simply request food for the court members or pens and stationary, the majority charge between UGSH1,500 – 3,000 (US\$0.60-\$1.20). Some charge UGSH8,000 (US\$3.20) with others charging up to UGSH19,000 (US\$7.60). One LCII Court in Kitgum District reportedly charges UGSH31,000 (US\$12.40). While most charge both litigants equally, some respondents reported charging the complainant more.

In addition to the court fee, the majority of LCII executives consulted reported charging an additional fee of between UGSH5,000-20,000 (US\$2-\$8) with some as high as UGSH40,000 (US\$16) for visiting the site of the disputed land (*locus in quo*) with substantial variance across the region. There is no facility in the Local Council Courts Regulations for this additional fee.

Approximately 65% of the LCIIIs consulted claimed to make allowances for litigants unable to pay. Some reportedly accept to proceed without pay, while others reportedly accept payment in kind in the form of agricultural commodities including goats or chickens. A good number reportedly record the debt in expectation of future payment.

As one of the primary protagonists in the protracted civil conflict,⁵³ the central government faces a significant level of suspicion in relation to land in Northern Uganda, resulting in substantial levels of tension.⁵⁴ As Rugadya notes, the “situation has been fuelled by politics driven by feelings and emotions that have shaped and defined the articulation between Government and people of northern Uganda over land and natural resource tenure.”⁵⁵

Of the available government institutions, the vast majority of community members described the LCIIIs to be the most effective for resolving land disputes within their area followed by LCIs and then Sub-County Courts. Very few respondents suggested roles for the Magistrates or RDCs.

Approximately 87% of LCIIIs interviewed believed the community respect their judgement with little variance across the region. Where the judgements are not respected, the LCII’s refer to the police, Secretary for Defence, youth and finally rely on the public opinion of surrounding community members to pressure litigants to respect their ruling.

Many community members consulted described LCIIIs as respected members of the community and claimed to be satisfied with the role of the LCIIIs in resolving land disputes; however, a large number of respondents suggested the LCII executives are vulnerable to corruption supporting a recent Inspectorate of Government study which claims 60% of the population in northern Uganda have lost confidence in government due to corruption in service delivery.⁵⁶

Civil Society

Mindful of Chabal and Daloz's cautions regarding the lack of a clear dichotomy between the state and civil society in the African context,⁵⁷ civil society in the Acholi Sub-region has received a large amount of support and funding from external sources attracted by the war over the past two decades. Many of the religious institutions, international and non-government organizations (NGO) focussed heavily on humanitarian issues. With the return to peace across the region, the majority of NGOs have moved from relief to development and many of the international institutions are scaling down and withdrawing as donor interest subsides.

A growing number of institutions are addressing issues relating to land conflict and focussing on a broad range of different aspects including sensitization, capacity building, legal aid and dispute resolution, advocacy, and policy formulation. Despite the fact that many of these institutions are loosely connected through common donors and informal professional consulting and academic networks, there has been considerable overlap and duplication of effort in some areas, while other areas have received little to no attention at all. To address this, Trócaire, a development institution associated with the Irish Catholic Church focussed primarily on food security, identified land conflict as a potential challenge and initiated the Northern Uganda Land Partners Platform (NULPP). NULPP is a loose coalition of national and international development institutions that meet 3-4 times a year to identify best practices and improve coordination.

Some civil society institutions including NRC, Goal, ULA, and JPC have committed considerable resources to training paralegals and/or providing legal aid focussed particularly on Extremely Vulnerable Individuals (EVIs). This has usually proved effective in dealing with access to justice, but lacks sustainability. As stability returns to the Acholi Sub-region and the donors withdraw, many of these institutions are being forced to downsize and withdraw. NRC has made a strategic decision to withdraw from the region by 2014 and Goal has already reduced its presence across the region to one field office in Agago District. NRC no longer works with paralegals and the two national non-governmental organisations, JPC and ULA have found paralegals expensive to train and maintain. Such programs usually identify and empower the most literate and dynamic individuals within the target community and these people and their skills quickly disappear in the absence of funding or facilitation.

The table below lists the national and international institutions and their targeted beneficiaries in each of the Acholi districts. The list represents agencies reported by the respondents interviewed for this study and should not be considered conclusive. The majority of institutions listed focus on the security of land tenure through sensitization of the community and building the capacity of mechanisms through an array of training courses usually 1-3 days, but sometime up to a week, focussing on a range of issues associated with statutory and customary law, court procedures and ADR,⁵⁸ with a particular focus on EVIs. Several institutions, including NRC, JPC and ULA provide legal assistance. Though such services are invaluable for EVIs and many members of the community, they are arguably unsustainable in the absence of external funding support and can prove politically dangerous in the event one or both of the disputants have connections to government.

C. Humanitarian Institutions Providing Capacity Building on Land Tenure across the Acholi Region

		Beneficiaries Targeted	
		LCII	Traditional Leaders
Districts	Agago	NRC, CESVI, GOAL, ARLPI, ULA, Medair, Caritas (Catholic agency for overseas aid and development), War Child Canada, Pader Peace Forum	CESVI, World Vision, Goal, War Child
	Amuru	NRC, ARLPI, ULA, CRS,	ULA, NRC, NUTI, ARLPI, Rich Consult, URC, ULA, K.K and Advocates, Justice Law and Order Sector (JLOS), European Union, UNFAO
	Gulu	ARC, GWEDG, NRC, HURIFO, ACORD, Konrad Adnauer Stiftung (KAS)	CARITAS, NUTI, NRC, Gulu Women’s Economic Development and Globalization (GWEDG), ARLPI, CRS, Caritas,
	Kitgum	NRC, World Vision, IRC, Caritas, UNDP	Jesuit Refugee Service (JRS), NRC, ARLPI, IRC
	Lamwo	ARLPI, War Child, Oxfam, HURIFO	IRC, ARLPI, NRC, War Child Holland, AVSI, Care, LWF,
	Nwoya	NRC, ARC, NGO Forum, Care, ARLPI	NRC, ARLPI,
	Pader	World Vision, Uganda Joint Christian Council (UJCC), ACORD, SCIU, War Child, UNICEF, IRC,	LWF, NUTI, Care, Human Rights Focus (HURIFO), ULA, ARLPI, War Child

While it is an enormous challenge to accurately quantify, numerous reports suggest sensitization and raising awareness of statutory and customary law as an effective way to transform conflict.⁵⁹ A study focused more broadly across Uganda reported that improved sensitization of the community about their rights and obligations relating to new land laws could lead to large benefits and that “well-disseminated legal reform can be an important and far-reaching first step to reap the benefits of higher tenure security.”⁶⁰ An evaluation of the training and sensitization of 3,375 beneficiaries and community members on land laws, human rights, mediation skills, counselling and referral methods by Trust for Africa’s Orphans (TAO) in the neighbouring Lango Sub-region reported: the communities were empowered on land rights and referral points; more land cases were settled outside court; property was secured and protected; people engaged in agricultural activities on their own land; and beneficiaries demanded their rights to land.⁶¹

Customary Mechanisms

While the precise proportion is subject to speculation, analysts suggest 77% to 93% of land in the Acholi Sub-region is under customary tenure.⁶² Despite widely held perceptions that the land is held under communal ownership, there is considerable debate amongst informed observers on this issue. Many argue that the vast majority of land has been divided up and apportioned to individuals and families over the past two to three generations and that very little land in the Acholi Sub-region remains under communal ownership.⁶³ The study identified significant ambiguity on this point with youth claiming individual ownership of land identified as communally owned by the elders. Under customary tenure, owners have secure rights to use, lease, and bequeath land; however, sales are subject to the approval of clan leaders and family members. Adoko and Levine summarized the key elements of Acholi customary tenure as:

- Nearly all cultivated land falls under private ownership at family or household level;
- There are large areas of land used for purposes other than cultivation and managed for the benefit of all clan members;
- Land is for the benefit of the wider family or clan and transfers of ownership either through inheritance, redistribution among family members, ‘loaning’ land to outsiders or sales of land, must be in the interest of the clan and with the approval of clan elders;
- Dispute resolution is based on mediation rather than passing judgment, by local leaders who draw on a wide range of information to resolve land disputes.⁶⁴

Governance in the Acholi Sub-region prior to Western contact in the late 1800s was decentralized.⁶⁵ The traditional chiefs had extremely limited powers and governed through the guidance of the Clan Elders.⁶⁶ During the colonial period the British co-opted the traditional leaders and instituted a Paramount Acholi Chief mirroring the Buganda system in central Uganda.⁶⁷ Traditional leaders in Uganda were abolished by the 1967 constitution under the Government of Milton Obote and restored in 1993 under the NRM.⁶⁸ This was reinforced in Article 246 of the 1995 Constitution of Uganda that outlines the legal provisions for the traditional leaders.⁶⁹ The contemporary re-emergence of the Paramount Chief of Acholi and his executive known as the Ker Kwaro representing the 57 Acholi identified pre-colonial chiefdoms was based on the structure established during the colonial period and lacked deep ties with traditional beliefs, culture, and norms practiced in the pre-colonial period.⁷⁰ The Ker Kwaro has received limited support from the government and external donors, but is not universally respected across the entire Acholi region and is challenged to maintain the levels of legitimacy it desires.⁷¹

Article 129 of the 1995 Constitution also stipulates that traditional leaders should “not join or participate in partisan politics” or “have or exercise any administrative, legislative or executive powers of Government or local government.”⁷² Notable contraventions include President Yoweri Museveni who formerly served as a regent of the King of the Tooro Kingdom in western Uganda. Furthermore, high ranking officials in the Buganda Kingdom and Ker Kwaro hold positions in elected government and the civil service. This study identified several traditional leaders who hold positions as LCIs which allegedly caused confusion within the community and compromised their rulings on land related matters. The Traditional Leaders Bill passed in 2010 stipulates that traditional leaders should: not participate in politics, inform government of travel plans, disclose sources of funds, and notify government of formal functions was particularly aimed at the Baganda Kingdom is expected to address this issue.

A strict hierarchy exists amongst the traditional Acholi leaders and each has a different level of authority, jurisdiction and responsibilities; however there is no formal appeal structure. The clan head is referred to as the Rwot Moo. The Rwot Moo is a hereditary position within the royal clan and is coronated in a traditional ceremony. The head of the sub-clan is the Rwot Kaka who is usually amongst the oldest members of the clan and heads a committee of elders usually comprising 9-10 people. The Rwot Apoka focuses on social issues and the Rwot Okoro is concerned with traditional rituals, land use, and hunting. The Rwodi are appointed by clan members and are answerable to the sub-clan. They are usually selected as the wisest and are predominantly men, however it is interesting to note the first women

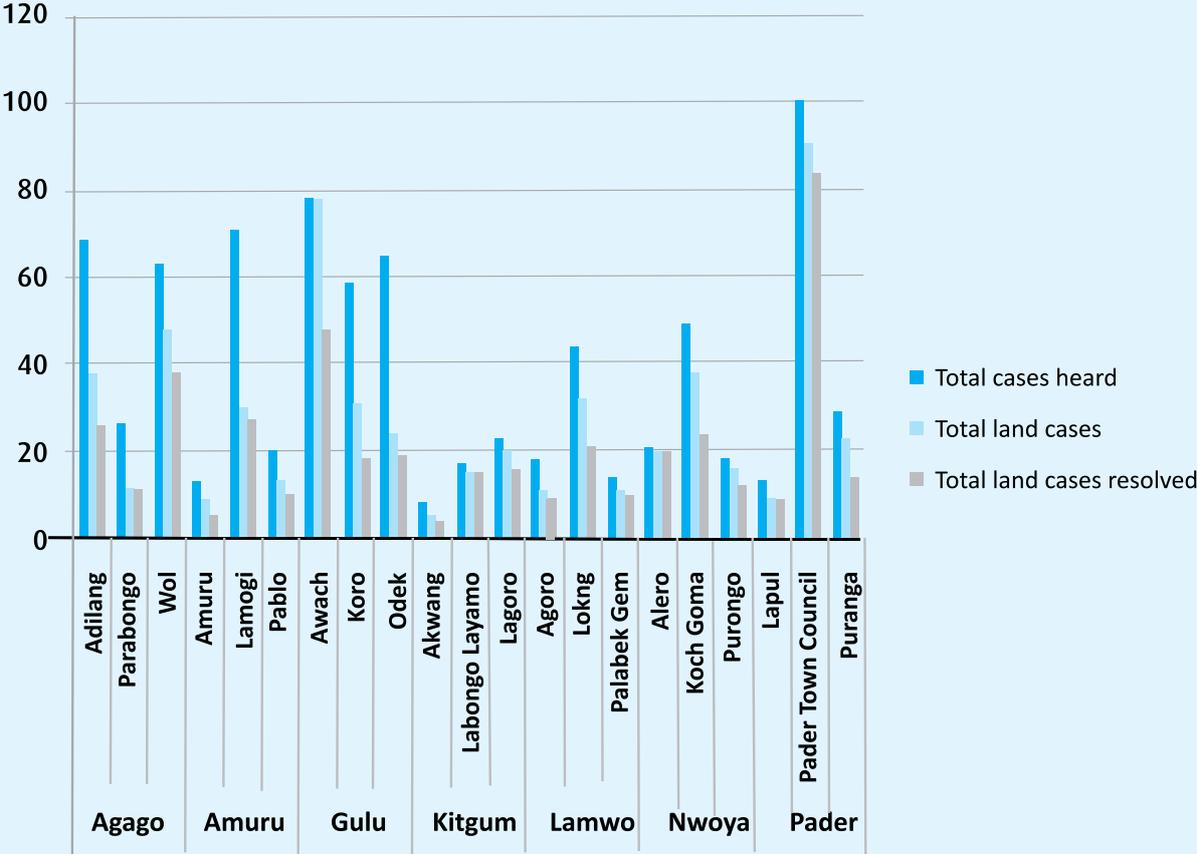
appointed to the position of Okoro/Mon is currently in Puranga Clan, located in the vicinity of Awere Sub-County in Pader District and Odek in Gulu District.

During the colonial period, the British instituted the position of Rwot Kweri to coordinate cotton growing, public health initiatives and the communal construction and maintenance of public infrastructure and they are not formally tied into the system of traditional leaders. The Rwot Kweri exist today and focus on the mobilization of labour within the community. They have a detailed knowledge of each member of the community and their property including: land and its boundaries and relationships with other members of the community. The Rwot Kweri are elected locally and are normally amongst the most active and/or popular members of the community. While there is considerable variation across the sub-region, they usually hold the position for life and represent a number of different clans within the vicinity often incorporating 2-3 villages and heading a committee of 3-5 people. The majority of respondents described the Rwot Kweri as the most appropriate traditional leaders for solving land related disputes.

As described in the graph below, the research found that approximately 70% of the cases before customary leaders over the past year are on land and according to the traditional leaders interviewed, approximately 77% percent of these cases are successfully resolved. The traditional leaders present a relatively stable platform for alternative dispute resolution (ADR). They live within the community and have an intimate understanding of the details and context of the dispute. Although there was substantial variance across the region, the average traditional leader interviewed for this study had held the position for over 10 years.

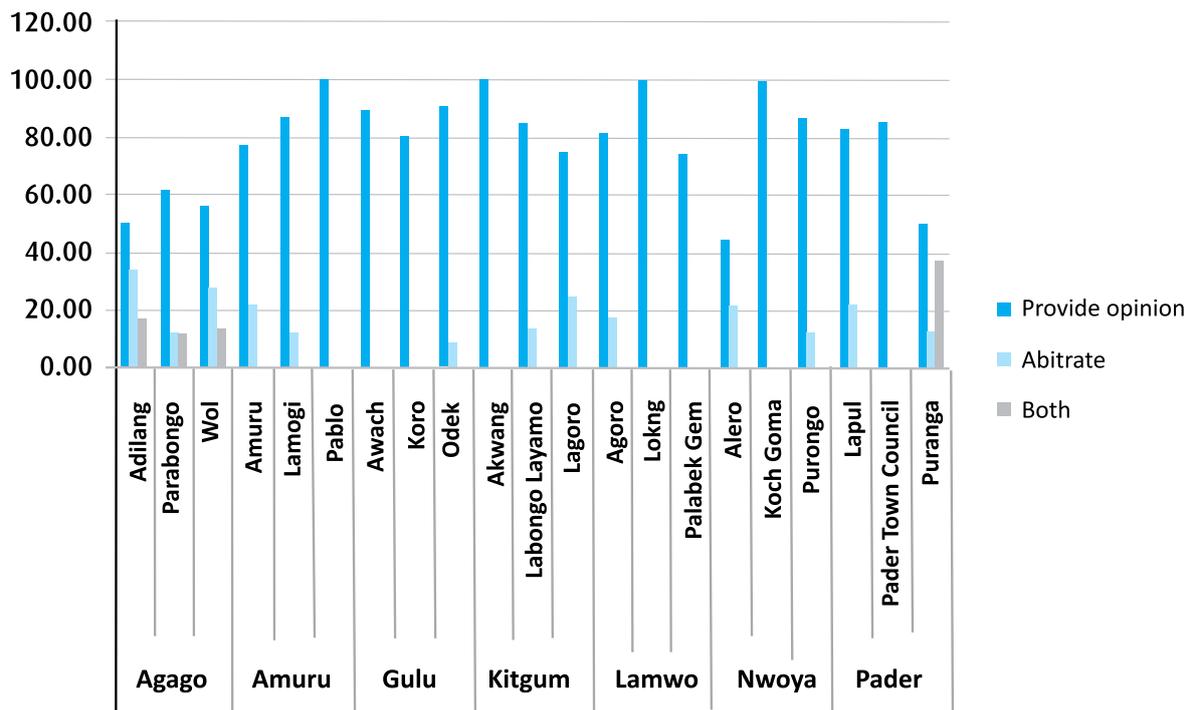
There was surprisingly very little difference in the breakdown of the types of land dispute handled by traditional leaders and statutory leaders as described above. The traditional leaders reported a slightly higher number of boundary disputes (37%) and less inheritance (25%).

4. Cases handled by Traditional Leaders (Number)



All of the traditional courts were reported to be operational; however, there was considerable variation in the capacity of the customary leaders across the Acholi Sub-region concerning their understanding of customary law relating to land and their perceptions of their roles and responsibilities. Once a disputant reports a land dispute to a particular traditional leader, the leaders consult with their peers and then send a letter to the other disputant inviting them to a meeting at a particular time and place where they hear both sides before and arriving at a conclusion usually by consensus of all parties involved. There is some debate concerning the precise role of the customary leaders in resolving land disputes. Section 88(1) of the Land Act stipulates traditional authorities may “determine” disputes over customary tenure or act as “a mediator between persons who are in dispute over any matter arising out of customary tenure.”⁷³ However many practitioners perceive the role of customary leaders to be limited to mediation. Interestingly, the majority of the traditional leaders consulted across the region described themselves as mediator, giving opinions and advice and helping the disputant to resolve their dispute as opposed to arbitrating on the dispute, with several pronounced exceptions where they described their role as arbitrators.

5. Traditional Leaders' Perceptions of their Roles



Slightly over half of the traditional leaders consulted claimed to disqualify themselves from mediating disputes over land in which they have personal interest or if one of the parties is related to them; with minimal variance across the region. All of the respondents stated that both parties have equal right to be heard, call witnesses and present evidence and that they inform people who come for mediation that there is the option to go to formal courts in case they are not satisfied with the outcome of the mediation. And all of the traditional leaders interviewed reported recording the proceeding of mediation/negotiation, although considerable variance was observed in the data captured and the general quality of the records and the storage of such documents was often very poor.

Traditional leaders reportedly consult widely and primarily rely on: neighbours to the disputed site, community opinion leaders, elders and LCIs in resolving land disputes. 92% of the traditional leaders explained that the mediation is concluded when both parties agree on a common position reached in the process. 84% claimed that they then write an agreement signed by both parties and witnessed by people present during the mediation, while the remainder verbally inform the parties of the conclusion.

Approximately 20% of disputes before the traditional leaders were referred from LCIs and 12% were referred from LCIs; however there was significant variation across the region with considerably more cases being referred in Gulu, Agago and Pader than in Nwoya where

few cases were referred from the LCI and none from the LCII. This would suggest that the local council's perceptions of the traditional leaders and their capacity vary. The Sub-County Government, Magistrates' Courts and police also reportedly refer a small number of cases to the traditional leaders.

Approximately 50% of the respondents reported they had mediated on a case that had been heard by the LCII Courts, however in Nwoya 75% of the respondents in each of the Sub-counties examined reported they had mediated on a case that had first been registered with the LCII Court. Many of the traditional leaders explained that they are often called as witnesses to the LCII Courts, especially where domestic issues are involved and to explain boundaries.

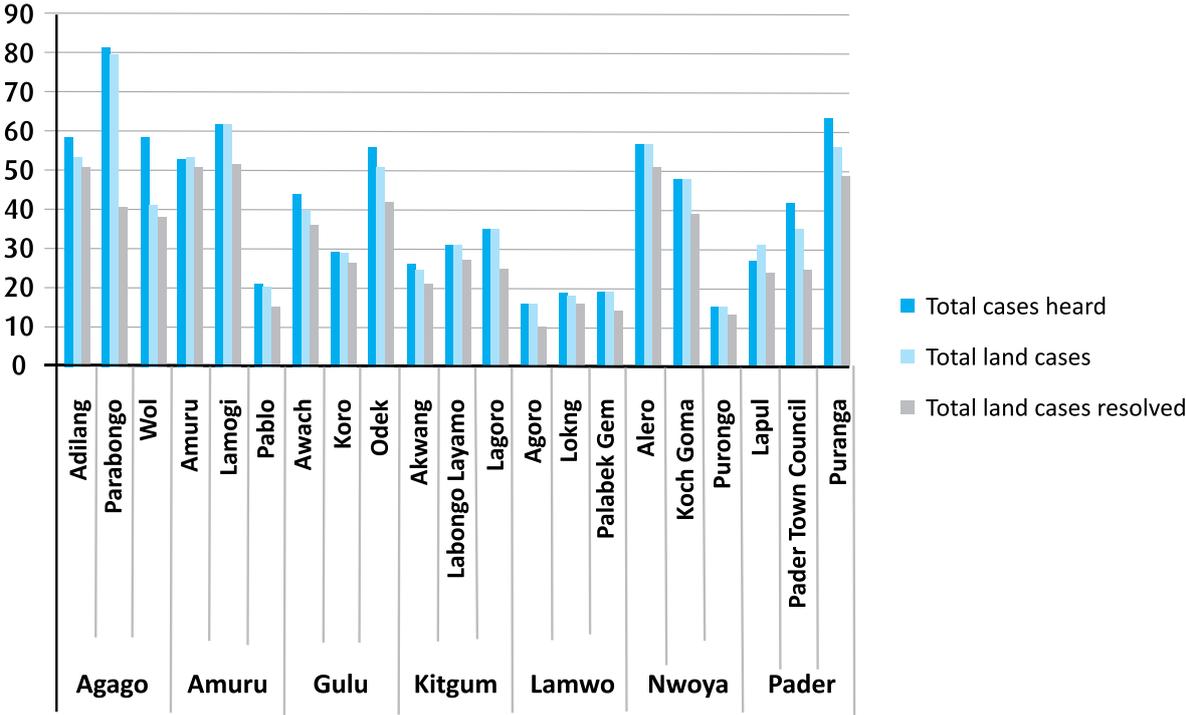
The traditional leaders interviewed reported that difficult cases where both parties have political influence or are politically connected or where there have been threats or violence are regularly referred to the LC Courts. The majority also suggested the cases are referred when the parties do not respect the traditional leaders or when threats have been made or there is an obvious possibility of violence. According to the traditional leaders interviewed, 65% believe none of the disputes they resolved over the past year were appealed against supporting Margaret Rugadya's recent finding in a Uganda wide study that reported 60% of land disputes are resolved at the institution of first call.⁷⁴

Over 40% of respondents stated that their rulings are enforced by youth appointed to such tasks often referred to as clan askaris.⁷⁵ However, 29% and 38% of respondents in Agago and Pader respectively reported a heavy reliance on the police to enforce rulings. An average of only 15% respondents across the rest of the region reported relying on the police for the enforcement of rulings and relied more heavily on the intervention of LCIs, LCII, youth, and/or public opinion.

The execution of rulings presents a significant challenge. Although the law gives LC Courts power to execute rulings themselves, the LCII are not always respected and disputants regularly take the judgement of LCII to Chief Magistrate for an execution order to use court bailiff. This is a long bureaucratic process and not practical on the ground for the Chief Magistrate to issue a notice to show cause to the other party as to why execution should not be issued. Before issuing an execution order, the other party must first show cause and must go to the Inspector General of Police (IGP) before the execution can be effected.

As expected, the norms, rules, and procedures of Acholi customary law remain undocumented, resulting in a number of misunderstandings and misconceptions.⁷⁶ The Norwegian Refugee Council (NRC) and the Land and Equity Movement in Uganda (LEMU) worked with the Ker Kwaro to develop the Acholi Practices, Principles, Rights and Responsibilities (PPRR)⁷⁷ documenting Acholi land law to be used by community members.⁷⁸ The aim of the publication was to clarify customary law and make it a matter of fact rather than a matter of debate.⁷⁹ The document has attracted some controversy. The only respondents to report they were involved or consulted on the development of the PPRR were found in Adilang Sub County, Agago District; Akwang Subcounty, Kitgum District; and Agoro Sub County, Lamwo District; and only 38% of traditional leaders interviewed were aware of the existence of the PPRR Across the region with 18% reporting they had possession of a physical copy. The findings suggest a need to revise the document and consult more broadly to increase ownership, awareness, and understanding.

6. Knowledge, Involvement and Possession of the PPRR (Percentage)



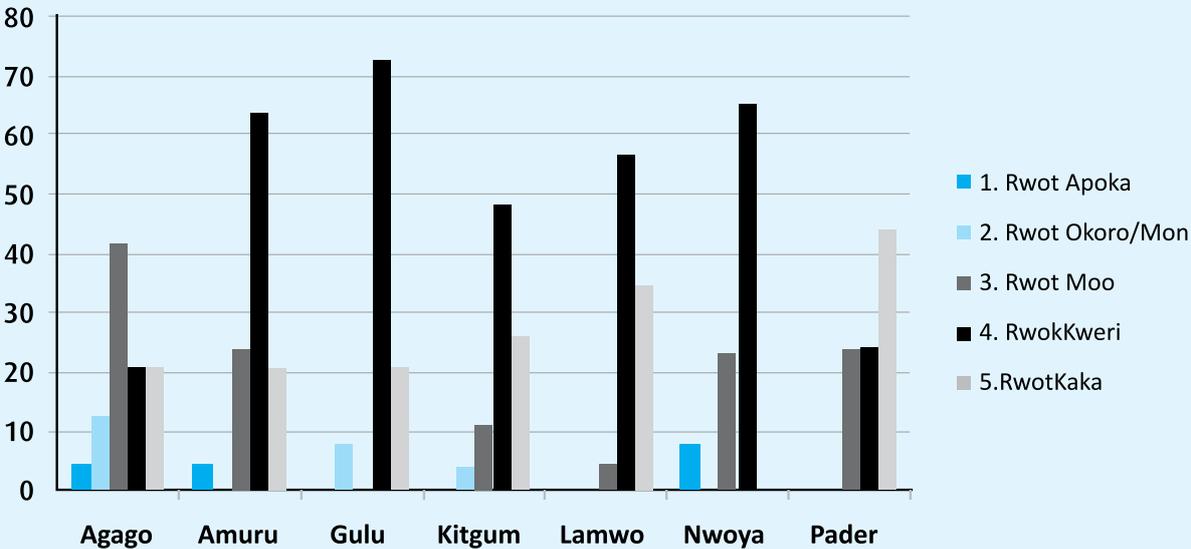
The literature is divided on the efficacy of codifying customary tenure. Most agree “customary law, by its very nature is constantly evolving.”⁸⁰ The codification of customary law would negate the flexibility that has been its strength.⁸¹ Kane, Oloka-Onyango and Tejan-Cole suggest working towards a “restatement of customary laws and processes.”⁸² They propose documenting a summary of the laws as opposed to codification that entrusts binding legal force to the document.⁸³

The majority of community members reported they were less than 4km from a customary leader with the capacity to deal with a land dispute and that the response of the traditional leaders is prompt. The majority of traditional leaders consulted explained that mediation on a land dispute usually commences immediately the case is reported at the discretion of the rwot or clan leaders and that that the duration of the mediation is a matter of days or weeks, and rarely exceeds a month.

While the parties to the dispute are generally expected to provide food and beverages for the mediators, the majority of customary leaders interviewed claimed that no fees are charged for either the mediation or the site inspection with little variation across the region. Some however stated that a fee of UGSH2,000-5,000 is charged for each member of the committee. When people cannot afford to pay in cash, a debt is noted while several respondents reported accepting payment in kind.

The authority of the traditional leaders has been weakened considerably since colonial times by successive central governments and most recently the breakdown in social fabric and large scale displacement during the war.⁸⁴ The majority of general community members are not aware of the different Rwodi and their respective responsibilities. Interestingly, the study revealed that the community retains considerable respect for the traditional leaders. Customary land dispute courts usually commence with the Kweri and where they fails the Rwot Kaka intervenes before referring the case to the Rwot Moo if the parties to the dispute do not take it to a statutory court.

7. Preferred Rwot for Handling Land Disputes



Despite substantial variation across the Acholi Sub-region according to the personality of the particular leader the majority of community members consulted believed the Rwot Kweri to be the most appropriate traditional leader to resolve land disputes followed by the Rwot Kaka and then the Rwot Moo, with the notable exceptions of 1) Nwoya where none of the respondents believed there was a role for the Rwot Kaka, and 2) Gulu where none of the respondents believed there was any role for the Rwot Moo. Nwoya was relatively underpopulated until 1972 when de-gazetted as part of Murchison Falls National Park. People then migrated in from surrounding areas, including the Alur from West Nile and came as individual families with no affiliation to a Rwot Kaka. The same situation occurred in Amuru Sub County in Amuru District. While the traditional leaders are susceptible to nepotism, they are generally thought to be less susceptible to corruption and perceived more accountable and closely tied to the community.

The Extremely Vulnerable Individuals

The Extremely Vulnerable Individuals (EVIs) comprised of women, children, former abductees,⁸⁵ the sick, disabled and certain sectors of youth do not always enjoy full and equal access to land tenure and suffer most under unclear land rights.⁸⁶ Uganda has signed various UN conventions that support women's access and ownership of land and other property rights,⁸⁷ and the country's legislature has been described as amongst "the most gender neutral with regard to property rights in Sub-Saharan Africa including land rights, both in content and language."⁸⁸ The constitution makes repeated references ensuring equal rights and affirmative action for women,⁸⁹ and the Land Act stipulates that the Uganda Land Commission is to have at least one female out of its five members,⁹⁰ one third of the membership of the District Land Board is to be female,⁹¹ and that the land committees at the parish level were to have at least one woman out of four members.⁹² However, although the Land Act (Cap 227) makes provision for the rights of a spouse, it does not address the land rights of widows, divorcees, women in co-habitation, and children.⁹³ Furthermore, "there is a distinct gap between what is in law and what is in practice,"⁹⁴ with continued gender inequality and discrimination in the ownership of land and additional assets.⁹⁵ The Government of Uganda recognizes and explicitly acknowledges the current legislation "has not been effective due to failure in implementation and enforcement."⁹⁶

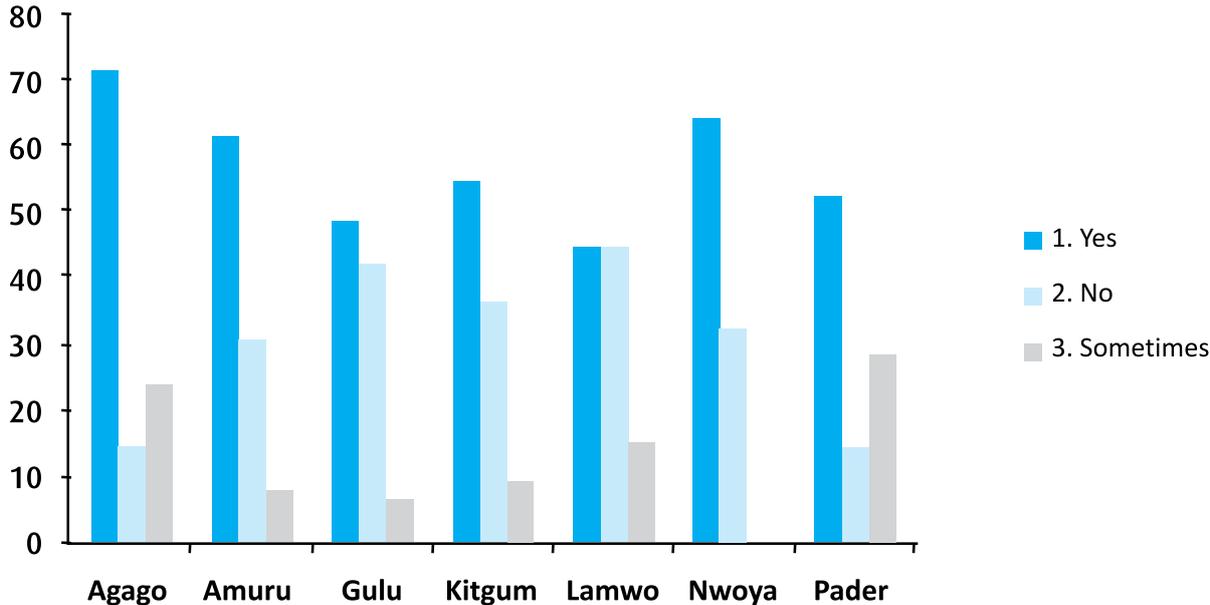
Acholi customary law also grants women significant land rights,⁹⁷ and the Constitution mandates that state law prevails where it contradicts with customary law.⁹⁸ There is considerable controversy concerning the relative strengths and weaknesses of statutory

and customary law relating to women, who are readily marginalized, especially if widowed or producing children out of wedlock. As Rugadya argues, “customary law, practices and attitudes governing divorce, inheritance and property rights continue to place Ugandan women at a disadvantage.”⁹⁹ While widows should take over the land from the deceased husband and unmarried woman should receive land from her parents, family members often conspire to deny their rights.¹⁰⁰

It is interesting to note that approximately one third of the members of traditional court committees across the region were reportedly women. While the vast majority of traditional leaders interviewed suggested women have a role in the mediation process relating to land disputes; there was considerable variation in opinions over whether women have a right to own land revealing a clear distinction between the east and west Acholi Sub-region. The traditional leaders in Amuru, Gulu and especially Nwoya reported equal roles for men and women; however in Lamwo, Pader, and Kitgum approximately 10% of the respondents claimed there was no role for women. This was even more marked in Agago District where almost 30% of respondents reported no role for women in the mediation process over land disputes, especially in Adilang Sub-county where 50% claimed there was no role for women. These findings were in line with the recent Inter-Agency Standing Committee’s (IASC) recent study in which 73% of households reported women do not hold land across the Acholi Sub-region.¹⁰¹

On the question of whether men and women have equal access to land in the clan, the results were a little more uniform across the sub-region: an average of 57% of the respondents said yes, while 32% said no. Some of the remaining 11% clarified that if the woman is officially married in a home and has children who grew up in that home and cannot go anywhere else, then she will have equal access to land in that clan. Although even then, they pointed out that women can only act as custodians without the right to sell or make significant decisions on land use. It should be noted that man also can only act as custodians and must first seek the approval of the clan before selling land. The majority of the traditional leaders consulted acknowledged that women must be present when the decision is made to sell land.

8. Perception of Traditional Leaders on Women’s Rights to Own Land (Percentage)



Kameri-Mbote argues that “for law and policy to influence gender relations in the tenure realm, there is need to deconstruct, reconstruct, and reconceptualise customary law notions around the issues of access, control, and ownership.”¹⁰² Kindi suggests the disruptive effect of the war on the socioeconomic fabric of the community across the Acholi Sub-region “presents opportunities to engage new and transformational measures and processes that have regard for women’s rights including addressing and reforming land related conflicts and inequalities.”¹⁰³ While the Ker Kal Kwaro have consistently articulated a desire to redefine their role and play an important role in ensuring gender equality,¹⁰⁴ there is an urgent need to engage all levels of the customary leadership in revising, if not “deconstructing, reconstructing, and reconceptualising” the rights of women under customary law.

The 2011 final draft of the Uganda National Land Policy proposes the “review and regulate customary law and practices in access to and ownership of land ... redress gender inequity and inequality to inheritance and ownership of land in statutory law,” and “ensure that women are fully integrated in all decision-making structures and processes in access to and use of land.”¹⁰⁵

The UN General Assembly define youth as males and females aged between 15-24 years of age,¹⁰⁶ while the National Youth Policy of Uganda defines youth as between 12-30,¹⁰⁷ and the Constitution defines children as aged 15 and below.¹⁰⁸ However defined, with 50% of the population in the sub-region below 15 years of age,¹⁰⁹ the group represents a large and diverse number of people. The war in northern Uganda severely affected the physical

and psychosocial well being of both children and youth who were often times explicitly targeted by combatants. Displacement and interruption to education and family-life had an immeasurable impact in general,¹¹⁰ and delinquency and disrespect for elders is common.¹¹¹ While the Constitution explicitly protects the rights of children,¹¹² the 2004 Amendment to the Land Act does not include the protection of children and orphans.¹¹³ Children, including the unborn are also protected under customary tenure,¹¹⁴ but once again these laws are not always implemented.

While McKibben and Bean characterised youth as disenfranchised,¹¹⁵ this study identified different categories of youth as both victims and perpetrators of land conflict. While many young people are clearly marginalised and denied access to land by elders, there were numerous references to youth as the primary protagonists of land conflict and they are regularly mobilized to enforcers of rulings. The youth were generally considerably more amenable to the sale of land and oftentimes refused to honour land gifted by their parents or elders.

Though beyond the scope of this study to quantify and examine, land grabbing emerged as pervasive across the region. Usually characterised by an asymmetrical balance of social, economic and political power between the parties to the dispute, it is a difficult phenomenon to define and extremely difficult to identify. Cases of land grabbing are rampant throughout the Acholi Sub-region and exacerbate the marginalization of EVIs. Access to justice for this group is a substantial challenge. Few of the individuals in this group possess the knowledge or wherewithal to report a case, let alone the capacity to overcome more intractable challenges associated with cost and logistics to even travel 3.6km or 1 hour and 15 minutes journey to the closest court. The vast majority of disputes involving EVI are never reported to either statutory or traditional leaders. The majority of cases that go beyond the LCII courts reveal traits associated with land grabbing.

As a result of their limited training and resources and the predatory nature of this phenomena, statutory and traditional mechanisms do not always have the capacity to deal with land grabbing and are often either the instigators or co-opted to become part of the problem.¹¹⁶ The traditional leaders with presumably clan or family responsibilities to the EVI involved are probably the best positioned to ensure justice for this group. While the provision of legal assistance is not cost effective at this juncture in the development of land policies and procedures in the Acholi Sub-region as argued above, such assistance is undoubtedly the most effective form of support to EVIs.

CONCLUSION AND RECOMMENDATIONS

Linking Statutory and Customary Mechanisms

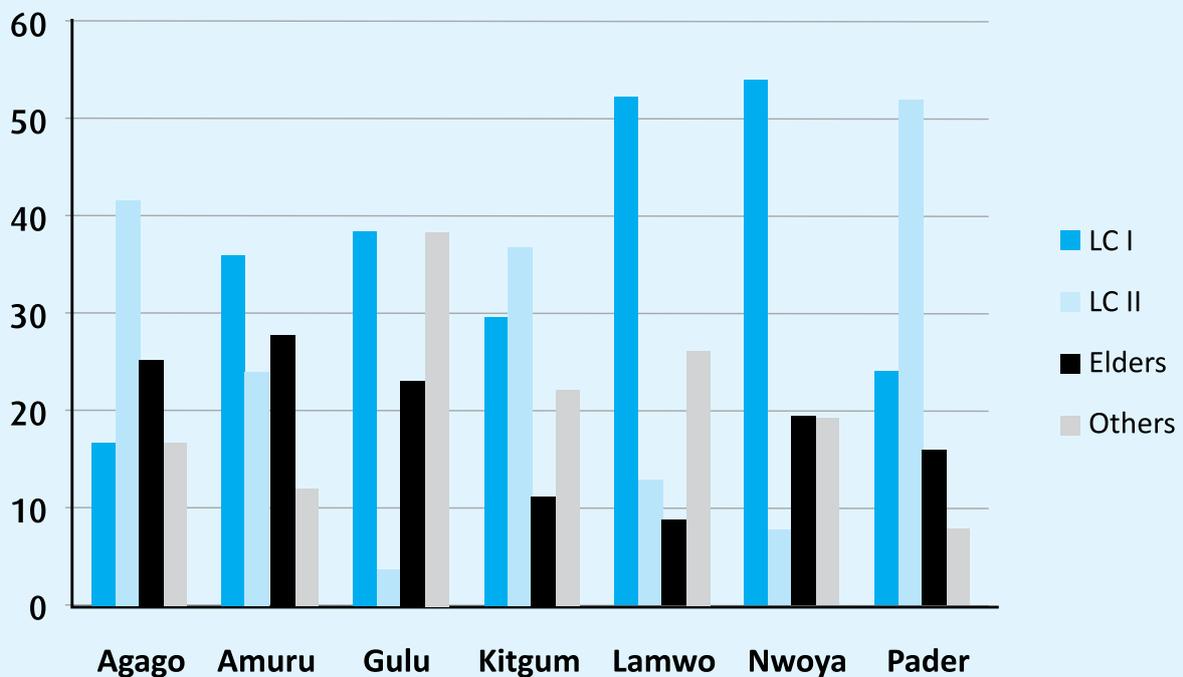
While many studies suggest land disputes inhibit agricultural productivity by reducing cultivation, inhibiting investment, and causing the loss of economic assets;¹¹⁷ debates linking the form of tenure to agricultural production and land degradation remain inconclusive.¹¹⁸ There are strong arguments that customary land tenure systems are inadequate to cope with the cash economy of a modern society¹¹⁹ and it may be anticipated that “as agricultural modernization and commercialization proceeds in Uganda, access to markets and credit are likely to become much more important.”¹²⁰ However, the prominent Africa scholar Jeffrey Herbst observes across Africa, “most states have failed to significantly disrupt local tenure arrangement.”¹²¹ With the latent power of customary systems and the state’s lack of capacity to implement a sustainable alternative, the situation in Uganda is no exception. Herbst points out that “there is, in fact, a consensus in the literature that states only will succeed in land tenure reform if they move slowly while recognizing traditional practices.”¹²²

In a seminal 2008 study to inform the Plan for Recovery and Development of Northern Uganda (PRDP) and the National Land Policy, Rugadya, Nsamba-Gayiiya, and Kamusiime reported that the traditional institutions are in most instances the courts of first instance and supported by the LCs that rely heavily on their structures and services.¹²³ They found that before displacement, 38% of the population sought assistance from the clan or family in resolving land disputes, 22% went to the LCI, 22% to the LCII, and 11% of to LCIII on appeal with only 3% going to the Magistrates’ Courts and negligible number of cases to RDC and CAOs offices for mediation.¹²⁴ Following the return process, they reported a decline in the number of disputes resolved by clan and family with a drop from 38% to 23% which they, probably correctly, surmised was a result of changes in community compositions and the dispersal of clan and family heads beyond the immediate vicinity.¹²⁵ They also reported that LCI decreased to 21% while LC II increased to 27% as they began functioning with appeals to LC III increasing to 13%.¹²⁶

While this study found perceptions across the Acholi Sub-region on whether the government or traditional leaders solve the greatest number of general disputes within the community to be comparable; considerable variations exist by sub-county mostly due to the particular statutory and customary leaders involved. Respondents expressed an overwhelming desire to resolve disputes locally with a distinct preference to first take disputes to the LCI and LCII at 36% and 26% respectively. The elders accounted for 19% with others comprised most of

clan heads at 20%. These groups are on the ground, closer to the issue, trusted and believed to be better positioned to assess and mediate disputes. There was no mention of religious leaders and very few reports of other government officials

9. Preferred Dispute Resolution Mechanism of First Instance (Percentage)



These findings varied considerably with the reported findings of Pham and Vinck who reported 62% of their respondents had contacted a religious leader at least once a month in the six months prior to the survey, 49% an LCI, 21% a higher level local council member, 18% a government official and only 14% a traditional leader.¹²⁷ Interestingly, 82% of their respondents who had experienced land disputes had approached a third party and the categories of people they first approached were more in line with the results of this study: LCII 43%, LCI 33%, traditional leaders 20% and elders 12%.¹²⁸

As Akin and Katono point out, Section 88 of the Land Act (1998) and the Act 2004 amendment are contradictory because in practice, clan courts do not occur anywhere in the appeal process for a land dispute after it has been heard by the LC II. By mandating land cases to begin at the LC II level, the Act, circumvents the clan and prevents it from exercising its legal authority to determine and mediate these disputes.¹²⁹ In its current form, the “dual system of land administration (the formal/statutory and informal/customary) breeds conflict, confusion and overlaps in institutional mandates.”¹³⁰ As Rugadya, Nsamba-Gayiiya, and Kamusiime submit: “the duplicity in roles, hierarchy and jurisdiction needs systematization, while recognizing the values and incorporating the roles of traditional institutions in

defining the functions of statutory institutions.”¹³¹ The Final Draft of the Uganda National Land Policy proposes to relieve pressure for resolution of disputes “by the legal recognition of the dual operation of both customary and statutory systems in land rights administration, land dispute resolution and land management by empowering customary authorities to perform these functions.”¹³²

The final draft of the Uganda National Land Policy currently before cabinet details explicit challenges and misperceptions associated with customary land tenure.¹³³ The document proposes: “The State shall recognize customary tenure to be at par with other Tenure systems;” and that “The State shall establish a customary land registry for registration of customary tenure in its own form.”¹³⁴ It then sets forth detailed strategies: “To facilitate the development and evolution of customary tenure in relation to social, economic, political and other factors; facilitate the design and evolution of a legislative framework for customary tenure; and strengthen traditional land management and administration institutions”¹³⁵ There are no reasons to think these suggestions will not be adopted and informed observers suggest this could possibly be as early as mid 2013.

The intensity of land disputes and the number of disputes resulting in violence across the Acholi Sub-region is comparatively low considering the social, political and economic turmoil the region has experienced in recent decades. This may largely attributed to the pervasive nature and strength and of Acholi customary systems governing land use, and relatively progressive government policies that have thus far respected local systems of tenure. However, land related conflict has the potential to escalate substantially in the absence of more effective measures to resolve them.¹³⁶

The study suggests the efficacy of existing community level mechanisms in resolving land disputes. While neither statutory nor customary mechanisms are without gaps and weaknesses, they continue to function and resolve the majority of land disputes to the satisfaction of all parties involved. The traditional leaders generally have the trust of the community and with a sound knowledge of the situation and the immediate actors involved, they are well positioned to engage in ADR. Where this fails, they are also well placed to document existing boundaries and the relationship between the parties to the dispute that can be used in evidence in statutory courts.

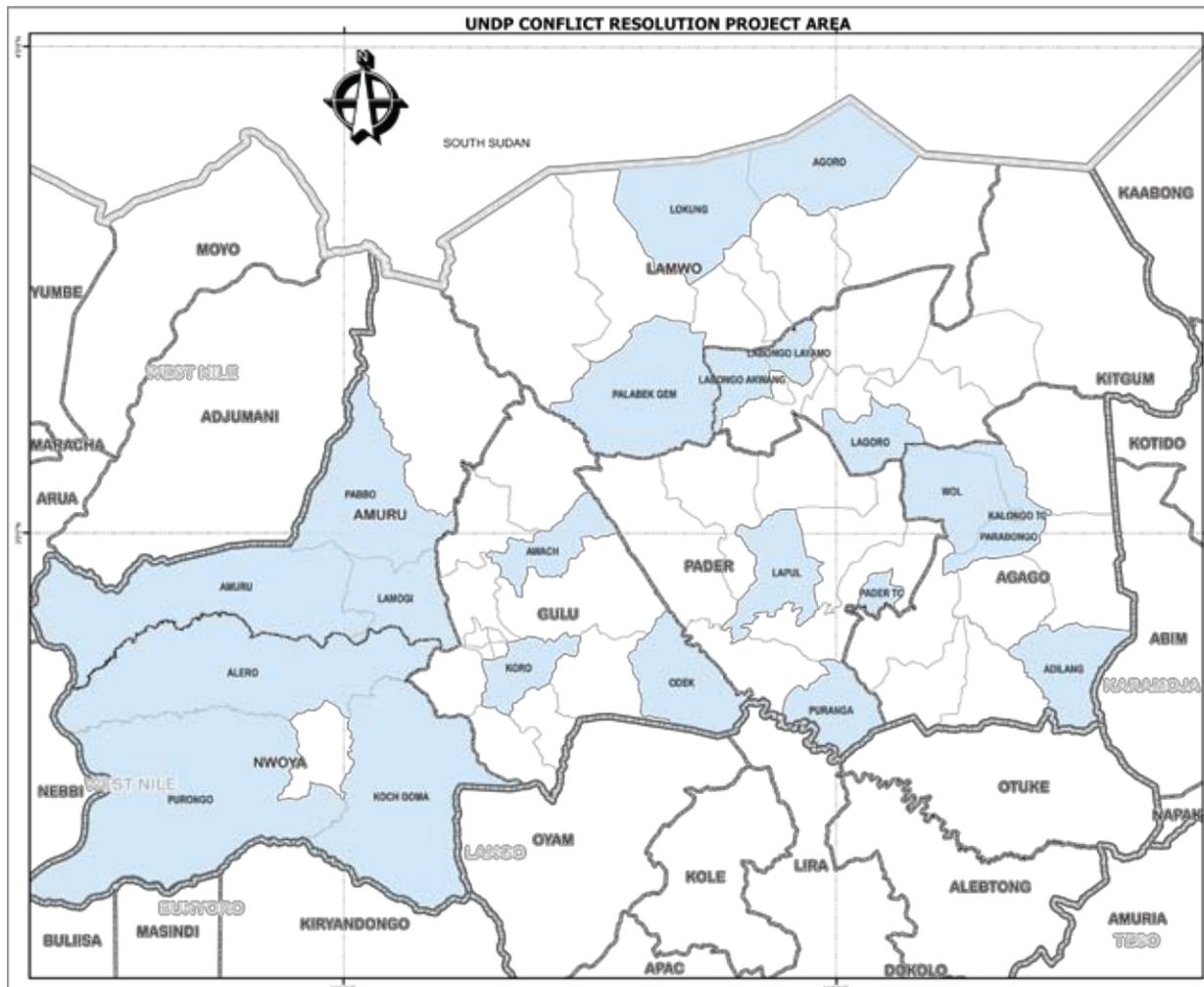
There is a clear need to resolve the legal status of the local councils; strengthen their knowledge of the relevant laws and procedures of arbitration; provide them with more detailed evidence compiled by the traditional leaders; and formalize their interaction with

superior courts to make them more effective and possibly address issues of corruption.

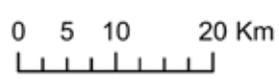
Recommendations

- Sensitize the public on statutory and traditional land laws and the statutory and traditional mechanisms and processes available to peacefully resolve land disputes;
- Government to strengthen the capacity of all statutory mechanisms;
- Government to finalise and legitimise the role of LCIs and LCIIIs;
- Strengthen capacity of LC courts: training on relevant laws, arbitration procedure and record keeping;
- Standardize fees and/or develop objective criteria for determining the contributions of plaintiff and complainants for court fees and site inspections;
- Enforce existing laws concerning the involvement of traditional leaders in government;
- Strengthen links between statutory mechanisms and traditional leaders;
- Explore the formalization of a role for traditional leaders in alternative dispute resolution and the preparation of evidence;
- Strengthen capacity of traditional leaders: sensitization on customary law, ADR and record keeping
- Develop a uniform format for records for submission to higher courts as evidence;
- Streamline and formalize the appeals process: starting with ADR administered by the traditional leaders before proceeding to LCIIIs and subsequent courts;
- Revise the Acholi Practices, Principles, Rights and Responsibilities (PPRR) or develop a more comprehensive version in close consultation with the rank and file of traditional leaders to: 1) maximise awareness of traditional law, 2) ownership of the document;
- Encourage the traditional leaders through the Ker Kwaro Acholi to consider a revision of the roles and responsibly of women in Acholi traditional law—possibly in association with the preceding point;
- Improve understanding of land grabbing through further research.

APPENDIX I. MAP OF SUB COUNTIES EXAMINED



*** To Note**
Some of the Subcounties and Municipalities are newly constituted and therefore their boundaries are not yet defined.



Data Sources:
Admin boundaries - UBOS 2010
Thematic - UNDP 2012



Produced by NUDC, March 2012

APPENDIX V

SELECTED SUMMARY OF STATISTICAL DATA

1. Categories of Land Disputes Across the Acholi Region

Form of Dispute	Boundary	Inheritance	Ownership	Sharing amongst family	Sales without family/clan approval	Sales without spouse's Consent	Other
Number	316	414	309	48	80	13	12

2. Satisfaction with Resolution (Percentage)

District	Response	
	Yes	No
Agago	88.89	11.11
Amuru	88.89	11.11
Gulu	75.00	25.00
Kitgum	58.33	41.67
Lamwo	88.89	11.11
Nwoya	63.64	36.36
Pader	66.67	33.33

3. Cases handled by LCIIIs (Number)

District	Sub-county	Total cases heard	Total land cases	Total land cases resolved	Percentage of cases associated with land
Agago	Adilang	59	54	50	91.53
	Parabongo	82	80	41	97.56
	Wol	58	41	38	70.69
Amuru	Amuru	53	46	36	86.79
	Lamogi	62	62	52	100.00
	Pabbo	21	20	15	95.24
Gulu	Awach	44	40	36	90.91
	Koro	29	29	26	100.00
	Odek	56	51	42	91.07
Kitgum	Akwang	26	25	21	96.15
	Labongo Layamo	31	31	27	100.00
	Lagoro	35	35	25	100.00
Lamwo	Agoro	16	16	10	100.00
	Lokung	19	18	16	94.74
	Palabek Gem	19	19	14	100.00
Nwoya	Alero	57	57	51	100.00

District	Sub- county	Total cases heard	Total land cases	Total land cases resolved	Percentage of cases associated with land
	Koch Goma	48	48	39	100.00
	Purongo	15	15	13	100.00
Pader	Lapul	27	31	24	114.81
	Pader Town Council	42	35	25	83.33
	Puranga	64	56	49	87.50

4. Cases Handled by Traditional Leaders (Number)

District	Sub- county	Total cases heard	Total land cases	Total land cases resolved	Percentage of cases associated with land
Agago	Adilang	69	38	26	55.07
	Parabongo	26	11	11	42.31
	Wol	63	48	38	76.19
Amuru	Amuru	13	9	5	69.23
	Lamogi	71	30	27	42.25
	Pabbo	20	13	10	65.00
Gulu	Awach	78	78	48	100.00
	Koro	59	31	18	52.54
	Odek	65	24	19	36.92
Kitgum	Akwang	8	5	4	62.50
	Labongo Layamo	17	15	15	88.24
	Lagoro	23	20	16	86.96
Lamwo	Agoro	18	11	9	61.11
	Lokung	44	32	21	72.73
	Palabek Gem	14	11	10	78.57
Nyoya	Alero	21	20	20	95.24
	Koch Goma	49	38	24	77.55
	Purongo	18	16	12	88.89
Pader	Lapul	13	9	9	69.23
	Pader Town Council	101	91	84	90.10
	Puranga	29	23	14	79.31

5. Traditional Leaders' Perceptions of their Roles

District	Sub- county	Provide Opinion	Abitrate	Both
Agago	Adilang	50.00	33.33	16.67
	Parabongo	62.50	12.50	12.50
	Wol	57.14	28.57	14.29
Amuru	Amuru	77.78	22.22	0.00
	Lamogi	87.50	12.50	0.00
	Pabbo	100.00	0.00	0.00
Gulu	Awach	90.00	0.00	0.00
	Koro	80.00	0.00	0.00
	Odek	90.91	9.09	0.00
Kitgum	Akwang	100.00	0.00	0.00
	Labongo Layamo	85.71	14.29	0.00
	Lagoro	75.00	25.00	0.00
Lamwo	Agoro	81.82	18.18	0.00
	Lokung	100.00	0.00	0.00
	Palabek Gem	75.00	0.00	0.00
Nyoya	Alero	44.44	22.22	0.00
	Koch Goma	100.00	0.00	0.00
	Purongo	87.50	12.50	0.00

6. Knowledge, Involvement and Possession of the PPRR (Percentage)

District	Sub County	Aware of PPRR	Was involved in the development of PPRR	Possess copy of PPRR
Agago	Adilang	33.33	16.67	16.67
	Parabongo	25	0	0
	Wol	28.57	0	28.57
Amuru	Amuru	55.56	11.11	44.44
	Lamogi	25	12.5	12.5
	Pabbo	66.67	11.11	33.33
Gulu	Awach	50	0	20
	Koro	10	0	10
	Odek	27.27	0	9.09
Kitgum	Akwang	85.71	42.86	71.43
	Labongo Layamo	28.57	0	0
	Lagoro	25	0	12.5
Lamwo	Agoro	36.36	9.09	18.18
	Lokung	50	0	37.5
	Palabek gem	25	0	0
Nwoya	Alero	55.56	0	0
	Koch Goma	62.5	0	50
	Purongo	12.5	0	0
Pader	Lapul	16.67	0	0
	Pader Town Council	28.57	0	14.29
	Puranga	37.5	0	12.5

7. Preferred Rwot for Handling Land Disputes

District	Rwot				
	Rwot Apoka	Rwot Okoro/ Mon	Rwot Moo	Rwot Kweri	Rwot Kaka
Agago	4.17	12.5	41.67	20.83	20.83
Amuru	4	0	24	64	8
Gulu	0	7.69	0	73.08	15.38
Kitgum	0	3.7	11.11	48.15	25.93
Lamwo	0	0	4.35	56.52	34.78
Nwoya	7.69	0	23.08	65.38	0
Pader	0	0	24	24	44

8. Perception of Traditional Leaders on Women's Rights to Own Land (Percentage)

District	Yes	No	Sometimes
Agago	71.43	14.29	23.81
Amuru	61.54	30.77	7.69
Gulu	48.39	41.94	6.45
Kitgum	54.55	36.36	9.09
Lamwo	44.44	44.44	14.81
Nwoya	64	32	0
Pader	52.38	14.29	28.57

9. Preferred Dispute Resolution Mechanism of First Instance (Percentage)

District	LC I	LC II	Elders	Other
Agago	16.67	41.67	25	16.67
Amuru	36	24	28	12
Gulu	38.46	3.85	23.08	38.46
Kitgum	29.63	37.04	11.11	22.22
Lamwo	52.17	13.04	8.7	26.09
Nwoya	53.85	7.69	19.23	19.23
Pader	24	52	16	8

APPENDIX II

Tool for Community Members

1. Date
2. Name of Interviewer
3. Location of interview

A. IDENTITY OF RESPONDENT

4. Name of respondent
5. Sex
6. Position
7. Age
8. Marital status
9. Clan
10. Place of Residence
11. Village
12. Parish
13. Sub - county
14. District

B. GENERAL

15. Which institution resolves most disputes within your community?
 - (a) Government
 - (b) Traditional leaders [] (code)
 - (c) Religious leaders
 - (d) Others (Specify)

16. If you have a dispute with your neighbor, where do you prefer to first take the problem for resolution?
 - (a) Local Council I
 - (b) Local Council II [] (code)
 - (c) Police
 - (d) Sub County Official (Which official)
 - (e) District Official (Which official)
 - (f) Elders
 - (g) Clan heads
 - (h) Others (Specify)

C. LAND

17. Have you ever been involved in a land dispute?

- (a) Yes [] (code)
- (b) No (If no, skip to question 26)

18. When did it happen?

- (a) In the past month [] (code)
- (b) In the past year
- (c) In past two years
- (d) More than two years ago

19. Why do you think it happened then and not before?

Explain.....
.....

20. What was the form of land dispute you were involved in?

- (a) Boundary
- (b) Inheritance [] (code)
- (c) Ownership (usage/management)
- (d) Sharing land amongst family members
- (e) Land sales without family/clan approval
- (f) Land sales without spouse's approval
- (g) Others (Specify).....

21. What level of conflict was it?

- (a) Individual
- (b) Neighbours [] (code)
- (c) Family
- (d) In-laws
- (e) Clan
- (f) Tribal/inter-ethnic
- (g) Local Government (Sub-County.Town, Council headquarters)
- (h) National Government (schools, health center, public roads)
- (i) Local Investor
- (j) International Investor
- (k) Civil society organizations (church, NGOs)
- (l) International Investor

(m) Civil Society organizations (NGOs, church)

22. At what level was it dealt with?

- (a) Family mediation
 - (b) Clan mediation [] (Codes)
 - (c) Community (neighbours etc...)
 - (d) Area Land Committee (ALC)
 - (e) District Land Committee (DLC)
 - (f) Local Councillor (LCI)
 - (g) Local Councillor Two (LCII) Court
 - (h) Resident District Commissioner (RDC)
 - (i) Others (Specify).....
-

23. Was it resolved?

- (a) Yes [] (code)
 - (b) No (Explain).....
-

24. Were you satisfied with the resolution?

- (a) Yes [] (code)
 - (b) No (Explain).....
-

25. How long did it take to resolve?

- (a) One month
- (b) Three months [] (code)
- (c) Six months
- (d) Over one year

26. Have you ever had or attended any land dispute resolution case not involving your own land?

- (a) Yes (Specify) [] (code)
- (b) No

27. If yes to question 26 above, before whom did you attend most of the cases?

- (a) LCII court [] (code)
- (b) Clan mediation
- (c) LCI
- (d) Others (Specify)

28. Why did you attend this case, for what purpose?

Explain (Witness, etc.)

29. Was it a fair process?

- (a) (Yes) [] (code)
- (b)(No)(Explain).....

30. How far is the nearest court to your land?

- (a) Kilometers: [] (number)
- (b) Minutes walk: [] (number)

31. Which traditional leadership do you believe is most appropriate to resolve land disputes within your area?

- (a) Rwot Apoka
- (b) Rwot Okoro /Mon [] (code)
- (c) Rwot Moo
- (d) Rwot Kweri
- (e) Rwot Kaka

(Explain)

32. Which government institution do you believe is most effective for resolving land disputes within your area and why?

- (a) LCI [] (code)
- (b) Parish Chief
- (c) Magistrates' Court
- (d) LCII Court
- (e) Sub county leaders
- (f) District officials
- (g) Resident District Commissioner
- (h) Others specify

33. Are you aware of any support or training provided by NGOs or Government on land law and land related land conflict in your area?

(a) No [] (code)

(b) Yes, (Explain: identify institutions, activities, and when)

.....

34. What recommendations do you have for resolving land related conflict in your area? ...

.....

.....

General Notes (Your observations, case studies/stories of particular interest, quotes from respondents, questions from respondent, etc.....

.....

.....

APPENDIX III

Tool for Local Councillor Two (LCII) Court Executives

- 1. Date
- 2. Name of Interviewer
- 3. Location of interview

A. IDENTITY OF RESPONDENT

- 4. Name
- 5. Sex
- 5 a. Clan
- 6. Position
- 7. How long have you been in this position?
- 8. Village
- 9. Parish
- 10. Sub-County
- 11. District
- 12. Contact details (optional)

B. GENERAL QUESTIONS

- 13. Is the LCII court functioning in your area?
 - (a) Yes [] (code)
 - (b) No (Why?)
 - (c) I don't know

- 14. Approximately how many cases have you heard:
 - (a) since you were in this position? [] (number)
 - (b) past 1 year []
 - (c) past 2 years []

C. LAND

- 15. Approximately, how many new land conflicts have come before you in the:
 - (a) since you were in this position? []
 - (b) past week []
 - (c) past month [] (numbers)
 - (d) past 1 year []
 - (e) past 2 years []

16. Approximately, how many land conflicts have you successfully resolved in the:

- (a) since you were in this position? []
- (b) past week []
- (c) past month [] (numbers)
- (d) past 1 year []
- (e) past 2 years []

17. Assign approximate numbers to the following categories of litigants involved in cases before you over the past one year:

- (a) Wives []
- (b) Widows []
- (c) Widowers []
- (d) Orphans []
- (e) Youth []
- (f) Child-headed households [] (numbers)
- (g) Female headed households []
- (h) Divorced women []
- (i) Unmarried women []
- (j) Child born to unmarried women []
- (k) Dependants []
- (l) Elderly men []
- (m) Elderly women []
- (n) IDP returnees []
- (o) Other legal entities (Specify: NGOs, church) []

18. Assign approximate numbers to the forms of new land disputes brought before you in past one year?

- (a) Boundary []
- (b) Inheritance [] (numbers)
- (c) Ownership (usage/management) []
- (d) Sharing land amongst family members []
- (e) Land sales without family/clan approval []
- (f) Land sales without spouse's approval []
- (g) Others (Specify) []

19. Approximately how many new land disputes at the various levels listed below have come before you in the past one year:

- (a) Individual []
- (b) Neighbours []
- (c) Family [] (numbers)
- (d) In-laws []
- (e) Clan []
- (f) Tribal/inter-ethnic []
- (g) Local Government (Sub-County, Town Council headquarters) []
- (h) National Government (schools, health center, public roads) []
- (i) Local Investor []
- (j) International Investor []
- (k) Civil society organizations (church, NGOs) []

20. Approximately how many new land disputes of the various types listed below have come before you in the past one year:

- (a) Social []
- (b) Economic [] (numbers)
- (c) Political []
- (d) Institutional (church, NGOs, school, hospital) []

21. What is the usual time between summoning the defendant and the actual hearing of the case?

- (a) One day
- (b) One week [] (Code)
- (c) 2 weeks
- (d) Other (Explain)

22. Do you normally inquire whether the litigants have attempted Alternative Dispute Resolution (ADR) before they present their cases to the LCII Court?

- (a) No [] (Code)
- (b) Yes
- (c) Sometimes (Explain)

23. If no to question 22 above, do you refer them back to ADR or proceed with the case?

- (a) Yes, I refer them back [] (Code)

- (b) No, I proceed with the case
- (c) Sometimes (Explain)

24. What do you do to the process as a member of the LCII Court executive if a dispute arises over land in which you have personal interest or if one of the parties is related to you?

- (a) Disqualify myself [] (Codes)
- (b) Continue to mediate
- (c) Others (Specify)

25. How regularly do you sit to hear cases?

- (a) Once a week [] (Code)
- (b) As often as business of court requires
- (c) Twice a month
- (d) Other (Explain)

26. What is the average duration taken to dispose of a case?

- (a) One month [] (Code)
- (b) Three months
- (c) Six months
- (d) Over six months
- (e) Over one year

27. Does everyone pay court fees?

- (a) Yes [] (Code)
- (b) No
- (c) Sometimes (Explain)

28. If no to question 27 above, what do you do?

APPENDIX IV

Tool for Traditional Leaders

- 1. Date
- 2. Name of Interviewer
- 3. Location of interview

A. IDENTITY OF RESPONDENT

- 4. Name
- 5. Sex
- 6. Clan
- 7. Position in clan
- 8. How long have you been in this position?
- 9. Village
- 10. Parish
- 11. Sub-County
- 12. District
- 13. Contact details (optional)

B. GENERAL QUESTIONS

- 14. Is the traditional court functioning in your area?
 (1) Yes [] (code)
 (2) No (Why?)
 (3) I don't know

- 15. Approximately how many cases have you heard:
 (a) since you were in this position? [] (number)
 (b) past 1 year []
 (c) past 2 years []

C. LAND

- 16. Approximately, how many new land conflicts have come before you in the:
 (a) since you were in this position? []
 (b) past week []
 (c) past month [] (numbers)
 (d) past 1 year []
 (e) past 2 years []

17. Approximately, how many land conflicts have you successfully resolved in the:

- (a) since you were in this position? []
- (b) past week []
- (c) past month [] (numbers)
- (d) past 1 year []
- (e) past 2 years []

18. Assign approximate numbers to the following categories of litigants involved in new cases before you over the past one year:

- (a) Wives []
- (b) Widows []
- (c) Widowers []
- (d) Orphans []
- (e) Youth []
- (f) Child-headed households [] (numbers)
- (g) Female headed households []
- (h) Divorced women []
- (i) Unmarried women []
- (j) Child born to unmarried women []
- (k) Dependants []
- (l) Elderly men []
- (m) Elderly women []
- (n) IDP returnees []
- (o) Others (Specify)..... []

19. Assign approximate numbers to the forms of new land disputes brought before you in past one year?

- (a) Boundary []
- (b) Inheritance [] (numbers)
- (c) Ownership (usage/management) []
- (d) Sharing land amongst family members []
- (e) Land sales without family/clan approval []
- (f) Land sales without spouse's approval []
- (g) Others (Specify)..... []

20. Approximately how many new land disputes at the various levels listed below have come before you in the past one year:

- (a) Individual []
- (b) Neighbours []
- (c) Family [] (numbers)
- (d) In-laws []
- (e) Clan []
- (f) Tribal/inter-ethnic []
- (g) Local Government (Sub-County.Town Council headquarters) []
- (h) National Government (schools, health center, public roads) []
- (i) Local Investor []
- (j) International Investor []
- (k) Civil society organizations (church, NGOs) []

21. Approximately how many new land disputes of the various types listed below have come before you in the past one year:

- (a) Social []
- (b) Economic [] (numbers)
- (c) Political []
- (d) Institutional (church, NGOs, school, hospital) []

22. How do you handle land dispute resolution?

- (a) Negotiation [| | |] (Codes)
- (b) Mediation
- (c) Arbitration
- (d) Referrals
- (e) Community mobilization/sensitization (meetings, dialogues, FM radio talk shows)
- (f) Others (Specify)

23. What do you do to the mediation process as a traditional leader if a dispute arises over land in which you have personal interest or if one of the parties is related to you?

- (a) Disqualify myself [] (Codes)
- (b) Continue to mediate
- (c) Others (Specify)

24. Who assists and advises you in the handling of land disputes?

(a) Family Members

(b) Neighbours [| | |]

(Codes)

(c) Opinion Leaders

(d) Aids

(e) Others (Specify)

25. When resolving land disputes:

(a) Do you hear cases to give advice and your opinion? [] (Codes)

(b) Do you hear cases to give a judgement?

26. How are members of the committee selected?

(Explain).....

.....

27. How many are:

(a) Men? [] (number)

(b) Women? [] (number)

28. Do women in your clan play a role in the mediation process over land disputes?

(a) Yes (Specify roles) [] (Code)

(b) No

(c) Sometimes (Explain)

.....

29. Do men and women in your clan have equal rights to own land?

(a) Yes [] (Code)

(b) No (Explain).....

(c) Sometimes (Specify role for clan women)

.....

30. How long do you take to commence mediation on a land dispute brought to you?

(a) Immediately they are reported [| |] (Codes)

(b) Depends on urgency of the matter

(c) The Rwot or clan leader decides

(d)Others (Specify).....

31. What duration do you take to resolve a case?

- (a) One month [] (Codes)
- (b) Three months
- (c) Six months
- (d) Over one year

32. Is the site of the disputed land (locus in quo) inspected?

- (a) Yes [] (Code)
- (b) No (Explain).....
- (c) Sometimes (Explain).....

33. If yes to question 32 above, when do you inspect the site of the disputed land (locus in quo)?

- (a) Before the ruling[] (Code)
- (b) During the ruling
- (c) After the ruling

34. If yes to question 32 above, is there a fee for such site inspections?

(Explain: money, materials, value)..... []
(number).....

35. Do you inform the people who come for mediation that they also have the option to go to formal courts in case they are not satisfied with the outcome of the mediation?

- (a) Yes [] (Code)
- (b) No
- (c) Sometimes (Specify circumstances)

36. How is the final resolution reached in the mediation process?

- (a) By express agreement of both parties [] (Codes)
- (b) When both parties agree on a common position reached in the process
- (c) After consultation with other chiefs and clan leaders to make a final decision
- (d) Others (Specify)

37. What do you do after reaching the final conclusion of a dispute?

- (a) Verbally inform the parties of your opinion/decision. [] (Codes)

- (b) Provide the parties with the minutes of the process.
- (c) Write an agreement signed by both parties and witnessed by people present during the mediation.
- (d) I do nothing.
- (e) Others (Specify).....

38. Do you ensure both parties have equal right to be heard, call witnesses and present evidence?

- (a) Yes [] (Code)
- (b) No (Explain)

39. Have you mediated on a case which was being heard by the Local Council II Court?

- (a) Yes (Specify) [] (Code)
- (b) No

40. Where do your cases originate? Please list in order from most to least common:

- (a) Referred from LC1 [| | | | | |] (Codes)
- (b) Referred from LC2
- (c) Community members
- (d) Referred from Magistrates court (Specify: Grade I, Grade II, Grade III).....
- (e) Referred from District officials
- (f) Referred from RDC
- (g) Referred from the Police
- (h) Referred from NGOs
- (i) Others (Explain).....

41. Do you record the proceedings of mediation/negotiation?

- (a) Yes [] (Code)
- (b) No
- (c) Sometimes (Explain).....
- (If appropriate probe: ask to records and management)
-

42. Do you refer cases?

- (a) Yes [] (Code)
- (b) No (Explain)

43. Under what circumstances do you refer cases?

- (a) Difficult cases [] (Codes)
- (b) Political interference
- (c) Where I have interests or biases
- (d) Lack of respect by respondent/s
- (e) Other (Explain)

44. Are fees charged for carrying out mediation on land disputes?

- (a) Yes (What/How much?)..... [] (Code)
- (b) No (Explain)

45. What do you do when someone has no money or gifts to give you for hearing their case?

(Explain)
.....

46. What is your main reason for carrying out mediation on land disputes?

- (a) Because it is my duty as a clan leader
- (b) To help my people [] (Codes)
- (c) For money
- (d) To reconcile the parties
- (e) Help my clan people involved in the dispute with the best option available for dispute resolution
- (f) Instill cultural values
- (g) Other (Explain).....

47. Do people respect your judgment/ruling?

- (a) Yes [] (Code)
- (b) No
- (c) Sometimes

48. How are your rulings enforced?

- (a) Police [] (Codes)
- (b) Intervention by District Officials
- (c) Community approval
- (d) I don't know
- (e) Ker Kwaro Acholi

(f) Clan Askaris

(g) Others (Specify).....

49. Do you know if any of your cases were appealed against in a government court in the past year?

(a) Yes [] (code)

(b) No

(c) I don't know

50. If yes to question 49 above, how many in the past year?

How many? [] (number)

51. If yes to question 50 above, did the court or the parties inform you of the outcome?

(a) Yes [] (code)

(b) No

52. If yes to question 51 above, how many cases were upheld.?

(a) How many [] (code)

(b) I don't know

53. Are you aware of the existence of the Acholi Practices, Principles, Rights and Responsibilities (PPRR) documenting Acholi law published by the Ker Kwaro Acholi and the Norwegian Refugee Council (NRC)?

(a) Yes [] (Code)

(b) No (If no, go to question 56)

54. Were you involved or consulted in the development of this publication?

(a) Yes [] (Code)

(b) No

55. Do you have a copy?

(a) Yes [] (Code)

(b) No

56. Have you received any training on land law or land related conflict from NGOs or Government institutions?

(a) Government

(b) NGOs

(Explain: identify institutions involved, materials provided, topic of training, length and when)

57. What constraints and challenges do you face?

(Explain)

58. How do you handle conflicts involving your clan members in other districts/areas?

(Explain)

59. Do you experience interference from anywhere in the discharge of your duties?

(Explain)

60. What recommendations do you have for resolving land related conflict in your area?

.....

General Notes (Your observations, case studies/stories of particular interest, quotes from respondents, questions from respondent, etc...)

.....

General Notes (Your observations, case studies/stories of particular interest, quotes from respondents, questions from respondent, etc...)

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