LAND CONFLICT MONITORING *and* MAPPING TOOL *for the **Acholi** Sub-region*

Final Report - March 2013

Research conducted under the United Nations Peacebuilding Programme in Uganda by Human Rights Focus

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EXECUTIVE SUMMARY

In a context of land disputes as a potential major conflict driver, the UN Peacebuilding Programme (PBP) commissioned Human Rights Focus (HURIFO) to develop a tool to monitor and map land disputes throughout Acholi. The overall purpose of this project is to obtain and analyse data that enhance understanding of land disputes, and through this to inform policy, advocacy, and other relevant interventions on land rights, security, and access in the sub-region. Two rounds of quantitative data collection have been undertaken comprehensively across the sub-region, in February/March and September/October 2012, along with further qualitative work and analysis of relevant literature.

In order to maximise its contribution to urgently needed understanding of land disputes in Acholi, the project has sought to map and collect data not simply on the numbers and types of land disputes, but also on the substrata: the nature of the landholdings on which disputes are taking place; how land is used and controlled, and by whom.

KEY FINDINGS

- Over 90% of rural land is understood by the people who live there as under communal control/ownership. These communal land owners are variously understood as clans, sub-clans or extended families.
- The overall number of discrete rural land disputes is declining significantly. Findings suggest that disputes are being resolved at a rate of about 50% over a six-month period. First-round research indicated that total land disputes between September/ October 2011 and February/March 2012 numbered about 4,300; second-round data identified just over 2,100 total disputes over the period between April and August/ September 2012. Ongoing disputes in February/March 2012 totalled around 2,000, while in September/October 2012 the figure had dropped to under 1,100.
- Notwithstanding this reduction in numbers of disputes, numbers of households affected by disputes remains high, at somewhere over 18,000. This figure however will include a substantial number of households where the impact is small or indirect, as well as those where the impact is severe.
- The apparent disparity between reducing numbers of disputes while numbers of affected households remain high can be explained by the fact that large disputes involving multiple households are being resolved at a much slower rate than disputes as a whole. Very large disputes – those affecting over 100 households tend to be of longer duration than smaller; a number of such disputes began from before the start of the northern Uganda conflict in 1986.
- Violent disputes are also of longer duration/more resistant to resolution.
- Smaller disputes in terms of numbers of households involved and level of violence, appear to be in steady decline - our figures suggest fewer disputes starting and high resolution rates.
- Where leadership is effective, land rights of women and vulnerable groups have emerged as real and defendable.
- Cultural and traditional leaders and lower-level local councillors (LCs) and LC courts were reported to be effective in disputes resolution, with religious leaders/agencies the next most often noted.

- Dispute patterns vary considerably across the Sub-region, with Lamwo and Nwoya districts manifesting the greatest divergence from the Sub-regional averages.

The downward trajectory of overall land disputes in Acholi during the period covered by project research (from September/October 2011 to September/October 2012), along with dispute resolution rates of approximately 50% every six months, has important policy implications. An estimated 1,100 ongoing disputes certainly give cause for continued concern and attention, especially as a disproportionate number of these involve violence and/or large numbers of households, but it is perhaps time to begin broadening the focus when looking at land issues in the Acholi Sub-region to include other concerns as well.

The nature of customary communal landholding in Acholi – which is the tenure system identified by local respondents in our research as dominant in approximately 90% of the rural villages in the sub-region – has figured little in public discourse about the Sub-region until very recently. In terms of advocacy and legal reform, dispute resolution, and supporting strengthened tenure security, the fact that almost all rural land in Acholi is held communally – while the size and nature of the communal bodies that hold it vary enormously – is hugely significant, though little understood and rarely discussed. While the basic principles for organising and managing this land are generally well understood at the local level (even if these principles are sometimes ignored or distorted by weak or corrupt local leadership), specific local variations in the details of land organisation and management are considerable. These variations depend on numerous local conditions, such as the scale of the kin-based group with communal rights, the degree of cohesion or lack of same in each land-holding group, and the size of the communal land in question. Both to further reduce future land disputes and to protect the essential means of livelihood for the vast majority of Acholi, the central place of customary communal land in Acholi needs to be recognised, while the local variations need to be better understood.

Grassroots land dispute resolution structures are proving effective in relation to intra-communal disputes. Programming to increase the capacity of these structures by training, along with 'sensitising' communities to their land rights, are arguably misconceived: communities and community actors have demonstrated themselves to be very well informed on land issues, while external bodies including higher levels of government and civil society organisations often seem to have limited knowledge of Acholi customary land processes. This is not to say that grassroots land dispute resolution cannot be improved and supported, but much more needs to be known about these processes by those seeking to intervene if they are to avoid the risks of doing more harm than good.

Where other types of land dispute are concerned, including disputes that cross administrative (even international) borders, and disputes between communities and government agencies or powerful corporate, political or individual interests, there is a serious gap in dispute resolution capability. Individual instances of effective mechanisms have emerged in the course of the research, for example a sub-county-wide elders' forum mobilised for major disputes in Kitgum. Responses indicate that churches and church agencies have an important role that may be able to offer ideas to other actors.

The relevance and effectiveness of traditional structures in land matters is likely to be heavily dependent on the authority and legitimacy of those involved. A distinction needs to

be made, for example, between clan leaders and elders, who are directly involved and exercise direct authority in relation to land, and traditional pre-colonial chiefs (*rwodi moo*) and chiefdoms, whose roles are quite different. Understanding these differences is vital in any interventions on land issues.

With respect to disputes between communities and government agencies or powerful corporate, political or individual interests – and especially in the context of oil finds in Nwoya and large-scale disputes such as those in the Lakang and Apaa areas of Amuru – it seems likely that only political will at a high level, combined with manifest integrity on the part of the justice system, has the potential to reduce the risks of these land disputes as a conflict driver.

In Acholi, the Joint Acholi Sub-Region Leaders' Forum (JASLF) – a body comprised of parliamentarians, district government officials, and cultural, religious and other community leaders from across the sub-region – has initiated a process directly focused on Acholi customary, communal land. The Forum has appointed a committee of community leaders knowledgeable about Acholi land matters to develop and coordinate a project of research, consultation and advocacy pertaining to customary land tenure as currently understood and practiced in the sub-region. The overarching goal of the project is to better understand not only core principles and practices of Acholi customary communal land tenure but the complex local-level variations that exist across the sub-region, in order to secure and enhance customary communal land rights and land use for both individuals and communities.

Acholi has emerged in this research as atypical of African land security issues, not, as often supposed, because the post-conflict environment is fostering rampant and unmanageable land conflict but rather the opposite. This picture is confused by conflicts in western Amuru and Nwoya Districts, involving large scale questionable land acquisition by powerful forces in the context of recent oil finds and past displacements of indigenous populations. Land conflicts in these areas have little in common with the picture across the rest of the Acholi Sub-region. Here a picture of declining rates of land disputes in a context of high rates of resolution is emerging, probably because internal resources for managing conflict within rural communities are recovering and increasingly effective. We do not think there are grounds for seeing this improvement as a consequence of external forces: the courts, police and other JLOS actors are operating at a very low capacity in rural areas and were not cited by respondents as significant. NGO inputs have been beneficial in some instances, but were cited by a small minority of respondents as a significant factor in dispute resolution.

The picture of customary communal land across Acholi is highly diverse, both in terms of the types of community that control land rights and the degree to which land problems are being resolved. In response to this, we see the most equitable way forward as strengthening customary communal land security through highly localised understanding and solutions. Individual land holding communities may be enabled – or may take initiatives themselves as is happening in some parts of Acholi - to establish their own ways of organising and managing land that fit within both generally accepted broad principles and practices of Acholi land tenure and Uganda statutory law while also preserving the evolving and negotiable qualities of customary land.

It has been argued that such an approach is doomed by ever increasing land pressures leading inevitably to individualisation and privatisation of land holdings. However Acholi is atypical, inasmuch as overall – if not in every instance and area – pressure on land is unlikely to become intense for several decades (assuming that land pressures are driven by birth rates rather than, for example large scale land grabbing).

In respect of supporting specific land rights, and in particular those of women, strengthening individual communal land holding bodies is the most likely to bear results. Further research is needed, but rights for women in Acholi customary tenure are real and considerable, and may be becoming more so: displacement has probably strengthened women's relative economic position in a variety of ways, while the war itself and HIV/AIDS have both impacted inheritance norms that can be to women's advantage.

At the Sub-Saharan Africa level, a soon-to-be-published 2013 study conducted under the auspices of the World Bank provides a new focus on customary communal land. Written by Ugandan Frank Byamugisha and entitled *Improving Land Governance in Sub-Saharan Africa: A Ten Point Program to Scale Up Land Policy Reforms and Investments*, it lists as the first of ten key elements important for improving land administration in the sub-continent: 'improving security over communal lands,' including 'organizing and formalizing communal groups, demarcating communal land boundaries and registering communal rights'.[1]

Our understanding of our results therefore point in a reasonably clear direction: the need to develop a deeper understanding of the perhaps 10,000 or more communal land holdings in Acholi is most pressing; followed by programming that is likely to support strengthening of their land security.

RECOMMENDATIONS

To government:

- The 1995 Constitution and the 1998 Land Act were both widely hailed as landmarks in respect of customary land rights in Africa, but have failed to deliver strengthened customary land security, in part because of the costs and difficulties of establishing land administration bodies at very local levels. We urge that the challenge of establishing these bodies is pursued as they have the potential to do important work that more centralised bodies, we would argue, simply cannot do regarding securing customary land rights. This is because it seems that understanding and protecting the rights of those with what might be conceived as second tier claims – for example women and 'guests' - requires a very local focus.
- With regard to Certificates of Customary Ownership (CCOs), we urge the recognition that these in their present form are appropriate only in instances of already individualised land, which is a very small proportion of rural Acholi land. In contexts of communally owned land, CCOs run a severe risk of fuelling conflict and undermining natural justice by alienating land from those who have real and

[1] Byamugisha (2013 forthcoming); the passage quoted is from a PDF pre-publication overview from the book, p. 5.

historical rights to it. We therefore support the Joint Acholi Sub-Region Leaders' Forum (JASLF) position that the issuance of CCOs on customary communal land be suspended.

- We recommend the continued search for legislative instruments and policy ideas that are pro-customary, pro-communal land holding, on the grounds that available evidence suggests that these are the most likely vehicles for strengthening the land security of the rural poor, and in particular, women and vulnerable people, and hence reducing rural poverty.

To development partners:

- We recommend supporting further research into the nature and variety of customary collective land holding in Acholi – and in other Ugandan and African regions where population pressures or other factors have not so far led to large-scale individualisation of land holdings. We also suggest further research into how customary land practices in respect of women and vulnerable groups are evolving, and note the importance of methodologies the explore actual practice – sometimes discernible through what is contested - rather than historical norms and rehashed stereotypes.
- We recommend limiting or even ceasing programmes that focus on legal aid or legal solutions – in theory or in practice - in respect of conflicts over customary communal land. Mediation and alternative dispute resolution may have a place if carried out with sufficient skill and in appropriate coordination with other actors, particularly local traditional ones. We are particularly doubtful about the positive impact of training local actors in land law in the absence of government-level clarification of the status of customary land law and the role of formal law in customary disputes, as this is likely to lead to misconstrual of the law, confusion and miscarriages of natural justice.
- We are similarly doubtful of the benefits of sensitisation campaigns in relation to communities' land rights. As matters stand, community members are likely to have a far better understanding of these than external agencies can hope to have. Positive interventions probably lean more towards learning than teaching.
- We strongly support the proposed initiative of the Joint Acholi Sub-Regional Leaders' Forum to strengthen the understanding of customary communal land in Acholi as actually practiced at the local level in order to strengthen customary land security. In particular, the JASLF have shown a high degree of consensus across sectors and party lines, and in selecting the committee to undertake the programme have include some of Acholi's most respected peace advocates and skilled legal minds. This is a remarkable initiative, which may be able to find solutions to a so-far intractable problem – how can the strengths of African customary land rights, in particular with respect to the poor and the vulnerable, be accommodated and protected within a state legal framework. The findings of this research suggest that customary land in Acholi is unusually propitious in respect of some features of that custom and the relative lack of pressure on land.
- We note that perhaps achieving consensus within the JASLF has been assisted by the perceived external threats to Acholi customary land, particularly in Amuru and Nwoya, by central government and commercial interests. These threats are real, especially in the contexts of oil finds, and need to be understood and confronted

vigorously where people's rights are being stolen or eroded. This should not blind the JASLF and their development partners to the fact that across the Sub-region, it is probable that more poor and vulnerable Acholis are being deprived of their access to land through the action of more powerful members of their own communities than by the actions of outsiders. This needs to be held in mind.

To civil society:

- We recommend self-examination on the part of organisations working with paralegals, and/or providing mediation, and/or providing legal aid in the area of rural land disputes. Are your workers and volunteers, your training and sensitisation programmes, and your policies well-versed in how customary communal land in Acholi and formal law connect (or, as is usually the case, do not)? It is likely to be true that skilled local mediators working within community and customary structures, bringing their local understanding as community members, and with an interest in natural justice and an awareness of individuals' rights under the constitution, have an important role to play. This role is likely to be much more relevant than any a skilled specialist land lawyer could play in respect of disputes over customary land. This is because formal law has little to say about customary land rights.
- It may also be the case that when more is understood about customary communal land in Acholi, civil society could have an important role in helping communities to secure their collective land. In the meantime we would urge a rigorous adherence to the principle of 'first do no harm'.

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The Land Conflict Monitoring and Mapping Tool website can be found at http://www.lcmt.org.

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ACRONYMS AND ABBREVIATIONS

ACCS	Advisory Consortium on Conflict Sensitivity
ADR	Alternative Dispute Resolution
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APG	Acholi Parliamentary Group
CBO	Community Based Organisation
CCO	Certificate of Customary Ownership
DfID	Department for International Development
EVI	Extremely Vulnerable Individual
FHH	Female headed household
H/H	Household
HURIFO	Human Rights Focus
IDP	Internally Displaced Person(s)
IDQ	Individual Dispute Questionnaire
IJM	International Justice Mission
IOM	International Organisation for Migration
JASLF	Joint Acholi Sub-regional Leaders' Forum
JLOS	Justice, law and order sector
JPC	Justice and Peace Commission, Gulu Catholic Archdiocese
JRP	Justice and Reconciliation Project
KKA	Ker Kwaro Acholi
LC I, II, III, V	Local Councils 1 (Village), 2 (Parish), 3 (Sub-county), and 5 (District).
LMCM	Land Management and Conflict Minimisation Project
LCMMT	Land Conflict Monitoring and Mapping Tool
LDC	Law Development Centre
LEMU	Land and Equity Movement Uganda
LRA	Lord's Resistance Army
MP	Member of Parliament
NGO	Non-government organisation
NRC	Norwegian Refugee Council
NULPP	Northern Uganda Land Partners' Platform
PBF	UN Peacebuilding Fund
PBP	UN Peacebuilding Programme in Uganda
PDF	Parish-level Dispute Form
PVL	Parish Village List
SSA	Sub-Saharan Africa
UBOS	Uganda Bureau of Statistics
ULA	Uganda Land Alliance
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNRCO	United Nations Resident Coordinator's Office
UWA	Uganda Wildlife Authority
VLF	Village-level Form
WFP	World Food Programme

INTRODUCTION

Human Right Focus (HURIFO) is pleased to present its final report on the findings of the Land Conflict Monitoring and Mapping Tool (LCMMT) under the UN Peacebuilding Programme in Acholi.

Land disputes are widely recognised as a major problem in Acholiland. They have affected recovery from the LRA conflict, development of the agricultural sector, and trust in government, while causing extensive suffering as individuals and households have been denied access to land and means of survival. Numerous disputes have led to loss of life through murder and suicide, and some have developed into major violent conflicts between whole communities and between communities and government entities, sometimes spilling across international borders.[2]

As discussed more fully below, many of the underlying causes contributing to land disputes are the lingering consequences of twenty years of war (1986-2006) and up to ten years of forced displacement (beginning in 1996). These consequences range from disputes, both small- and large-scale, fuelled by confusion over land rights and boundaries after years of displacement, to land grabbing (especially by more powerful individuals or interests) in the wake of the confusion and uncertainties just noted, to disputes with the state over land for investment and 'development'.

A wide range of actors have engaged with these problems, typically through individual dispute resolution, capacity building of mediation and adjudication bodies, advocacy for policy and legal reform, and other means. However these interventions continue to take place in the absence of clear information on numbers, trends, and types of dispute, and largely without detailed knowledge of the customary land practices under which most Acholi land is held, and on which most rights to access and use land in the sub-region are based.

It was in this context, in which land disputes were understood as a major conflict driver, that the UN Peacebuilding Programme (PBP) commissioned Human Rights Focus (HURIFO) to develop a tool to monitor and map land disputes throughout Acholi, supporting and complimenting a number of other land-related projects being undertaken under the PBP by a consortium of UN agencies.

The overall purpose of this project is to obtain and analyse data that enhance understanding of land disputes, including the context within which they occur, in order to inform policy, advocacy, and other interventions on land rights, security, and access in the Sub-region.

PROJECT CONTEXT

While land disputes in Acholi are the focus of this project's brief and the prime focus of our field research, these disputes are taking place in the context of a country, Uganda, and indeed most of Sub-Saharan Africa, in which land disputes and land insecurity are a massive cause for concern, threatening the livelihoods and well-being of many millions of people. Most of these disputes and this insecurity are taking place in respect of customary land, which is to say land in which individual rights to occupation and use are to a greater or lesser extent outside the formal legal mechanisms of those states, and in which even

[2] This report incorporates findings from two earlier interim reports submitted to the United Nations Peacebuilding Programme: Atkinson & Hopwood (2012b); Hopwood & Atkinson (2012b).

collective holdings are largely unmapped and unregistered. The consequence is that a majority of people in Acholi, and also in Uganda and the rest of Sub-Saharan Africa, have no substantive recourse to state law – even where this is functional, accessible, and affordable – to defend their principle asset and means of survival.

In undertaking this project, it seemed important to put Acholi land conflict into this context: Acholi may or may not be atypical in various aspects of African land conflict and insecurity. Our findings suggest that in some respects it is indeed atypical (though perhaps not as anticipated at the start of the project), but in many ways, the problems faced and the potential solutions have much in common with those of the rest of the subcontinent. Unfortunately, taking a broad view does not yield many positive instances of interventions at any level to reduce conflict and increase security for the (rural, poor) majority whose lives and livelihoods depend on customary land. As with so many other African development issues, inadequate understanding has allowed the imposition of ill-conceived, non-evidence-based, neo-liberal prescriptions.

To provide this context, we have first considered the substrata in which Acholi land conflict is taking place - customary communal land - and the debates about how this may be made more secure for those who use it. We look at how customary land is understood, and how it looked historically in Acholi; what attempts have been made Africa-wide to secure and/or formalise land rights in respect of communities, with particular reference to the situation of women, 'guests' and 'in-laws' – non-members of the kin-group who have settled on land held by others; and informal land markets.

We then go on to consider how post-war land conflict has been represented in Acholi and interventions to date.

WHAT IS CUSTOMARY LAND?

In 2003 a World Bank report estimated that between 2% and 10% of land in Sub-Saharan Africa was formally titled, with most of the remainder being held communally under customary systems.[3] External understanding of these principles and practices was informed by various anthropological studies in the colonial period, after which little attention was paid to them until the mid-1990s. This is remarkable considering the vast part customary land plays in the identities, lives and livelihoods of hundreds of millions of people across the continent. The reason, which has underlain almost all land policy development across the continent until very recently, is 'the expectation that [customary collective land holdings] would disintegrate and dissolve by reason of internal contradictions, presumed social and cultural anachronism, and [their] inability to resist the impact of 'modernising' Western values.'[4] Even where benefits and strengths of customary land practices have been recognised and supported by national policies during the last fifteen or so years, this is often seen as an interim step on an inevitable and probably desirable progression to individualised, private, legally titled land.[5]

[3] Deininger (2003).

[4] Okoth-Ogendo (2000).

[5] Deininger (2003), p. 79.

A number of writers have stressed the importance of not idealising customary land holding or assuming it to have a pre-colonial purity. All customary systems will have evolved over time, including through colonial and post-colonial period impacts: population movements and growth, changing security environments, droughts, famines and diseases and much else are all likely to generate shifts in customary practices; as well as overt and covert political control or manipulation of, for example, traditional hierarchies: 'so-called 'customary' systems have been extensively manipulated by colonial and post-independence governments, and encompass a wide range of mechanisms that combine customary, statutory and other norms'.[6] As the Constitutional Court of South Africa has put it: 'It is important to note that indigenous law is not a fixed body of formally classified and easily ascertainable rules. By its very nature it evolves as the people who live by its norms change their patterns of life.'[7]

The attempt to understand and explain customary tenure often involves differentiating it from Western law and concepts of individualised, commodified land ownership. One strongly distinguishing feature is negotiability:

> Anthropological research has questioned the longstanding assumption that within customary tenure systems individual's rights are clearly defined by the individual's place and status within the kinship group revealing instead that land rights are negotiable, that kinship relations can be manipulated by the actors concerned, and that customary institutional rules can be ambiguous, so that individuals' rights to resources pertaining to the group are not given, once and for all.[8]

Another important distinction is the inclusive nature of customary land rights, in contrast to formal property rights in law which tend to be exclusive:

> One important difference between Western and non-Western systems of property is the degree of exclusion involved. Key features of private property and the 'ownership' model are clearly defined (often surveyed) physical boundaries between areas of land, unambiguous definitions of who has what kinds of rights and who does not, and the exclusion of non-owners. As Peters (1998) points out, this is not necessarily the case with non-Western systems, where inclusivity and the 'right not to be excluded' are often core features.[9]

At the turn of the millennium a number of African land experts were expressing a degree of optimism at the direction land reform was taking. Uganda in particular was singled out for praise for its 1995 constitution, alone in Africa in vesting land rights in its citizens; and its 1998 Land Act, recognising customary tenure and providing for very local level land administration.[10] Tanzania, Mozambique and Ghana, also got honourable mentions.

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[6] Cotula and Toulmin (2007), p. 109.

[7] Constitutional Court of South Africa, Alexor Ltd v. The Richtersveld Community, 14 October 2003, CCT 19/03.

[8] Quan (2007), p. 52.

[9] Cousins and Claassen (2004).

[10] Alden Wiley (2000).

The hope was that finally, after a century of implacably hostile land law and policy, the communal land on which the overwhelming majority of rural Africans live and depend, would be protected for its collective owners by the state:

> Previously, recordation, registration, and the issue of evidential documentation [titles] were inseparable from the individualisation of the ownership of that property. The damage this has done to domestic property relations on the continent has been immense, quite aside from the constraint this has placed upon group and community tenure. Now, the link has been broken. Whilst certification remains an impregnate strategy towards land security throughout the region, it is no longer necessarily for the purpose of individualisation. Through this, the very notion of what constitutes 'private property' has begun to expand its conventional boundaries to embrace a simple - and traditional - idea that spouses, families, clans, groups and communities may also own private property, as private, legal persons in the eyes of the law.[11]

This optimism was short-lived: for example within a year of its passing, the Uganda Land Act had been assessed as essentially unworkable due to its massive cost and capacity implications, in particular the requirement to establish 4000+ Parish-level Land Boards, which had apparently been foreseen by neither DfID, which had funded the drafting of the Act, nor government. In the meantime, the former land administration mechanisms had been dismantled, leaving a vacuum.[12] Other failings of the Act were noted: 'Inadequate attention was paid to the very significant regional differences in land tenure and land use (e.g., intensive smallholder arable production and extensive pastoralism) which, in turn, called for different implementation strategies and arrangements; some areas were urgently in need of the land tenure reforms, others were not'.[13]

In Tanzania and elsewhere, land law reform appears to have produced similarly disappointing results, though Mozambique's more community-orientated and affordable reforms appear to have had positive impacts.[14]

Those who seek means of securing customary collective land seem to fall into two camps. On the one hand are those who understand customary land principles and practices as relatively straightforward, common to different ethnic communities and easily codified. This position is linked to expectations of government intervention through legislation and land administration services, though aware of the difficulties this presents in practice.[15]

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[11] Alden Wily and Mbeya (2001), p. 16.

[12] Palmer (2000), p. 11; Manji (2006), pp.91-93, notes the issues inherent in the practice of using foreign legal consultants in drafting African land legislation – in particular describing the Tanzanian experience where very precise definitions of processes emerged as unworkable in practice.

[13] Adams *et al*. (1999), quoted in Palmer (2000), p. 12. See also Land and Equity Movement in Uganda (LEMU) (2012).

[14] Palmer (2000), p. 20.

[15] Okoth-Ogendo (2000) takes an extreme reductionist position that argues that the significant elements of land custom are effectively common across Sub-Saharan Africa and can easily be codified within the common law of most African states, notwithstanding its quite different characteristics to Anglo-American land law principles. Adoko and Levine (2008) argue that customary land principles and practices are common to at least

This thinking dates back to colonial times, when there was:

> … a perception that customary law was coherent, static and overly legal. In other words, distinct meanings in Western law were used to describe the characteristics of customary systems. Customary law, as it emerged as a concept, was thought to be 'a different kind of primarily legal system carrying out many of the same functions as formal [Western] law'.
>
> It is this kind of perception that some influential policymakers and policy-making bodies are rediscovering today. They are hunting for clear principles and clear rights, but refuse to face those aspects of customary land use – the ambiguities, the negotiations – that the simplified, colonial readings of past practice chose to disregard.[16]

Another school of thought sees wide differences between different communities' land practices as well as fundamental difficulties in codification, in particular their negotiability and tendency to evolve in response to new circumstances noted above.[17] Fixing particular rights through codification is likely to carry some of the same risks as individual titling: of favouring male family heads at the expense of those with more conditional rights including women and 'guests', a problem discussed further below. For these, the solution lies in highly localised solutions, whereby individual land holding communities seek ways to encapsulate themselves, in which these entities relate externally to the state as legal persons holding their land under formal tenure, while internally regulating and adjudicating the 'rights' of their members according to their traditions and customs.

> Importantly, anthropologists and historians did not regard local-level systems of dispute settlement as 'law'; the practices they recorded were processual as well as socially embedded. This explains their scepticism when policy advocates use a 'rights language' to describe land claims in 'indigenous' systems. 'Rights' in customary law need to be seen in context, i.e. no precise legal meanings were attached, and existing rules and practices occurred mostly in situations where land was plentiful.[18]

Findings of this research discussed below suggest a large variation of significant land practices within Acholi. This is not surprising given the range of evolutionary pressures, in particular population density, commoditisation and on-going security issues that apply in different locations.

CUSTOMARY COMMUNAL LAND IN ACHOLI

In the eighteenth and nineteenth centuries, before colonial rule, land rights among the people evolving into an Acholi ethnicity resided in patrilineal, patrilocal (and patriarchal) clans. Each land-holding clan (*kaka)* typically made up the core population of a fenced village

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the sub-regions of Lango, Acholi and Teso in northern Uganda, and again, are readily susceptible to codification.

[16] Pottier (2005).

[17] See particularly Quan (2007) and Alden Wiley and Mbeya (2001).

[18] Pottier (2005).

(gang). A process of political consolidation during the eighteenth century increasingly brought these village-clans together in chiefdoms. Comprised from one or two up to 50 or more village-clans, each chiefdom was under the authority of an hereditary chief (*rwot moo*; plural *rwodi moo*), from an acknowledged royal clan (*kal*).

Even after becoming part of a chiefdom, however, village-clans continued to provide the social, economic and ideological foundations of an emerging Acholi. Importantly, communal land rights continued to be vested – for settlement, agriculture, grazing, hunting and other purposes – in the core clan of each village. These communal land rights were organised and managed, not only for the benefit of the living but for future generations, by the hereditary head of that clan, assisted by clan elders.

Male heads of households who were members of the core clan had the most obvious rights to use – but importantly not individually to 'own' – the land. Such usufructuary (user) rights, however, also existed for widows and orphans of clan members who remained on the land. Moreover, the wife (or wives, in the relatively rare instances of polygyny apart from *rwodi moo*) of each household had considerable say over the designated household plots on which staple food crops were grown. Importantly, however, work on such plots frequently involved cooperative, communal village-clan labour, rotating from plot to plot. Hunting and herding also included cooperative labour.

Acholi villages were rarely, if ever, occupied solely by members of the core clan and the women married into it. There were typically fluctuating numbers of others, some temporary and some who remained for generations. Many of these 'guests' were the households of women returning to the clans into which they were born, usually with their husbands, but sometimes as women-headed households after leaving their husbands' clan, and clan land, because of divorce or other serious difference or difficulty. There were also others linked in some way to the core clan as in-laws, friends or clients of a clan member, or refugees or war captives – or descendants of any of the above. Once accepted by the clan head and elders, such guests were allocated a portion of the host clan's land that they, and their descendants, had the right to live on and use as long as they remained – but not to increase the land they occupied without permission from their hosts.[19]

Though the fences surrounding these clan-based villages gradually came down during the colonial period, and the households that made up the villages became more dispersed, the principles of communal clan land rights, for both clan members and 'guests', remained essentially intact. And villages and the clans that were at their core continued to be central to Acholi life and society. As anthropologist F.K. Girling observed of the Acholi of the 1950s: 'the village is a living reality, it [particularly for members of its core clan] is the social group into which they are born and spend the greater part of their lives, [and] it plays a major part in regulating their relations with other Acholi.'[20]

During the nearly 25 years that passed between Uganda's independence in 1962 and the outbreak of war in Acholi in 1986, population growth, population movement and fragmentation of communal land undoubtedly occurred. Then came the long northern Uganda war, mass displacement and the myriad land-related problems accompanying post-

[19] Atkinson (2010a), especially pp. 76-77; Girling (1960), pp. 29, 36-40, 51-56, 62, 107-9 and 169-70.

[20] Girling (1960), p. 56.

conflict return and resettlement discussed below. Still, as LCMMT research makes clear – and as discussed in more detail below – Acholi customary land and land rights continue to be organised overwhelmingly on a communal basis (and it seems along basically the same lines as sketched out above), although this has been little studied or otherwise accorded serious attention in recent literature.[21]

THE LAND TITLING DEBATE

There are two main positions in favour of titling rural land in Africa, characterised by Smith as the 'defensive' and 'offensive' arguments. The former contends that titling provides security of tenure, in particular for insecure and vulnerable groups including women and the very poor. This argument continues to drive a number of land interventions in spite of long experience to the contrary and a number of failings in basic logic. 'A title is a legal instrument that is worth no more or less than the quality of guarantee that the instrument's guarantor offers'.[22] In other words, unless the state organs granting the title have the capacity, resources and will to fairly record, demarcate, adjudicate and enforce one's title, it is not worth much. Furthermore, one 'title' may compromise another: someone is very likely to have alienated their rights and entitlements under customary tenure (not to mention the goodwill of their community) in the process of seeking to individualise and legalise their land tenure through obtaining a formal title from the state.

In many African contexts in the early twenty-first century, the combination of corruption and low capacity in government agencies including the judiciary, the police and land registration and adjudication bodies means that even where poor people can obtain titles (perhaps through NGO interventions), usually only the rich, with the financial and intellectual resources to engage with the bureaucratic complexities, are able to benefit from them, especially in the longer term.[23] Putting it bluntly, '[t]itling in a context of limited capacity for governance was always going to be a red herring. To equate title with tenure security is to implicitly assume effective and equitable governance'.[24]

Are the rural poor then more secure under customary tenure? It seems that the answer depends on a number of variables but particularly on how centralised cultural authority is in relation to land management – the more so, the more it can be good or bad. In the case of a good centralised authority or a looser more collectivist regime, evidence from across the continent would suggest that customary tenure, locally administered, offers more protection to poor farmers of both genders than a corrupt and dysfunctional state land administration. Even where formal titling systems are functional they are not necessarily better, and are almost certainly less affordable to poor people: 'The maintenance of

[21] The main recent exception is the document produced by the Acholi cultural institution, Ker Kwaro Acholi (2008.) This is not a detailed codification of Acholi customary land tenure, instead setting out certain basic (though in some instances disputed) principles. For earlier descriptions of Acholi customary land tenure and use see Girling (1960) – the standard ethnography of Acholi, with information on land throughout; Ocheng (1955); Bere (1955, 1960); Atkinson (2010a), esp. pp. 54-61, 75-77; and Adoko and Levine (2004).

[22] See Smith (2003), pp. 213, 218 (the quotation is from p. 213); Carter *et al* (1994), p. 156. The 'defensive' position was typically adopted by proponents of titling mainly after the 'offensive' argument – that titling was an essential component of agricultural development – crumbled in the face of lack of supporting empirical evidence.

[23] Platteau (2000), p. 68; Toulmin *et al* (2002).

[24] Smith (2003), p. 219.

customary tenure systems, can, in many circumstances, provide all the benefits of private titling (individual tenure security, adaptability to changing economic circumstances and accessibility of small scale credit) without the high financial and social costs which titling programmes tend to involve'.[25]

The other main ('offensive') argument in favour of titling is that it stimulates development by allowing farmers to use their land as collateral.[26] This is based on a principle in direct contradiction of the ('defensive') argument for security: '[t]enure security may theoretically be good for fixed investments, but what is relevant to stimulation of credit supply is enforceable seizure of land, which surely is a form of tenure insecurity'.[27] In order to use their land as collateral, farmers must gamble with it, and the gamble is large: in Uganda at the time of writing, bank interest rates of in excess of 25% annually (micro-credit institutions can be many times higher) are greater than any predictable or even likely return for small farmers. If they lose their land, there are no jobs.

In practice, empirical studies have shown that small farmers in Africa take up credit at a very low rate.[28] Whether or not this represents them acting as the ideally informed risk calculators of the economic model is debated – Platteau argues that refusal to seek credit secured on land is entirely rational economics for the poor in environments where there are extremely limited employment alternatives to farming.[29] It also seems that where the rural poor do seek credit, this is usually for emergencies or social obligations – funerals, dowries, hospital treatment, school fees – rather than the agribusiness investments envisioned by neo-liberal economists.[30] Contrasting anecdotal evidence in northern Uganda suggests that there are lending organisations who accept collateral of parcels of untitled customary land against business loans, in particular for the purchase of *boda-bodas* (motorcycles for public transport). If and how these parcels are forfeited in the – presumably common, given the physical and economic hazards of *boda* driving - event of default is unclear.

Nyamu-Musembi argues that notwithstanding the growing trend from the mid-1990s to find other solutions, economist Hernado de Soto's contentious but highly influential 2000 book arguing the opposite revived titling programmes. This was in spite of the growing body of evidence that the impacts of titling are largely destructive for the poor generally and for women in particular, and have demonstrated no developmental benefits.[31]

The role of the African state in titling in a 'dynamic' context – i.e., one in which much or even most land is being transitioned from one tenure regime to another - is questioned further by some commentators, to the extent of regarding the state as often actively 'predatory' in land titling exercises;[32] while others argue that this 'dynamic' phase inevitably

[25] Quan (1997), p. 3.

[26] de Soto (2000); Deininger (2003).

[27] Smith (2003), p. 216.

[28] Migot-Adholla *et al* (1991).

[29] Platteau (2000), p. 5.

[30] Helle Munk Ravnborg: verbal report on as yet unpublished findings of a study by the Danish Institute for International Studies (DIIS) to a meeting at the Danish Embassy, Kampala on 15/11/2012 to launch Pedersen *et al* (2012).

[31] Nyamu-Musembi (2008), p. 18; de Soto (2000).

[32] Okoth-Ogendo (2000), p. 129.

involves a flow of land ownership in the direction of wealth and power.[33] Notwithstanding overwhelming evidence of this pattern both in the recent African context and throughout global history, programmes of individual titling of collective customary land continue in northern Uganda and elsewhere, purporting to be assisting the most vulnerable.

In Uganda, the existence of legal state titles called Certificates of Customary Ownership (CCOs) blurs the territory in dangerous ways. In theory Uganda land law is now pro-customary and pro-communal. In 2001 Alden Wiley and Mbeya could write:

> In Tanzania and Uganda, the machinery has been encompassed in community-based regimes in respectively the village land management regime and parish land committee regime outlined earlier. Further, these countries have come to the conclusion and put into law, that such property rights should be able to be certified by documentation – in short, titled. And all this, without the conventional conversion to freehold or leasehold forms, and without loss of community reference to provide the evidence and legitimacy of these rights. In addition, none of these states has determined to codify customary tenure, an intention proving problematic in some West African states. Instead, within certain bounds, it is left up to the community to determine the incidents of what is customary. Differences by community and just as important, differences over time may occur.[34]

In practice there has been virtually no progress, in part because the parish land administration bodies, and indeed many of the sub-county and district land boards, are still not in place 15 years after the passing of the 1998 Land Act that created them. CCOs are clearly derived from formal tenure instruments for private land, and make no concessions to the reality of any specific or generalised custom. In particular they are in no way adapted to the realities of collective land ownership. In Ugandan land law, 'customary' land is one of four categories recognised by the 1998 Land Act: freehold title, leasehold title, mailo and customary land. As the first three are relatively clearly defined and documented, and relate to specific parcels of land, 'customary' land functions in law as the default position for untitled, non-mailo land. As there is no legal or constitutional provision for 'private but as yet untitled', 'empty', or otherwise ambiguous land, if land is not titled or mailo (a category that only applies in the Central region) it must be 'customary'.[35] This vagueness has advantages and disadvantages from the perspective of genuine customary land holders.

CCOs could actually function as a (slightly) poorer man's freehold – marginally cheaper, in respect of official payments, and marginally less complex to obtain, but in other respects almost indistinguishable. If properly administered according to their own rules, they would in most instances be un-awardable in respect of sub-parcels of collective customary land.[36] They might be useful in circumstances where land was genuinely and demonstrably 'owned' by an individual or household, something that in practice mainly occurs with as-yet-untitled plots in established municipal areas, but also they offer a dangerous opportunity to land

[33] Verdary (1998); Peters (2000); Hunt (2001); Smith (2003).

[34] Alden Wiley and Mbeya (2001), p. 16.

[35] The pending constitutional appeal of the High Court Judgment in the Amuru/Madhvani court case discussed more fully below may provide some clarification.

[36] There are hopeful indications that the soon-to-be-published land policy will acknowledge this.

grabbers large and small, by taking advantage of the ambiguities in the legal definition of customary land.

GUESTS AND LAND MARKETS

In Acholi in the past, in a context of ample land and shifting agriculture, the relationship between a particular individual or household or family, and a specific piece of land within the overall clan holding, was for the duration of its use for a particular purpose. Rights over a plot was based on its *improvement*, for example, by clearing it. Once the soil was exhausted, the cultivators would move on and that plot would be left unused until another member of the clan decided – or negotiated with the clan authorities - to farm it.

The exceptions to this pattern were 'guests', often 'in-laws' – i.e. people connected to the clan through marriage or maternal decent, but sometimes just unrelated friends. These people, who had been 'gifted' land by an elder of the clan with the agreement of the other elders, had been given the 'right' to use a much more defined, specific piece of land. In many African societies, the terms of this 'gift' were and are often opaque, for example in terms of time period and whether the gift was inheritable (though this was not usually the case with respect to traditional Acholi customary land principles), but were/are conditional on guests showing respect for the values of the host clan, being generally good neighbours, and maybe making payments in kind, that would be understood as tribute gifts rather than transactional rent payments.

In making 'gifts' of land, it would be commonly assumed that the recipient had other options: in the longer term he would have his own clan land to return to, even if as a consequence of some crime or quarrel he could not return there immediately; certainly the guest's children would be able to go back to claim these land rights, even if the guest never could. In addition, ties of marriage and friendship would mean that, in a situation of minimal land pressure, there were alternatives one could resort to for temporary land access – which is to say, survival. If the guests turned out to be good neighbours and the children failed to return to their ancestral lands, eventually after a generation or two, they might be absorbed into the clan with the same rights as those of the core lineage. Alternatively they might remain across a number of generations as some slightly indeterminate category of 'permanent guest', restricted to a specific piece of land, possibly in an part of the clan lands specifically reserved for guests and in-laws.

If this is what it looked like historically, the picture now has become extremely complex. In some areas, lack of pressure on land has allowed the pattern described above to remain dominant, and 'gifts' of land have been observed as recently as 2011.[37] However, even in very remote areas, some commoditisation of land is likely to be found in relation to new

[37] In July 2011 the late Valeriano Orach, Ladit Kaka of the Paranga clan in Patiko Sub-county, Gulu District, offered land as a gift to an Acholi family whose paternal origins were in what is now South Sudan, who had lived as refuges in Uganda for fifteen years but had then been repatriated to South Sudan. Due to insecurity in their place of origin in Magwi County, the family of eight young people and their step-mother had returned to Uganda to the latter's family in Lamwo District but been rejected by a hostile uncle. The young male head of the Sudanese family had met *Mzee* Orach while interpreting during the resolution of a land case in the High Court in Gulu. On being asked for help, *Mzee* Orach said they would be welcome, and that new people and new ideas would help his clan develop. No time frame or other conditions were mentioned. (Observation by the first author, 23 May 2011).

roads, trading centres, administrative centres or as a result of wealthy clan members seeking to make investments in clan land. Where this occurs, or where pressure on land is becoming considerable, free movement of settlement within clan land is likely to be encountering restrictions and limitations. Specific areas of the clan landholding may now be under the control of a particular extended family or even a particular household; while some portions of land, especially those with fertile soils and a constant water supply near rivers and wetlands that can be continuously farmed, or that have otherwise acquired a commodity value, may now be claimed as the permanent 'property' of a particular individual or household. Multiple and conflicting understandings of what this 'property' means in terms of clan land rights and obligations versus new ideas of 'ownership' are now occurring. It is over-simplistic to say that these confusions are all, or perhaps even mainly, driven by greed.[38] While clearly there are many instances where greed is fuelling consciously illicit land grabbing, those who argue this also tend to understand traditional land rights as directly analogous to modern law, easily codified and adjudicated, and where one party is inevitably either in the right or the wrong. We would argue that the nature of customary tenure creates grey areas, over which difficult decisions, whether mediated and negotiated, arbitrated or adjudicated, will need to be made to avoid conflict. The means to make these decisions will depend on clarification, whether offered from above by government policy, or, more probably (and preferably), generated locally.

In current practice, numerous land 'rights' are at least partially contextual and negotiable, even in the most transparent and ethically managed customary contexts. Consider when the late grandfather 'gave' land to his late friend forty or fifty years ago. What was he giving: (a) Perpetual use of as much land as required by the friend and his heirs? (b) Perpetual use of a particular and delimited piece of land by the friend and as many of his heirs as can be accommodated there? (c) Full and equal clan land rights? (d) Temporary use of a particular piece of land on the assumption that the friend and/or his heirs would return to their own land within a period of time convenient to the gifter? The first of these seems to be what is often assumed by guests, whereas the last is a common presumption of the land-holding groups.[39] Independent parties (on the basis of tradition, it would seem) tend to favour (b). In the absence of a written or even oral contract, the children of the *mzee* and the children of the friend may both be thoroughly sincere in arguing for their own interests, especially if land availability is tight and they have no other options to feed their families.

> One often hears it said that in the past the moral precepts of African culture presupposed that everyone had a right to the use of a piece of cultivable land. . . . Under the same principle, 'strangers' or migrants' who ask for permission to cultivate should not be refused if there is sufficient land to share with them. . . . But the question whether this was a matter of right remains. Was there ever such a right in the rule-minded, legal, human rights sense of today? Or are we talking about the frequent practice of generosity in

[38] LEMU (2009).

[39] These issues as seen in the context of the Inner Niger Delta and other parts of West Africa are discussed in Chauveau and Colin (2007).

> the presence of land plenty, the helping of strangers having been at one time an affordable moral ideal? [40]

The question of land grabbing needs to be understood in this context. Disastrously (as discussed below in the section *Land Conflicts: Perceptions and Interventions*), a legalistic, adversarial approach to customary land conflicts is the norm, certainly in Uganda, albeit completely ill-equipped to address such ambiguities.

In many instances where gift arrangements were made, the period of time for which the land could be used was unspecified at the time of the gift, whether because it was assumed that the host clan had unlimited power to revoke the gift whenever they chose (not that this power would have been evoked unnecessarily in a context where social harmony was perhaps the prime social concern);[41] or because it was assumed to be permanent. Today a common myth has arisen that constitutional rights of occupation – squatters' rights – come into play after 12 years, and land judgements by lower courts are at times seemingly given on this basis. In fact this stipulation applies to freehold land under the Land Act, but not customary land, where the rights of guests, even after several generations, along with all other occupants of customary land, are as decreed by the custom of the ethnic group in question, and as interpreted and elucidated by those with power within that group.

Lack of clarity tends to be also inherent in transitional informal land markets. The issues noted above in relation to land gifts also apply to land sales:

> The fact that access to land has become monetarised does not necessarily signal the emergence of a real land sale market. First, the nature and implications of these transfers are open to different interpretations. What exactly is being purchased – the land itself, or the right to cultivate it, with the expiry date implicitly determined by the length of the crop's growing cycle? Are the transferred entitlements limited to the buyer alone, or can they be further transferred? These ambiguities are particularly problematic when one generation succeeds another, since the heirs of the original seller frequently challenge the nature of the rights acquired by the purchasers or their heirs.[42]

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[40] Moore (1996), p. 43. The situation in Acholi, historically was almost certainly not as ambiguous as the paragraph above suggest, and would often still be the case in well- organised and well–led communal land-holding kin groups in the present. Moreover, in Acholi it has never been so much that any 'strangers' or 'migrants' could expect to be given land. Especially in the pre-colonial past, groups could well be given land not claimed by a clan already in the chiefdom, but only after they accepted the rwot of the chiefdom as their rwot and land-holding clans already in the chiefdom agreed. As individuals, if they really were strangers and not known in-laws or friends, they again would not have any necessary 'right' to a portion of a member clan's communal land. They might have this granted, but not necessarily: the question in Acholi was not only, or even mainly, a moral one. Rather it was a tactic, and practice, to increase the population and thus the strength of the clan and/or chiefdom, not only in the present but in the future through the children to be born.

[41] Porter (2013, forthcoming) argues that social harmony is one of the most important values in Acholi culture, which may help explain why Acholi customary land tenure principles are clear about making the land rights of 'guests', and even their descendants, secure – see the Acholi Customary Communal Land Tenure section above

[42] Chauveau and Colin (2007).

Chimhowu and Woodhouse note the many studies suggesting labour market migration as a factor in the commoditisation of land and consequent growth of informal land markets. The Acholi experience of displacement had many features of migration, (though not usually for employment), even though most displaced people remained within a few kilometres of their homes. The Acholi displacement generated an almost universal experience of land markets – overwhelmingly camp dwellers would rent small parcels of land in the vicinity of the camp to supplement the food aid that was at times deliberately inadequate in order to foster this practice. Those fortunate to own land in the vicinity of a camp (as opposed to the camp itself) would benefit significantly from the rental income. In some areas with weak or corrupt traditional authorities, return to the land has seen the continuation of an insidious version of this market whereby powerful members of communities charge 'rent' from weaker members who in fact have hereditary rights to the land – often orphans.[43]

Selling and buying land in informal land markets can be hazardous both for buyer and seller. Chimhowu and Woodhouse note how difficult it is to identify sellers in particular, as their activities are usually regarded as illicit by their communities. Buyers come in various categories:

> [T]he literature suggests three categories of buyers. A first group derives from a new generation of what Berry (1993) calls the 'new big men' of rural Africa. Using income earned from a full-time job and the knowledge and influence gained from bureaucratic and political offices and/or experience, they usually buy land to take advantage of new opportunities in agriculture. . . . A second group consists mostly of migrants who, lacking any customary land rights in the areas to which they have moved, usually resort to vernacular land markets to buy or rent land (Woodhouse *et al*. 2000). The third group usually consists of those with rights to land through kinship but, where land is scarce, have to resort to land purchase or rental, often from a senior male relative with land to spare.[44]

Instances of each of these are to be found in Acholi, along with other categories – Ugandan and international companies, government agencies, American Christian denominations and wealthy individuals have all sought to acquire land by dubious means. However this should not obscure the fact that normative judgements on the informal land market are often misplaced, in that in many places rights and notions of ownership have become deeply unclear. This is obviously unsatisfactory but likely to continue until some land demarcation and assignments of rights to sell takes place. However this can only take place in a context of general land security advances.

WOMEN AND CUSTOMARY LAND

How best to protect the rights of women to access land in Africa has been much contested. Overwhelmingly, customary practices are reported to involve patrilineal and patrilocal inheritance of land, while women's land rights are typically gained through marriage. This has led to the widespread misapprehension that 'only men can own land'. In fact under

[43] For an example, see 'Northern Ugandans Fight to Reclaim their Land', Voice of America website (22 April 2012). Access at http://www.voanews.com/content/northern-ugandans-fight-to-reclaim-their-land-148543055/370094.html.

[44] Chimhowu and Woodhouse (2006), p. 358, referencing Berry(1993) and Woodhouse *et al* (2000).

most customary land regimes the notion of 'ownership' – by either women or men – is not applicable. Rather, as elucidated above, complex systems of evolving principles and often negotiable practices around the use of resources by different classes of land-holding-community members grant different, but not inevitably lesser, rights to women than men.

Campaigners for women's land rights have tended to move over the last ten to fifteen years from a position of advocating for individualised, formalised rights as land owners as a means of protection, to subtle strategies for small, incremental improvements. The problems with the former position are the same as the problems with individualised land tenure for poor people generally, and probably more extreme in the case of women, namely that formalising tenure benefits the rich and educated, and those with the most overt customary rights, at the expense of the rest. In respect of a rural woman farmer, it is likely that the customary land she works, and over which she has rights to the produce, is understood, in custom, as being under the control of a man – whether her husband, father, brother, brother-in-law, son, nephew etc. In practice, her rights and security under custom are probably considerable. However in the event of individualisation and the granting of tenure to the recognised male controller of the land, these rights are totally extinguished, with all rights devolving to the titled owner who can now evict the woman at will.[45]

Manji records (and questions) the ultimately failed efforts that were expended by women's advocates to press for inclusion of statutory spousal co-ownership in Uganda's 1998 Land Act (though this has subsequently entered the legal code via other legislation). These debates are at the time of writing being re-aired in the context of the Marriage and Divorce Bill, where again, the male Ugandan public as well as law-makers are revealed as profoundly antagonistic to the women's property rights proposed. Here a huge divergence emerges between a constitution that asserts equal rights as a general principle, and customs that confound that principle, including male conjugal rights, payment of (repayable) bride price and male ownership of 'marital' property. Manji suggests that while spousal co-ownership of property is all well and good, formal legal marriage and formal legal property ownership in the eyes of the state are such minority issues in Uganda as to barely warrant the effort expended.[46]

It is certainly the case that in many Sub-Saharan African contexts, women's access to land is extremely vulnerable, sometimes due to inequitable customary rights, sometimes due to abuse and lack of protection of more equitable rights. However, it is important to recognise that customary land rights are embedded in and vary with other cultural institutions and gender roles, including division of labour.

Considering how dynamic social factors may impact on land security, it is generally recognised that in most contexts women's land rights are dependent on the institution of traditional marriage. It follows that they will be likely to become stronger or weaker depending on how social and economic forces impact that institution. As an example, amongst the Karamojong of north-eastern Uganda bride price in the form of large numbers of cattle were until recently paid to formalise marriage. This practice has now almost ceased due to disarmament and controls on cattle-raiding imposed by government, and purported

[45] Adoko and Levine (2008); Manji (2006).

[46] Manji. (2006), pp. 105-14).

theft of herds by the army and by other pastoralists from Kenya and Sudan. Nowadays, if dowries are paid at all, it is likely to be in the amount of a few goats or chickens. This has radically changed the degree of subjugation of women, according to their own accounts, and their security of land access. Whereas in the past, if a wife left her husband as a result of abuse, or a husband rejected his wife for whatever reason, her birth family would rarely accept her back because this would necessitate repayment of the dowry – which would be undoubtedly unwelcome and very probably impossible. Now, where the dowry is small or unpaid, repaying it is not a major concern, and families are reported to be much more willing to take back their divorced daughters. In the other direction, it used to be the norm for men to 'inherit' their brothers' widows as wives. As a consequence of HIV/AIDS, men are now reluctant to inherit women whose husbands died of (any – not just AIDS-related) disease. Widows are therefore far more likely now than a generation ago to be expelled from the community they married into on the death of their husbands, often causing great hardship.[47]

In Acholi, cultural marriage is not a single, legal event between two people, but a process negotiated over (sometimes many) years, and involving a sequence of contracts and payments between families on behalf of clans (in the past, negotiated and paid by clans themselves). The rights, duties and obligations of the clans in respect to a woman in a relationship with a man vary according to what processes have been gone through, as well as practical considerations of the affordability of repaying bride price, where this has been fully or partially paid. The notion of divorce is complicated by the relatively common practice of polygyny/polygamy. The question 'is a woman a neglected first wife or divorced?' is sometimes not easy to answer categorically even for the couple concerned. When does the husband's clan have the 'right' to chase her away, and what land rights do her children have if she remarries and moves away? Just as the states of 'married' and 'divorced' are not single and fixed, neither are there single, fixed 'correct' outcomes under customary land 'law'. In the past these outcomes would be negotiated between the two clans concerned, and often still are. As described above in respect of the Karamojong, reductions in or non-payment of bride price facilitate women moving back to their birth family. Although widow inheritance may have dropped out of the contemporary Acholi cultural lexicon, it may well continue to function as an anchor on how widow's rights are perceived by more conservative community members. Scarcity of land in some places can result in widows and divorcees – and indeed anyone with less than first rank land claims – being unwelcome, despite recognised rights in Acholi customary land tenure principles in either their marital or paternal clans.

In Acholi, Burke and Egaru note that 'Acholi customary law also grants women significant land rights and the Constitution mandates that state law prevails where it contradicts with customary law'.[48] But they then add that:

> There is considerable controversy concerning the relative strengths and weaknesses of statutory and customary law relating to women, who are

[47] This paragraph is based on the findings of unpublished research into women's access to justice in Karamoja undertaken in 2012 by Holly Porter and Julian Hopwood on behalf of War Child Canada, UNICEF and UN Women.

[48] Burke & Egaru (2011), citing Government of Uganda, *Constitution of the Republic of Uganda, 1995,* Article 246, Chap.16.

> readily marginalised, 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'. 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.[49]

There can be no doubt that women are often denied land rights that are properly theirs under Acholi customary, communal land tenure. Thus the issue may not essentially be about women or vulnerable individuals' *rights* to Acholi customary land, but land *access* in a context of Acholi traditional justice. Successful land access, through safeguarding recognised land rights, relies in turn primarily on effective local leadership (especially, but not only customary or traditional leadership) who possess acknowledged integrity and moral authority. This is particularly so when women or other individuals or groups are denied access (often by in-laws or other relatives) to customary land to which they have recognisable rights under customary principles and practice. A strong argument can be made that in such instances, the successful, secure and sustainable realisation of land rights is much more likely to occur if supported by local leadership than a distant and often suspect formal legal system. Indeed, this has been asserted both for women's access to customary communal land in general, and specifically in Acholi.[50]

In summary, solutions to improving women's land security remain elusive. In many contexts customary rights are insecure and many commentators see individual land ownership as a means whereby women can secure rights over land based on (relatively non-discriminatory) law rather than intrinsically male dominated custom.[51] However in states with little capacity, a sometimes benign customary regime is often preferable in practice to an inevitably neglectful and inaccessible (to all but the rich) legal regime. Pottier states that:

> The all important point is that we – analysts and policymakers alike – must get beyond the currently popular, but excessively restrictive view that women's customary claims to land are always 'secondary' to men's. Without in any way diminishing the severe insecurities that women face, it must be recognised that the notion of a gradual weakening or extinction of women's rights in land is by no means inevitable. We must abandon such evolutionary thought, and instead pay full attention to the proliferation of claims and counter-claims that can be made – and are being made – in the name of custom. Like the colonial courts, contemporary policy arenas that espouse evolutionary models of customary land law are missing out on the ongoing dynamic of claims and counterclaims.[52]

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[49] Ibid., pp. 25-26, citing Doss, et al (2011), p. 9; Rugadya, *et al* (2004), p. 2; Land and Equity Movement in Uganda (LEMU) (n.d.), pp. 1-2. LEMU has produced scores of policy and information documents on land issues in northern and eastern Uganda, many with a focus on women; for access to these sources go to http://www.land-in-uganda.org.

[50] See, for example, Manji (2006) for a general, Africa-wide presentation of this argument, and Anying (2012) specifically on Acholi.

[51] See Manji (2006), pp. 99-114.

[52] Pottier (2005), p. 67.

In our findings we have identified a number of such claims and counterclaims in respect of women's land rights, findings that provide a degree of optimism which will be discussed further below.

WAR, DISPLACEMENT AND RETURN, AND THEIR EFFECTS ON ACHOLI LAND

The twenty-year war that plagued northern Uganda beginning in 1986 was devastating. While centred in the Acholi Sub-region, the conflict also ravaged other parts of northern Uganda and beyond (indeed, a small-scale, displaced remnant of the conflict continues to affect adjacent areas of the Democratic Republic of the Congo, Central African Republic, and South Sudan). As in all such conflicts, civilians have borne the brunt of suffering. Many tens of thousands of people – women, men and children – from across the region have been abducted, mutilated, raped, tortured, wounded and killed. The majority of these came from Acholi. Indeed, virtually no one in Acholi remained untouched by the violence. Everyone had family members or other relatives who suffered one or more of the abuses noted above. Tens, even hundreds, of thousands experienced such things themselves.[53]

By 2004-5, nearly two million northern Ugandans had been driven from their homes and fields and relocated in squalid, disease-ridden internally displaced persons' (IDP) camps. The majority of these, numbering about a million people and making up more than 90% of the Sub-region, came from Acholi, where government enforced displacement began in 1996. Upon touring some of the Acholi camps in 2004, the United Nations chief humanitarian officer at the time, Jan Egeland, called the situation that he found a 'human tragedy', 'a moral outrage', and 'the biggest neglected humanitarian emergency in the world'.[54]

After peace talks began in mid-2006 in neighbouring South Sudan between LRA and Ugandan government delegations, and overt conflict in Acholi came to an end, people began slowly to leave the camps. Given the poverty and deprivation of camp life, for the vast majority the only productive asset they 'owned' when they left was the customary, communal land to which they had rights, and regaining secure access to that land has been one of the single most important factors determining sustainable peace, reintegration and recovery in the Sub-region.[55] But such secure access to customary, communal land as people have returned following the long years of war and displacement has not always come easily, and has all too often been thwarted or interrupted by numerous land-related problems, all of which provided fertile ground for land disputes. These problems have included:

- confusion associated with displacement and lack of continuity of occupation;
- lack of paper records and blurring of collective memories or oral records of land occupation;
- land grabbing in the wake of the confusion and uncertainties just noted, often associated with stark asymmetry in the socio-economic status of the people or parties involved;

[53]For recent broad syntheses of the war see Branch (2011); Allen &Vlassenroot (2010); Atkinson (2010b); Dolan (2009); and Finnström (2008).

[54]Egeland's remarks were widely quoted. See, for example, *The Guardian*, "Northern Uganda 'World's Biggest Neglected Crisis'" (22 October 2004); access at http://www.guardian.co.uk.

[55] The priority of secure access to customary land in Acholi following return and resettlement was recognised in an important (and contested) World Bank report (2009).

- a demographic distribution in which more than half the population is under 15 years of age and a population growth rate of more than 100% over the past 20 years, two interrelated dynamics that have begun putting pressure in some areas on the generally favourable availability of land now characteristic of the Sub-region;
- the disruption and distortion – sometimes exaggerated as destruction – of Acholi socio-cultural norms, procedures and practices;
- the existence of two parallel legal and judicial systems dealing with land issues – customary and state land administration – that are not integrated and that can be contradictory or inconsistent[56];
- different perspectives concerning rights and ownership between local communities and the state – for example, in the Lakang and Apaa areas of Amuru District;
- investment and business interests that contribute to speculative values attaching to land, including land associated with oil and mineral-related exploration or discoveries; and
- boundary and border issues between adjacent land-holding communities, as well as between communities and administrative units, issues sometimes generated or compounded by the creation of new districts, sub-counties and parishes.

LAND CONFLICT IN ACHOLI: PERCEPTIONS AND INTERVENTIONS

The plethora of land-related problems just catalogued, and the many land disputes to which these problems contributed, have promoted a powerful narrative about Acholi land and land disputes over the past several years.[57] This has prompted local government and many civil society organisations, donors and the media to make land issues in the Sub-region a – perhaps *the* – major emphasis. Civil society organisations – NGOs and the UN, often with generous donor funding – have conducted scores of projects and produced scores of reports focused on land disputes and other land issues over the past half-dozen years, while radio stations and newspapers have devoted hundreds of broadcasts and articles to the topic.

Many of the problems and concerns listed above had been identified and discussed even during the northern Uganda war, before return and resettlement was a viable option.[58] But such issues became a prominent component of the discourse on Acholi once the process of return was initiated in a government announcement on 30 October 2006, four and a half months into peace talks in Juba and after nearly a year without rebel attacks on civilians in

[56] A sweeping, contentious, and long-debated National Land Policy was finally endorsed by the Cabinet in February 2013; in its many provisions seeking to reform Uganda's land laws to deal with rampant land problems, many of which are related to existing ambiguities, contradictions and inconsistencies between state and customary systems operating concurrently.

[57] For a recent, sweeping overview from a legal perspective, nearly 700 pages long, see Nakai (2012).

[58] For an example of one of the widely perceived concerns, see Divinity Union Limited (1999, 2003, 2004); for reactions, see Acholi Religious Leaders' Peace Initiative (2001), p. 7; Editorial, *Daily Monitor* (29 June 2003); the then-active internet sites Acholinet (access at http://acholinet.wordpress) and Acholi Forum (no longer available); and an unpublished paper by Okee-Obong (n.d., probably 2006). For more general discussion, see Adoko & Levine (2004) and Atkinson (2008) – the latter of which also considers the material in the next four paragraphs in more detail.

northern Uganda. The announcement signalled an abrupt reversal of the government's long-standing policy of forced displacement in Acholi.[59]

Even before large-scale return began (hindered in large part by a long and troubling hiatus in the peace talks in Juba), the last six weeks of 2006 and early 2007 saw the flaring up of a long-simmering debate over the future of Acholi land. Occupying prominent space in Uganda's English-language newspapers (and elsewhere), the debate was typically framed in terms of whether or not there is abundant, available (sometimes characterised as 'empty') land in Acholi that should be opened up for investors, large-scale commercial farming, and other forms of 'development', and the degree to which Acholi land is under threat from such interests.

On one side were Acholi MPs and local government leaders. Pointing out that the rightful owners of the land were mostly still in the camps, many Acholi political, religious and civil society leaders claimed that both the Government of Uganda and private interests threatened this largely unoccupied Acholi land, and voiced concern and vowed opposition. On the other side, central government officials and supporters denied any such threat. The argument raged over the rest of the year and into January 2007, as evidenced by the *New Vision* printing nearly 40 articles, opinion pieces, and letters on the topic, and the *Daily Monitor*, 25.[60]

Lending credence to the perception of threat was highly public pressure from central government (including the President personally) for the opening up of Acholi land to investors, large-scale commercial farming, and other forms of 'development'. From early 2007 this pressure was focused on giving land – originally 40,000 hectares, later reduced to 20,000 – in westernmost Amuru District to the Madhvani-owned Kakira Sugar Works Limited for a sugar cane plantation.[61]

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[59] 'IDP camps close in December', *New Vision* (30 Oct. 2006); 'IDPs given until Dec. 31 to leave the camps', *Daily Monitor* (31 Oct. 2006).

[60] See the *New Vision* and *Daily Monitor*, mid-November 2006 through January 2007, passim. The *Daily Monitor* even offered readers the chance to send text messages with their ideas about northern Ugandan land being given to investors for development – see reader responses, Regional SMS, 19 December 2006 and 9 January 2007. Two of the most important documents produced by Acholi MPs are by the Chair of the Acholi Parliamentary Group, Livingston Okello-Okello (2006a, 2006b).

[61] The first public indication of Madhvani's interest in a sugar cane plantation in the 'north's central part' of Uganda – that is, Acholi – came in a New Year's Day *New Vision* Business article, 'Madhvani to set up second sugar factory' (1 January 2007) . By July, this interest had become specifically identified as a 40,000 hectare tract of land in Amuru District – see, for example, two *New Vision* articles from 30 July 2007, one from the Local North section, 'Acholi MPs asked to support sugar factory', the other an Opinion piece by Gulu District Chairman, Norbert Mao, 'Sugar is sweet but Acholi cannot afford a raw deal'. It is important to note that the land sought by Madhvani is situated in an area cleared of people by the colonial government almost a hundred years ago and made a game reserve. But evidence of various Acholi group's historical claims to customary land in the area, and its continued use through most of the 20th century for hunting by groups with recognised customary rights is extensive. It is also worth noting that this is also a part of Amuru where preliminary research indicates possible oil reserves, and where Government has given out licenses for oil exploration – as confirmed in a letter dd. 4 September 2008 from Daudi Migereko, the Minister of Energy and Mineral Development, in response to a request for information on the matter by J.J. Okello-Okello, Chairman of the Acholi Parliamentary Group.

Despite vehement opposition by most Acholi parliamentarians, local government officials, and others in the region, the government forged ahead with the giveaway. In addition, in the same disputed area, the Amuru District Land Board also approved many large-scale land acquisitions by powerful individuals, and according to a September 2008 article in the *Daily Monitor*: 'At least 10,000 people face eviction after Amuru District Land Board officials applied for personal acquisition of an estimated 85,000 hectares of land'.[62]

The back-and-forth public and legal struggle over a vast part of Amuru has now gone on for six years, becoming the largest land dispute in Acholi.[63] Following a lengthy trial, a High Court decision was made in Gulu in February 2012 in favour of Madhvani and others awarded land in the disputed area.[64] This decision is currently under appeal, including to the Constitutional Court, and a stay prohibiting implementation of the court judgment is in effect.[65]

The high profile of the Amuru/Madhvani debate, from early on in the return and resettlement process, has had two major consequences concerning the discourse on land in Acholi. First, it reinforced many Acholis' negative views of central government prompted by its contentious role in the long northern Uganda war, raised the level of suspicion of government among the general populace in relation to land and natural resources, and produced significant levels of tension.[66] Second, it set the stage for the pronounced emphasis on land issues in Acholi by civil society organisations as they transitioned from war-related humanitarian interventions to post-conflict and development activities.

The extent to which this emphasis has dominated civil society involvement in Acholi is perhaps best illustrated by the fact that there were upward of 45 civil society organisations involved in land matters in Acholi in late 2011-early 2012.[67] In their thoroughly-researched paper investigating (and promoting) alternative dispute resolution (ADR) in northern

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[62] '10,000 facing eviction as land board claims 85,000 ha', Regional Special, *Daily Monitor* (3 September 2008).

[63] For a sample of English-language newspaper accounts in 2012 and 2013, whose titles alone provide an indication of the tenor of the debate, see 'Madhvani wins Amuru land case', *Daily Monitor* (5 February 2012); 'Amuru locals secure injunction to halt eviction', *Daily Monitor* (14 February 2012); 'Acholi leaders to meet Museveni over evictions', *Daily Monitor* (21 February 2012); 'Amuru women undress before Madhvani boss', *Daily Monitor* (21 April 2012); 'Museveni angry over NGO report on land grabbing', *The Independent* (4 May 2012); 'Special Report: Why is Amuru land itching the President?', *Daily Monitor* (27 August 2012); 'Court blocks Madhvani from using Amuru land', *Daily Monitor* (11 October 2012); 'Amuru MP refutes Museveni land claim', *The Observer* (18 January 2013); 'Opposition leaders sound war drums over land in Amuru', *Acholi Times* (4 March 2013); 'Madhvani continues push for land to grow sugarcane', *Daily Monitor* (10 March 2013). For a small selection of recent analyses of the situation see Refugee Law Project (2011); Institute for War & Peace Reporting (2012); Friends of the Earth International (2012); Owor (2012);and Atkinson & Owor (2013).

[64] Republic of Uganda: Hon. Ocula Michael and 4 Others Vs. Amuru District Land Board and 3 Others, Gulu High Court Miscellaneous Application No. 126 of 2008.

[65] Republic of Uganda: (1) Hon. Ocula Michael and 4 Others Vs. Amuru District Land Board and 3 Others, Court of Appeal, Miscellaneous Application No.180 of 2012 (an application for stay of execution of the decree in the High Court Miscellaneous Application No. 126 of 2008); (2) Hon. Ocula Michael and 4 Others Vs. Amuru District Land Board and 3 Others, Court of Appeal, Miscellaneous Application No.207 of 2012 (an application for an interim stay of execution pending hearing the main application; heard and granted on 28 September 2012). A separate appeal to the Constitutional Court is also due to be filed in April 2013.

[66] Rugadya (2009), p. 16.

[67] Burke & Egaru (2011), p. 16. At least one new organisation, International Justice Mission (IJM), opened an office in Gulu in December 2012 with a mandate to work on justice issues including those related to land.

Ugandan land cases, Jeremy Akin and Isaac Katono point out a major problem with this plethora of participants involved in land matters in Acholi:

> A host of different actors from both traditional and formal sectors have responded to demands to resolve these escalating land conflicts. With such a milieu of independent doctors treating the same epidemic, however, it is not surprising that duplicated efforts, technical inefficiency, and arbitrary prescriptions often result.

'Moreover', they continue, 'the capacity of both state and local institutions to efficiently handle such large caseloads is severely lacking'.[68] They demonstrate this point for civil society organisations by noting that three of the five most active NGOs in land matters in Acholi (the other two had insufficient data for analysis) together disposed of only 45-70 cases per year between 2008 and 2010.[69]

Later in their report, Akin & Katono identify one of the reasons for this limited number of resolved (or 'disposed of') cases, as well as being a limiting factor in utilising effective alternative dispute resolution methods: 'Many of the civil society organisations that promote ADR, especially NGOs, operate in a Litigation mindset'. They continue: 'Not surprisingly, the terminology used by most LDC-trained legal officers in NGOs was found to be the language of court', pointing out in a footnote that 'Law Development Centre (LDC) in Kampala remains the institution solely responsible for training and certifying advocates for practice in the country. Its nine-month curriculum features a one-week course on ADR that tends to focus more on arbitration approaches'. They then add:

> Phrases such as 'the plaintiff and defendant', 'our client', 'summons notice', and 'enforcement of the decision' were frequently used to describe ADR cases. Moreover, letters written to invite Respondents for a mediation session were often structured and worded like accusatory Notices of Intention to Sue sent by an advocate on behalf of their client. The posture of some community paralegals during field mediations was also seen to be that of an advocate trying to 'bully' the opposing side into submission, complete with threats to take the Respondent to court should they disagree with the paralegal's position. This adversarial mindset tended to visibly undermine the cooperative problem-solving spirit of alternative dispute resolution.[70]

Burke & Egaru point out another problem related to many prominent NGOs' reliance on this legalistic, litigation mindset, for in doing so they had 'committed considerable resources to training paralegals and/or providing legal aid focussed particularly on Extremely Vulnerable Individuals (EVIs)'. However, the authors continue:

> As stability returns to the Acholi Region and the donors withdraw, many of these institutions are being forced to downsize and withdraw. NRC [Norwegian Refugee Council] has made a strategic decision to withdraw from the region by 2014 and Goal has already reduced its presence across the

[68] Akin & Katono (2012), p. 5.

[69] Ibid., p. 7, with a more detailed discussion on pp. 29-33.

[70] Ibid., p. 8; this point was not followed up in the extended discussion of major findings later in the paper.

> region to one field office in Agago District. NRC no longer works with paralegals and the two community based organizations (CBOs), JPC [Justice and Peace Commission] and ULA [Uganda Land Alliance] 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.[71]

However, the majority of the (external) representations and interventions relating to land in Acholi have shared a common overarching perspective, whether overt or not. That perspective is based on ideas and grounded in practices that are individualistic and legalistic – characteristics that in turn both inform and reflect neo-liberal, market-oriented notions of land and development.

In the context of this extensive and protracted attention devoted to land issues, including land disputes, in Acholi, a Joint Acholi Sub-Region Leaders' Forum (JASLF) was established in December of 2011. Its membership includes Acholi Local Governments (Agago, Amuru, Gulu, Kitgum, Lamwo, Nwoya and Pader Districts); the Acholi Parliamentary Group (APG); Resident District Commissioners (representing Central Government) of the seven Districts; religious leaders represented by the Acholi Religious Leaders' Peace Initiative (ARLPI); the cultural organisation, Ker Kwaro Acholi (KKA), and civil society and opinion leaders. It has held three meetings so far, all focussing on land-related issues. During the third of these meetings, in June 2012, the Forum appointed a seven-person Technical Committee to develop an extensive programme of research and broad-based community consultative process to better understand the current range of local communal land-holding organisation and practices, share findings, and decide on ways forward to best secure customary communal land rights in Acholi.

Specific tasks assigned to the technical committee included:

- to revise the document titled *Principles and Practices of Customary Tenure in Acholiland*, published by Ker Kwaro Acholi (KKA), the Acholi cultural institution;
- to consult widely concerning the issuance in Acholiland of Certificates of Customary Ownership (CCOs), which the Government of Uganda launched in 2012;
- to develop through local-level research a more detailed knowledge of the variety of local communal land organisation and practices, and then to explore appropriate and effective ways (including pilot testing of boundary demarcation and development of communal land trusts) to enhance and implement communal land administrations that accommodate that variety, within the general principles of Acholi customary communal land tenure, while also protecting individual and communal land rights, while also meeting the requirements of Uganda statutory law; and
- to support and strengthen traditional land dispute settlement mechanisms.

The JASLF has developed a programme that, among other tasks, addresses this fundamental challenge. The programme includes a scope and scale of research and related activities to understand, document and protect customary, communal land tenure in Acholi. In doing so

[71] Burke & Egaru (2011), pp. 15-16.

it is hoped that it will have four key impacts: (i) it is a major, substantive response to the recent World Bank emphasis on 'the need for security over communal lands, including organizing and formalising communal groups, demarcating communal land boundaries and registering communal rights';[72] (ii) it will make possible one of the most comprehensive and detailed investigations of communal land organisation – as actually conceived and practiced at the local level – ever undertaken in Sub-Saharan Africa; (iii) it will offer practical, locally-generated strategies for securing this communal land in the face of twenty-first-century challenges; and (iv) it could provide useful information for other communities with similar land tenure systems and similar challenges.

ACHOLI DEMOGRAPHICS: WHAT IS AT STAKE

Table 1 shows district and sub-regional data on rural land area (in both square kilometres and hectares),[73] estimated 2012 population and estimated numbers of households.[74] For reasons noted below, this data refers only the rural areas of Acholi.

Table 1: Rural Acholi Demographic Data

District	Rural S/Cs	Rural parishes	Rural villages	Rural area sq. km	Rural area hectares	Est. rural pop. 2012	Est rural H/H 2012	Rural pop. / sq. km	Hectares / person (rural)	Acres per person (rural)	Hectares per H/H (rural)	Acres per H/H (rural)
Agago	13	67	888	3,076	307,556	272,800	41,333	89	1.1	2.8	7.4	18.3
Amuru	4	29	317	3,619	361,860	178,800	27,091	49	2.0	5.0	13.4	32.8
Gulu	12	54	277	3,393	339,323	237,800	36,030	70	1.4	3.5	9.4	23.1
Kitgum	9	46	442	3,435	343,507	185,700	28,136	54	1.8	4.5	12.2	30.0
Lamwo	9	43	344	5,324	532,386	171,300	25,955	32	3.1	7.6	20.5	50.4
Nwoya	4	22	130	2,406	240,600	48,500	7,348	20	5.0	12.2	32.7	80.5
Pader	11	48	630	3,176	317,613	217,700	32,985	69	1.5	3.6	9.6	23.7
TOTALS	**62**	**309**	**3,028**	**24,428**	**2,442,845**	**1,312,600**	**198,879**	**54**	**1.9**	**4.6**	**12.3**	**30.2**

[72] Byamugisha (2013, forthcoming).

[73] Rural land area data is derived from Uganda Cluster shape files, available at http://www.ugandaclusters.ug. The figures presented exclude Murchison Falls National Park, forest reserves and formal urban areas; however they include designated 'hunting areas' or rangeland in Kitgum and Agago, and the former Acwa Lolim and Alero game reserves in Amuru and Nwoya. This is because these have been an important resource for populations, as well as claimed by kin groups under customary law, and are settled in some places. Acwa Lolim and Alero game reserves were apparently de-gazetted under Amin – though their status remains deeply confused and the locus of some of the most serious land disputes in Acholi, not least because these are found within the Albertine Graben area of oil discoveries. As we have no information about the extent of settlement and populations in these areas, they have been included in calculations of available land, but not in extrapolations of land conflicts

[74] Population estimates come from the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), *Humanitarian Response: Common and Fundamental Operational Data Sets Registry*; access at http://cod.humanitarianresponse.info/country-region/uganda; then go to (uganda_population_projection_sub-county_national_final.xls). The estimated household size utilised is 6.6 persons per household, derived from a 2009-10 survey of nearly 2,500 households across Acholi – see Pham & Vinck (2010), p. 15.

Including statistics from urban locales would increase the sub-region's population by about 250,000, with Gulu Municipality making up more than half this increase. 85% of the sub-region's population are rural dwellers (about the same percentage as Uganda as a whole). However it should be noted that many urban dwellers retain an interest in and make use of customary land. Due to this factor, figures discussed here are likely to slightly inflate land availability.

An overall Acholi population density of 54 persons per sq. km is significantly lower than the Ugandan average. According to the Uganda Bureau of Statistics (UBOS), Uganda's overall 2012 rural population density was 144 persons per sq. km.[75] This is more than 2.6 times the Acholi average – and only one of Acholi's seven districts (Agago at 89 persons per sq. km) is more than half the Ugandan average.

Perhaps even more telling than Acholi's low population density is what this means in land currently available to Acholi households. Overall, rural Acholi have an average of 12.3 hectares available per household, or just over 30 acres – with district averages ranging from lows of 7.4 hectares (18.3 acres) in Agago and 9.4 hectares (23.1 acres in Gulu) to highs of 20.5 hectares (50.4 acres) in Lamwo and 32.7 hectares (80.5 acres) in lightly populated Nwoya.[76]

The opportunities and advantages presented by lower rural population densities in Acholi – and the higher than average amount of land available to rural Acholi households – are potentially many. However two can be singled out as especially significant: the first is the real safety valve that this low population density provides to absorb a still rapidly growing population – for perhaps a generation or more – without putting the sort of pressure on rural populations, and the land on which they depend, that has produced destructive and often devastating consequences in many parts of Sub-Saharan Africa, including some areas of Uganda. Recent research conducted on behalf of the African Development Bank suggests that increasing populations in low-density areas can have economically positive consequences.[77] Because land in Acholi is primarily communal, this provides – if such communal land can be secure – many land-holding groups with the opportunity to put large tracts of land to productive use beyond subsistence, adding both potential variety in the types of productive uses to which the land could be put and multiplying productive capacity beyond that available to individual households.

Such advantages, of course, are accompanied by numerous challenges, but there are two additional, overarching challenges that also need to be addressed if the potential benefits

[75] Uganda's overall estimated 2012 population according to UBOS was 34,131,400, 84% of whom lived in rural areas, indicating a rural population of 28,670,400. UBOS calculates Uganda's total land area as 199.810 sq. km, with "built-up areas" constituting only 366 sq. km (or 0.2% of the total), leaving a rural land area of 199,400 sq. km, or a rural population density of 143.8 persons per sq. km. See UBOS, *2012 Statistical Abstract* (http://www.ubos.org/2012StatistialAbstract.pdf); and UBOS, *2012 Uganda Population & Housing Census Bulletin*, Vol. 1, March 2011 (http://www.ubos.org/UgCensus2012/docs/2012_CENSUS_BULLETIN_Vol1.pdf).

[76] If the 84,393 hectares (844 sq. km) of the disputed Lakang area of Amuru are lost as available land, this would decrease the average amount of land available to an Amuru household by 23%, from 13.4 hectares (32.8 acres) to 10.2 hectares (25.2 acres); this would represent be a major loss of land in Amuru.

[77] Ricker-Gilbert *et al* (2012).

provided by Acholi's abundant endowment of land are to flow to the majority of the sub-region's population, and to their descendants.

The first of these is the wide-scale adoption of strategies and skills that generate productive, sustainable use of land in ways that will promote broad-based development and improved livelihoods. Secondly is the challenge to develop and implement effective ways to secure communal land rights within the Acholi customary land tenure system (and individual rights within that system). This will be crucial to deal with the many internal challenges already noted, as well as the external pressures that will inevitably grow in a situation of ever-diminishing land availability in Uganda, Africa and the world as a whole.

METHODOLOGY

ISSUES AND EXPLANATIONS: HOW THE METHOD WAS DEVISED

As noted above, in order to maximise its contribution to urgently needed understanding of land disputes in Acholi, this project has utilised a dual approach: investigating both land disputes and the nature of landholding in Acholi within which these disputes occur. To this end, the project has sought to map and collect data not simply on the numbers and types of land disputes, but also on the substrata upon which these disputes occur: the nature of the landholdings on which disputes are taking place; how land is used and controlled, and by whom. It has also sought to ascertain resources identified by local actors throughout the sub-region as important in dispute resolution.[78]

In order to implement this two-pronged methodology, both quantitative rounds of LCMMT project research were guided by two related premises: (1) that the 'substrata' referred to above – that is, land tenure and use as actually conceived and described on the ground across Acholi – is crucial to understanding land disputes; and (2) that those best placed to have the relevant knowledge are local people.

Early in the research, we were confronted with the need to define what land disputes we were seeking to record. Events that could be described as 'land disputes' are an almost universal feature of human existence at one time or another, whether one is a developed world apartment dweller or a developing world subsistence farmer. The brief of the project was to monitor land 'conflict', yet this seemed to over-narrow the issue, by implying violence or dangerous confrontation, yet 'dispute' could apply to incidents so small as to be almost daily events for almost everyone.

It was clear to us that we were not seeking to record cases where neighbours had quarrelled for a few hours or days because A's goats had strayed into B's *simsim* crop, or a boundary dispute about a few square metres, resolved in a short period. On the other hand if a quarrel like this escalated into violence, or started to spill over into further quarrels within or between the parties' kinship group(s), or dragged on for years and involved interventions by bodies external to the families involved, then this would fall within our purview. If the issue was not accidental damage to crops on a small scale but deliberate destruction of crops on a large scale then again this was clearly of interest to the project.

We were also concerned about situations that might have a massive impact on an individual or household and yet be invisible from outside the family. Such situations might include the denial of land access to vulnerable people – former abductees, perhaps, or orphaned nephews and nieces – which were never challenged because the victims felt powerless.

[78] Although we were not aware during the planning and implementation of this two-pronged approach – investigating both land disputes and the nature of landholding in Acholi – the same basic method had recently been utilised in a massive study on land in the Pacific Region. The study makes a strong case for this methodology that seems applicable as well to the LCMMT project, noting that this has not been commonly employed in land studies: 'Rarely, if at all, have economic [i.e., access to land by individuals or groups for economic purposes] and conflict-related dimensions of land been pursued simultaneously'. The Preface goes on to argue that their study, in contrast, reflected 'the linkages between land, economic development, and conflict, while recognising the central role of land in people's social, economic and cultural well being'. In so doing, the Preface concludes, this 'dual approach . . . adds value to previous efforts to investigate land issues from separate perspectives'. LMCM (2008), pp. 9-10.

Reports of such situations being a common cause of suicide demonstrate their seriousness.[79]

In much of Acholi there is a class of customary chief (though originating from the colonial period), the *rwodi kweri*, who are either elected by communities or appointed by elders to organise matters related to a portion of customary communal land, though they often play a number of other roles in their local communities as well. They typically hold office for as long as the community is satisfied with their performance, but if they lose the confidence of their community they can be and often are replaced.[80] Their roles are to memorise, understand and adjudicate on land boundaries within their jurisdiction, allocate farming plots to entitled community members, organise collective farming and other communal activities such as maintaining community roads, etc. The existence of *rwodi kweri* is key to understanding a number of aspects of Acholi customary land, but also of our solution to the definitional problem. If a dispute was solved to the satisfaction of the parties at family or rwodi kweri level, then it is seen as 'normal', familiar, and within the expected and traditional capacity of a land-holding community to resolve/deal with. On the other hand, where internal community institutions were unable to resolve disputes to the extent that they required external intervention of any kind, then they represented a problem to those communities that we were (a) interested in recording, and (b) more likely to be able to identify as they were more likely to have registered in the awareness of parish-level actors. Our definition of a land dispute then was one that parish-level actors – LCIIs and elders – were aware of and regarded as a problem worth noting.

There are various problems to this approach that must be acknowledged. Firstly this is clearly a fuzzy concept, a subjective definition, which our 900 or so respondents will have interpreted differently. Secondly, our parish respondent teams represented almost all LC IIs, but only a small proportion of all elders from a parish. A parish population is typically of the order of 3-5,000 people, often spread over considerable area – we think it is likely but by no means certain that the three or four people in most parish-level groups in our research will have known about *all* disputes in their parishes that were of community concern in one way or another. Lastly and most problematically there is little likelihood of capturing uncontested land grabs and denials of access to land where victims do not publically challenge the result, especially if they migrate to urban centres.[81]

To try to capture the types of disputes identified by local-level actors as significant and worth reporting, the Acholi Luo phrase *lara ngom* was used both in the parish-level dispute forms and by the researchers who facilitated completion of the forms, based on the terms *lara/larra*, from *laro/larro* ('to dispute/disputing, contend/contending, to quarrel/quarrelling about') and *ngom/ŋom* ('earth, land, soil, ground').[82]

In light of the above we think it likely given the scope of the research that when aggregated to sub-county level, differences in interpretation will have balanced out to provide a roughly

[79] Deleu and Porter (2011).

[80] Focus Group Discussions with Rwodi Kweri and LC1s, Lujorengole Parish, Lakwana Sub-county; Jaka Parish, Lalogi Sub-county; Lamola Parish, Odek Sub-county, Gulu District (18-24 Aug 2012).

[81] See McKibben and Bean (2010), who discuss the land access problems of former-LRA wives living in Gulu town.

[82] Odonga (2005), pp. 131, 172.

common understanding of the idea of 'problem dispute in the eyes of the community'. However our methodology has not been able to capture instances of land grabbing and comparable injustices that have not been challenged by victims – i.e., where there is no public dispute. A very different approach would be required and we doubt the possibility of mapping this, as the victims themselves are likely to be the only source of information – a sampling methodology would be required.

The decision to focus principally on rural areas was taken in the light of the quite different set of issues in designated urban areas. Although we suspect a very high level of disputes in these areas, and while these are urgently in need of investigation, a different methodology will be required to that which we used for rural mapping. Land-dispute issues in Acholi urban areas generally, and in the long-established municipalities of Gulu and Kitgum in particular, probably have more in common with towns in other parts of Uganda than with the situation in rural Acholi. In urban and peri-urban areas, apart from in very long-established central areas, a large proportion of land remains un-registered under either freehold of leasehold titles, made up of often very small parcels of what is, by default, 'customary land'. In practice some plots might in some way fall under the remit of a traditional land-holding community, but most will be under the control of a particular family or individual. Many of these parcels will have been traded in the informal land markets that have been in existence in the environs of Gulu and Kitgum since their founding a century ago. The rights of owners of these unregistered parcels are small in the context of municipal governance: trees and huts are compensated at somewhat less than market value, but the land itself and any permanent buildings (which, it is argued, should not have been erected prior to receiving title), are not compensated.

Municipal plans are drawn up with little or no consultation, and customary land holders emerge as winners and losers – one person may find him- or herself with a valuable plot at the corner of a new road junction, while a neighbour has all or most of his or her holding swallowed by roads and road reserves, for which s/he receives no compensation. It is clearly a complex task to carve a planned urbanisation out of an occupied area. Nonetheless in Uganda the injustices and inequities inherent under current law in urban development make the defining of notions such as 'dispute' and 'conflict' extremely complex, given that significant numbers of citizens are dispossessed without compensation by municipal fiat. Add to this the problems of living in densely populated areas where the rule of law is limited, and on most definitions, urban land disputes are probably universal to some degree or other. These issues are probably common to towns throughout Uganda, as well as the city of Kampala, and deserve to be studied.

For these reasons, we decided to focus on rural areas, which are home to over 85% of the population, where the context was specifically Acholi and where more distinctive problems and solutions might be found. We would nonetheless urge others to take up the challenge of research into urban land governance and conflict in Uganda.

RESEARCH ACTIVITIES AND ANALYSIS

In order to begin delving into this substrata and tap into crucial local knowledge, in February/March 2012 and then September/October 2012, teams of researchers spent 2-3 days in sub-counties throughout the Acholi Sub-region (with some follow-up visits after each round to seek missing data from the original meetings).

The researchers met with sub-county leaders to identify and contact key local informants in each of the sub-county's parishes who are knowledgeable and involved in local land issues. Meetings were then organised with these key informants at each sub-county headquarters, where information was obtained – in parish groups – regarding land holding, land use, and land rights (at village level), as well as land disputes/conflicts (at parish level).

Key informants included LCIIs and LCIIIs, clan elders, chiefs, sub-county court members, human rights volunteers and paralegals, representatives of local mediation bodies and others identified as playing important roles in land matters or having extensive knowledge about local land use, organisation of land rights and other local land issues.

Data were generated using five research instruments, based on the taxonomy shown in the diagram in Figure 1 below. These are:

1. Individual Dispute Questionnaire (IDQ) aiming to capture detailed information on as many recent or current disputes as each parish group could manage to complete;
2. Parish Village List (PVL) form to identify all villages in each parish;
3. Village-level Form (VLF) on land tenure, land use, and any clan(s) associated with the village and with recognised land rights there;
4. Parish-level Disputes Form (PDF) seeking overview information on numbers of recent and current disputes, and organisations or individuals important in resolving land disputes;
5. Outline parish maps on which participants were asked to draw approximate village boundaries, and where possible additional detail including clan distribution.[83]

Both rounds of research revealed a wealth of significant local knowledge, not only on the number and nature of disputes but on their origins and on the land tenure systems within which they are taking place.

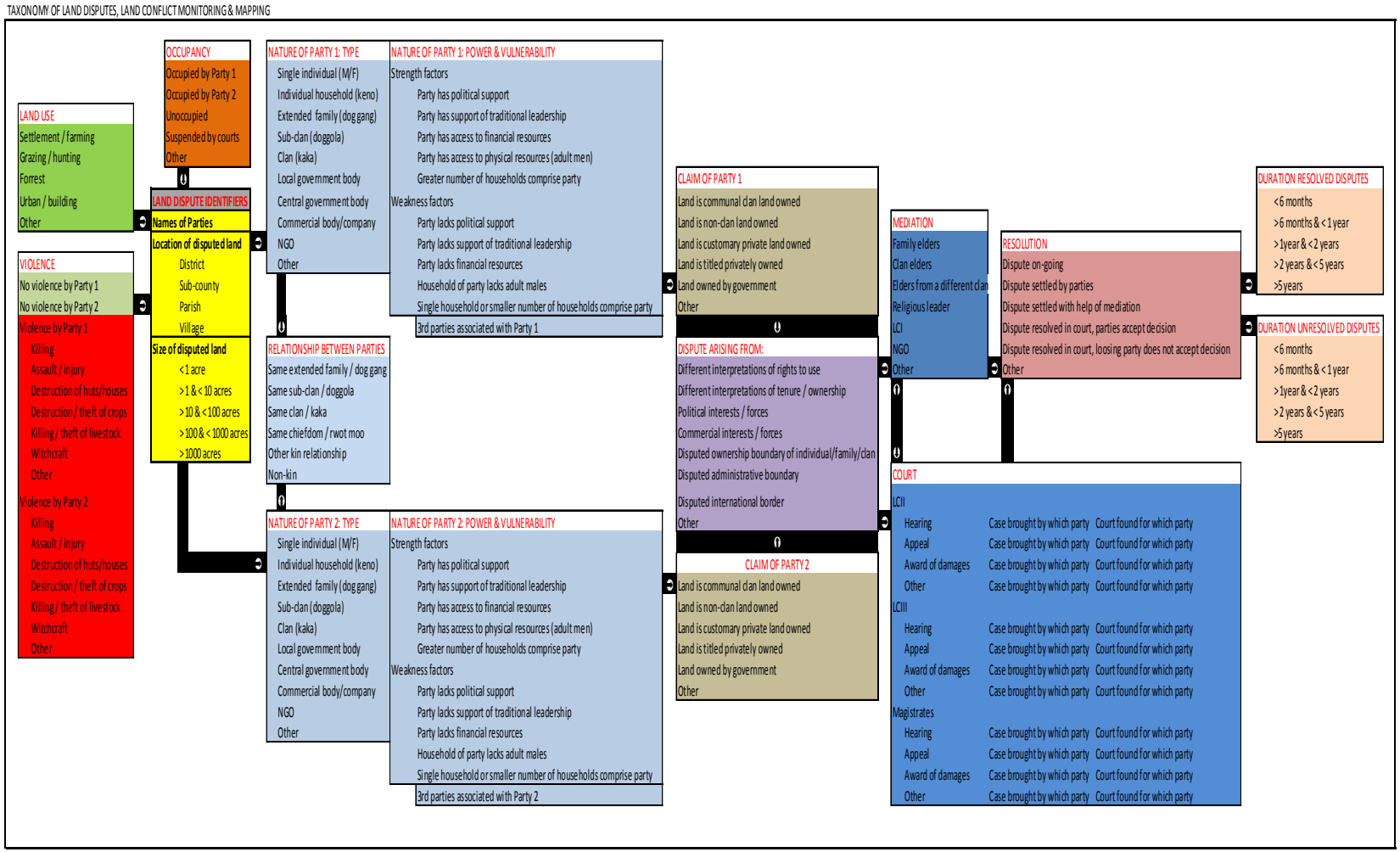
In addition, a series of three focus groups were conducted in Gulu district with village elders, *rwodi kweri* and LCIs, exploring the role of *rwodi kweri* and village-level organisation, and a number of informal conversations and observations have been recorded.

Individual dispute questionnaires (IDQs) included a number of narrative sections which at the time of writing are still being translated. Translations of 163 disputes involving female headed households/principle parties to disputes have been completed and analysed for this report along with 72 disputes involving 100+ households. Narrative material from the remaining 1120 disputes will be analysed and discussed in future reports.

A literature review of academic articles and reports relating to customary land security in Sub-Saharan Africa, to land issues in northern Uganda and to post-conflict peace-building in Acholi has been undertaken.

[83] Both English and Acholi Luo versions of these tools are included as Appendix 1.

Figure 1: Taxonomy Of Land Disputes



FINDINGS

In both research rounds participation by respondents was high and enthusiastic, and a large quantity of data have been collected – significantly more in round two than in round one. In the first round of research, survey evidence on parish-level disputes and village-level information was obtained on just over half of the parishes and villages in Acholi, while detailed information was provided on 603 individual disputes. In second-round research, evidence – with scattered and minor exceptions – was acquired from all 62 rural sub-counties, well over 90% of 309 rural parishes, and nearly 80% of Acholi's over 3,000 rural villages. Detailed information on a further 746 individual disputes was also collected.

RURAL LAND DISPUTES: PARISH-LEVEL DISPUTE FORMS DATA SET

The dispute data utilised in this section of the report is based on the Parish-level Dispute Forms (PDFs), adapted in the second round of research as a result of learning from the first round. In both research rounds we asked parish-level groups to provide three categories of land dispute numbers for that parish covering the previous six months (from September/October 2011 to February/March 2012, and from April to September/October 2012): (1) overall disputes; (2) disputes involving violence against persons or property, and (3) disputes that involved ten or more households. In each category, information was sought on both the number of disputes that had been resolved over the course of the six months and those that were still ongoing. In the second round, we also sought information concerning disputes occurring six months to a year prior to data collection. Unfortunately, this latter data proved on analysis to be unreliable.

Data comes from 61 of 62 rural sub-counties in Acholi; information obtained from Atiak Sub-county in Amuru District was too limited and inconclusive to be included. This represents 98% of the rural sub-counties in the sub-region.

At parish level, information was obtained from 287 of 305 rural parishes (94% coverage)[84]. The majority of parishes with missing/inconclusive dispute data (13 of 18) are concentrated in the sub-counties of Atiak and Lamogi in Amuru District.[85] Atiak Sub-county's eight parishes top the list of those with missing or inconclusive dispute data – they are Bibia, Atiak Kal, Okidi, Pacilo, Palukere, Parwaca, Pawel, and Pupwonya. In addition, no dispute data was collected from five of eight parishes in Amuru's Lamogi Sub-county – Coke, Guruguru, Lacor, Pagoro, and Palema. The five other identifiable parishes with missing dispute data are: two parishes in Agago District – Pacabol parish (one of four parishes in Paimol Sub-county) and Labwa parish (one of seven parishes in Adilang Sub-county); Ongako Kal parish in Gulu District – one of four parishes in Ongako Sub-county; Kuluye parish in Lamwo District – one

[84] The figure of 305 includes all identified parishes at September 2012. It does not include the four hunting areas / game reserves included in calculations of available land in the section on Acholi Demographics and Table 1 above: see n. 73.

[85] While largely successful elsewhere, the core methodology for collecting data for this project proved problematic in some of Amuru's four sub-counties in both rounds of data collection. In round one, minimal data was collected in Amuru and Lamogi Sub-counties as the researcher was unable to gain support at sub-county level to mobilise the respondent cohort, while in Pabbo and Atiak sub-counties, official support for the mobilisation process was granted and provided. We have reasonable confidence in this first round data as comparable in accuracy with other parts of Acholi. In second-round research, mobilisation of people knowledgeable about land disputes and other land issues, including LC IIs and elders took place in Pabbo Sub-county, but was limited in Lamogi and Amuru and largely absent in Atiak. We are thus not nearly as confident about this Amuru data as we are of second round research information in general.

of four parishes in Padibe East Sub-county; Ogago parish in Pader District – one of four parishes in Acholibur Sub-county.

In Table 2 below sub-counties with missing parish dispute data are colour-coded grey to reflect sub-county totals that include projected figures for the missing parish data in that sub-county. These have been calculated by taking average figures for reporting parishes by sub-county. In the case of Atiak, where there is no reliable parish data to extrapolate from, a parish average for the other Sub-counties in Amuru District has been used (the raw data is shown below in Appendix 2).

Table 2: Aggregated rural land dispute data (extrapolated for missing parishes)

District	Sub-county	Ongoing disputes (Sept. 2012)	Resolved disputes last 6 mos.	Total disputes last 6 mos.	% of disputes resolved	Ongoing disputes with violence	Violent disputes resolved last 6 mos.	Total disputes with violence	% of violent disputes resolved	Ongoing disputes with 10+ h/h	Resolved disputes with 10+ h/h	Total disputes with 10+ h/h	% of resolved 10+ h/h disputes
Agago	Adilang	36	28	64	43.8	1	0	1	0	1	0	1	0
	Arum	16	25	41	61	1	0	1	0	0	0	0	0
	Kotomor	12	18	30	60	3	1	4	25	2	0	2	0
	Lamiyo	5	17	22	77.3	0	0	0	0	0	0	0	0
	Lapono	17	34	51	66.7	0	0	0	0	0	0	0	0
	Lira Palwo	24	20	44	45.5	1	1	2	50	1	1	2	50
	Lukole	20	11	31	35.5	2	0	2	0	1	0	1	0
	Omiya Pachwa	11	5	16	31.3	1	0	1	0	0	0	0	0
	Omot	13	10	23	43.5	2	0	2	0	0	0	0	0
	Paimol	17	5	22	22.7	5	0	5	0	1	0	1	0
	Parabongo	18	15	33	45.5	2	2	4	50	1	1	2	50
	Patongo	13	25	38	65.8	3	0	3	0	2	0	2	0
	Wol	17	20	37	54.1	2	3	5	60	1	1	2	50
Agago	**Total**	**219**	**233**	**452**	**51.5**	**23**	**7**	**30**	**23.3**	**10**	**3**	**13**	**23.1**
Amuru	Amuru	4	35	39	89.7	3	11	14	78.6	1	9	10	90
	Atiak	9	62	71	87.3	4	9	13	69.2	1	4	5	80
	Lamogi	8	107	115	93	3	11	14	78.6	0	0	0	0
	Pabbo	10	14	24	58.3	3	1	4	25	1	1	2	50
Amuru	**Total**	**31**	**218**	**249**	**87.6**	**13**	**32**	**45**	**71.1**	**3**	**14**	**17**	**82.4**
Gulu	Awach	22	17	39	43.6	11	7	18	38.9	1	1	2	50
	Bobi	17	15	32	46.9	2	0	2	0	0	0	0	0
	Bungatira	19	21	40	52.5	6	4	10	40	4	4	8	50
	Koro	43	27	70	38.6	10	3	13	23.1	3	0	3	0
	Lakwana	41	13	54	24.1	14	5	19	26.3	5	3	8	37.5
	Lalogi	11	22	33	66.7	6	6	12	50	0	0	0	0
	Odek	22	32	54	59.3	7	17	24	70.8	1	0	1	0
	Ongako	31	21	52	40.4	11	4	15	27	4	1	5	20
	Paicho	12	20	32	62.5	2	1	3	33.3	1	1	2	50
	Palaro	10	18	28	64.3	5	3	8	37.5	2	0	2	0
	Patiko	26	9	35	25.7	9	1	10	10	6	0	6	0
	Unyama	19	8	27	29.6	11	4	15	26.7	1	0	1	0
Gulu	**Total**	**273**	**223**	**496**	**45**	**94**	**55**	**149**	**36.9**	**28**	**10**	**38**	**26.3**
Kitgum	Kitgum Matidi	32	15	47	31.9	1	0	1	0	7	0	7	0
	Labongo Akwang	26	6	32	18.8	3	0	3	0	10	1	11	9.1
	Labongo Amida	36	9	45	20	4	2	6	33.3	7	4	11	36.4
	Labongo Layamo	11	6	17	35.3	1	0	1	0	2	3	5	60
	Lagoro	13	3	16	18.8	2	0	2	0	2	0	2	0
	Mucwini	20	12	32	37.5	4	1	5	20	4	1	5	20
	Namokora	17	6	23	26.1	6	0	6	0	5	0	5	0
	Omiya Anyima	6	8	14	57.1	0	0	0	0	0	0	0	0
	Orom	9	16	25	64	6	1	7	14.3	4	1	5	20
Kitgum	**Total**	**170**	**81**	**251**	**32.3**	**27**	**4**	**31**	**12.9**	**41**	**10**	**51**	**19.6**

Table 2 (cont.): Aggregated rural land dispute data (extrapolated for missing parishes)

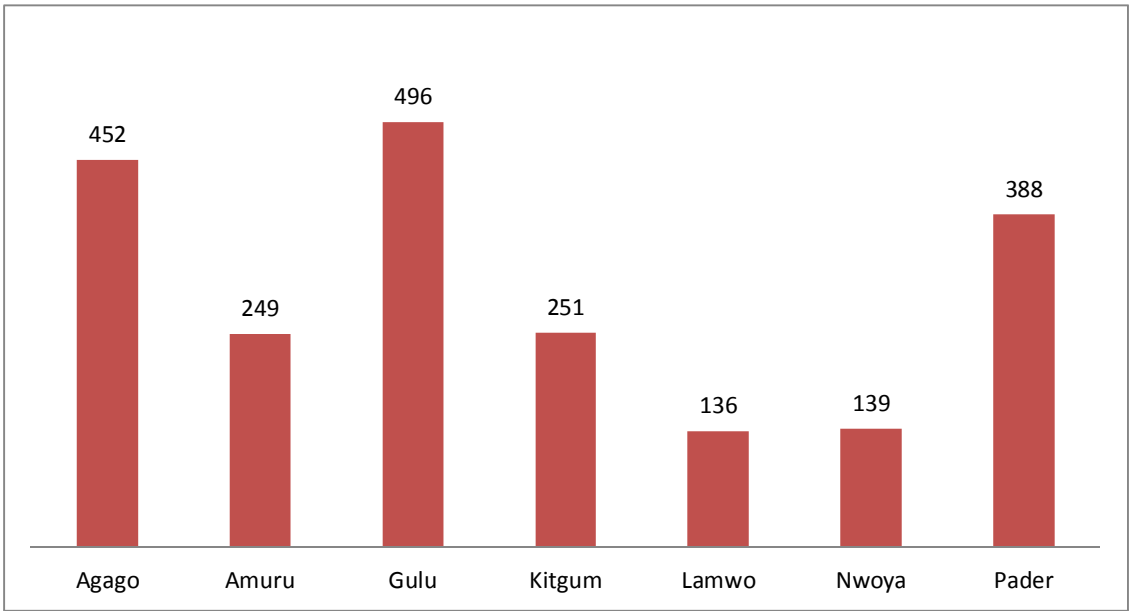
District	Sub-county	Ongoing disputes (Sept. 2012)	Resolved disputes last 6 mos.	Total disputes last 6 mos.	% of disputes resolved	Ongoing disputes with violence	Violent disputes resolved last 6 mos.	Total disputes with violence	% of violent disputes resolved	Ongoing disputes with 10+ h/h	Resolved disputes with 10+ h/h	Total disputes with 10+ h/h	% of resolved 10+ h/h disputes
Lamwo	Agoro	15	15	30	50	6	2	8	25	5	1	6	16.7
	Lokung	10	8	18	44.4	5	3	8	37.5	4	3	7	42.9
	Madi Opei	12	5	17	29.4	5	0	5	0	5	0	5	0
	Padibe East	8	0	8	0	7	0	7	0	4	0	4	0
	Padibe West	2	2	4	50	1	1	2	50	2	1	3	33.3
	Palabek Gem	10	7	17	41.2	1	0	1	0	1	0	1	0
	Palabek Kal	8	1	9	11.1	3	0	3	0	3	1	4	25
	Palabek Ogili	8	4	12	33.3	2	1	3	33.3	4	2	6	33.3
	Paloga	8	13	21	61.9	4	3	7	42.9	3	2	5	40
Lamwo	**Total**	**81**	**55**	**136**	**40.4**	**34**	**10**	**44**	**22.7**	**31**	**10**	**41**	**24.4**
Nwoya	Alero	16	34	50	68	12	14	26	53.8	4	2	6	33.3
	Anaka	8	12	20	60	3	4	7	57.1	3	4	7	57.1
	Koch Goma	15	12	27	44.4	9	0	9	0	2	0	2	0
	Purongo	21	21	42	50	5	2	7	28.6	2	0	2	0
Nwoya	**Total**	**60**	**79**	**139**	**56.8**	**29**	**20**	**49**	**40.8**	**11**	**6**	**17**	**35.3**
Pader	Acholibur	31	19	50	38	4	0	4	0	3	0	3	0
	Angagura	14	18	32	56.3	6	1	7	14.3	5	2	7	28.6
	Atanga	22	1	23	4.3	4	0	4	0	2	0	2	0
	Awere	43	19	62	30.6	13	2	15	13.3	9	0	9	0
	Laguti	7	13	20	65	0	0	0	0	0	0	0	0
	Lapul	22	15	37	40.5	1	0	1	0	8	2	10	20
	Latanya	21	19	40	47.5	2	3	5	60	1	0	1	0
	Ogom	36	8	44	18.2	10	2	12	16.7	7	3	10	30
	Pader	17	4	21	19	3	3	6	50	0	0	0	0
	Pajule	22	13	35	37.1	2	1	3	33.3	7	1	8	12.5
	Puranga	14	12	26	46.2	1	0	1	0	1	1	2	50
Pader	**Total**	**248**	**140**	**388**	**36.1**	**46**	**12**	**58**	**20.7**	**43**	**9**	**52**	**17.3**
	Sub-region totals	**1,082**	**1,029**	**2,111**	**48.7%**	**266**	**140**	**406**	**34.5%**	**167**	**62**	**229**	**27.1%**

The following analysis is based on figures in Table 2, incorporating estimates for parishes with missing dispute data.

Based upon locally-determined understandings of land disputes, the total estimated number of disputes in the Acholi sub-region during the approximate six-month period from April to September/October 2012 was 2,111. This is not a small number. Even the estimated total of 1,082 ongoing disputes is large enough to be cause for concern. Evidence from the Individual Dispute Questionnaires (discussed below) indicates that a small but significant minority of disputes involve very large numbers of households.

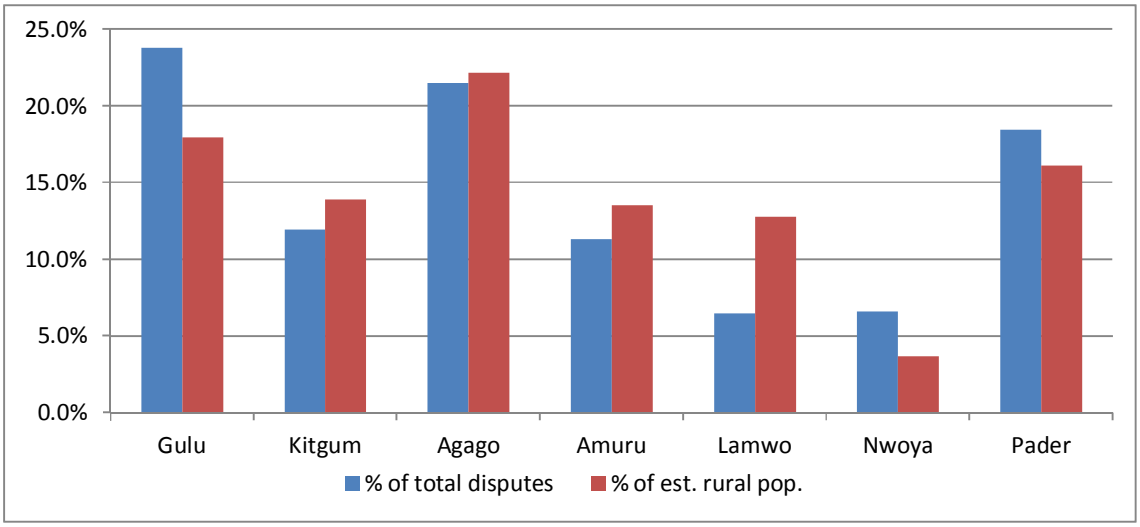
Figure 2 below depicts the total number of rural land disputes, by district, over the approximate six months from April to September/October 2012. As the figure illustrates, rural land disputes in the Sub-region over this six-month period were unevenly distributed across districts, ranging from Lamwo District's 136 disputes to Gulu's 496 (almost four times higher). Together Gulu, Agago, and Pader districts experienced nearly two-thirds of the Sub-region's total disputes (1,336 or 63.3%). Conversely, Lamwo and Nwoya districts together totalled only 275 disputes or 13% of the Acholi total.

Figure 2: Total number of rural land disputes by district, April-Sept. 2012 (n = 2111)



When estimated rural population is figured into the equation, however, the picture looks quite different. Figure 3 shows the relationship between the percentage of rural disputes per district and each district's estimated rural population.

Figure 3: Percentage of rural disputes relative to rural population per district

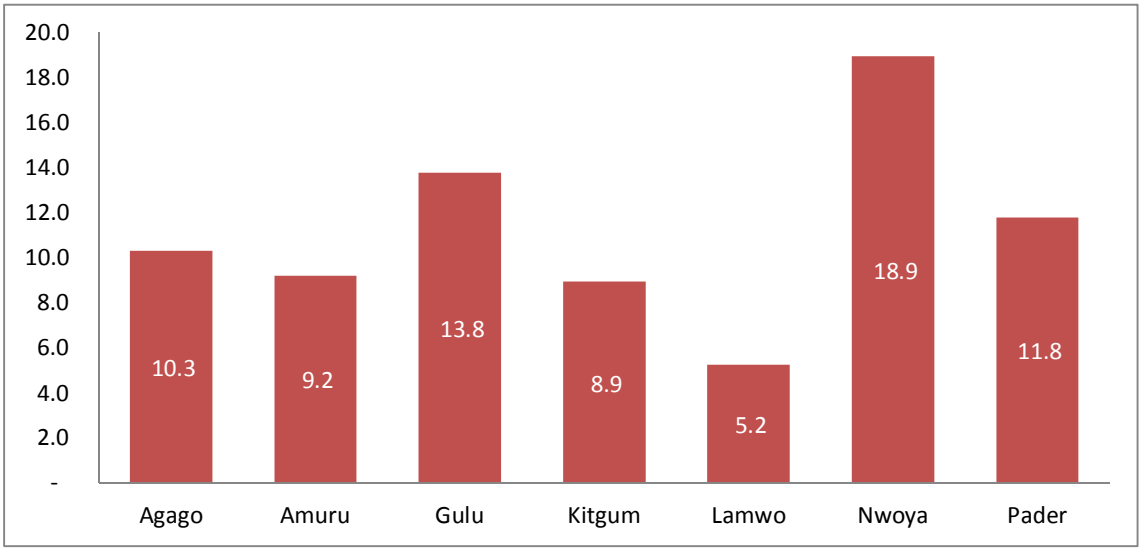


Another way to represent the relationship between the number of rural disputes per district and each district's rural population is to compute the number of disputes per 1,000 rural households in each district. It is important to note that the resulting figures treat each dispute equally, as the parish-level dispute forms did not link individual disputes with numbers of households involved.

The results, as depicted in Figure 4 again show Lamwo and Nwoya as the outlier districts, ranging from Lamwo's low average of 6.2 disputes per 1,000 households to Nwoya's average

of 16.9, a nearly three-fold difference. In the Lamwo case, the data from the Individual Dispute Questionnaires (see below) paint a picture at odds with this one, as in the latter data set the Lamwo disputes included depict a high percentage of disputes involving very large numbers of households. Thus even if the number of discrete land disputes in Lamwo is small – both in absolute terms and with respect to population – the number of households involved in those disputes, as indicated in the Individual Dispute Questionnaires, is at the opposite extreme.

Figure 4: Number of rural land disputes per 1,000 rural households



In those areas where it was possible to compare the snapshot of current disputes in February/March of 2012 with another snapshot in August/September an overall substantial reduction was observed.

Dispute resolution rates

In Agago, eight out of nine compared sub-counties recorded a drop in current disputes. Across the District the average fall in current dispute numbers was 34%. Numbers of disputes resolved in the District in the half-year prior to the snapshots decreased from 437 to 238, but remained constant in relation to overall disputes at about 51%. In Kitgum, five out of seven compared sub-counties recorded a drop in current disputes with a District average of 27%. However dispute resolution rates appear to have dropped from the preceding half-year, from 40% to 32%. In Nwoya all sub-counties registered a decrease in current disputes averaging 54%. However resolution rates dropped from 67% in the half-year to February to 57% in the half-year to August. Pader was alone of the compared districts in having a majority of sub-counties, five out of seven, recording a rise in disputes, with an average increase of 20% across the District. Resolution rates dropped from 46% in the half-year to February to 36% in the half-year to August. Over all in the compared sub-counties, there were 948 current disputes in February/March and 626 current disputes six months later in August/September, a decrease of 34%.

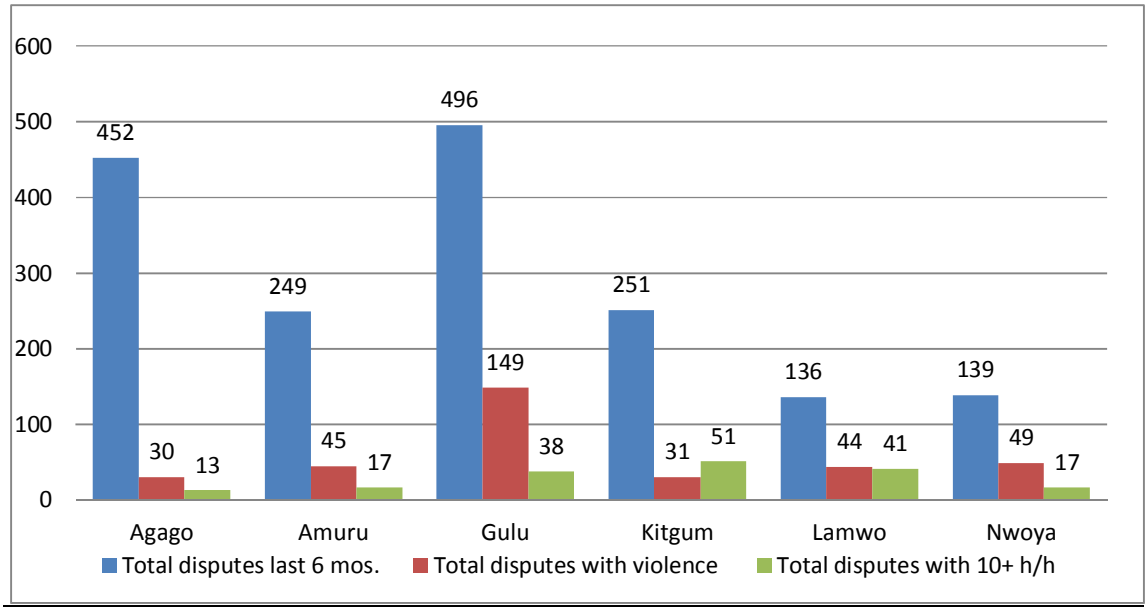
Large and violent disputes

In addition to core, parish-level evidence on ongoing, resolved, and total rural land disputes over the April-September 2012 period, information was also sought on the numbers of such disputes involving violence (directed at people or property) and those involving ten or more households.

The following graph shows the numbers of total rural land disputes, disputes with violence, and disputes involving ten or more households in each district. It is important to note that the two categories of land disputes with violence and those with ten or more households are not mutually exclusive.

As Figure 5 below shows, the numbers of both land disputes with violence and disputes with ten or more households represent a relatively small proportion of total disputes. The largest number of disputes with violence is Gulu District with 149 violent disputes, with a percentage of violent disputes relative to overall disputes at 30%. This higher percentage than average is exceeded by the two districts with the smallest numbers of disputes: Nwoya at 35.3 % and Lamwo at 32.4%. At the other end of the spectrum are Agago and Kitgum, with the lowest numbers and percentages of violent disputes relative to total disputes: 6.6% in Agago and 12.4 % in Kitgum. The overall Acholi total of 406 violent disputes represents 19.2% of total disputes.

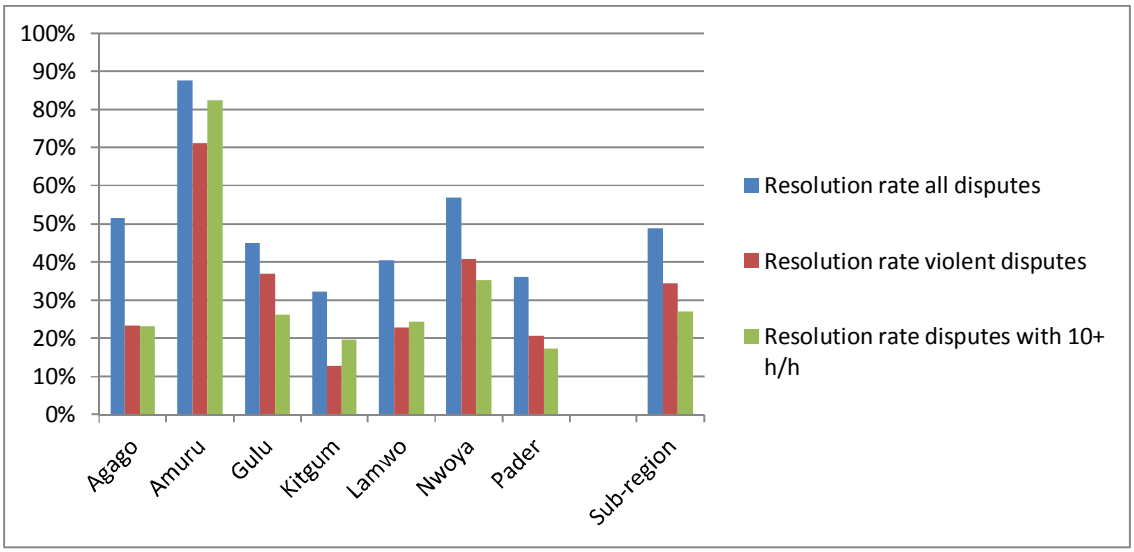
Figure 5: Total rural land disputes, disputes with violence, and disputes with 10+ households per district



The picture with respect to rural land disputes involving ten or more households shares both similarities and differences with those for disputes with violence. Numbers and percentages are lower – 229 vs. 406 and 10.8% vs. 19.2%. As with violent disputes, Agago District is again the lowest, only 13 such disputes, corresponding to just 2.9% of the district's 452 total disputes. This is followed by Amuru and Gulu at 6.8% and 7.7% respectively. In Nwoya and Pader districts the percentages of 10+ household disputes are 12.4% and 13.4% respectively; while Kitgum is at 20,3% and Lamwo at a very high 30.1%.

Even though, as noted above, disputes with violence and those involving ten or more households represent a relatively small minority of total rural land disputes, they tend by their very nature to be the most serious, making their impact disproportionate to their absolute numbers. Thus it is not surprising that such disputes, occurring separately or in tandem, are typically more resistant to resolution. As Figure 6 shows, for the approximately six-months from April-September 2012 the overall resolution rate for rural land disputes generally (48.7%) was significantly higher than for disputes involving violence (34.5%) or ten-plus households (27.1%), denoting a rate of resolution of disputes in general 1.4 times higher than disputes with violence and nearly 1.75 times higher than those with ten or more households. In no district is the resolution rate for disputes in general lower than rates for either violent or ten-plus household disputes, and in four instances overall dispute resolution rate is more than twice as high: in Kitgum with respect to disputes with violence; in Pader with respect to disputes with ten or more households; and in Agago with both.

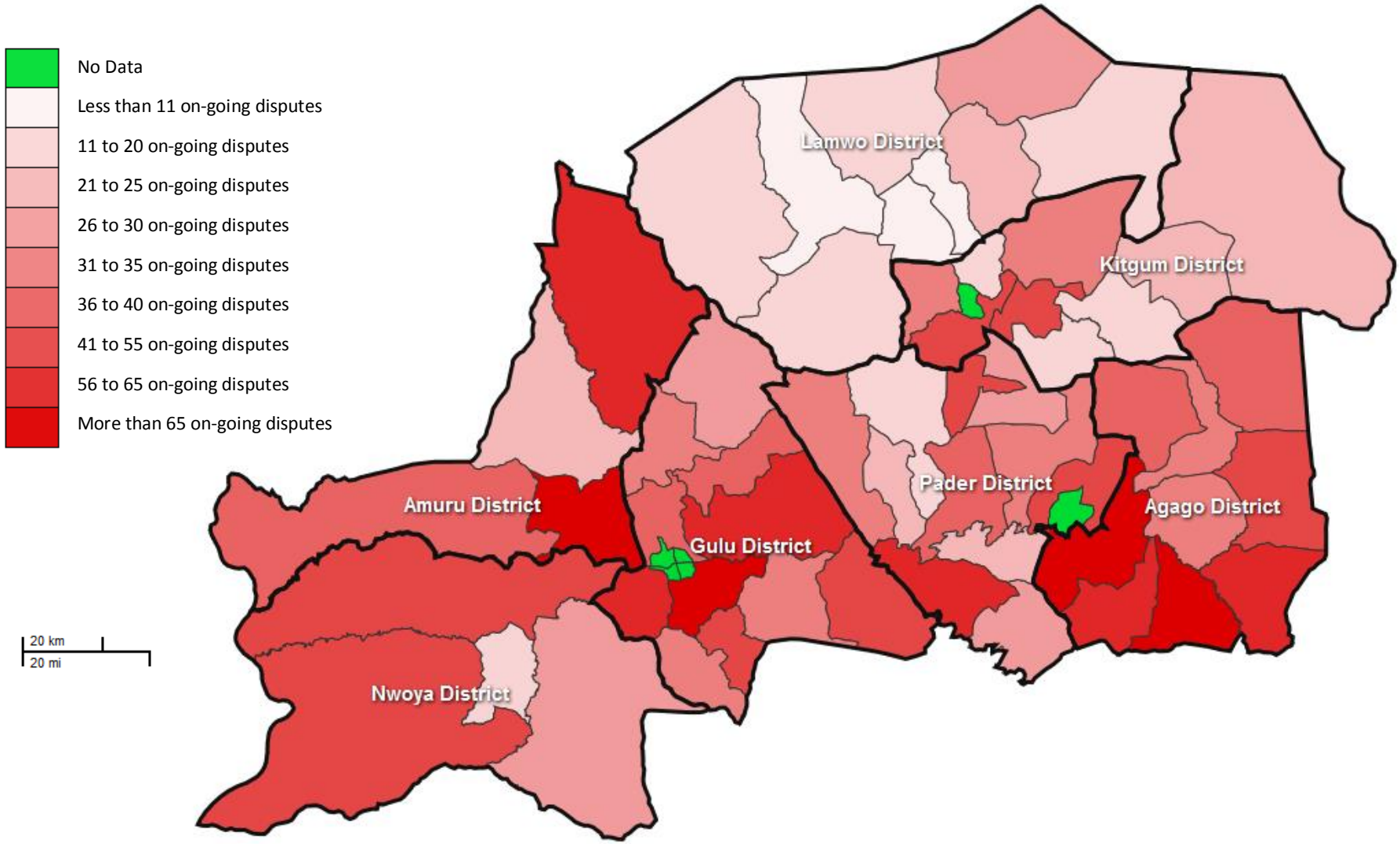
Figure 6: Resolution rates for the period Apr-Sept 2012 - total rural land disputes, disputes with violence, and disputes with 10+ households per district



Based on the data summarised in Table 2 above, the following section presents four Acholi sub-regional maps. The first three maps focus on the overall incidence of rural land disputes during the approximate six months from April-September 2012 in each rural sub-county in Acholi. Map 1 portrays the total numbers of land disputes in each sub-county over the period in question; Map 2 shows total disputes per hectare; Map 3, total disputes per household; and Map 4 provides a snap-shot of the number of ongoing disputes in each rural sub-county as of September 2012.

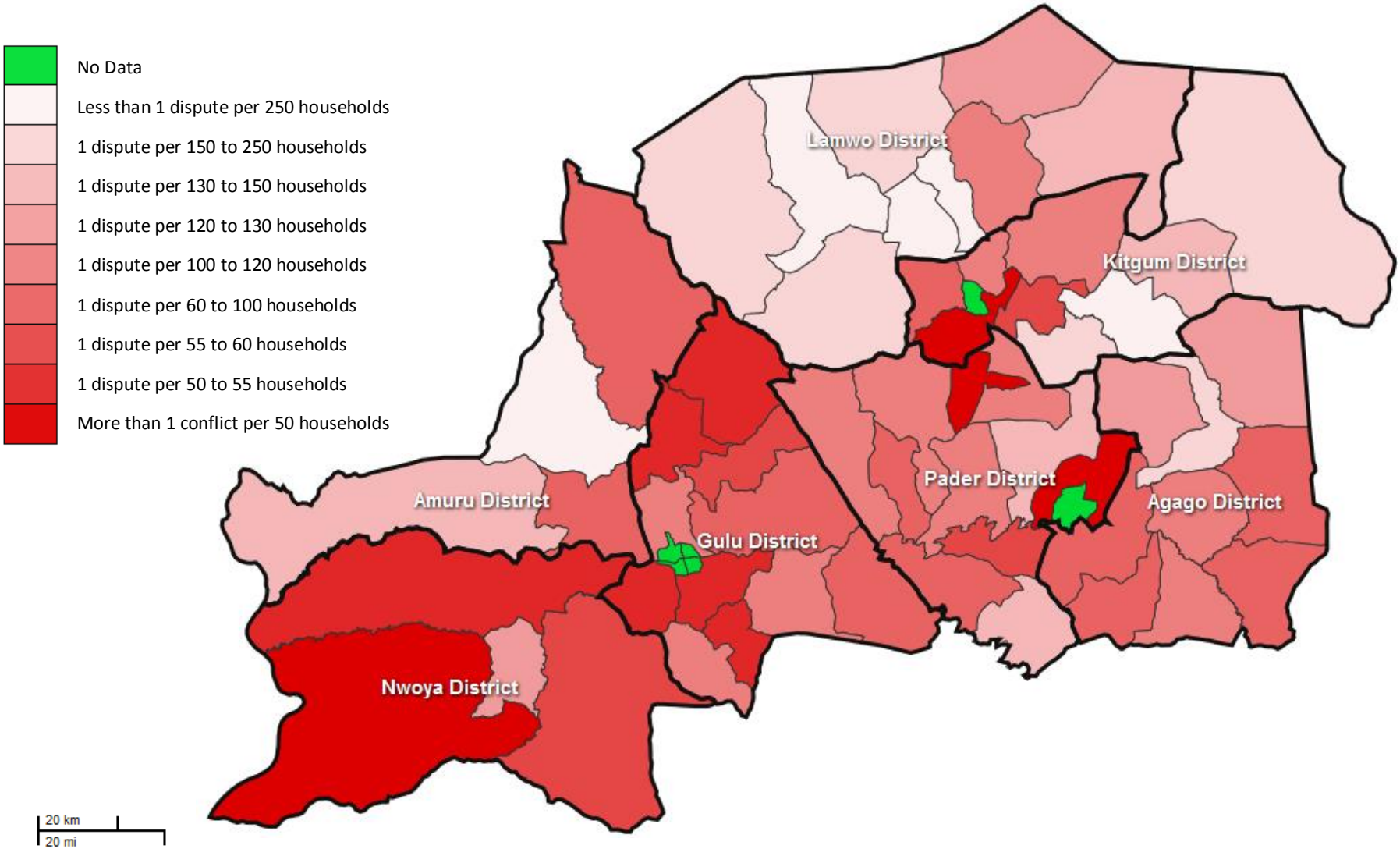
These maps, and others, are available at the www.LCMT.org website.

Map 1. Total disputes Apr-Sept 2012 (on-going & resolved)

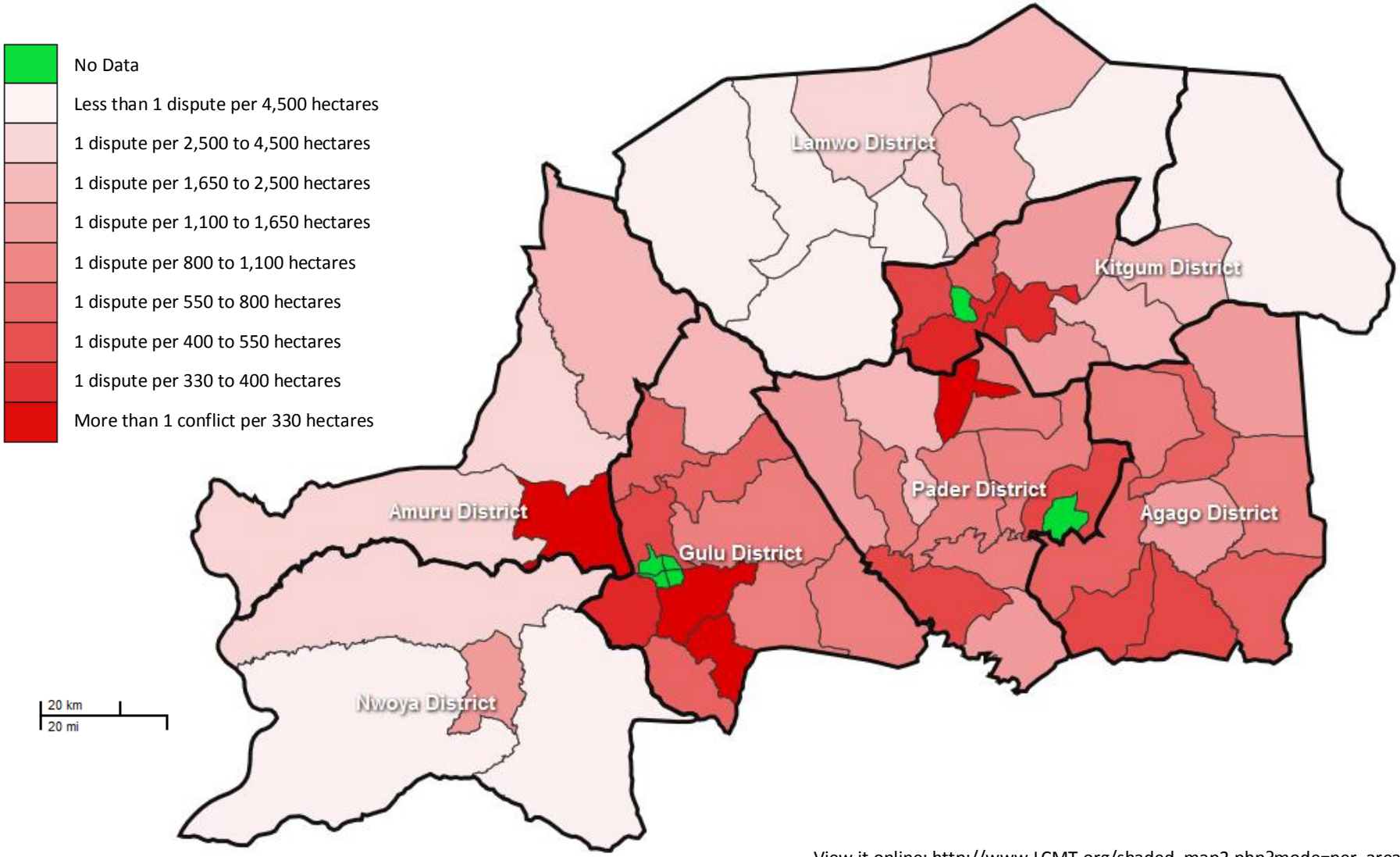


View it online: http://www.LCMT.org/shaded_map2.php?mode=total

Map 2. Disputes per household Apr-Sept 2012 (on-going & resolved)

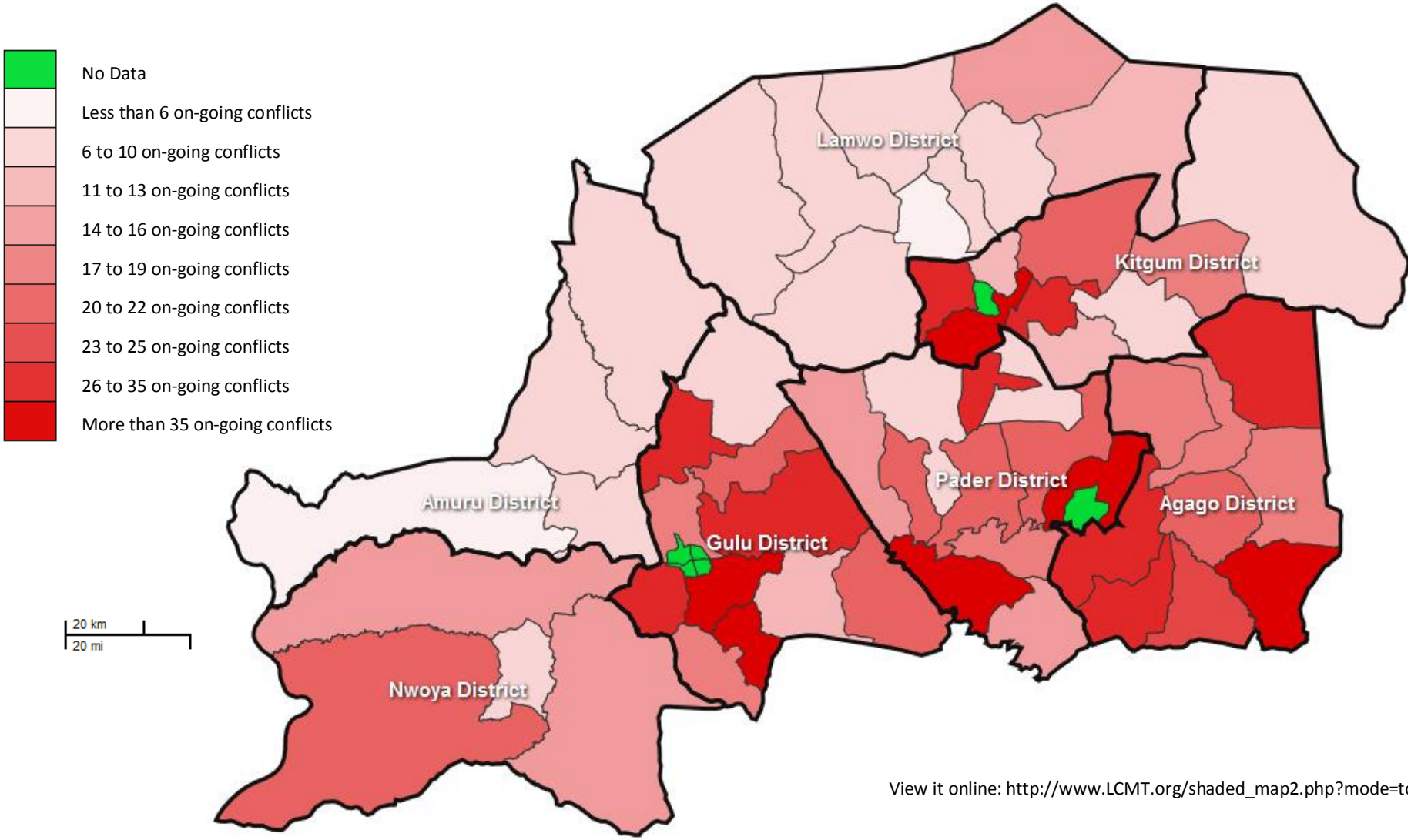


Map 3. Disputes by area Apr-Sept 2012 (on-going & resolved)



View it online: http://www.LCMT.org/shaded_map2.php?mode=per_area_

Map 4. Total on-going disputes Sept 2012



View it online: http://www.LCMT.org/shaded_map2.php?mode=t

Dispute resolution actors

As well as data on dispute numbers and types, the parish-level dispute forms asked those providing information in each parish to identify institutions, organisations, and individuals important in helping to resolve land disputes in the parish. Scores of individuals and groups were identified, producing the following results:

1) The most common responses (over 45%) identified cultural and traditional leaders of one sort or another as most helpful;
2) around 30% listed local council courts or local councillors;[86]
3) just over 15% named civil society or NGO groups, with the Acholi Religious Leaders Peace Initiative (ARLPI) and religious leaders in general comprising nearly 40% of this category's total; [87]
4) 6% mentioned local government institutions apart from LCs I, II and III and LC courts;
5) 2% cited Magistrates' Courts.

The actual numbers in each of the categories above were: cultural and traditional leaders (357); local government and local government courts (254); NGOs/civil society (122); local government apart from local councillors and local courts (48); and Magistrate's Courts (16).

[86] Not an especially high percentage given that LC IIs (parish level councillors) were a main constituent of the parish groups providing the information

[87] A useful table of NGOs operating on land in Acholi, and the Districts where they work is to be found in Burke and Egaru (2011) p. 16.

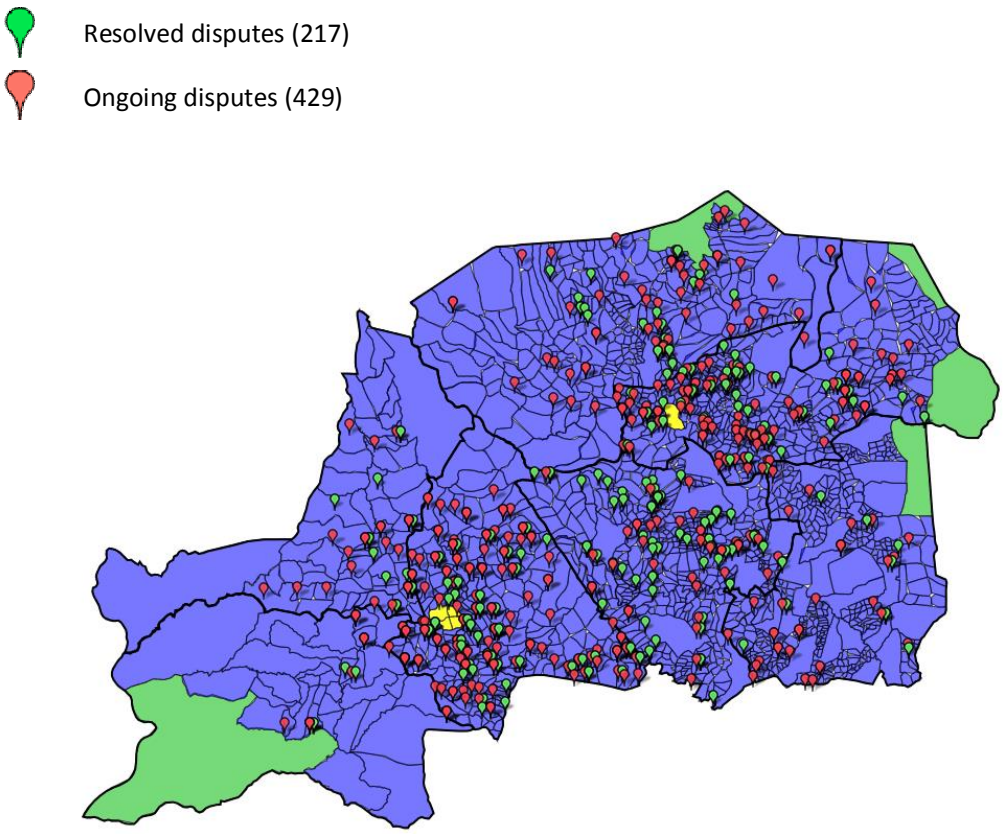
LAND DISPUTES: INDIVIDUAL DISPUTE QUESTIONNAIRE DATA SET

In total, 1,349 records of individual disputes (Individual Dispute Questionnaires – IDQs) have been collected in the two rounds of data collection. Of these, 603 were collected in round one, of which 379 were ongoing, 119 resolved, and 105 with unclear or lacking data. In second-round research, 746 IDQs were obtained, of which 540 were ongoing, 130 resolved, and 76 unclear or lacking data.

The 540 ongoing second round IDQs provide useful comparative data to the ongoing dispute totals from the parish-level dispute forms, as they represent 49.9% of the total 1,082 ongoing disputes identified in the parish-level forms. Not all IDQs are complete in all respects, so in reporting on particular characteristics of disputes the sample is somewhat smaller.

Map 5 below shows work in progress to link individual disputes to specific villages: not all of these have yet been created as shape files, while in some areas, especially Agago and Pader, village maps are not complete – in these Districts Parishes often contain very large numbers of villages, sometimes confused by new parish boundaries. As a result a number of maps from these areas were unusable. Other means to identify these boundaries are being sought.

Map 5: Village-specific locations of individual disputes identified through IDQs (n = 646)

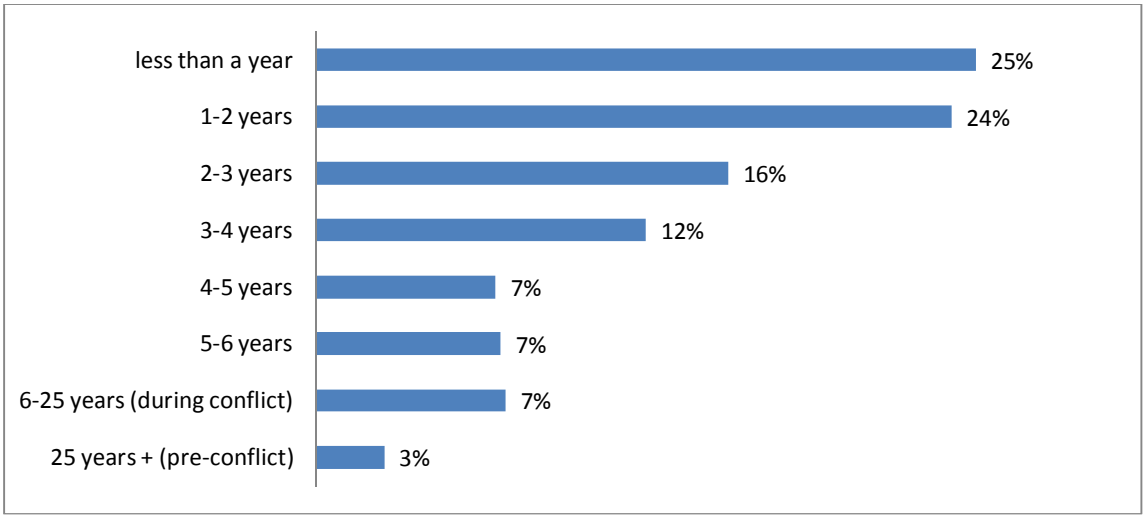


Whether these samples are representative of the whole depends on whether the IDQ disputes are typical or whether respondents have selected certain types of disputes to report on, possibly the more severe. This was tested by comparing IDQ disputes involving violence and those with more than 10 households with the overlapping data from the PDFs. While patterns varied between districts, overall IDQs reported on 54% of PDF-identified ongoing violent disputes and 53% of PDF-identified ongoing disputes involving ten-plus households. This suggests that at least in these respects, and by inference others, the IDQ sample is broadly representative of all ongoing disputes. This allows an inference of a number of trends.

One of these relates to the duration of disputes. Approximately 10% (53) of ongoing disputes when LCMMT data collection began in February 2012 date from before the beginning of return from displacement in 2006, while 3% (14) originated before the start of the northern Uganda conflict in 1986.

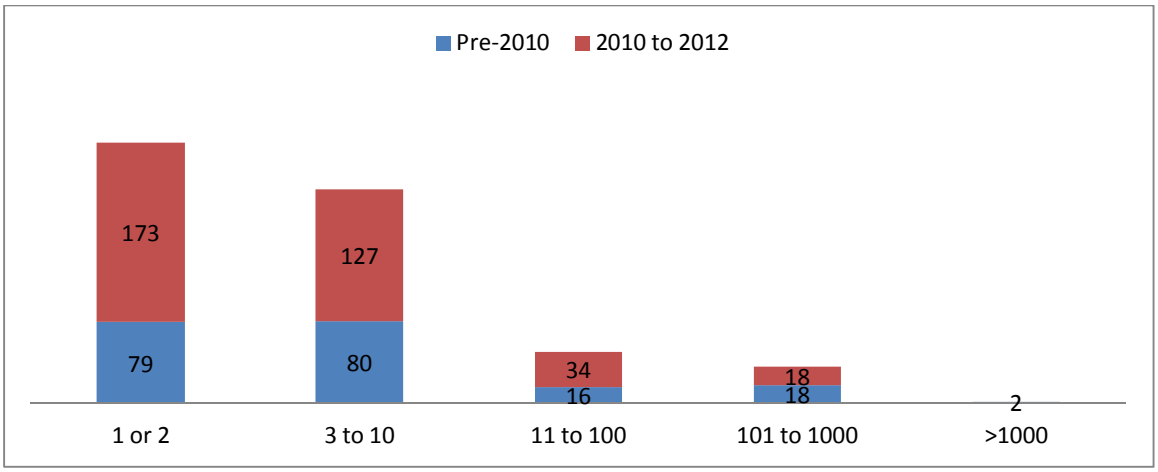
A further 26% (143) were between three and six years old at the time of data collection, meaning that they began between 2006 and 2009, years when return and resettlement was slowly occurring, but before most people left the camps. The three years since, the period of major return and resettlement, is not surprisingly also the period when most ongoing disputes in the IDQ data set began (65%) – see Figure 7.

Figure 7: Duration of IDQ-reported ongoing disputes (n = 531 IDQs – 49% of PDF total)



Comparing differences between ongoing disputes in the IDQ data of more recent origin with older ones shows that disputes involving larger numbers of households tend to be resolved at a lower rate than ongoing disputes in general, indicating a resistance to resolution. For example, approximately 10% of all ongoing disputes in the IDQ data base that started before 2010 involve more than 100 households, compared with 5% of 2010-12 ongoing disputes (see Figure 8).

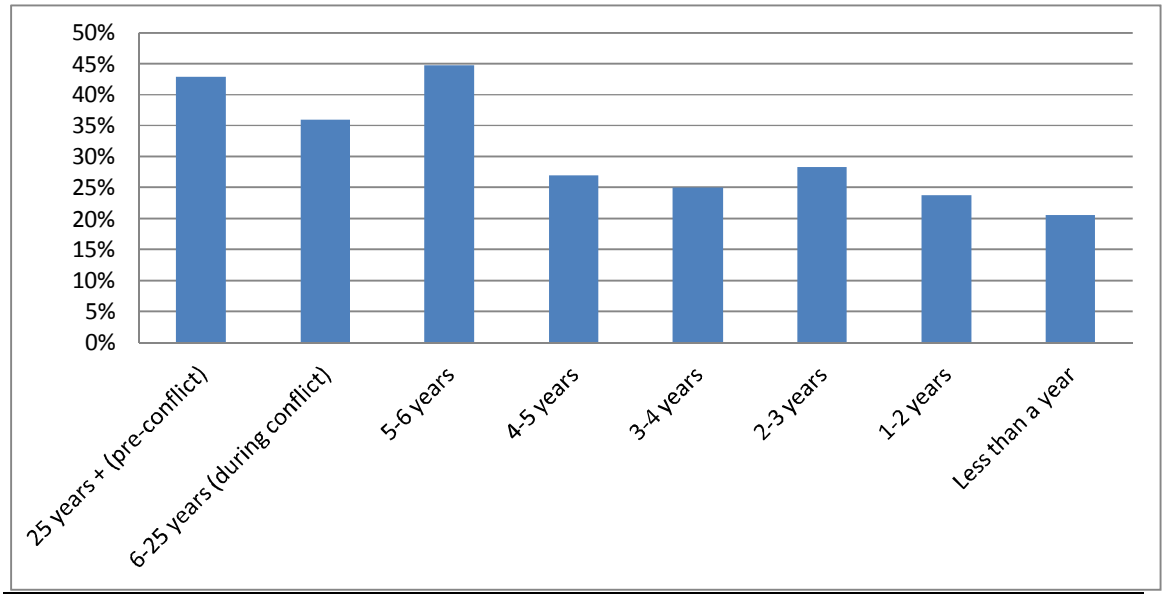
Figure 8: Recent disputes in comparison to older: households involved (n = 531 IDQs – 49% of PDF Total)



Violent disputes from IDQ data

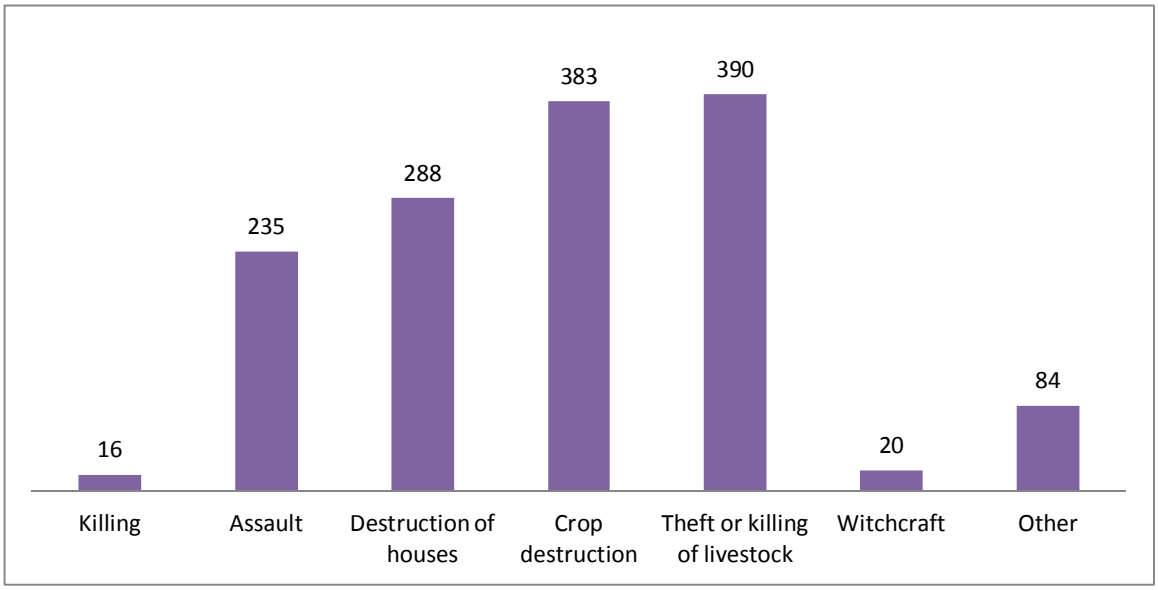
The percentage of currently ongoing disputes of recent origin (2010 onwards) that involve violence is 24%, compared to 33% of ongoing disputes that started before 2010, and 26% for all IDQ-recorded disputes. These figures are comparable to the 24.6% of ongoing violent disputes found through the PDF data set. IDQ data also corresponds to PDF data in finding that disputes involving violence are resolved at a substantially slower rate than other disputes. Figure 8 below shows the proportion of disputes involving violence by start date.

Figure 9: Proportion of IDQ disputes involving violence by start date (n = 531 IDQs – 49% of PDF total)



A total of 1,416 violent incidents in 147 disputes involving violence were recorded in the IDQs. Types of violence are shown in Figure 10:

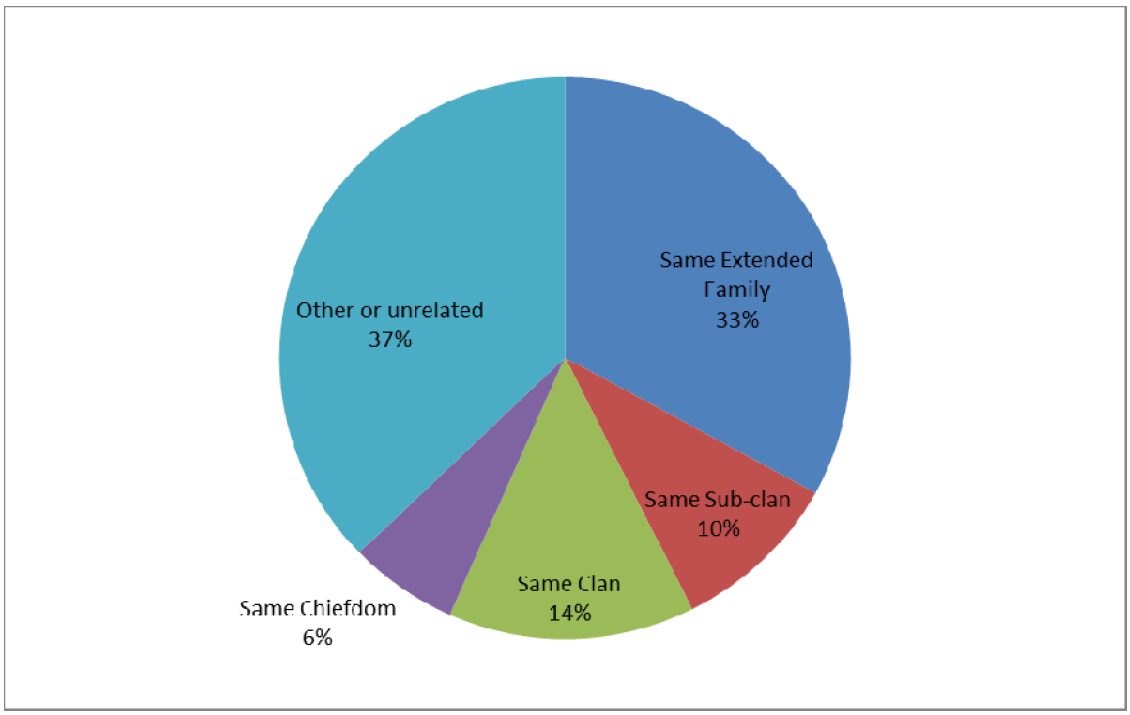
Figure 10: Incidents of violence by type in 147 violent disputes from a total of 540 IDQs



Relationship between opposing parties in land disputes from IDQ data

Clues as to the proportion of intra-communal disputes can be found in the relationship between parties. In this case using the entire sample of 1,349 IDQs an analysis of the closest relationship between opposing parties in disputes reveals that around one third of disputes are between members of the same extended family, with a further 24% less closely related (same clan or sub-clan) and another 6% coming under the same chiefdom. See Figure 11 (and compare with Figure 14 below in the section on large-scale rural land disputes):

Figure 11: Relationship between opposing parties in land disputes (n = 1349)



Estimate of household numbers involved in land disputes from IDQ data

Actual numbers of households reported as involved in the 540 ongoing IDQ disputes total 17,774, although in most cases the figures for larger disputes must be regarded as highly approximate. The 192 ongoing disputes that started pre-2010 involve an estimated 10,086 households – an average of 53 households per dispute. In contrast, the 348 ongoing disputes that started in 2010 or after involve an estimated total of 7,201 households – an average of 21 households per dispute. This very large variation would seem to confirm the above reported findings in respect of the PDF data-set, namely that disputes involving larger numbers of households are resolved at a substantially slower rate than disputes involving fewer households.

It is not likely that this overall figure can be extrapolated to the whole of Acholi, which would suggest more than 30,000 households in ongoing disputes in September/October 2012. While the aggregated category of disputes involving ten or more households would seem to offer some grounds for confidence, there is a high probability of bias in the IDQ data set to include the largest conflicts, a small number of which can radically alter the picture – see also the section below on very large-scale disputes involving more than 100 households.

However if the figure is at all accurate for the disputes captured by the IDQs, a figure of substantially more than the 18,700 households involved in disputes during the six months prior to May 2010 captured by Pham and Vinck must be presumed.[88] In the context of this survey's findings of a substantial overall decrease in numbers of conflicts, this suggests either that numbers of households involved in disputes is rising or that Pham and Vinck's figure is an underestimate. In fact both are possible and potentially consistent with the other findings of this survey: the persistence of disputes involving large numbers of households over time will lead to an increasing proportion of these in relation to total disputes at any one time, while a small number of very large disputes can have a very substantial effect on averages, and as such disputes are highly localised, they can potentially distort any sampling exercise.

While the nature of the impact on individual households of the larger disputes requires further exploration, this is likely to cover a wide spectrum. Those at the severe extreme would include the long-standing conflict in Mucwini, where (as of 2008) there had been substantial violence and large numbers of households reported to be denied access to their pre-displacement land,[89] and Apaa, where many hundreds of households have been evicted.[90] At the other end of the spectrum would be mostly non-violent disputes such as those between whole kinship groups (clan or sub-clan), but which revolve around a border disagreement that directly and seriously impacts only a relatively small number of households in the disputed area, or between a clan and a household or family over the latter's right to sell communal land that they occupy.

[88] Pham & Vinck, (2010).

[89] Justice and Reconciliation Project (2008); Refugee Law Project (2012).

[90] Acholi Religious Leaders Peace Initiative (2011).

Large-scale rural land disputes from IDQ data

Turning to large-scale land disputes, the *Synthesis Report* of the multi-volume Pacific land study noted above begins its discussion of 'large-scale land-related conflicts' with the common-sense point that such conflicts 'are never caused by one issue'. The study continues:

> The dynamics of escalation into large-scale conflict are conflict specific and often very complex, and a result of several different forces and factors, some unrelated to land, coming together and underpinning the mobilisation of long standing grievances. . . . It is the building up of grievances over time and their mobilisation that can play a role in conflict escalation.[91]

This description certainly applies to most large-scale rural land disputes in Acholi. LCMMT project research obtained 72 completed IDQs that provide information on disputes involving more than 100 households, the threshold for inclusion in the 'large-scale dispute' category in this report. These make up just over 5% of the 1,349 total IDQs. As with the IDQ data more generally, they are not a random and almost certainly not a representative sample of all such disputes in the Sub-region. Given that, there is still evidence in the 72 cases worth analysis.

Keeping in mind the likely unrepresentativeness of the sample, it is still striking that 33 of the 72 large-scale disputes recorded in the IDQs are from Lamwo District. This represents almost 24% of the total 134 disputes reported in Lamwo in the Parish-level Dispute Forms (PDFs), and just over 80% of the 41 disputes identified as involving ten or more households. Amuru District, with 13 large-scale disputes, and Kitgum, with 11, are the only other districts with double-digit large-scale disputes in the IDQ data set. Agago District has seven reported large-scale disputes, Pader District has six, and Gulu and Nwoya districts have only one each.

Unlike the data from the PDFs, where there was an approximately 50% dispute resolution rate, the picture from IDQ data on large-scale disputes is markedly different. Of the 72 total large-scale disputes, 57 were identified as ongoing, only 9 as resolved, and 6 were without data. Of the 66 disputes with data, then, the percentage of resolved disputes was 13.6%. Of the nine resolved disputes, one was reported as being settled by the parties themselves, three were settled with the help of mediation (one by rwodi kweri, two by unspecified others), and five were settled in court, with both parties accepting the decision (three in LCII courts, one in an LCIII court, and one unspecified). There were also six ongoing disputes where LCII courts had rendered a judgment, but the losing party refused to accept the court's decision. These numbers certainly reinforce – with emphasis – the PDF evidence that large-scale disputes are more resistant to resolution than disputes in general.

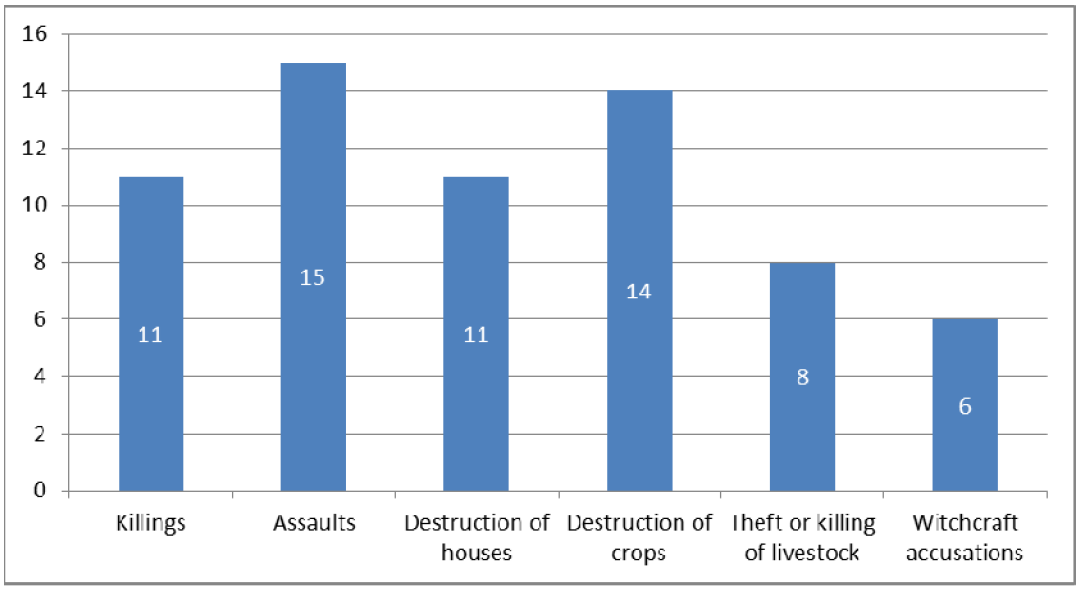
In addition, there were 39 examples of mediation reported in large-scale land disputes that were not yet resolved. Of these, a clear majority (26, or 67%) were mediations by various levels of elders or other cultural leaders; another eight (20.5%) were by local councillors acting as individuals (outside of LC courts) – three by LCIs, two by LCIIs and three by LCIIIs. In addition, three mediations were by NGOs, one by a religious leader, and one by an individual whose position was unspecified.

[91] LMCM (2008), pp. 110, 115.

Evidence on start dates for this set of large-scale disputes adds additional evidence to their resistance to resolution. Thirty-two of the 70 for which start dates are available (46%) started before 2010, 15 in 2010 (21%), 18 in 2011 (26%) and 5 in 2012 (7%); and of the 32 that pre-dated 2010, 26 of them (over 80%) occurred in the first three years of extensive return and resettlement from the camps (2007-9), while three began between 2004 and 2006, and two began in the 1980s, before the northern Uganda conflict engulfed the Sub-region.

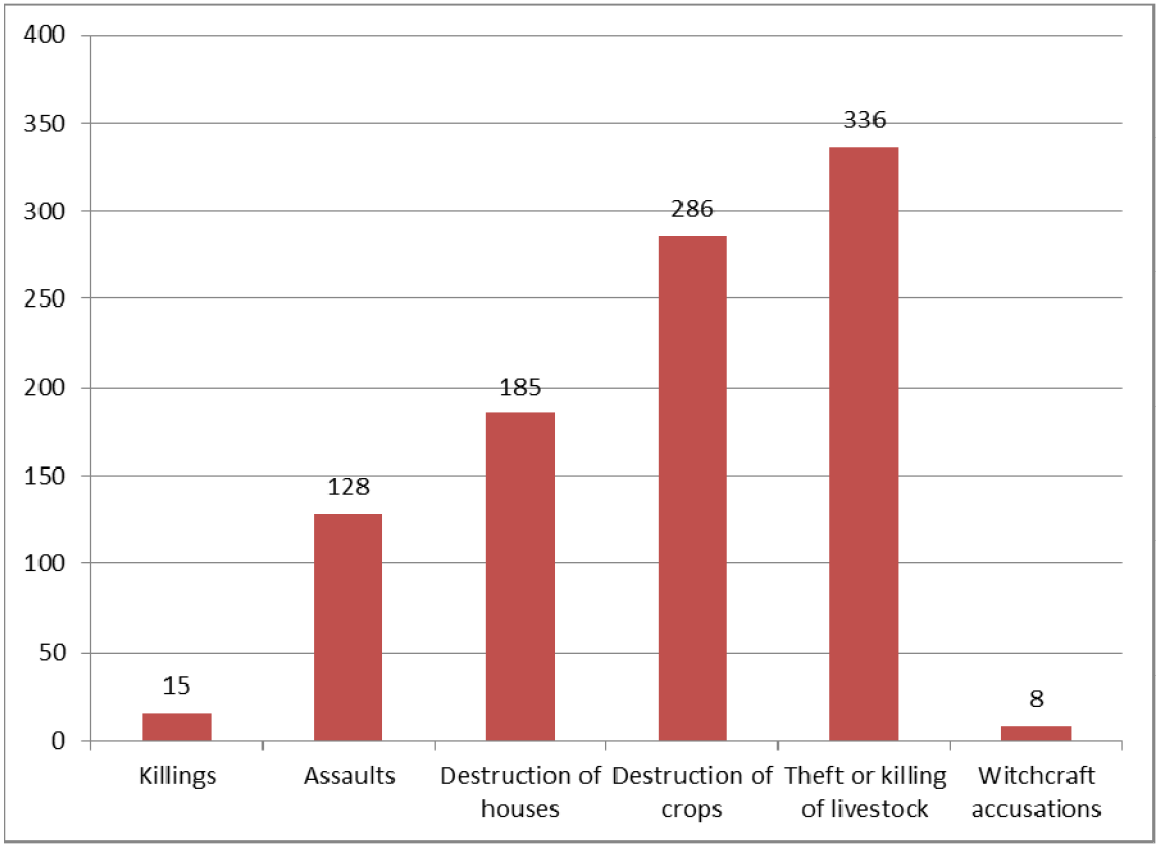
Large-scale disputes, as suggested earlier, were not infrequently accompanied by violence. Of the 72 total large-scale disputes, 26 (36%) were also violent, almost three times the rate of violent disputes among all disputes calculated from the PDF data. There were often multiple forms of violence in a single dispute. The 26 violent large-scale disputes experienced 65 different types of violent episodes, or 2.5 times the total number of violent disputes. The types of violence and how often each type occurred among the 26 violent large-scale disputes are as follows:

Figure 12: Incidences of violence by type in 26 violent disputes involving 100 or more households in IDQ data



Both the total and average number of incidents in each of the categories of violence noted above varied widely. A total of 15 people were killed in the 11 disputes with killings (an average of 1.4 killings in each deadly dispute); 128 total assaults occurred in the 15 disputes with assaults (an average of 8.5 assaults each); 185 houses were destroyed in the 11 disputes with house destruction (an average of 17 houses each); 286 incidents of crop destruction occurred in 14 separate disputes (an average of 20 each); 336 livestock were stolen or destroyed in eight separate disputes involving this type of violence (an average of 42 lost animals per incident); and there were eight total accusations of witchcraft spread among six different disputes.

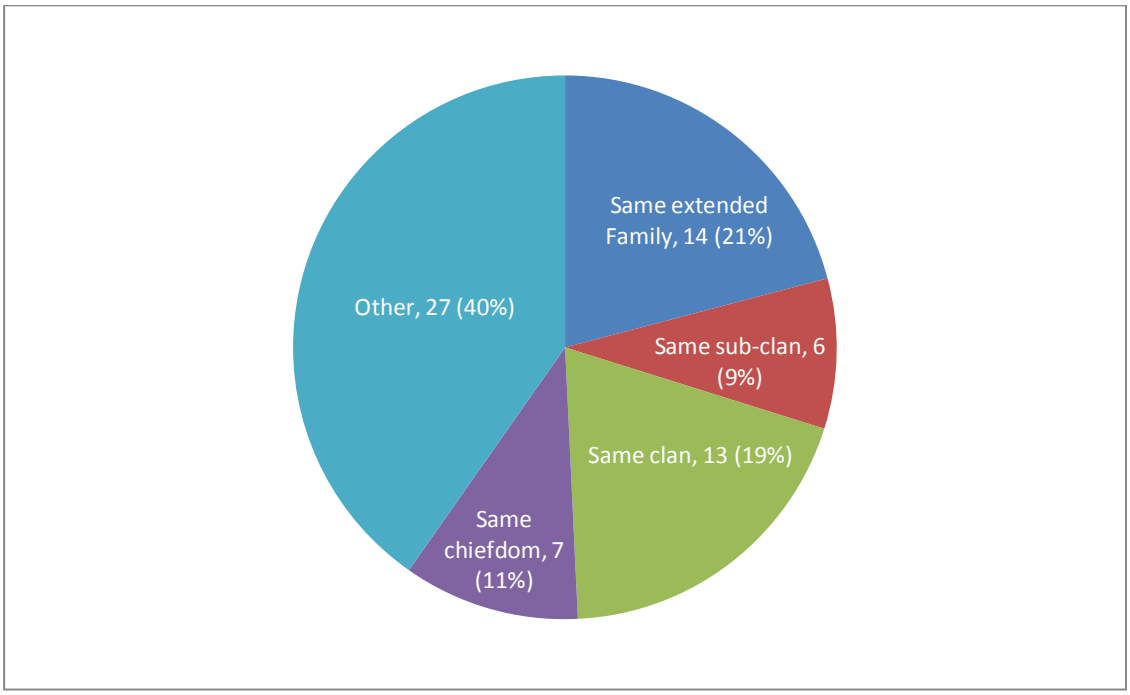
Figure 13: Total number of violent incidents by type in 26 violent disputes involving 100 or more households in IDQ data



In 67 of the 72 total large-scale disputes in the IDQ data set, the identity of the relationship among the households involved was provided. The data indicate that just under 50% (33 of 67) of the disputing parties were patrilineal kin. Numbers and percentages attached to the specific relationships identified (remembering that these distinctions are somewhat fluid or ambiguous) are shown in Figure 14 below (see also Figure 11 above):

Finally, to note a set of data that relates to the discussion in the next section of gender, 55 of the 72 total large-scale disputes reported on the gender make-up of the two opposing lead parties in the disputes (or 110 total). Of these 110 identified lead parties, 10 included both men and women, and in only one case among these large-scale disputes was one of the lead parties identified specifically as female.

Figure 14: Relationship between opposing parties in land disputes of more than 100 households (n = 67)



Gender and female headed households in disputes from IDQ data

163 of the 1349 Individual Dispute Questionnaires (12%) identify at least one of the parties as female, while 24 of these (2%) identify both parties as female. All these are now abbreviated to female-headed-household (FHH) disputes. We have tried to analyse key characteristics of these disputes on the basis of brief (sometimes too brief to be helpful) narrative descriptions of disputes, as well as of the quantitative data collected. Of the FHH disputes 59 IDQs are from the first round of data collection, of which 43 were on-going at the time and 14 resolved, while in 2 the resolution status is unclear. 104 IDQs were collected in the second round including 85 on-going, 14 resolved and 5 unclear. Extrapolating from on-going second round disputes (85 of 538 second round on-going) suggests that around 16% of disputes involve an individual woman or female headed household.

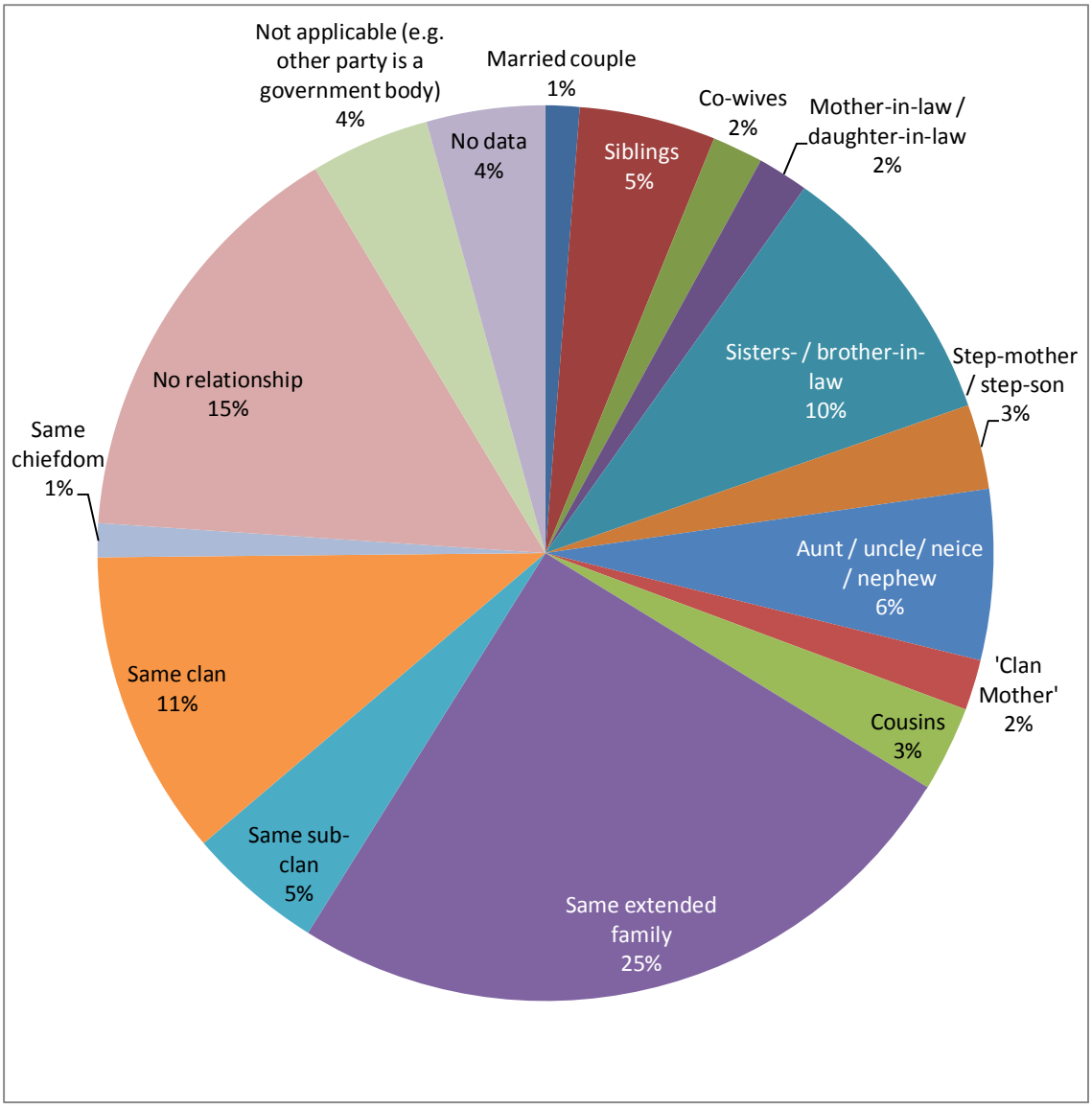
Disputes involving one or both parties headed by women are typically smaller than average – 6.7 households involved,[92] while female headed parties average 2.5 households. In one case a woman is described as a lead party in an inter-clan dispute in Lamwo, heading 64 households. This woman's occupation is described as 'nurse', and it is possible that if she is employed, her relative economic power within the clan has allowed her to take a leading role in protecting it from encroachment.

Of all the FHH disputes, 42 (26%) of disputes involve violence of various kinds, including 12 disputes (7%) involving a total of 20 killings. These findings are comparable to overall disputes.

[92] This includes one dispute in which a single female headed household is described as being in conflict with a whole clan community of 250 households. Excluding this instance reduces the average conflict size to 5.1 households.

A third of FHH disputes were between parties with a close family connection, while a further 30% are members of the same extended family and 16% members of the same sub-clan or clan, shown below in Figure 15. As can be seen from this in comparison to Figure 12, FHH disputes are substantially more likely than disputes generally to be intra-family (59% compared to 33%), while around 30% of the reported disputes fulfil the classic stereotype of a brother-in-law or other powerful male, usually a relative, seeking to evict or encroach on a widow or vulnerable woman.

Figure 15: Closest relationship between parties where one party is a woman/female headed household (n = 163)



In around 45% of cases the key point of dispute was around the right to inherit customary land rights. However these took a variety of forms. Women, contrary to the common understanding, regularly claimed rights to inherit not just from husbands, but from fathers, grandfathers, other male relatives, mothers and even grandmothers, in many of which claims they were either successful or perceived as being in the right by informants. While it

is often reported to be the case that women's land rights are weak in many customary polities, in Acholi in the second decade of the twenty-first century there are multiple avenues into apparently strong, if regularly contested, land rights.

Also widely contested are inheritance rights of 'guests', both male and female. In many narratives these rights seem to be significantly weaker than those of women. In the narratives, in around 20% of FHH cases a female head of household is cast as the 'aggressor' or 'land grabber', in the sense of being the party seeking to displace land users with weaker rights, or otherwise usurping the land rights of others. In some cases this is the descendent of either gender or widow of a guest; in others, the children of a deceased or junior co-wife, or the junior co-wife herself.

Another category of FHH disputes is women seeking to sell customary land. This seems to echo a common feature of responses to vulnerable land rights: 'selling' the land you occupy without security is a potentially viable strategy to ensure continued land access, by monetising it.

Our findings suggest that the current and possibly historical routes for women in Acholi to acquire land rights, through inheritance or marriage, are multiple. Currently a provisional land market is arguably offering opportunities for land security, at least for the well off. Findings also suggest that women's land rights are evolving, explaining why they are frequently challenged, sometimes successfully, sometimes not. Widows and divorcees are by no means at the bottom of the evolving land rights 'food chain' – the classes of 'guests', even of several generations occupation, junior co-wives, and step-children of both genders would seem to come substantially lower.

In respect of Pottier's injunction to observe on what grounds cases are being contested in order to evaluate how women's land rights are evolving,[93] 62 (38%) of FHH IDQs identified the core of the dispute to revolve around women's rights to inheritance of customary land use rights. 30 – nearly half of these – related to the right to inherit from a husband. Most of these are the much discussed instances of the late husband's brothers or other members of his kin-group seeking to evict his widow. In a further 21 cases (34%) the issue was about right to inherit from the woman's father, while a further five were based on the right to inherit from a grandfather and three from the mother. In other words 47% of inheritance disputes related to the right for women to inherit from their birth clan. This is a remarkable finding as it suggests that in contrast to almost all stereotypes of customary land in Acholi and elsewhere, women do have claims on land through their paternal line. Whether this is a recent evolution or whether in practice this has long been the case needs to be the subject of further investigation. While the outcomes of these claims do not emerge clearly from our findings, nonetheless it is unlikely that such claims would be made and would reach the awareness of parish-level actors if they were not accorded a degree of substance and were sometimes successful.

While IDQs did not require informants to make judgements on the rights and wrongs of cases, in a number of instances – 81 cases - they do identify a party who they regard as seeking to acquire or benefit from land through making knowingly false claims – land

[93] Pottier (2005), p. 67.

grabbing.[94] In 49 (60%) of these cases the identified land grabber was male. However in a further 32 (40%) of cases the identified land grabber was a woman or FHH. In eight of these cases a FHH was said to be improperly seeking to sell clan land; while in six a FHH was making a claim on land previously gifted to institutions – schools, churches, and a local government office. In a number of cases, not all identified as land grabbing, women's claims are in conflict with the claims of descendents of those who had been gifted land, male and female, which latter appear to be seen as weaker, though again more investigation is required. This further suggests a situation in which women exercise significantly greater control over customary land than is often supposed, with important policy implications which will be discussed below.

[94] It may be that in a number of instances, respondents are prejudiced in making these judgements for any of a myriad possible reasons, though not necessarily more so than any other source. We therefore offer these judgements at face value.

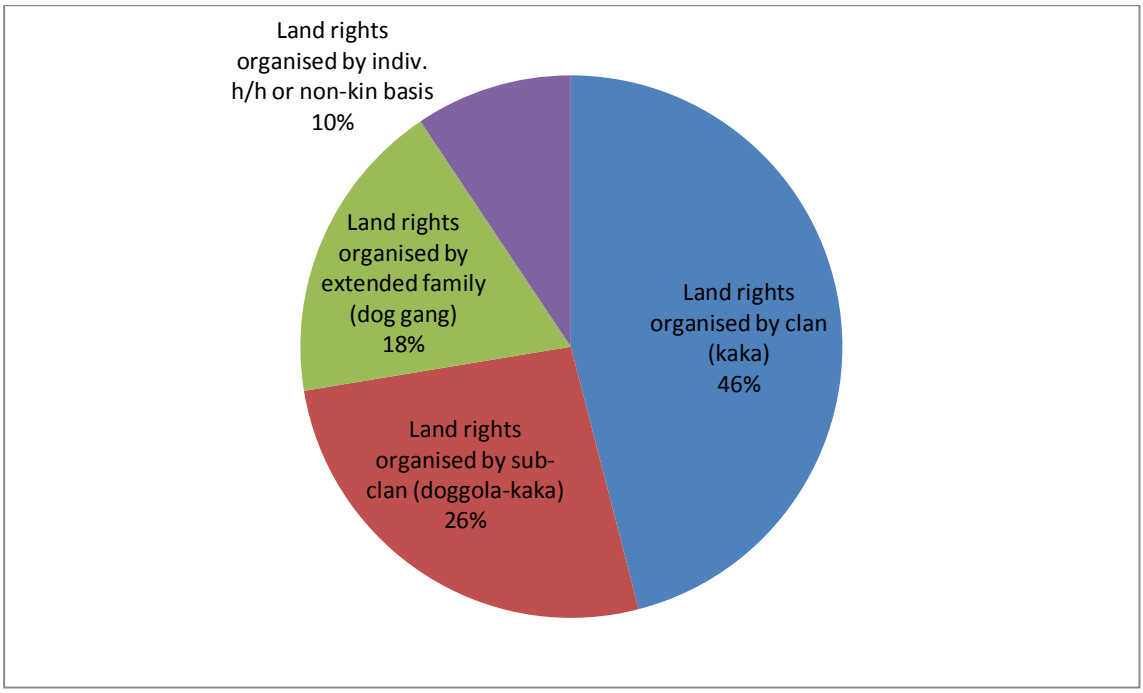
LAND ORGANISATION: VILLAGE-LEVEL DATA SET

As in first-round research, the term 'village' is here used to denote the jurisdictional area of a Local Council I (LCI), a formal political entity that comprises the lowest-level unit of local government. It was found that few if any maps, formal or otherwise, existed to demarcate these villages. This project has discovered that many local actors possess an impressive ability to render their deep local knowledge onto maps. This has been demonstrated in the production of hand-drawn (thus approximate) maps of constituent villages in most parishes.

During second-round data collection throughout the sub-region in September/October 2012, parish groups throughout Acholi identified 3,028 villages on village-list forms, and contributed substantive village-level data on 2,375 village-level questionnaires (78% of all identified villages). As noted just above, among the most significant data provided on the village-level questionnaires concerns the organisation of land rights. In close agreement with results obtained in first-round research – though based on greater geographical coverage – participants in this second round of research reported that land rights were overwhelmingly organised on a communal basis, by clan (*kaka*), sub-clan (*doggola-kaka*), or extended families (*dog gang*).

Second-round research results indicate that over 90% of villages in Acholi are organised communally – with 46% reported as being organised by clan; 27% by sub-clan; and 18% by extended family. Only 9% of villages were land rights reported as being based on individual families or on a non-kin basis. These results are shown in Figure 16, though it should be noted that distinctions between clans, sub-clans, and extended families are neither sharp nor clear, as the terms are used in different ways in different areas and are blurred in the understanding of many Acholi.

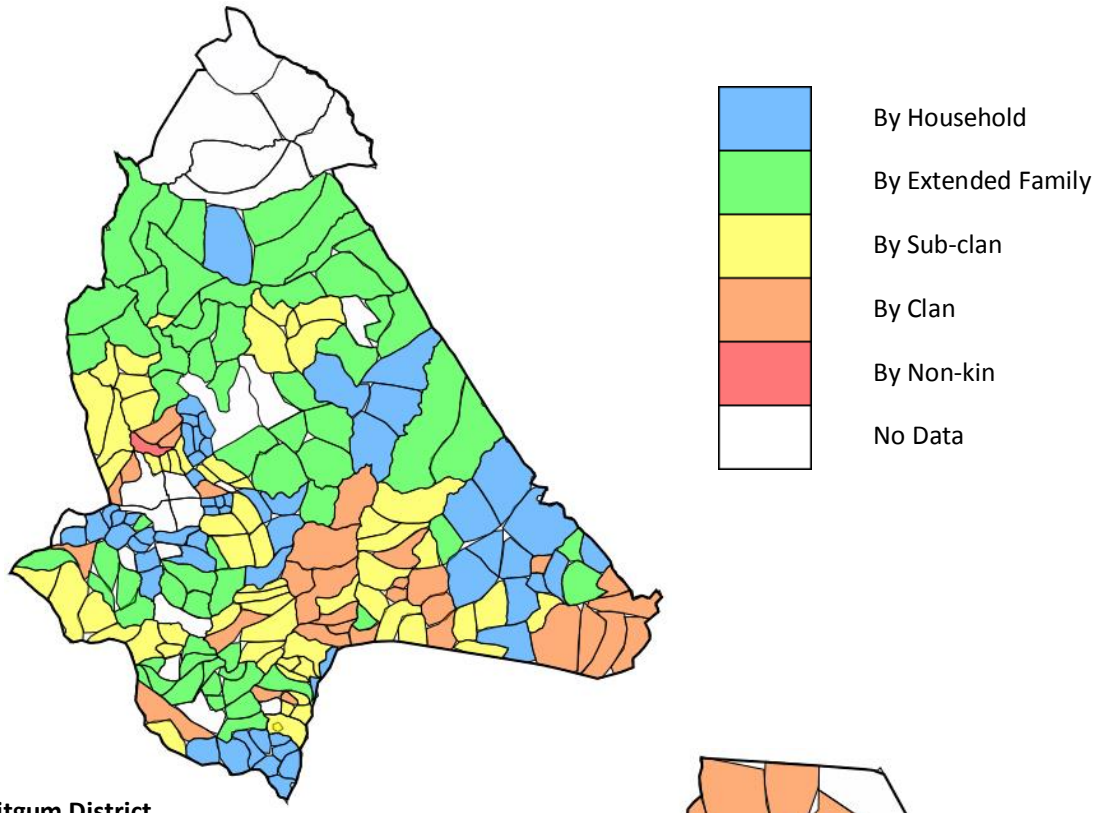
Figure 16: Land organisation of villages (n = 2097)



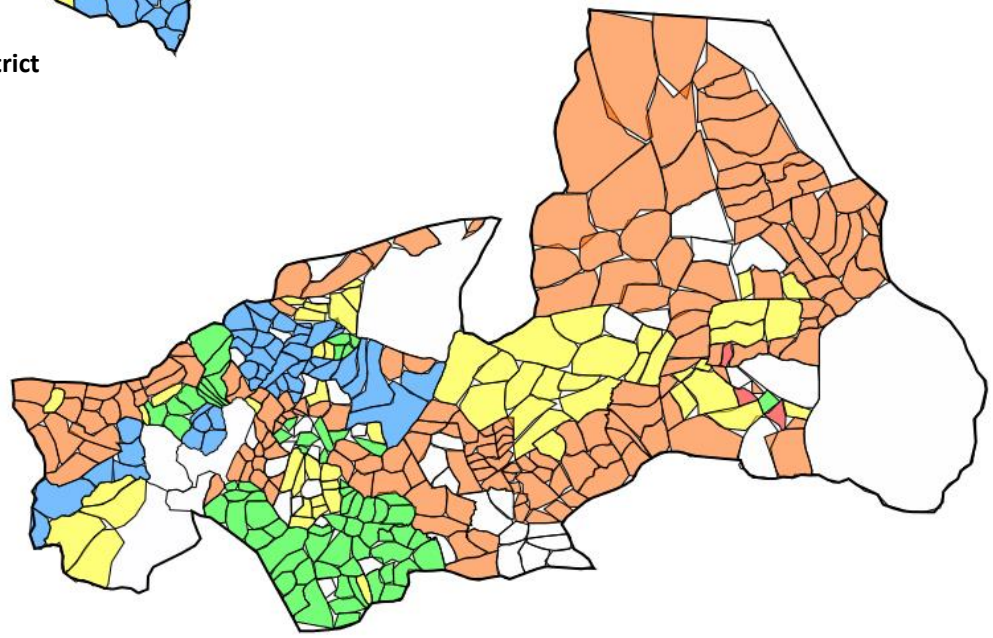
Map 6 shows how respondents designated the organisation of land rights in each village in their parish: by clan/*kaka*; by sub-clan/*doggola*; by extended family/*dog gang*; by household/*keno*; or non-kin-based organisation. Clearly many villages may have diverse land rights organisation systems, and the question itself is open to a degree of interpretation. Nonetheless the patterns to be observed in Gulu and Kitgum suggest that useful understanding may be contained in them. Maps of all districts showing these results will be available on the www.lcmt.org website in the near future.

Map 6: Contrasting patters of village land control in Gulu and Kitgum Districts

Gulu District



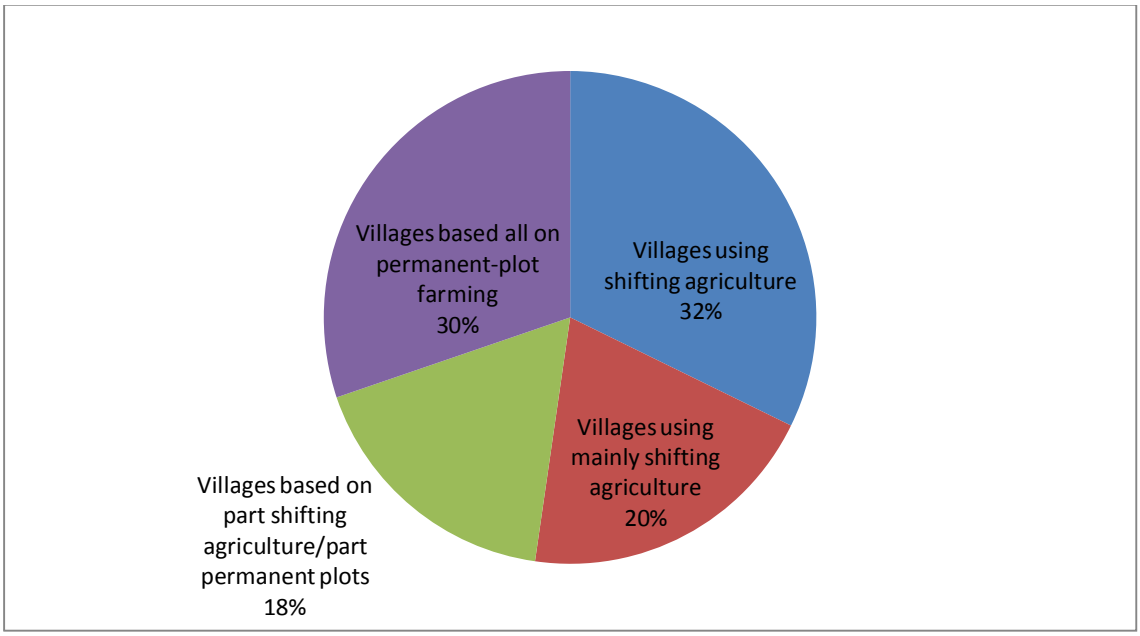
Kitgum District



This information is important in that it raises major questions and concerns about the model of Acholi land holding presented in documents including the *Principles and Practices of Customary Tenure in Acholiland*, published by Ker Kwaro Acholi and a number of other sources.[95]

On land use, the evidence expressed in village-level questionnaires indicates that land in most villages is still based in whole or in part on shifting agriculture. The reported percentages were that 32% of villages relied wholly on shifting agriculture; 20% primarily on shifting agriculture; 18% mixed shifting and fixed-plot agriculture; and with 30% based wholly on fixed-plot farming. These results indicate that over two-thirds of villages were reported as relying at least in part on shifting agriculture.

Figure 17: Land use in villages (n = 2817)



Evidence on local village-level land use and the organisation of land rights is crucial for comprehending and protecting Acholi customary land and land rights, as well as providing contextual evidence that can contribute to understanding individual land disputes and their resolution.

Village-level map making has been an important component of LCMMT research, leading to a collaborative effort with the Makerere GIS Centre to convert the locally hand-drawn village-level boundaries on parish-level maps that have been generated into digital maps, currently in preparation.

After generating village maps, participants were then often able to overlay the name or names of the communal groups (clans, sub-clans, or extended families) with land rights in each village, and sometimes to depict the approximate settlement pattern of such communal groups. Overall, 253 of these clan maps have been produced by parish-level

[95] Ker Kwaro Acholi (2010); LEMU (2009).

groups, representing villages in over 80% of the sub-region's 309 parishes. While these clan maps are of variable clarity and detail, they offer at least the beginning of a spatial representation of kin-based communal land holding communities in Acholi.

These local communal land holding maps are only one facet of what is some of the most important evidence that has emerged from LCMMT research: evidence on the organisation of land rights (and land use) at the very local level of the village. In both the first and second rounds of research, the level of village knowledge of participants in the parish-level groups that met in each sub-county has been remarkable.

DISCUSSION AND POLICY IMPLICATIONS

Public perceptions of many key issues concerning land disputes and other land issues do not always match what local people are reporting, including the current prevalence and trend of land disputes.

In particular, the nature of customary communal landholding in Acholi – which is the tenure system identified by local respondents in our research as dominant in approximately 90% of the rural villages in the sub-region - has barely figured in public discourse and has received little attention in recent academic or NGO literature on the Sub-region, particularly its key *communal* aspect. In terms of advocacy and legal reform, dispute resolution, and supporting strengthened tenure security, the fact that almost all rural land in Acholi is held communally – while the size and nature of the communal bodies that hold it vary enormously – is hugely significant, though little understood and rarely discussed in these, or any, contexts. While the basic principles for organising and managing this land are generally well understood at the local level (even if these principles are sometimes ignored or distorted by weak or corrupt local leadership), specific local variations in the details of land organisation and management are considerable. These variations depend on numerous local conditions, such as the scale of the kin-based group with communal rights, the degree of cohesion or lack of same in each land-holding group, the population pressure in each area, and the size of the communal land in question. To further reduce future land disputes and to protect the essential means of livelihood for the vast majority of Acholi, the central place of customary communal land in Acholi needs to be recognised *and* the local variations need to be better understood.

Numbers of disputes – 2,111 disputes over the six months from September/October 2012 and 1,082 ongoing disputes – are not small numbers and are reason for concern. These most basic numbers on (rural) land disputes in Acholi, however, are likely to be seen as unexpectedly low.

The information obtained in the LCMMT research is inevitably of variable and partial accuracy, dependent as it is on human recollection and memory, which are imperfect and fallible. In recognition of this the study in both research rounds has limited its historical perspective to six months, and in relation to disputes, aggregated to sub-county level. The different parish-level groups who generated the data were not all equally knowledgeable or conscientious as they did so, and the quality of data will have varied accordingly, and all numbers obtained and used in this report need to be recognised as approximations. Still, there is no obvious reason why many hundreds of local people, meeting in parish-level groups in every rural sub-county across Acholi, would exhibit a widely-shared bias that

would produce a significant under-reporting of what they understood as problem land disputes. It is therefore likely that the parish-level dispute evidence is the best currently available on a number of aspects of rural land disputes in the Acholi sub-region.

In beginning to look at this rural land dispute evidence in more detail, the first point to note is that not only rural land dispute numbers, but resolution rates, vary widely among the sub-region's seven districts, with the latter ranging from a reported high of 87% in Amuru District (a perhaps questionable figure – see n. 85 above) to a low of 32% in Kitgum. Explaining these very varied patterns of disputes and resolutions across the sub-region is an important challenge, and we hope that further exploration of our findings by ourselves and others, and further research, will provide clues. We hypothesise that Lamwo's low per household numbers of disputes can be partly explained by its peripheral and isolated location preserving a more unmodified traditional expression of land holding and land rights, resulting in fewer intra-communal disputes. This does not explain, however, why Lamwo is more prone to inter-communal disputes involving large numbers of households. Large numbers of per-household disputes in Amuru and even more so in Nwoya may be partly explained by the colonial disruption of populations in these Districts, and the fact that many of the affected areas have only relatively recently been resettled in the at least partial absence of traditional structures. This however leaves unexplained the high rates of resolution reported. The two districts with the highest numbers of disputes over the approximately six months from February/March 2012 – Gulu and Agago – had a combined resolution rate (48%) that nearly matched the sub-region's average. The district with the lowest percentage of dispute resolution – Kitgum at 32% – had fewer disputes than the sub-regional average (251 vs. 300), and even with its last-place ranking still managed over the six months in question to resolve nearly a third of its land disputes.

There may be useful learning to be found in the figures for the sub-region as a whole: (1) there were just over 2,100 rural land disputes overall throughout the sub-region for the approximately six months from February/March 2012; (2) there were less than 1,100 ongoing disputes; and (3) there was a dispute resolution rate of nearly 50%. These core figures convey a consistent impression: namely, that numbers of rural land disputes in the sub-region are not spiralling upward, but are trending in the opposite direction. When combined with the results from this project's first round of research, the indications are strong that rural land disputes are declining significantly. First-round research was conducted mostly during February 2012, and parish-level dispute information focused on the approximately six-month period from September/October 2011 to February/March 2012. While overall Acholi rural land dispute estimates had to be extrapolated from just over 50% of rural Acholi parishes from which usable dispute data were collected, the relevant Acholi-wide estimates were: (i) c. 4,300 disputes over the six-month period from August/September 2011; (ii) c. 2,000 ongoing disputes as of February/March 2012; and (iii) a dispute resolution rate of 53%.[96]

In the approximately one-year covered by LCMMT research (from August/September 2011 to August/September 2012), the available evidence obtained from parish-level meetings across Acholi indicates that rural land disputes have declined in the sub-region over this year-long period from c. 4,300 to c. 2,100 – a drop of about 50%. These are striking

[96] Atkinson & Hopwood (2012b).

statistics, with important implications: declining number of land disputes in Acholi suggests that it may be time for Acholi political, cultural, religious, and civil society leaders and organisations concerned about land issues to begin expanding and reorienting their concerns and activities. At the broadest level, these figures – both the low absolute numbers of total and resolved disputes, as well as the high rate of dispute resolution – indicate clearly that something positive is going on – something is working – in Acholiland. As parish-level data cited above suggests, this includes especially (village-/clan-level) cultural and traditional leaders and, secondarily, local government and local courts, even with all their often noted faults and limitations.

Crucially, this points to the conclusion that even after years of war and displacement, Acholi society and culture are not destroyed or broken. Indeed, in many rural communities, where the lives and livelihoods of most people in Acholi are embedded, a range of mechanisms, institutions, and individuals seem to be re-emerging, with gradually rehabilitated credibility and moral authority. Given that almost all rural land is customary, on which formal law has little to say, it seems likely that LC II and III courts, theoretically acting as organs of government, are, to the extent that they are apparently performing a substantial and effective role in dispute resolution, functioning as community agents, working within the principles and practices of customary land holding. However it is important to note that traditional structures of elders are seen as performing the most critical role in dispute resolution.

In respect of these grassroots land dispute resolution structures, there is a clear case that they are proving effective in relation to intra-communal disputes. Programming to increase the capacity of these structures by training, along with 'sensitising' communities to their land rights, are we suspect misconceived inasmuch as they would seem to reverse the actual balance of knowledge: communities and community actors have demonstrated themselves to be very well informed on land issues, while external bodies including higher levels of government and civil society organisations have no obvious access to understanding Acholi customary land processes or the deep knowledge of these processes that local actors possess. This is not to say that grassroots land dispute resolution cannot be supported and improved; however, much would need to be known about these processes by those seeking to intervene if they are to avoid the risks of doing more harm than good.

Where other types of land dispute are concerned, including inter-community disputes, and perhaps especially disputes between communities and government agencies and powerful corporate, political or individual interests, there is apparently a serious gap in dispute resolution capability. In the case of inter-communal disputes it is perhaps not surprising that the wider social healing that can make these more readily resolvable is taking place more slowly than that within communities. Individual instances of effective mechanisms have emerged in the course of the research, for example a sub-county-wide elders' forum mobilised for mediating major disputes in Kitgum. Responses indicate that churches generally, and particularly the Acholi Religious Leaders Peace Initiative, have played an important role that may be able to offer ideas to other actors.

It is important to note that the effectiveness in land dispute resolution of higher level traditional structures is likely to be heavily dependent on the authority and legitimacy according to custom of those involved. Here it is important to distinguish between clan

leaders and elders, who are directly involved and exercise direct authority in relation to land, and traditional pre-colonial chiefdoms, as represented by the members of Ker Kwaro Acholi, whose role is quite different. This distinction is vital in supporting any such interventions. It also perhaps explains why Acholi social recovery is taking place relatively quickly and why certain types of land conflict involving traditional authorities that seem to predominate in certain African polities are relatively rare in Acholi. The principle reported reason that Acholi experienced (for better or worse) neglect and marginalisation under British colonial rule was that power was highly decentralised, creating major problems for those seeking to rule indirectly. The people who held positions of substantive authority in the daily lives of the population were leaders of clans/villages, despite the fact, as noted above, that each clan and village was part of a chiefdom under a chief, or *rwot moo*. While the *rwot* was recognised by the constituent clans as their chief, due respect and tribute, he did not 'own' or directly control the land or land rights. This historical decentralisation and localism with respect to land is emerging, we believe, as a considerable strength, and one that offers both hope and direction for further initiatives.

In respect of disputes between communities and government agencies and powerful corporate, political or individual interests, and especially in the context of oil and other mineral finds in Nwoya and large-scale disputes such as those in the Lakang and Apaa areas of Amuru, it seems likely that only political will at a very high level, combined with manifest integrity and political independence on the part of the courts, has the potential to reduce the risks of land disputes as a conflict driver.

CONCLUSIONS AND RECOMMENDATIONS

Acholi has emerged in this research as atypical of African land security issues, not, as often supposed, because the post-conflict environment is fostering rampant and unmanageable land conflict but rather the opposite. This picture is confused by conflict in western Amuru and Nwoya, of large scale land grabbing (or at the very least, highly questionable and strongly disputed land acquisition) by powerful forces, in the context of recent oil finds and past displacement of indigenous populations. Land conflicts in these areas have little in common with the picture across the rest of the Acholi Sub-region.

In the rest of Acholi a picture of declining rates of land disputes in a context of high rates of resolution is emerging. The most likely hypothesis that we are able to offer for this is that internal resources for managing conflict within rural communities are recovering and increasingly effective. We do not think there are grounds for seeing this improvement as a consequence of external forces: the courts, police and other JLOS actors are operating at a very low capacity in Acholi generally and rural areas in particular, and were not cited by respondents as significant. NGO inputs have been beneficial in some instances, but were cited by a small minority of respondents as a significant factor in dispute resolution. Furthermore, the legalistic approach of many NGOs is appropriate and helpful only in disputes where formal law applies (that is, not in customary land contexts – 90% of the total) and only where legal solutions are valid and enforceable (which is to say rarely).

Notwithstanding the above, the picture of customary communal land across Acholi is highly diverse, both in terms of the types of community that control land rights and the degree to which land problems are being resolved. This research was unable to go down to the critical

level in terms of designing effective land security support measures: that of land holding and controlling communities.

The literature suggests that there are three main paths for land security for the rural poor being advanced: firstly, and by far the most established and widespread to date, is privatisation and individual titling of land. There is an abundance of evidence to suggest that this path is profoundly unhelpful to the majority of rural poor people and especially to women and vulnerable groups, and in Acholi currently we believe that this approach outside of formal urban areas is legally unworkable, and of benefit chiefly to land grabbers.

A second approach is one that aims to strengthen customary communal land security through codification of customary land principles and practices. While this is theoretically possible, it runs the risk of losing the very qualities of customary land that are most valuable to women and vulnerable people – its negotiability and evolving character. Undertaking codification would require extensive and detailed research at local village level, with local land-holding communal groups, in order to begin to capture the highly diverse ways that customary communal land is held across Acholi. Experience elsewhere suggests formalised and codified principles and practices tend to favour those with the most overt of rights – males, and especially older males of the patrilineal land-holding group – and disadvantage others – women, youth and 'guests', who in principle within Acholi customary tenure, and in practice in well-managed customary jurisdictions, have considerable security.

A third path is strengthening customary communal land security through highly localised understanding and solutions, in which individual land holding communities are enabled – or take initiatives themselves as is happening in some parts of Acholi – to establish their own specific ways of organising and managing land that fit within both widely accepted broad principles and practices of Acholi land tenure and Uganda statutory law while also preserving the evolving and negotiable qualities of customary land. It has been argued that such an approach is doomed by ever increasing land pressures, leading inevitably to individualisation and privatisation of land holdings. However we would argue that Acholi is atypical, inasmuch as overall – if not in every instance and area – pressure on land is unlikely to become intense for several decades (assuming that land pressures are driven by birth rates rather than, for example large scale land grabbing).

In respect of supporting specific land rights, and in particular those of women, our findings suggest that supporting individual communal land holding bodies is the most likely to bear results. Again further research is needed, but pursuing a method of examining *contested* land rights has revealed clear land rights for women in Acholi customary tenure and even apparent evolutionary strengthening of women's land rights within that system. Trying to explain this can be at best speculative, but displacement has probably strengthened women's relative economic position in a variety of ways, while the war itself and HIV/AIDS have both impacted inheritance norms that can be to women's advantage.

Our understanding of our results therefore point in a reasonably clear direction: the need to develop a far deeper understanding of the perhaps 10,000 or more communal land holdings in Acholi is most pressing; followed by programming that is likely to support strengthening of their land security.

RECOMMENDATIONS

To government:

- The 1995 Constitution and the 1998 Land Act were both widely hailed as landmarks in respect of customary land rights in Africa, but have failed to deliver strengthened customary land security, in part because of the costs and difficulties of establishing land administration bodies at very local levels. We urge that the challenge of establishing these bodies is pursued as they have the potential to do important work that more centralised bodies, we would argue, simply cannot do regarding securing customary land rights. This is because it seems that understanding and protecting the rights of those with what might be conceived as second tier claims – for example women and 'guests' - requires a very local focus.
- With regard to Certificates of Customary Ownership (CCOs), we urge the recognition that these in their present form are appropriate only in instances of already individualised land, which is a very small proportion of rural Acholi land. In contexts of communally owned land, CCOs run a severe risk of fuelling conflict and undermining natural justice by alienating land from those who have real and historical rights to it. We therefore support the Joint Acholi Sub-Region Leaders' Forum (JASLF) position that the issuance of CCOs on customary communal land be suspended.
- We recommend the continued search for legislative instruments and policy ideas that are pro-customary, pro-communal land holding, on the grounds that available evidence suggests that these are the most likely vehicles for strengthening the land security of the rural poor, and in particular, women and vulnerable people, and hence reducing rural poverty.

To development partners:

- We recommend supporting further research into the nature and variety of customary collective land holding in Acholi – and in other Ugandan and African regions where population pressures or other factors have not so far led to large-scale individualisation of land holdings. We also suggest further research into how customary land practices in respect of women and vulnerable groups are evolving, and note the importance of methodologies the explore actual practice – sometimes discernible through what is contested - rather than historical norms and rehashed stereotypes.
- We recommend limiting or even ceasing programmes that focus on legal aid or legal solutions – in theory or in practice - in respect of conflicts over customary communal land. Mediation and alternative dispute resolution may have an important place if carried out with sufficient skill and in appropriate coordination with other actors, particularly local traditional ones. We are particularly doubtful about the positive impact of training local actors in land law in the absence of government-level clarification of the status of customary land law and the role of formal law in customary disputes, as this is likely to lead to misconstrual of the law, confusion and miscarriages of natural justice.
- We are similar doubtful of the benefits of sensitisation campaigns in relation to communities' land rights. As matters stand, community members are likely to have a far better understanding of these than external agencies can hope to have. Positive interventions probably lean more towards learning than teaching.

- We strongly support the proposed initiative of the Joint Acholi Sub-Regional Leaders' Forum to strengthen the understanding of customary communal land in Acholi as actually practiced at the local level in order to strengthen customary land security. In particular, the JASLF have shown a high degree of consensus across sectors and party lines, and in selecting the committee to undertake the programme have include some of Acholi's most respected peace advocates and skilled legal minds. This is a remarkable initiative, which may be able to find solutions to a so-far intractable problem – how can the strengths of African customary land rights, in particular with respect to the poor and the vulnerable, be accommodated and protected within a state legal framework. The findings of this research suggest that customary land in Acholi is unusually propitious in respect of some features of that custom and the relative lack of pressure on land.
- We note that perhaps achieving consensus within the JASLF has been assisted by the perceived external threats to Acholi customary land, particularly in Amuru and Nwoya, by central government and commercial interests. These threats are real, especially in the contexts of oil finds, and need to be understood and confronted vigorously where people's rights are being stolen or eroded. This should not blind the JASLF and their development partners to the fact that across the Sub-region, it is probable that more poor and vulnerable Acholis are being deprived of their access to land through the action of more powerful members of their own communities than by the actions of outsiders.

To civil society:

- We recommend self-examination on the part of organisations working with paralegals, and/or providing mediation, and/or providing legal aid in the area of rural land disputes. Are your workers and volunteers, your training and sensitisation programmes, and your policies well-versed in how customary communal land in Acholi and formal law connect (or, as is usually the case, do not)? It is likely to be true that skilled local mediators working within community and customary structures, bringing their local understanding as community members, and with an interest in natural justice and an awareness of individuals' rights under the constitution, have an important role to play. This role is likely to be much more relevant than any a skilled specialist land lawyer could play in respect of disputes over customary land. This is because formal law has little to say about customary land rights.
- It may also be the case that when more is understood about customary communal land in Acholi, civil society could have an important role in helping communities to secure their collective land. In the meantime we would urge a rigorous adherence to the principle of 'first do no harm'.

The future of the Land Conflict Monitoring and Mapping Tool

The LCMMT has now completed its programme funded by the United Nations Peacebuilding Programme in Uganda. However as will be apparent from the text above, a substantial amount of data remains to be analysed, while work on the database and website are ongoing. It is intended that once the raw data has been cleaned and the database finalised that this will be made available to other programmes and researchers for whom it can be useful, while the authors will continues to disseminate their own analysis through the website and elsewhere. Work on the website and database will be taken forward in partnership with the Makerere GIS Centre.

It is possible that processes may be found to make the data updateable. However as a mapping exercise these would need to be comprehensive across the Sub-region, and hence probably require the very active buy-in of local government, This may become possible through the planned programme of the Joint Acholi Sub-regional Leaders Forum (JALSF). So far, the only practical means of obtaining sub-region wide data has been through a proactive (and hence expensive) data collection process which again might be repeated through JASLF activities. It is also possible that development partners may see a benefit in conducting further data collection rounds in other sub-regions where conflict over customary land could be elucidated through using this methodology.

The project will continue to be hosted by HURIFO for the time being, and at least until the work on the existing data/database is complete.

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APPENDIX 1: RESEARCH TOOLS

RESEARCH TOOL 1: INDIVIDUAL DISPUTE QUESTIONNAIRE (ENGLISH)

INDIVIDUAL DISPUTES QUESTIONNAIRE			
1.0 RESPONDENT			
Date form filled			
Respondent's name		Phone number	
Home district		Home sub-county	
Home parish		Home village	
LC2 / HRV / Other org		Profession / work	
Other roles		Respondent's Clan	
2.0 LAND IN DISPUTE			
2.1 Please tell us the location of land in dispute			
District		Sub-county	
Parish		Village	
2.2 Estimated size of land in dispute			
Approximate number of acres			
2.3 Start date of dispute			
Month		Year	
2.4 Please give a brief description of the dispute			

3.0 PARTIES

3.1 Party 1 (Complainant) Details

Name (individual/leader/body)		Status	
Name of Clan		No of households	
If an individual, how old?		If an individual, male or female?	
Party 1 location / address			
Home district		Home sub-county	
Home parish		Home village	

3.2 Party 2 Details

Name (individual/leader/body)		Status	
Name of Clan		No of households	
If an individual, how old?		If an individual, male or female?	
Party 2 location / address			
Home district		Home sub-county	
Home parish		Home village	

3.3 Party 1 Type [tick 1 box only]		✓	3.4 Party 2 Type [tick 1 box only]		✓
Single individual			Single individual		
Individual household (keno)			Individual household (keno)		
Extended family (dog gang)			Extended family (dog gang)		
Sub-clan (dogola)			Sub-clan (dogola)		
Clan (kaka)			Clan (kaka)		
Local government body			Local government body		
Central government body			Central government body		
Commercial body/company			Commercial body/company		
NGO			NGO		
Other **[state]**			Other **[state]**		

3.5 Is there a relationship between Party 1 and Party 2?	✓	Please explain relationship
Same extended family / dog gang		
Same sub-clan / dogola		
Same clan / kaka		
Same chiefdom / rwot moo		
Same chiefdom / rwot moo		

3.6 Claim of Party 1 [tick 1 box only and give name]		✓	3.7 Claim of Party 2 [tick 1 box only and give name]		✓
Land is communal clan land owned by [clan]			Land is communal clan land owned by [clan]		
Land is non-clan land owned by [body]			Land is non-clan land owned by [body]		
Land is customary private land owned by			Land is customary private land owned by		
Land is titled privately owned by			Land is titled privately owned by		
Land owned by government [level/body]			Land owned by government [level/body]		
Other [state]			Other **[state]**		

3.8 Please give a brief description of Party 1's case/claim/argument

3.9 Please give a brief description of Party 2's case/claim/argument

3.10 Please describe whether there are other parties involved on either side

4.0 DISPUTE DETAILS

4.1 Occupancy of disputed land	✓
Occupied by Party 1	
Occupied by Party 2	
Unoccupied	
Suspended by courts	
Other **[state]**	

4.2 Use of land	✓
Settlement / farming	
Grazing / hunting	
Forrest	
Urban / building	
Other **[state]**	

4.3 Dispute arising from [tick all that apply]	✓	Explanation
Different interpretations of rights to use		
Different interpretations of tenure / ownership		
Political interests / forces		
Commercial interests / forces		
Disputed ownership boundary of individual/family/clan		
Disputed administrative boundary		
Disputed international border		
Other **[state]**		

4.4 Violence [write numbers of incidents in boxes]	By Party 1	By Party 2	By other parties
Killing			
Assault / injury			
Destruction of huts/houses			
Destruction / theft of crops			
Killing / theft of livestock			
Witchcraft			
Other **[state]**			
No violence			

5.0 INTERVENTIONS

5.1 Mediation

Mediation by	Name	Clan/organisation	Frequency	Most recent attempt	Result
Family elders					
Clan elders					
Elders from a different clan					
Religious leader					
LCI					
NGO					
Other **[state]**					

5.2 Court Cases

Court	✓	**Type** (Hearing / appeal / award of damages / other)	**Has the case finished in this court?**	**Date case heard**	**Case brought by Party 1 or 2 ?**	**Which Party won the case: 1 or 2 ?**
LCII						
LCIII						
Magistrates						

6.0 RESOLUTION

6.1 Current position	✓	Comments
Dispute on-going		
Dispute settled by parties		
Dispute settled with help of mediation		
Dispute resolved in court, parties accept decision		
Dispute resolved in court, loosing party does not accept decision		
Other **[state]**		

7.0 ANY OTHER INFORMATION / MAP

RESEARCH TOOL 1: INDIVIDUAL DISPUTE QUESTIONNAIRE (LUO)

INDIVIDUAL DISPUTES QUESTIONNAIRE	

1.0 LAGAM PENY

Nino dwe me pongo karatac			
Nying lagam peny		Nama cim	
District pa lagam peny		Sub-county pa lagam peny	
Parish pa lagam peny		Caro pa lagam peny	
LC2 / HRV / mokene		Dok tic ma itiyo	
Dok tic mokene		Kaka pa lagam peny	

2.0 NGOM MA LARA TYE IYE

2.1 Nyuti wa kama lara tye iye

District		Sub-county	
Parish		Caro	

2.2 Titi wa dit pa ngom ma lara tye iye ni

Dit pa ngom ne twero romo poto adi?	(eka)

2.3 Lara ngom man ocake awene?

Dwe		Mwaka	

2.4 Tit wiye wiye kit ma lara ngom man ocake kwede

3.0 LULARA NGOM

3.1 La kel koko

Nying (lala ngom/lulara ngom)		Tici ngo	
Nying kaka ne		Wel keno	
Ka ngat acel, mwakane adi?		Ka ngat acel, dako onyo lacoo?	
La kel koko bedo kwene			
District		Sub-county	
Parish		Caro	

3.2 Ngat ma ki kelo koko i kome

Nying (lala ngom/lulara ngom)		Tici ngo	
Nying kaka ne		Wel keno	
Ka ngat acel, Mwaka ne adi?		Ka ngat acel, dako onyo lacoo?	
Ngat ma ki kelo koko i kome ni bedo kwene			
District		Sub-county	
Parish		Caro	

3.3 La kel koko [gwet canduk acel]		✓
Ka tye ngat acel		
I dok keno acel		
Dog gang ma opoke		
Kaka ma tidi		
Kaka		
La tic pa mirri		
La tic pa mirri madit		
Company		
NGO		
Tita mokene		

3.4 Ngat ma ki kelo koko i kome [gwet canduk acel]		✓
Ka tye ngat acel		
I dok keno acel		
Dog gang ma opoke		
Kaka ma tidi		
Kaka		
La tic pa mirri		
La tic pa mirri madit		
Company		
NGO		
Tita mokene		

3.5 Tye kit wat mo i kin lu koko?	✓	Tit wat i kin gii
Dog gang mo opoke		
Latin kaka marom		
Kaka marom		
Rwot moo marom		
Mokene		

3.6 Koko pa ngat ma okelo koko ki kit loce [gwet canduk acel]		✓
Ngom ma kaka loyo		
Ngom ma kaka pe loyo		
Ngom kwaro		
Ngom ma tye ki karatac		
Ngom pa gamente		
Tita mokene		

3.7 Koko pa ngat ma koko tye kome ki kit loce [gwet canduk acel]		✓
Ngom ma kaka loyo		
Ngom ma kaka pe loyo		
Ngom kwaro		
Ngom ma tye ki karatac		
Ngom pa gamente		
Tita mokene		

3.8 Tit wiye wiye lok alara / koko pa ngat ma okelo koko

3.9 Tit wiye wiye lok alara / koko pa ngat ma koko tye i kome

3.10 Titi wa ka jo mo oribe i kom lakel koko onyo I kom ngat ma koko tye I kome

4.0 KIT LARANE

4.1 Anga ma bedo i ngom man?		✓
La kel koko aye bedo iye		
Ngat ma koko tye i kome aye bedo iye		
Ngat mo pe bedo iye		
Kot oryemo dano woko ki iye		
Tita mokene		

4.2 Tic pa ngom		✓
Me kabedo / me pur		
Kwat /dwar		
Bwonga		
Me gedo		
Tita mokene		

4.3 Lara ocake i kom gin ango (gwet gin ma rwate kwede)		✓	Tit
Pi tam ma opoke pi twero me tic			
Pi tam ma opoke me loc			
Miti pa lucungu i wi bye / twero			
Miti me cat / twero			
Lara me wang ngom I te twero pa ngat acel acel/gang/kaka			
Lara me loyo wang ngom ikin gamente			
Lara wang ngom me lobo			
Tita mokene			

4.4 Tim gero (coo wel tim gero motime I canduk)		La koko	Ngat ma koko tye i kome	Dul mokene
Nek				
Awano / ret				
Balo odi				
Balo cam ki i poto				
Nek / kwalo lee				
Tic jogi jogi				
Tita mokene				
Pe tye tim gero				

5.0 GIN MA KITIMO ME COBO LARA MAN

5.1 Riyotal

Anga ma oriyotal	Nyinge	Kaka / dul	Tere tere	Gin ma otime cokcoki	Adwogi ne
Ludito gang					
Ludito kaka					
Ludito kaka ma pat pat					
Ludito dini					
LCI					
NGO					
Tita mokene					

5.2 Lok me Kot

Kot	✓	Kit (ngol / apil / cul pi jami ma obale / mokene)	Kote otum?	Nino ma ki winyo ki kot?	La kel koko obedo ngat ma okwongo onyo ngat me aryo?	Anga ma oloyo kot ngat ma okelo koko onyo ngat ma koko tye i kome?
LCII						
LCIII						
La ngol kop						

6.0 YUP LOK

6.1 Kakare ma nyen	✓	Lok ma cego cego
Lara pudi tye ka mede anyim		
Lara ni lucungu i wi byer aye otyeko		
Lara ni lurital aye gutyeko		
Lara gi tyeko ki i kot, lakel koko ki ngat ma ki kok I kome ni guyee		
Lara ni ki tyeko ki i kot, ngat ma ki loyo okwero ngol man woko		
Tita mokene		

7.0 LOK MOKENE / MAP

RESEARCH TOOL 2: PARISH DISPUTE FORM (PDF) (ENGLISH)**District**		**Sub-county**	
Parish			

	Current on-going land disputes (a)	*Land disputes resolved during the last 6 months (b)*	*Land disputes resolved between six months and one year ago (c)*	*Total land disputes in Parish in last year (a+b+c)*	*Total land disputes in Parish since return from the IDP camps (a+b+c+x)*
Numbers of Land Disputes in PARISH					
How many of these involved violence (killing, injury, destruction of livestock or property)?					
How many of these affected 10 or more households?					

What organisations in the parish have been effective in land dispute resolution (LC courts / traditional leaders / NGOs / other)?

Are there any key <u>individuals</u> who have been effective in land dispute resolution / mediation in the parish?

RESEARCH TOOL 2: PARISH DISPUTE FORM (PDF) (LUO)

District		**Sub-county**	
Parish			

	Lara ngom ma tye ka mede anyim (a)	*Lara ngom ma otum I dwe abicel ma okato angec (b)*	*Lara ngom ma otum I kin dwe abicel ki mwaka acel ma okato angec (c)*	*Wel lara ngom ma I Parish I mwaka ma okato (a+b+c)*	*Wel lara ngom weng nicakke ma dano odok gang ki I camp (a+b+c+x)*
Wel lara ngom ma tye I Parish					
Lara ngom adi ma tim gero obedo tye iye (nek, awano, balo lee nyo jami)?					
I kum lara ngom ma malo ni adi ma oyelo keno ma romo apar nyo ma kato?					

Dul mene ki I Parish ni ma giobedo ka konyo tyeko lok me lara ngom? (LC courts / ludito tekwaro / NGOs / mukene)?

Tye jo mo ma pii git ego ma gi obedo ka konyo tyeko lok me lara ngom /riyo tal I Parish ma megi?

RESEARCH TOOL 3: PARISH VILLAGE LIST (PVL) (LUO & ENGLISH)

SUB-COUNTY…….

PARISH …….

Wel Caro Number of villages	
Nying Caro Names of villages	

RESEARCH TOOL 4: VILLAGE LEVEL FORM (VLF) (ENGLISH)

District		Sub-county	
Parish		Village	

Association with clan(s)? (state number or none)	Name of Clan 1 (please list in order of population numbers)	Lives in discrete area Yes/No/ All	Name of Clan 2	Lives in discrete area Yes/No	Name of Clan 3	Lives in discrete area Yes/no	Is there a dominant / controlling clan? (state name)	No. of Rwodi Kweri
Describe land holding in Village:								

Population

Almost all one clan (plus in-laws etc.)	*Predominantly one clan plus a second significant clan*	*Two predominant clans*	*Three predominant clans*	*More than three clans*	*Non-clan / kinship organisation*

Land Use

Exclusively shifting agriculture	*Mainly shifting agriculture with some permanent plots*	*Part shifting / part permanent*	*All permanent*

Organisation of Land Rights

By clan	*By sub-clan / dogola*	*By extended family / dog gang*	*By household/ keno*	*Non-kin based*

RESEARCH TOOL 4: VILLAGE LEVEL FORM (VLF) (LUO)

District		Sub-county	
Parish		Caro	

Dul me kaka tye adi? (ket wele nyo peke)	Nying kaka me 1? (cak tito ki kaka ma tye ki wel dano madwong)	Gibedo kacel Kakare/Pe /Weng	Nying kaka me 2	Gibedo kacel Kakare/Pe/ Weng	Nying kaka me 3	Gibedo kacel Kakare/Pe /Weng	Tye kaka madwong/kaka maluloc (tit nyinge)	Wel pa Rwodi Kweri
Tit wiye wiye kit ma ki loyo kwede ngom i caro eni:								

Wel dano

Weng kaka acel (kacel ki oo, etc.)	*Dwonge kaka acel ki me aryo ma lubo korgi*	*Kaki aryo madwong*	*Kaki adek madwong*	*Kaki ma kato adek*	*Kaka ku/dul me wat ku*

Tic me ngom

Pur ma ki kobo akoba keken	*Pur ma pole ki kobo akoba ki mo manok nok ma ki puro iye i mwaka duc*	*Pur ma bute ki kobo iye akoba/pur ma bute ki puro iye mwaka duc*	*Weng ki puro iye mwaka duc*

Kit ma yub me twero me ngom tye kwede

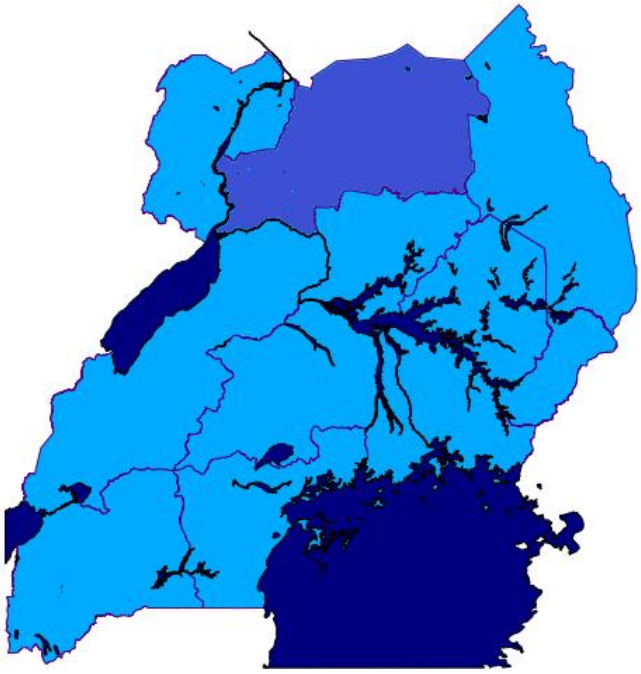
Ki kaka	*Ki but kaka/dogola*	*Dog gang malac*	*Ki keno*	*Wadi ku*

Aggregated rural land dispute raw data

District	Sub-county	Ongoing disputes (Sept. 2012)	Resolved disputes last 6 mos.	Total disputes last 6 mos.	Ongoing disputes with violence	Violent disputes resolved last 6 mos.	Total disputes with violence	Ongoing disputes with 10+ h/h	Resolved disputes with 10+ h/h	Total disputes with 10+ h/h
Agago	Adilang	31	24	55	1	0	1	1	0	1
	Arum	16	25	41	1	0	1	0	0	0
	Kotomor	12	18	30	3	1	4	2	0	2
	Lamiyo	5	17	22	0	0	0	0	0	0
	Lapono	17	34	51	0	0	0	0	0	0
	Lira Palwo	24	20	44	1	1	2	1	1	2
	Lukole	20	11	31	2	0	2	1	0	1
	Omiya Pachwa	11	5	16	1	0	1	0	0	0
	Omot	13	10	23	2	0	2	0	0	0
	Paimol	13	4	17	4	0	4	1	0	1
	Parabongo	18	15	33	2	2	4	1	1	2
	Patongo	13	25	38	3	0	3	2	0	2
	Wol	17	20	37	2	3	5	1	1	2
Agago	Total	210	228	438	22	7	29	10	3	13
Amuru	Amuru	4	35	39	3	11	14	1	9	10
	Lamogi	3	40	43	1	4	5	0	0	0
	Pabbo	10	14	24	3	1	4	1	1	2
Amuru	Total	17	89	106	7	16	23	2	10	12
Gulu	Awach	22	17	39	11	7	18	1	1	2
	Bobi	17	15	32	2	0	2	0	0	0
	Bungatira	19	21	40	6	4	10	4	4	8
	Koro	43	27	70	10	3	13	3	0	3
	Lakwana	41	13	54	14	5	19	5	3	8
	Lalogi	11	22	33	6	6	12	0	0	0
	Odek	22	32	54	7	17	24	1	0	1
	Ongako	25	17	42	9	3	12	3	1	4
	Paicho	12	20	32	2	1	3	1	1	2
	Palaro	10	18	28	5	3	8	2	0	2
	Patiko	26	9	35	9	1	10	6	0	6
	Unyama	19	8	27	11	4	15	1	0	1
Gulu	Total	267	219	486	92	54	146	27	10	37
Kitgum	Kitgum Matidi	32	15	47	1	0	1	7	0	7
	Labongo Akwang	26	6	32	3	0	3	10	1	11
	Labongo Amida	36	9	45	4	2	6	7	4	11
	Labongo Layamo	11	6	17	1	0	1	2	3	5
	Lagoro	13	3	16	2	0	2	2	0	2
	Mucwini	20	12	32	4	1	5	4	1	5
	Namokora	17	6	23	6	0	6	5	0	5
	Omiya Anyima	6	8	14	0	0	0	0	0	0
	Orom	9	16	25	6	1	7	4	1	5
Kitgum	Total	170	81	251	27	4	31	41	10	51

Aggregated rural land dispute raw data (cont.)

District	Sub-county	Ongoing disputes (Sept. 2012)	Resolved disputes last 6 mos.	Total disputes last 6 mos.	Ongoing disputes with violence	Violent disputes resolved last 6 mos.	Total disputes with violence	Ongoing disputes with 10+ h/h	Resolved disputes with 10+ h/h	Total disputes with 10+ h/h
Lamwo	Agoro	15	15	30	6	2	8	5	1	6
	Lokung	10	8	18	5	3	8	4	3	7
	Madi Opei	12	5	17	5	0	5	5	0	5
	Padibe East	6	0	6	5	0	5	3	0	3
	Padibe West	2	2	4	1	1	2	2	1	3
	Palabek Gem	10	7	17	1	0	1	1	0	1
	Palabek Kal	8	1	9	3	0	3	3	1	4
	Palabek Ogili	8	4	12	2	1	3	4	2	6
	Paloga	8	13	21	4	3	7	3	2	5
Lamwo	Total	79	55	134	32	10	42	30	10	40
Nwoya	Alero	16	34	50	12	14	26	4	2	6
	Anaka	8	12	20	3	4	7	3	4	7
	Koch Goma	15	12	27	9	0	9	2	0	2
	Purongo	21	21	42	5	2	7	2	0	2
Nwoya	Total	60	79	139	29	20	49	11	6	17
Pader	Acholibur	23	14	37	3	0	3	2	0	2
	Angagura	14	18	32	6	1	7	5	2	7
	Atanga	22	1	23	4	0	4	2	0	2
	Awere	43	19	62	13	2	15	9	0	9
	Laguti	7	13	20	0	0	0	0	0	0
	Lapul	22	15	37	1	0	1	8	2	10
	Latanya	21	19	40	2	3	5	1	0	1
	Ogom	36	8	44	10	2	12	7	3	10
	Pader	17	4	21	3	3	6	0	0	0
	Pajule	22	13	35	2	1	3	7	1	8
	Puranga	14	12	26	1	0	1	1	1	2
Pader	Total	241	136	377	45	12	57	42	9	51
	Sub-region totals	**1044**	**887**	**1931**	**254**	**123**	**377**	**163**	**58**	**221**



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