

Land Matters in Displacement

The Importance of Land Rights in Acholiland and What Threatens Them



CSOPNU

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CONTENTS

FOREWORD	vi
ACKNOWLEDGEMENTS	vii
ABBREVIATIONS	viii
GLOSSARY	ix
EXECUTIVE SUMMARY	xi
Findings	xi
<i>Land rights</i>	<i>xi</i>
<i>Food security interventions</i>	<i>xii</i>
<i>The Land Act and return</i>	<i>xiii</i>
Recommendations	xiv
<i>Civil Society Organisations</i>	<i>xiv</i>
<i>The Government</i>	<i>xiv</i>
Concluding comment.....	xv
CHAPTER 1: INTRODUCTION.....	1
Background.....	1
Methodology	2
CHAPTER 2: LAND AND LAND RIGHTS IN ACHOLI	4
Forms of land tenure	4
<i>Customary tenure: myths and realities</i>	<i>4</i>
<i>The parallels between customary tenure and other forms</i>	<i>6</i>
<i>What happens when the Land Act meets customary tenure?</i>	<i>7</i>
<i>The importance of titling</i>	<i>9</i>
<i>Bringing the two worlds together</i>	<i>9</i>
Other forms of land holding	10
<i>Leasehold</i>	<i>10</i>
<i>Freehold</i>	<i>12</i>
<i>State land</i>	<i>12</i>
The implementation of the 1998 Land Act	13
Threats to land: real and perceived.....	15
<i>Perceived threats</i>	<i>15</i>
<i>Verifiable threats to land</i>	<i>17</i>
The case for compensation.....	18
<i>Does respect for legal rights matter in the middle of a humanitarian disaster?</i> ...	<i>22</i>
<i>Could the Government afford the compensation required?</i>	<i>22</i>
CHAPTER 3: SECURITY, ACCESS TO LAND AND FOOD SECURITY	23
Security	23
<i>The security forces</i>	<i>23</i>
<i>The civilian militia</i>	<i>24</i>
Land availability and access.....	24
<i>The importance of land</i>	<i>24</i>
<i>What determines how much land can be farmed?</i>	<i>26</i>
Land and food security	32
Protection or Prison?	33

CHAPTER 4: INTERVENTIONS	35
Key constraints to food security	35
<i>Food aid</i>	35
<i>Provision of seeds and tools</i>	36
<i>Oxen</i>	39
<i>Mechanised protected block farming</i>	40
<i>Group grants</i>	42
<i>Food for work and cash for work</i>	43
CHAPTER 5: RETURN AND THE LAND ACT	44
The process of return.....	44
The future of customary tenure	46
<i>What can be done to protect land rights?</i>	54
CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS	57
Land tenure in Acholi.....	57
Land, food security and the humanitarian situation in the camps	57
Recommendations	58
<i>Civil Society Organisations</i>	58
<i>The Government</i>	61
BIBLIOGRAPHY	64
ANNEXES	66
Annex 1: Camps visited in Acholiland during research	66
Annex 2: Questionnaires	67
Annex 3: Map of camps in Gulu District	Error! Bookmark not defined.
Annex 4: Map of camps in Kitgum District	Error! Bookmark not defined.
Annex 5: Map of camps in Pader District.....	Error! Bookmark not defined.

INDEX OF TABLES

Table 1: Land farmed by IDPs from July 2003 to July 2004	25
Table 2: Increase in land available per household (in acres) from an expanded safe radius for a specified camp population.	28
Table 3: Increase in total land available (in acres), from an expanded safe radius in a specified number of camps	28
Table 4: Percentage of IDPs returning home at least once during the last year, by distance of displacement	29
Table 5: Percentage of IDP households by the distance displaced (in the three Districts of Acholiland).....	44
Table 6: Percentage of IDPs by each district expressing fears about their land on return	45
Table 7: Percentage of IDPs, by district expressing particular fears about their land on return	45

FOREWORD

The conflict in northern Uganda, which has been waging for more than 18 years, has had devastating effects on the livelihoods of the population. Although traditionally an agro-pastoral society, and dubbed the “breadbasket of Uganda”, the north has become largely dependent upon food assistance from WFP and NGOs. The wars have depleted the number of cattle in the northern districts. Displacement into IDP camps and insecurity have negatively affected the possibility to carry out agricultural activities. The vast majority of the population in the Acholi sub-region (Gulu, Kitgum and Pader districts) are displaced and live in IDP camps. Over 800,000 people are no longer living on their original land and most of them do not have regular access to their own land. Most of the IDP camps are very congested and there is little land available for farming. Access to land, or the lack thereof, has become a major constraint in development and humanitarian programs in the north. Land will also be a factor in an eventual return process when peace comes. Despite all this, no comprehensive study had been carried out into all aspects of land in relation the conflict in Acholiland.

The coalition of Civil Society Organisations for Peace in Northern Uganda (CSOPNU) is a loose advocacy coalition of approximately 40 member organisations, local and international Civil Society Organisations. CSOPNU was founded in May 2002, out of the frustration of CSOs working in northern Uganda realising little impact of their interventions as a result of the worsening security situation resulting from the LRA conflict. The purpose of CSOPNU is *to advocate for a just and lasting peace in northern Uganda, based on analysis and articulation of underlying causes and effects of the conflict*. CSOPNU’s role is to conduct and support focussed advocacy at national and international levels through research, analysis, discussion and policy advice.

As part of its activity plan for 2003 / 2004, CSOPNU decided to carry out a comprehensive analysis of how aspects related to land affect the people in the conflict areas in the Acholi sub-region, maintaining the focus of return as a durable solution to internal displacement.

We hope that this report will shed more light on land issues in the conflict-affected districts, and that CSOs, the Government, policy makers and donors will consider the recommendations contained in the report.

Stella Ayo-Odongo
Chairperson
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Special thanks are due to paralegal volunteers (supported by HRF and LAP) in Gulu, community development assistants of the Local Government in Pader, Oxfam animators, members of the Peace Committees of ARLPI and one LC3 chairman in Kitgum, who assisted with administration of the questionnaires. For the support given to us for this work by Norwegian Refugee Council, special thanks goes to the field staff in Gulu, notably Caroline Ort and Joyce Acan. Special thanks also go to other members of CSOPNU notably Sarah Akera of Oxfam's Kitgum office, Hussein Mudhir and George Otto of the Pader NGO Forum for arranging contacts and our meetings in the districts, Christopher Oyat of Acord in Gulu for participating in the selection of research assistants. We thank members of CSOPNU for giving us this opportunity to look at land matters in displacement in Acholiland. Thanks to Vanessa Tilstone for editing the draft report, and to Opio Robert and the NGO Forums in Gulu, Kitgum and Pader for carrying out a validation exercise of the findings with camp leaders and IDP communities.

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The views expressed in this paper are the authors' own and do not necessarily represent those of CSOPNU members. They draw on the perspectives of those we met and the many documents we reviewed that are listed in the references. To preserve the anonymity of the people we held discussions with, quotes are not directly attributed, although we do give an indication, where possible, of the source's institutional identity.

ABBREVIATIONS

AGOA	African Growth Opportunity Act
CCO	Customary Certificate of Ownership
CLA	Community Land Association
CSOPNU	Civil Society Organisations for Peace in Northern Uganda
DDMC	District Disaster Management Committee
DLB	District Land Board
DLT	District Land Tribunal
FFW	Food for work
HRF	Human Rights Focus
IDP	Internally Displaced Person
LAP	Legal Aid Project
LC1	Local Council at the village level or chair of the Council
LC2	Local Council at the parish level
LC3	Local Council at the sub county level
LC4	Local Council at the county level
LC5	Local Council at the district level
LDU	Local Defence Unit
LEMU	Land and Equity Movement in Uganda
LRA	Lords Resistance Army
MP	Member of Parliament
MISR	Makerere Institute of Social Research
NGO	Non Governmental Organisation
NUSAF	Northern Uganda Social Action Fund
RDC	Resident District Commissioner
SPP	Security through Production Programme
TOR	Terms of Reference
UN	United Nations
UPDF	Uganda Peoples' Defence Force
Ush	Uganda shillings
UWA	Uganda Wildlife Authority
WFP	World Food Programme.

GLOSSARY

Acholiland comprises of the Districts of Gulu, Kitgum and Pader.

Area Land Committees are committees established under the 1998 Land Act at both parish and sub county level, although those at parish level were abolished in the 2003 Amendment. They should advise the District Land Boards on matters relating to land including ascertaining rights in land and acting as a mediator with agreement of the parties in a land dispute. In case of applications for CCOs the land committees should determine verify and mark the boundaries, demarcate rights of way, adjudicate and decide in accordance with customary law, record rights over land and safeguard interests of vulnerable persons.

Certificates of Customary Ownership (CCO) are certificates issued for land held under customary tenure. It does not require that land is surveyed, only that the boundaries to land are identified by the neighbours.

Communal Land Associations may be formed by any group of persons in accordance with the 1998 Land Act for any purpose connected with communal ownership and management of land, whether under customary law or otherwise.

Communally ownership of land is not defined. Under customary tenure it is erroneously assumed that if land is communal then it can be used by all in the clan or in the community, and since it does not belong to a particular person, anyone can lay claim to it. This is believed to lead to insecurity of tenure and affects investment on land by owners.

Customary tenure means a system of land tenure regulated by customary rules.

District Land Boards were established by the 1998 Land Act to hold and allocate land in the district that is not owned by any person, facilitate registration of land interests, assume the powers of a lessor, carry out surveys, compile and maintain rates of compensation.

District Land Tribunals were established by the 1998 Land Act to hear land cases. Originally these tribunals were meant to be at sub county and district levels, but a subsequent amendment in 2003 removed the sub county tribunals, leaving only district tribunals that in practice cover regions, not districts.

District Registrar of Titles is included in the Land Amendment Act of 2003 as a commissioner for land registration and performs similar duties as the national registrar of titles.

Freehold land tenure means the holding of registered land in perpetuity subject to statutory and common law qualifications.

Freehold title means a certificate of title issued by the Registrar of Titles under the Registration of Titles Act (cap 230) for freehold land tenure. The land must be surveyed and a map issued, unlike a certificate of customary ownership.

Gazetted means published in the official gazette by either a statutory instrument or a legal notice issued by a responsible minister (the legal meaning). In the case of IDP camps, 'gazetted' are those that the Army protects and food aid distributed, although there is no gazette in which camps are officially recorded, and their legal status is exactly the same as 'ungazetted' camps.

The Land Act of 1998 replaced the Land Reform Decree of 1975 that vested land in the Uganda Land Commission and converted all freehold titles to leaseholds. The Land Act now vests land in the citizens of Uganda and recognises, for the first time in the history of Uganda, customary tenure.

Leasehold land tenure means the holding of land for a given period from a specified date, under such terms and conditions as may be agreed upon by the lessor and lessee. Before the 1998 Land Act and by virtue of the now repealed Land Reform Decree, all land in Uganda was vested in the Uganda Land Commission and individuals could only apply for a lease. Nowadays, once these leaseholds expire, they should be renewed by the District Land Boards or converted to a freehold.

Mailo land tenure means the holding of registered land in perpetuity, according to the allocation of land pursuant to the 1900 Uganda Agreement and subject to statutory qualifications. This is mainly applicable to kingdoms such as the Buganda.

The Registration of Titles Act 1924 (Cap 230) as amended in 2004 provides for registration of land that is surveyed and issued with maps for freeholds and leaseholds, but not Certificates of Customary Ownership. After registration a 'Certificate of Title' is issued, which is conclusive evidence of ownership.

State Land is that which is either vested in the Uganda Land Commission or other state organs. The power of eminent domain remains vested in the Government, allowing it to compulsorily acquire land if the use of the land is in the public interest. The Land Acquisition Act (Cap 226), which is still valid, seems to contradict the 1995 Constitution. While Article 26 of the Constitution provides for prompt payment of fair and adequate compensation on compulsory acquisition of land, the Land Acquisition Act talks of 'the assessment officer specifying the compensation which in his or her opinion should be allowed for the land'. The Government has proposed amending Article 26 of the Constitution to allow it to include 'investment' as a 'public interest' and to remove the need to pay compensation promptly.

Surveyed means inspected, demarcated and delineated on a map or plan to the satisfaction of the Commissioner of Lands and Surveys (as defined in the Registration of Titles Act, Cap 230).

EXECUTIVE SUMMARY

The overall objective of this research was to provide a comprehensive analysis of how issues related to land affect the people in the conflict areas of the Acholi sub-region, with a focus on return as a durable solution to internal displacement.

The research aims to provide recommendations to the Government of Uganda, the United Nations, Non-Governmental Organisations and donors on the following issues:

- The need for access to their traditional land by the IDPs.
- The availability of land near the camps that can safely be accessed throughout the year.
- The short term and long-term effects of carrying out agricultural interventions and food security programs in northern Uganda.
- The effectiveness and long-term effects of large scale mechanised agricultural interventions.
- IDP return and the role of the 1998 Land Act.

This study was carried out between July and August 2004 in Gulu, Pader and Kitgum Districts and was based on semi-structured interviews with over a hundred IDPs, local leaders, officials, soldiers and landowners and a questionnaire administered to 870 IDPs.

Findings

Land rights

Land is now the only productive asset which most Acholi own, and although it is the single most important determinant of a rural family's livelihood and well-being, many actors involved in development policy and humanitarian support have little understanding of how ownership works. The vast majority of land in Acholiland is owned through customary tenure, with rules that have developed over generations. These rules have never been documented, resulting in a number of misunderstandings and misconceptions which when translated into modern law could have devastating consequences for large sectors of society, particularly the most vulnerable.

The essential elements of customary tenure in Acholiland are:

- Nearly all cultivated land falls under private ownership at family or household level;
- There are large areas of land which are used for purposes other than cultivation and are managed for the benefit of all clan members;
- Land is for the benefit of the wider family or clan, and therefore transfers of ownership either through inheritance, redistribution among family members, 'loaning' land to outsiders or sales of land, have to be carried out with that interest in mind and with the approval of clan elders.
- Dispute resolution is based on mediation rather than passing judgement, by local leaders who bring to bear a wide range of information on the context of land disputes.

The 1998 Land Act recognised customary tenure for the first time in Ugandan Law alongside freehold, leasehold and Mailo. There are, however, a number of inconsistencies and problems with its implementation:

- Although the Act recognises that customary tenure is governed by traditional laws, it creates new modern institutions for administering it, potentially undermining traditional mechanisms of governance;
- The Act establishes Certificates of Customary Ownership (CCOs) that would provide proof of ownership, however they are not yet being issued, weakening people's ability to protect their land;

- The Act also provides for conversion of CCOs into freehold titles, but does not recognise the difficulties of converting concepts of customary ownership into modern titles and the financial and cultural barriers that exist;
- Finally, the 1924 Registration of Titles Act states that titles are ultimate proof of ownership implying that CCOs are inferior to titles.

A number of threats to land exist in Acholiland, not all of which are fully appreciated by the general population. Threats that are likely to be short term in nature include illegal occupation and logging particularly by army officers or private investors, and government schemes such as the Security through Production Programme that plans to use uncultivated land for mechanised farming. However, of greater concern and not widely recognised are land grabbing by neighbours and relatives, particularly of land belonging to widows and orphans and encroachment by sub county offices.

There are also a number of fears that are widely felt among the IDP population, that the war is being used to disenfranchise the Acholi people of their land. Whatever the outcome of the armed struggle between the Government and the LRA, lasting peace in the country will not be achieved with a simple military victory. Trust between the people of Acholi and the Government must be rebuilt, and fear about land is one factor in that relationship.

Many people in Acholiland have lost the use of their land: either because it has been occupied by defence forces or IDP camps or they have been forcibly displaced. Compensation should be provided by the Government, although *ex gratia* payments or provision of other land while they are displaced could be negotiated as an alternative.

Security, access to land and food security

Although military detachments are situated next to most camps, a few do not have the mandate to protect the population and while the civilian local defence units (LDUs) are recruited to protect IDPs, they are often redeployed elsewhere without notice. The current military strategy of cutting off the LRA's access to food has led to the designation of a safe area around many of the camps of about 2km, where people are able to cultivate. Beyond this perimeter it is both forbidden and dangerous to cultivate, although in desperation many people seek food there, resulting in many unrecorded deaths. Reducing this safe radius further as proposed will have a devastating effect on the already precarious humanitarian situation.

Land is essential to the IDPs for housing, latrines, burial, livestock, and for economic survival either through cultivation, agricultural labour or making and selling charcoal. The study showed that 13% of IDPs questioned had no access to land and over 50% had access to less than half an acre. The land they can use is often degraded and the Army is preventing the cultivation of the most important crops (e.g. cassava) as part of its military strategy. The resulting lack of activity is also contributing to social problems such as alcoholism, which further diminish household food security.

Cultivation by IDPs is constrained by the availability of and access to land, which is determined not only by the security forces (who sometimes harass people who venture beyond the safe radius) and the willingness of landowners to make land available, but also by how far IDPs are displaced from their own land and how desperate they are to take the risks inherent in returning. Individuals, particularly the vulnerable, are further limited by their ability to pay rent, landowners respecting rental agreements, clan relations with landlords and personal bargaining power.

Food security interventions

Food security relates as much to people's ability to access food as it does to the availability of food. If food is concentrated in a few hands then overall food security is not reached, underlining the need to understand differential access to food among the IDPs and to ensure that this aspect of access is addressed within food security interventions. Very few

food security projects have increased the general ability to access food or addressed the food security needs of the most vulnerable. Both require serious attempts to make more land available and enable IDPs to gain access to land, particularly for vulnerable households that are able to farm.

A number of observations have been made about current interventions:

- Input distributions, particularly of seeds and tools were found to be largely irrelevant as they did not address real constraints to food production and were generally available. Oxen distributions and mechanisation of cultivation were likely to reduce the opportunities of wage labour for many, while increasing the assets of a few.
- Group grants were found not to address the major constraints to food security and have benefited only a few, better off people who were able to meet the selection criteria.
- It was found that cash for work schemes were more appropriate than food for work as food is available to buy and cash is needed for other essentials.

It was felt that food security interventions would be more appropriate if they concentrated on improving the availability of safe land to a larger section of the population by increasing the safe radius and renting land from landowners on their behalf, rather than distributing inputs.

The Land Act and return

The vast majority of IDPs want to return to their own land once hostilities cease. Three quarters of IDPs questioned were found to be less than 6km from their land and their return is likely to be straightforward. However, almost half of IDPs expressed fear about their ability to regain their land.

People who hold their land by customary tenure, without documentation, risk losing their land permanently for a number of reasons:

- for development
- for trading centres
- by gazetting
- leases given to investors
- to relatives and neighbours
- through fraud
- to squatters
- due to landmines
- from voluntary sale
- in conflicts between customary and state legal systems

In the future, it is likely that sales will become more common and increasingly land will be held by households and individuals through title, which is likely to increase destitution especially of the most vulnerable. The relationship between customary tenure and the formal state legal system is likely to be one of competition rather than cooperation, with customary tenure likely being marginalised and the most powerful using the conflict between the two systems to their advantage.

A number of actions can be taken now to prevent a future crisis of landlessness and social alienation in the North:

- People need to be helped to assert their rights to their land by increasing their awareness on land law and abilities to seek justice;
- The traditional and modern judicial systems need to be supported so that they can implement the law and protect people's rights;
- Systems and procedures need to be instituted for the registration of Community Land Associations to protect ownership particularly of communal land.

Recommendations

Civil Society Organisations

Civil Society for Peace in Northern Uganda (CSOPNU) should promote further debate and research on issues of land and food security of the IDPs in Northern Uganda and harmonise advocacy strategies. It should also ensure state and non-state actors are provided with information on the situation of the IDPs to inform policy making.

Implementing agencies need to give greater consideration to land issues in their interventions and ensure that they are appropriate in terms of the scale and addressing real needs. Priority should be given to increasing land availability rather than input distributions, cash grants or mechanisation projects. Food distributions should continue, but with greater attention to targeting, and projects promoted which provide cash incomes in order to meet essential non-food needs.

Specialist legal rights organisations should promote land rights and inform the work of non-specialist agencies on the following:

- Supporting IDPs in asserting their land rights through information dissemination, discussion and reflection;
- Taking up legal cases on behalf of individuals in order to set precedents, encourage others to assert their rights and promote the implementation of the law;
- Helping elders produce a written codification of customary law and encourage them to agree ways in which rules and procedures can be changed and significant rulings publicised.
- Assisting the local government in protecting people's land rights through training of the judiciary, establishing procedures for implementation and promoting co-operation of the two judicial systems;
- Advocacy to resolve some of the inconsistencies in the Land Law, and to oppose the Government's proposal for compulsory acquisition of land for investment and the inclusion of traditional institutions in land management;

The Government

The National Level Government needs to reconsider its military strategy of starving the LRA rebels because of its impact on the local population. Given the mistrust and frustration that exists among the IDPs, the Government urgently needs to show its commitment to protecting their interests and rebuilding the relationship with the North. In particular it should:

- pay compensation to those people who have lost their access to land through the war;
- reassure people that the rumours about land expropriation are unfounded through unequivocal statements at the highest level;
- institute wide ranging mechanisms of communication with the IDPs to ensure that joint solutions are found to addressing their needs;
- ensure that the civilian population has access to land to secure their livelihoods and that their rights to their original lands are protected.

The Army should provide protection to IDPs so that they can increase their cultivation, particularly by extending the safe radius around the camps and facilitating more cultivation along roads. Urgent measures should be taken to improve the conduct within the Army and ensure all conflicts of interest and inappropriate behaviour are dealt with appropriately. Illegal practices such as forcing people to clear land or automatically regarding IDPs as rebel collaborators should be immediately stopped.

District level government and the Ministry of Lands need to actively promote implementation of the Land Act, supporting the institutions of customary tenure and ensuring that judicial process works to protect people's rights. There is a particular need to establish the necessary court system (e.g. LC2 and LC3 council courts) and train the local

councils in land law and clarify their roles, particularly with regard to their relationship with the clan system. To assist people to assert their rights, mass education campaigns should be carried out informing people of their rights and sensitising those adjudicating on land issues of their roles and the problems people face in protecting their land.

The DDMCs have an important facilitation role in identifying and negotiating possible land that could be used by IDPs for cultivation, liaising between the military and civilians, and collating information on the situation of the IDPs to inform policy making.

The District Land Boards should compile a public register of all publicly owned land in each district in order to alleviate people's fears that their land could be considered as vacant. They should take a lead in facilitating reflection and discussion among the IDPs on how best to protect their land and training traditional leaders and sub county committees in land law.

The lawmakers should ensure that the Government proposal to change the Constitution to allow compulsory acquisition for private investment is dropped and that CCOs are recognised throughout the law as having equal validity as titles. A number of amendments to the Land Act should be made including recognition that traditional institutions should rule in all cases of customary tenure, clarifying the role of village councils in administering customary land sales and ensuring disposal of gazetted land is with the agreement of the customary owners.

Concluding comment

Access to land is the pre-eminent factor in the food security of IDPs in Acholiland and there is much that can be done to promote it if the Government and the Armed Forces are willing. The failure to secure access to land and promote land rights is generating increasing distrust of the Government's motives regarding the war, compounded by fears that some individuals from outside Acholiland could be expropriating land while people are displaced. At the same time the rules governing land tenure are in transition creating opportunities for exploitation by those with better education and knowledge. The ability of IDPs to secure their land on return will have long term implications for peace and stability in the North and action now could avert a new humanitarian crisis of landlessness and social exclusion.

CHAPTER 1: INTRODUCTION

Background

The war in northern Uganda has finally begun to claim the attention of Uganda as a whole and of the wider international community. The history of the war should be well enough known for the purposes of understanding the humanitarian situation, and has been covered by others. It has its roots in resistance to the overthrow of the Government of General Tito Okello Lutwa by Yoweri Museveni's National Resistance Army in 1986, but has undergone several transformations since then.

The war has been largely confined to the Acholi sub-region, the home of the Acholi tribe. It has been characterised by cyclical violence with periods of relative calm, which have enabled civilians to enjoy a greater degree of normality in their lives, interrupted by periods of greater violence and insecurity. Attacks on the civilian population by the Lord's Resistance Army (LRA) have been frequent, involving theft and looting, maiming and abduction (of children and adults) and, more recently, frequent killings. In 1996 much of the rural population of Gulu District was ordered into camps or 'protected villages', in order to facilitate the operations of the Army to bring a swift end to the war. Eight years later, they are still in camps, joined over the years by several hundred thousand other displaced persons. In Kitgum District the first displacement was in 1997, but the situation turned most severe in 2002. Following the Uganda Army's (UPDF) pursuit of LRA into South Sudan, there was a major escalation of LRA activity within Uganda, and in September 2002 almost the entire rural population of the three Districts of Acholiland (Gulu, Kitgum and Pader) were forced into camps by the security forces. During 2004 the security situation improved somewhat with frequent claims that the war is about to end, but for as long as the civilian population is confined to camps, claims that peace has been achieved ring hollow. The current humanitarian situation is one of the worst in the world, with over a million displaced living in appalling conditions.

The war has been analysed and studied from many perspectives. Humanitarian agencies have conducted food security assessments and nutritional surveys, as well as studies of mortality and sanitation. Political analysts have looked at the wider causes of the war, the motivations of the combatants and the chances for peaceful or military solutions. This study does not attempt to cover these areas, but focuses on the so far neglected issue of land.

It is perhaps surprising that so little attention has been paid to this aspect, since displacement is first and foremost the loss of one's right to be on one's land. Discussions of the availability of land for cultivation around camps or land for settlement have ignored the issue of "whose land?" As a result, agencies have tried to assist people's self-sufficiency without distinguishing between helping people to farm their own land and helping them to farm someone else's.

The aim of this research is to analyse how aspects related to land affect the people in the conflict areas in the Acholi sub-region. The importance of the issue has been heightened for two reasons. Firstly, whilst the IDPs have been living in camps, a major change has been enacted in land law, giving full legal force for the first time to traditional rules regarding land ownership. Completely new institutions relating to land have been created, and a new government policy adopted, which aims to create a land market to promote agricultural development. Secondly, these changes have given land a new value. Where a land market and private property exist, land takes on a cash value and becomes an important route to personal wealth. Not surprisingly, there have been fears of a renewed interest by outsiders in the fertile expanses of Acholiland. Though the war has prevented the Acholi from enjoying their own land, rumours abound of others planning to take, or actually taking advantage of their absence, which has in turn translated into a belief that the war is actually intended to keep the Acholi from reclaiming their land.

And when the war ends? How will Acholi traditional institutions be equipped to defend people's rights to land? How will people recognise and claim their land? Will it still belong to them, and if not, what will happen? The study tries to answer these questions and provides a comprehensive analysis of how aspects related to land affect the people in the conflict areas in the Acholi sub-region, with a focus on return as a durable solution to internal displacement.

The research aims to provide recommendations to the Government of Uganda, the United Nations, Non-Governmental Organisations and donors on these issues, specifically:

- The need for access to their traditional land by the IDPs.
- The availability of land near the camps that can safely be accessed throughout the year.
- The short term and long-term effects of carrying out agricultural interventions and food security programs in northern Uganda.
- The effectiveness and long-term effects of large scale mechanised agricultural interventions.
- IDP return and the role of the 1998 Land Act.

Methodology

This study took place in the three Districts of Acholiland Gulu, Pader and Kitgum over two months in July and August 2004, during which over a hundred interviews and meetings were held. In each of the Districts, a team of five researchers (who had been trained in land law and food security) met with district officials and UN and NGO workers; with religious leaders; with landowners; with members of land boards and land tribunals; with members of parliament; with soldiers; and, most importantly, with hundreds of displaced people. The information collected was analysed by the full team on a daily basis, and subsequent interviewing was guided by the analysis of the information already collected and the understanding reached.

The camps were chosen in consultation with staff from agencies working in the Districts, in order to ensure that the greatest range of situations possible was covered. Camps chosen included small and large camps, gazetted and un-gazetted camps, camps both near and far from urban centres, and camps spread across all counties (see Annex 1). The selection of interviewees was largely purposeful. In some cases the team knew in advance to whom it needed to talk [e.g. the chairperson of the District Disaster Management Committee (DDMC), the secretary of the District Land Board (DLB)]. In other cases, as stories emerged, individuals were sought out for clarification (particularly when stories of land expropriation were reported). Where possible, the team went to the camp, where meetings were arranged with various categories of IDPs - the landowners of the camp, those who rent land, those who can cultivate back home in their villages, those without land, camp leaders, traditional leaders, religious leaders, local council members, child headed households and widows. Where this was not possible, people were invited in from the camps to town. A variety of intermediaries were used to ensure that the selection of interviewees represented the range of individuals which the research needed: in Gulu, assistance was provided by para-legal volunteers (supported by HRF and LAP); in Pader by Pader NGO Forum and Community Development Assistants of the Local Government; and in Kitgum by Oxfam animators, by members of the Peace Committees of ARLPI and by one LC3 chairman.

These intermediaries (except the LC3 chairman, who was informed by letter) all came into town first so that the purpose and process of the research could be explained. They were then trained over a whole day to administer a simple questionnaire, covering access to land and cultivation (see Annex 2). The questionnaire was pre-tested in Unyama camp in Gulu and was intended to quantify how much land people were able to cultivate last year, how many people had been able to return to their villages to farm, and how this related to the distance they had been displaced, whether or not they were from the same clan as the

camp landowners and whether they were male, female or child headed households. It then tried to identify which factors affected people's choice of crops and how they acquired their seeds. Finally, it intended to clarify whether or not people had fears for their land on return from displacement. Unfortunately, two difficulties were encountered in analysing the data. It proved impossible to analyse the relationship between clan identity and land accessed, because clan identity can be described at so many levels within a clan/sub-clan hierarchy. This variable was therefore dropped from the analysis. Also some of the figures on the amount of land accessed seemed so implausible that confusion with units seems to be the only explanation. The food security analysis was based upon interviews with IDPs about project support that had been received in camps, on interviews with staff of implementing agencies and on previous literature¹ on food security in the area.

The study is set out as follows. Chapter 2 looks at how land law works in Acholiland, and at the legal position of the displaced and their hosts. Chapter 3 examines the situation in the camps regarding land and security, and what determines how much land can be farmed. Chapter 4 analyses what agencies have tried to do to improve the food security situation and the appropriateness of the interventions. Chapter 5 looks at what is likely to happen when IDPs return home, and what may need to be done to help people protect their rights to land. Finally chapter 6 summarizes the main conclusions and recommendations.

¹ In particular, various emergency food needs/food security assessments by WFP, and studies by Oxfam-GB (Kitgum), SC-UK (Gulu) and ACF (Gulu). See bibliography.

CHAPTER 2: LAND AND LAND RIGHTS IN ACHOLI

This chapter looks at how land ownership works in Acholiland. It compares the customary ways with those brought in by the changes to land law that made individuals owners of their own land. It examines other forms of land tenure; how well the act is being implemented and whether the new state institutions are functioning. Finally, the chapter examines the position regarding land today, threats to land ownership, and the legal situation of the displaced and the landowners of the IDP camps, and suggests why such examinations are important.

Forms of land tenure

Most land in Acholiland is held under customary tenure. People own land simply because they have always lived on it and because they have always been regarded by everyone else as the ‘owners’ of their land. They have no official papers proving that they own the land and giving them rights over it. In 1998, the Land Act recognised for the first time customary tenure alongside other forms of land tenure (freehold, leasehold and Mailo), however the translation of customary rules into modern law has not been straightforward due to their complexity and the myths that surround them.

Customary tenure: myths and realities

Very little has ever been written on customary tenure in Acholiland, which is somewhat surprising since land is by far the most important asset. Local rules governing it have never been written down and they are constantly changing and adapting to new circumstances. During the research, no single source was able to give a comprehensive overview of the current rules regarding land across Acholiland, and different people gave sometimes quite different stories. Many people were asked during the research to map out detailed histories of each of their plots of land and their family trees and describe individual land conflicts and how they were resolved. These sources were then used to build up the following picture of customary tenure in Acholiland today.

The myth of ‘free’ land

Land tenure rules have evolved in conditions which are very different from those of today in one key regard: until one or two generations ago, an individual could ‘claim’ land as his own by settling and using virgin ‘free’ land. Many villages were established as recently as 50 years ago, with a small group of people settling in forested areas and becoming the owners of often very large holdings (up to 400-500 acres).

Today there is very little ‘free’ land in Acholiland, however, it would not necessarily be obvious to an outsider that this is the case as not all land is cultivated in any one season. Before displacement much of the land was being used for grazing, some as forest (for forest products and hunting), and other land would be fallow under a system of shifting cultivation or rotational cropping. Within the village it was (and remains) clear who owned which land, and the boundaries were well known as they were agreed upon by owners of adjacent pieces of land, using a mixture of natural features (trees, edges of swamps) and features developed over time, such as the lines of field refuse (*kingingi*) which build up into durable borders. In case of disagreement the local leader, the *Rwot Kweri*² (the traditional equivalent in land matters of the LC1), would be called to adjudicate.

Within the village, there would sometimes be areas of forest which would be held by the village as a whole, many of which still exist today, often on the border of land belonging to two different villages, with well recognised markers within the forest marking the boundary of each village. When referring to “land belonging to a village”, then, a clear distinction needs to be made between the idea of family-owned land falling in the traditional ‘administrative zone’ of that village, and the land which was actually owned by the village as an entity.

² Though there can be more than one *Rwot Kweri* in a village, each has an area of jurisdiction.

The myth of 'communally owned' land

There is a widespread belief that land in Acholi is held communally. "Land is owned by the clan", one will read or be told, by Acholi leaders as much as by outsiders. As land is communally owned, so the unspoken arguments run, any land can legitimately be used by anyone as long as it is for the people. Even the Land Act of 1998, which gave formal recognition to customary tenure, defined the customary tenure system as a system "providing for communal ownership and use of land". This sense of clan control of land has been widely misrepresented: the reality is that almost all farming land is owned by individual families, although disputes are settled with reference to the clan. Only hunting and forest land is held communally, but this does not mean that anyone can use it.

'Ownership' of cultivated land

Though individualism is increasing, an individual still has a strong sense of being a part of a community. The land which a family owns is not considered as being totally 'theirs': it is their heritage and the future heritage of their children. Since they see that a family exists only as a part of a wider community, so its land is held within the wider structure of a community (clan) and as clan's land. Land is the fundamental productive asset, without which one cannot survive, and so one's social obligations and claims are intimately connected to claims and rights over land. These obligations extend to the next generation: land must therefore be protected for them and if anyone who leaves the village and fails to survive in the urban economy, the customary land is a safety net, because they can always return and be allocated a plot. Land is also the link with people's heritage - quite literally, since it is on the family land that one is buried.

Generally land is allocated and managed by a grandfather who provides plots to each male family member according to need and the perceived ability to use the land. When the grandfather dies, a new family head is appointed. No one can simply farm another's land or harvest from it, and in general, each person will have the same plots for digging and for fallow each year. The family head, though, maintains some decision-making authority. Land can be reallocated by him (or, occasionally, her, in the case of a widow), and the common good sometimes demanded that the family members farm their plots as a single overall unit under the management of the family head, who made decisions, for example, as to where animals would graze, so that no-one's crops would be disturbed. If a son dies without a wife or a child or leaves the family home, the land is reallocated within the family by the family head. Strangers or visitors can be given land (for use) only with the head's consent (although these 'gifts' are an increasing source of contention, with the 'receiver' claiming permanent ownership and the 'giver' wanting to reclaim the land).

As land becomes more and more scarce, and individualism increases, land is increasingly allocated to male members on a more permanent basis with the individuals assuming more ownership rights including the ability to sell land, although the wider family still retains the right to intervene if they feel that the sale is not in the family's interest (as has happened in several cases). As would be expected, in Kitgum and Pader sale of land has so far been restricted to land in trading centres, while in Gulu, there have been cases of land purchases in villages dating back over thirty years. It is likely however that this trend of selling land will continue in the future.

Ownership and access to common lands

Some areas of land have been held in public trust for all clan members (either at the level of the village, parish or occasionally sub-county). Hunting is a vital economic activity, but hunting grounds (*tim*) cannot be protected and managed by splitting them into small plots. They are not 'common property' in the sense in which this phrase is often used, meaning that anyone can use them as they like. There are rules as to who can use them and what they can use them for, and these rules are enforced. There are also set procedures for deciding on how to change the use of such land. Authority to permit cutting of specific trees in forests is now often claimed by the LC1, while larger or more permanent decisions,

for example permission to farm in the forest, or large scale logging, can only be granted by some form of village council, (e.g. a partnership of the LC1 and family heads 'elders').

In Kitgum and Pader, and sometimes in Gulu, grazing land (*olet*) has also been managed as a single piece of land with rules as to who can use the land and how. In Gulu, the *olet* was generally used communally by all cattle owners, but ownership of the area was divided among them as individuals, with each one having his own 'plot', although each one would allow the others to graze their cattle freely over the land as a whole. In many villages in Kitgum and Pader there are also areas which the village or clan maintains for agricultural production (*aker*), either by the village as a whole for its common use or to lend out to individuals in times of need.

Dispute resolution

Dispute resolution in customary tenure is based more on mediation than upon passing judgement in favour of one party or another. Where a dispute arises within a family, the person who has been chosen as the family head will resolve the dispute. Where a dispute is between families, usually between neighbours, then the *Rwot Kweri* will adjudicate or mediate. The system is simple, cheap and accessible and on the whole people have been satisfied with the judgements received. Appeal can be made to the clan elders or to a higher clan chief, the *Rwot Moo*³ in certain cases. Any case with major implications for the clan as a whole, such as a long-term decision involving communal land, would need to involve the clan elders (the equivalent of the village or parish council).

The parallels between customary tenure and other forms

The Constitution of Uganda states that any Ugandan citizen can own land in Uganda: it is their land, and not the State's nor the Government's. However, the land falls under the sovereignty of the Republic of Uganda and the laws of Uganda apply. No foreign guest can stay there without permission (e.g. a visa), and if anyone tried to encroach on land from over the border, it would be a national affair and not just a private dispute between two individuals. The Government and local authorities make rules regarding what the owner can do with the land e.g. the need for planning permission. There are even restrictions on the right to transfer ownership of the land, either by sale or upon death: the land cannot be owned in perpetuity by a non-Ugandan citizen, and if a man's wife does not consent to the sale of land which he owns, then the sale cannot proceed. The State also owns land in its own right e.g. national parks.

Within customary tenure, there are parallels, though not exact equivalents, to these four concepts:

a) Individual freehold or leasehold title/family land. Most families own several acres of land on which they live and farm. The family unit varies and can be an extended family or, increasingly, an individual household. Although there is no exact parallel outside customary tenure, legally the wider family (as a single legal entity) is best seen as the private landowner, with the individual households holding subsidiary rights. It is easy to confuse the fact that neither the father nor the son enjoys 'full' rights of ownership in isolation from each other with an idea that no one really owns the land, and therefore it must be owned 'communally'. In fact, the rights of each stakeholder only make sense when considered as a whole.

b) State/clan sovereignty over land. The land is owned by members of a particular clan within that clan's territory. This means that the rules of that particular clan apply there. It also means that a person from another clan cannot settle or claim land there, without the consent of that clan. People passing through should ask permission before grazing and watering animals. The sense of land being "clan land" in this case is very strong, though it does not conflict with individual family ownership - just as state sovereignty does not mean that land is nationalised.

³ The anointed chief.

c) Government/clan limitations on rights. The clan authorities have the right to limit how a person uses their land and how they can dispose of it (e.g. in most cases they would not allow the sale of land). Disputes within the family would usually be solved by the family head, but where necessary (e.g. if the family head withheld access to land to a family member) the clan judicial system would have the right to intervene. Since state law decrees that the rules customarily applied by the local people are binding, a sale should be considered invalid if the family or clan oppose it. Though the law is unequivocal on this point, there remains a doubt whether Courts of Law (or the District Land Tribunal) would interpret the law in this way.

d) State/clan owned land. There is land that is actually owned by clans, and used for the wider interests of all their members - hunting, farming, and grazing. There are bodies that administer and manage this land for the clan, though this does not mean that they are the landowners, for example, hunting grounds are under the management of the *Won Tim*⁴, a respected hunter, who alone can call a major hunt of the whole clan, after he has ascertained that the animals are sufficient. However, he has no power to allocate this land to individuals or to change the use of the land, and so, though it may often be said that the hunting ground is “his”, he is clearly not the owner of the land but only its appointed steward. All members of the village would usually have the right to access forest land for firewood, for other forest products (fruit, honey) or for small hunting, but not to cut down trees.

The sense of clan ‘sovereignty’ over land (b) could become problematic, since the Constitution grants citizens of Uganda of all tribes and clans equal rights to any piece of land. The other three customary concepts (a, c, d) are all given full state legal backing and are integral to the 1998 Land Act. In the Act, ownership of land “under customary tenure” is recognised as being as valid a form of ownership as private freehold title, and the customary rules of the Acholi regarding land are binding since they automatically become state law on all matters concerning that land⁵. In practice, however the interface between the two systems is more complex.

What happens when the Land Act meets customary tenure?

The state legal system and the customary system are based on very different working cultures. The state system works by abstracting principles from a case, stripping away the details that are irrelevant to the principle, and applying a judgement by making reference to other judgements in parallel situations. Customary rulings are also made on the basis of set principles, but the context of the case - who the individuals are, how they can be expected to live together in the future - play a role in the making of a judgement. The state system is based upon written, formally codified rules (which can be twisted, but not broken), written precedent, written documentation that constitutes the main evidence of what was agreed, what rights existed. The customary rules have never been written down, so a judge (*Rwot Kweri*) is neither bound by - nor guided by - previous judgements, and so rights and obligations have to be determined afresh according to principles like ‘fairness’. It is less certain that one will know what rights one has, but on the other hand, what is agreed cannot be twisted by the one who knows best how to use the law and language.

The state system works on exactness, and this applies particularly in ascribing rights - the names of the person or persons who hold rights to land have to be clearly specified. The customary system does not divorce rights from the cultural context, because the rules only operate within that context, not in the abstract. Land may belong largely to one person, but custom and social rules confer many obligations upon him or her regarding the land, and many rights and obligations to others. Asking the question “who owns the land?” simply does not mean the same within the world-view of customary tenure. The ‘clan’ or the ‘family’ are not exhaustively defined in advance but interpreted as and when

⁴ Though the name literally means ‘the owner of the hunting field’, it does not confer ownership.

⁵ Section 4 (1) (b), (c) (d) and (e) of the 1998 Act. The exception is where the rules violate the Constitution, so e.g. there could be no discrimination against the disabled or women.

necessary. Everyone knows to whom land belongs if you say which family owns it - but whose names should go on a title deed could cause a long argument.

To take a key example, it is often stated that women do not own land, in the customary system. However, everyone knows and accepts that a woman has rights to use land - her parents land before she is married, and her husband's land on marriage. No husband has the right to stop his wife using his land (though he may allocate some for his own personal benefit or for other wives). If he dies, the woman retains exactly the same rights over the land - she can use it all as she pleases, and the land will then pass to her children. She may choose to be 'inherited' by one of her brothers-in-law, in which case her position in the family is secure and protected by him (though this is increasingly rare since the danger of AIDS has been recognised). If she remarries then she will have access to other land through her new husband. Under customary rules, the head of the family or clan elders could intervene if anyone tried to deprive a woman of her rights whatever her situation. Although her husband (or father) would be regarded as the owner of the land she was using, this is used to explain the linkage of the land to the clan to which it belonged. The woman belonged to the clan by marriage, and if her husband died and she remarried, the land could not follow her to another clan. Her husband, in practice, would have hardly any rights over the land which his wife did not share - except perhaps the final decision making authority on how to allocate land among his children or to make a loan to visitors (usually people from outside the clan such as in-laws or government workers from other areas). The husband too is not allowed to sell land, and ownership implies total security of tenure and rights over only the fruits of the land. Translating ownership from one system to another is thus almost impossible without distorting the complex realities and inter-relations of rights and obligations.

This is not academic sociological theory. Women have very clear rights in customary tenure that are simply stripped away if ownership is transferred to a title deed without their names. Children are also protected under customary tenure, even the unborn next generation - but how does one put the names of the unborn on a title deed? Ownership ceases to include the idea of stewardship once 'ownership' is translated into the state legal system. Incorporating customary tenure into the state system may actually threaten it by bringing in a culture of individualism and a system of rights that allows one to convert rights in land into rights over other assets - in short, the right to sell land for money (or the creation of a land market, the very objective of the Government land policy).

Parliament recognised that people often have different interests in and rights to land, and the Act took care to provide specific protection for those who depended on the land, but who may not be the formal legal owners of the land. The right to sell land, held under any tenure, was therefore made subject to the provision that wives dependent on the land gave their consent to the sale. Any sale that does not have the consent of the spouse is invalid in law (Section 39), although the Act does not provide any mechanisms for enforcing this (under customary tenure this would have been the role of the grandfather).

The 1998 Act also created a paradox when it explicitly legitimised customary tenure and stated that it was governed by traditional laws, but then went on to create a whole set of institutions for administering it. The way in which so-called 'modern' institutions have taken primacy has also been illustrated. LC1s are considered a higher authority than *Rwodi Kweri* although the Act does not even give them any judicial role in administering land. This will progressively lead to an erosion of confidence in the ability of the *Rwodi Kweri* to pass a final judgement since the loser could always be tempted to appeal to a completely different rule system.

The Act allows land owned under customary tenure to be registered through Certificates of Customary Ownership (CCOs), although they have not yet been introduced, so their exact impact cannot yet be measured. They are likely to weaken customary tenure by incorporating it into a foreign system (some even believe that this was indeed the intention of the Land Act). Receiving a written document that proves land ownership is an important

defence against land grabbers and an important protection of property rights - but only if yours is the name on the certificate. Otherwise, you risk losing all rights that you held in the land.

The law also provides for conversion of a CCO into a freehold title, that is transferring the system of ownership outside customary tenure. This has the potential for conflict, if one family member seeks title for his 'allocation' of land within a wider family land holding. By removing his claim to land from one determined by customary rules, he would come to gain legal rights not enjoyed under customary law e.g. to sell the land. Even if the clan opposed the sale, the buyer and seller could appeal to the law enforcement agencies of the State to give full protection to their right to proceed with the sale. For land held under a CCO, the legal position should be that the courts would not approve the sale, since the customary rules that gave the owner his claim to the land themselves forbade its sale where the clan did not give permission. Since some rights are being gained, others must be losing them - the wider family would lose their subsidiary claims on the land, the role of the land in providing social security would disappear and future generations would lose their 'rights'. The money from the sale could be shared with all those who had rights in the land or used for the communal good of the family - but equally it could be appropriated by a single individual and used for his sole benefit. The problems of moving across parallel legal systems are complex, and it is not clear if they have fully been appreciated by legislative and judicial systems.

The importance of titling

The 1924 Registration of Titles Act (amended in 2004), states that a title is the ultimate proof of ownership and a document that cannot be contested, unless fraud can be proved, "even if the procedure of registration was irregular" (S 59). No CCOs existed at the time of the Act, so of course no mention was made of them. This means that, until the Act is amended, someone who acquired title to land (even by 'irregular' means) becomes the lawful owner of the land, even if someone else already had a CCO proving ownership of that same land. Lawmakers may not be aware of the legal position they have inadvertently created, and they should be encouraged to amend the Registration of Titles Act, making CCOs and title legally equivalent, and therefore giving priority to the title or certificate that was issued first.

Despite the importance of titling, serious barriers to registering titles remain once titles start to be issued. The costs of obtaining titles are high - each piece of land will need to be surveyed separately, and each plot will need a separate title, which is an expensive process. There are also non-financial hurdles to titling. Villagers unaccustomed to the written world face cultural barriers in entering the world of titles and contracts. The study found cases of landowners who had been prepared to lend land for free to an NGO, but who withdrew and refused once the NGO came with a contract, intended to reassure them that the agreement was only a loan. There will be further opposition by clan and family elders who fear the individualisation of ownership and the eventual facilitation of land sales - leading to the loss of the clan's land.

People won't be landless for as long as they don't have titles. As long as there are land-grabbers, we need to discourage titles. (Former Acholi MP)

Bringing the two worlds together

One mechanism was created by the Land Act that could go some way towards bridging traditional rules and modern law. This is the possibility for a group of people to own land together as a Community Land Association (CLA). In state law, the CLA would exist as a legal entity, equivalent to a registered company, but makes its own rules (its constitution) on how it acts internally. This means that a whole family, a whole clan or even several clans together could get either a CCO or a title to land, without the land belonging to specific named individuals. The association's constitution could continue to have as complex rules as it liked regarding the rights and obligations of individuals, could maintain

some land for the clan as a whole, with other land allocated to individuals, and could include restrictions on their rights (e.g. the right to sell), and even give unborn children rights. The only difference from customary practice would be that the rules would have to be written down and approved by the District Registrar (i.e. checked to make sure the rules are clear, there are no contradictions and all likely situations are covered). The Association could then name up to nine officers who would manage the land, but who would not be the owners of the land, and who could be changed as and when the Association wished. No such Associations have yet been created in any of the three Districts of Acholi, mainly because there is little awareness of the possibility or advantages of creating a CLA.

There is, however, a clear need for a better understanding of the potential impact of the interplay between the two systems - what happens when people can make claims in one system or the other, how one system overrules the other and with what effect, how one system changes the other and how rights to land are concentrated in different hands as people are able to use the overlap of the two system to their own advantage. For example, if a young man wants to rid himself of obligations to his wider family, he will tend to use the system of title and formal law courts which favour simpler individual rights, while his family would be more likely to seek judgements from the clan elders whose legal system does not simply divorce more complex personal relations from land rights. Of course, where the man was opposed in a proposed land sale by his wife, he would quickly appeal to the very customary tenure system that he was rejecting to claim that “women don’t own land”. It is this struggle between people and between legal systems that we need to understand if we are to help the vulnerable from losing their most basic right - access to use land.

Other forms of land holding

Although the vast majority of land in Acholi is owned under customary tenure, there are two other important ways of holding land recognised by the 1998 Act: leasehold and freehold. Since the power to compulsorily acquire land otherwise known as the “power of eminent domain” remains with the Government, it is also important to look at state owned land.

Leasehold

Some individuals have obtained leasehold titles, often on large areas of land. A lease is like a long-term rental agreement, giving security of tenure to the leaseholder - usually for 49 or 99 years. A small rental fee or ground rent is often paid to the owner of the land, which (in the Uganda context) is often the State. Leaseholds give long-term security of tenure to the leaseholder, which is often called ‘ownership’, though technically the land remains state property. This is a common form of ownership in several African countries where land is nationalised (as in Uganda before the current Constitution) and also in some European countries⁶.

There is no proper public register of leases, so it is not easy to get exact data on how much land is held under leasehold in Acholiland⁷. However, in Uganda as a whole only 20% of land is titled either as a freehold or a leasehold (MISR, 2003a). Leases have been obtained in three ways:

i) Old leases obtained before the 1995 Constitution, when all land was vested in the State on trust for the people, and individuals could only hold land by leasing it from the Government for 49 or 99 years⁸. In these cases, the land remains the property of the State,

⁶ Most property in London is held under leasehold, a relic of feudalism. The lease-holder is regarded as the ‘owner’ of the property to all intents and purposes, but they pay ground rent – though in UK this is to a private owner and not the State.

⁷ A major study by MISR has recently been undertaken, though the final report is not yet available. The executive summary does not give data of lease-holdings at district level, only at regional level. (MISR, 2003)

⁸ The Land Reform Decree, 1975

even though, had customary tenure ownership been recognised at the time of granting the lease, the land would have had an owner. This is particularly sensitive where the land is in the territory of a different clan than that of the leaseholder, who may have obtained the lease through political influence for land that local people (though not the law) would have considered as belonging to them. There are several such cases in the fertile areas by the Nile in Eastern Gulu (e.g. the Omer plain).

In some cases, there were conditions stipulated that the leaseholder develop the land in certain ways (or the lease would not be renewed), or restrictions upon the use to which land could be put. There are some cases where lease renewal is coming up without the government authority (DLB) being able to ascertain whether or not development conditions have been met since the land is too insecure to inspect, though they are currently granting such renewals for the moment. When security returns, and the DLB can make such inspections, there could be cases where the war has prevented a leaseholder from meeting development conditions. It is unclear how they will treat such cases, though they currently have no obligation to renew such leases.

There is a further condition on lease renewals, which is that only 100 hectares (around 240 acres) can be automatically renewed. Otherwise the DLB has to decide whether or not the public interest would be served by granting a new lease over the whole of the original land. Many of the holdings on the fertile Omer plain are much larger than 100 hectares, and powerful people have already expressed an interest in acquiring them. One can expect a great deal of pressure to be put on the DLB from various quarters when some of these leases come up for renewal.

ii) From the DLBs Under the 1998 Land Act, land not owned by recognised tenure or the Uganda Land Commission became vested in the DLB. DLBs are now allocating land on lease from this land, for example, within Kitgum Town Council, leases are being acquired for residential development from land that was formerly prison land. It appears that some land is being allocated illegally by sub-counties in emerging trading centres, where they claim that land in a trading centre is, by definition, local authority land. This is now a widely held view, though it has no legal basis. It was not possible to establish exactly what form of documentation they give to those to whom they 'sell' the land. These cases are discussed in more detail below.

iii) By default. Four types of tenure document are provided for under the 1998 Act, namely freehold, *Mailo* (a hang-over from Colonial days, similar to freehold, but since it does not exist in Acholiland, it can be ignored), leasehold and Certificates of Customary Ownership (CCOs). Though forms exist for CCOs, they are not being issued (for reasons which are not clear). New freehold titles are also not being created and only transfers and divisions on old freehold titles are being registered. As a result, when people apply for documents of ownership, the only one available is the old leasehold title. A strange legal position is therefore being created, because the DLBs are granting people leasehold titles on land which the leaseholders themselves own (in fact this is supposed to be temporary measure prior to an eventual issue of CCO or on conversion to freehold titles).

Most of these new leaseholds are restricted to the areas of Gulu municipality and the two town councils of Kitgum and Pader for two reasons:

1. There is little demand for title in rural areas, because people feel that their rights to their land are secure under customary tenure and that a title could potentially facilitate the sale of the land.
2. Land outside the town is too insecure for the DLB staff and surveyors to visit, making the process of titling almost impossible. However, once rural land is seen to have a commercial value and once security permits free movement in Acholiland, it is possible that there will be a large increase in the number of titles applied for.

Freehold

This is the Western style model of 'full' ownership, which is more common in the west and central regions of Uganda. There are reportedly small areas of land in Gulu owned by the Church under freehold granted by the Colonial authorities. However, private freehold land plays an insignificant role in Acholiland.

State land

State land includes game reserves, forests, and any other land used by ministries. The Local Government owns its own offices and the land around them, although the boundaries are not well known and no maps are held in the Districts or Sub-Counties. The Registrar of Titles in Kampala, where all titles deeds are kept, says that none of the sub-counties have been surveyed, and therefore they have no titles or border markers. Maps in the Registrar's Office are to scale and could be used to determine the boundaries of the local authority land (the 2002 Amendment makes it clear that land occupied by the State remains state property even where it has no title). Land was offered to the authorities in the old days by the clan chiefs and, in theory, some elders may also remember where the borders lay.

There is a lot of confusion over which land actually belongs to the State, and no one seems to be clear. One very large area whose ownership could not be determined during the study is the Lipan hunting grounds. It seems that hunting there was controlled by the colonial administration, but it is not clear whether or not the land is owned by the State. This is an extremely important question, since the local people believe that the land is owned by several clans as their private hunting ground and there have been conflicts with Uganda Wildlife Authority (UWA) who recently tried to re-impose authority over the area.

The State has the right to acquire more land, though to do so it must buy it in one of two ways. If the owner agrees to sell the land, then the State (central or local Government) can simply buy the land at whatever price they agree. If the landowner does not agree, then the Government can only buy the land if it is for the public interest⁹ - for health centres or roads, for example. In that case it must pay the full market value and also compensation for crops and buildings on the land or for disturbance for having to move¹⁰. The State could buy the land on which camps have been created by compulsory purchase, though it has not chosen to do so. There has been no legal compulsory purchase in Acholiland since the Act, though there has been some illegal acquisition (see below). The lack of title to land held under customary tenure should not, in principle, affect the owner's rights to be compensated or to refuse to cede the land to Government where the public interest criterion is not met. In practice, lack of documentation is likely to make it harder for people to defend their rights and land that is collectively owned by the clan may be even harder to protect.

It is important to note that there has been a clerical error in producing the 2003 Amendment Act, by which the numbering of sections to be amended has been systematically changed from the (correct) Amendment Bill. As a result, the Act calls for the amendment of section 3 (for example) when it means section 4, and section 4 instead of section 5. By mistake, the clause on disturbance allowances has been deleted (Section 78, sub-section 2), when in fact the intent was to delete rules on the now abolished sub-county land tribunals. Since the law may be determined by what is written and not what was meant, it is urgent that the 2003 Amendment Act is repealed and a corrected version enacted. Another clause that was deleted in error by the substitution of details on non-citizens was that no wife may unreasonably withhold her consent to a sale, implying unreasonable behaviour is now legal.

⁹ Constitution, article 237 (2) (a)

¹⁰ 78 (1) and 78 (2). The value of land is 'the open market value of the unimproved land', with additions for 'the value of buildings on the land...taken at ...depreciated replacement cost for the rural areas' and 'the value of standing crops on the land'. In addition 'there shall be paid a disturbance allowance of 15% or if less than six months notice is given, 30%' of the open market value of the land.

The implementation of the 1998 Land Act

The District Land Boards have a wide range of powers and functions outlined in the Act including to hold and allocate land, facilitate registration of land interests, assume powers of a lessor, demand surveys and compile and maintain rates of compensation. A copy of all CCOs should be registered by the Recorder (the sub-county chief) and coordinated by the District Land Registrar. (The administration of land sales and ensuring the consent of the spouse was given, is not catered for in the Act). Area Land Committees at sub county level should advise the District Land Boards on matters relating to land including ascertaining rights in land and acting as a mediator with agreement of the parties in a land dispute. In case of applications for CCOs, the Land Committees should determine verify and mark the boundaries; demarcate rights of way; adjudicate and decide in accordance with customary law; record rights over land and safeguard interests of vulnerable persons.

Under the 1998 Act, conflicts over land would no longer be heard in normal Courts of Law: initially, problems would be resolved by the Court of the LC2¹¹ and LC3 Executive Committees¹², with a special District Land Tribunal (DLT) acting as a higher court. The High Court acts as a court of appeal. In some respects, the establishment of this procedure exposed a contradiction within the Land Act, since the Act had stipulated clearly that land held under customary tenure would be subject to the rules and procedures as laid down by each tribe or clan. This means that the traditional authorities should have full jurisdiction over all land disputes for customarily held land, and the parish, sub-county court or DLT would only adjudicate where customary law breached the Constitution or some other provision of the Act. In fact the DLT is held as a superior authority to the clan judicial system, although it is not prevented from taking advice and guidance from them. No case law yet exists to see how the High Court would rule on a challenge to a DLT decision by clan authorities made on these grounds. The LC1 was given no legal authority over land matters, though he or she is taken by most people to have higher authority than the customary legal system. How these institutions are functioning is outlined below:

Local Council courts

In practice the LC2 and LC3 courts are not functioning on land matters. Most people believe that the LC1 has jurisdiction in local land conflicts although the Act does not give the LC1 any such powers. Appeal is to the LC3, though the case is often dealt with by an individual rather than by the Executive Committee. LC1s have not been equipped to advise on land matters and they have almost no knowledge of the Land Act¹³

District Land Tribunals

The District Land Tribunals have never heard cases in any of the three Districts of Acholi.¹⁴ They have registered cases that are pending but have limited their role to advising parties to accept mediation and an amicable settlement. As the law requires, there is one chairperson for the three DLTs in Gulu, Kitgum and Pader, however, he has been studying in Kampala for the past year and the other two members only work part time and are based outside the Districts. Gulu has until recently been missing one member: the third member has just been selected and sworn in. In both Kitgum and Pader the population officers also act as secretaries for both DLT and DLB. As the DLB/T Secretary in Kitgum himself commented, this presents a potential conflict of interest, where DLB decisions are in question. Those wanting their cases heard from Pader have to put up with the expense and insecurity of travelling to Kitgum, because the DLT for Pader sits in Kitgum rather than

¹¹ The Ugandan local authority and administrative structure is based upon a hierarchy starting with Local Council 1 (the village), through Local Council 2 (Parish), Local Council 3 (sub-county), Local Council 4 (county) and Local Council 5 (District). The term 'LC1' is often used to refer to a person, the Chair of the Local Council. The councils are all directly elected, though elections for LC5 are widely considered rigged.

¹² These are provided for in the 2002 Amendment.

¹³ In this research we interviewed around 40 LC1s. Not one showed any knowledge of the Land Act, beyond knowing that 'now land belonged to the people'. All had very erroneous opinions about what the Law actually said. In general they were very aware that they had never been trained on the land law, but when consulted, did their best.

¹⁴ As per June 2004.

Pader. The reason given for this decision is that Pader does not have many cases, although the research found differently.

District Land Boards

District Land Boards are operational in the three Districts and their allowances are paid from the national consolidated funds, although they are currently limited in their activities to only two functions (the renewal of leases, and setting compensation rates for compulsory purchase) apparently due to lack of funds. In Kitgum and Pader, the DLB's work is also limited by the fact that members are based outside the district centre, making their 'allowances' high.

The DLB is mandated to support customary owners to acquire CCOs and where the ownership is shared between individuals (e.g. clan communal land) to help them to form a Communal Land Association, in whose name the certificate can be issued. Many forms for this process were drafted under the 2001 Land Regulations Act, although the DLBs are "waiting for instructions" to use them. The DLB is also charged with "facilitat[ing] the registration and transfer of interests in land", although currently, land rental agreements and land sales are being effected that are neither supported by formats nor registered, and as a result many problems are arising (e.g. lack of implementation of consent clauses and lack of respect of terms of rental agreements in camps).

District Registrar of Titles.

There are no Registrars in any of the districts and yet their role is vital as they are mandated to assist CLAs in preparing their constitutions. This would be important work to carry out while people are in camps, if only for the few camps that are safe to access as it would give IDPs a focus for the future and take advantage of the fact that so many people of one clan are living together.

Area Land Committees

No Area Land Committees have been established in any of the three Districts. In one case the researcher were informed that the Land Committee members had been selected but never sworn in.

Recorder and registry

The Recorder at sub-county level is supposed to be the chief but even though chiefs exist, there are no land registries for customary tenure land transactions, which makes verification of sales and land ownership difficult, and makes it impossible to implement the protection clauses in the Land Act that necessitated a spouse's consent. All sales of land that is titled are registered by updating the deeds at the land registry.

Threats to land: real and perceived

Everywhere one goes in Acholiland, one encounters fear that the Acholis' land will be stolen from them. Even this research project was met with suspicion from the mere fact of asking questions about land. The fear, whether or not it is well founded, is something that must be taken seriously and is indicative of the importance of land: the Acholi know well that land is their key productive asset and that without it they are destitute. Whatever the outcome of the armed struggle between the Government and the LRA, lasting peace in the country will not be achieved with a simple military victory. Trust between the people of Acholi and the Government must be rebuilt, and fear about land is one factor in that relationship. If the fear and its roots are understood, then action can be taken to reduce it and rebuild confidence, rather than simply dismissing it as 'groundless'.

Perceived threats

Illegal occupation A few individual senior army officers have taken possession of privately owned land and have been farming it for their own personal benefit. No permission was offered or payment made. This is clearly illegal occupation, and a claim for compensation could be made if there were normal rule of law in the country as a whole. There is a strong culture of impunity for the powerful throughout Uganda and in the North threats of being named a 'rebel collaborator' have been enough to intimidate the landowners into silence.

This individual occupation is unlikely to be permanent, and once peace is restored the officers are likely to leave the land. Nonetheless, it is obvious why people forced off their land into camps by the military might make the link between this and the sight of the same military now cultivating their land. It is not clear why the behaviour is accepted by UPDF or the Government if they are aware of it.

Rumours have spread that many other farms have also been set up by non-Acholi ("businessmen from Buganda" according to one informant) in the fertile plain by the Nile, fuelled by the fact that people from that area are denied access to their own land. Although, interviews with IDPs from camps close to the area would suggest that such farms do not in fact exist.

Logging There are widespread and detailed reports¹⁵ of logging being undertaken by military personnel in both Gulu and Kitgum Districts (around Lukung and Agoro, near Opit, and in Kaledima). These are areas which the Army has told people to vacate and to which it denies them access. If the logging is indeed being carried out, then whether or not these activities are being carried out by individual soldiers or by the Army as an institution, the result is to confirm in people's minds that "they were expelled from their homes for the purpose of enabling senior military officers to grow rich by stealing their natural resources". Until the Army takes action to stop such activity and, where private land was involved, to compensate the landowners for loss of timber from their land, it will be

¹⁵ This study did not attempt to verify the allegations on the ground, and they are therefore presented with no implication that they are true.

difficult for the Government to convince IDPs that they really were put in camps only for their own protection.

Being kept from land by the Government without clear reason The military strategy has been one of trying to cut off the LRA from the civilian population, to deny them food and the possibility of 'recruitment' through abduction and information. From a military perspective, it makes sense to close off areas to civilians although, the exact rules are not presented clearly for all to know. People who try to go to their own homes are told by soldiers that "they have no right to be here", which inevitably creates unease, especially when they see that other people (e.g. army officers, or some larger landowners) have been able to farm their land in security. The situation would be eased if there was recognition that unavoidable restrictions were being placed on people's rights, for example, by the Government paying compensation in accordance with the law..

The unending war The creation of camps was accompanied by a promise that the war would be ended within six months. People have now been confined to camps for eight years and there has been a widespread feeling among Acholi that there was no serious attempt by the Army to end the war. These perceptions are fuelled when the officers responsible for prosecuting the war are also spending their time in farming. The link is easily made: "the longer the war continues, the longer they will profit from our land". Nothing would solve the problem of fear more quickly than an end to the war and a return home.

Personal interests in land There are also instances of senior army figures pursuing interests in land in Acholi through legal means. There are reports, for example, that large plots have been purchased by individual officers. Even though these purchases are legal, they inevitably raise suspicion that the Army that should be winning the war is instead seeking to profit from it. The behaviour of one or two individuals has brought suspicion against the Army as an institution. It is surprising that the Army, if aware, allows its officers to act in this way when there is such a clear conflict of interest.

The fear of the people in Acholi over illegal grabbing of their land is further fuelled by a series of 'projects' or 'programmes' (proposed and implemented) with unclear objectives and legal implications.

- In 1998 a project initiated by a senior army officer gave loans to a group of farmers for mechanised farming in the Amuru area on 250 acres of land. The project was situated on privately owned land, without the consent of the landowner.

- In 1999 a proposal was distributed by a company for turning Northern Uganda into the breadbasket of central Africa, where it was stated "vast, highly fertile lands...are available for large scale grain production". Again, this caused much mistrust among many Acholi, as many specific areas of land were mentioned without any contact having been made with the clans to whom the land belonged to see whether the land would be available.

- More recently, a number of politicians proposed the 'Security and Production Programme' (SPP). The SPP has been piloted already in one camp (Awer) in Gulu in close association with the Army to assist IDPs to farm protected land around camps using mechanised farming, in order to improve their food security and to facilitate the job of the Army in protecting them. It is important to note that the programme was carried out on privately owned land with the full and informed consent of the landowner, although, as with many other projects, it was based on false premises about land in Acholi.

The SPP project document states "The project will make use of the communally owned land system predominant in Northern Uganda...All land which is not tilled, being grazed on or privately registered is customary communal land. The District Land Boards manage it on behalf of the people...SPP will work...to acquire certificates of communal ownership (sic) to the Security and Production Units". In short, what the statements mean is that land is not owned by anyone and therefore vested in the DLB, by virtue of the 1998 Land Act. As seen,

land is not owned communally, it does not have to be cultivated or used all the time to be owned, customary land is not managed by the District Land Boards, and acquiring a CCO, title or lease for land that already belongs to someone else is illegal.

This report cannot discuss the technical aspects of the SPP programme and all its potential impacts on the overall livelihood security of the IDPs. The political implications of the scheme are immense and it is no wonder that the project has created ripples of unease among Acholi to the extent that an NGO programme to provide mechanisation for a block farm in Palenga camp was feared by landowners because they felt it was part of an overall plan to grab their land.

Turning the camps into permanent settlements There has been talk from some in the Government about turning the camps into permanent urban settlements. This is bound to worry IDPs who only want to return home and who are eagerly waiting for their government to provide them with the security to enable them to do so. Some IDPs link discussion of urbanising the camps and AGOA¹⁶, because they feel that now they are supposed to undertake the kind of production the Government wants, rather than the farming they choose for themselves. There are genuine humanitarian grounds for wanting to turn the camps into better (temporary) places for people to have to stay and for wanting to help them earn some income from production while there, however, politicians need to be more sensitive to how people may interpret such discussions.

The investors are coming The constant talk of bringing investors to Northern Uganda has also created fear. It is probably true that few would fear investors if they were to approach clan leaders and discuss with them how and where they could rent or otherwise use land. However, suspicion has been created because it is believed that the Central Government brought investors directly to see land that the IDPs have been told they cannot access. If the Government were to make it clear that no investors will be encouraged to come until the IDPs have returned home, and then only with their consent, some progress would be made in easing this fear. Instead, the Government proposal to change the Constitution to allow compulsory acquisition for private investment is making the Acholi leaders, and many others, even more nervous and it is surprising that no civil society voices have been raised in alarm (see Chapter 5 for a further discussion).

Security roads In such a climate, even the construction of security roads can create fear. Many believe that the only reason to construct roads “which go nowhere, where there are no people” is to enable the Army to open up farms on their land. In Kitgum the researchers were assured that “Zzimwe Construction Company was busy farming other people’s land ‘for the Government’”. The researchers were not able to go to the Sudan border (Ngom Oromo) to verify, however, there seems no reason to doubt that Zzimwe’s activities were limited to the construction of the security road. Although some of the fears are unfounded, if there were not also illegal logging on private land going on in Ngom Oromo, and well-known cases of army personnel farming other people’s land, the fears may not have existed at all.

Verifiable threats to land

Ironically, what people fear most is not always the biggest danger. The people who have actually taken possession of other people’s land without their consent may be the least threat to the long term loss of land, since it is likely that they will have to vacate land if and when normality returns, even though illegal logging on private land has already meant the permanent loss of timber resources.

There are two other ways in which many people have lost their rights to their land that were not vocalised during group discussions, although individually they were recognised (see Chapter 5). Firstly the possibility that neighbours or relatives will take land,

¹⁶ AGOA, the African Growth and Opportunity Act is a US Government initiative to encourage production of certain products for US markets.

particularly from widows and children. Secondly sub county offices may be encroaching on private land, of particular concern in Pader District. This is because the area that sub county offices originally occupied was often administratively acquired before independence but without title. Since there have been no surveys, their borders are not well known, either to the sub-county themselves or to their neighbours (although if the old chiefs were alive they might know). In addition, the neighbours have been erroneously persuaded that if land develops into a trading centre it automatically becomes public land and therefore they may not challenge the encroachment.

The threat to women and children

The clan pressure against land sales (since “land also belongs to the future generations”) has so far succeeded in providing a good measure of protection for wives and children. The practice of wife inheritance also protected widows and orphans. There have been few cases of sales of land on which households derive their livelihood, despite the fact that the state judicial system does not provide any such protection. Also there have been no cases where the protection clauses of subsection 39 (making consent of the household members mandatory) have been applied. Since there is no obligation to register land sales under customary tenure anywhere, there is no way in which the consent clauses can be enforced. In any case, the study found no LCs who had any knowledge of these clauses, and when asked they argued that women do not own land under customary tenure and so cannot have such a right as only the clan elders have the right to stop sales. The 2004 Amendment to the Land Act, does not include the protection of children and orphans (unlike the original Act). The study came across many cases where orphans and widows have had their property illegally taken by relatives and both the clan and state judicial systems are failing to protect them. Several individuals had taken their cases to courts (LCs or magistrates), but, even where decisions had been given in their favour, there was no way of enforcing them.

Our father died of AIDS in 2000. His relatives began grabbing the land from my mother... [They] mobilised friends with bows and arrows, and chased us away ... My maternal uncle went to the LC, the police, to Kitgum Court and Gulu High Court. The police went to arrest the people who had chased us away, but they just ran away from the village. Then, when my uncle planted crops for us on our land, the relatives came back and destroyed what he had planted. My uncle gave up and now we are all in the camp. (girl, head of household of five children, Kitgum)

The case for compensation

As was shown at the beginning of the Chapter, almost all land in Acholi is owned privately by families, clans or churches. The clan-owned land, which is predominantly the grazing and hunting land, tends to be further from population centres, so it is inevitable that most IDP camps have been set up on land owned by individual families or, occasionally, by churches. There are also a few IDP settlements on land owned by sub-counties.

There has been little recognition of the fact that landowners have been forced to accept thousands of IDPs onto their land - either by circumstances (moral obligation) or by authorities (military or civilian). The IDPs have cultivated, built homes, constructed latrines and often buried relatives on their land. In addition, these landowners' contribution to the welfare of the IDPs goes unrecognised - even to the extent that some agencies have constructed boreholes and latrines on the land without even consulting them or asking permission. Although the humanitarian emergency gives a moral imperative to agencies to help IDPs, the legal rights of landowners are unchanged. No permanent structure, even schools, can legally be constructed on their land without permission (unless the land is bought from them, for as seen earlier, the State could use its rights of compulsory purchase, if it paid full market price for the land). Giving the landowners the respect of being consulted before any new structures are created need not be difficult.

Even the opposition which is sometimes faced towards the digging of latrines on land could often be solved if a negotiated solution were sought which met the rights, needs and fears of all parties.

The creation of camps has given a commercial value to some plots of land in the centre of what have effectively become trading centres, at the same time as it has caused poverty for many landowners and increased their need for alternative sources of cash. Inevitably some plots in IDP camps have been bought, often by people who have relatives (i.e. sources of money) elsewhere. These sales are perfectly legal transfers of ownership under customary tenure, and are accepted by customary rules as they take place in trading centres. The new landlords have on occasion tried to evict IDPs from the land that they have bought. There are instances of IDP huts being knocked down, which has caused great hardship for IDPs. However from a purely legal perspective, the landlords are within their rights, since they have no contractual relationship entitling IDPs to stay on the land. Although regrettable from a humanitarian point of view, the cases should be seen rather as an illustration of the fact that it is the State which should be providing them with a place of shelter, and that in the absence of any act of parliament granting the landowners compensation, it is actually illegal to force landowners to host IDPs against their will.

Land for constructing shelter is nearly always given to IDPs without payment, though there have been one or two camps where IDPs were charged for building huts. In one case (Bobi), the military and LC prevented landlords from continuing to charge. Agricultural land is rented out in most camps in Gulu, though in Kitgum and Pader it is usually given for free (local authorities declared it illegal to charge rent to IDPs in Pader). Again, though charging IDPs for using land when they have no alternatives may be seen by some as regrettable, it is unclear by what authority a district official or resident district commissioner (RDC) can declare such a practice 'illegal', which is in breach of the Article 26 of the Constitution.

More generally, questions are being raised about the rights to compensation of landowners whose land has been occupied by military units or by camps. Some landowners in Gulu have already begun seeking legal redress, though this has proved difficult for technical reasons. Although the violation of property rights by the State is a human rights matter¹⁷, the Uganda Human Rights Commission sent a directive to the Gulu office instructing it not to handle complaints relating to land, since these fall under the competence of the DLT. Unfortunately, the DLTs have not begun hearing cases, leaving the complainants in legal limbo¹⁸. The study did not encounter instances where people who have been displaced have sought compensation for being forced from their land, though their case for compensation may be more straightforward. The right to compensation for the different situations is now dealt with in turn.

j) Occupation of land by the defence forces¹⁹

Some private land has been taken over for occupation by units of the defence forces. This occupation is deemed to be temporary, for the purposes of either providing security to those in camps or for prosecuting the war against the LRA. Article 26 of the Constitution gives cases where the State can deprive people of their rights in land, which include for defence or for public safety. The occupation of private land by the Army or by civilian militia (Frontier Guards, Local Defence Units) is clearly justified under the Constitution. However, Article 26 goes on to add a further condition, which is that even where there are legitimate defence or public safety grounds, "the taking of possession [i.e. temporary] or acquisition [i.e. permanent occupation] of property is made under a law which makes provision for prompt payment of fair and adequate compensation" (brackets added). The

¹⁷ Article 17, Universal Declaration of Human Rights, to which Uganda is a signatory.

¹⁸ This is also a human rights matter. Article 8 of the same Declaration: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."

¹⁹ During the verification exercise concern was also voiced about compensation for trenches and security roads damaging land.

law that allows compulsory acquisition of land is the Land Acquisition Act (1965), where the procedures for notifying people about the intended acquisition of land are detailed, together with procedures for compensation - both in advance and on returning the land. The right to compensation of owners of land temporarily occupied by military forces is therefore very clear, and their compensation should not wait until the end of the war. One complication is that under this Act, the temporary occupation of arable land is limited to three years (Section 10(1)). The position may now be that older IDP camps are deemed to have been permanently acquired by the Government, in which case the full market value would be payable - though in that case landowners would then lose their rights of ownership. Amicable agreement between the two parties allowing the temporary occupation for more than three years should be possible.

ii) Occupation of land for camps

The difficulty with compensation for landowners of camps is that very different types of arrangement were made in different cases and the causes of displacement have also varied, from camp to camp, and even from IDP to IDP. In some cases, landowners were given no choice and nor were IDPs: villagers were simply ordered by the military into camps in designated places, usually trading centres. This was often the case for the early creation of camps in Gulu in September 1996. Such cases clearly fall under the same rules as those pertaining in cases of occupation of land by the military. The Government would no doubt justify its denial of property rights to the landowners on the grounds of defence or public safety, using Article 26 of the Constitution. However, in these cases, prompt and fair compensation is clearly mandatory, and the Government would presumably accept such a position. Even where rent is paid, the landlords would be entitled to the difference between the rent charged and the full economic value of the land, plus a payment for the damage of the land (loss of fertility through over use, or degradation as agricultural land through settlement).

In some cases, local authorities²⁰ actively sought places where they could create camps and requested the landowners' permission, on humanitarian grounds of consideration for their brethren. Where a landowner gave consent for the creation of a camp, would they be able to claim compensation? It is clear that on moral grounds the State owes these landowners some form of compensation²¹, if only an *ex gratia* payment (meaning that the payment is legally considered as a gift which does not admit the legal right of the recipient to compensation). The claim would be against the State or Central Government since the District Government is not responsible for security and so cannot be held liable for displacement. The political wisdom of offering some form of compensation of *ex gratia* payments also seems obvious. The legal claim to compensation is complicated by the fact that in most if not all cases, agreements were verbal and there is no written proof of terms and conditions that were specified in advance. If landowners simply were not informed that they could be entitled to compensation, then they could argue that the State had a duty to act in good faith by informing them of their rights to compensation, and that to ask them effectively to waive their rights by not informing them that they had rights was tantamount to a breach of trust. Secondly, it would be hard for the State to argue that the lack of precise terms to the verbal agreement was equivalent to a landowner signing over all rights to their land in perpetuity if necessary. It should be remembered that in 1996 at the time of forced displacement, the Government promised that it would end the war within six months. It would therefore be reasonable for a landowner to believe, when making a generous offer of the use of his land, that such use would be confined to the period of six months. If one accepts that the landlord's consent to the camp was informed, in the sense that he knew he was waiving his legal rights to compensation, he would be entitled to compensation for the period of the occupation of his land, less the first six months that he had offered freely.

²⁰ often the RDC, who is the overall responsible for security in a district

²¹ This does not imply that the LRA bears no moral responsibility for causing the war.

Not all the people in the camps were forcibly displaced by the Army or Government. Some fled because of insecurity, and fear of attacks and abductions by the LRA. What is the position of the camp landowners where their land was occupied in this way? The displaced cannot be held liable for their own displacement, since the displacement was not voluntary and insecurity constitutes *force majeure*. It would be futile to argue that the landowners should sue the LRA, whatever moral or legal responsibility the LRA actually bears for the suffering caused by the war. It would also be politically and morally unpalatable to argue for moral or legal equivalence between the responsibilities of a legal Government and those of an illegal rebel group. The Government of Uganda rightly does not hold itself to the same standards as those of the LRA, and rightly claims rights and obligations as a legal sovereign Government. The Government has a duty to protect its citizens. Where it fails to do this, or where it deploys its army in such a way that citizens are not offered protection in their homes, then it has a duty to help them find alternatives. Since those alternatives involved trespassing on other people's private property, it seems that there is a case for saying that the Government has a duty to compensate the landowners of camps, even in cases where the Government did not itself direct villagers into those camps.

iii) Loss of rights to land through forced displacement

Most IDPs were ordered out of their villages by the security forces to enable them to prosecute the war against the LRA. This paper does not look at the position in international law of forced displacement, only at land rights within Ugandan law. It is clear, as we have seen above, that depriving people of their rights to property (by preventing them from using it) is allowed under the Constitution on grounds of defence or public safety, but that compensation is required. Most IDPs today in camps are not allowed to return to farm their own land by the military if it is more than 1-2 km from the camp, in order to deprive the LRA of food (see Chapter 3). Many others have had taller crops (e.g. cassava, maize) slashed, where these could provide cover for LRA ambushes. Others have had their trees burnt, where the military have set fire to grass, again in order to prevent LRA ambushes. It could be argued that the action by the military in depriving people of their rights to property (which would include rights over crops and trees on their land) could be justified constitutionally on the grounds of defence, but only if it was carried out with prompt and fair compensation. Thus their case should be relatively straightforward.

People who were displaced through fear of LRA attacks and who are not prevented by the Army from returning home to cultivate their land, but are prevented only by fear of LRA attacks are in the same position as landowners whose land has been settled by IDPs who fled insecurity i.e. arguments would have to be made regarding the Government's duty to protect its citizens. Natural justice would of course demand that all IDPs were treated equally, rather than trying to establish on a case-by-case basis why exactly each IDP had fled their home. If the Government were to seek an amicable settlement rather than contesting action in the Courts, it could almost certainly settle for some token *ex gratia* payment. In this case, it would be advisable to include all IDPs rather than trying to establish who forced each one from his or her home. The *ex gratia* payment would not commit the Government to any further liability, and the size of the payment could probably satisfy the feelings of the displaced without creating a significant problem for the Treasury.

Time limit for bringing actions

No claim can be brought to recover land more than twelve years after such a claim could first have been made²². More worryingly, the limit for bringing an action for compensation seems to be six years from the time the "cause of the action" arose²³. Many cases arose in September 1996, which is already more than six years ago. Further, more specialised, legal advice would be needed to know how these cases can best be pursued²⁴. However, if the Government were to seek an amicable settlement, this condition need not be invoked.

²² Limitation Act, 1959, section 5

²³ Limitation Act, section 3, (1d).

²⁴ It could be that a continued denial of rights in land means that compensation could be sought for a period of no more than six years or that actions of this nature are not covered under 3 (1).

Does respect for legal rights matter in the middle of a humanitarian disaster?

Some people may find it irrelevant or even absurd to argue about legal property rights of IDPs in the middle of such a humanitarian catastrophe, where rights to water and health care are far more important. Others may question whether it is constructive to be arguing that they should be taking the Government to court in a situation where relations between the Government and the people are already strained, and where the Government is fighting a difficult war to enable everyone to go home permanently to their land.

Firstly, the urgency of the humanitarian situation should not be denied. On the contrary, both governments and humanitarian agencies should take as a starting point that citizens have rights, and that even where they have to be displaced, their basic rights including that to own property remain unchanged. A defining feature of legitimate government is precisely whether or not they rule in accordance with the law and with respect for their citizens' rights and the Constitution of Uganda specifically gives an obligation even to the Army to respect people's rights in everything that they do²⁵.

Secondly, the financial imperative to pay compensation specifically linked to loss of land would encourage an approach that did everything to maximise IDPs' access to land. If all IDPs could be given adequate land, for which the Government paid the market rent to landowners, and proper protection could be provided for the IDPs to farm this land, then the compensation to IDPs for displacement would be minimal. Having to make those calculations would concentrate attention on achieving such objectives, and place responsibility for achieving them in the right place.

Finally, it is important to see that making a claim for compensation from a government is not in any way being opposed to that government nor is it to argue that the government's actions were wrong or unjustified. On the contrary, by accepting rights to compensation the Government would make a huge stride in demonstrating to the people in the North that their rights are as important as everyone else's and the Government takes seriously the rights that the displaced have had to forego. This recognition and recompense would be a great step towards rebuilding trust and good relations, beginning a process of national reconciliation and at the same time making a contribution towards rebuilding people's livelihoods.

Could the Government afford the compensation required?

If one accepts that providing an IDP household with two acres of secure land within a reasonable distance from a camp would be an adequate substitute for compensation, then the Government would only have to pay the rental value of this land to its owners. Rents vary from camp to camp, but \$10/acre per year (Ush15-20,000) would be an average figure. Excluding the landowners who have retained access to their land, this would require around \$3.5million per year. An additional sum in compensation to landlords would still be owed to cover the longer-term degradation of their land, particularly where settlement took place. In all, the total would still be somewhat less than the figure devoted to the North from Government programmes such as Northern Uganda Social Action Fund (NUSAF) and the Northern Uganda Youth Rehabilitation Fund. Such a sum could probably be reduced considerably if good will on the part of all sides were sought: in exchange for acceptance of their rights, landlords would probably be prepared to accept a reduced rate of compensation. Elders and religious leaders may be able to act to persuade all sides to accept a reasonable compromise. It should not be underestimated how much of a contribution this could bring to the political stability of the North through transforming the relations between the Acholi displaced and the Government.

²⁵ Article 221.

CHAPTER 3: SECURITY, ACCESS TO LAND AND FOOD SECURITY

This chapter looks at how security issues affect the IDPs' current access to land, and the impact that this in turn has on their food security. Other important aspects of food security, including gender power relations, are also examined as well as current and likely future trends.

Security

[It must be noted that although every effort was made to understand the security situation from all perspectives, there was an understandable reticence in the Army to discuss security matters. All the detachment commanders who were approached said that they were not allowed to talk. In some cases, this means that part of the story maybe missing. Wherever findings were based only on specific informants, this has been indicated.]

The security forces

Nearly all the camps are currently situated next to a military detachment. In some cases, the detachments preceded the camps that arose as IDPs sought security from the Army. However, the protection role is not straightforward. Some army units are given the role of providing protection to specific camps, which they succeed in doing to a greater or lesser degree. Other units are regarded as 'operational' units, whose presence next to a camp is regarded (by the military) as purely coincidental. These units apparently have orders to prosecute the war against the LRA, but have no explicit role in defending the civilian population²⁶. IDPs in several camps, including LCs and camp leaders, reported that when they ask for protection from such detachments the commanders explicitly tell them that they do not have an obligation to deploy their men to protect their camps, even in reaction to an actual threat. Camps have been attacked which were just 1 km away from an army detachment. Furthermore, these units are deployed according to strategic demands, which means that they have sometimes been redeployed away from the civilian populations - who then remain without any protection. Apart from the obvious peril and loss of life that this causes directly, it has also led to some difficulties in planning emergency responses.

Camps are now divided into those which are called 'gazetted' and those which are 'ungazetted' - though the term is misleading since there is no gazette in which camps are officially recorded, and the legal status of all of the camps is exactly the same.²⁷ The Army considers that it has a duty to protect civilians in 'gazetted' camps, but not those in 'ungazetted' camps, since the units at the latter may need to be redeployed without the constraint of a protection mandate. As a result, the security authorities try to prevent systematic food aid from being given in 'ungazetted' camps²⁸, because they fear that this will attract more people to settle in camps where they are not in a position to guarantee security. This is a humanitarian catastrophe for many thousands of people in 'ungazetted' camps, but it has its roots in two problems that affect the lives of all IDPs:

- The protection of civilians is not always seen as the primary duty of the Army, which separates this role from that of winning a war.
- The State is not clearly accepting its responsibility for protecting civilians, which prevents the formulation of a coherent humanitarian and protection strategy.

²⁶ The most well-known incidence of a unit that had its role tested in this way is Barlonyo, in Lira, where over 300 people were killed in 2004.

²⁷ In September 2004 this difference was abolished when it was publicly stated by the GoU that all camps have equal status.

²⁸ In some ways this parallels the pre-2002 position where food aid was not being given by the UN to camps which had been set up spontaneously, but only to those which the army had itself ordered created. However, both the security and food security situation are far worse today, so the humanitarian situation is not necessarily comparable.

The civilian militia

One response to the limited capacity of the Army to both fight an offensive war and protect civilians has been the creation of local militia that are responsible for guarding the camps. In theory this has often appeared an attractive alternative, as these militias could not only provide protection against attacks on the camps, but also provide protection so that people can access fields outside the camps, making a crucial contribution to food security.

In a few camps, these militia, known variously as Home Guards, Frontier Guards or Local Defence Units (LDUs), have proved popular and seem to have made a real contribution. However, in most cases their creation has proved problematic on a number of levels.

On a purely practical level, the level of training and the weaponry given to LDUs has often proved insufficient for them to resist attacks by the LRA. The level of protection that they offer has therefore not always proved to be sufficient. This is exacerbated by unreliable pay and supervision, which leads some to leave and others to lose morale. In many camps there were stories²⁹ of abuse of IDPs by the LDUs themselves - including frequent theft from fields (an accusation also made against soldiers), physical abuse, rape and extortion. In one camp visited, a meeting was being held to discuss the problem of the murder of one IDP by an LDU member because of a quarrel over a woman.

A much greater threat comes from the fact that the Army regards the LDUs as its own reserve force, and frequently redeploys them according to its own perception of needs, which do not necessarily prioritise the protection of those civilians whom the LDUs were recruited to protect. Many thousands of LDUs who had been recruited from Acholiland over the years have been redeployed, and no one seems to know exactly what has happened to them (these problems are not confined to Acholiland). Many are believed to have died in military service, including in the Democratic Republic of Congo, but since they were never properly recruited into the UPDF, the Army apparently does not keep records of them or take responsibility for their bodies if they die.

Underlying many of these problems is the legal void surrounding the LDUs themselves. Who is responsible for their welfare? Who has the right to deploy them? What rights do the LDUs have to accept or refuse an order to be redeployed? Who is supposed to keep records of LDUs recruited, their deployment and their eventual fate? Those volunteering for such militia do not think they have volunteered for the Army and it is unclear on what legal basis the Army can treat them as its reserve³⁰. These questions raise many important human rights issues that are beyond the terms of reference for this report. However, establishing a clear chain of command for LDUs, responsibilities for their management and supervision, and accepted procedures for redeployment remain issues of central importance to land access in camps and potentially in home villages. No actor can coherently address issues such as food security through production, IDP protection or camp decongestion until there is proper clarity on the status of militia forces regarding redeployment.

Land availability and access

The importance of land

First and foremost, land is necessary simply to live on. This is a dimension that should not be forgotten when analysing displacement. All IDP households are now forced to live in conditions that would have been unacceptable even for the poorest in their villages, as they are usually limited to land for just one hut in the camp itself. This means that parents

²⁹ This study did not attempt to investigate any such cases. No implication is meant regarding the truth or otherwise of these allegations, which are presented because they were frequently made and so represent a genuine fear.

³⁰ The UPDF Bill, which is not yet law, will not make it entirely clear either, though it suggests that any forces trained by the army could be considered as a UPDF reserve. More debate on the implications of this small clause in the UPDF Bill No. 22 of 2003 is necessary.

have to sleep together with children, men and boys with women and girls³¹. The physical closeness of the huts means that fire spreads rapidly, and the homes (and all the possessions) of tens of thousands of IDPs have been destroyed in the last year alone. School conditions are so cramped that it is hard for the teachers to give any sort of education to even the low proportion of children that still attend. Land for latrines is usually unavailable, partly because of congestion, partly because some landlords refuse to allow latrines to be dug on their land. It is hard to calculate what the cost of this situation is in terms of human life, since no information is available on causes of death. One study (ACF,2003) showed that the mortality rate for children was well over the threshold for defining a humanitarian crisis with death rates for under fives were 5.67/10,000 per day (a rate of just 4 is considered an emergency).

Restrictions on land availability is usually seen primarily as an economic problem and although land is important for other reasons, access to land for farming is the key determinant of economic well-being - indeed survival - of almost all displaced households. Despite everything, agricultural production remains the main source of food, other than food aid, and the most important source of income - which is more indicative of the lack of alternatives than of the scale of production. Apart from land for farming and shelter, IDPs also need land for keeping and grazing livestock, and for burying their dead.

The majority of IDPs in most camps do have some access to land for farming, within a 'safe radius' around the camp, which is typically about 2km. Although, it is difficult to establish reliable figures for those without access to land, it is even more difficult to establish just how much land people do cultivate. Apart from the usual difficulties of respondents trying to second guess the purpose of the question (saying the land is bigger to get more seeds or saying it is smaller to avoid the risk of losing food), it is almost impossible to establish areas accurately with a simple question. Many IDPs were able to give us areas very easily in acres - but closer questioning revealed that what they call an 'acre' could be three, four or five times more than a standard acre. The local measurement of area is the *katala*, which is used for setting the rates of pay for agricultural labour on piecework, but even this varied enormously from camp to camp. The *katala* is measured out by using a stick (*tal*), which in theory is six foot long (1.80m) - though in practice we measured them at anything up to 2.2m. Most people were able to report very easily how large their plots were in terms of how many *tal* by how many *tal* - but they would often talk of metres and *tal* interchangeably, and only when abnormal measurements arose could the switch be determined by further questioning. As a result the figures from the questionnaire cannot be considered as reliable, and it may be that others too have faced similar problems in ascertaining land size.

In a questionnaire administered to 870 IDPs, the number of those who have no access at all to land was 13% overall - just 5% in Gulu, and 16% in Kitgum. It should be noted that, (as discussed in Chapter 1), the sample was not randomly generated, and so may not be entirely representative of the overall IDP population. Nevertheless, the figure corresponds well with most informants' overall impressions. Although it may appear encouraging that 87% have some access to land, many have extremely little land for cultivation, as the table below shows.

Table 1: Land farmed by IDPs from July 2003 to July 2004

	Gulu	Kitgum	Pader
no land	5%	16%	11%
less than 0.1 acre	18%	34%	16%
less than 0.25 acre	30%	50%	23%
less than 1 acre	44%	72%	48%

³¹ In Atiak camp, many IDPs even have to pay rent to stay in huts, since there is no space for them to construct their own shelters.

Establishing an overall average is rather harder as the higher figures for land holdings are more likely to be due to reporting errors, particularly on units. Seven percent of respondents reported that last year they cultivated plots of over 7 acres, 4% reported having cultivated more than 10 acres, and several people said they had dug over 20 acres. Although removing outliers may be distorting, it was felt that the most reasonable estimate could be made if all the data was removed from six of the camps³² where the numbers were felt to be particularly unreliable, and then to remove (somewhat arbitrarily) any individual figures over 7 acres. On this basis, the average area cultivated last year was 1.25 acres. It should be noted that overall averages are in any case of limited value due to the large variation between camps, for example, in a camp such as Agoro, all IDPs are virtually without land: treating them as though they could all farm 1.25 acres would not be very helpful.

What determines how much land can be farmed?

The area of land which an IDP family can cultivate depends on two kinds of factors: those which affect the availability of land (how much land can be cultivated overall) and factors affecting an individual IDP household's access to what land is available (e.g. whether they have money to pay rent). This means that the land an IDP household can use varies greatly from individual to individual, and from camp to camp.

Land availability

The following are the main factors affecting the land available for IDPs to cultivate:

(i) Security forces and the safe radius

Most frequently the military were involved in the actual displacement of much of the civilian population into camps. In other areas, such as Omoro county in Gulu, it was their withdrawal and redeployment from the rural areas that caused the security situation to deteriorate to the point where the population was forced to flee. There have also been periods when the security forces have brought an improvement in the security situation, which increased access to land.

Increasingly, land access is being determined through a choice in military strategy, though this has rarely been made explicit (except to IDPs, who often receive orders from the detachment commander). The strategy, which is being credited by the authorities with weakening the LRA, is of denying the rebels easy access to food. This policy is believed by many to be an important factor in the recent spate of desertions from the LRA. It is also believed to force the LRA into taking ever-increasing risks in order to find food, forcing them into confrontations with the Army. The policy is enforced by preventing the IDPs from growing food which could easily fall into the hands of the LRA: this means that IDPs are usually not allowed to cultivate certain crops, in particular cassava (a favourite of the LRA) and they are often prevented from cultivating land far from the camps where the LRA could steal the food without the Army being able to engage them. This has applied both to land in IDPs home villages and outside a given radius (usually of around 2km) from the camp.

The 'Security through Production Programme' (SPP) attempts to turn the camps into secure 'units' for production. The diagrams accompanying the proposal (GoU, 2003d) may reveal more than the text: they show production taking place within a cordon of military units, but not outside. It is hard to know whether this reflects the latest thinking on strategy: is the safe area to be gradually reduced to one where the Army can patrol outside the fields to keep the food from the rebels as much as to keep the rebels from the people?

Although political and military leaders will openly talk about the success of the current policy, there is more reticence about its implementation, and it is far from clear where

³² Cwero, Opit, Padibe, Pader, Acholi Bur and Patongo

such decision-making takes place. The treatment of IDPs who are 'caught' returning home varies from camp to camp and even from unit to unit and in general, the policy seems to be more intensively applied in Kitgum and Pader than in Gulu.

Beyond the overall directions of military policy, the exact 'safe radius' for cultivation in any camp depends upon a number of specific factors, such as the security situation in that area (only partly in the control of the security forces), the topography, the decisions of local unit commanders and the behaviour of different local units. Despite the dependence of the IDPs on the security forces for their most basic necessity (land), few fora exist for IDPs to meet and discuss matters with army commanders. In theory, an individual IDP can approach a detachment commander with a problem, but it is obvious that such approaches are limited to rare cases, such as requests for burials. Routine matters and problems have no place to be aired. There are also few mechanisms at district level for the local authorities (such as the DDMC) and humanitarian agencies to coordinate approaches or to raise problems with the military leadership. Until August 2004 there was only one officer in charge of civil military liaison in the whole of Acholiland. This number has now been increased to three, but uncertainty about their place in the overall chain of command still exists.

The 'safe radius' around the camp is what determines how much land is available to cultivate. In some camps, the radius was self-imposed, because this was the point beyond which IDPs would not feel safe from LRA attack. As IDPs would not cultivate beyond this point, bush would grow providing cover for a surprise attack, thus reinforcing the belief about what was safe.

As the 'safe radius' is now more often being determined by the military, this means ironically that although the security in Acholiland has improved over the last few months, the accessibility of land has actually decreased and IDPs are more and more confined to their camps.

We were all called to a meeting and told by Major X that we were no longer allowed to cultivate land beyond 1km from camp. We were told that if we did, we would have to cut down the crops ourselves. That way, we would not be able to report it to anyone. (IDPs, Kitgum)

The IDP's behaviour then has to be based upon an analysis of risk from two sources: the LRA and the Army. In some camps, if the Army finds an IDP going to their fields, they may not take any action if they see who it is and what they are carrying. Other soldiers and units behave differently. IDPs may be at risk of a beating, of being killed as a rebel or rebel collaborator or of being raped.

The importance of the safe radius is graphically illustrated by the two tables below. Extending the safe radius by just 0.5 km would give over half an acre to every household in a camp of 15,000 - doubling the land that around half the households are currently able to farm. Repeating this in fifty camps would make available an extra 90,000 acres. A conservative estimate is that this would be enough to add an extra \$20m of production a year, or \$100 for every displaced household in Acholiland³³. This is equivalent to the current total earnings of around half the displaced households and is four times more than the total money available from NUSAF and nearly ten times the money disbursed by NUSAF in 2004.

³³ The income from 1 acre of land is based on data in a household economy study in Gulu last year. (SC-UK, 2003)

Table 2: Increase in land available per household (in acres) from an expanded safe radius for a specified camp population³⁴

		Camp population				
		2,000	4,000	8,000	15,000	30,000
Increase in safe radius	0.25 km	2.16	1.08	0.54	0.29	0.14
	0.50 km	4.54	2.27	1.13	0.60	0.30
	0.75 km	7.13	3.57	1.78	0.95	0.48
	1.00 km	9.94	4.97	2.49	1.33	0.66

Table 3: Increase in total land available (in acres), from an expanded safe radius in a specified number of camps

		Number of camps				
		10	20	30	40	50
Increase in safe radius	0.25 km	8,635	17,270	25,905	34,540	43,175
	0.50 km	18,142	36,284	54,427	72,569	90,711
	0.75 km	28,522	57,043	85,565	114,087	142,608
	1.00 km	39,773	79,547	119,320	159,093	198,867

It is unfortunate that there are no fora where the 'safe radius' is ever discussed openly, giving a chance for a constructive discussion with all stakeholders (the Army, Local Government, Central Government, the Prime Minister's Office, humanitarian agencies, local leaders and most importantly the IDPs). The researchers tried to find out what exactly were the constraints, either in general or in any specific camp, which prevented the safe radius from being extended by even half a kilometre. However, the security forces did not feel able to discuss such matters. Could each stakeholder make a contribution to increasing the radius? Could something be done at camp level, between the detachment and the IDPs? Could something be done at a higher level? The 'safe radius' determines how much land is available and this determines the food security and livelihoods of the IDPs, and it should therefore be a topic on every agenda relating to the humanitarian situation in the North.

(ii) The security forces and roads

Food security and land access depend on other factors relating to the security forces. In some camps, IDPs are encouraged to cultivate along the roads, provided that no tall crops (which could provide cover for ambush) are grown. Often the IDPs need no encouragement, once security along the road is seen to be maintained. For example, the Palenga programme was set up a few kilometres from the IDP camp. Since the road to the project site was being patrolled, the landowners along the road leading to the camp all began to cultivate their fields for the first time (though they had to abandon them before harvest, when the project closed and security was withdrawn). However, in other cases, roadside cultivation proved dangerous. The LRA realised that the army patrols only moved along the roads, and knew the time of their movements. When farmers were ploughing their land with cattle, it was easy for rebels to see where work would begin the next day, and so prepare an ambush to steal their animals, far enough from the road itself to be safe from army engagement.

In other camps, where the same permitted or 'safe radius' from the camp applies equally to the road, it is unclear why the practice of roadside cultivation is not more generally encouraged (subject, of course, to negotiation with the legal landowners). Movement along roads is restricted by army check-points, at which everyone³⁵ may be stopped and forced to

³⁴ This assumes a 1km diameter for a camp, an initial safe radius of 2 km and five persons per household. This is a mathematical calculation only, and does not imply that the land would actually be available for use. Areas taken up by paths and roads are marginal and are ignored.

³⁵ In Pader, women are sometimes exempted.

‘slash’ the tall grass beside the road (in fact, what is described as ‘slashing’ is usually just beating with sticks, so the grass springs back by the next day when it needs to be ‘slashed’ again). These roadblocks are a serious constraint to movement - some of the interviewees reported that they were stopped thirty two times in a single day, on a trip between their camp and the district town. Although such forced labour is, of course, illegal³⁶, the cost of refusing is either a beating or a two thousand shilling ‘fine’.

One time I had my child admitted in hospital on a drip and I was rushing home to get help. I met a drunken soldier and when I tried to explain why I could not stop to slash grass, he beat me on the ear. You can still see the scar. (Female IDP, Gulu)

It is unfortunate that a consistent policy of security for roadside cultivation cannot be developed, as this would remove the need for the Army to behave unlawfully by demanding forced labour, and provide IDPs with more land for cultivation.

(iii) Available government land

There are sometimes areas of Government land adjacent to camps. Where this land has been cleared, reducing the fear of ambush, IDPs are often able to cultivate plots that are a little further from the camp. The most striking example is the old state farm land around Pabbo, which has ensured that even though Pabbo is the largest camp, people there have better than average access to land.

(iv) Distance of displacement and level of need

Many IDPs take risks to return to their villages to gather firewood or crops, particularly those that had been left wild (e.g. cassava, which can be harvested even after several years), or mangoes, which are an absolutely crucial source of food at the hungry time of year. However, many of these crops have been destroyed - either looted by LRA, cut down by the Army to deny the LRA food, or burnt when the Army sets fire to tall grasses to remove potential cover for the LRA. Over the last two years, however, few people have been able to go often enough to be able to cultivate, as this requires visits at the right times for land preparation, sowing, weeding and harvesting. An additional difficulty is that the Army often places restrictions on the hours during which IDPs are allowed to be out of the camp. Sometimes they have to be back as early as 2pm, or they risk a beating (or worse), which limits the number who can venture back home to farm and the amount of land they can cultivate.

Whether or not people will risk returning to their homes, therefore, depends upon many things such as the level of security in camps and the behaviour of soldiers, the distance one has been displaced and the level of need. On average, IDPs who managed to visit their homes during the previous twelve months had been displaced around half the distance of those who could not go home (just 4km from their homes compared to 7.5km).

Table 4: Percentage of IDPs returning home at least once during the last year, by distance of displacement

Distance displaced	IDPs accessing their homes
up to 3 km	61%
4 km	34%
5 km or more	23%

All IDPs talked about how dangerous it could be to ‘sneak’ back home. No information is recorded on the number of people who do not return, but reports were received of 121 people who had been killed between January and August 2004 in just nine camps. Taking the risk to go home is therefore an indication of dire need - either for food, for firewood to cook food or, more rarely, to make charcoal for sale.

³⁶ and even unconstitutional as per Art.25(2) of the Constitution.

(v) Willingness of landlords to provide land

It is still not always recognised that there are people, usually living in the camps, who actually own the land around the camps. These landowners may cultivate their land to some degree, or may use it for other purposes for example grazing or for fallow. Most feel obliged to make some of their land available to other IDPs, either freely or through rental, sometimes giving preference to friends or relatives, although it seems that there are some areas of land that are not being used at all. A systematic attempt to analyse this issue, by mapping areas of unused land and contacting landlords, would be very useful. This would normally be the responsibility of the DDMC with the help of the Office of the Prime Minister.

(vi) Projects and other support

Besides land around camp and along the road, a few IDPs are given other land through projects, from churches etc. Although not all such projects actually make more land available, i.e. improve the food security situation as a whole, if the land that the project employs would have otherwise been used by IDPs. It is important to put the scale of project support into context. There were at least three initiatives to help provide land (see below) one in Awer, run through the District, one in Palenga, through an NGO, and a faith-based NGO in Gulu, which helped, make mission land available. The total area of land made newly available by all these initiatives was around 1,000 acres. This would only be enough for a plot of some 5m by 5m for each IDP household in Acholiland. From the analysis above, more than twice as much could be added to the total available by increasing the safe radius in just one camp from 2km to 2.5 km. This comparison should not detract from the importance that the project or church assistance has had for individual households, but it illustrates how the wider problem can be addressed by structural changes in camp management, rather than project activities.

Access

There are various barriers to accessing available land, which in effect serve as different mechanisms for allocating land among IDPs:

(i) Ability to pay rent

In some places, IDPs with money can rent land at around Ush15,000 for one acre for a year, whereas in other places it is made available freely. In general, renting is more common in Gulu, with no charge being made in Kitgum. Most landowners want cash in advance, rather than sharecropping agreements. In some cases landlords charge rent and also take a share of the harvest. Duration for the rental period ranges from a 'cropping season' (3-4 months) to one year, although in Pader there are some landlords who rent for two years. There are usually conditions that IDPs cannot cultivate crops that would extend beyond one season or one year, which makes cultivating cassava impossible for most IDPs even before the stricter security rules against cassava were imposed.

It was impossible to find out the extent to which the landless were unable to pay, and to what extent they simply could not find a landowner willing to rent land. Many claimed that poverty prevented them from renting, but it is hard to know whether or not to accept this at face value. The lack of sharecropping agreements, which are common when there is no money up-front to pay rent, suggests that most available land is being rented out, and therefore those who cannot pay up-front are being squeezed out of the market.

(ii) Landlords respecting agreements

The relationship between the landowners and tenants is not always a cordial one. It was common for landlords to rent out land that had remained fallow for just one season, after which they would then take possession of land that was now easy to farm, or for landlords to keep the most fertile land. This behaviour is fairly normal among landowners in Uganda and, though it makes life more difficult for tenants, it does not constitute cheating or illegal behaviour. However, many tenants, especially in Pabbo camp, complained of the

way landlords failed to honour their (verbal) contracts. Landlords would sometimes 'share' their produce with them (i.e. steal their harvest) and sometimes they would simply evict a tenant without refunding the rent or compensating for the crops growing in the fields, giving the same land to another renter. It is hard to quantify how frequently this arises. One LC1 told us that he had received 20 such cases in the last year and he was only one of 7 LC1s in a camp of 7,000. If each LC1 had the same number of cases, this would mean that there were 140 tenants who had been cheated in just one year, out of around 1,400 households (i.e. 10% of all potential renting households). This problem is probably a serious constraint to food production for a significant number of people - a far more frequent constraint, for example, than lack of seeds.

IDPs are limited in what they can do when such cases arise. It does not always help to go to the LC1 as rental agreements are not normally written down, and so there is no proof of what was agreed. Although one LC1 simply asked the landlord why he had sat and watched an IDP dig on his land for weeks before taking action to evict him if there was no rental agreement. Sometimes, there is a suspicion that the LC will not want to act against landlords since he himself usually needs to rent land and dare not jeopardise his position with landlords and many IDPs cannot afford the fee that they may be asked to pay for taking a case to the LC1.

(iii) Clan relations with landlords

Where land is rented or given freely, access may be facilitated by relationships with landowners, so that those with no relations in the camp are more likely to be excluded. The study's attempt to quantify to what degree membership of the same clan as the camp landowners affected areas of land cultivated had to be abandoned (see Methodology). However, most informants in Gulu reported that clan relations mattered little in gaining access to land whereas in Kitgum more informants believed that it played a role.

(iv) Personal bargaining power and gender

Those who do not have relations with the landowners in the camps may need some other 'personal' persuasiveness. Such individual abilities to persuade people to rent them land cannot easily be analysed, but one factor may be important. The statistics on land cultivated from the study questionnaire are not reliable enough, but in some camps there are indications that female headed households on average cultivated around half the land cultivated by male headed households (several very large numbers within the smaller sample of female headed households makes the overall average difficult to interpret). If this is true, it cannot be explained by the fact that they have less labour available, since the areas cultivated (under half an acre) are so small that labour should not be a limiting factor and this fact was not referred to by any others. It is possible that most landlords (men) are simply more likely to let out land to other men than to women or women are less able to pay rents. Children headed households were almost all landless, which may be a more serious problem, or may be because they are in school or prefer to engage in other income generating activities. Given that child and female-headed households reportedly constitute almost a third of all IDP households, the problem is worthy of further study, as the finding suggests that the single biggest constraint to the most vulnerable households may be a gender problem that has gone unrecognised.

(iv) Projects

As mentioned previously, a few projects have helped individual farmers gain access to land, though their relative importance has been marginal. The IDPs relationship to the project owner can be a critical factor in such cases. In general criteria for choosing project beneficiaries in camps has been very un-transparent. For the Palenga project, local leaders (*Rwodi Kweri*) chose a set number of beneficiaries from among their households by drawing lots, which had the advantage of being transparent. In Awer, most IDPs did not know how to join the project, which was reported to be in the hands of the controlling IDPs. These were the first IDPs to join the project, and there is no clear story on how they came to be selected or to select themselves.

Land and food security

In order to examine the implications of the land situation on IDP's food security it is important to recognise that food security relates to access as well as availability of food. The access issue is particularly crucial for examining issues of equity as even if there is enough food overall, some people are still likely to be food insecure.

The impact of limited access to land on the food security of IDP households

Recent studies (SCF-UK, 2003; WFP, 2004a) have estimated that with 0.5-0.75 acre, a household can produce no more than a quarter to a third of their food needs. This has been affected by the fact that the soils around the camps have been progressively degraded over the past years of displacement. Yields have fallen sharply, and there is a serious problem of striga³⁷ especially in Kitgum. Another problem is the restriction by the Army of the types of crops that can be grown, which is increasingly preventing the cultivation of tall crops (sorghum, maize and cassava) around camps. These are the most desirable crops in terms of food security, particularly cassava which has a very high yield per acre (over 3 times the calories of maize even with poor yields), is drought resistant and can be harvested as and when necessary. Unfortunately, a combination of LRA theft, landlord conditions and army prohibitions have ruled out this crop for the majority of people, although one in eight IDP households still grows cassava and nearly all ranked it as either their first or second most important crop.

Even with food aid and the little food produced for consumption, households still need money to buy extra food to survive. The studies mentioned above agreed that households spend around a third of their income on food. The rest is needed for medical care, education (books, pens) and household items such as cooking pots, salt and clothes. However, the restriction on land has also limited the opportunities for people to earn money through agricultural labour (*leja leja*) usually the main source of income. A study in Gulu (SCF-UK, 2003) showed that agricultural labour now provides less than a third of the income of the most needy households, which was found to be less than half the amount necessary for their barest survival needs even after receiving food aid. People are therefore forced to earn money by other means such as risking their lives to go into the forests to collect firewood and make charcoal. This was confirmed by another study (WFP, 2004a) showing how the dependence on such risky activities was greatest in camps with least availability of land. Needless to say, it is the poorest, particularly women³⁸, who have fewer income generating options and therefore take the greatest risks. The problem with a lack of income earning opportunities from agricultural labour is one reason why mechanisation schemes, which further reduce labour opportunities, should be questioned (see Chapter 4).

Some IDPs have small amounts of capital that can be used for making money - cash for trade, animals that can be hired out for ploughing, bicycles that can be used for transport. However, most IDPs now have nothing except their physical labour to sell, and so depend upon the exploitation of natural resources (selling firewood, making charcoal, selling grass for thatch) and other non-agricultural labour, such as carrying water and making bricks from which they can typically earn around \$0.50-0.75 per day and some people make mats or pots, though demand is limited. One of the most important income sources is brewing, though a great deal of the alcohol consumed in camps is not brewed locally, but brought in from as far as Lira. A few projects have helped to provide some work opportunities: one NGO constructed roads in Gulu and rotated its workforce to give more families the opportunity to earn money. A few food for work projects have been carried out, though these are obviously less popular in camps that are already receiving a full food ration (see Chapter 4). In one camp not receiving food aid, many IDPs said that the camp had only

³⁷ A parasitic weed which lives off the roots of sorghum and a few other crops. It is normally only a serious problem when soils become infertile.

³⁸ Women ranked natural resource exploitation (i.e. firewood, charcoal) as the most important income source, men ranked casual labour as the most important source (WFP, 2004a).

survived because one individual was hiring many people to construct his personal fishponds. Despite the fact that the wage rates were exploitative in the extreme - about a tenth of the normal rates for digging ponds - people had been glad to have had any chance to earn money.

The way in which people earn their livelihood affects more than how much they have: it also affects how it is distributed and what they do with it. Enforced idleness caused by displacement has meant a change in drinking habits: whereas men would previously often drink after a day's work, many have now become accustomed to drinking instead of working. This has almost certainly caused a situation where a large percentage of the population are now physically dependent on alcohol (although no study has yet been done on alcoholism in the camps). This means that many men now engage in daily labour only to earn money to buy alcohol - many interviewees put this as high as three-quarters of men. They may make no contribution at all towards household food needs and there are also stories of men forcibly taking food from food aid to raise money for drinking. Since the food aid is not enough on its own, displacement has increased the burden placed on women at the same time as reducing their opportunities. As a result, many are forced into taking risks of one kind or another - either by venturing far from the camps to find firewood, or having sex with soldiers.

Protection or Prison?

In Acholiland one often hears people who believe that IDPs are being kept in camps deliberately, because the Government wants to destroy the Acholi people. It is not necessary to believe ill of the Government's motives in order to ask the question: are people's lives really being protected in the camps or is the medicine killing the patient? If the military policy of denying food to the LRA is believed a success, would it be wrong to say that "the operation was a success, but the patient died"?

The sad truth is that no one knows, because no one is trying to find out how many people are dying in camps or why. The few pieces of evidence collected are worrying: children are dying every day from camp conditions; HIV figures which translate into an additional tens of thousands of IDPs living with HIV/AIDS (over and above the figures one could have expected without displacement)³⁹. Hundreds of IDPs are killed each year and many more are abducted, either in attacks on camps or because hunger and poverty forced them to go back to their villages for food or to earn money. Thousands of young men have 'disappeared' after volunteering as local civil militia, tens of thousands more have probably become alcoholics, with what long-term consequences no one can guess. The international headlines caused by the Barlonyo massacre seem to have made the Army understandably concerned to avoid a repetition of such a tragedy. The measure taken to avoid this, though, has been to restrict further the IDPs freedom of movement, and in some cases to make the camp itself smaller, squeezing people in still closer. Will the deterioration in living conditions that this inevitably brings cause more loss of life than occurred in Barlonyo? In some cases the protection is more directly worse than the original danger. In some areas, people knew how to avoid the LRA going to their fields, but the Army is harder to avoid, and the consequences of being caught are sometimes nearly as bad.

When we sneak home to get food, we are exposed to greater risks from soldiers than from rebels. The rebels move in groups, and you can see their tracks, so once they have passed, you know they are gone. The Army comes and goes, so they are harder to avoid. If they catch you, they accuse you of being a rebel.
(Elders, Gulu)

There is no reason to believe that the Army wishes to provoke the resentment of the IDPs by making their lives more difficult: even apart from humanitarian considerations, this would be counter-productive for them. Problems are being caused by the lack of a forum

³⁹ This is based on a comparison between HIV rates in Gulu and those of other rural areas in Uganda (MoH, 2003).

where the IDPs problems - and the difficulties of the military - can be discussed openly, and without fear that people will be labelled as collaborators. Solutions that meet the needs of all sides need to be looked for together. Greater openness, rebuilding trust between the IDPs, Government and the military, would not only have long term benefits for national reconciliation and peace, but immediate and practical benefits in terms of access to land and food security for the IDPs and assistance for the Army in achieving greater security.

In Gulu and Pader, there are talks of 'de-congesting' the camps as a way of improving access to land. In principle, most IDPs are in favour of moving to smaller camps, and to camps nearer to home. However, some openly expressed lack of confidence as this had been attempted more than once before. They feared that they would be uprooted and begin to cultivate, only to have to move back to the larger camps if security deteriorated and the units allocated to protect them were redeployed. Clearly, cast iron guarantees cannot be given in a war situation and the more camps there are, the more troops are needed to guard them. Decongestion will therefore place a greater strain on the UPDF. The civilian authorities, together with the humanitarian community, have to take some responsibility for the decongestion process (for example by ensuring water supply), but they cannot be part of the discussions on security and personnel deployment. They cannot therefore participate in a wider discussion on the best use of available army personnel for ensuring protection and food security for IDPs - for example if the personnel are available to guard more, smaller camps through the decongestion process, would it not also be possible to use forces in a way that increased the security radius around existing camps? Creating new, smaller camps in people's home parishes could improve their access to their home fields and help them grow more: but how does this relate to the military strategy of denying food to rebels? Will they be allowed to grow food at home, or will the philosophy of the SPP accompany decongestion, where agricultural production can only take place inside an army cordon?

If the current military policy continues, one can expect a continuing deterioration in the food security of IDPs so any disruptions to the supply of food aid by WFP could be very serious. The only scenario that can save the situation is if the war ends and people go home. This, all IDPs agreed, would be the best solution for food security.

CHAPTER 4: INTERVENTIONS

This chapter looks at what various agencies (including the Central and District Governments) are doing to try and support the food security of IDPs. No evaluation is made of any particular agency, but the likely impact of different kinds of intervention, in both the short and longer term, is assessed and general lessons are drawn on whether and how the food security of IDPs can be supported.

Key constraints to food security

In-depth food security studies have already been carried in both Kitgum and Gulu⁴⁰. This study's findings largely confirmed what was already known: that many people face the following difficulties in finding enough food:

- Lack of land on which to grow crops exacerbated by the fact that the little land being cultivated around the camps is exhausted and, in Kitgum in particular, the staple sorghum crop is attacked by a parasitic weed (striga). Also there have been poor rains, particularly in Kitgum, in both 2002 and potentially this year. As a result, most families can only produce around a third of the food they need to survive, and can earn almost no income (\$1-2 per month) from selling crops.
- Crops planted are lost for a number of reasons: they may be looted by rebels, slashed by soldiers (either because tall crops are deemed to provide cover for rebels to approach camps or, if planted further from camps, to deny rebels a source of food), eaten by livestock, and, more occasionally, stolen by landlords, soldiers or other IDPs.
- Opportunities for earning money are few because lack of land limits the possibilities for finding daily agricultural labour, demand for other services is low and insecurity limits the opportunity to find work outside camps.
- A high percentage of money earned is spent by men on alcohol. In most camps, women reported that 70% of husbands spend all of their daily cash earnings, and they even sell food aid, to buy drink. One study conservatively estimated that men from the poorest families were spending around 20% of all household earnings on alcohol. Thus alcohol must be recognised as a major constraint to the food security of women and children.

The main responses of the Government and other agencies

Food aid

The vast majority of spending on food security interventions goes on 'general food distribution', a ration of food given to all registered IDP households. The need for such a ration is unquestionable, nor can the difficulties of delivering it to each and every household be underestimated. WFP calculates the ration according to twice-yearly studies that measure how much food IDPs can find for themselves, from both agriculture and by buying food in markets. Some agencies have felt that the ration is not large enough: testament to this are the risks which people take to find food, the palpable level of hunger in the camps and the high levels of child malnutrition⁴¹. This study did not try to verify WFP's own findings, particularly since these are broadly in line with the findings of other studies and there is no reason to doubt their reliability.

Hunger exists despite food aid for the following reasons:

⁴⁰ See for example SCF-UK (2003), ACF (2003) in Gulu and Oxfam GB (2003) in Kitgum. WFP carried out regular Emergency Food Needs Assessments which had a lot of food security information and analysis, and these are now explicitly Emergency Food Security Assessments (WFP 2004 a, b).

⁴¹ Most studies put acute malnutrition among children under fives at between 10-20%. Any figure above 10% is usually regarded as serious enough to demand intervention.

- The food ration is based on an average of food needs. The past system of standard rations to all households has probably contributed to the higher incidence of childhood malnutrition in larger families (Oxfam, 2003). WFP has now moved to a system where the ration reflects household size, although some households will obviously have greater needs than others, and though some categories of 'vulnerable' households are targeted for larger rations, not everyone can be covered.
- Not everyone receives a ration when food is distributed. Difficulties with registration lists in a constantly changing population inevitably mean that some people do not receive rations, either because they are not on lists or for other reasons.
- Rations are not distributed every month. It was reported that there are still months that certain camps were not served by WFP. This is an increasing cause for concern when there are pipeline problems.
- Some food is diverted to other purposes. It may be sold because families have other (legitimate) cash needs, including for milling the grain into flour, or it may not be shared 'fairly' between household members. This means that the nutritional status of a child may not reflect the food security status of the household as a whole. The expense of milling grain deserves more attention as it costs between Ush50-100 per kilogram, making a total of up to Ush60,000 per year: about a quarter of many households' total annual income. No agencies have yet devised a way of helping with this cost.
- Some camps do not receive food aid at all, for example from 1996 to 2004 several camps did not receive food rations. This is a serious problem. The policy is that the security forces and RDC have to approve a camp for it to be officially recognised and thus receive food aid from WFP in order to prevent the aid attracting new IDPs into a place where the Army cannot guarantee their security. However, the process of approval or 'gazetting' can take several months.

Provision of seeds and tools

Seeds, and sometimes tools, have been provided to many IDP households by different agencies, although neither seem really needed. IDPs report that given the small fields now accessible, a hoe will last for over two years, so demand for them has not been high enough even to interest traders to bring them for sale in camps, although they can be purchased in town. The types of seeds distributed in the camps can be divided into vegetable seeds and field crop seeds (mainly maize, beans, sorghum, ground-nut and sometimes cassava stems) and very different criteria have been used for targeting distributions. This section will look in turn at the relevance of distributions of field crop seeds, the benefit from improved seed quality, vegetable seed distributions, and finally at implementation modalities.

Field crop seeds

This study could find no evidence that seeds for field crops were generally hard to find in camps. Given that poorer households farm little more than half an acre, of which some is given over to sweet potatoes, seed requirements are small. In most camps, IDPs reported that seeds of good quality were readily available in markets (in 2004) for anyone with money, or that they could be acquired in direct exchange for labour. Seeds for half an acre of land could be earned by working for just 1-2 days "since everyone will always have at least some seeds of their own" (seeds of ground-nuts were valued higher and could require a couple more days work). Those with larger plots have greater food security and there is even less reason to believe that they would be unable to find seeds. Seeds other than groundnuts were easily swapped within camps, so most households could get the crop mixture they wanted.

There is a widespread belief that if harvests are inadequate, people will eat everything leaving nothing to plant the following year and failure to provide seeds will thus condemn such families to total dependency on food aid. There is no evidence that this is in fact a widespread problem. WFP found that eating one's seed reserve was one of the last 'distress strategies' resorted to by IDPs, and only 10% of households reported that they ever

ate their seeds⁴². Families were more than four times more likely to spend whole days without food, and they even preferred not to spend money on healthcare rather than eat seeds.

Agencies have not generally based their seed distributions on an assessment of whether or not seeds were needed, but have tended to rely on IDPs asking for seeds as evidence that they are not available, and have then only asked the question “which seeds should be given?” Impact assessment was rare and did not seek to find out the benefit of giving seeds, but was limited to asking about the actual yield from the seeds given, on the questionable assumption that without the distribution, IDPs would have left their fields bare. Once IDPs disassociated this study from a future project intervention, none of them indicated that IDPs would farm less land because of a lack of seeds. The evident success of seed fairs⁴³, where targeted households are given vouchers to buy seeds from local producers, also suggests that seed availability is not generally a production constraint.

When there is no land however, there are many reports of people eating seeds they were given in distributions, in some cases even washing off the ‘paint’ from treated seeds “they didn’t taste great, but no-one got sick - we knew the international agencies wouldn’t give us anything which could kill people”. In the absence of reports of fields left unplanted, one can only assume that this was because the households did not need the seeds - either because the seeds were more than they required (enough seeds for 2 acres were sometimes given), because IDPs preferred their own seeds, or, commonly, because the distribution arrived late, after the people had already sown their own seeds. The evidence strongly suggests that the only benefit to households of receiving seeds is the actual cash value of the seeds themselves - around 1-2 days labour (\$1-2), or up to \$3-4 if ground-nuts were included.

Some projects have focused on introducing new ‘improved’ varieties. No thorough comparison was made between the yields from such seeds with those from local seeds, although anecdotally, IDPs said that some of the distributed seeds were good, others less so: no one variety could ever be optimal for the whole of the Acholi sub-region and for all farmers. This means that linking seed distributions, which are based on an assumption that IDPs have nothing else to plant, with the introduction of new varieties needs to be done with care. Those choosing the varieties to be given out must be prepared to take full responsibility for any failure of the seeds to perform as well as local seeds, as is almost bound to happen in some of the conditions in which they will be planted, since the agency would effectively be forcing the recipient to take the risk of experimenting. IDPs facing precarious food security are in no position to take additional risks, even if there are also potential benefits. This question does not apply to programmes that seek to introduce new varieties in different ways, through extension or demonstrations, to IDPs who are recognised to have other sources of seeds, by giving them possibilities to make independent choices of what to plant.

The introduction of hybrid, higher-yielding varieties needs to be done with particular care as they are generally not suited to soils of very poor fertility, such as those around IDP camps, and are often sensitive to poor or late weeding, such as may occur where security prevents IDPs from accessing their fields. The use of F1 hybrids, which normally require farmers to buy new seed each year, may be particularly inappropriate in an IDP context where access to markets and to cash is poor. Distribution of improved varieties of cassava is a special case. In theory, cassava should be one of the most important crops for food security, particularly if higher yielding, early maturing varieties are available.

⁴² Combining figures from (WFP, 2004a) and (WFP, 2004b).

⁴³ Seed fairs were conducted by CRS in Gulu, and later by Oxfam in Kitgum. They work on the basis that there are seeds of good quality available in the area, farmers know how to choose the seeds they want, but they do not have the means to buy them. Targeted households are given vouchers, and suppliers (company, trader or local farmer with seeds to spare) are invited to ‘sell’ their seeds for vouchers, which are then redeemed for the cash value by the NGO at the end of the day. In almost every camp, the NGOs found that supply exceeded demand in the fairs and supply was met from local suppliers, mainly local farmers.

Unfortunately, cassava cannot be grown by the majority of IDPs for reasons already discussed, so the multiplication and distribution of cassava can only benefit the few landowners who are allowed to grow it. This may well become an important intervention once security returns and there could be arguments for testing and multiplying up stocks of improved varieties for future use, not connected with meeting immediate food security needs.

Since giving out seeds cannot relieve the main constraint to production - it will not make more land available - it is unsurprising that the short-term impact of seed distributions on the overall food security in this emergency context remains marginal. The longer-term impact is harder to assess. If distributions continue for several years, there may be fears of 'dependency', in that IDPs will come to rely on a seed distribution rather than making their own efforts to find seeds, although there is no evidence that this is an imminent danger. Distributions of just one or two varieties in a context where production of local varieties is so limited may lead to a rapid reduction in genetic diversity and in a loss of some local varieties to farmers. Some of these varieties, particularly of indigenous crops such as sesame (*simsim*), sorghum and finger millet, may have been selected over many generations for particular niche environments or particular qualities, and they may be very hard to recover. Indigenous crops are likely to have a much greater diversity even within the same 'variety', and these will be important in reducing risk to crop pests. It is feared therefore that continued widespread distribution of seeds will prevent the development of local private-sector seed production and marketing, which other agencies are keen to support. This study did not attempt to investigate any of these matters, and only draws attention to them as possible areas of future concern.

Vegetable seeds

Several agencies have been distributing vegetable seeds to IDPs, often to every household including onions, okra, aubergine (eggplant) and cabbage. The rationale behind this is that the displaced do not have access to such seeds and that vegetables offer the best return (in cash income) to IDPs who have little land, and offer an important nutritional supplement to households receiving a basic ration of calories and proteins with few vitamins or minerals. The use to which the seeds have been put varies from camp to camp. In some places, some IDPs said they had no land on which to use the seeds and so sold or gave away the seeds to others; whereas in other camps, almost every household now has a tiny vegetable plot outside its hut.

On the whole, the seeds are much appreciated. Growing vegetables is not something new to IDPs who have always been growing vegetables, even in the camps, mainly local leafy vegetables such as cow-peas (*bo'o*) and *malakwang*. Many would have been used to using wild okra, which they can no longer find in sufficient quantities. We did not attempt to quantify the impact in terms of income or nutrition, because there is so much variation (land available, who received what, yields), but it is clear that the seeds were useful. However, it should be pointed out that the nutritional value of head (white) cabbage is very low, especially compared to local green vegetables⁴⁴ and although it has market acceptability, it may not be the best choice of vegetable where the constraints on good diet are already so severe. Furthermore, it is difficult to produce quality seeds of some vegetables in local conditions, and it may be unsustainable to promote these species, though where there are good arguments that these vegetables have particular benefits in the immediate term, these could override sustainability criteria in an emergency context. For species from which seeds are easily extracted (okra, tomatoes, aubergine) it would be advisable to ensure that everyone knows good techniques of seed extraction and storage, rather than repeating expensive and logistically time-consuming distributions each year.

Targeting of seed distributions

⁴⁴ Compared to amaranthus (*dodo*), cabbage has just 16% of the calcium content, 12% of the iron, 1% of vitamin A, 17% of the riboflavin and less than half the vitamin C (LSHTM, 1985).

Different agencies had very different strategies for targeting their seed distributions. Some gave to all households in a camp, others only to those who had land, others to the 'vulnerable' (old, disabled etc.). In one camp, IDPs had to have a proper hut in order to qualify for seeds. As a result, the most recently displaced - the only ones who really needed the seeds - were excluded. Some agencies gave to very few households in a camp, and the targeting criteria were sometimes either unknown in the camps or had been distorted by local intermediaries. The existence of such different approaches may be a symptom lack of analyses of the food security problems and not sharing their ideas to come up with a best strategy of intervention.

*Before they gave us seeds they didn't ask us if we have land. They only asked us if we were in a group.
(IDPs, Gulu)*

A more important criticism of seed distributions is that they happen too late and if IDPs had genuinely not had their own planting material and waited for distributions, they would probably have had no harvest in many cases. In order to avoid the problems outlined, it is suggested that the private sector should be encouraged to ensure access to quality seeds in small quantities, perhaps through promoting seed fairs.

Oxen

Traditionally, the Acholi ploughed their land with oxen, until most cattle were stolen in the late eighties causing the destruction of much of the local economy. It is not surprising therefore that many IDPs express a strong preference for projects that distribute cattle, particularly oxen. Such projects have been run by the Government and by NGOs using a variety of methods (on credit repayable in cash, to groups or individuals etc.). Oxen owners find it relatively easy to repay credit, since they can hire out their oxen for ploughing at a rate of Ush15-30,000 per acre - so just 10 acres a year could repay the full market value of an oxen pair. Hardly surprising then that one NGO found that the majority of IDPs asked favoured oxen distribution above all other, known, possible project alternatives. Does it then follow that oxen projects are the most relevant to solving the constraints to food security?

Simple logic suggests otherwise. Additional oxen will not increase the land available for farming since it is land access, and not labour availability, which is the sole constraint to the area planted. Adding oxen will not, therefore, improve food security in general and although there may be reason to believe that yields are higher following ploughing rather than hand-hoeing, these advantages are likely to be more than off-set by the crops eaten by the animals themselves. There will be large benefits to those who actually receive the animals, hence the demand for oxen projects from IDPs - who often have their eye on the day when they will need oxen back in the village to increase food production. However, the number of beneficiaries is always going to remain very small, since it would cost \$75 million to give every displaced household one oxen pair and a plough⁴⁵. Each agency therefore needs to consider carefully the profile of those who are the recipients of a very valuable asset - where animals have to be repaid in cash, it is extremely unlikely that the poorest will ever be able to take the risk of contracting such an obligation, let alone being allowed by the community to be the beneficiaries. If the richer households are those who will benefit, the impact on the poor could be negative. Cattle compete with IDPs for access to land (for grazing) and can also compete with IDPs for scarce employment: every acre ploughed by oxen is one acre fewer available for daily labour opportunities. Given the massive dependency by most households on finding daily employment, anything that reduces work opportunities in the current context should be considered with care.

In the longer term, if IDPs are able to return home, the impact of the oxen distribution will be more positive, adding to food security by enabling returnees to open up larger areas for

⁴⁵ Based on WFP figures of 984,362 IDPs in Acholiland, at an average of 5 persons per household, and assuming Ush300,000 per ox (WFP, 2004a).

production. Questions of sustainability can be raised: since oxen do not multiply (unlike heifers) they will not address the restocking needs of the area of the whole, though they will permit those who have already received to purchase more through increased income. Such projects may, therefore, only have an effect in increasing disparities between rich and poor.

The overall conclusion, then, must be that oxenisation projects will succeed in creating small groups of happy beneficiaries, but they will remain largely irrelevant to meeting the food security needs of almost all the IDPs.

Mechanised protected block farming

Much political attention has been paid to an idea to improve production through providing security for IDPs to farm on protected blocks of land which are large enough to be ploughed using tractors. Two such schemes have been piloted in Gulu in 2003/4, one by the Government and one by an international NGO, and there is talk of them being extended to all three Districts of Acholi. These schemes have proved controversial in a number of ways: on the one hand, there are voices expressing fears that they represent an attempt by Government to “steal everyone’s land” or to turn the camps into permanent prisons producing cotton for the factories of big businessmen; others are rushing to provide loans to provide tractors with little professional scrutiny of the proposals from a food security perspective. The following attempts to defuse some of the myths (on both sides) by making a clear distinction between the analysis of the proposals on narrow, professional food security grounds, and the analysis of some of the short and longer term implications on the wider, political scene.

In both schemes, in Awer and Palenga camps, private landowners were persuaded to lend their land to the projects. A small group of beneficiaries was chosen (fewer than 3% of the camp households benefited in each case). The land was then cleared by beneficiaries, removing tree stumps so the land could be ploughed with tractors (ox-drawn ploughs are more suited to plough round tree stumps). Tractors were provided to plough the land, in one case purchased for the scheme, in the other rented by the project. The land was then divided among the registered beneficiaries who received 1-2 acres each. They received seeds and other inputs such as fertiliser, and, in one of the schemes, even food while they were working. On harvest, the crops belonged to each beneficiary, though in one case there was pressure for IDPs to market the produce in bulk through the project, which thus received a higher price than that of the local market. One scheme focused on beans (which did not grow) and maize (which has performed reasonably well), the other on groundnuts (which grew well). The Army provided security patrols to beneficiaries whilst they were working on the project farms during the lifetime of the two projects.

The NGO is essentially duplicating the same scheme this year (2004/5) in one additional camp, but no detailed document is available to say whether or not the future proposals for the Government schemes would follow the same format as before.

The schemes, as one would expect, are popular among their beneficiaries, who are enabled to receive a reasonable harvest, making a significant contribution to their food security through either food or income. Are they then a relevant response to food insecurity in IDP camps? The schemes, as described, have combined several components, and it is only by separating out these ingredients that a proper answer can be given.

(i) Persuading landlords to make land available to the project beneficiaries.

Despite fears to the contrary, both projects began with the free consent of private landowners to lend land to the project⁴⁶. In both camps, the land had previously been idle because insecurity had prevented access to the land. Where a project can mediate with landlords to help bring previously unused land into cultivation, this will have a positive

⁴⁶ In Awer, the landowners had leasehold title to their land, which may have made them feel more secure than if they only had customary tenure.

impact on food security. However, there are currently limited opportunities in most camps for increasing the land under cultivation without increasing the secure radius around the camps. It is noteworthy that the two projects together have brought less than 400 acres into cultivation: whereas another NGO, without any large project or any additional security force, has entered into negotiations with private landowners and made available an additional 700 acres of land in Gulu in 2003 and 2004.

(ii) Ploughing of land by tractor

The provision of tractors is the headline that is used to gather enthusiasm for the projects. As with oxenisation projects, what family can refuse the offer of free ploughing of their land by tractor? However, providing mechanised ploughing does not in any way add to the total area cultivated, where this is limited by security, and so the tractors do not, of themselves, make any contribution to food security for IDPs⁴⁷. On the contrary, the use of tractors for ploughing will provide income for (wealthier) tractor owners or tractor salesmen, but will deprive (poorer) IDPs of opportunities to sell their labour for digging. In the current context, providing paid labour opportunities for as many people as possible should be the overriding concern. It is hard to understand the connection between tractors and projects to improve IDP food security, and any future schemes would do well to use labour intensive technologies for land preparation.

(iii) Provision of seeds and other inputs

It has already been shown, that seed distributions make a negligible contribution to food security, and though they are never refused by farmers (displaced or otherwise), they are unlikely to be a cost effective way of improving production. The provision of fertiliser and sprays for high yielding varieties, however, opens other questions. Although some argue against these interventions on the grounds of sustainability, there would appear to be good reason to argue instead that this should be overlooked, since in an area where land is the limiting factor, it is important to maximise yield. Another problem is how to select beneficiaries as the cost of providing inputs to all IDPs would probably be considered prohibitive. As a general strategy, their provision to the selected few, who are already benefiting from good access to land, does not seem justified.

(iv) Provision of security to farm

The main reason why the schemes are popular with beneficiary IDPs is because they are given security to farm land that would otherwise have been insecure. This is what gives the schemes a positive impact on food security. The Palenga project illustrates this well. As a result of security provided to the project, several kilometres from the camp, the owners of the land along the road between the project and the camp began farming their land in 2004. They were not provided with tractors or inputs, but were merely taking advantage of the improved security along the road.

The lesson is clear: if providing security for IDPs to farm is made a priority, then their food security can be improved even without any other assistance. The reason for linking improved security to such projects remains a mystery: at the same time as the specific beneficiaries of the projects have been given military escorts to farm, other IDPs in the same camps have to risk their lives in order to cultivate land, even where it is closer to the camps than the projects. Far more worryingly, in both schemes the moment the 'project' ended, army protection was withdrawn. In Awer, some of the beneficiaries continued to try and cultivate the plots on their own, once the tractor had disappeared. In Palenga, project funding ended just before harvest, and the IDPs were left knowing that their maize had grown well, but could not be harvested because army protection to go to the fields was no longer offered and the safe distance from the camp was restricted to just 1 km⁴⁸.

⁴⁷ An argument has been made that because tractor ploughing is quicker, it is less dangerous than digging by hand, and so more land can be cultivated. Since planting, weeding and harvesting are all done by hand while security is provided, this argument is hard to follow.

⁴⁸ Although the harvest may eventually have been saved by subsequently renewed funding, the point remains the same.

To conclude, helping IDPs farm more land by improving security outside the camp is the key to improving food security. This protection should be given in all camps to all IDPs only limited by the capacity of the security forces to provide protection, and there is no reason to see it restricted to two or three hundred favoured IDPs among one million displaced.

Group grants

Some agencies are turning to group grants to promote food security, with the idea that people themselves know best how they can invest money for their own advantage. By far the largest such project is NUSAF, which has already authorised grants of Ush3 billion (\$1.75 million) since May this year in Kitgum District alone. Some NGOs are following, or planning to follow, a similar approach. The philosophy behind this approach is that it is better to be 'demand driven', 'bottom up' 'participatory' and 'facilitating not dictating', as described by various informants. Although, whether or not the approach can make a meaningful contribution to food security in the current situation is more questionable.

The approach presents two problems: its targeting and its philosophy. NUSAF, for example, has typically made grants of Ush13-20 million to each group. Even if a group were as large as 20 members (very large for a joint economic venture), this still represents a grant of up to Ush1 million per person. This is three or four times the total annual household income of the majority of the displaced. Given that there are over 150,000 displaced households in Acholi alone, a budget of around \$90 million would be required for the three districts. In practice, however, those who most need the money are least likely to receive it. First, almost all grants have been made to groups of people from within the town councils. Few have been made in camps, although has tried hard to reach them, employing agents in every sub-county to assist people in putting together proposals. Even from within camps, the poor are least likely to benefit. Proposals have to be written down (excluding the illiterate) and criteria for assessing groups' proposals include abilities in managing books of accounts, financial reporting, generating reports, plus good CVs of committee members and sound documentation. It is well known that the people least able to form functioning groups are those who have the least time, social capital and education and are usually the poorest. The size of grants given inevitably brings temptations and there are already many rumours in Gulu town (which the study made no attempt to verify) that powerful people are creating groups of 'formerly abducted children' and 'orphans' as vehicles to receive money themselves. If the children were to receive a 10% commission for themselves, they would no doubt be glad to collaborate in order to receive Ush100,000. The researchers made no attempt to verify these stories and have no knowledge of whether they are true, but they illustrate the potential for abuse.

The approach of being 'demand driven' is becoming common. However, when it operates in isolation, systemic problems are never addressed. The only constraint tackled is a lack of capital - and reasons for a lack of capital are not addressed either (support to credit facilities, for example, is rare. The 'village bank', supported by the Private Sector Promotion Centre in Kitgum, has a relatively high percentage of account holders from outside town, but is an uncommon approach). Capital has certainly been identified as an important livelihood constraint in camps, but not the only one. Assistance in many projects is tied to membership of a group, even though most non-agricultural activity is undertaken as an individual enterprise. People know that in order to get free money, they have to form themselves into a group and then ask for animals. If they are lucky, they will be successful.

The camp economies certainly need a cash injection, and free handouts to all IDPs would not be a bad thing - it is, after all, the way welfare works in richer countries. However, support to individual groups is unlikely to contribute to solving the food security problems of the majority of IDPs.

Food for work and cash for work

Food for work (FFW) has been used by several agencies as a way of paying for public works such as road building and valley dam rehabilitation. In some cases, FFW was used with IDPs who were not receiving any food assistance from WFP, in so-called 'ungazetted' camps. In other cases, recipients of FFW were already receiving around 75% rations from the general food distribution of WFP. Speaking to IDPs it is clear that they have pressing cash needs as well as food needs, and that cash is more easily converted into food than vice versa. Agencies' preference for paying for work in food rather than cash in situations where IDPs are already receiving a food ration is not based upon what is most needed. Cash would give the IDPs more choices, allow them to meet non-food needs, treat them as capable of making their own decisions about their lives (e.g. which kinds of food to buy) and is far more cost-effective. Food is available for sale in all the camps from which we interviewed IDPs. It is notable that the 'projects' which the IDPs speak of as "having saved them" were when they had been given work which was paid in cash - building roads, or in one case, digging private fish ponds for an individual at rates only a fraction of normal labour rates.

In conclusion, it appears that none of the main food security interventions can really address the food security problems of the majority of IDPs. This should hardly be a surprise: what can one do to solve people's food security problems without letting them out of camps and allowing them to farm more land? Apart from programmes trying to help around 100 beneficiaries, there was only one case of a project that targeted finding land the number one constraint. The response needs to be on a much larger scale than has proved possible and tens of thousands of people need to be helped to find an income or farm land, and no-one really knows how this can be achieved. Too many programmes either don't really address the main constraints of most people or target so few people as to be largely irrelevant when confronted by the enormity of the humanitarian problem.

CHAPTER 5: RETURN AND THE LAND ACT

As soon as this war ends, the next one will begin. It will be a land war, and it will be between brothers in the same clan. (Several interviewees, in almost identical words)

This chapter looks firstly at the likely process of return and the importance of land in that process, and then examines the changes in the rules and institutions of land that the IDPs are likely to find. Potentials for conflict are examined, together with the different processes by which people risk losing their land. Some factors that could help people secure their assets are also identified.

The process of return

Previous research among IDPs has already shown that the vast majority want to go back to their own land⁴⁹. This study did not look for quantitative data, but almost everyone interviewed expressed the desire of only wanting to go home (the few exceptions were widows and orphans who had been thrown off their land and who had nowhere to go).

Some agencies had expressed fears that people would not know where their land was after many years in camps. Such fears appear to be misplaced according to all the IDPs interviewed. People say they know where their land is, and that if young people have difficulties, there are enough elders and neighbours alive who can help them identify their land. There was also confidence that land borders will be clearly recognisable for at least several more years and even if some marker trees have been cut down or burnt, the borders between fields made over the years by piles of field refuse (*kingingi*) will still be visible and enough natural landmarks will be identifiable (even from a plane over Gulu, the outlines of fields can still be seen). The fear is not that people will be unaware of where their borders are, but that some will attempt to take advantage of others' weaknesses.

The actual process of return is likely to be simple. Most people are displaced only a few kilometres (on average six and a half kilometres or just two hours walk). This means that they will have little difficulty in carrying with them the few items they still have with them in the camps (utensils, clothes, tools, food and seeds, etc.). The distance from people's homes to the camps does not seem to vary much from district to district, with people in Kitgum displaced on average just 1 km more than in Gulu.

Table 5: Percentage of IDP households by the distance displaced (in the three Districts of Acholiland)

Distance displaced	IDP households
2 km or less	17%
4 km or less	45%
6 km or less	64%
8 km or less	76%
10 km or less	86%

Many displaced have already had experience of the process of returning home in 1999 and 2000. Initially, more people would go to gather food and firewood from their home fields, then men would gradually spend longer, passing an occasional night in hiding in the village, and slowly preparations would be made to prepare shelter for a progressive return of other family members. It is likely that such a process would be repeated in many camps, although in others IDPs may wait for a clear end to the war and a clear directive from the Army that they can return home, which would mean a more sudden departure.

⁴⁹ IOM found that three-quarters of people wanted to return to their homes.

Just over half the IDPs expressed no fears about their return to their land. Fears were highest in Gulu and Pader. Although explanations for these differences across districts could include, for example, the fact that IDPs in Gulu have been displaced much longer than in Kitgum or Pader, caution should be used in analysing the data at district level, since fears were often camp specific (e.g. nearly everyone in Agoro camp fears landmines on return) and the camps were not chosen randomly.

Table 6: Percentage of IDPs by each district expressing fears about their land on return

District	IDPs expressing fears about land
Gulu	51%
Kitgum	24%
Pader	55%

Table 7: Percentage of IDPs, by district expressing particular fears about their land on return⁵⁰

Principle fears expressed	Gulu	Kitgum	Pader
Land border disputes with neighbours	18%	3%	17%
Landmines	10%	19%	9%
Relatives claiming land	10%	4%	9%
IDPs on land	3%	1%	12%
Other people on land	3%	2%	6%
Rebels	4%	1%	4%
Soldiers on land	4%	2%	1%

Whether or not people are able to go home and find their property is absolutely crucial to their future. On a wider level, it will be the key sign of the society returning to peace and normality, and much can be made of the cultural importance of a return to 'traditional' land. It will also be a major determinant of the sustainability of real peace in the area, and in the country as a whole, because if people find their land occupied by others, especially people from outside the clan to whom that land belongs, then there will almost certainly be dissatisfaction and resentment. This may not lead directly to further insecurity, but it will undermine the formation of the strong platform for the national reconciliation, which is so desperately needed.

The dimension that must not be underplayed, though, is the importance of individual families reclaiming their property for their future economic well-being. Almost every economic study in the region as a whole, including studies taking place in camps, has shown that the main determinant of income for the majority of rural households is their access to land. Households with insufficient land can typically be expected to have to survive on less than \$0.15 per person per day, their children cannot complete primary school and they cannot afford even basic health-care. Return is not only about people regaining their 'traditional land', it is about people getting back their property, the asset on which their livelihoods totally depend.

Apart from landmines, which represent a very specific hazard which needs to be tackled by the Government, the most serious worries were all related to threats from within the institution of customary tenure, and principally from within the clan - border disputes with neighbours, land conflicts with relatives, and the continued presence of IDPs on their land. People's fears do not necessarily indicate the most likely dangers to their rights to claim land and fears can be groundless, just as real dangers can be unforeseen. The next section examines how the institution of customary tenure is likely to change in the short term

⁵⁰ Percentages are based on the number of respondents mentioning this fear following the open question: "Which fears do you have....?"

following return, and what lessons can be drawn about the dangers which individual households will face in holding on to their property.

The future of customary tenure

Customary tenure has never been static, despite its name and although many elders seem to believe that there will be a return to the 'old pre-war days', (meaning pre-1986, when the Acholi had cattle), it is certain that the rules, processes and institutions of customary land tenure will change rapidly to accommodate the new realities of higher population pressure, a globalised market economy, a very much weakened clan structure and culture, and the existence of new state law and state institutions around land. It needs to be stressed that this is not of mere academic interest, but will have very strong impacts on people's livelihoods.

The comparison between Gulu and Kitgum gives one picture of a likely trend in changes in customary tenure. Population density in Gulu is higher than in Kitgum, and agriculture always had a comparatively more important role than livestock. In addition, there is a longer history of other tribes living in Gulu, greater trade links with the rest of the country and therefore a more monetary economy and what many call a 'less traditional' culture. It is likely that Kitgum and Pader will also come to have more of these characteristics. As we saw, this has meant that land holdings are more often at the household, rather than the wider family level, as fathers make more formal divisions of their land between sons. This goes together with a greater possibility of land sales, which, though rare, have existed even in rural areas for several decades. Increasingly, land is being sold in trading centres, which is regarded culturally as acceptable, by most people, even though the land that is sold was held under customary tenure. It is highly likely that this process will make people more and more accustomed to land sales and legitimate reasons for sales will become established, which will come to be accepted for sales of rural land as well.

There are several reasons for believing that this is the likely trend, both economic and cultural:

- The old fashioned way of holding land for the next generation, and exodus to acquire additional virgin land, can only last about one more generation in many places before land holdings will simply be too small. In many villages, in parts of Gulu at least, that point has already been reached. Where land was not in shortage, it simply did not have an economic value and it made no sense to deprive a widow of her husband's land, since there was plenty to spare.
- Land is perceived as the only asset remaining for most people, and it is becoming a sought after asset, with richer and more powerful people, from inside as well as from outside Acholi, increasingly taking an interest in the land.
- The cultural context has changed irrevocably, with clan influence weakened (effectively since 1986, but more significantly since everyone was put in camps). Social dislocation, increasing individualism, and a desire for money as a form of wealth, will have combined to destroy many ingrained norms of behaviour (respect for clan elders, protection of widows, respect for neighbours' boundaries).
- There are no more unclaimed reserves of land, so new land for farming can only be found from within clan land - that reserved for hunting or for grazing. The latter is particularly attractive for new settlement, because of the loss of livestock since 1986. This too will accelerate a process whereby the land is parcelled out to individuals to farm, rather than held as a single unit for common grazing.

As a result of these trends, more people will be looking to both buy and sell land, and more and more land will be held by households and individuals. The change in itself can be both positive and negative, but some negative impacts are likely, especially on people considered 'weak'. Land grabbing by relatives and neighbours is likely to intensify and protection for the weak (orphans, widows) will no doubt decline. As a result, a great number of people are likely to become semi-landless. As land becomes devolved to the household, it is easier for it to be put in the name of a single individual, who is no longer

the trustee of a large family, but the sole owner and beneficiary of rights in the land. This would have very serious impact on women, who formally never 'owned' land in Acholi, though only because their rights of access to land were equal to the rights conferred on men through ownership.

Some aspects of the relationship that the 1998 Land Act created between customary tenure and the formal state legal system were discussed in Chapter 2. The future of the relationship can be expected to be one of competition as much as cooperation for one simple reason: land will always be the subject of competing interests and, where the different legal systems give different rights, people will tend to choose to use the system which most favours their position. So, for example, if a young man wants to rid himself of obligations to his wider family, he will tend to use the system of title and formal law courts which favour simpler individual rights, whereas his family would be more likely to seek judgements from the clan elders whose legal system does not simply divorce more complex personal relations from land rights. Of course, where the man was opposed in a proposed land sale by his wife, he would quickly appeal to the very customary tenure system that he was rejecting to claim that "women don't own land". It is this struggle between people and between legal systems that needs to be understood if the vulnerable are to be helped to protect one of their most basic rights - access to their land.

Until now, as we saw, the relationship between the LCs adjudicating on land and the *Rwodi Kweri* has tended to be good, with the LCs taking advice from the *Rwodi Kweris*. On the whole their judgements, covering cases of border disputes, trespassing and inheritance would not have been much different whether they were using customary rules or rules of private title. Such a relationship is likely to change for several reasons:

Firstly, the LC1s are villagers who belong to the world of customary tenure and they share the same essential worldview. According to the Act, though, LC1s have no judicial role in land disputes, which are supposed to be heard by LC2 and LC3 committees. These LCs are more removed from village reality where the disputes arise (and as we have seen, in customary law, context plays an important role). The further from the village one goes, the more likely it is that judgements will be made on the basis of 'formal law' rather than on personal acquaintance with the situation and the use of principles of 'natural justice'. If, additionally, the judgements are made by people from another clan, it will accentuate the feeling of the judgement being 'foreign' (one system is not necessarily better than the other and each has the potential to be fair or to be abused by the powerful, though the nature of power and influence will be different for each court). However, the study found that the LCs at all levels do not know what the (state) law says about land or their roles in the land judicial process. The administration of justice may therefore fail to be fair under both systems.

Secondly, this report argues that there is likely to be an increase in cases of land sales and individuals seeking to individualise their landholdings. This inevitably means pitting one legal system against the other, since one discourages land sales (in most cases). Here the territory of legal ambiguity is entered (as discussed in Chapter 2) where the law legalises the rules of customary tenure but has been taken to impose state institutions (LC courts, DLTs) for dispute management. As was seen above, the law favours title over the CCO, even where the CCO pre-dated the title, and even where the title was registered 'irregularly' (since fraud is very difficult to prove in law). There is likely to be a title rush by 'powerful' people because of this legal protection.

Customary tenure will probably be progressively weakened and even marginalised by the state judicial system. Initially, institutions of customary tenure will be useful for solving local disputes, but more significant cases will be removed from their jurisdiction. One sees this already in the posters informing the public about the processes for solving land disputes. The traditional leaders are said to be the ones to go to for "disputes of a customary nature", with the LC2 and LC3 committees shown as higher courts. This description does not follow the meaning of the Land Act, which, by saying that land held

under customary tenure follows the traditional rules used in that place by those people, implies that the traditional leaders should be the final arbiters of all disputes concerning customarily held land.

The provisions for converting land from customary tenure to title have not yet been fully operationalised, but increasingly more important tracts of land will be held by title, and so clan jurisdiction will be completely lost. The *Rwodi Kweri* will only serve to keep the minor cases from clogging up courts. It needs to be stressed that this is not about having lower courts for smaller disputes and higher courts for more serious disputes. What it means is having different legal systems for different people: small plots of land will be governed according to one set of rules, and larger areas of land will be removed from the control of the traditional owners and their legal system. In such a dual system, the potential for conflicts is high. Experience of barriers to access of legal services and justice suggests that the likelihood of the poor, the less educated, and small land-holders winning such conflicts is low.

Likely conflicts within customary tenure

If the above analysis is correct, it is possible to see many potential conflicts emerge over land in Acholi in the next few years. Many, but not all, of these were accurately reflected by the IDPs' own fears as outlined below:

(i) Orphans and widows losing land to relatives This has already been discussed, and is merely the intensification of what already exists. Neither clan system nor the formal judicial system are protecting vulnerable people against unscrupulous and sometimes murderous relatives and neighbours who are using people's weakness to simply steal their land from them. Since most outsiders still believe that "land in Acholi is held communally", and have failed to recognise that land is private property, they are refusing to recognise that this is theft.

(ii) Individuals selling land without clan permission This conflict will be created not through illegal behaviour but through the clash of two legal systems. Where one person wants to sell land that was allocated to him by his father, but the clan maintains that land belongs also to the next generation and is not for sale, there are certain to be conflicts. These will be both legal and physical, and will extend after any sales go through. Those purchasing land, even if in good faith and with no ill intent, may find themselves chased physically from the land by relatives who maintain (correctly, under their legal system) that the land was not sold legally and so continues to belong to the family. Some unscrupulous people may sell land knowing very well the clan will object.

(iii) The fight for the common land Grazing and hunting grounds (*olet* and *tim*) will increasingly fall under private use for cultivation. Initially, clans are likely to make allocation of this land through the *Rwodi Kweri* or elders, since the *olet* is no longer required. However, whilst this may be seen as a temporary arrangement by the clan, there is likely to be conflict if former livestock owners ever build up their herds and attempt to reclaim the land for their cattle. This is particularly the case because the arrangements by which people are given plots of land to farm are unlikely to be written down. We have already seen conflicts after one or two generations regarding land that was 'given' being reclaimed, illustrating that the exact meaning of a 'gift' is often contested. Conflicts between settled farmers and pastoralists are common, and though this will be between agro-pastoralists within the same clan, the likely conflict will have many of the same characteristics. This may also tend to pit rich against poor, as it is the former who will have livestock and the latter who will be forced to seek *olet* for farming. Related conflicts may well arise if the families owning cattle are not the traditional wealthy ones from the clan. Families who owned cattle prior to 1986 may claim that the grazing land was in the past used by them, and so belongs rightly to them, and not to those who never had cattle and never used the grazing grounds.

(iv) Neighbours encroaching This is another case of losing land through theft, which will also be intensified because so many of the strong, on whom a family depends to defend its status, have died during the war - killed by fighting, abducted by LRA, died from AIDS, or simply 'disappeared' following recruitment into the civilian militia. Again, this is treated by many as a 'dispute' and not as theft.

Threats to land rights

People with freehold title to their land would be secure on their land except from fraud, since the full apparatus of the law works to protect their rights, but freehold title hardly exists at all in Acholi. Those with leasehold title should be fairly secure, though they risk losing the rights to renew their leases where they have failed to fulfil the development conditions specified in the lease agreement (see Chapter 2), and may risk losing land above 100 hectares on an application to convert the leasehold to a freehold. Since the land was not originally their property, this may not be a problem of injustice. There may be conflicts, since leaseholds are often on the most valuable land - either land in town, or on vast areas of the most fertile land, such as along the Nile. There may be pressure from various quarters for these leases not to be renewed but to be transferred to other 'investors'.

People who hold their land by customary tenure, for whom no documentation has been made available, risk losing their land permanently in at least ten different ways:

i) For 'development'

The Government is allowed to acquire private land by compulsory purchase if it is to use it in the 'public interest'. This covers the creation of 'public goods' (ones which benefit the general public) such as roads, schools or health centres. However, the land has to be purchased for a fair (market) price, and compensation payments may also have to be paid (e.g. disturbance allowance). In practice, local authorities have been acquiring land without paying for it, arguing that "the school is for you people anyway". In other cases, local authorities have been giving people disturbance allowances, claiming that this is the only compensation that needs to be paid.

Whatever the moral case for encouraging people to contribute to their own development, there is absolutely no legal basis for expecting a few people to donate land in order to have their rights to education, for example, to be met - though of course anyone may make such a donation on a voluntary basis. The argument by the local authorities seems rooted in the belief that land is owned communally, and since the school is for the community - then the community should give the land. Since most village land is owned privately, this argument is without basis (for example, one only has to imagine what would happen if people in Kampala were expected to donate their land freely for the construction of schools or hospitals).

There is an added danger because the Government is currently proposing to extend the definition of the 'public interest' to include private investment (for individual profit) on the basis that "this promotes development"⁵¹. The benefits of private investment and a stronger economy are not in question, but including private profit making ventures in the term 'public good' would make a mockery of the term, and render it meaningless. Land taken by compulsory acquisition has rarely been paid for (or if it has, not adequately or promptly), so extension of the term 'public interest' would effectively mean the right to seize any private land in order to give it to another private individual, thus depriving all citizens, not just in Acholiland, of security of tenure. The Constitutional Review Commission clearly rejected the Government's arguments and decided that compulsory acquisition had to be for "a public purpose"⁵². The Government has now rejected that

⁵¹ Government White Paper on the Report of the Commission of Inquiry (Constitutional Review)..., Sep 2004. Chapter 15, section 15.3 (iv).

⁵² The Report of the Commission of Inquiry (Constitutional Review), Findings and Recommendations, Dec. 2003.

argument and it is trying to amend the Constitution (Article 26 (2a)) to allow compulsory acquisition “for investment”. Since the term is in itself so vague, this would render all property rights meaningless. Fertile lands in relatively less densely populated areas would be prime targets for expropriation. If Parliament approves the Government’s proposal, the Acholi - along with all other Ugandan citizens - have reason to fear.

ii) For trading centres

Many camps were established around existing, small trading centres. These centres have rapidly expanded, due to the concentrations of population, and new trading centres have emerged in the sites of other camps, often close to sub-county offices. There is a widespread belief that land in trading centres is owned by the Government, usually thought to be the sub-county. This belief has no basis at all in law. Whatever commerce springs up on a piece of land, the ownership does not change as a result. The sub-county may have some rights to determine how a trading centre can develop, but as yet no trading centres have been formally made urban zones, outside Gulu municipality, Kitgum and Pader town councils and Atiak in Gulu District. In any case, neither the sub-county authorities nor the town councils have any authority to allocate public land, as this function rests with the DLBs.

When P’s father died in Kampala, he went back to his father’s village with his younger brothers. His father’s brothers threw him off his father’s land, which they wanted for themselves, saying that since he had gone to Kampala, he should stay there. He went to X trading centre with the little money that his father had left, and used it all to buy a small plot, to build a house for himself and his younger brothers. The sub-county officials came and told him that the land he had bought was on a designated road, and they knocked his house down. He was given no compensation. P. now has neither money, shelter nor any other asset left.

In other cases, particularly in Pader, which is a new district, the sub-county and town council are apparently extending their boundaries. This may happen in good faith, as there are no records in the District showing where sub-county boundaries actually lie. Where a new sub-county is created, they should buy land for their offices at full market value, though in practice this is not done. The problem will be potentially quite serious for the land owners in IDP camps that have become trading centres. Although the overwhelming majority of IDPs say they want to return home, a significant number will prefer to stay in the trading centres, either because they prefer a more urban life or because they have nowhere to go to. If ownership of trading centres is believed to lie with the sub-counties, these authorities may ‘allocate’ land to IDPs to stay in the trading centres. This would not be legal, but where people do not know their rights it is easy for them to lose them.

iii) By gazettement/de-gazettement

As was seen in Chapter 2, the Government can legally acquire any land for the public interest, and this includes the land of national parks and wildlife reserves. Land that was already designated as such continued to belong to the State with the new Land Act and is not returned to its original owners. The Government can de-gazette any such land, without reference to its original owners. There is a fear that the Government intends to de-gazette the vast Lipan hunting grounds (see Chapter 2) that the local people consider the private property of several clans, despite a study by Makerere University advising against this (MISR, 2003b). If this land were then given to a private investor, the local people would regard such a move as theft of their land. Whether or not the ‘theft’ would be legal would be unclear - though it is clear that the move would be ill-advised.

If this were to happen, a legal challenge should certainly be made. The Act giving the Government the right to hold the land in the public interest (e.g. as a national park) did not extend that right to the power to keep it from its original (customary) owners once the public interest was no longer served and to give it to investors for their private profit. As

soon as land is de-gazetted, it should automatically return to its previous owners, since (except for land such as wetlands etc.) all land belongs to the people.⁵³

iv) Leases given to investors

The District Land Boards in both Kitgum and Gulu testify that there is no land in their districts without an owner, and this accords with what local people say. Nevertheless, in the absence of papers to prove ownership, and in the absence of a district register indicating that land is owned, there is little to stop a new DLB from declaring that private grazing and hunting land is actually unoccupied and therefore belongs to the DLB. This would give it the right to lease or sell it to any investor. Such a move could be challenged in the courts and would certainly face opposition locally. It should be stressed that nothing the researchers heard from the Land Boards or anyone else indicated that they would contemplate such a move, or that the Courts would uphold such an action. Nevertheless, the danger must be acknowledged, particularly where powerful interests, who had already obtained title deeds, were facing local people without documents and arguing that they owned land that they did not physically occupy on day to day basis. The danger is more because of the Government policy that “land be used by progressive farmers” and the protection given by State law that a title is paramount evidence of ownership. Following the massive theft of cattle that the Acholi suffered in the late 1980’s, their grazing lands are less frequently used. Though having one’s cattle stolen does not in any way signify loss of legal ownership of the land one used to graze them, it becomes more difficult to prove that one owns land, where one cannot demonstrate regular use and in the absence of any documents of ownership. (Cases where investors obtain leases from the legal landowners (individuals or clans) are clearly not cases of land grabbing, and are not considered here.)

v) From relatives and neighbours

The problems faced by widows and orphans in retaining their rights to their land have already been described in Chapter 2. Although this is not only a problem in Acholiland, the situation is particularly serious there because the war has created so many orphans and widows (this research found that almost 30% of households are now female-headed); because the level of poverty has increased the importance of owning land; and because the social breakdown, caused by displacement to camps, will almost certainly have weakened the clan’s ability to enforce its traditional rules of protection. Losing land either entirely, or in part to greedy in-laws and uncles is likely to be one of the most serious problems for return for a significant number of the most vulnerable people, though unfortunately it is normally an area in which humanitarian agencies choose not to involve themselves.

Families may also ‘lose’ land to family members, if an individual son applies for title to the land that they have been allocated for farming. This would give the son the right to sell the land and to ignore any other rules and obligations of customary tenure. Women’s rights to land will be particularly threatened by this development. Such cases are already occurring, not always with the family’s consent. This is a serious source of potential future conflict, particularly if it involves a portion of land such as grazing land that was held by an extended family for use by all its members. It is to be expected that there will be cases where a son applies for a title to more land than he is entitled. In principle the procedures of surveying should prevent wrong-doing, since all neighbours are supposed to be called and the title cannot be issued if there are others who make claims on that land. In practice, it has been found in other districts that this system can be abused⁵⁴.

vi) From fraud

Cases are known in many parts of Uganda of people discovering that their land was sold by someone who did not own it. The Acholi have been relatively well protected against such fraud, because sales of land are either discouraged or barred. Ironically, the lack of titles

⁵³ This may also be happening in other parts of the Country, for example, according to recent national newspapers, there is a current proposal to de-gazette land in Karamoja in order to give it to Libyan investors.

⁵⁴ Some surveyors reportedly were taken to work at night when neighbours were asleep or on market days when no one was at home, making it difficult to verify borders (LEMU, 2003).

can help protect against fraud, since they make land transactions more difficult without reaching personal agreement with neighbours and clan elders. Ironically, the danger of fraud will increase as sales of land become more frequent, and as documentary proof of ownership (CCOs, title deeds) become more common.

vii) From squatters

Some people fear that they will find squatters on their land when they return from the camps. By law, they should have no problem in reasserting their rights to land, since the boundaries and ownership should be well known to neighbours, *Rwodi Kweri* and other clan elders. However, difficulties have already arisen where people have been absent from their land for twelve years or more⁵⁵, due to the widespread belief that if you occupy land for twelve years then it becomes yours. Many people have already been displaced for twelve years, though for the majority this situation would not arise until at least 2008. This belief is shared by most LCs (who are called upon to adjudicate on land matters) and even LC5 councillors and derives from the Limitation Act, making it impossible to take an action to repossess land after more than twelve years⁵⁶, though Ugandan case precedent has established that the twelve years are taken to start from the time when one would first have been able to take action, and not from the time that someone else began possession of one's land. If the law continues to be interpreted in this way, the twelve years would date from the end of displacement, since one cannot be expected to know whether or not someone is illegally occupying one's land whilst one is in an IDP camp without freedom of movement.

viii) From landmines

There are reports that there are landmines along the security road running parallel to the border with Sudan from Bibia to Agoro. This road is several kilometres inside Uganda, and the landmines (and security fence) have cut people off from their property. Presumably, records have been kept detailing exactly where these mines have been laid, and the Army will be able to de-mine the area quickly once peace returns. If there were to be any problems with this process, people may find it hard to defend this fertile land from other interests - including from the SPLA who are currently occupying some of the land.

ix) From voluntary sale

Ironically, people are most in danger of becoming landless from themselves - through their own voluntary sale of their land. This is well recognised in Gulu, and many people say they do not want to have titles to their land precisely because it would make it easier for them to sell the land without needing the consent of their wider families. Many Acholi leaders are also well aware that land sales will bring a greater poverty through landlessness, since there is no possibility of an urban economy capable of offering sufficient job opportunities for decades to come.

If people own land individually, they will end up landless, because they will sell it. They will get money but how long will it last? What will the children do? It will take many decades for there to be a modern urban economy which can provide jobs for the people (retired Bishop Ochola)

In Kitgum, population pressure is lower and there has been less penetration by the market economy, so attitudes to land have not changed as rapidly and it is still believed by most people that land will never be sold. This is hard to believe as increasing population pressure means that land is becoming a scarce resource, and so it will inevitably have a market price. Attitudes will change, becoming more individualistic, accelerated by the weakening of the tribal culture during displacement to camps. Traditional forms of holding wealth (e.g. cattle) have become impossible, due to the State's failure to protect people

⁵⁵ So far, these have been cases not from displacement but of remigration and return after decades. Several people were being held in Gulu gaol over such conflicts at the time of the study as the conflicts had turned violent.

⁵⁶ See also Chapter 2. The twelve year limitation on repossessing land should not be confused with the six year limitation on claiming compensation for occupation. So, if I have occupied your land illegally for eleven years, you can still get it back, but you can only claim compensation for six years.

from cattle rustling, so it is likely that people to turn to other forms of wealth e.g. land. This will probably mean a growing land market, accelerated by poverty, which will force many to sell their last remaining asset. This development will probably begin in Gulu very quickly after a return home, and in Kitgum and Pader later.

The creation of a land market is not seen as a problem by everyone, and indeed is a policy hope of the Government, which believes that it will ensure that land is owned by the people who can use it to the greatest economic advantage. Previous research into the impact of the land market in Apac (LEMU, 2003) showed that this is unlikely, at least in the short to medium term. The danger of landlessness and distress sales are not being taken seriously. No attention has been given either to the impact of the dual legal system on protection for family members, especially women, where the male household head could sell the land without consultation or for his own purposes (especially for drinking). Preventative work to ensure land sales do not deprive women and children would be vital.

x) In conflicts between parallel legal systems

The risk that those with better access to titling will take over land from those holding land under customary tenure, either with no documents or with a CCO, have been discussed above.

How can loss of land happen?

There are 3 main reasons why people are likely to lose their land:

1. People do not assert their rights. The reasons for this include: the fact that they are unaware of their rights or are frightened (or intimidated) from claiming them.

We can't complain [about soldiers taking our land]. We remember how they handled us when we were brought to the camp. If you start talking, you are called a rebel collaboratorLandlords don't like it but they can't object. What can people do? (IDPs, Gulu)

Also they may not know how to claim their rights and may have no access to the legal system either because they physically can't reach it (insecurity), or because they can't afford the costs. They may not trust the justice system, particularly where the one grabbing land is powerful or, the very sub-county authority whose court would hear the case.

The very ones who should be representing the people are the ones keeping them in ignorance to take advantage of them. (Local leader, Kitgum)

2. Due to weaknesses in the formal legal system Abuse and rights violations can easily flourish when those charged with upholding justice do not know people's rights. Nearly everyone interviewed knew nothing beyond "land belongs to the people". Knowledge of title, of customary tenure, of leasehold were absent. No-one knew anything about the protection of women in the Act, of rights to compensation or of procedures for redress. However, even if rights were known, justice would be hard to obtain from the legal system. The specialised institutions are not functioning properly, and though in theory they are expected to start work soon, their budgets are too consumed by the cost of overnights for them to play the role needed. Local level courts are prone to pressure from powerful interests, and the evidence we have heard is that they are often incapable of enforcing judgements.

3. Due to weaknesses in the customary tenure system: Conflict always flourishes where rules are unclear. Customary tenure rules have never been written down. As new situations arise with land scarcity, it is difficult for a local arbitrator to know whether or not they are following the right precedent correctly. New types of cases will arise, of people who had

migrated from their land decades ago and are now reclaiming it, of trading centres and land sales, of intra-family conflicts between orphans and uncles, widows and brothers-in-law and of communal lands. In the absence of written precedent, each *Rwot Kweri* will essentially have to make new law with each judgement, and such judgements will inevitably be different from place to place, even in similar circumstances. This will probably weaken faith in the system and lead to increasing use of the more formal courts, at a time when a possible explosion of land conflicts will demand a strong and coherent local judicial process.

The clan system for protection and enforcement is also likely to become fatally weak. Clan elders and other influential people in Acholi society were all convinced that the traditional rules protected widows and orphans and simply failed to realise that these rules are regularly being flouted. They are therefore taking no action, since they have not seen the need. The evidence showed that at clan (village) level, even where rulings were sought and obtained to prevent land-grabbing or eviction, the clan system was simply too weak to enforce judgements. The study heard of cases of judgements simply being ignored by trespassers and land-grabbers. This weakness is exacerbated by the fragmented nature of clan justice, since no mechanisms exist for recording and publicising decisions, or for following up on offenders and punishing them outside the clan land. The formal law enforcement system is unlikely to help enforce customary law judgements, believing (erroneously) that these are not part of state law and so not part of their mandate.

The Ministry of Lands has chosen not to prioritise supporting institutions of customary law, leading some to believe that the intention of Government policy is to see customary tenure only as a stepping stone to the creation of private property under freehold. Nearly all resources and attention have been channelled either into a pilot project to systematically demarcate land⁵⁷, or into supporting institutions which deal with land with title (i.e. the District Land Boards and the District Land Tribunals, which are the only institutions that are supported from the central government budget), even though 80% of land is held under customary tenure in Uganda. This has been at the expense of support to the institutions dealing with the overwhelming majority of land cases, and the first institutions to which people turn for protection - the traditional arbiters (such as *Rwodi Kweri*), and the LCs. This study does not look at the long term advantages of a unified tenure system, of systematic demarcation or of maintaining customary tenure. Given the enormity of the task of demarcation, and many people's reluctance to change their status on their land, it is clear that for the next decade or two at the very least the vast majority of rural land will continue to be held under rules of customary tenure. The Land Act provided for institutions that could help ensure that this system functioned smoothly and with justice. Parliament created institutions of Area Land Committees and Certificates of Customary Ownership in order to protect people's rights to their land. It made provision for the creation of Communal Land Associations in order to help clans maintain whatever level of communal ownership they wished. It will prove unfortunate for many people, particularly the poorest and least powerful, that neither these formal institutions nor their traditional equivalents have been given support to protect people's rights.

What can be done to protect land rights?

IDPs need help in keeping their land safe at two levels: from outsiders and from others within the clan. Communal land (*olet, tim, aker*) is most at risk, as it consists of large areas of land that are not physically occupied. Its ownership is relatively straightforward - it is owned by clans. The clan, therefore, can process documents, either CCO or leasehold title, although in order to do so, they will have to create a Community Land Association (as outlined in Chapter 2) as 'the clan', making it clear who is a member, how new members are admitted, and what rights different members or non-members have. They will also need to elect the required number of officers, and drawing up a constitution that reflects the clan's rules on administering its land. The CLA can then apply for a CCO, or have the

⁵⁷ This is being done initially in three Districts of Ntungamo, Masaka and Soroti with eventual expansion to the rest of the county.

land surveyed for a leasehold (as a temporary measure prior to applying for freehold title). Fears that once one has documents of ownership, the land is at risk from sale are well grounded. However, the clan can build in whatever level of protection it wishes, for example, the constitution of the CLA can make it clear that the land can not be sold except with a three-quarters majority of the clan members, or only if a certain category of members (e.g. elders) all agree unanimously. The process of agreeing written rules would not be easy or without conflict, but it is hard to see any alternatives to protecting this land. Not all the clan elders that the study encountered perceived these dangers and a process of explaining to them why there might be a danger, and allowing them to decide whether or not to take action is necessary.

Where land is owned by several clans, the procedures will be more complicated. The land can either be divided between the clans, so that each clan forms a separate CLA owning part of the land, or a single CLA can be created to own the land as a whole, where its constitution makes clear how the different clans divide up the rights to the land as a whole.

The CCO has certain advantages over the leasehold, which apart from the legal problem of the lessee and the owners being the same person, leasehold needs a survey and this implies both a cost, and a delay until the area is safe enough to access. A CCO does not require a survey and so should be possible on the basis of maps and aerial photographs. The CCOs are not currently being given out, but the DLBs should have a clear legal obligation to administer them, in accordance with the wishes of Parliament. If they continue to fail to do so, a petition could be made either to the Ministry of Lands or to the High Court.

Protection of farm land is more problematic where this is held at family level. Should people be encouraged to get documentation or not? How can protection be given without running into the other risks of encouraging sales and harming holders of secondary rights (i.e. claims which do not constitute a claim of ownership such as a traditional right to graze one's animals at certain times of the year or a woman's rights to use land). Clans need to be encouraged to have debates on this subject, as no outsider can prescribe for them, and no one solution will suit all. Many may not need to take any action, where their land is safe. One or two possible ideas can be given only for the sake of illustration of principle, and not as proposed solutions. Clan members could vest all their land in the clan as a CLA, where the constitution of the CLA gave individual families the right to 'sub-let' the land on a 99 year lease. Individual families could hold their own CCOs, where secondary rights were written on the CCO as conditions and limitations (Land Act 1998, 6 (e), 8 (3)). The only danger to this would be a potential conversion of the CCO to freehold title, though the law does make provision for secondary rights to be included as limitation on title (see 14 (4), 15 (3)), there are greater dangers that these may be ignored if the land administration system is not functioning well. Families would have to decide how many names would be included on the CCO to prevent one individual from taking over everyone's rights.

Individual CCOs are more relevant as protection not from 'outsiders' but from relatives and neighbours within the clan. Widows and orphans are the first who need such protection. Where husbands fear that their wives may not inherit correctly, as they would wish, they can be encouraged to process a CCO together with a legal will. Although, as we have seen, legal ownership cannot always be enforced, documentation will give some level of protection, particularly in the longer term: so a widow may be chased off her land, but in several years time she or her children can always reclaim the land if they have a Certificate of Customary Ownership.

Better protection is also needed from the clan judicial system. This needs two things: first, greater appreciation by the clan judicial system that there is a problem and a willingness to solve it; and secondly, greater support of the clan judicial process from the state judicial system. Clan elders and *Rwodi Kweri* need to be shown that the system, which they believe protects the weak, is failing them (this is primarily the role of civil society organisations rather than the State.) Establishing a written codification of customary law will assist the clan system at village level to apply its own rules. The difficulties of this

process cannot be underestimated. Everyone must be brought to agreement on what exactly the rules are in a situation where rules have always been context specific. The danger also needs to be avoided of setting rules in stone, without allowing for possibility of change. Rules and procedures therefore need to be instituted for changing the rules and procedures: a kind of written clan constitution. The researchers do not know of any attempts anywhere to undertake such an assignment, but a pilot for one clan would be a worthwhile initiative, and a study to look for any relevant precedents in other countries would be advisable.

At the same time, there is essential work to be done with the state judicial and land administration systems. Case law needs to be established to set precedents on some of the issues raised above (e.g. de-gazetted land, the invalidity of a sale of land held under customary tenure where the clan did not approve). Examples need to be made in cases where the law is clear (e.g. the illegal expropriation of land in trading centres). Given difficulties with access to the judicial process, this will require direct action through legal representation. A concerted advocacy programme is needed regarding proposed constitutional changes that threaten people's rights to their land, which should inform both the public and their elected representatives of the dangers resulting from the changes. This is all work where civil society should take the lead, whereas state structures should concentrate on establishing the necessary court system (e.g. the LC2 committees) and training LCs in land law and their roles, particularly in regard to their relationship with the clan system. Also mass education on land rights is needed, and systems need to be established for processing CCOs.

CHAPTER 6: CONCLUSIONS AND RECOMMENDATIONS

Land tenure in Acholi

There is a widespread belief by development actors that land is held communally in Acholiland, which has led to the assumption that conflicts of land will be resolved by the communities themselves using traditional systems. However the vast majority of families own their farm-land, either in extended family units or at the household (nuclear family) level. The ownership of land is fundamental to people's well being in the area, yet this ownership is under threat from a variety of levels.

People do not know their rights to land and they are often frightened to claim them and distrustful of the justice system. Laws for protection do exist, but the machinery for implementing them is lacking. Access to the justice system is difficult and the lower ends are poorly equipped to deliver and enforce justice.

There are two parallel legal and judicial systems in place for dealing with land issues, that of customary tenure and that of the state administration. Although the latter recognises the former, there are unresolved contradictions in the way in which it has co-opted it, which could be a potential source of conflict over land in the future and are likely to give the more powerful an advantage in land disputes. The many threats to people's land are not being addressed either by the Government, which is failing to implement and enforce laws passed by Parliament, or by other humanitarian and development actors.

Once the people are able to return to their homes, the economic recovery of the area as a whole to self-sufficiency could be swift. One major vulnerability that will be faced by many individuals (particularly orphans and widows) will be the loss of their land through illegal land grabbing. Although boundaries will usually be recognised, conflicts over land are likely to be many and serious, because of a combination of greed and poverty and the destruction of the social system that regulated relationships between people. There is a particular risk of expropriation of the hunting grounds and the grazing lands that are owned by clans or sub clans.

Another longer term cause of landlessness is likely to be the increase of land sales due to poverty. Measures designed to protect people's rights to land can easily serve as the vehicle that facilitates its sale. This danger is well understood in Gulu, where some people want to be protected from the temptation to be the agents of their own landlessness, but it is less well recognised in Kitgum and Pader.

The potential for outside investors to contribute to the local economy in northern Uganda exists. Nevertheless, the level of trust between the people and Central Government is so low that future peace could be at risk if land were perceived to be grabbed or if clans felt that investors had bought land - rather than rented it - without transparency in the terms and conditions. The compulsory acquisition by the Government of private land in order to give it to private investors poses a particular threat.

Land, food security and the humanitarian situation in the camps

The current containment of the Acholi people in camps is depriving them of access to land for farming and other basic necessities, and is denying them the possibility of income from selling their labour. Access to land is the single most serious constraint to productive activity in the camps and any proposed food security intervention needs to recognise this in its analysis and rationale. Interventions which claim to support agricultural and livestock production, without addressing access to land, risk the charge that they are more about a demonstration of good will and a desire to help than a serious attempt at achieving actual impact.

The current humanitarian response is dictated largely by people's need for food and yet their need for cash - including turning food aid grain into edible flour - is just as important.

Trade has continued in camps despite difficulties of movement and a lack of purchasing power and market systems can be used by IDPs to access most necessities if they have sufficient cash.

It is well recognised by everyone working with IDPs that inactivity caused by landlessness is killing people, destroying their future and damaging the social structure. Although idleness and alcoholism pose the most serious threats (through the diversion of money from food and health care, and through HIV), little is being done to address these problems, which are seen as 'social problems' and not the core of a humanitarian catastrophe.

Although people are in camps to be protected, they remain vulnerable to attacks by LRA. In fact, the very security measures put in place to win the war (keeping the IDPs confined to deny the rebels food) is causing a degree of hardship which is forcing the IDPs to seek food outside any protected zone, exposing them to attack from both LRA and from the Army which is there to defend them. There are no clear mechanisms by which UPDF soldiers can distinguish IDPs from rebels and there are no adequate procedures for the rights of IDPs when they are violated by individual soldiers. The current military strategy has been to increase restrictions on the distance to which IDPs can cultivate, particularly in Kitgum and Pader, and as a result the humanitarian situation is getting worse and not better, at a time when security is perceived to be improving. The proposed decongestion of the camps, as a temporary measure to improve access to land and living conditions in camps risks repeating the exposure of IDPs to risks if units assigned to protect the camps are again redeployed.

It is for the Government of Uganda to set its own military policy. However, it is being prevented from doing this properly due to an absence of information of the real situation of IDPs and the impact that its policies are having on them. The number of people dying every day in the camps is not adequately recorded and as a result, their lives are not considered when policy is made.

Recommendations

Although the Government bears the main responsibility for promoting land rights and food security in the North in both the long and short term, there are many ways in which donors, civil society organisations and the UN can contribute, many of which require strong co-ordination and collaboration.

Civil Society Organisations

CSOPNU

- CSOPNU should take the lead in working with the DDMCs to analyse in detail the recommendations contained in this report and promote them among the relevant audiences including the Ministry of Lands and relevant donor groups (including the PMA and Land Market Policy groups). CSOPNU members in particular should be encouraged to consider the findings in their own work.
- CSOPNU and the DDMCs should work together to harmonise the advocacy messages of the humanitarian community. If some consider it an inescapable fact that food security cannot be guaranteed as long as people are forced into camps, whilst others are publicising their activities, which they claim bring about self-sufficiency, their advocacy voice is weakened.
- CSOPNU should ensure that policy makers are provided with information on the situation of the IDPs particularly on the impact of the 'protection' policy and the policy of 'starving rebels' and encourage an informed debate on possible strategy changes.
- CSOPNU should promote further understanding of issues relating to land rights, in particular carry out research on:

- how the modern and traditional systems of land tenure interface and particularly the impact of the dual legal system on protection for family members, especially women;
- clarifying land ownership in contentious areas, particularly what land is owned by the State and vested in the DLBs, for example the exact status of the Lipan hunting grounds, and the boundaries of each sub-county office.

Implementing agencies

- Implementing agencies need to seek a better understanding of how land issues affect food security and poverty eradication in the North, and how their activities can either improve or retard these. Particular attention should be paid to the access of female and child headed households to land.
- They need to appreciate the magnitude of the humanitarian catastrophe in the North and to ensure that interventions are appropriate in terms of scale.
- Food security interventions should address the real, identified needs of the IDPs, most particularly access to land and opportunities for employment. These are not easy to address and if no workable strategies can be found to support food security in camps, this should be acknowledged, and agencies should concentrate on other types of humanitarian intervention such as water and health and addressing secondary constraints e.g. access to grinding mills (expenditure) and problems of firewood (danger, time), inactivity and alcoholism. At the same time they should advocate to the Government and the Military to increase access to land around camps and ensure its security.
- Provision of seeds and tools should be left to the private sector.
- Oxen distributions and mechanisation projects should be left until IDPs return home as currently they remove valuable daily labour opportunities and do not on their own increase the amount of food produced.
- The multiplication and distribution of cassava is likely to become an important intervention once security returns, however there are currently restrictions on the use of this valuable crop that are unlikely to be overcome.
- More attention should be given to cash based interventions (e.g. cash for work) rather than distributing more food, although general rations should continue and the targeting and timeliness should be improved.
- Large cash grants to groups should not be given as they don't address structural constraints and tend to benefit a few better off individuals.
- Food security interventions based on supporting agriculture in IDPs' home villages are not viable for as long as the military strategy of denying food to rebels is maintained.

Agencies working on legal rights

More specialist agencies working in legal matters (for example, on land rights, women's rights, human rights) are needed on the ground, with forums established where they can share best practices and inform non-specialised agencies and donors of their work. They particularly need to:

- Take up land rights cases directly, because of people's lack of access to the judicial system. This will set precedents both in law and as examples to others, who may be encouraged to take action to claim their rights. Areas which need particular attention

include: the rights of landowners of camps; the rights of people in trading and urban centres; people renting land in camps who are being cheated; and after return, the land rights of women and children. A decision would have to be made whether it would be unnecessarily confrontational, or important as a matter of principle, to look at the rights of people whose land has been damaged (for example, by the military burning trees). Specialist assistance from the highest quality lawyers may be needed in these cases, particularly those relating to compensation for IDPs and the 6 and 12 year limitation rules. International expertise should also be considered, particularly for sensitive cases, to help local lawyers prepare briefs and provide recommendations on necessary legal changes.

- Help forge the way for issuing Certificates of Customary Ownership, if the clans are interested. Since forms have already been designed, agencies could petition for CCOs to be issued and for the DLBs to administer them, firstly the Ministry of Lands and if necessary the High Court.
- Encourage discussion with the landlords, LCs, IDPs and other stakeholders on the possibility of having standard, written rent agreements that are binding and enforceable.
- Actively campaign against the Government's proposed amendment on compulsory acquisition, allowing it to seize land for use by private investors. Civil society in Acholiland needs to work together with civil society in other parts of the country, as it will have devastating consequences throughout the Country.
- As the capacity of the Government offices is low, they should train the DLBs to understand the implications of the Land Act and the Constitution on customary tenure and encourage transparency when dealing with sensitive issues.
- They should carry out mass education campaigns on land rights, compensation and processes of law. These should be carried out on the ground as well as building on the experience of radio programmes such as Mega lawyer.
- They should work with the elders to help them understand that the protection mechanisms of traditional systems are weakening and the impact of the changes in land law. This could include such activities as making a video of testimonies of people who have suffered land grabbing and seeking out widows and orphans to verify that their land interests have not been infringed.
- They should facilitate the written codification of customary land law, preceded by a study of how this has been done in other countries. Even if the codification was only partial, it would assist both *Rwodi Kweri* and clan elders in upholding customary law, by giving them principles and precedent on which to rely. The process will be a difficult one, and will demand expert facilitation, to assist the clan chiefs to think through all the possibilities and the ramifications of their decisions, but without pushing them into positions they do not want to take. However, it could be psychologically important in helping to re-energise the clan judicial system and in focusing people's minds on preparation for a return to normality. The existence of a written code would also help the clan system to claim the right to adjudicate on all matters relating to land held under customary tenure, except where there are claims that the customary rules are unconstitutional.
- In addition, elders should be helped to agree on ways in which rules and procedures of customary tenure can be changed once a written codification is in place and on how decisions can be published and recorded and offenders can be punished outside the clan land.

- The traditional and state administration officials need to establish ways in which the two systems can work together, rather than against each other, and how the state law enforcement systems can help enforce customary legal judgements. This will require a long process of negotiation between the two systems, however, this support would benefit from preparation now, whilst people are still in the camps and are available to meet.

The Government

National Level Government

The Government needs to recognise the contradiction between its policy of starving the rebels with that of promoting the food security of IDPs. Given the mistrust and frustration that exists among the IDPs, the Government has an urgent task to show its commitment to protecting their interests and rebuilding the relationship with the North, most urgently by:

- Recognising the contribution of the landowners in providing land for the camps, consulting them in the creation of new structures and pay compensation for land occupied by the IDPs and military camps and its degradation. For IDPs whose access to land has been limited by the war, renting land on their behalf as compensation or an *ex gratia* payment could be negotiated. An *ex gratia* payment would not commit the Government to any further liability, and the size of the payment could probably satisfy the feelings of the displaced without creating a significant problem for the Treasury.
- Instituting a regular and wide ranging dialogue with IDPs on issues that affect them and how their needs can best be addressed.
- Making unequivocal statements at the highest level on some of the misunderstandings and rumours that abound, such as making it clear that no investors will be encouraged to come until the IDPs have returned home, and then only with their consent; stressing that camps and decongested camps are all temporary, and that every effort is being made to speed up people's return home.
- Ensuring further misunderstandings are avoided, for example, by delaying any long-term infrastructural development of trading centres (which may well prove necessary in the future) until after the IDPs have returned home from camps.
- Abandoning the proposal to change Article 26 of the Constitution to allow compulsory acquisition of land for private investment and to abolish the need to pay prompt compensation.
- Focusing on interventions that promote IDPs access to land, rather than other types of projects that do not address the real constraints to food security. In addition, the Government in conjunction with implementing NGOs, should promote constructive ways to use people's time for example adult education programmes, employment schemes, sports activities, recording traditional folk stories, traditional dances. Consideration could be given to making primary school attendance compulsory, provided that it can also be made genuinely free.
- Actively promoting the implementation of the Land Act and understanding of customary tenure and supporting the institutions of customary tenure and ensuring that they and the state institutions work to protect people's rights.

The Army

- Military strategies should be designed with consideration of the impact on the local population and all efforts should be made to ensure maximum access to land for cultivation. Particular attention should be paid to extending the safe radius around the

camps and facilitating more cultivation along roads. The latter will be particularly helpful in maintaining security as it will make more land available and will keep grass down.

- The Army urgently needs to ensure that discipline and proper behaviour is upheld throughout its ranks and that conflicts of interest are avoided. Complaints mechanisms should be established and publicised as well as ways of identifying individual soldiers so that IDPs can turn to the army commanders for redress where their rights are violated and violations should be dealt with appropriately.
- The Army needs to assist its units at local level to work with IDPs to establish ways of identification, to allow them freedom of movement and to avoid IDPs being mistaken for rebel infiltrators.
- The status of the LDUs should be clarified and debate on the implications of the UPDF Bill for the IDPs should be promoted. A clear chain of command and accepted procedures for redeployment should be established and communicated to the DDMCs and implementing NGOs, through strengthened civilian liaison mechanisms.
- At the end of the war, there will be a need to ensure prompt de-mining, particularly in areas along the northern security road.

District level government

DDMCs

As well as working with CSOPNU on the issues outlined above, the DDMCs have a number of important coordination and facilitation functions to promote the findings of the study including:

- Coordination between the military, landowners and IDPs to facilitate more cultivation along roads.
- Encouraging agencies to collect data on mortality (including global, infant and U5) in all camps, to help the Government to make informed policy decisions.
- Helping identify unused land around the camps and contact landlords to discuss possibilities of using this land for cultivation in conjunction with the Office of the Prime Minister.

District Land Boards

The DLBs should take the lead in facilitating reflection and discussion among the IDPs on how best to protect their land. After a discussion of likely dangers and difficulties, the first steps could be to discuss the idea of registering interests in land, not through individualising ownership, but as Community Land Associations. The hunting and grazing lands should be the first focus of attention since these are the lands most at risk. They should also:

- Recruit district registrars and ensure that customary land sales are registered by chiefs by supporting them to set up registers, and
- Compile a public register of all publicly owned land in each district in order to alleviate people's fears that their land could be considered as vacant, and therefore vested in the DLB.

The Ministry of Lands

The Ministry should spearhead the recommendations to Government regarding land, and in particular should:

- Prioritise support to institutions of customary law and emphasise their role in solving land disputes, particularly as they deal with the majority of land disputes.
- Advocate for adequate district budgets for land related activities, including staff for the land offices.

- Design a sales agreement for customary tenure that includes a section for consent to be given by family members;
- Give the LC1 a mandate to ensure that the consent clause is implemented, in order to prevent sales of land that are contrary to the interests of women and children.
- Ensure that the District Land Tribunals monitor customary decisions on land and promote knowledge on cases that set precedents to traditional leaders.

Lawmakers

The Government proposal to change the Constitution to allow compulsory acquisition for private investment should be dropped.

MPs need to be made aware of the need to re-amend the Land Act, given the clerical errors that are found in the 2003 and 2004 Amendments and should include other changes once this process is already taking place, including:

- The role the LC1s play in administering customary land sales should be recognised and legalised, especially to ensure implementation of the consent clause in land sales;
- Any land transaction carried out by Community Land Association (CLA) officers, which is not in accordance with procedures laid down in the constitution of the CLA, should automatically be considered void;
- The status of de-gazetted land should be clarified: once the State relinquishes the hold on land in trust for the people in the public good (e.g. as a national park), it ceases to have rights over the land and it should return to its original customary owners from the time of gazetting, or, if there are none, it should be vested in the DLB;
- Questions of law relating to land held under customary tenure should be dealt with by the institutions of customary tenure. The implications of the original 1998 Act should be made explicit, that the DLT should not have power to overrule a customary judge (*Rwot Kweri*, clan elder) on land matters, except where the judgement of clan institutions is in violation of the Constitution or other provisions of the 1998 Act.
- The Land Registration Act also needs to be amended, to give equal legal status to CCOs to freehold titles.

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ANNEXES

Annex 1: Camps visited in Acholiland during research

District	Camp	Venue
Gulu	Pabbo	In camp
	Awer	In camp
	Palenga	In camp
	Koro te Tugu	In camp
	Bobi	In camp
	Amuru, Attiak, Amuru	In Gulu Municipal
	Cwero, Opit and Lalogi	In Gulu Municipal
Kitgum	Omiya Anyima, Namukora,	In Kitgum town.
	Amida	In camp
	Pajimo/Akwang	In camp
	Mucwini, Padibe	Kitgum town
	Lukung	Kitgum town.
Pader	Awere, corner Kilak	In Pader town
	Pader town camp	Pader town
	Lira Paluo, Patongo	Pader town
	Puranga.	Pader town.

Annex 2: Questionnaires

Camp _____

Paralegal _____

Person interviewed: man \hat{I} woman \hat{I} child \hat{I}

1. Nga ma loyo gang man? Laco, dako onyo latin? (**Who is the head of your household**)

laco \hat{I}
dako \hat{I}
latin \hat{I}

2. Gang wu macon tye kwene?(**Where is your original home?**)

distance from camp kms
clan

3. Ngom nyo poti adii ma wupwuru i cwii ma okato ni (madongo ki matino)? (**How much land or plots, big and small did you dig in the last season?**)

4. Lac pa poto onongo tye adii? (**How big was the land?**)

plot 1 tal by tal

plot 2 tal by tal

plot 3 tal by tal

plot 4 tal by tal

plot 5 tal by tal

plot 6 tal by tal

5. Ikin cam ma wupwuru i cwii mu katoni, mene ma pigi tek bot wu? (**Of the crops planted last season, which ones are important to you?**)

most important crop

second most crop

3rd most important crop

4th most important crop

5th most important crop.....

6. Wunongo kodi me pito cam magi ki kwene i cwii ma okato ni? (*Where did you get the seeds of the crops planted in the last season?*)

crop 1 *Í bought with money*
 Í worked to be given seed
 Í exchanged in barter
 Í saved from previous harvest
 Í was given by friend/relative
 Í used grain from food aid
 Í received from a project
 Í other

crop 2 *Í bought with money*
 Í worked to be given seed
 Í exchanged in barter
 Í saved from previous harvest
 Í was given by friend/relative
 Í used grain from food aid
 Í received from a project
 Í other

crop 3 *Í bought with money*
 Í worked to be given seed
 Í exchanged in barter
 Í saved from previous harvest
 Í was given by friend/relative
 Í used grain from food aid
 Í received from a project
 Í other

crop 4 *Í bought with money*
 Í worked to be given seed
 Í exchanged in barter
 Í saved from previous harvest
 Í was given by friend/relative
 Í used grain from food aid
 Í received from a project
 Í other

7. Wubedo ki kero me cito kapwuru poti wu ma i gang wu macon i cwii me aryo i mwaka ma okato nyo icwii me mwaka ni? (*Did you have opportunity to return to dig in your original homes last year or this year?*)

yes
no

8. Wubedo ki kero me kwanyo cam mo keken ki i poto wu ma igang macon? (*Did you harvest from these fields?*)

something
nothing

9. Wutamo ni wu bi bedo ki peko me nongo ka ngom wu macon ka wudok cen paco wu ka kuc odwogo? (*Do you think you will have problems on your original land on return?*)

yes
no

10. *If yes* Wutamo ni wubi nongo peko ango? (*What sort of problems do you think you will have on return?*)

- IDPs settling on land
- other people or projects on land
- neighbours pushing boundaries
- relatives claiming land
- soldiers on the land
- landmines
- rebels
- widow losing land to in-laws
- problems as a woman
- other