

## **Land Matters in Northern Uganda**

### **Anything Grows; Anything Goes Post-conflict “conflicts” lie in Land**



Lessons Learned: Property Rights and  
Natural Resources Management  
(Global Land Tenure II) Task Order  
USAID

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## **I. Background**

1. There is sufficient evidence from post-conflict situations in Africa to know that the seeds of disputes and even violent conflict lie in land rights and access to natural resources. Specifically, refugees and IDPs returning “home” often face difficulties (re)accessing land, (re)establishing rights over land and natural resources, retaining land and property rights, and moving land rights into instruments for economic growth.
2. Recent evidence from post-war Angola, Rwanda, Mozambique, Sudan, and other African countries illustrate this point. The incidence of disputes and conflicts over land access and land rights appear to be directly correlated with the number of years that people have been displaced from their homesteads and traditional lands. As a result, the number and nature of disputes over land access and rights can overwhelm both traditional and statutory land adjudication systems; they can stifle investment and economic growth; and they can confound strategic land use planning and sustainable natural resources management.
3. If land tenure and property rights are not addressed as a part of IDP resettlement and reintegration packages, and if subsequent policy, legislation, and practice does not protect and promote secure land rights for both traditional ethnic groups and individuals, then the seeds of future conflicts can unwittingly be sown by well-intentioned but naïve donor assistance and investment schemes. Moreover, land access and land rights can be overwhelmed by unscrupulous officials and post-conflict power-brokers who manipulate land to personal and sometimes ethnic gains. Land deals and land grabbing often perpetuate inter-ethnic rivalries, and can undermine post-conflict peace accords.
4. Two USAID-land tenure and property rights specialists with more than 40 years of African experience conducted a preliminary assessment of land tenure and property rights issues associated with prospects for IDPs to return home in Northern Uganda after 20 years of war. The observations and recommendations of this report are based only on two weeks in Uganda (October 23- November 4, 2006), and are largely focused on the “Acholi sub-region in northern Uganda. The sub-region includes Kitgum, Armutu, Gulu and Pader districts. One week was spent in Gulu District talking to district officials, traditional leaders, aid workers, and approximately 800 IDPs (in 10 focus groups in 5 camps). The second week was spent in Kampala corroborating observations and impressions gathered during the week in Gulu, with Government of Uganda representatives, international organizations, USAID officials, and NGOs.
5. This report is hardly conclusive regarding land tenure and property rights in the north. However, there are sufficient concerns raised, in particular by IDPs and others who are associated with Acholi lands, that land access and land rights will figure prominently in post-conflict resettlement in the north. In particular, if the Acholi people are going to be afforded a reasonable opportunity to be integrated into national political development, economic growth and regional stability, then these issues will have to be addressed as a priority. The largest areas of productive agricultural land in the country are found in the north. For almost 1.5 million displaced people, land represents the only equity they have after the war. If significant numbers of these people are disenfranchised from their rights of access and use of land, then this will perpetuate a downward spiral of destitution and poverty. If the loss of land and land rights are in any way associated with outsiders or the Ugandan Government, then it will surely sow the seeds of violent conflict. As one Acholi leader told us, “There will be blood on our spears if people from the outside touch our land. We will die over this issue.”

## **II. Characterizing the Issues—Land Access and Rights**

Land tenure and land issues can be characterized globally using five primary categories. Each category of land and property rights issues can be further characterized by sub-issues. The description of these sub-

issues in the context of Northern Uganda is by no means exhaustive. Rather we use these primary categories to organize observations and comments at district level. Many of these observations were further corroborated by aid, development and investment professionals at national level:

1. Post Conflict Instability

- Confusion and mistrust over land administration and adjudication systems. Most IDPs we talked with expressed little faith in the ability of traditional and statutory systems to adjudicate land access and land rights fairly, promptly, and honestly. When forced to resort to a system of land adjudication, all men preferred a traditional systems led by clan elders. Women however, expressed serious reservations and faith in either system – particularly women without husbands and without male children;
- Social and political confusion over resettlement and development strategies, statements, and approaches. Almost all IDPs with whom we held discussions were completely unclear about the need/role for decongestion camps, why they couldn't return home directly, and what options would be available for resettlement. There is no obvious, clear policy regarding resettlement packages, incentives, and strategies aimed at livelihoods, let alone enterprise and commercial agriculture.
- Historical tensions between the northern and southern Uganda mean that land rights are characterized by misinformation and distrust. The northern Ugandan have little trust of southern Ugandan interpretations of land rights. IDPs are unclear about the status of public lands and lands nationalized under previous Uganda governments;
- We encountered competing interests in post-conflict land access and control. These interests were characterized by competition between native land owners; between native land owners and diaspora Acholi, between native Acholi and their elected/appointed representatives, between native land owners and government institutions (towns and universities); and between native Acholi and outside interests;
- There is little or no clarity over the demobilization of armed forces and military interests in the area. We heard concerns regarding compensation for land occupied by armed forces and military camps, and we also heard concerns about the militia and access to land as part of decongestion camps.
- Some native land owners raised concerns and compensation claims over land that had been occupied by IDP camps – and were particularly concerned what would happen if IDPs did not return home from camps and trading centers.
- We noted that no IDP camp situations were homogenous. Instead, we found both social and geographically significant variation in camp clan composition, land issues, land access practices, and concerns.
- Some IDP camps were particularly concerned about land “contamination” – where mass graves and “ebola victims” have “polluted” the land. We were unable to determine the scale or significance of these reports.

2. NRM/Biodiversity loss

- There are immediate environmental impacts within IDP camps and their immediate surrounds. These impacts range from groundwater contamination to serious deforestation, to the destruction of wetlands and forest reserves. Most IDPs found that decongestion camps as a strategy for staged resettlement would only replicate these negative environmental impacts, as well as perpetuate conflict over land access and use by people with and without legitimate land rights to new camp sites.

- Many of the decongestion camps are being relocated to abandoned school compounds and common areas near water sources. Dispersal camps' congestion will only add to the repetition of environmental impacts, particularly affecting environmental health related to public areas and water sources.
- We found no links between federal, district and traditional community land use institutions over conservation and natural resources management options as part of resettlement. We did not encounter any discussion of incentives and/or resettlement packages that would help IDPs practice land use options that had long-term environmental benefits. At present, we only found institutions referring to IDPs are ready pools of cheap labor for environmental remediation projects.
- Selected areas in the sub-region have experienced important vegetation regeneration presenting key opportunities for improved land and natural resource conservation and management. We found little or no interpretation of these areas with reference to past land use, access, and natural resources management – customary or statutory. Opportunities for the conservation and/or sustainable exploitation of these areas are unexplored.
- There are believed to be areas of important biodiversity as part of the northern-most extension of the Albertine Rift Valley and an international biodiversity “hotspot”. Most of these areas form part of the boundary between Uganda and Sudan. These important biodiversity areas have yet to be addressed within a broader landscape of peace, reconciliation, land use planning, community engagement, and economic benefits.
- We saw extensive and intensive evidence of the first benefits of peace – an immediate demand for cash through the exploitation of woody biomass for charcoal. Charcoal production is one of the most immediate methods of generating quick cash for people returning home and clearing their fields. However, we were not able to determine if charcoal producers had legitimate property rights to these trees or were prospecting in advance of returning populations. We heard of ready markets for charcoal to the south, and north, in Sudan.

### 3. *Insecure Tenure and Property Rights*

- Statutory and customary land policy and land law is unclear. Significant areas of Acholi land are held in customary tenure; yet earlier land laws make provision for land holders with 12 or more years of occupancy to have legitimate rights over land. Additionally, statutory and customary laws conflict and are not resolved by the 1998 Land Act.
- We encountered very limited public awareness and information on land laws, land investment opportunities, land use planning, and links with environmental remediation and sustainable natural resources management among camp staff, district officials, and national agency representatives. It is very evident that issues of land tenure and property rights have not yet been linked sufficiently with district development and land use planning. Instead, the focus of most conversation is on the more contentious and highly politicized issues over land access and land rights.
- Issues of eminent domain are unclear. We were unable to discover how state and district government will address issues of land that needs to be obtained for public welfare, safety, and economic development and infrastructure development. Many people we spoke with are frightened that eminent domain will be used by government to take over lands illegally.
- Land mapping, demarcation, registration are not widely practiced in a country where 80% of the land is still held in customary tenure. Land demarcation and titling is not seen as an option for tenure security by many of the Acholi people, and any efforts to survey and register land are regarded skeptically by IDPs;

- The present system of District Land Tribunal and Land Boards is unable to deal adequately with its present work load. These institutions give no evidence of being able to accommodate, let alone adjudicate, an increase in land disputes, claims, and conflicts.
- Government authorities with a legal mandate for addressing issues of land access, rights and conflicts are seen as corrupt and unable to resolve disputes. Traditional institutions are also regarded skeptically. We learned that the traditional cultural leadership of the Acholi – the *Ker Kwaro*, is interested in establishing an Acholi Land Trust to adjudicate land matters among the Acholi, and between the Acholi and outside interests. This overture is regarded skeptically by some Acholis, as the Ker Kwaro (cultural chieftainships) has lost significant legitimacy over the last 50 years.

#### 4. Inequitable Access to land and natural resources

- Squatters and land grabbing already occur on both traditional homesteads and public lands. Small land grabs were cited on numerous occasions in association with IDP camps and people returning to their farms. Squatters already occupy large areas within IDP camps belonging to specific Acholi clans. We were given numerous examples of people, particularly close to towns and trading centers, claiming rights to land without the consent of families and clans. In addition, large scale farms are allegedly being granted by regional and national authorities. We were unable to determine the extent and legality of these land transactions.
- The number and nature of disputes will increase significantly based on perceptions and realities. The number of years spent in camps, and the number of people unfamiliar with their traditional homesteads will overwhelm traditional and statutory (e.g., government) capacities to address these disputes effectively. Such disputes are expected to have far-reaching and unfair impacts on the poor and vulnerable.
- Land sales are causing conflict between returning IDPs and diaspora Acholis. We were given examples of where young Acholis with legitimate access and rights to land were selling plots of land for cash without the consent or engagement of traditional authorities. These sales were causing anxiety and conflict with clans and traditional leadership. We were unable to determine the scale and significance of these transactions, but they seemed to present a problem for both clans and investors.
- We experienced a high degree of anxiety, particularly from women, and child-headed households, of corruption and inequity in re-accessing traditional homesteads and lands. Vulnerable groups (the elderly, women HIV/AIDs victims, child-headed households, and youth can expect land rights violations or exclusion. Many report problems with land access around IDP camps already , and they fear that they will not have access when they leave the camps.
- We were told of threats by influential Acholis and non-Acholis to IDPs to remain silent about land grabbing, land sales and land leases. The perception is that this is an internal matter and should not invite external intervention or investigation. It is unclear to us the extent to which this is a problem.
- It remains unclear to us and to most Acholis with whom we talked the degree to which land and natural resources previously held in the public domain and/or in customary tenure as hunting/grazing/or forested lands will be accessible to IDPs. This includes surface and sub-surface property rights. This concern has been particularly highlighted by the discovery of commercial deposits of oil in northern Uganda.

#### 5. Poorly Developed/Performing Land Markets

- We discovered land parcels being given to government officials and private investors north of Murchison Falls National Park, in the new Amuru District. We were unable to determine the

legality of these land transactions, and have no idea if compensation and/or deference to customary land holders were given. We have no idea of the number of these land acquisitions, but they are of significant size (4x10 miles was cited by one investor), with some infrastructure already established. We were told of significant agricultural market opportunities with traders/buyers in Southern Sudan, for crops produced on these farms.

- We are aware of evolving commercial agricultural interests in the north; e.g. sugar, cotton, cattle, etc., but we are not clear on the implications to land rights, as the details of these investments are vague. We are concerned that commercial agricultural interests will be cavalier in their treatment/understanding of land rights and land use issues, and add to the anxiety and atmosphere of distrust. This is unfortunate, as commercial investments in the north are an important part of the region's economic development. In the absence of a commercial agricultural investment policy and strategy for the post-conflict north, commercial agricultural interests could set an unfortunate precedent for confusing land tenure and property rights, and significantly retard the "enabling environment" for beneficial land leases, land sales, and land equity schemes.
- We encountered little understanding or interest among IDPs in using their land/land rights as equity in commercial agricultural, natural resources, or tourism investments. We are unaware of any "orientation or sensitization" efforts in IDP camps about these "investment opportunities" as part of peoples' return home. In general, we encountered a fear of using land in this manner. People expressed anxiety over the idea of such schemes and regarded these ideas as further examples of "government" or investors as trying to usurp their land rights. We are aware of only one pilot scheme to date, in which Dunavant Cotton Uganda Ltd., working through the IRC, was able to access land in Kitgum District, under some sort of leasing agreement. However, the terms and conditions of this agreement were not made clear to us. We understand that a report on this scheme is forthcoming from IRC.
- The north of Uganda, particularly the Acholi lands, is viewed by some as the last, big open space for commercial agriculture in the country. Fertile soils and typically adequate rainfall have supported the belief that "anything grows" in large parts of the Acholi sub-region, and the area is viewed as ripe for commercial investments. For example, a previous history of cotton production has attracted a large, American-based multi-national, Dunavant Cotton Uganda, Ltd., to pursue investments in the north. We also heard the expression "breadbasket" used in association with Acholi lands. Access to land, and the terms and conditions of these schemes will set an important precedent for future commercial agricultural interest in the area. These pioneer investments are critical to the establishment of trust and good will among the Acholi people, particularly in a post-conflict setting. These schemes should set standards and models for successful commercial agricultural enterprises in the future.
- The absence of an active and effective system of land registration and titling that can be used as collateral to access loans is regularly cited as a deterrent to economic development in Uganda. We heard this sentiment expressed on several occasions, suggesting that people are hopeful that the Acholi will embrace a systems of titling that can used to secure loans and introduce more active and transparent land markets in the north. As noted earlier, most of the Acholi interviewed did not share this faith in land registration and demarcation schemes.

### **III. Implications of these Issues**

Post-conflict land and property rights have direct and often immediate implications for successful transitional development.

#### **1. Peace and Security**

- Significant levels of land disputes and conflicts could result in wider instability in the region, contributing to violent conflict, resource theft, displacement, out-migration, and jeopardize

opportunities for investment. This situation could both undermine the peace process and result in post war conflict.

- Since land is essential to ethnic identity, culture, and the IDPs only remaining asset in many instances, any overtures that are perceived as being introduced from the “outside” could perpetuate a strong sense of distrust and the divide between northern and southern Uganda;
- Large populations of disenfranchised and/or displaced resulting from failed attempts to return to the “land” will result in high levels of frustration. This group will be susceptible to fanaticism and political manipulation.
- Conflicts over access and rights to land can continue to remove significant areas of land from productive practices.

## 2. Governing Justly and Democratically

- Government’s inability to address land access and rights issues effectively will undermine broader attempts to establish trust and confidence in rule of law, good governance, legitimate multi-party competition, and effective consensus building.
- Disenfranchised and marginalized people arising from failed land access, land disputes and conflicts, and undermined rights can become a volatile constituency, undermining attempts to build political consensus and civic engagement in development

## 3. Investing in People

- Up to 500,000 vulnerable people could be disenfranchised from the only asset they have, contributing to a downward cycle of poverty, and excessive demands on social services and institutions. The elderly, youth, HIV/AIDs victims, and women are particularly vulnerable.
- HIV prevalence will likely increase in the face of dispossessed land owners who are forced into practices that only perpetuate and increase infection rates;

## 4. Economic Growth

- Insecure land tenure and restricted/poor access to land could thwart economic development at regional and national levels;
- Economic opportunities will remain limited and skewed towards elites Agriculture investment is likely to remain subsistence and slanted towards select big business with inadequate benefits to local people. Associated limits on trade and investments linked to land could limit local benefits;
- NRM could experience new waves of degradation and missed opportunities for sustainable management;
- Important biodiversity areas and historical dispersal corridors could be lost, leaving important biodiversity reserves isolated, fragmented, and without possibility for genetic/species replenishment;
- Private sector competition could remain limited and conflicted, leading to public frustration and further inequity.

## 5. Humanitarian Assistance

- Prolonged inputs of food and humanitarian assistance will be needed as people fail to capitalize on productive lives;
- Increased possibilities for domestic and ethnic violence;

- Failure to address these issues could result in an unprecedented amount of time being spent guarding against encroachment and resource theft from outside of Acholi land, leaving people unable to take up productive lives.

## **Results of the Short Term Technical Assistance – April 2007**

### **1.0 Observations**

Our trip resulted in the following major observations:

1. There have been significant discussions among Acholi Parliamentarians and elected civil government officials concerning land and resettlement. These discussions presently manifest themselves in three major activities:
  - Advanced discussions among this group concerning the formation of an Acholi Land Trust – a single body dedicated potentially to all matters of land for the Acholi sub-region;
  - Written contributions by the Acholi Parliamentary Group (APG) to the Government of Uganda on all elements of Peace, Development, and Resettlement and Development Plan (PDRP) to address omissions, including land issues related to resettlement, in the Government’s present draft of the PRDP.
  - Advanced discussion by the Executive Committees of the four district commissioners of Acholi land – Pader, Kitugm, Amuru and Gulu on guidelines for the appointment of land committees at local levels;
2. Political leadership among the Acholi remains widely divided along customary and statutory lines. After 20 years of armed conflict, traditional community (clan) governance, social welfare, and disputes resolutions mechanism have deteriorated. This leaves a dramatic and disturbing power vacuum among the Acholi people that is rapidly being filled by political and civil government authorities. The potential for disputes and conflicts between these power structures is more poignant than ever.
3. The most determined and resounding call among all Acholi remains the desire to return home from the camps. Any discussion or programming on land that delays this move will be regarded with suspicion and distrust. While discussions concerning the environment and sustainable natural resources management are considered important by all Acholi power groups, the most significant priorities remain: getting back to the land, land access/rights, household construction, and start-up agriculture.
4. Everyone we spoke to acknowledged that there would be disputes and conflicts over land and natural resources. Most people considered this an inevitable product of displacement, and correlated the number and intensity of land disputes to the amount of time spent in IDP camps. Hence, Gulu and Amuru districts could be expected to suffer more land disputes than Kitgum and Pader districts. The workshop participants were able to characterize potential land disputes at five different levels, and the results (geographic locations) of these discussions are captured in an annex to this Memo. Property Rights related land disputes include: 1) Household and intra-clan land disputes; 2) inter-clan land disputes; 3) land disputes based on inter-ethnic clashes over land and natural resources; 4) land disputes with the Government of Uganda over land whose titles/leases are unclear/problematic; and 5) disputes over property rights related to natural resources and public land.
5. In brief discussions with workshop participants and NGOs working in the north, we believe that resettlement will alienate significant numbers of disadvantaged Acholi. The ability of these people to access land will be severely limited – in part by choice, but more often by social stigma and the inability to exert or find recourse in traditional land rights. These people can be grouped into HIV/AIDS victims (with infection rates believed by TASO of Northern Uganda to be as high as

50% of camp populations in some districts), Women Headed Households, Child Mothers, Child Headed Households, the Disabled, and Child Soldiers and Returning Rebels. We could discover **NO** dialog at any level aimed at helping these groups (re)assert land rights as part of a resettlement strategy, a livelihood strategy, and/or economic growth strategy. Inability to include these people in the dialog on resettlement and land access will soon foreclose on the only opportunity these groups have to (re)gain land as their only form of equity in a livelihood struggle. Unless these groups are engaged as a priority and assisted to both retain land rights, or to obtain land rights, we predict there will be a **HUGE** social and economic cost to local and central government, donors, and society attempting to address the consequences of their continued marginalization.

6. We were unable to find a corresponding examination or response from the donor community on these same issues. Despite the lessons learned from post-conflict resettlement and property rights in Africa, donor discussions display an appreciation but fundamental disregard for the importance and urgency associated with land tenure and property rights in the north. We again submit that land tenure and property rights are elemental cornerstones of USAID foreign policy. They have a direct and immediate correlation with each of USAID's major Transitional Development Framework themes: Peace and Security, Governing Justly, Investing in People, Economic Growth, and Humanitarian Assistance. Nowhere is this more apparent than in Northern Uganda, and particularly in the Acholi sub region. With prospects for a peace accord within the next 2-3 months, the window for both positioning a pro-active strategy on resettlement and land, and the opportunity to nurture a regional program of secure, enforceable property rights, will close quickly. The results of missing this opportunity could be a painful and protracted period of failed and inequitable agricultural development and resource allocation/benefit sharing, significant corruption, cross-border disputes, huge unemployment, crime, and continued regional instability.
7. Virtually all organizations with whom we talked gave highest priority to Land and Resettlement PIA (public information and awareness) campaigns focused on know your rights and responsibilities with regard to land and natural resource access and use rights. They believed that this effort could make the most beneficial input into the dialog on land issues in northern Uganda. In its absence, people will suffer from regular information manipulation and disinformation efforts.

A closer of examination of the issues and recommendations for future support follow.

## **2.0 A Closer Look at the Issues**

In all instances, this trip afforded us the opportunity to understand the issues and nuances emerging in resettlement and land issues in the Acholi Sub-Region. We were made aware of the variations and permutations on land tenure and property rights themes based on district differentiation, the duration of internment in camps, the power structure among Acholi clans, historical patterns of land use and access, and the emerging demands exerted upon the Acholi sub-region by emerging markets in Southern Sudan.

Acholiland continues to emerge from a challenging period of violent conflict, but more insidiously, the deterioration of personal health, family, tradition, and cultural solidarity. Some people have spent as long as 20 years, a generation, away from their traditional social structures, their cultural foundation and their land. The prospect of returning home must be alternately confusing, full of anxiety and full of expectation.

We are unable to speak authoritatively on the host of land tenure and property rights issues that are expected to emerge during this resettlement process. But we are confident that the issues we identify here are consistent with experience throughout post-conflict Africa. Our experience in post-conflict Rwanda, Mozambique, Angola, Sudan, and Burundi all speak to a consistent set of tenure and property rights issues that must be dealt with persistently and consistently over time. If they are not, we are certain that the seeds of future conflict, failed governance, and stymied economic growth will be sown over the next few years of resettlement.

There are two fundamental tenure and property rights issues that must be addressed as priority.

## 2.1 Post Conflict Instability

- Key institutional arrangements guiding the resettlement process, access to land and land rights are fractured and particularly vulnerable to manipulation. This was evidenced by the challenges and counter-challenges thrown back and forth among traditional leaders, civil authorities, and parliamentarians at both workshops. There is a power vacuum, and traditional authorities and elected officials are vying for power and leadership in the resettlement and land effort;
- Traditional leadership structures, particularly in Gulu and Amuru districts have become marginalized and disenfranchised most likely because of the long period in the IDP camps and the death of key members during internment. At least one generation has been born and raised away from traditional homesteads and the authority of customary leadership systems. Inter-generational conflicts are reportedly significant.
- As a result, conflict and dispute resolution mechanisms are divided. Some returning Acholis will resort to traditional dispute resolution mechanisms, while others, with better access to a new power base of district and regional officials will seek resolution of conflicts and disputes there. In both cases, power positions become the basis for “rent-seeking”/corruption – and without an appropriate system of checks and balances, both disputes and the systems for resolving them corruptly, could blossom. District land boards have been dissolved, and district land tribunals, originally designed to accommodate land disputes and conflicts, are dysfunctional. We were told that the district court system is presently overwhelmed in Gulu District with more than 6000 land cases, most of those apparently dealing with land disputes over municipal lands.
- Women do not traditionally participate in public discourse or decision-making and are generally not part of any of the key traditional institutions. While the Constitution requires that one-third of all levels of government be women, many of the women who are part of the formal governance system are unprepared for their role. The disabled and those who are infected with HIV/AIDS are also not part of the public discourse on land and resettlement.
- The legal and regulatory framework guiding resettlement and land rights have yet to be interpreted successfully within a customary (patrilineal/patri-local society) system. While the constitution and new land law make provisions for customary certification of land, to date, there is no experience with this land tenure registration system. Customary law and customary land tenure systems have yet to be successfully integrated into Uganda land policy and land law. The absence of guidelines and experience in this respect leaves the land law open to a variety of interpretations that could be confusing and misleading – leading to unnecessary conflicts and disputes. Well intentioned efforts to support customary land certification in the north could, without the proper measures and precautions, fuel conflicts between clans, and between clans and civil authorities.
- Land redistribution is not yet an issue, as there appears to be plentiful land available for a population that has allegedly increased by at least 100% over the last 20 years. While it has been publicly stated that everyone return to the area from which they were displaced, it’s still unclear if legitimate claims to land can be accommodated within traditional clan land allocation and tenure arrangements. The inability or failure to (re)distribute land in the face of growing population needs could present an additional set of conflicts.
- The number of people who have the potential to be disenfranchised in the post-conflict land distribution process is enormous. Vulnerable groups include female-headed households, widows, child mothers, HIV/AIDS victims, abductees, returnees, and illegitimate children. For women in these groups, customary law protects them, but only to a point. The Acholi are both patrilineal and patrilocal. Thus, when daughters marry they move to their husband’s home *and become part of his clan*. Land is passed down to males only. Thus, neither widows nor daughters have “ownership” rights to land, only use rights under customary law. Many women have children but no

husband and do not have customary rights to any land because they have left their clan but have not been taken in by the clan of the father of their children (either because they never married or because they do not know who the father of their child is in cases of rape). As well, many children cannot trace their father and therefore have no customary right to land.

- It is thought that between 10 and 15 percent of the population of the north are disabled. Disabilities include those that have occurred because of war (land mines, increased disease, and mental illness) and those that would otherwise exist. Physical disabilities make it difficult or impossible to farm, to get water or fuel, and to otherwise be mobile. While in the camps, many of the needs of the disabled are taken care of by humanitarian assistance. Upon return to rural areas, however, these services will not be available. While many disabled people will not be able to farm their land, land as an asset to lease out or sell would provide them with the means to earn a living in another way.
- Representatives at TASO estimated that 50 percent of people in the camps are infected with HIV/AIDS. AIDS is still stigmatized, and many of those infected are unwilling to tell their partners for fear of being abandoned, increasing the likelihood that the infection will spread. The IDP camps are relatively closer to town centers and near medical facilities. When the IDPs return home, there will be very limited medical facilities. Those who are ill and unable to work are unlikely to receive land in the initial distribution. Those who are women or orphans are even less likely to receive land given the discussion above. Land is a critical asset for those with HIV/AIDS because land, housing and other property constitute a resource base which the household can draw from to cover HIV/AIDS related costs, including the cost of medical treatment, provision of care, and services related to deaths and funerals. Land may also provide the means of sustaining livelihoods even when the income earner is ill—through leasing out of land. Profits from the sale of assets may help offset losses that result when household caregivers - often women and girls - are diverted from other income generating activity.
- IDP camp rehabilitation and/or compensation have not yet been considered as part of resettlement. Landowners most severely impacted by main camps, decongestion camps, and UPDF/militia camps, may in addition to compensation, seek redistribution of lands as compensation.
- Land administration systems are virtually absent. There is little capacity at district level and below to confirm, let alone map, demarcate, register and administer land holdings that get “certified” through either customary or freehold tenure arrangements. The absence of these systems makes legal identification and resolution of land disputes and investments a challenge.
- The Acholi leadership at the workshop identified several categories of emerging land conflict categories. Within these categories, the groups identified geographical focal points within Acholi land that may serve as the nexus of these real and perceived conflicts. These are listed in their detail in Annex 1 to this report.

## **2.2 Insecure Tenure and Property Rights and Inequitable Access**

- While the Acholi clan system appears to offer the best potential for inclusive individual and group rights to land and natural resources, the fracturing of the clan system could result in deleterious effects on a host of marginalized and/or disenfranchised camp dwellers. We believe that these individuals and groups will be seriously challenged to both establish and maintain tenure and property rights in the whirlwind of resettlement efforts. This will be especially true for significant numbers of Acholi who are not represented at the “table” of discussions aimed securing tenure and property rights for IDPs.
- However, the inequitable distribution of land rights is nowhere more poignant than for the vast majority of women and disadvantaged groups who could be potentially disenfranchised from exercising these same rights. As the struggle between customary and statutory tenure and property rights systems persists, these groups will be increasingly marginalized with severe consequences.

Women who are not married (abandoned) have very tenuous rights to land and are dependent on traditional leaders to provide land rights to them. Customary systems that may have protected widows' rights to use land have broken down in the 20 years of displacement.

- We have yet to see significant examples, but both poorly functioning inheritance systems, and unfair marital property practices could result from the further deterioration of customary systems in the face of statutory reforms, decentralization of governance, and social marginalization as a result of the War. This will affect women, children, and the disabled to various degrees, and too often result in landlessness. Moreover, land rights that belonged to males in terms of customary succession rules may be jeopardized due to lack of acceptance into the family or community. Finally, no customary dispute resolution system will exist if family association is unclear.
- The complex Acholi system of clan and family relations has been seriously challenged by many who have a generation of living off and away from traditional land holdings. Camp dwellers can live just a few kilometers to a hundred kilometers from the original displacement area, making all sorts of different demands on a system that would adjudicate land access and land rights.
- Rights distribution varies tremendously between individuals, families, clans, and government. At present, land and property rights are skewed in favor of those capable of commanding or exercising power. Power is exercised in a variety of ways – as an elected official, as a customary leader, or because of alliances forged with UPDF and/or local militias. While we were unable to appreciate all the nuance associated with the Acholi people and these rights, it is clear that there is no one pattern of land and property rights that characterizes Acholi land. Each district and sub-district is prone to different levels and types of land rights distribution.
- At present, there are few efforts to inform people of their property rights and responsibilities as part of resettlement. Virtually all workshop participants bemoaned the lack of materials and information on resettlement and land rights, and all mentioned that there were no systematic attempts to inform them and build capacity for them to play this role in the resettlement process.

### **3.0 Property Rights and Natural Resources Management (NRM)**

Much of our assessment and understanding of property rights issues in the north has been driven by a USAID interest to invest in biodiversity conservation and natural resources management. Thus our analysis of issues is as much driven by the NRM opportunities resulting from the armed conflict in the north as well as threats to the remaining biodiversity and natural resources base.

#### **3.1 Unsustainable Natural Resources Management and Biodiversity Loss**

- Key institutional arrangements operating in support of natural resources management and biodiversity loss have fundamentally been absent from northern Uganda for more than 20-40 years. Central authorities key to wildlife and forest resources management have been virtually inoperative in Acholi land for this period. At present, the extent of the loss of forests and tree resources is better documented and visible than the loss of wildlife. Workshop participants identified the consistent use of UPDF lorries (particularly in Pader and Kitgum districts) to deliver food and supplies to key populations in the north, only to return to their bases at night filled with timber from valuable hardwood forests in these areas. The extent and significance of these activities remains largely unknown and unquantified.
- Conflicts will increasingly focus on areas of land, forests and wildlife where property rights are least secure, and where Government control over land is still suspect/challenged. This is evidenced in the number of challenges made in the workshop to Government natural resources management authority in traditional parks, forest and game reserves and game controlled areas.
- Uganda's legal and regulatory framework for natural resources management at national and district levels will be challenged to work alongside a customary approach to land use and tenure.

Property rights to wildlife on non-government lands should, in theory, be linked with either individual and/or group rights associated with traditional Acholi hunting areas. However, these rights are in flux. Encroachment of protected areas, poaching, and commercial exploitation of the remaining natural resources in key biodiversity areas are very real possibilities as returning clans and select Acholis position themselves to get access and use of key natural resources. The prospects for uncontrolled resource “mining” threaten northern biodiversity hotspots as well as long-term natural resources management and biodiversity conservation options.

- Like land, clan rights to natural resources are passed down through males, and women without husbands have either no rights or limited rights to these natural resources.
- Workshop participants spoke eagerly of the redistribution of property rights for wildlife, park lands and forests/forest reserves to the Acholi people. In addition, they spoke disparagingly of the Government’s position urging them to tolerate wildlife but offering no system of compensation for homestead and/or crop damage as the result of wildlife incursions. This response affects key northern biodiversity areas such as Murchison Falls National Park, the potential East Maadi Game Reserve, the former Aswa Lolim Game Reserve Area and proposed elephant corridor, the Lolibai/Imatong Mountains in both Sudan and Uganda, and numerous forest reserves.
- Land use management and conservation options have not been discussed with IDPs as part of resettlement and/or land use options. This might immediately foreclose on medium and long-term land use options that benefit biodiversity conservation and key habitats.
- There is a huge market in southern Sudan and the DRC that is increasingly hungry for raw materials and semi-processed goods that originate in Northern Uganda. As IDPs move to return home they will be continuously examining options to turn natural resource assets into ready cash – and the most readily available form of cash in Acholi land is the bush/trees, fodder, reeds, and wildlife that can be turned into charcoal, livestock food, building materials, fodder and bush meat. In the case of charcoal, we expect the demand for charcoal and fuelwood to spur the rapid deforestation of the Acholi Sub-Region over the next five years. Already, a bag of charcoal in Gulu, costing between 5,000 and 8,000 Uganda Shillings fetches 50,000 Uganda Shillings in Sudan. These market forces can be expected to wreak havoc on large tracts of forested and/or bush land, as well as tree resources on homesteads as IDPs and entrepreneurs rush to meet demand.
- Land use management and conservation opportunities at macro level abound. Vegetation regeneration and growth (and perhaps even wildlife populations -although this is doubtful), as well as forests, wetlands and riverine forests, present opportunities for sustainable natural resources management in the face of resettlement. Yet none of these options and/or opportunities (parks, protected areas, transboundary cooperation) have been discussed with local, customary, district and/or regional authorities, who may have competing thoughts regarding these resources and their exploitation. These all present possible conflict points as use, needs and opportunities continue to emerge.
- With such large groups of disadvantaged and marginalized people expecting to result from unequal land access and land rights distribution, we could expect to see a similar unequal access to natural resources. This may or may not favor disadvantaged groups during resettlement, but over the long-term will clearly result in their eventual disenfranchisement from the natural resource base all-together. A clear example of this is the growing trend of women without land in Uganda to occupy wetlands as a livelihood strategy. Wetlands are a public resource in Uganda, and form a significant part of the Uganda and Acholi land base. The increasingly marginalization of women’s land rights and access can be expected to result in a corresponding increase in the destruction of wetland habitats – and the resilience of these important habitats compromised by regular, rather than by intermittent, use as a livelihood strategy. Moreover, these rights to land, which are informal, are insecure, and women can lose the right at any time.

- Increasingly, with the discovery of oil along the Nile River, sub-surface mineral rights and benefits will become issues. To a lesser degree, exploitation of other sub-surface natural resources could also become a point of conflict as both IDPs and government move back on to the landscape.

#### **4.0 Poorly Developed, Poorly Performing Land Markets**

Since Acholiland was once considered the “breadbasket” of Uganda, hopes for the area to re-emerge as an agricultural leader have been expressed by national and district leaders. Agricultural development in the north is a major engine of successful resettlement, district revenue generation, and economic growth.

Already significant areas of “un-used/unoccupied” land have been given leases and/or renewed prior to resettlement. These land allocations dominate in the western area of Amuru district. We are unable to comment on their legitimacy or legality. But these concessions/leaseholds have spurred major discussion on land grabbing and southern interests in Acholiland. Many of these records are directly available from the Ministry of Lands, High Commissioner for Land Registry.

- At present, there’s been little or no attempt to examine the options and/or problems associated with resource contracts, sharecropping, collateralization of land and property and/or land leasing. These land interventions are probably premature and inappropriate in the immediate steps surrounding resettlement. There is however, a trend for land to be transacted in the absence of any transparent district and Acholi-wide guidelines for buying and selling land. There are numerous cases of land transactions and booming land market within municipal centers, particularly district headquarters. The legality of these transactions is often in question and range from the buying and selling of small plots to land allegedly acquired by Gulu University in the absence of clear land tenure during the war.
- Land leases for large tracts of land in Amuru district have emerged as both an opportunity and a threat to customary land tenure arrangements in this district. The absence of transparency and clarity on these land transactions from national and local authorities only fuels the land “grabbing” controversy, and sets the stage for confusions and skepticism on other creative or beneficial land use arrangements or options..
- Large land leases operating in Amuru district also run smack into the middle of speculation over sub-surface oil deposits along the eastern banks of the Nile. We can expect to see land speculation and further land transactions for both agriculture and oil rights exploitation continues to threaten this area. We were led to understand that the law provides for oil royalties to be paid to land owners, unlike other sub-surface mineral rights. This should be confirmed as a point of clarity. We were also told of a request by the Mahdvani Group to district officials for 64,000 hectares of prime agricultural land for a sugar investment in Amuru District. This would complement an alleged allocation of a similar amount of land across the Nile in Arua District.