



Catalyzing Innovation

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PROTECTING RIGHTS TO CLAN-BASED LAND IN ACHOLI, NORTHERN UGANDA: FOLLOW-UP REPORT ON A RESEARCH PROJECT OF THE JOINT ACHOLI SUB- REGION LEADERS' FORUM (JASLF) AND TROCAIRE

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Abstract

This paper's focus is the second year of a two-year project (2016-17) on the organization and management of customary clan-based land in the Acholi sub-region of northern Uganda. The Acholi leadership initiated the project following the often-troubled return of the Acholi rural population to pre-displacement land after a twenty-year conflict. After looking briefly at the project's first-year, the paper provides an extended discussion of the methodology and main field-research findings of the second, including the strong sentiment (corroborating first-year findings) that communities receive information and guidance to help formally register their customary clan-based land. Unfortunately, for many reasons, the project ended with no such help. Recent efforts have begun to rectify this, producing a nearly 100-page document set to deliver initial needed assistance, and procuring a start-up grant to distribute the document set, offer follow-up assistance for the four months of the grant, and provide a foundation for future funding.

Key Words:

Acholi, clan-based land, field research, formal registration, northern Uganda

Introduction

For two decades (1986-2006) the Acholi sub-region was at the epicentre of one of the most vicious and protracted civil conflicts in Africa. By 2004-5 some 90% of the population – over a million people – had been forcibly displaced by Ugandan government policy into internally displaced persons' camps. Not until 2008, two years after conflict ended in Uganda, did Acholi begin to leave the camps in large numbers to resettle their pre-displacement land or go elsewhere. Not surprisingly, especially over the first four or five years, this process was accompanied by numerous land-related problems and challenges, including land disputes and sometimes violent conflicts. And although such disputes and conflicts had been declining overall (Hopwood & Atkinson, 2013), they were, and still are, affecting many Acholi households and areas, including such long-running disputes as those in the Apaa and Lakang areas of Amuru District (Refugee Law Project, 2012a, 2012b; Atkinson & Owor, 2013).

It was in this context that in June 2012 the Joint Acholi Sub-Region Leaders' Forum (JASLF) – comprised of parliamentarians, district government officials, and cultural, religious and other community leaders from across the sub-region – appointed a Technical Committee on Land (TC) to investigate land issues and land tenure in the sub-region. Three years later, in mid-2015, on behalf of the JASLF and in partnership with the Irish international aid organization, Trócaire, the TC obtained two years of funding from the Democratic Governance Facility (DGF) to develop and coordinate a research and advocacy project with two main objectives: (i) to conduct intensive, locally-grounded field research documenting both commonalities and local variations in the organization and management of Acholi clan-based land following re-settlement; (ii) to help the researched clans – at whatever level they organized their land – to secure and protect this land.

After a brief discussion of this project's first-year field research, the current paper focuses primarily on fieldwork findings from the second year.¹ A final section outlines a renewed effort to move the project forward that finally began almost a year after its disappointing end in December 2017.

2016 Pilot-Phase Field Research

The first, pilot-phase of the project was conducted in 2016, with a research sample of 46 clans (*kaka* in Acholi Luo; plural *kaki*), located within seven different chiefdoms (*ker kal*), one in each of then-Acholi's seven districts. Each of these clans lived on recognized, clan-based customary land (*ngom kwaro*); nearly 2/3 (30 of the 46) organized and managed their respective *ngom kwaro* at the level of the clan as a whole; 14 others did so at the level of the sub-clan (*doggola-kaka*), and only two at the extended family

¹ In addition to the extensive final reports on the project's first- and second-phase field research discussed in the following pages, a number of consultancy reports on particular or related aspects of the project were also produced. For a list of all 15 project documents, along with abstracts and web addresses for accessing the reports, see <https://www.trocaire.org/resources/policyandadvocacy/dgf-research>.

(*dog gang*) level. The research tools employed in the pilot-project field research and its 20 key findings were set out in Atkinson, Latigo, & Bergin (2016), which in turn provided the basis for the paper presented at the 2017 World Bank Land and Poverty Conference (Atkinson, Latigo, & Bergin, 2017).

2017 Phase II research: Research sample, field researchers, and research tools

Similar to the 2017 World Bank paper on the Pilot phase, the current paper is based on the final Phase II field research report of the JASLF/Trócaire project, which includes full referencing and much greater detail than is possible here (Atkinson, Latigo, Ahirerwe, & Alobo, 2018). This Phase II field research maintained the fundamental focus of the Pilot phase: to investigate and document both commonalities and local variations in the organization and management of Acholi clan-based land following re-settlement. It also began in the same way, with a scoping study to determine new chiefdoms to be researched, to include at least one in each of Acholi's current eight districts. Chiefdom-wide meetings were then organized in the 13 new chiefdoms identified, in which 95 clans were selected as primary research sites, up to seven in each chiefdom. This essentially doubled the scope of the Pilot Project, bringing the total project research sample to 20 chiefdoms – representing more than a third of the 54 recognized chiefdoms in the Acholi cultural institution, Ker Kal Kwaro Acholi – and 141 clan-based land-holding groups. Together, these chiefdoms and clans extended across more than half of Acholi's rural sub-counties (33 of 63, or 52%).

To investigate and document both similarities and differences among the sample chiefdoms and clans, 28 researchers paired into 14 female-male teams (double the number in the Pilot Project) conducted field research during April-June 2017. As in first-phase research, one member of each research team was often from the chiefdom where their research was based, helping to foster a social connection between each team of researchers and those who were the focus of the team's research.

Phase II research was guided by a refined and expanded version of the Participatory Action Research (PAR) approach utilized in the Pilot phase, employing four primary research tools:

- (i) an inaugural Chiefdom (*Ker Kal*) Community Dialogue Guide guiding initial meetings in each of the 20 chiefdoms in the research sample;
- (ii) a Clan Community Dialogue Guide, focused especially on gathering information concerning the organization and management of the clan-based customary land (*ngom kwaro*) of each of the 95 researched clans;
- (iii) Special Interest Group Focus Group Discussion (FGD) Guides that targeted youth, women (including widows and other unmarried adult females), and people with disabilities (PWDs) respectively; each representing a vulnerable, or potentially vulnerable, category of people,

with culturally acknowledged land rights that are sometimes ignored or abused in clans with weak, corrupt or ill-informed leadership; and

- (iv) Key Informant Interview (KII) Guides that provided a template for individual interviews with clan and other cultural leaders, as well as local government and other local opinion leaders.

Both the extensive group interactions elicited by the first three research tools and the individual KIIs produced invaluable data on the various ways in which a wide-ranging sample of individuals and groups are connected with, relate to, and understand their respective clan-based *ngom kwaro* and its organization and management, as well as what directions they would like to take regarding its protection and use for development purposes. Moreover, many respondents expressed the sense that their interactions with the field researchers were a welcome, mutual learning experience, generating a level of familiarity, trust, and focus on local information and understanding rather than outside "expert knowledge" that would be crucial for productive follow-up with either these particular groups or others in Acholi who might be a part of any such future work.

The following table provides a summary of the more than 5,000 pages of English-language transcripts generated by the administration of these research tools, providing a sense of the nature and quantity of data generated by this Phase II field research.

Table 1: Summary of Phase II English-language Field Research Transcripts

RESEARCH TOOL	Number administered	Total transcript pp.	Transcript page range	Average # of pp. transcript
1. Chiefdom (Ker Kal) FGD	13	192	13-21	14.8
2. Clan Community Dialogue	95	1,895	13-43	20.0
3a. Women’s FGD <i>ker kal</i> level	14	66	3-7	4.7
3b. Women’s FGD at clan level	67	353	2-11	5.3
3c. Youth FGD <i>ker kal</i> level	14	82	5-7	5.9
3d. PWD FGD <i>ker kal</i> level	14	79	5-7	5.6
4. Key Informant Interviews	274	2,466	6-16	9.0
TOTALS	492	5,133	3-43	10.4

From: Atkinson et al (2018), p. 22.

Acholi Luo audio recordings were also made of most of these data-gathering exercises (with some KIIs recorded in English when this was the interview language used).

The Chiefdom (*Ker Kal*) Community Dialogue Guide utilized in the initial meetings held at the compound of each chiefdom's traditional ruler (*Rwot*; plural *Rwodi*)² brought together trusted advisors from each chiefdom – including clan heads, elders, women and youth representatives, *rwodi kweri* and *rwodi okoro* (male and female organizers and managers of land within clans) – along with community opinion leaders and representatives from local government. A total of 515 people attended these inaugural *ker kal* meetings, 360 males and 155 females

Topics explored included (a) estimates of the chiefdom's population and land area; (b) historical information; (c) lists of constituent clans; (d) the existence of any freehold and/or leasehold land within the chiefdom (only one chiefdom had none); (d) lists of clans or others from outside settled within the chiefdom, and those from the chiefdom living elsewhere (only one chiefdom identified no such outside groups present); (e) chiefdom land being utilized for development – roads, schools, health centres, etc. (true for all 13 chiefdoms); and (f) information on land disputes (also present in all). These inaugural meetings also served to introduce the project and field-research teams to each chiefdom, as well as identifying the clans in each chiefdom to investigate.

The Clan Community Dialogue Guide incorporated a wide-ranging list of questions and topics to explore in the each of the 95 clans, with a particular focus on how each conceptualized, organized, and managed their clan-based, customary land; problems or threats facing that land; and what, if anything, clan members wanted to do to better secure and protect their land.³ Participants in the Clan Community Dialogues numbered 3,166 (1,440 women and 1,726 men).

Special Interest Group FGDs with those in potentially or actually vulnerable categories or situations, were conducted with 1,056 women, including widows, divorced women, and orphans; 198 youth (82 women and 116 men); and 152 people with disabilities or PWDs (77 women and 75 men). Together, these 1,426 participants represented a concerted attempt to include people who may not have attended or were uncomfortable speaking in the larger Clan Community Dialogues, thus enabling their voices and views to be separately captured – and heard.

Finally, the Key Informant Interview (KII) Guides structured interviews with 274 clan and other traditional cultural leaders, local opinion leaders, and local government officials (nearly 75% males). These KIIs were selected based on both purposeful sampling and snowballing, and added additional detail and context to the Community Dialogues and Focus Group Discussions.

² The full title for these traditional chiefdom rulers, *Rwot Moo* (plural, *Rwodi Moo*), signifies that they have been anointed by having shea nut oil (*moo*) applied to their chests during formal installation ceremonies. For convenience' sake, the shorter designators *Rwot/Rwodi* will typically be used in this paper.

³ In addition, Clan Community Dialogues obtained information on additional topics of sociohistorical importance deserving of future attention, particularly capsule historical narratives of clan origins and movements and details of genealogical relationships among the sub-sections of each clan.

Overall, these four research tools engaged a total of nearly 5,900 people during Phase II field research, 55% of whom were women.

2017 Phase II research: Summary of Key Findings

Using only slightly modified research tools, a crucial underlying purpose of Phase II research was to determine the degree to which data gathered from the 13 new chiefdoms and 95 clans corresponded with or challenged that obtained in the Pilot Project. Thus, the first 20 Phase II Key Findings are rendered under the same headings as in the final *Pilot Project Field Research Report*, after which an additional 21st Key Finding provides an overall appraisal of the degree of congruence.

1) 90% or more of land in the Pilot Project research sample was customary, communal or collectively-owned land (*ngom kwaro*), vested in and belonging to recognized patrilineal clan-based groups.

This finding from Pilot Project research was closely mirrored in the 13 Chiefdom (*Ker Kal*) Community Dialogues, with 85% of respondents agreeing with the above assessment. All 13 did note the presence within their territories of church and government land and infrastructure – such as roads, schools, health centres, and government offices – either carved out of or lying adjacent to the *ngom kwaro* of their constituent clans, while 11 also noted the existence of some additional freehold and/or leasehold land. But these examples clearly made up a small percentage of the total land in each chiefdom, which consisted overwhelmingly of the *ngom kwaro* of their respective clans.

Clan Community Dialogues from the 95 researched clans concurred. Apart from church land – which unfortunately was not asked about in the Community Dialogues, but would have typically been given by clans (or chiefdoms) many years ago and would rarely account for more than a tiny percentage of (former) clan-based land – only 28 clans identified substantial government land located within their *ngom kwaro*. This included schools, prisons, health centres, a forest reserve, a group farm, and Agago Ranch, now consisting mainly of an army detachment. Sixteen clans identified as well the presence of notable individual family freehold land within their *ngom kwaro* boundaries, most held by powerful individuals or families, some by members of the clan and some by outsiders, and some going back decades. In addition, two neighboring clans in one chiefdom identified the presence in their *ngom kwaro* of the only large commercial company, Covmo, appearing in the sample. Finally, three instances were cited of outside group encroachment, including western Ugandan pastoralists successfully occupying a portion of one clan's *ngom kwaro*.

2. The particular level of clan-based organization and management of *ngom kwaro* differed among the researched clans, varying from the clan (*kaka*) as a whole, to sub-clan (*doggola kaka*), to the extended family (*dog gang*).

Although there was sometimes ambiguity in responses to the numerous discreet questions Clan Community Dialogues pertaining to land organization and management, Phase II evidence overall is strongly correlated with Pilot Project results. A similarly strong majority – 71 of 95 (75%) – describe their *ngom kwaro* as belonging to the entire clan and organized and managed up to that level, for the benefit of both those currently living and those yet to be born. Twenty-one others (22%) indicated that their primary level of organization and management was at the sub-clan level, with 11 of these concentrated in just two chiefdoms. And only one clan reported that they organize their *ngom kwaro* at the level of the extended family. One difference from first-phase research that showed up in Phase II research was a heightened involvement attributed to six of the 13 Phase II *rwodi* in the organization and management of their constituent clans' clan-based land.

Finally, one clan in Phase II research – Paikat in Puranga chiefdom⁴ – reported a level of disorganization and dysfunction unlike any others in the project. Responding to the Community Dialogue Guide question, "Who organizes and manage this clan customary land and on whose behalf?", a Paikat participant lamented: "We no longer have anyone organizing and managing customary land," a sentiment echoed by eight others in the Paikat Community Dialogue transcript. One said: "I want to add that there is no elder organizing and managing land, our fathers are the ones doing it, when we come back home, we farm part of the land we find our fathers using because if you wait for an elder to do so, he may grab all the land and say it is all his customary land." Another stated that the control and administration over land "[as] we all know is no longer under the elders or land committees, everyone is controlling land individually depending on one's financial ability and strength to fight. We need to discuss as a clan and agree so that we all agree and come up with a solution to live peacefully."

Further probing revealed that the Paikat clan was not happy with the Puranga *Rwot*. Clan members complained particularly that the *Rwot* was not impartial during land conflict resolution proceedings or when mediating family problems, and furthermore that he demanded exorbitant gifts of cows and goats for time he spent in conflict resolution, one of his key roles. Such frustrations – especially demands for expensive livestock that clan members could not afford so soon after returning from the camps – led many in Paikat to want to break away from Puranga and establish their own independent chiefdom. But they had not yet at the time of research been able to organize themselves sufficiently to do so, meaning that, at least in the short run, the most likely outcome was to remain in Puranga, with accompanying mediation efforts by the Acholi cultural institution, Ker Kal Kwaro Acholi.

3. All 46 researched clans share many similarities in the overall conceptualization, organization, and management of their respective clan lands, but there are also differences.

⁴ Puranga is one of the larger chiefdoms in Acholi, sprawling across large parts of two districts, Pader and Omoro; there were thus two research teams assigned to the chiefdom, one in each district with each researching seven clans.

Phase II research findings strongly corroborate this assessment, and are in agreement as well with most of the detail presented in the Pilot Project *Final Report* to support this finding. The first such agreement is that all clans "attempt to deal with issues and problems at the lowest level possible, down to individual households," before going up the chain of authority from "individual household (*ot/keno*) → extended family (*dog gang*) → sub-clan (*doggola kaka*) → clan (*kaka*)."

"Within this broadly accepted and widely practiced framework," the first-phase *Final Report* notes, the most important variation was the limited role of clan-wide leadership in the minority of clans whose *ngom kwaro* is organized at the extended family or sub-clan level, a variation corroborated in Phase II evidence.

Among the most widely shared commonalities identified in both phases of research is the relative degree of importance given to the various individuals and structures involved in organizing and managing clan-based *ngom kwaro*. In this regard, the most widely acknowledged individuals are the male and female representatives with central roles in organizing and managing clan land and agricultural activities, as well as in settling land disputes. These representatives – identified by nearly every clan in the Pilot Project and in all 95 Phase II Community Dialogue transcripts – are called respectively, *Rwodi Kweri* (singular, *Rwot Kweri*) and *Rwodi/Rwot Okoro*.

Many depictions in the Phase II transcripts of these crucial figures are impressively detailed and informative. Here are two (lightly edited) examples, both from Bolo Lamac Clan Community Dialogues from the chiefdom of Puranga.

Rwot Kweri:

Respondent 1: Any matters related to land are mostly settled by Rwot Kweri, be it land boundary dispute, allocation of farm land, taking care of the hunting ground (but in most of our land this hunting ground is no more but it used to exist), and he even sees whenever there is encroachment. He reports to Rwot Moo and the clan leaders.

Respondent 2: I just want to add that Rwot Kweri is also concerned with the entire boundary marking of the clan's land and also boundaries within the clan.

Respondent 3: Rwot Kweri is concerned with forming small farming groups to help in farm work, and coupled with that he also helps to mobilize during communal harvesting and post-harvest sales link-ups.

Respondent 4: He also helps to clarify which kind of crops need to be grown at what time. He is also the one concerned with ensuring that every family grows enough food crops and cash crops.

Respondent 5: He also make sure that all the roads leading to the various parts of the clan, like roads leading to schools, centres, and gardens are clean and safe for peoples' movements.

Respondent 1 [again]: The selection of Rwot Kweri is done by the clan members and the following

is considered when selecting the Rwot Kweri: (i) He should be a person respected by the community members. (ii) Someone who doesn't take sides when mediating or solving community land matters. (iii) He should be someone who is committed to his work and a person who does farm work and not a lazy person. (iv) He should be a born of the clan and who has stayed ... within the clan most of the time or most of his life. (v) He has to be knowledgeable about the clan land.

Rwot Okoro:

Respondent 1: Rwot Okoro is someone who has stayed for long in the clan and has the role of being an opinion leader in the clan. Respondent 2: She is also concerned with conflict mediation, and she moves with the executives of the Rwot Moo or the clan leaders. Respondent 3: She moves with the anointed chief [Rwot Moo] and the executives as an opinion leader; she is the voice of women in every meeting. Also, wherever there are calamities like death, she is the one concerned with mobilizing women to help in time of need. Respondent 4: She is to stay together in most of her work with Rwot Kweri. She is also to help ensure that women live in harmony with their husbands, children, and fellow women. Respondent 5: Rwot Okoro is selected by the clan members and accordingly she has to be: (i) An elderly woman who has stayed and got married into the clan for a long time. (ii) She is supposed to be a person of age 40 and above, but however sometimes some women are elected when they have not reached their 40s because if the clan sees that someone has that quality needed, then the person will be elected to that position. (iii) Furthermore, she has to be a person who is respected by the community. (iv) She is also to be a person who is committed to her work.

The next most frequently identified figure of importance in land organization and management is the clan head or leader (*ladit kaka*), followed by clan land committees, clan meetings, and clan elders. Others identified as playing important land-related roles include sub-clan leaders (especially but not only where the most fundamental *ngom kwaro* organization and management operates at the sub-clan level); household and extended family heads; *rwodi moo* (though rarely on internal clan management issues); and local government officials, who are often participating clan members where they serve.

4. Crucially, in none of the 46 clan-based land-holding groups is land "ownership" typically depicted as existing at an individuated level. Neither individual men nor individual women "own" rural customary land in Acholi; instead an Acholi *ngom kwaro* is conceived as belonging collectively to a clan-based land holding group to be held in trust for both the living and yet unborn.

Individuals and individual households/families recognized by a clan do have rights to occupy and use designated portions of that clan's *ngom kwaro*, rights typically passing to succeeding generations. But these are usufructuary rights only, not ownership, and the specific land to which such rights apply can be adjusted when the clan leadership and community in general determine a compelling need to do so. These core attributes of Acholi customary clan-based land made clear in the Pilot Project was conclusively confirmed in Phase II research.

However, more than in Pilot Project research, Phase II Community Dialogue transcripts indicated that these core attributes are being challenged, and sometimes thwarted, in practice. For example, respondents in 36 of the 95 Community Dialogues (nearly 40%) said that some land in their respective *ngom kwaro* had been sold, usually recently and often without the knowledge or permission of the clan. While the reasons given for such sales varied, they were often related to money needed to pay for school fees, bride price, health costs, funerals, or, especially for young people, motorcycles (which they could use as two-wheeled taxis called "boda-bodas" to earn money).

There was also a specific question in the Community Dialogue Guide asking: "What factors drive the changes in management of customary land?" In the entire range of 95 clan-based responses, less than a handful identified positive changes. All the rest were changes perceived or experienced as negative and threatening, including: (i) land conflict (coming from both within the clan and from outside); (ii) general selfishness and greed (again, from both within and outside); (iii) corrupt or otherwise poor leadership from clan leaders, elders, local and central government; (iv) disunity within clans or between clan leadership and other clan members; (v) customary leaders and population pressure; (vi) land degradation; (vii) encroaching urbanization and attendant problems; (viii) problems with youth who were perceived or stereotyped as not knowledgeable about land, or lazy, selfish, and disinterested.

All-in-all, while the fundamental precepts of Acholi *ngom kwaro* – its collective nature as clan-based customary land, the positive social and economic resource that this land represents, and the responsibility of the present generation to keep that idea/ideal alive – is both a deeply-held principle and an active, practical reality for many. At the same time, threats to these precepts are real and many.

5. Project research provides many examples of ways in which women have access and other rights to customary clan land, as well as roles in land organization and management.

Before looking at the evidence on this issue it needs to be placed in the broader context of an Acholi culture that remains essentially patrilineal, patrilocal, and – as remains true of nearly all cultures around the world – patriarchal. The position of women in general in Acholi is not equal to the position of men, including with respect to land.

Still, as noted above, when the specific question was asked in Clan Community Dialogues about whether women were being denied access to clan land, the response in 69 of the 95 clans (nearly 75%) was

“no.” Moreover, in response to a related question, "How are the voices of women, girls and vulnerable people and people with disabilities in relation to land rights heard in the Clan organization?", while various limits, qualifications, and other issues were raised, an even higher number affirmed that women’s voices on land rights were being heard in the clan (84 of 95 or 88%).

Such positive responses often identified clan meetings and clan land committees as sites where women’s voices were acknowledged and heard, and women’s roles were also acknowledged in some clans’ constitutions. But the most important, most mentioned, and most visible vehicle for women to have their voices heard on land matters were the *rwodi okoro* present and functioning in all 95 clans in Phase II research.

Another set of questions in the Clan Community Dialogues read: "Are there changes with respect to rights of women over land from the known customary norms and practices of land management? What are the recent trends? How are these impacting on women and men?"

While responses were clearly mixed, they were also positive overall. Nearly half of the responses (46 of 95, or 48%) were strongly, sometimes exclusively, positive; another 20 responses (21%) were mixed, identifying both positive changes along with significant qualifications or even negatives. Together, these two categories of responses indicate a collective perception in 66 of the 95 researched clans (nearly 70%) that women’s land rights are trending in an overall positive direction. Another 24 responses avowed that their clans had not witnessed significant changes with respect to women’s land rights. But 14 of these answers also indicated that women’s land rights were already recognized in their clans – adding another 14% to the positive side of the ledger. Only two identified the status quo as negative and eight failed to differentiate their unchanged situation in either positive or negative terms.

Positive results also emerged in response to a general question seeking an "Assessment of Rights to Land" included in the Special Interest Focus Group Discussions targeted specifically to women. As noted above, 81 such Women’s Special Interest FGDs were administered – 14 at the chiefdom level and 67 at clan level – with a total of over 1,000 participants, all female. Responses to the above question, at both the chiefdom and clan levels, were separated into three broad categories: "Clearly positive," "Mixed," or "Clearly negative." In 43 of the 81 FGDs (53%), women’s rights to land were portrayed in distinctly positive terms, another 20 responses (25%) assessed women’s land rights as characterized by both positive and negative aspects, while 17 (21%) depicted the status of women’s land rights in negative, and sometimes absolutely negative, terms.

Even within the context of such an overall more positive assessment, the 21% negative response to this question is not a minor matter. For the one in five women who fall in this category, the harmful ramifications are many and often severe. It is now time to look at this other side of the coin.

6. Conversely, Project research also documented numerous examples of women – and others [for example, youth and PWDs] – having been denied access or other rights widely acknowledged as properly theirs.

Again, Phase II research reaffirmed this Key Finding, with a sample size twice as large and a significantly increased focus on all three SIG categories, especially women.

6(a). Women and Land

A project consultancy report on women, utilizing especially the Special Interest Group FGDs on women, identified 19 key findings (Martin 2017, pp. 19-39), 14 of which are particularly relevance here:

- (i) "The interpretation of rules for use and management of customary and communal land varies greatly across Acholiland." – benefitting some women, but oppressing others "just because they are women."
- (ii) "Men are the primary custodians of land who have full rights, while women are seen to have partial or "secondary rights."
- (iii) "Natural rights to land are understood to change over the lifecycle. For women and girls, these claims are generally held semi-permanently, whether on maiden or matrimonial property. A woman's customary land rights are typically vicarious through male family members, and may be acquired from a father or brother for a time, or through her husband or father-in-law on behalf of children born in their clan."
- (iv) "While customary land is for all, in practice women are excluded from many activities and realms of influence. Married and unmarried women alike typically exercise much less control over land decisions than male land users"
- (v) "Women's subordination to men renders their land tenure insecure. If a single factor changes ..., presumed claims may dissolve, leaving women and female-headed households with 'nowhere else to go'.... [Moreover:] Very real risks of violence, landlessness and destitution are never far away for women who live in subservience to husbands, in-laws, brothers, and even their own sons."
- (vi) "Beyond the household, gender-based violence also occurs in times of external land conflict."
- (vii) "Acholi women perceive their rights in relation to their user responsibilities" – bearing "the 'lion's share' of reproductive duties while balancing a significant number of other duties in the productive and community managing spheres."
- (viii) "Currently the most secure form of customary land access is enjoyed by women whose bride price is paid and gender roles are fulfilled on matrimonial land."
- (ix) "Some women who exercise greater agency over land take up additional leadership capacities" (including *rwodi okoro*, which she discusses).

- (x) "Levels of integration and involvement in clan matters tend to vary depending on the 'category' of woman. Yet – unmarried girls, returned daughters of 'failed' marriages, single mothers and 'nieces' born out of wedlock, sons' junior co-wives and cohabiting 'friends' whose bride price is not paid may still be allowed to settle, but are among the *least respected* in the homestead."
- (xi) "It is not only women who are vulnerable to land grabbing and denial of customary rights. Anyone with 'less than first rank land claims' may be rendered *extremely vulnerable* by insecure tenure" – including in this category: "Descendants of guests, war returnees, PWDs, and adopted or 'step' children of either sex who were not born to core clan members"
- (xii) "Widowed women report a range of treatment, from being highly respected to completely under attack."
- (xiii) "Land allocation and accommodation practices are among the in-built mechanisms to protect the most marginalized individuals in Acholiland." And although these mechanisms are currently under threat, "they may still include apportioning customary land to widowed or single women, child mothers, orphaned children, PWDs and non-clan 'guests' ... [and] 'friends' from outside the clan."
- (xiv) "Through recent initiatives to increase public awareness on the rights of women and girls, some Acholi communities report progress towards improved gender relations."

6(b). Youth

With respect to youth, both the clan-based Community Dialogues and the Youth Special Interest Group FGDs provide information on the many problems and issues with respect to youth and land, while also conveying numerous attempts to overcome those issues and providing examples of youths' positive integration and/or contributions.

Examples of the former include youths' criticisms and negative assessments of adult corruption and poor leadership that does not actively include, or even seek to include, youth in the organization and management of land. Even more common are adult (and specifically elders') criticisms of youths' lack of knowledge about land and land boundaries and, even more, criticisms of youths' behaviour and attitudes, such as charges that youth lack respect for their elders, are lazy, and love money "too much," which poses a risk for providing youth access to customary clan-based land because they might then sell it.

This last sentiment is made clear by three participants in a Pamolo Clan Community Dialogue, (Paluti Kwong chiefdom): (i) "Some youths want customary land to be sold, it's looked at as a shortcut to wealth.... (ii) Some youths want to sell customary land and build in towns.... (iii) Some youths look at it as something that doesn't hold much value, they want it sold."

Conversely, both adult and youth respondents in the Clan Community Dialogues noted youths' positive contributions to and attitudes about land matters. Indeed, the same Pamolo clan respondents quoted above criticizing youth also made clear that other youth exhibited opposite qualities: (i) "Youths don't want customary land to be grabbed because that's their only source of livelihood.... (ii) Youths don't want customary land sold because once sold it becomes impossible to get.... (iii) Disciplined youths don't want customary land sold, they want it protected and kept the way it was in the past."

While typically noting both positive and negative youth experiences and attitudes related to land, many Clan Community Dialogues noted their growing inclusion and involvement on land matters, even in leadership roles, in clan meetings, committees, and other settings, including defending clan boundaries.

This overall assessment is supported by the project's consultancy report on youth and land, utilizing the youth FGDs (Kakuru 2017). His key findings included (pp. 35-37) include:

- (i) "As expected, the youth acknowledged the existence of problems related to land in their localities, and that they were involved, in varied perspectives and with varied roles. In times of land problems, the youth are expected, relied on and mobilized to protect the clans' land being it customary or communal, depending on the scale of the threat or problem."
- (ii) "It was generally noted that the youth were active participants in the management of land related problems at family and clan level. They participated in both positive and negative options for problem solving, and usually consulted elders before they took any course of action. However, across many chiefdoms, the youth are passive participants, simply listening to the elders, rather than actively taking part in discussions and decision making."
- (iii) While pointing out that mechanisms for youth involvement in land matters were typically neither formal nor systematic, Kakuru's research identified the following activities that youth reported being involved to varying degrees: attending meetings to ascertain boundaries; voicing grievances; testifying or otherwise supporting their clan's land cases in courts; mobilizing fellow youth representatives to participate in land issues at clan level to ward-off conflicts; organizing youth meetings in order to present a stronger front and better ideas to larger, general meetings of elders and clan leaders; and defending land through violence when necessary.
- (iv) Youth also indicated that they often inquired of their elders and customary leaders about how land matters were handled in the past as well as in the present, and expressed interest "in witnessing the boundaries of family and clan land, believing that they will help in future if conflicts over boundaries arose." They also favored "traditional customary mechanisms of solving land issues because they understood or perceived formal court processes as lengthy and as only perpetuating lasting enmity rather than resolving issues."

- (v) At the same time, youth also noted "the negative influence of money in escalating land problems and conflicts in the sub-region, where the wealthy influence leaders and elders to make unfair decisions."

Finally, returning to the Clan Community Dialogues, clans were asked: "Explain the involvement of youth in the organization and management of customary communal land in their various categories or varieties." In 82 of the 95 clans (86%), responses included positive examples and assessments of youths' involvement in land organization and management. Even more telling are responses to another question in the Community Dialogue Guide: "In your view, do the youths in this clan have access to customary communal land use? Explain." Except for one "no" response, and one other stating "yes and no," the Community Guide transcripts from the remaining 93 clans indicated that youth do indeed have access to land – even if various limitations on such access are also sometimes noted.

6(c). People with Disabilities (PWDs) and Land

Turning from women to people with disabilities (PWDs), the latter are clearly one of the most disadvantaged group in the research sample with respect to land matters, including the most basic issue of access rights. The final report of the project consultancy on PWDs and land (Namukasa 2017, p. 7) posits that "negative attitudes and perceptions render persons with disabilities most vulnerable in accessing, utilizing, controlling and owning customary and communal land." The report then elaborates:

Persons with Disabilities reported that their rights to access land are sometimes denied by the family, community and clan leaders because of their disability. They further noted that even during the allocation of clan or communal lands, Persons with Disabilities are segregated and are never involved or consulted by the clan leaders. The situation is worse when it comes to women and girls with disabilities. It was reported that even those who receive the land, sometimes their land is taken away by family members who think Persons with Disabilities do not have capacity to utilize all the land given to them by the parents/grandparents thinking they cannot effectively utilise it because of their disability.

Strong evidence supporting Namukasa's assessment is captured in responses to a single overarching question asked in all 44 PWD Special Interest Group FGDs: "As people with disabilities, how do you assess your rights to customary and communal land within your Chiefdom, Clan or elsewhere? Give examples." Eighty percent of the recorded responses were either overwhelmingly negative (29 of 44, or 66%) or were mixed (6 of 44, or 14%), with only 20% (9 of 44) being mainly positive.

Still, respondents in only five PWD FGD transcripts (11%) expressly claimed being totally denied access to land. Three examples of such total denial were rendered in the transcripts as follows: (i) "Due to our personal inabilities our rights to customary land has been ignored completely because we are always

considered as disabled person who doesn't need land and even our children are not being treated well." (ii) "We are despised even by our own clan members and we have no representatives at the chiefdom level." (iii) "We have no land to use and live on, like some of us here have been chased away from our homes and have been treated like animals (dogs)."

But even in the 39 PWD FGDs where at least some people with disabilities in those discussions reported having land access, 31 of these PWD FGDs assessed access in negative or mixed terms, most often complaining that the land allocated to them was too small for their needs, and certainly smaller than others, emphasizing that even when able to access land, PWDs are typically not accorded either full or equal rights due to societal perceptions and prejudices.

Even so, to end on a more positive note, PWDs in 23 of the 44 Special Interest Group FGDs (just over 50%) indicated that they had been involved to some extent in internal clan matters related to land, and had had at least somewhat positive experiences in this regard.

7) Similarly, research findings show that "guests" – however vulnerable they sometimes are – have been peacefully accommodated in every one of the 46 clans in the research sample.

In Phase II research, peaceful accommodation of "guests" was not reported in the clan-based Community Dialogues by every one of the 95 researched clans, but close: 86 of 95 (91%). But even given that the percentage of positive responses in this (and the next finding) is high, it is likely that in both cases it would be even higher if respondents had taken into account individual guest (or guest households), or individuals/individual households from their clan settled elsewhere.

8) In addition, 38 of the 46 clans also identified examples of members of their localized clan who were peacefully settled and accessing customary land in other locations.

In Phase II research, reported incidences of clan members settled outside the clan and accessing customary land elsewhere totalled 87 of 95 clans (92%), even higher than the Pilot Project figures of 38 out of 46 clans, or 82%. Both rounds of research certainly provide a strong indication of the highly accommodative nature of Acholi customary land organization and management.

9) In at least two chiefdoms, clans in the research sample have branches elsewhere with their own clan land, and also inclusive clan associations and sometimes written clan constitutions.

In Phase II research, unlike in the Pilot Project, the question of written clan constitutions was incorporated into the clan-based Community Dialogue guide. Fifty-nine of the 95 researched clan (62%) – at least one of which was in each of the 13 chiefdoms in the Phase II research sample – affirmed that they have a written constitution, with still others stating that they were in the process of producing one. And in the context of this question, a number of clans indicated that they had one or more additional branches settled on non-contiguous *ngom kwaro* (clan settlements not next to one another or in the same location), but no systematic follow-up inquiries on this topic were made, so the prevalence of this situation is not

known. This phenomenon is indicative of the richness in variety in customary land organization as practiced by Acholi communities on the ground.

10) Initial chiefdom-level FGDs in each site identified land disputes, both resolved and ongoing, but did not convey the sense that these disputes currently pose critical threats or extensive disruption.

Just as in every one of the seven chiefdoms in the Pilot phase, all 13 chiefdoms in Phase II research also reported land disputes. The number of disputes enumerated in the Phase II Chiefdom (*Ker Kal*) Community Guide transcripts ranged from two to ten, while one chiefdom, Puranga, acknowledged the existence of disputes there (and even lamented that they were increasing) but provided no numbers. Land disputes also received considerable attention in the clan-based Community Dialogue transcripts.

Despite relatively low numbers of land disputes overall – and much lower than the first several years after return from the camps – Phase II sources suggest that compared to first-phase research the year previously, there had been an increase in the level of disruption and concern related to land disputes, and perhaps a rise in numbers.

Still, the overall sense conveyed in Phase II research, as had been true in the Pilot Project, was that land disputes posed neither critical threats nor extensive disruption or destruction. This was perhaps due to the most common types of land disputes reported, typically lower-level internal clan and family boundary and trespass issues, although land disputes were also noted with churches, various local government entities, and large-scale and/or long-lasting disputes between clans in the same chiefdom, with neighbouring chiefdoms, with central government, or with large commercial entities or interests.⁵

11) Whatever the prevalence of disputes, the rate of resolution, or extent of concern, [Pilot Project clan-level] FGDs indicate a widely-held opinion that land disputes are best dealt with at the local level, utilizing both cultural and other local leadership, and not in the formal legal system.

Phase II Clan Community Dialogue transcripts strongly corroborates this finding, with both internal clan land disputes and disputes involving outsiders. Traditional cultural leaders are typically first choices – *rwodi kweri* and *rwodi okoro*, clan heads and elders, clan land committees, and sometimes *rwodi moo*. And while Pilot Project research made clear that local councillors, particularly at the village (LCI) level, also played important roles in land dispute cases, Phase II Clan Community Dialogues even more frequently noted LCIs as important actors in this regard.

⁵ For much more detail on land disputes in recent Acholi, see Hopwood & Atkinson (2013), Atkinson et al (2018), and reports by the civil society organization, Refugee Law Project (2012a, 2012b). As a final note to this Key Finding, the Lukung chiefdom in Lamwo District is currently involved in an ongoing boundary conflict with South Sudanese people to their north, leading to an international dispute between the governments of Uganda and South Sudan.

Nearly 40% of these Clan Community Dialogue transcripts (36 of 95) did reference the formal court system with respect to land disputes. But more than 80% of those references (30 of 36) indicated that the courts should come into play only in certain circumstances – primarily when disputes involved fatalities or significant destruction of property, and/or after a series of resolution attempts through the customary and local political leadership had failed.

In most instances, however, the overwhelming preference conveyed was to resolve disputes locally, through mediation involving cultural and/or other local leaders, and avoiding the formal court system whenever possible. There were many reasons for this, but the most fundamental was the all-too-often confirmed fear of exorbitant expenses far beyond ordinary peoples' means and long delays – sometimes years – before final judgement. Also too often accurate was the belief that these two features were due primarily to elite manipulation and corruption – by rich and powerful individuals and groups trying to grab their land, and by the lawyers, magistrates, and judges who could be successfully bribed or threatened to act on the former's behalf.

12) Not only land disputes, but land access for vulnerable individuals and groups, was noted as an ongoing concern not always dealt with well by local clan leadership, as indicated especially in some Tool 3 Special Interest Group meetings.

Again, Phase II research strongly corroborates this assessment. Indeed, as in the Pilot Project, many respondents in the various categories of Special Interest Group FGDs expressed concerns and disappointments about ways that their land access was limited or proscribed – if not totally denied, most blatantly with PWDs, as discussed in Key Finding 6(c) above. Martin's findings (ix) and (x) in her consultancy report on women quoted above in Key Finding 6(a) succinctly captures the situation:

(ix) "Levels of integration and involvement in clan matters tend to vary depending on the *'category' of woman*. Yet – unmarried girls, returned daughters of 'failed' marriages, single mothers and 'nieces' born out of wedlock, sons' junior co-wives and cohabiting 'friends' whose bride price is not paid may still be allowed to settle, but are among the *least respected* in the homestead."

(x) "It is not only women who are vulnerable to land grabbing and denial of customary rights. Anyone with 'less than first rank land claims' may be rendered *extremely vulnerable* by insecure tenure" – including in this category: "Descendants of guests, war returnees, PWDs, and adopted or 'step' children of either sex who were not born to core clan members"

13) On a similar note, some Tool 2 and Tool 3 FGDs reiterated concerns about the effectiveness, impartiality, and fairness of some elders and cultural leaders with respect to more than land.

Similar to Pilot Project research, Phase II Clan Community Dialogues and especially the Special Interest Group FGDs include numerous complaints about elders and other cultural leaders. Given the

project focus on land, most such complaints related to land in one way or another, but it seems unlikely that the elders and other leaders exhibiting negative conduct would only behave that way about land.

Complaints were typically about non-action rather than the opposite: that elders or other leaders ignored or neglected to respond to an injustice, need, or other problem brought to them by a youth, PWD, or woman (especially a widow or other unmarried woman). The main ethical shortcomings suggested, or implied, as producing such leadership failure were a lack of effectiveness, impartiality, and/or fairness. But there are instances of elders and other leaders being accused of the more serious wrongdoings of bribery, greed, and corruption also scattered through the Clan Dialogue and Special Interest Group transcripts – though these same sources, it needs pointing out, convey overall that most cultural leaders were essentially effective, impartial and fair.

14) Whatever the concerns about the formal legal system or local cultural leadership, when clans were asked about "registering" their land as one way to better secure and protect it, almost 90% of respondents polled in 6 of the 7 chiefdoms where data was obtained supported the idea: 1,063 in favour, 137 against.

Overall in Phase II research, participants in 83 of the 91 clans (91%) who responded specifically to the question of whether they wanted to register their *ngom kwaro* as a way to help secure and protect it indicated "yes." Although measured differently from the Pilot Project approach, the result is highly comparable.

It needs to be noted here that two of those 91 clans were from the one chiefdom included in Phase II research – Bwobo Manam in Nwoya District, with six researched clans – that reported to have already registered their land. During research in Bwobo Manam at both the chiefdom and clan levels, respondents told field researchers that their land was officially registered as a trust, in the name of the Bwobo Manam chiefdom (not the individual clans). However, they were not willing to share any further information, including trust documents, with those researchers, stating that all information with respect to their registration is confidential.

15) Wide-spread support for "registration" – whether at the entire clan, sub-clan, or extended family level – needs to be qualified by the groups' almost total uncertainty about how such registration might be done, what it might mean, and what form it might take.

As with clans in the Pilot Project, uncertainty about the processes required to formally register Acholi clan-based land, what carrying them out would entail, and what doing so would mean was pervasive among Phase II clans (excluding those in Bwobo Manam, which, as noted immediately above, reported that their land was already registered under a Bwobo Manam chiefdom trust). Four field researchers provided summary reactions on this issue from the clans that they worked with in three different chiefdoms:

- (i) Charles Odongmon, on clans in the Cwa chiefdom, Kitgum District: "This was really a big concern that was raised by the community members, that were asking how the all process would be done, changing the community into formal organisation recognised by the government, therefore they were asking what it would mean for them; after registering their land, what next?"
- (ii) Paska Aber, on clans in Kwong Paluti, Agago District: "Uncertainty was explicitly echoed by all the researched clans; [particularly] whether registration would be by clans, sub-clans, extended family, family/households wasn't clear in the minds of all the clan members. This mixed sentiment was also reiterated as one of the concerns that land registration wouldn't be soon until such dilemmas are resolved."
- (iii) Allan Ojera, on clans in Puranga (Omor District): "The clans were not sure of what form of registration they would take, but hoped that if there was any good way for them to secure their customary land through registration, they would willingly start the process and have their land documented and secured."
- (iv) Priska Akello, on clans in Puranga (Pader District): "Most of the clan members ... were not sure of the process of registration or how it will be done, but due to the growing threat of land grabbing and influx of foreigners with their cattle, they urgently and desperately wanted anything that would protect and secure their land."

16) Even with this uncertainty, clans supporting the idea of registration indicated that it should be undertaken only with their input and support, and carried out on a basis that reflects the way in which they conceive, organize, and manage their particular customary land.

Unfortunately, the Phase II Clan Community Dialogue Guides did not specifically address this subject. But three of the four Phase II field researchers quoted above have provided concise reflections on the matter based on their overall interactions with the clans they researched: (i) Paska Aber (Kwong Paluti): "The researched clans corroborated this [sentiment], that registration of their land should not be without their input, but by them based on agreed guidelines that are (or would be) in clan constitutions;" (ii) Allan Ojara (Puranga, Omoro District): (ii) "True! The clans wanted a way that could not deride the culture of Acholi, but also be able to protect and secure their lands"; and (iii) Priska Akello (Puranga, Pader District): "The clans wanted to be involved in land registration, to ensure the end product would not disrupt the way land was being used or leave them landless, but stop/control the rampant land selling among clan mates, and protect them from the influx of uninvited foreigners."

17) Uncertainty over what registration of land would mean also factored into those who expressed concerns about and/or opposition to registration, including:

Nine of the most common concerns, shared to varying degrees even by clans strongly supporting registration, were listed in the Pilot Project *Final Report*. The same nine, or close variations thereof, also showed up frequently among Phase II clans. They were:

- (i) Government may "grab" or "heavily tax" registered land.
- (ii) Registration is "very expensive and only favours the rich against the poor."
- (iii) "The rich can grab and then sell land that is registered."
- (iv) Clans have never been sensitized about registration of land, including unanswered questions and concerns about "in whose name" land would be registered.
- (v) Some fear that "registration is a plan by the government to grab all registered land," which is coupled with concern about losing control of their land, and thus their livelihood and homes.
- (vi) "Registration of land brings a lot of confusion and they want to continue in customary way which they understand well."
- (vii) Many expressed that "we trust our elders" and do not wish to weaken the present order.
- (viii) In some clans, there was a strong view against registration because it would be difficult to register their customary land-holding because it is scattered (non-contiguous).
- (ix) Some other clans felt that registration "cannot happen because they have no money for registration" and they are "not aware of the requirements which are needed to register *ngom kwaro*."

To this list, the Phase II field researchers noted above identified two additional common concerns in the clans they worked with, both related to physical features of potential registered land:

- (x) Some said their land is too big and they questioned how the all processes involved in registration can be done.
- (xi) Other clans, conversely, feared that their numbers and land were too small, and thus their land could easily be grabbed if it was registered.

18) Not surprisingly, therefore, whether supportive of or opposed to registration, almost all the researched clans [in the Pilot Project] expressed a strong desire for information sharing so that people might understand the process of registration and learn pros and cons of doing so or not.

This sentiment seems also widely shared by clans in Phase II research. The four field researchers cited above provided the following summary accounts of sentiments on this issue from the clans where they worked:

- (i) Charles Odongmon, Cwa. "Much as all the clan were willing to register their land, they want to have more information on how the process will be done, what are the requirements for registration, how much should they pay in order for them to get their land titles (or certificates) and what would be the implications for them as the community members.

Therefore, they said there is need for comprehensive sensitization to all the community members and other relevant stake holders so that the process can be accomplished without meeting many hurdles. 90% of the clans in Cwa are very enthusiastic to have their land mapped since land wrangles has claimed the lives of many people, therefore registering their land would be a way of reducing land conflict now so rampant in their chiefdom, especially disputes on communal land."

- (ii) Paska Aber, Kwong Paluti. "All the 5 [Kwong Paluti] clans researched in Wol Sub County [Agago District] had similar expression of desire for information sharing to whole clan members to understand process, cons and pros of land registration."
- (iii) Allan Ojara, Puranga (Omoro District). "The clans all demanded that we would show them the best way of securing their land without individuating it. They asked us to go back and sensitize them on the best options of registering the land and even explain to them the process involved in registration."
- (iv). Priska Akello, Puranga (Pader District). "True, the clan members whether in opposition of support of land registration expressed the desire to be involved and informed on all the details of land registration on every step so that they could ascertain that their land is rightly demarcated, protected and secured and handed over to them and kept by their ancestors."

19) In addition to the overwhelmingly favourable support for registration, respondents in all the selected chiefdoms expressed a strongly positive view towards "development" – as long as the local community had a voice in the process and derived community benefits.

Versions of this sentiment was expressed in all 13 Chiefdom (*Ker Kal*) Community Dialogues in Phase II research, with discussions often beginning with participants identifying aspects of "development" for which customary, clan-based land had been given up to now. This included churches (often with affiliated schools), organized markets, and government-led projects such as schools, health centers, roads, sub-county and (in a few instances) district headquarters – which many saw as putting land into good use. And all expressed a desire for more, despite the fact that with the partial exception of markets, none of these were owned, controlled, managed by, or contributed income or other direct benefits to local clan-based land-holding communities.

Such clan-based land – Acholi *ngom kwaro* – is typically conceptualized as comprised of different, often overlapping categories of land and land utilization. Individual households and families who are recognized by a clan with *ngom kwaro* are provided access and user rights to *ngom kwaro* land on which they live and farm.⁶ All 95 clans in the 13 chiefdoms in Phase II research, of course, have land that is

⁶ And while formerly the norm in Acholi, a minority of clans also still have land set aside and utilized for cooperative agricultural production.

allocated and used in this way. In addition, there are up to six additional categories of land that are communal, available for the use of all members of an *ngom kwaro*. These include, in descending order of presence: (i) swamps and rivers (in over 90% of researched *ngom kwaro*); (ii) grazing land for herding (currently occurring on nearly 80% of researched *ngom kwaro*); (iii) designated hunting areas (70%); (iv) forest areas (60%); (v) chiefdom-wide sacred sites (55%); and (vi) rock outcrops (45%).

Phase II field researchers initiated discussions in both Chiefdom (*Ker Kal*) and Clan Community Dialogues to explore ideas about potential ways to "develop" these different categories of land types and land use. Discussion in the Labongo Layamo chiefdom, Kitgum District, captured a number of commonly expressed ideas among the researched chiefdoms, beginning with the almost universally shared sentiment, that the clan communities there:

cited the need and desire for development, but added that they were only willing to support this after input and agreement from the community, and assurances of overall community benefits. Examples of such development included tractors to ease farming for the clan members and more and better roads both to assist and benefit from production increases, since now the '*aker*' (farm land) is usually very far from homesteads, with only community paths leading to it. They also wanted improved market pricing, increased and improved health facilities, and better supported schools and teachers to improve the education of their children.

Another common idea expressed about *ngom kwaro* development, shared for example by all researched clans in Paluti Kwong chiefdom, Wol District, was that it "might save the common areas of their customary land used for communal grazing and hunting from being grabbed by the government by falsely calling it 'unused land'." More generally, development projects proposed for *ngom kwaro* included tree planting, brick making, increased stock rearing, large-scale farming, and bringing in industry.⁷

20) Finally [in the Pilot Project], in many ways this summary list of key findings suggests something both striking and important about customary land in Acholi, and by extension about contemporary Acholi society and culture.

The explication of this final Key Finding in the Pilot Project *Final Report* describes a process, a cultural dynamic, and a cultural strength that was equally present – and pertinent – when Phase II research was conducted. It reads:

It has been less than a decade since the end of the vicious twenty-year war centred in Acholi, during which the vast majority were displaced off their land and into internally displaced persons' camps for periods ranging from five or six to more than

⁷ For more information on development ideas for rural Acholi, see the two project consultancy reports by Jagwe & Burke (2017a, 2017b) on Inclusive Business Models for "leveraging investments and development in Acholi."

ten years. The Acholi sub-region remains one of the poorest (and least well serviced) parts of Uganda, with major economic and social ills and problems.

Still, in less than ten years, as the findings of this research suggest, most Acholi have returned, resettled, and are currently utilizing clan-based land on which they have recognized customary rights – at least in the groups included in the research sample, and to at least some degree successfully. In a remarkably short time, moreover, this customary land has been largely reconstituted, organized, and managed along lines that embody principles and practices that are both long-established and broadly accepted.

21) The Phase II Final Report concluded with an added 21st Key Finding:

Every Key Finding of the Pilot phase was corroborated by Phase II research, most often to an overwhelming degree. The extent of this corroboration between the two phases of the project – conducted a year apart, by different teams of researchers, in different locations – adds a significant degree of credibility to project research. Taken together, this research has generated extensive and detailed evidence on the current organization and management of 141 Acholi *ngom kwaro*, both widely accepted principles and practices and variations among different clans, providing valuable information and insight into this crucial resource of the Acholi people.

Moving the Project forward

But the research findings above, however extensive and informative, advanced only the first of the two main objectives of the JASLF/Trócaire land project. The second was "to help clans – at whatever level they organized their land – to secure and protect this land." The significance of this objective, important as it was for Acholi, had even broader relevance. A World Bank study by its lead African land specialist (Byamugisha 2103) identified the first of ten key elements for scaling up land administration in Sub-Saharan Africa as "improving tenure security over communal lands," through "organizing and formalizing communal groups" and "demarcating boundaries and registering communal rights" (p. 5).

Regretfully, beset by wide-ranging practical and political obstacles, project funding ended before **any** researched clan was provided sufficient information and assistance to even begin navigating the necessary steps to fulfil the objective of securing and protecting their land.

The conclusion to the final project report, however, outlined those steps (closely mirroring Byamugisha above):

- (i) First, each clan-based land-holding group will need to reach an initial consensus, from both the leadership and larger clan community, concerning the level of clan-based organization at which they would like to incorporate, demarcate, and register their *ngom kwaro* – as a clan (*kaka*), sub-clan (*doggola-kaka*) or extended family (*dog gang*).

- (ii) The group will then need to organize and go through the rest of the process of formally incorporating at the level they chose, with the only viable option currently for doing so being a Communal Land Association (CLA). Incorporating as a CLA has numerous components and requirements necessitating extensive community organizing and negotiation, including a formal constitution and leadership organization, both of which need to be drawn up carefully to reflect – and protect – the customs, traditions, and practices of the group and to minimize the danger of elite capture.
- (iii) After incorporation, each group will need to work with their local government, including the local sub-county Area Land Committee, and the Ugandan Ministry of Land, Housing and Urban Development (MLHUD) to formally demarcate their *ngom kwaro*. This process can only occur if **all** neighboring groups (& individuals) that share any portion of the boundary attest in writing that they agree with that boundary; if any portion of shared boundary is not agreed upon – or cannot be harmonized through negotiation or other dispute resolution mechanisms – no formal registration will proceed.
- (iv) Following successful demarcation, the group can then apply to their District Land Board for a Certificate of Customary Ownership (CCO); given that the cost of acquiring freehold title is prohibitively expensive for virtually all clan-based land-holding groups, a CCO is the only viable option for registration at present.
- (v) Once approved, the District Land Board will be able to issue a clan-based CCO in the name of the incorporated group appearing on the CLA. Such approval will require documenting various aspects of the group, including a list of names and other information for each member or member household of the group belonging to the CLA, specifying that the land will be held by the clan-based group as a community, and identifying neighbors on adjoining land.

With the close of the project at the end of 2017, most project participants were deeply disappointed and frustrated about the manner in which it had ended, without assisting **any** Acholi clan to navigate the multifaceted processes required to legally protect their *ngom kwaro*. This was especially so for those most directly involved: the participating clans and chiefdoms, the Research Coordinator and field researchers, and the JASLF Technical Committee on Land who initiated and oversaw the work.

Finally, in October 2018, without any funding in hand, a core group of the Technical Committee began resuscitating the long-stalled project, with the primary object of developing a means to provide some sort of practical assistance to the chiefdoms and clans we had worked with and then, essentially, left hanging.

The first step to this end was organizing seven former field researchers and Research Coordinator to contact every chiefdom and clan in the project. Explaining that no funding had yet been acquired for

this, each chiefdom and clan was asked if they would still be interested in obtaining information about, and possible assistance with, pursuing legal protection for their land. All 20 chiefdoms and 106 of the clans gave enthusiastic "yes" responses; 12 clans expressed possible interest but required more information or internal consultation; nine were undecided/not yet ready; seven were involved in current land disputes or other problems that made it impossible to participate right then; one clan indicated it was doing individual registration; and only six gave a flat "no" answer.

Thus, over November and December, nine documents, plus an introduction, were produced that provide extensive and detailed information for those wanting to pursue formal, legal protection of their *ngom kwaro*. The documents include: (i) a number of guides for completing specific procedures – many of which involve engagement with various local government entities and officials and MLHUD; (ii) the necessary government forms needed for these procedures; and (iii) contextual information, including relevant extracts from the 1998 Land Act and 2004 Land Regulations, concerning the numerous activities that clan-based groups will need to carry out in order to acquire legal protection for their respective *ngom kwaro*, while doing so in ways that reflect Acholi cultural practices and values:

- **Doc. 1.** Introductory guide to CLA incorporation (1st step in formal registration of clan-based *ngom kwaro*).
- **Doc. 2.** Draft CLA Model Constitution.
- **Doc. 3.** Introductory guide to mapping, demarcation, and registration.
- **Doc. 4.** 1998 Land Act excerpts on CCOs.
- **Doc. 5.** 1998 Land Act excerpts on CLAs.
- **Doc. 6.** Statutory Instruments, 2004 Land Regulations (summary excerpts).
- **Doc. 7.** CCO relevant documents, line-by-line Luo translation (2004 Land Regulations).
- **Doc. 8.** CLA relevant documents, line-by-line Luo translation (2004 Land Regulations).
- **Doc. 9.** MLHUD, SLAAC Sensitization Materials (extracts).

These documents were translated into Acholi Luo over December 2018, and a Luo-language document set of nearly 100 pages was produced in January 2019, with copies made for all 20 chiefdoms and 141 clans in the original land project.

In February 2019 a \$15,000 seed grant – which will provide a basis for seeking subsequent funding – was procured from an ongoing research and advocacy partnership between locally-based Human Rights Focus and Cambridge University. This will first be used to fund initial distribution of the Luo-language document set in the second half of February-early March, to be carried out during a seven-day tour throughout Acholi by a team of two former field researchers and the former Research Coordinator. The remainder of the grant will be allocated for follow-up visits to as many clans as resources permit through July 2019, the order of which will be based on requests for assistance, along with evidence of initiating

practical steps towards formal registration after receiving the document set (at least, generating a list of all households living on their *ngom kwaro*). As indicated above, many of these practical steps will involve the engagement of local clans and leaders pursuing registration with local governments and MLHUD. It is hoped that these engagements will be participative, recognizing that all parties involved, despite different roles and perspectives, have valuable knowledge to contribute, an approach that should be facilitated by previous interactions between the research project/team and local governments (from the project's inception) and MLHUD (during the project's second year).

References

- Atkinson, R.R., Latigo, J.O. & Bergin, E. (2017, March). Piloting the protection of customary land rights in Acholiland: A research project of the Joint Acholi Sub-Region Leaders' Forum (JASLF) and Trócaire. Presentation at Annual World Bank Conference on Land and Poverty. Washington, DC.
- Atkinson, R. R., Latigo, J.O., & Bergin. E. (2016, July). *Piloting the protection of rights to customary land ownership in Acholiland: A research project of the Joint Acholi Sub-Region Leaders' Forum (JASLF) and Trócaire: Final Report*. Kampala: Trócaire.
https://www.trocaire.org/sites/default/files/resources/policy/phase_i_research_report_-_piloting_the_protection_of_rights_to_customary_land_ownership_in_acholiland_final_report.pdf
- Atkinson, R.R., Latigo, J.O., Ahirirwe, S.R., & Aloba, S.T. (2018, April). *Instituting the protection of rights to customary land ownership in Acholiland: A research project of the Joint Acholi Sub-Region Leaders' Forum (JASLF) and Trócaire. Field Research Report*. Kampala: Trócaire.
https://www.trocaire.org/sites/default/files/resources/policy/phase_ii_research_report_-_instituting_the_protection_of_rights_to_customary_land_ownership_in_acholiland_final_report.pdf
- Atkinson, R.R. & Owor, A. (2013). 'Land grabbing': The Ugandan Government, Madhvani, and others versus the community of Lakang, Amuru District." *Journal of Peace and Security Studies. Special Issue: Unfolding Land Conflicts in Northern Uganda*. Vol. 1, 49-63.
- Byamugisha, F.F.K. (2013). *Securing Africa's Land for Shared Prosperity: A Program to Scale Up Reforms and Investments*. Washington DC: Agence Française de Développement & the World Bank.
- Hopwood J. & Atkinson, R.R. (2013, March). *Land conflict monitoring and mapping tool for the Acholi Subregion: Final report*. Kampala: Human Rights Focus & UN Peacebuilding Programme.
http://www.lcmt.org/pdf/final_report.pdf
- Jagwe, J. & Burke, C. (2017a). *Development of Inclusive Business Models (IBM) for leveraging investments and development in Acholi sub-region*. Kampala: Trócaire.
https://www.trocaire.org/sites/default/files/resources/policy/180223_final_report_inclusive_business_models_ibm.pdf
- Jagwe, J. & Burke, C. (2017b). *Development of Inclusive Business Models (IBM) for leveraging investments and development in Acholi sub-region: User Guide*. Kampala: Trócaire.
https://www.trocaire.org/sites/default/files/resources/policy/180215_final_inclusive_business_models_ibm_user_guide.pdf

- Kakuru, R. (2017, November). *The protection of rights to customary land ownership in Acholi Region: The case of youth in Acholi*. Kampala: Trócaire.
https://www.trocaire.org/sites/default/files/resources/policy/180108_final_report_youth_and_land_rights_in_acholi_phase_ii_research.pdf
- Martin, S.J. (2017, October). *Nowhere else to go: Amplifying the voices of women across the customary land system of Acholi Sub-region in Northern Uganda*. Kampala: Trócaire Uganda.
https://www.trocaire.org/sites/default/files/resources/policy/180214_final_report_women_and_land_in_acholi_phase_ii_research.pdf
- Namukasa, L. (2017). *Instituting Protection of Persons with Disabilities Rights to Customary Land Ownership in Acholiland*. Kampala: Trócaire.
https://www.trocaire.org/sites/default/files/resources/policy/180223_final_report_pwd_and_land_rights_in_acholi_phase_ii_research_0.pdf
- Refugee Law Project. (2012a, September). Situation brief: Border or Ownership Question: The Akaa Land Dispute. <https://www.refugeelawproject.org/resources/briefing-notes-and-special-reports/13-conflict-and-tj-special-reports/sprpts-ctj-accs/34-border-or-ownership-question-the-akaa-land-dispute>
- Refugee Law Project. (2012b, October). Situation report: Is it oil, land or investment triggering increasing land dispute in Lakang village of Amuru District?
<https://www.refugeelawproject.org/resources/briefing-notes-and-special-reports/13-conflict-and-tj-special-reports/sprpts-ctj-accs/39-situation-report-is-it-oil,-land-or-investment-triggering-increasing-land-dispute-in-lakang-village-of-amuru-district>