

**Land rights:**  
**where we are and where we need to go**

A review of the situation of land rights in Apac District in Uganda, and of opportunities for land rights protection work, based on the work of LEMU in 2003-4.

For the Berkeley Trust.

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## 1 Land in Apac: where are we? The economic, social and legal story.

### Socio-economic context

Apac is somewhat typical of most of northern Uganda. The District is almost completely un-industrialised with few urban centres of any size. The population is rural, and depends almost entirely on agriculture for their livelihoods. Mechanisation is rare, so the only productive assets which most households own are land, a few hand tools, and (though not for all) livestock.

Nevertheless, though this picture is often described as “traditional”, it has not been unchanging.

Even though the population remains predominantly of the one ethnic group (Langi), the economic and social changes have been profound. The local economy was traditionally based on cattle, for milk and meat production and for ploughing. The predominant cash crop was cotton. However, nearly all the cattle in the District were lost in the years following the rise to power of the National Resistance Army<sup>1</sup>: the local economy was destroyed, and has never fully recovered. Cotton production declined from a combination of falling world prices and the collapse of marketing structures, leaving farmers with no ready source of cash. On top of that, the population is growing fast – doubling every twenty years. Population pressure means that there is no longer free forest land which can be taken, and that the land owned by each family is decreasing – roughly halving every generation. Agricultural technologies have not changed to keep pace with this.

The market economy has penetrated the Langi society, and rural households have increasing needs for cash. Apart from the everyday necessities of clothing, household items and supplementary food items, the main reasons why households need money are for education, health care and ‘bride price’. (Bride price was traditionally paid in cattle, but since the loss of cattle in the late eighties and the increasing monetarisation of the economy nationally, this now translates into a cash need.) The subsistence agriculture era ended long ago, even if this has not always been recognised. For a long time, cotton provided necessary cash, though it has declined progressively since the seventies, due to the collapse of the cooperative and marketing structures and declining prices. Today, even if there is no obvious cash crop substitute, households still consider the market when planning their agricultural production. Many need to labour in others’ fields in order to meet cash needs, devoting less time to looking after their own land. In the last few years, there have also been changes in the way land is perceived, since

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<sup>1</sup> The armed group which was led by the current President. The National Resistance Army as a Government is now known as the National Resistance Movement, the army is now the Uganda People’s defence Forces (UPDF).

land too is becoming an asset which can be sold, and its 'commoditisation'<sup>2</sup> is having far reaching social and economic consequences (described further below).

Socially, too, there have been major changes. Because of the increasingly monetarised economy, all economic goods are increasingly taking on a life of their own, divorced from the social norms in which they were set and which gave them value. (This is the difference between buying a cow by taking a loan from a credit organisation, where the only obligation is the financial one of repaying the loan, compared to being lent an animal by a relative, on the understanding that one could keep some of the off-spring if the animal was well cared for – a relationship that could neither begin nor end with this particular exchange, but would be embedded in another whole series of social obligations.) As well as changing the way in which assets are seen, this affects how people see each other, since commoditisation undermines social ties in subtle ways. Once goods and services are commoditised, the personal and social ties which were previously inherent in such exchanges are stripped down to purely economic relations. This can be liberating for individual households, but it has inevitably weakened the social structure, for both better and for worse. This social (clan<sup>3</sup>) structure was formerly the principle judicial system, so it is important to stress that the weakened clan structure has had far reaching implications for everyone in social, economic and legal terms – and inevitably, for land rights, which touch all three.

The weakening of the clan structure is not only from within, but external factors have also been important. Though much clan power was lost during colonial times, the national administrative structure now penetrates to every village to an unprecedented degree. This in turn has meant that the 'traditional' structures of social administration, the clan elders, have lost much of what authority had survived, and power is being progressively taken over by Local Councillors ("LCs") from village to District level<sup>4</sup>. The judicial role of clan elders was also embodied in a social system, and their authority was over social conduct as well as legal matters (or, more properly, legal matters were inseparable from social ones). The state administrative system has not taken on this social role, leaving a void in the matter of social norms: as a result these are progressively being eroded.

Since land is both the primary economic asset left to rural people in northern Uganda, and is inherently tied up to who people are in deep social and cultural ways, it is not

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<sup>2</sup> Commoditisation refers to the process where things lose individual identity and become merely commodities, generic and interchangeable goods whose only value is their sale price.

<sup>3</sup> It is not easy to give an exact definition of a clan, since the word is sometimes used to cover wider or narrow communities. The principle clan, within which someone is not allowed to marry, is a patrilineal family network, and could typically extend to fourth or fifth cousins.

<sup>4</sup> The Ugandan administrative structure has villages, then parishes, sub-counties, counties and Districts, or local councils 1, 2, 3, 4 and 5 respectively. Counties (level 4) are now largely obsolete.

surprising that these changes have all had a major impact on the on-going struggle over rights to land in Apac (as elsewhere in Uganda and indeed beyond). The experience of the last year and a half's work on land in Apac has shown that land is one of the most contentious issues in every village, and at District and national level. Land rights are fought over within households, within the extended family, between families within the clan, and between the clan and 'outsiders'.

### The 1998 Land Act

At national level, the major change was the 1998 Land Act which implemented the provisions of the 1995 Constitution. Specifically, law now recognises so-called "customary tenure", with two major implications. Firstly, even without any formal papers, people who have always been considered locally to "own" land now have legal recognition of this fact, without the need for them to acquire papers (ie the land can be legally owned but remain unregistered). Secondly, according to the wording of the law, the rules governing the administration of this land should be those very local rules by which ownership of the land was claimed, i.e. "customary" or "traditional" rules (of the clan). The law also offers protection to wives: where customary rules do not protect them, then the Law (and the Constitution) take precedence. Although most land is considered to be owned by the male head of the household, wives automatically have rights over any land on which they depend, even where the man is the sole legal owner with freehold title. (This protection is intended to cover children, through their mothers defending their interests. No sale of land on which the wife depends is valid unless the wife consents to the sale.

Despite a legal context, which is very favourable to customary tenure, Government policy has been seen most clearly in its practice, and it has clearly shown no interest at all in customary tenure. Whatever the intentions of Parliament in passing the 1998 Land Act, the Government's interest in recognising customary tenure was in order to facilitate the privatisation of land, to enable the growth of a land market, and the acquisition of land by "investors". Various provisions made in the 1998 act to support and protect customary tenure have never been implemented (see below). The Government has taken away the authority of 'customary' institutions of land administration for administering land held under customary tenure, despite the clear statement of the 1998 Land Act. Given that one of the rules of customary ownership is that land sales are *prima facie* not allowed (though a sale can be accepted if good reason is shown for allowing it), it is clear that giving authority on land disputes to state institutions will tend to accelerate the privatisation of land and undermine the protections built into customary tenure. This is discussed in more detail below.

Government policy has been to encourage titling of land for freehold tenure. This gives all rights in land to named persons, usually a single individual<sup>5</sup>, and frees the owner from any social obligations that may be held under customary tenure regarding the land. Acquiring a title can be an expensive process, since it requires a survey of each individual plot of land. The Government is currently implementing a programme for systematic titling in six Districts, whereby it is surveying every plot of land where the owner wishes. (The reason for undertaking systematic demarcation of all land at a time is to reduce the costs and so make titling available to more people.) The underlying presumption is that there is a single owner who already holds all the rights in that land – a patently false assumption, under customary tenure. The systematic titling is supposed to give existing owners better documentation of their ownership, but it is clear that it will in fact radically change the meaning of ownership, and will transfer rights from some people (losers) to others (winners). Apac District is not one of those where the exercise is being carried out, but LEMU's experience of the reaction of local people to raising issues about land rights would indicate that such an exercise could well provoke similar scenes to those in the eastern District of Soroti, where local people in Aminit parish almost beat the surveyors to death.

The 1998 Act had a very different intention. It made provision for certificates of customary ownership (CCO), which would function in a similar way to a title, but would not involve the expense of surveying. Crucially, they would not involve a change in the ownership system of the land from customary law to freehold – that means that rights and obligations in the land would remain unchanged, and customary rules regarding land would still have to be followed. In addition, in what is potentially one of the most important sections of the Act, provision was made for setting up a “communal land association” (CLA). This is to cover the case where not all rights to a piece of land are held by one person – which is the usual case in customary law in Apac<sup>6</sup> (as elsewhere). All people with rights to the land can hold the land in common by forming such an association, and its constitution stipulates exactly which rights are held by which people. In theory, this secures the rights of all those currently holding them, and gives the customary ownership the full protection of state law, but without changing the ownership and patterns of rights. Although the Act included the exact lay-out and wording of the CCO documents, and gives detailed procedure for registering a CLA, no CLA has yet been registered and no CCOs issued. The District officials concerned claim that they are waiting for instructions from the Ministry, though since the Act was passed eight years ago, it is not clear what legal excuse could be given for delay if people were to demand implementation of their rights. The Ministry has not given any support to these measures, because its current interest is limited to systematic demarcation which can eventually lead to freehold ownership.

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<sup>5</sup> though title can also be held by a “corporate body”, a company which has a legal identity, jointly or in common.

<sup>6</sup> The Act made the common mistake of assuming that all customarily owned land was owned communally.

## Government policy and customary tenure

Why has Government shown so little interest in customary tenure and why does it pursue the goal of land titling to such an extent? More than one reason is probably at work. Fundamentally, there is a deep misunderstanding about the nature of customary tenure, which is held by local and national Government, and by the international institutions which are supporting the development of Uganda's land policy. There is a strong belief that land held under customary tenure is owned communally by clans and that people only have the right to use land. Even the 1998 Land Act describes customary tenure in terms of communal ownership. This is believed to be bad for investment in land and agricultural development. Since all land is held communally, runs the argument, people don't have security of tenure and so will not invest in their land, because the investment would not be safe. Also, since land is communal, no-one can have documents of ownership over the areas they farm. This means they don't have collateral and so prevents them from accessing (cheaper) loans. This too will prevent people from investing in productive agriculture. Finally, since people don't properly own land and can't sell it, no land market can develop. This will prevent investors, people who could use the land more productively, from buying land, so preventing economic development. These arguments, dating back to colonial times, are widely held by institutions such as the World Bank<sup>7</sup> and in Government.

Whatever the strength of the economic logic in the arguments themselves, for the case of northern Uganda, they rest quite simply on a false premise. Land held under customary tenure is owned privately, not communally. Most farming land is owned by families. Some land is held at village or clan level, and this includes forest land, where members of the community can hunt or collect firewood, and uncultivated land left for grazing animals. This is communal land, though there are strict rules about who can use the land and under what conditions. Family land is inherited within the family, and the management of the land is passed on from father to sons. Traditionally there was no right to sell land, because the land belonged not just to one person but to a family, including to the unborn generations. (In fact until two or three generations ago, there would have been no reason to buy land, except in urban centres,, since it was still possible to go into virgin forest and claim ownership by clearing land.) Nevertheless, land sales have been present for many years, and the clans have accepted this.

People feel very secure on their land, and would be happy to invest, if they could afford the risk and if an investment is deemed worthwhile. These conclusions came out very

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<sup>7</sup> The World Bank does not have a single monolithic view, and it is very aware of the limitations of the theory, though it still tends to favour the individualisation of ownership and the development of a land market.

strongly from two pieces of research conducted by LEMU, in Apac and in Acholiland<sup>8</sup>. The reasons for not seeking title are not related to a lack of feeling of ownership, but rather the reverse. Since people feel secure as owners, they see no reason to incur the costs and time involved in getting documents, which (they feel) would bring them no advantage since “the law already allows us to do what we want with our land”. A second reason, discussed more fully below, is that there is a resistance to giving all rights over land to one person. The reasons for not seeking loans are also unrelated to a lack of documentation: few can afford to borrow to invest in production on land, because of the high risks associated with rain-fed agriculture, and the poor returns on farming due to low prices.

#### Implementation of the Land Act in practice

What we describe below is the situation regarding the implementation of the Land Act in Apac that we have discovered on the ground. (From what we understand, the situation is not different from that in the rest of the country. The main differences would be that in some parts of the country, especially in the old kingdoms, more land is held under title. In the north and east, the vast majority of land is owned under customary tenure.)

The way in which customary land administration and justice is supposed to work is as follows.

#### a) land administration

A District Land Board (DLB) was created in order to administer land matters in the District. All un-owned or publicly owned land is vested in the DLB. They have the authority to allocate such land, and are responsible for processing titles and for approving or rejecting CCOs, and they have taken over from the old Uganda Land Commission the responsibility for maintaining registers of leases in the District.

The sub-county chief, the senior civil servant at sub-county level, is the land recorder, responsible for recording all certificates of customary ownership<sup>9</sup>. However, there is no requirement to update such certificates (as the pattern of rights changes with births and deaths, or with sales) and there is no register of land sales. (Sales of registered land, i.e. land with title, are maintained centrally.) Area Land Committees are to verify the borders of land and rights over land so that approval of a CCO can be recommended. A District Registrar is responsible for the setting up of Communal Land Associations. They are to help them to draw up their constitutions and for registering both the institutions and their interests in land.

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<sup>8</sup> The Acholiland study gives a detailed analysis of why the misconception is so widespread that customary land is communal. See *Land Matters in Displacement*.

<sup>9</sup> He is also responsible for registering and keeping records of certificates of occupancy for tenants, but these do not concern us here.

In fact, the reality is somewhat different. The area land committees have never been formed, because the District Council, which is supposed to pay them, says it has no funds<sup>10</sup>. The land recorders are not functioning at all: although the sub-county chiefs are in place with other duties, they do not even know that they are supposed to act as recorders or what the role entails. (It is clear just how low a priority their work has for District and central Government from the fact that they have neither been informed about what to do or been held to account for not doing so.) District Registrars are not in place either.

b) the judicial process

Local disputes regarding land can be taken to customary authorities. In Apac, this would be the head of the extended family, for a dispute between family members; for a disagreement outside the family, or if the family head failed to resolve the problem, then the “*Jan Jago*” (the village judge on land matters) would adjudicate. Further appeal could be made through the clan structure to the *Jago* (the higher level judge, equivalent to LC3) and the *Rwot* (the head of the clan, parallel to LC4 level). In theory, their rulings should have the status of State Law, since, as mentioned, the law states that the rules governing customarily owned land should be the customary rules of each area. The state administrative system has Parish Executive Committee Courts at parish level for adjudicating on land matters, with appeal to the sub-county executive committee. The highest authority for appeal in the District is the District Land Tribunal (DLT), after which cases can be taken to the High Court in Kampala. cases worth over 50 million shillings (around £15,000) can be brought directly to the DLT. They can encourage mediation, consult customary authorities, or make decisions directly themselves, at their own discretion. Law courts have no jurisdiction to treat cases involving land, because this authority was given solely to the DLT.

In practice, the state institutions described above are not functioning as prescribed, nor are their duties being carried out by anyone else. The District Land Tribunal is hardly functional, and the parish and sub-county executive committees have not been equipped to deal with land disputes. This means that the only recourse for land disputes is the LC1 (chairperson of the village council, an unpaid elected office), who has no legal authority to decide land matters and no legal training to help him (very rarely, her) do so. The only advantages to this system is that the LC1 is accessible and relatively cheap, typically charging £2-3 for a case. However, because the LC1 is seen as being the “legal authority” with mandatory powers to give an absolute ruling, they are effectively displacing the *Jan Jago* except for minor issues. The *Jan Jago* was equally accessible and cheap, and he actually had both the legal background (in customary practice) and the legal authority (in customary and, by extension, in state law) to decide cases.

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<sup>10</sup> These committees have only been formed in the four pilot districts where systematic demarcation is being carried out.

## The consequences of institutional failure in land administration

As we saw, no system was set up for registering land transactions, unless they involve registered land. LC1s are usually involved in witnessing any sales (though not rental agreements) and are believed by those involved to be giving some kind of “approval” or official sanction for the sale. However, any records they keep are ad hoc. No formal or standard documents for land transactions exist, no copies of records are kept anywhere and frequently when an LC1 leaves office, they do not hand over their records to their successors. Lack of registration of land transactions is important for three reasons. First, because without any formal records, the potential for future disputes is high. Secondly, the presence of an LC1 as a witness does not confer any legality at all on a land transaction, and cannot be taken to mean that the seller really had rights over the land or the right to sell it. However, frequently his presence is taken to mean just that, making future conflicts more likely. This is of particular concern where the rest of the family of the seller has not consented to a sale of part of family land, which, under the rules of customary tenure could be blocked. Thirdly, and most critically in the short term, unless there is a process for officially sanctioning sales, then the protection clauses in the Land Act for women are meaningless. Women should have to consent to any sale of any land on which they and their families depend. However, the Act does not give specific responsibility to any individual or body to verify the consent (though this task could and should have been an integral part of the recorder’s function). Although an official form for registering a spouses consent has belatedly been produced (in 2004), with no-one mandated to look at these forms, they are currently meaningless for sales of unregistered land. (In any case, they have been created as a stand-alone document, rather than as part of any sales agreement format, making it much more likely that they would be ignored.) As a result, in practice consent is usually neither sought nor given.

This failure is far more serious than ‘merely’ not having introduced a good system to protect women. The old customary system had provisions for protecting the rights of women and children: these were never written down, but they were part of the social obligations of living within the clan, and they were enforced by clan elders. However, people are turning to the LC system instead of to the customary system, because state law is seen (erroneously) as superseding customary law. Even if the clan elders tried to stop or to put conditions on a sale, the seller (invariably, an individual male) may go ahead anyway, and gain the LC1’s “consent” for the sale. When challenged as to their implementation of the consent clause, the LCs use a paradoxical argument for approving a sale without the wife’s consent. Under customary law, they argue, women had no right to own land, so there is no reason to ask a women for her consent! In other words, they justify not upholding the state law, which they claim to represent, by using the very law they are replacing, and which would have given women some protection in order to

justify their position<sup>11</sup>. The customary protection has therefore now been eroded with nothing brought in to replace it. Because no interest was ever shown in finding out exactly what was happening under customary tenure, the very Act which was intended to bring in better protection has actually eroded women's rights.

No officers of institutions are carrying out any functions associated with supporting landowners by customary tenure. There is no programme for helping to create CLAs or to provide CCOs, not even any programme to inform people of their rights to such things. One reason is because no-one has been given any direction on how to proceed, neither in the form of encouragement from the Ministry nor instructions. Theoretically they could (indeed, should) be carrying out these activities from their own initiative, but a second reason for their non-functioning is a serious lack of funding. Apart from the basic salaries to keep the staff working in the office, there are few funds for out-reach work. Central Government expects District Governments to find the money: District Governments have very weak financial capacity, especially in areas like Apac, and expect central Government to finance land administration through the normal central grant system. One needs to ask two questions in this regard:

- why did the State introduce a new system for administering land, replacing an existing customary system which was cheap and accessible, if it had not thought through the costs and ensured that funds were available?;
- and why does the Ministry spend so much on systematic demarcation (for titling or CCOs), when it has no money to spend to help administer the system under which the vast majority of land in the country is owned<sup>12</sup>?

In fact, a great deal could be done with very little money, if initiative were shown. (A shame that the World Bank was not listened to when they said that "the benefits from increasing accountability in communal tenure systems may be immense...and can be achieved at a fraction of the cost and time required to establish freehold title.") The District could process CCOs without few additional costs beyond existing salaries, and it could advertise a service facilitating the creation of CLAs, at least for people living in areas close to the District centres (to avoid travel costs). LC1s could be given standard formats for administering land transactions, and these could be recorded by the Sub-county recorders. Few people have any knowledge of land law, beyond the fact that "land belongs to the people". The LCs who are administering land and justice have no more knowledge than anyone else. Much could be done on increasing knowledge of

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<sup>11</sup> This exactly parallels the behaviour of the individual seller who seeks LC approval for a land sale which is being opposed by the clan elders. He is using his claim to own the land through customary law to justify a sale under state law which is actually opposed by the same customary law which gave him a claim over the land in the first place!

<sup>12</sup> The amount budgeted for systematic demarcation in four Districts is more than the amount for financing either DLBs or DLTs in the whole country, and is thirteen times more than the amount budgeted for all the sub-county land institutions in the country!

land law and land rights – even if it was only to solicit an intervention from an NGO! Section 2b) below looks at some of the reasons why so little is happening. Here it is important to stress that the attitude in the District is typified more by inertia than by opposition.

## **2 The problems: major barriers to land rights.**

### *a) threats to land rights*

The major barriers to land rights can be divided in three main groups: barriers to accessing rights under the customary system; the barriers to accessing land rights under the formal state system; and barriers to judicial protection from threats to land rights held under customary tenure.

#### *i) barriers under customary land administration*

The main difficulty relating to customary rights is due to the erosion of the authority of customary elders, and the ability of individuals to by-pass the checks and balances in the system. Land has become a marketable commodity with a cash value in its own right, rather than a family heritage whose value comes from the rights to use it. This change from the old subsistence economy, described above, combined with the increasing individualism of Lango society as a whole, has weakened the old systems of social and economic protection. Previously, merely being an accepted member of a community meant that one would be guaranteed access to land to farm, and with that one could support oneself. If not, the community as a whole would care for one's needs. Now, some people find that without independent claims and entitlements to land, they can fall into destitution. The main losers are women, especially widows, and children, through various different mechanisms.

A woman's vulnerability stems from the idea that under customary law, "the woman does not own land in her own right". This opinion is frequently voiced, but in fact expresses a confusion of modern state law and customary law. In customary law, a woman's rights to land were guaranteed, either through her own family (until marriage) or through her husband's family (on marriage). These rights would be respected even on the death of her husband. If her husband were to take other wives, she would still be guaranteed enough land to provide for herself and her children through the elders of her husband's family. She had no rights to sell the land – but neither did her husband, so there was actually little difference in practice between her rights and those of her husband as far as land for subsistence was concerned. This is not to say that the traditional system guaranteed gender equality. A woman's claims to land still relied on other people – her

parents, till she married, thereupon her husband, and if he died, on her (i.e. his) children. This meant that she was always dependent. There was an in-built assumption that every girl would marry, and so would leave her parents clan and join a new one. Unmarried women were traditionally rare, and though they held rights to farm their parents' land, their inheritance rights were not clear.

Nevertheless, the situation is now worse. The fact that customarily a woman gained access to land via her husband is now confused (deliberately) with notions of individualised ownership. Men are now claiming rights that under customary law they never had, in particular to sell land without consulting the family, to disregard a wife's needs for land, to disregard obligations to give land for a late brother's widow, etc. However, 'custom' is invoked to justify the claim "women cannot own land", ignoring the customary rights which women had always held over land. This hybrid notion of male land ownership, borrowing selectively from customary and state law, is deliberate, pernicious and a grave and present threat to the livelihoods and rights of all rural women in Apac, as elsewhere in Uganda. The threat is going unchallenged, because clan elders persist in the belief that customary law still provides protection to wives, widows and children, despite all the empirical evidence to the contrary. Although Parliament has built in good (if neglected) formal protection for women in the area of land sales, it has not so far legislated on the question of women's rights of ownership over family land. Parliament (dominated, of course, by men) has for many years been discussing a Bill which would automatically give wives co-ownership over the family's land, without yet taking a vote. (This law would make the consent clause redundant. Nevertheless, it should be remembered that experience from the consent clause suggests that merely passing the Law may not provide as much real protection to women as might be envisaged.)

Wives have found themselves vulnerable to land sales by their husbands, without their consent, indeed sometimes without their knowledge. Where a sale of a portion of land is for an "investment" purpose (to pay for a child's education, to pay bride price, etc.), a wife would be unlikely to disagree to the sale, but the money is often either spent on taking on a new (younger!) wife or girlfriend, or squandered on alcohol. In theory, these sales are legally invalid, but in practice that is not considered. When customary tenure was properly enforced, these sales would have been simply stopped. There are still cases where the family or clan has sufficient authority to force a seller to return the money and the sale is revoked, but this depends upon the power (social status) of the family whose land was sold. There is a case where the family of a highly paid civil servant succeeded in reversing a land sale, but the less powerful, those with less money and fewer political connections, cannot do so.

Wives are also vulnerable to marital disputes, i.e. to a husband throwing her out or taking on a new, favoured wife and denying her enough land to support herself and her

children. In many cases, her parents will not accept her back onto their land, and in many cases we found that her brothers would chase her away, since they wish to be the sole owner/occupiers of their parents' land. The fear of such destitution which a serious marital dispute could bring is the main sword hanging over many women's heads, and is the threat by which they are forced to accept abuse in the marriage.

Widows are supposed to be given rights to continue farming their late husband's land, but these rights are now often ignored by the late husband's family. Previously, the biblical tradition was practised, where a brother of a widow's late husband would agree to take her on as his wife in order to protect her position within the family. This practice is now rare, because of the fear of HIV. (Under state law, the woman receives 15% of the estate of her husband in cases where he failed to make a will, with the majority going to his 'lineal descendants'.) Widows too can be chased away by their brothers if they try to return to their parents' land.

Land is not only a commodity, but is also the only social security which exists in Uganda. Traditionally, land is held by the family and is used by those who most need it. Family members may venture into an urban life, but if that fails, what protects them from destitution is the right to return to their families land and to resume farming for their survival. This security is being undermined by the desire by some family members who are actually on the land at any time to turn the land into their personal private possession (as opposed to the private property of the family).

A further threat to land rights affects all the poor, male and female alike. This is the simple economic consequence of poverty, which is deepening in Uganda particularly in the north, despite what are lauded as impressive economic growth rates. Increased needs for cash income, for education, health care, food, and other necessities have combined with the collapse of Apac's sources of income (cattle, cotton) and this sometimes forces households to sell small pieces of land in cases of emergency, such as sickness, or for school fees. Each time a piece of land is sold, it becomes harder for the household to survive on the remaining portion, making it more likely each time that another land sale will be necessary. The theory is that in the land market, people will sell their land in order to move out of agriculture into other ways of earning a living – becoming the urban working class. However, alternative economic opportunities simply don't exist, and so people are likely to remain in their rural setting but without land, dependant on unreliable daily agriculture labour opportunities for survival. The scale of this encroaching landlessness is unknown and has not claimed sufficient attention from either Government or development agencies – though encouragingly the Ministry of Lands has just recently commissioned research into the problem.

ii) threats under state law

The formal tenure system is unfortunately more a danger than a protection to most villagers. Accessing protection for land rights under the formal tenure systems is almost impossible for most of the rural population. The costs of surveying land are too high, exacerbated by the fact that many people own a number of small plots, each of which would require separate titling. The cheaper alternative, the CCO, is non-operational, as discussed above. Even if it comes in, without a system for up-dating them they will rapidly become out of date and meaningless. (The Government probably saw the CCOs only as a vehicle for moving towards freehold title, where multiple rights are not usually recognised and so all that is needed is a centralised system of recording changes in ownership. Their longer term purpose has therefore not been considered or catered for.) There are also socio-economic factors, as mentioned already, because land is customarily owned by families, not individuals. There is a strong awareness that giving one person all the rights over the land, free from social obligations, will increase the tendency to sell land, since the temptation to accept money is strong. People therefore want 'protecting from themselves', in a sense, because they realise that encouraging titling will paradoxically lead to greater landlessness. There is no awareness of the creative possibilities of using legal protection, e.g. through a title in the name of a CLA (with a constitution that shares out the existing networks of rights and prevents individuals from selling small plots of land), or for a system of family title.

Customary land ownership, as we have discussed, is a complex and interlocking set of rights and obligations. Many people, such as wives and children, have claims in land (i.e. land rights) without being the manager or the trustee (or principal owner) of the land. These land rights are in danger when one person has his name put on the title, moving from being the 'principal owner' or trustee managing the land on behalf of others in the family, to becoming the sole owner. Although land law does provide for registering other claims on land on the title documents, and does not allow these rights to be denied, in practice this protection is also non-existent for two reasons. First, no-one knows about these possibilities, and so no-one can seek to protect their rights by registering their interests. Secondly, these rights are de-valued in the translation of "ownership" from one language (customary law) to another (formal state law). Under customary law, these rights are a part and parcel of ownership: under state law, ownership rests (usually) with one person, with other claims relegated to the status of "third party rights". Even if such rights were ever registered, they are likely to be eroded over time with any future land sales or with any development of the land.

The danger comes from the superiority in law of a title as a claim to land – unless fraud can be proved, a title is a final and full claim to land rights, even if it can be proved that

the process of obtaining title was improper<sup>13</sup>. The threats come from various quarters – from individual family members, as we have seen or from locally powerful people, such as politicians or rich businessmen (often one and the same). Once these people have title, little can be done.

A further potential loss of land can arise in small market centres (“trading centres”) which grow up. There is a widespread belief that urban land belongs to the local authorities, who can allocate leases or construct roads as they wish. This belief is false: land in trading centres does not change its form of ownership or its owner. Though local authorities can build roads, taking land through compulsory acquisition, the full market value of the land plus a compensation for disturbance must be paid. This is not currently happening. The claim is being made in Apac and Lira that the plans for the roads pre-existed the ownership of the land, and therefore there is no right to compensation. People are not aware that they can challenge these administrative decisions in court. In any case, since no-one knows of the whereabouts of any plans for future roads, and few would have access to them anyway, people are unable to verify the claims, or to know where any future roads, may next be constructed.

### iii) barriers to obtaining judicial protection

As we see, then, even where the law gives people rights over land, it is often hard for them to defend those rights. There are failures in the system for protecting rights at every level:

- people have little or no knowledge of law and of their rights, and therefore cannot defend them.
- some do not know how to get redress, if the system at village level has failed them. They will tend to assume that ‘this is how life works’ and will give up.
- most people assume that the authorities are the ones who make laws. They do not realise that these authorities must also obey the law and can be challenged in courts. If authorities take your land, again, ‘that is how life is’ for the rural poor.
- Even if they know where to go for redress, access to courts in District towns is difficult and expensive.
- Once they get there, they can find that the Land Tribunal is not hearing cases...
- Many will not bother, because they have little trust in the legal system, especially if the person violating their rights is more powerful than they are.
- Those hearing cases, particularly at local level, simply do not know the law. Rights are being denied not always through malice, but through ignorance.
- If they fight their way through these difficulties, people often complain that corruption plays a role in deciding cases.
- The local judiciary, whether of customary or state system, has great difficulty in enforcing judgements. Even if a court, or Jan Jago, gives the rights to land to a

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<sup>13</sup> This system of titling, brought in from Australia, is intended to remove from a purchaser the responsibility for checking all prior claims on the land.

widow, they cannot protect her every day when she wished to farm. The consequences of the breakdown in social pressure, which was the system of enforcement for the customary system, has not been well recognised or analysed.

*b) barriers to improving the land rights situation*

i) central Government

We have seen that Central Government has shown no interest in customary tenure. This support is essential for setting policy, giving leadership, financing District Government initiatives and for giving legal support to the customary judiciary. The reasons for lack of support are various:

- a misconception as to how customary tenure actually works, leading to the belief that it is not conducive to economic development;
- no interest in customary tenure has been shown by donors and the 'international development advisers' (especially the World Bank). Uganda's economic policy is heavily influenced by the multilateral institutions.
- an attitude that customary tenure is simply backward, and should be left to die out and be replaced by something modern. (Where there is an attitudinal problem rather than a misconception, no amount of persuasion is going to get some politicians or international institutions to take it seriously.)
- there is no culture of field research to test policy assumptions. There is little work in specialist research monitoring the impact of land policy and its implementation. (Programmes such as the Uganda Participatory Poverty Assessment Programme (UPPAP) cannot take on board specialist research in every sector.)
- Politicians are frequently cited as being among those buying up land and gaining title to land. As such, some may feel that they have little interest in supporting a tenure system which would make it more difficult to advance their personal interests.
- there appears also to be a fear that giving more power to customary institutions will enhance the power of the traditional kingdoms, in particular in Buganda<sup>14</sup>, causing conflict and/or weakening the power of central Government. Though this would not be the case for the northern ethnic groups, who have never had centralised authority in kings, it is impossible to separate the two cases in setting policy.
- Despite a formal subscription to the idea of elected Government, there is a lack of accountability to the people by those setting or implementing policy at local or central levels.
- There is little articulation of land policy and little discussion nationally about the intentions and policy hopes of Government with regard to the Land Act.

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<sup>14</sup> Power struggles between the Kingdom of Buganda and the State Government have been a factor in Ugandan politics since independence.

## ii) international actors

Our work in Apac has not directly led us to investigate all the reasoning behind the lack of interest in customary tenure on the part of donors and the international institutions: we have gained some insights in our interactions with them, but cannot claim that our understanding is perfect.

- Customary tenure is not something they understand, and there is therefore a natural human tendency to focus on the areas which they do understand (i.e. freehold).
- They share the popular misconceptions about the communal nature of customary tenure, and believe that it does not offer security of tenure to farmers. They have research from other countries which shows that privatising land increases investment and productivity, but have not understood that customary tenure already deals in private land.
- They support the emergence of a land market, and believe that customary tenure is less conducive to this than to a freehold system. A land market has become an end in itself, so little attention is given to other ways of supporting the same real goals of economic development and poverty eradication.
- They believe that customary systems are generally a thing of the past, and that it is not their job to prop up tradition, which will inevitably be replaced by modern institutions. They do not think in terms of a long transition period (almost certainly of several decades), during which customary tenure will continue to be the only reality on the ground for most people.
- They too often focus on policies rather than realities on the ground. They thus equate the formal *de jure* establishment of a land administration with its *de facto* existence, and fail to appreciate the consequences of replacing a possibly imperfect customary system with a non-functioning, un-funded state system. (They may deem this to be a separate problem concerning implementation, not policy, failing to see that establishing positive policies which can never be implemented is not actually progress.)

## iii) District authorities

The attitudes of District authorities are likely to vary from District to District and LEMU's work has brought it into contact with few Districts. The comments here (positive and negative) will not apply equally to all Districts.

District Government has done little to help develop a supportive environment for land rights by working with the customary legal structure. Direct funding is not forthcoming from central Government, and a District has very few funds available for discretionary spending. This has prevented the establishment of any structure for land administration at local (e.g. sub-county) level.

Nonetheless, there are steps which could be taken without large sums of money if District Government (and the DLBs) were to use initiative. In the absence of central Government directives, funding or even encouragement, a cultural shift in the civil service would be needed, away from one where budgets are the centre of concern, and of planning and reporting, to one where civil servants and their departments are held accountable (and hold themselves accountable) for impact achieved. Apart from issues regarding a working culture, the main obstacles which LEMU has found have related to the District's understanding of their role rather than to any opposition or hostility. Few District politicians understood well the full implications of the Land Act and its potential, and they have not been trained in analysing legal and land tenure issues. As a result, even members of the District Land Board have not understood the full creative role which they can play.

iv) other actors

NGOs have shown little interest in the land sector, either as a development (economic livelihood) issue, or as a rights issue<sup>15</sup>. The Uganda Land Alliance is almost the only body looking at land policy, in particular the question of automatic co-ownership of land by husband and wife. The past decade has seen little independent research on land and customary tenure. Since land is the fundamental productive asset which determines economic welfare in northern Uganda, and indeed is the only remaining asset for a large section of the population, this should be of some concern. Their reticence over land matters is a mixture of the following factors:

- simple ignorance of the land dimension in household welfare. NGOs tend to programme generically across countries, and a dimension which requires detailed sociological understanding in each specific area of operation tends to be disregarded.
- NGOs are often led by what others are doing, so if no-one else is talking about land, they are less likely to realise it is an issue<sup>16</sup>. (Equally, villagers guide NGOs according to what they know NGOs do. So, in a country where NGOs frequently give out wells and build schools, village meetings will tend to identify a lack of water points and schools as a problem, rather than land rights.)
- Work on land involves analysis that incorporates a wide range of perspectives and dimensions, including legal, sociological, political, economic and environmental understanding. The level of analysis needed makes working on land much harder than drilling wells or training health workers.

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<sup>15</sup> Outside Apac, one international NGO is showing increasing interest in land as a legal rights issue in northern Uganda. Having identified the problems in Gulu, they have turned to LEMU for advice on what could usefully be done.

<sup>16</sup> The positive side is that once a few start talking about land, others quickly follow. This is already evident in Acholiland, where land is suddenly on everyone's agenda, following the LEMU study for CSOPNU.

- Impact from work on land is slow and it takes much more understanding to see clearly defined goals. (Work on water may be technically complicated, but everyone believes they understand the goal – more cleaner water per person.) NGOs and donors prefer quick impact, and goals which are not themselves subject to being contested.
- Many share the same misconceptions that land is communal, so there are not seen to be any real issues around land ownership. NGOs are happier therefore to ignore these issues and to concentrate on the simpler business of how land is used, by offering technical advice on agriculture or forestry.
- There is a simple failure by NGOs to appreciate that rural people should have the same rights as urban people. It is taken for granted that villagers should be happy if someone builds a school in their village, and that it would be churlish for a villager to complain that the land it was built on was his and he does not agree. It would not be expected of anyone living in a town to accept that a school encroach on their garden. Villagers are still 'beneficiaries', not people or rights holders.
- Land is seen as a legal issue, and therefore one requiring expertise which NGOs don't have – and which they do not see as being their business. The connection between the 'rights based approach', which NGOs are starting to talk about, and the law (i.e. legal rights) is not yet being taken on board.
- Land is seen as political, and it is not seen as an NGO's job to get involved in politics, only to support livelihoods within the political framework that is taken as given. Many NGOs follow leads and priorities given by Government, which we have seen is uninterested in protecting land rights and customary tenure.
- Even where NGOs have identified land as a critical issue, they often simply don't know what to do about it.

v) from within customary tenure

The customary tenure system itself also has features which present barriers to improving protection of rights.

- Customary tenure is an unwritten law, which depends upon precedent and upon an individual judgement of each case. There is no obvious way to refer back to cases, and no central authority for maintaining the consistency of judgements made. It is therefore hard for each individual judge to take into account of changing circumstances (e.g. increasing population density, the lack of "free land", HIV, a market economy) and yet to apply the same principles in new cases in a standard way.
- Not only have judgements changed over time, but because there is no written record, there is only a weak perception of change. There has been no way in which the responsible individuals have ever discussed how they would like customary law to reflect the changing situation.

- Customary law administration is closely tied to the clan hierarchy. It is hard therefore for children and widows to challenge the senior judges' belief that customary law continues to protect the rights of the vulnerable. Until there is a recognition that there is a problem, no solution will ever be sought.

### **3 the way forward**

The potential for helping people to improve their rights and the protection of those rights in land is considerable, and the job is one of highest importance and urgency. A sketch of the necessary way forward is presented below.

Central Government's belief in titling and establishing a land market must be taken as a given, and un-amenable to change. It is also unlikely that the Government will change its mind about the marginalisation of customary judges within the legal process, even for land held under customary tenure. Nevertheless, much change is possible in a number of areas, especially by a) looking to use the opportunities that already exist in law, even without trying to change Government policy, and b) by starting at District level.

Lobbying is needed for the proper application of the law and implementation of official policy. This is needed:

- for state law
  - consent clause
  - certificates of customary ownership and communal land associations
- for customary law
  - protection of widows, children
  - women's rights
  - family ownership vs. individual claims

enforcing the consent clause

The protection offered through the consent clause needs to be made real. This will give women a degree of protection over land rights and livelihood rights. If there is success in institutionalising the application of the consent clause in all land transactions, then this will also progressively undermine cultural attitudes that 'women don't own land' and therefore have no land rights. In order to achieve this, central Government (Ministry of Lands) and Parliament need convincing that in order for the consent clause to be effective, someone must have a duty of verifying the consent in every land sale – and this means that even sales of unregistered land need a legally binding procedure that ensures they pass through this person. It is likely that this office will be the sub-county

chief, in their capacity as recorder, or the LC1s who *de facto* administer land sales. District authorities then need convincing of the need for them to enforce the law properly. An amendment to law may ultimately be needed to give this responsibility to some person or body.

If simple advocacy fails, then test cases in the courts can be taken where a wife's consent was not given for a land sale. This will revoke previously agreed, but legally invalid, sales. Once case law establishes the fact of consent, and once it becomes known that sales can be overturned by the courts if there was no consent form signed, then buyers, sellers and LCs will all be more careful to ensure that procedures are followed. Difficulties can still be expected. On the one hand, 'coerced consent' is likely to be common. Even where consent is not obtained, using the courts to overturn sales will be even more difficult for many women than withholding consent. To that end, there is a need to monitor progress, and the costs of failure, for individuals and communities. If these are documented, it will be a useful advocacy tool to show the Government (and donors) the practical difficulties of replacing customary protection with state protection, rather than using the institutions of customary law in a partnership. The consent clause, or something very like it, can more easily be implemented through the customary system (i.e. the protection of the clan elders), if the state institutions can work together with customary ones. (Achieving partnership between state and customary judicial institutions should in itself be a specific policy objective, as described below.)

certificates of customary ownership and communal land associations

Supporting landowners to gain documentation is a less clear-cut avenue, with advantages and disadvantages. There is little doubt that though a freehold title remains superior to a CCO, any document will give some measure of protection against losing land rights. The protection which a CCO can give is against the following threats:

- protection from other family members

On threat to land rights that we have discussed is one member of the family trying to get exclusive control over the whole or part of a family's land. If the whole of the family's land is covered by a single CCO, then no individual member can make separate claims, unless the family as whole agrees.

- protection from others

A CCO over family land can help protect against encroaching neighbours (major threat in practice) and also against land grabbing. The land market research revealed cases where people found that large areas of land had been sold to influential people without their knowledge, by people with no right to make such sales on their behalf. Prior possession of a CCO would make it much easier to contest and reverse such transactions, by putting the burden of proof on the other party.

- protection for rights short of ownership

Since subsidiary rights to land can also be registered for protection, CCOs can be of great benefit for a family worried that more vulnerable members may in future lose their rights. This could cover the case of women (especially widows), children and also of any other family members who are not living on the land at the time but who have some claim over the land (e.g. for burial).

- protection from temptation

One fear often expressed by people in Apac was that poverty may tempt them to sell their land, so that they will progressively become landless. Registering land can make it easier to sell it, which is why many have opposed the idea of applying for title. However, the CCO can be used constructively to help people construct a barrier around temptation, by having the certificate in the name of a wider family, marking their rights to a portion of the land as a subsidiary right. This right could be given excluding the right to sell without the permission of the family elders, if people so wished. There are, of course dangers, in converting ones right to land into a partial right over a larger family land, and these dangers are explored below.

- protection for grazing and forest land

Land most under threat is where it is harder to show ownership through regular visible “use” in a form that would be universally recognised as such – e.g. cultivation. Grazing land and forest land (for hunting and for collecting forest products) can easily be interpreted as “un-owned” land by the District Land Board (DLB), since physical “improvement” on the land is not possible to see (though the conservation through management regulations should be recognised). Protection will be much easier if people are granted documentation of ownership before any outsider shows interest in the land, rather than in a case where such claims will be disputed, possibly by an “investor” with more powerful connections. Ownership can be through a communal land association, rather than an individual (see below).

Communal land associations are particularly useful for protecting communally held land or where a clan/village wants to prevent individuals from selling parcels of land without permission of the community as a whole. Land is held for a whole community in the name of the association, and the constitution of the association explains the rules by which the individual families and households share out the land rights.

There are nevertheless dangers in any form of land registration. Protection of rights is given – but only for those whose names are on the document. Those excluded can find that their claims to rights in land are weakened or lost altogether. According to the Act, land can be held as a family, represented by the head of the family. If his is the only name on the certificate, his power over the land will be increased, to the loss of others in the family. It may be possible for him to transfer his ownership to one of freehold title,

giving him as an individual full rights to dispose of the land as he wishes. Although it should not be possible for registered subsidiary rights to be lost in this way, there are no precedents to indicate what will in fact happen. In any case, the registration of subsidiary rights depends upon widespread knowledge of the law and the ability (of the weakest) to use these provisions, neither of which should be taken for granted.

In the case of the communal land association, a management committee is elected. This committee is the “body corporate” which is entitled to make any transactions with regard to the land for the benefit of the association as a whole. This is odd, as one would have expected that the Association is the body corporate, with the management committee as the executive authority, answerable to members – just as a management board of a company is answerable to shareholders, but the company itself has a legal identity as the ‘body corporate’. The law is not explicit about the rights of the members to prevent the management committee from breaking the constitution of the association. There will undoubtedly be cases which need to come to court to establish clear case law before the way forward is clear.

Because of the potential dangers to communities in applying for CCOs and in forming CLAs, it would be wrong to have these as the objectives of any programme and using the number of documents achieved as a criterion of success. Rather, communities need to be made aware of what the laws offer people – what the advantages and disadvantages of each approach are (including the dangers of doing nothing) so that they can make more informed decisions for themselves.

There is no legal reason for a District to refuse to allow the creation of communal land associations or to issue certificates of customary ownership. The Act makes these rights clear, and the District has a duty to ensure that these can be issued, even without a specific instruction from the Ministry. In any case, we have found no opposition within the District to these ideas, merely inertia. Progress can be made at District level by working with local populations (either directly or through other agencies, community organisations, etc.) to inform them of their rights to form CLAs and to receive CCOs, so that they apply to the District Registrar. At the same time, support can be given to the District for them to start working with communities in these areas. There are various ways to approach needs for funding, but this should not be used as an obstacle to starting work:

- concentrate initially on working close to town, without needing funding;
- get other agencies to help District staff with transport for outreach work
- lobby District Government to fund land activities
- lobby Central Government to fund District land administration.
- produce a standard sales agreement (including the verification of the wife’s consent) for use by traditional authorities (*jan jago*) or LCs

- ensure the sub-county chiefs take on their role as Recorders, and set up a sub-county register of all land sales, by giving the LCs and/or *jan jago* the responsibility of filing copies of all land sales agreements at the sub-county office.

The Registrars may also need non-financial support in facilitating the creation of CLAs, e.g. on ways of working with communities, and to ensure that elites don't control the processes. Advocacy work should initially be supportive, seeking to work in partnership with the Registrars, the DLB and other District and sub-county bodies. Only in the event of a failure to make progress through obstruction would consideration be given to taking legal action, to petition the courts to receive the rights laid down in law.

partnership between customary and formal judicial structures.

Increasing the partnership between the two judicial systems is necessary for both sides. The formal state administration can never hope to be able to answer the needs of the population for judicial services and protection, and the continuation of the status quo will only mean that the vast majority of people continue to have no access to legal protection or redress. LEMU has already begun working with the traditional leaders to agree on a traditional court system, with the aim of making the *jan jago* and the *Rwot* (clan head) the accepted first court and first appellate court respectively for all land cases involving customary tenure. The DLT would then function as the second court of appeal and it will work with clan leaders in adjudicating cases in accordance with customary rules (except in so far as they may breach the constitution or specific provisions of land law. For cases from land not under customary tenure, the tribunal would be the first court of instance. There has been no opposition in principle to working together in Apac, but more work is needed to build a better understanding on each side of the principles, rules and procedures of the other.

codification of customary law

A parallel activity is to work with clan elders to codify the rules and principles of customary tenure. This could be done not in the abstract, but in the context of a constitution for a CLA. If more than one community were involved in this codification, there would be wider applicability than a single CLA. Work on helping clans to codify and write down their customary laws would support a number of changes:

- a) as an awareness raising exercise, it would encourage local customary judges to see the implications of customary principles, especially of protection; it would help them to see just how far away the current practice is from their idealised conception; and it should encourage them to apply principles of protection more pro-actively.
- b) there would be a reference code to which appeal could be made when local judges failed to enforce protection of rights of the vulnerable.
- c) it would enable the clan elders to think through how they wanted to react to changing circumstances, rather than leaving this to the chance of each individual judge's decision.

d) working by reference to a written code which was accessible to all would strengthen the compatibility of the customary and state judicial structures. (Care will need to be taken because some of the fundamental approaches of the customary system are different from the way the state system works. It is important that the flexibility of judgements to be context dependent is not lost in codification, or that a rule book of customary law is not applied in a context-free “legalistic” way by state judicial authorities.

increasing the understanding of Uganda’s development partners

Policy on land is made by Government, not by its donors, and it would be wrong to overestimate donors’ role in influencing policy. Nonetheless, their understanding of land issues and their commitment to supporting land rights is crucial, because they can at the very least influence policy priorities, if only by funding one or other set of activities which come formally under existing policy.

This applies to those directly funding land activities, those funding areas related to land use and poverty eradication (most donors), and those giving support to the judicial system in general.

Those supporting the push for titling need to be persuaded a) that customary tenure is a form of private, not communal, property, which offers security of tenure and hence is not an obstacle to investment and economic growth; and b) that moving from one judicial/tenure system to another (from customary tenure to freehold) is not simple translation or conversion, but a complex exercise in radically changing the power and rights held by individuals. At the very least, a long transition period needs to be catered for. The objective is not to stop all conversion to freehold, but to give support to institutions of customary tenure in parallel with those of the freehold system. Piloting a parallel project of ‘systematic demarcation’, but within customary institutions (for CCOs, rather than title) would show whether or not the same economic objectives can be advanced in a different way, at a great advantage in costs and accessibility over surveying for freehold, and hopefully producing far less conflict.

Too little attention is currently being paid to landlessness as an issue of poverty. A coordinated set of studies of both the causes and effects of the problem (and its scale), undertaken by several agencies within a joint overall research programme, would be the ideal way to raise the profile of the problem. We believe that three factors in the problem are a) the lack of enforcement of the consent clause, b) the violation of people’s rights to land, which they hold both under state and customary law (e.g. the cases of widows and children), and c) the distress sales of land through poverty. As such, poverty and landlessness are issues closely bound up with the work on the consent clause (see above) and on rights work in general.

Improvement overall is needed in respect of legal rights relating to land. A rights based language is increasingly part of the discourse of development, particularly among NGOs. If land rights become an integral part of the thinking of anyone working on land use, a change in policy makers' attitudes will be easier to effect. Rights based actors, whether working for human rights, legal rights or women's rights, could take up more cases of violations of rights (e.g. illegal sales, expropriation by local authorities, evicted widows and orphans, de-gazetting national park land without restoring it to its previous owners) and the lack of women's rights to land, contesting the assumptions that a woman is always adequately looked after by either her parents or her husband. This would be best achieved in cooperation with District institutions – District Local Government, the District civil service, police and judiciary, the Land Board and the Land Tribunal.

Finally, in order for people to protect their rights, they need to know about their rights and to be aware of dangers to their rights. This is a major task beyond the capacity of any one organisation working alone, and needs the cooperation of State and non-State actors.