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Elephants Abroad and in the Room: explicit and implicit security, justice and protection issues on the Uganda/S Sudan border

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Elephants Abroad and in the Room: explicit and implicit security, justice and protection issues on the Uganda / South Sudan border

Introduction

This paper seeks to report on and analyse data collected during the first phase of the Justice and Security Research Programme (JSRP). This programme aims to examine and map the end-user's (the general public, and in particular the poor and socially excluded) experiences of public authorities (those entities that provide, or claim to provide, protection, justice and security) in specific locations within the research areas. These are the Democratic Republic Of Congo (DRC), Central African Republic (CAR), Southern Sudan (S. Sudan) and northern Uganda. Of particular interest are conflict zones and border regions where public authorities are often complex, hybrid and sometimes obscure in nature.

In northern Uganda two locations within the Acholi Sub-region were selected as survey sites, the villages of Elegu and Ngomoromo. In each case, the 'village' consists of a trading centre as well as scattered homesteads in the adjacent rural land. Both sites, lying directly on the border with S. Sudan, offer deeply complex public authority environments, and are affected by internal as well as international tensions. Elegu, in Bibia Parish,¹ lies on the principle trade route between S. Sudan and the rest of the world, the Juba-Kampala highway; while Ngomoromo, in Licwa Parish,² was chosen as a research site as it lies on the route from Uganda to Pajok in S. Sudan, a focus of related JSRP work as well as a minor trade route. Although no more than 60 km apart (though substantially more by road), different pictures of end-user perspectives on threats and public authorities emerged.

Data for this report was gathered using two survey tools developed to be employed, with minor adaptations, in selected sites in all the four research countries; one for end-users, the other for local public authority representatives.³ In Elegu, twelve randomly selected end-user and five public authority interviews were conducted. The first language of eight of the end-users was Madi, while the other four and all the public authority representatives had Acholi as a first language.⁴ End-users included six women and six men ranging in age from 24 to mid-fifties. Public authority respondents included the 'Local Council Chairman (LCI) of Bibia West Village; two Local Councillors (LCII) for Atiak Sub-county; and two *rwodi kweri*, [sing. *rwot kweri*] or 'Chiefs of the Hoe'.⁵

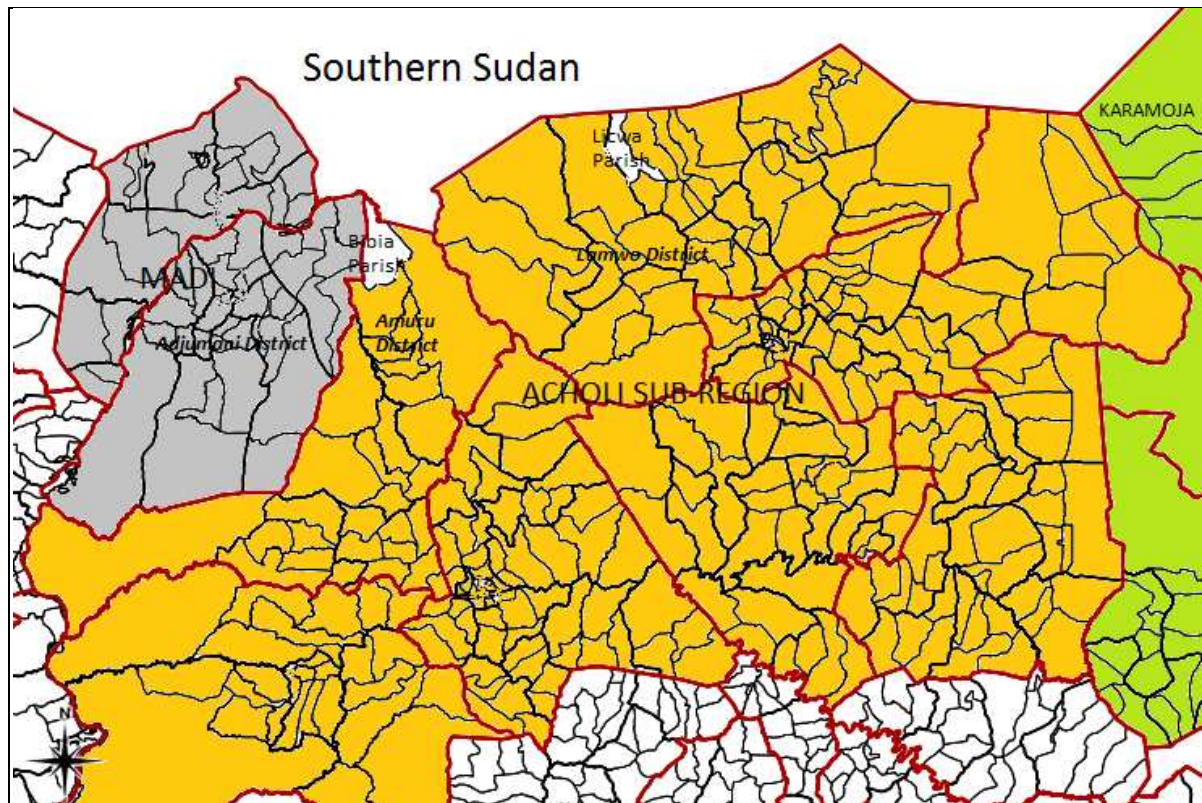
¹ Bibia Parish is in Atiak Sub-county in Amuru District, one of seven in the Acholi Sub-region of the Northern Region of Uganda

² Licwa Parish is in Lokung Sub-county in Lamwo District in Acholi Sub-region.

³ Interviews, with the exception of those of public authorities in Ngomoromo, were recorded and later translated into English and transcribed. Responses were then coded and analysed. In Ngomoromo the researcher took notes in English of interviews conducted in Acholi. The research tool for end-users is a guided interview involving over 60 questions, to be applied flexibly, covering a range of security, justice and protection issues and the public authorities that are involved. The research tool for public authority representatives involves 15 broad questions on the same issues.

⁴ Eight of the end-user interviews were conducted in Acholi, three in Madi using a Madi/Acholi translator, and one in English.

⁵ The roles of these officials are discussed below in the section *Contemporary Local Administration and Justice*, p.9



Map 1: Acholiland and Madi districts, showing Bibia and Licwa Parishes where the survey was conducted.

In Ngomoromo there were thirteen randomly selected end-user and nine public authority interviews. All interviews were conducted in Acholi, the mother-tongue of all respondents, and the end-users included seven women and six men ranging in age from 14 to mid-sixties. Public authority respondents included the LCI Chairmen of Ngomoromo and Apuk Villages; the LCII Chairman of Licwa Parish; a member and ‘Defence Secretary’ of Lamwo LCIII Sub-county council; a *rwot kweri*; the former Camp Leader of Ngomoromo internally displaced peoples (IDP) camp; a Christian pastor; the commanding officer (OC) of the local police force; and a customary chief (*rwot moo*).

Follow-up visits and interviews were undertaken to both sites in November/December 2014. In addition, press and other reports and academic papers on recent events in both locations have been reviewed, and background information gathered by the research team in the course of fieldwork has been incorporated.

Historical Authority and Justice in Acholiland

By the mid to late 19th Century, the area now forming Acholiland was occupied by a number of chiefdoms, functioning in the main as loose groupings of ‘commoner’ clans owing allegiance to a ‘royal’ clan, discussed in more detail below. Technically part of the Turko-Egyptian territory of Equatorial Province in the latter part of the 19th Century, Egyptian armed forces known locally as the *Mono Kutoria* in the 1850s, and the *Mono Jadiya* from 1872, were assigned by the Egyptian government to administer the area, although in practice they functioned largely as looters and slavers (Girling, 1960:177; Atkinson, 2010:267-8).

While it has been the subject of debate by outsiders for over a century, pre-colonial customary authorities and justice processes in the areas of Uganda and S. Sudan now occupied by Acholi people are only tentatively described. While the existence of anything that could be conceived of as a pre-colonial Acholi identity is contested, there is little dispute that the patterns of authority and social order in what is now Acholiland were broadly similar. Atkinson describes perhaps as many as 70 polities of 500-15,000 people consisting of agnatic lineage communities - *kaka* or clans - living in villages grouped together in loose coalitions, variously called chiefdoms or domains, under a royal chief, or *rwot moo* (2010:337-43); others put the number of chiefdoms lower, with Leys talking of 30 (1967:16). Atkinson would argue that this is an underestimate due to the relative lack of information on the smaller, more numerous chiefdoms of what are currently Pader and Agago Districts, compared to those of the west of Acholi (2010:139).

These chiefdoms were not pyramidal hierarchies. Royal clans and their chiefs, *rwodi moo*, absorbed and held allegiance from commoner clans on the basis of what they could offer in terms of security and protection, including systems for storing food for distribution in times of drought, and collective defence. Lineage groups of a few hundred people –clans/*kaka* - had hereditary leaders with considerable authority, but again this was to an extent spiritual, and government was by consultation within councils of elders representing individual families; at the chiefs' councils, elders represented clans.

Okot p'Bitek suggests that provision of 'justice' systems was a further attraction for commoner clans to join chiefdoms, offering reconciliation and reparation in inter-clan disputes where before there had been no alternative to violent conflict and blood feuds (1971: 36).

This tradition of government by consent was in many ways superseded by imposed structures and overwhelmed by external shocks from the mid-19th Century on. The impact of the Turko-Egyptian authorities was highly disruptive to northern Ugandan social structuring and Allen offers instances of late-19th Century Acholi chiefs conducting themselves in an autocratic and sometimes tyrannical manner, enabled by alliances with slavers (1991:74).

British colonial rule in northern Uganda was established in the early years of the 20th Century. Through a haphazard process, at a national level the colonial authorities established a formal legal code and a justice structure, modelled on those of India which were in turn modified from English law; however, as in some other parts of the British Empire it was aimed to govern each major autochthonous grouping through their own hierarchies and customs. Formal law had jurisdiction over British citizens and certain categories of non-autochthons as well as the most serious criminal cases for all.

Although challenged in application, there was “... a perception that customary law was coherent, static and overly legal. In other words, distinct meanings in Western law were used to describe the characteristics of customary systems. Customary law, as it emerged as a concept, was thought to be a different kind of primarily legal system carrying out many of the same functions as formal [Western] law.” (Pottier, 2005:64). This misconception has been remarkably persistent.

Customary courts dealt with lesser criminal and civil cases involving Africans, on the basis of a hybrid legalised construction of customs (so long as deemed not repugnant to formal justice, for example the execution of witches), and colonial interests, for example the collection of taxes and coercive promotion of cash cropping.

What is now Acholiland presented challenges in respect of indigenous administration and justice: there was no central authority, while each of the 50-70 chiefdoms functioned as an often loose coalition of lineage groups or clans, with the chiefs performing mainly spiritual, ritual and mediatory roles. There was no tradition of anything comparable to Western law or courts.

The British at first imposed Baganda administrators on Acholi, and later identified compliant and administratively-minded Acholis who were installed as 'chiefs' of geographical jurisdictions at District, County, Division, Parish and Village levels. Their duties included collecting taxes, advancing cash crop production, and administering 'customary justice', notwithstanding the absence of an apposite customary justice model. In Madi, the first colonial administrators were Nubi before compliant local chiefdoms were created (Leopold, 2007).

Rule under customary 'law' during both the colonial and post-colonial eras by imposed government administrators, also acting as justice dispensers, has in fact been an arbitrary and often autocratic process. The colonial model of two tier justice, formal and customary, and the lack of separation between judicial and administrative bodies in the latter, was a cause of concern during the Protectorate for informed liberal observers, including Girling (1960:196); though as will be discussed below, these concerns, while still relevant, have been largely forgotten in post-colonial Uganda.

It must be acknowledged that while the above has briefly addressed Acholi culture and history in respect of authority and justice, very little has been said of the Madi, even though a significant proportion of our respondents are of that ethnic group. In fact there is little anthropological or historical material on the Madi available, though Allen and Storm suggest that the distinction between the Madi and their neighbours to the west, the Lugbara, may have been colonially contrived, and that what is known of Lugbara history and culture can be assumed to apply also to the Madi until the arrival of the British (2012:26). Girling (1960:208) notes that relations between the Acholi and Madi along their shared border have been characterised by the easy absorption of each by the other, and concludes that – unlike those of the Acholis' Lango and Karamojong neighbours – Madi/Lugbara and Acholi cultures have much in common, even if their languages are quite different.

In this paper I have assumed broad similarities between Acholi and Madi customary land holding and justice concepts and practices. However a further mapping paper in Madi is in progress and will no doubt shed further light on this.

Customary Conceptions of Justice

Much has been written about what is called Acholi traditional justice in the context of the Lord's Resistance Army (LRA) conflict and the intervention of the International Criminal Court (ICC). While some, for example Baines (2005), write of traditional

Acholi *justice*, Harlacher *et al* (2006) discuss the same rituals and processes in terms of *coping* and psychological *healing*; and Porter (2012) identifies the pursuit of social harmony, rather than justice, as the Acholi cultural priority. However conceptualised, these customs are generally agreed to be collective in nature – they often deal with the transgressions of clans - agnatic lineage groups - against other clans, even if through the actions of a single member; and with restoring harmony between clans through apology, restitution and ritual. Other rituals are concerned with exorcism and spiritual cleansing, and even where they focus on an individual, it is always in the context of the wider kin-group. The transgression being reconciled or the affliction being cleansed may be due to the wrong actions of the subject(s), but may equally well be due to those of forebears. The spirits to be exorcised may have been sent maliciously by an enemy or angered accidentally; while actions recognised as ‘crimes’ may or may not be conscious. For example, involuntary manslaughter is distinguished as a lesser offence than pre-mediated murder; but being a victim of rape or the issue of rape may, depending on circumstances including the time of day or location, be understood as crimes against the moral and spiritual order (Porter, 2013:139).⁶

Formal systems for restitution existed, and exist, for depredations by one clan against another, with collective responsibility for paying compensation. There seem to be no records of how internal discipline was maintained within clans in pre-colonial times, but a lack of formal law does not imply anarchy or libertarianism in these communities. Where dissent or misconduct occurred within a clan the family concerned would sometimes be forced to leave and join another clan to which it was connected through marriage or friendship, as still happens. Heads of families and of households exercise substantial authority even today, and sometimes crippling beatings of adults as well as children are still common, with capital punishment by communities or their leaders of delinquent members not unknown (Porter, 2012).⁷ However this can be understood as intra-family or intra-clan pragmatic discipline, at the discretion of the group and/or its leaders; not law, which is by definition not discretionary.

Culturally, transgressions are defined against a spiritual normative ethic of what is deemed to be good living by ancestor and clan spirits. Spirits can and do intervene, manifesting offence through sending down misfortune in any of a myriad of ways – famine, war, sickness and death, or by causing deviant behaviour – variously targeting individuals, families or clans. Human agency, deliberate or otherwise, in interaction with the spiritual world, is likely to be the ultimate cause of almost all human misfortune. Understandings of human agency – and hence crime and criminal responsibility - often diverge sharply from those of Western-sourced formal Ugandan law. In Acholi, proximate cause – death from disease or road accident for example – is often understood as merely coincidental; with the ultimate cause frequently being

⁶ A thorough discussion of Acholi spirituality is beyond the scope of this paper: Okot p'Bitek (1971) and Heike Behrend (1999a) offer detailed and insightful accounts, the latter in relation to the LRA war; while Porter (2013) relates Acholi spirituality to issues of justice, crime, protection and social harmony.

⁷ Although I have found no references for specifically intra-family/intra-clan capital punishment in Acholi, currently or historically, Allen and Reid (2013) suggest this occurs in Madi, in particular in respect of witchcraft. It certainly occurs in Karamoja (Hopwood and Porter, 2011).

malevolent witchcraft delivered by an *ajwaka*,⁸ and where criminal responsibility lies with the person who commissioned and paid for the spell. Witches and other partially or fully occult beings may cause death or other misfortunes deliberately or unconsciously.⁹

Behrend has described how Acholi spiritual understandings have become more complex and subject to change as the social and moral order becomes stressed in response to extreme events, in particular noting the 19th Century impacts of Turko-Egyptian slavers, the advent of British colonialism, the teachings of Islam and Christianity and the NRA/M victory in 1986 (1999b:25-33). Allen and Reid note similar processes among the Madi (2013).

Contemporary Local Administration and Justice

Uganda is often seen as an extreme instance of devolved local government (for which it has been much lauded, decentralisation being a pillar of neo-liberal orthodoxy), with, as of May 2013, 112 Districts (Kwesiga *et al*, 2013). Districts are responsible for most areas of service delivery, though with small to (in Acholi) minimal local tax bases and inadequate financial support from central government. Districts are governed by Local Council 5 (LCV) committees, directly elected by popular vote. LCV administrative staff include civil servants employed by central government ministries as well as others with a purely local remit. Each District is divided into Counties (though these are often now coterminous with Districts as the latter multiply, and are administratively defunct). The active sub-divisions of Districts are Sub-counties (Divisions in colonial times), administered by a directly elected Local Council 3 (LCIII) committee, supported by a paid civil servant, the Sub-county Chief, along with other district-level-employed officers including a Community Development Officer and Agricultural Officer. Sub-counties are divided into the Parishes (LCIIs) and Villages (LCIs), whose authorities are described below in relation to Acholi.

There has been little dissent in respect of the two-tier (formal and customary) law provision, initiated under the Protectorate, after independence. Since the advent of the National Resistance Movement (NRM) and the elections of Local (originally Resistance) Councils (LCs/RCs), the existence of very local level democratic governance and justice has been seen as benign, at least externally and in most other parts of Uganda (e.g. in relation to Buganda see Karlström, 1999:122). In practice the LRA war and the antipathy between central government and the Acholi politicised what was claimed to be an non-partisan exercise in highly devolved and localised democracy. Local councillors may have been genuinely elected by communities, but the field was often chosen by the NRM, and a high degree of conformity to NRM/central government interests was required of them, creating distrust on the part

⁸ An *ajwaka* is a traditional healer, usually a spirit medium; the term is often translated as 'witchdoctor'. *Ajwaki* (pl.) can be benign or malevolent or both depending on the circumstance and commission.

⁹ An example is the 'night dreamers', a kin group who were expelled by their neighbours from an IDP camp in Pader (now Agago District) in 2007, who were believed to be causing the deaths of camp residents by dreaming about them.

of the communities they administered (Pain, 1997:41; Finnström, 2008:94-5; Branch, 2010:40).

On the other hand LCs I and II are members of their communities, sharing their cultural values, their spiritual-ethical foundations, their deprivations and their security threats and have come to represent ‘embedded’ justice processes (Porter, 2012:85-86, with reference to Gready, 2005). LCs I and II are not paid,¹⁰ though they charge small sums for official actions, such as writing letters of introduction or referral and issuing identity cards. The statutory status of LCI courts is currently unclear,¹¹ and they are dependent on community support for enforcing their judgements: unlike the colonial period, a disciplined security force is not available to enforce customary court judgements unless these coincide with the – often personal, sometimes political – interests of higher authorities. Sometimes LCs are the same individuals who hold customary authority as elders, as was often true of colonial Parish and Village Chiefs (Girling, 1960:189).¹² LCI courts (and to a lesser extent LCII courts) are (notwithstanding the provisions of the Local Council Courts Act 2006) usually conducted as community meetings, in which a majority of those present decides the ruling; at other times LC interventions look more like mediation than judgement.

Many lower level LCs have little education and most have little or no knowledge of formal law, though they will work on the basis of received wisdom such as that matters involving bloodshed are beyond their jurisdiction and should be referred to the police, or that defilement is a capital crime and should be referred to the police. In matters that do fall within their jurisdiction, or that return to them because the police and/or higher courts have failed to act, they use their judgement on the basis of experience, which is, generally, based on customary notions of justice and transgression/crime.

LCI and II elections were last held in 2002 – it was claimed by central government that resources could not be found to pay for these elections in 2006 and 2012, while the introduction of multi-party democracy in 2005 raised multiple issues of how these supposedly apolitical grassroots roles would now function. The lack of legitimacy created by the non-renewal of their popular mandate has been raised by opposition parties in parliament and the courts. Lower-level LCs’ position is now extremely confused, and LCI and II courts have now been suspended.

LCIII courts have a permanent membership of three, nominated by but excluding council members and approved/appointed at District level. They serve as a court of appeal in respect of LCII judgements, but since the suspension of LCII courts, now

¹⁰ The 2010/11 national budget included provision for LCI Chairpersons to be paid an annual honorarium of 120,000 Uganda Shillings. However this was after the legitimacy of LC Is and IIs had been called into question. It is unclear whether these honorariums have ever been paid. See The Independent, *Court Nullifies LCs: Who will govt pay the Shs10bn?* 28 June 2010 < <http://www.independent.co.ug/news/news-analysis/3094-court-nullified-lcs-who-will-govt-pay-the-shs10bn-> >.

¹¹ As stated in Burke and Egaru (2011), “new laws and directives from the Chief Justice have not always made reference or repealed existing laws and directives causing some degree of confusion in interpretation by legal practitioners, litigants and the judiciary” p. 8. The most recent relevant legislation, the Local Council Courts Act of 2006, give extensive authority to LCI courts as the court of first instance in a range of statutory crimes as well as customary matters.

¹² A Parish Chief was (and sometimes still is) known as the *Mukungu*; a Village Chief, the *Nyampara*; and a Sub-county/Division Chief, the *Jago*.

apparently have no function. This is the first level at which some distinction between justice actors and government administrators exists. Nonetheless, LCIII courts do not have trained personnel involved in any capacity, and they hear appeals of LCII judgements based on unwritten, uncodified ‘customary’ law, often in relation to customary land disputes on which there is almost no relevant formal law, and where there are no formal records or titles.¹³ It is often a matter of confusion, especially for external donor and development agencies, that these ‘government’ courts actually dispense arguably hybrid, but predominantly ‘customary’ and undoubtedly local justice; though in fact this represents the continuity of a system in place since the early years of the Uganda Protectorate.

Formal rather than customary justice starts at the level of magistrates courts, where serious cases are heard for the first time, where appeals of LC court judgements are heard, and where those with sufficient resources can take civil cases (including an overwhelming volume of land cases). Magistrates courts are found in each district, though newer districts are unlikely to have their own magistrate, and Grade 1 magistrates able to hear serious ‘capital’ crimes are in short supply across the country. The capacity of the formal courts is extremely low, especially in relation to the volume of work, and most have massive backlogs. Their inefficiency and corruption is widely recognised by those who have had dealings with them.¹⁴ While the low capacity of magistrates and higher courts is a major barrier to access to formal justice, it is also important to note that there are additional barriers relating to other justice, law and order sector (JLOS) actors. The police will rarely investigate cases, even serious criminal ones, without payment by a complainant. This is partly an issue of corruption but also of material resources – their capacity to move around is limited by the fact that their vehicles and fuel allowances are quite inadequate for the job. This also affects enforcements of court judgements, which are unlikely to be undertaken in the absence of either, or both, payment and interest by higher political authorities.

As well as lower-level LCs, ‘customary’ justice is also dispensed by clan elders to their members, often seen as an expensive option relative to LC courts, but with certain advantages especially in terms of their ability to perform rituals in relation to customary transgressions or afflictions, and their knowledge of customary land boundaries. While they are not formally recognised in law, it is not uncommon for other courts, including magistrates courts, to refer cases to clan or chiefdom elders where issues are seen as outside their remit or capacity to make a ruling, in particular over issues of customary land. Overlapping ‘customary’ judicial and quasi-judicial bodies have led to multiple problems of legal ‘forum-shopping’, especially in customary land disputes.

Rwodi kweri, ‘chiefs of the hoe’, are elected local functionaries who first appeared during the colonial period, organising collective farming. According to Girling, this role was an entirely indigenous creation, not inspired or recognised by the colonial authorities, who were, in fact, trying to discourage collective agriculture at the time

¹³ In 2008 Ker Kwaro Acholi with support from the Norwegian Refugee Council produced a document in English and Acholi on the *Principles and Practices of Customary Tenure in Acholiland*; and in 2009, another titled *Law to Declare: The Acholi Customary Law*. However neither document has been widely circulated and both are contested.

¹⁴ All public authority respondents, including the police officer made these points about magistrates courts, though end-users (none of whom reported having direct experience of them) tended to perceive them as idealised though difficult to access dispensers of justice.

(1960:193). They are elected by communities and provide leadership especially on matters of land and agriculture in sub-divisions of LCI Villages. Elections or appointments are for an indefinite period as long as they retain the trust of the community and are willing to serve. They are found across Western and Northern Acholi, though their role is often conflated with that of the LCI in Agago and Pader, where LCI jurisdictions are much smaller. In meetings with groups of *rwodi kweri* in the south of Gulu District in 2012, opinion was divided on whether they saw themselves as part of the state or the cultural administrative hierarchy, although their role is not recognised by the state.¹⁵ In practice they generally relate closely to both LCIs and to clan elders (Porter, 2012:88).

The pre-colonial chiefdoms are now claimed to be represented by the organisation Ker Kwaro Acholi (KKA), formed in the early 2000s, under the leadership of a Paramount Chief, David Onen Acana,¹⁶ *Rwot Moo* of the Payera chiefdom. While recognised by government as the Acholi cultural institution, and constitutionally the equivalent of the Buganda and other Ugandan kingdom structures, the role of KKA is unclear, while its legitimacy – including that of the position of paramount chief - is disputed. Whether those involved represent the successors to the pre-colonial-era chiefdoms or their British-imposed successors is one of a number of complicating factors, further obscured by the national outlawing of customary authorities between 1966 and 1995 (Dolan, 1999). However a number of the chiefs, as well as the Paramount Chief, have taken on public roles, and the organisation has been involved in the provision of ‘traditional justice’, firstly in the rehabilitation of former LRA members and more recently in mediating major land disputes.

Although the formation of KKA is a relatively recent development, a number of sources note the very active engagement of traditional lineage authority figures in local politics since the early years of the colonial administration through to recent years, with vigorous competition for posts and influence reflecting pre-colonial inter-chiefdom rivalries and conflicts (Leys, 1966:19-21; Gertzel, 1974:17; Branch 2010:26-28).

Finnström, with reference to Girling and p'Bitek, states that “*Acholi mythology and tales often stress that the power of the chief can never be absolute. He must earn his position and demonstrate his ability to lead his subjects. He must show hospitality, and make sure his people do not starve and that they can live in peace.*” He goes on to state that “*It seems that no Ugandan leader has provided the Acholi with this*” (2008:243). Similarly, Macdonald argues that although the Acholi have been well integrated into the state at certain points during the post-colonial period, the state itself has never functioned coherently or legitimately in Acholiland (2013). Behrend states that “[f]rom the beginning, the colonial administration failed to create a public space characterised by at least the fiction of functionality and neutrality” (1999a:17). The point here is that there is no history of valid and functioning rule of law in Acholi; there is no local experience through which the general population might have learned what formal justice, law and order is like. Porter considers these issues at length in discussing the lack of trust people have in formal law processes in Acholi – they are not ‘embedded’ and lack moral legitimacy, as much as they fail to inspire

¹⁵ Focus groups conducted by the author in Odek, Lalogi and Lakwana Sub-counties of Gulu District in 2012 in connection with the Land Conflict Mapping Tool research project.

¹⁶ Now succeeded by his son, David Onen Acana II,

faith in their functionality (2012). These factors are important in understanding how public authorities are understood, evaluated and perceived by end-users.

National and Administrative Borders

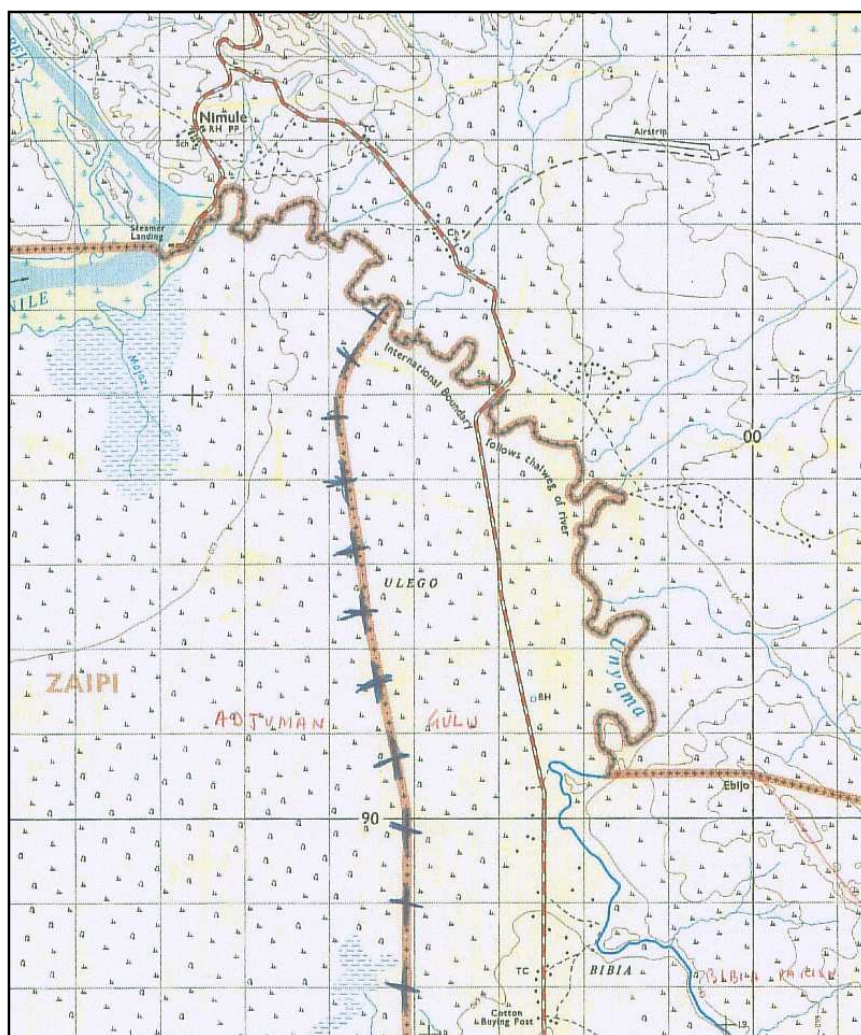
While the notion of an Acholi people and land may in some senses be a colonial construction, the Ugandan state most certainly is on any understanding. The Uganda–Sudan border was first mapped in 1913,¹⁷ established in 1914 and 1926, with the border adjacent to the present-day Districts of Amuru and most of Lamwo (including the section adjacent to Ngomoromo) having remained constant, in terms of international treaty, since 1914. While only 48 km of this 435 km border have been formally surveyed and marked with pillars (in 1960 – not including areas adjacent to the research sites), most of the rest is definitively identified using topographical features including mountain peaks and rivers, under agreements between the Ugandan and Sudanese colonial authorities, that have never been formally contested by any post-colonial governments (Johnson, 2010).¹⁸

In practice the international border has been highly porous and approximate since it was created. Acholi, Madi and Kakwa communities are found on both sides, though all these ethnic groups are predominantly Ugandan. Formal and informal trade (often illicit in the context of efforts to stem the slave trade, and since the creation of the border) has been in progress since the early 19th Century (Schomerus and Titeca, 2012). Civil wars and conflicts have involved the communities living on one or both sides of the border, and have often crossed it since 1955, continuing until 2006. In theory there was no war affecting either southern Sudan or northern Uganda between the ousting of Amin in 1979 and the start of the Second Sudanese Civil War in 1983. However this was a period in which the Madi, Lugbara, Kakwa and Nubi of West Nile suffered persecution at the hands of the Obote 2 government, with very large numbers from Uganda displaced to Sudan (Harrell-Bond, 1986: 136-7; Leopold, 2007: 138).

The border between what are now the Ugandan Districts of Amuru and Adjumani was drawn prior to independence and at its northern extremity forms a narrow corridor to the S. Sudan border, with the Unyama River to the east, and a strip of territory 1.7 km from the road to the west for a distance of about 10 km. This area is marked ‘Ulegu’ – presumably an alternative spelling of Elegu - on 1969 government maps. The implication is that the road corridor was an administrative convenience, incorporating a small area of Madi land into an Acholi district to avoid the road having to pass briefly through a further internal administrative zone to reach the border.

¹⁷ The original mapping, and decision-making process for the border location, is recounted in the diary of Captain Henry Kelly, Blake, ed. 1997.

¹⁸ The exception to this is a section of the border between Moyo District in Uganda and Kajokeji County in S. Sudan, where there has been lack of agreement on, and a number of incidents relating to, the physical location of the border, defined in treaty as the ‘southern boundary of the Kiku tribe’ (Johnson, 2010: 101-4). Major disturbances and displacement of the Madi and Kuku populations on both sides of this section of the border occurred in 2014, with reports of over 200 deaths.



Map 2: detail from 1969 Topo map, Lands and Surveys Directorate, Uganda.

Land and Resources

Displacement has a particular weight in much of Africa and certainly in northern Uganda, due to the embeddedness of the identity of individuals in that of their clan, and of clan in its collective, communal customary land.

Customary communal land holding based on kinship remains the overwhelming norm in Acholi, with decision-making authority vested in clan, sub-clan or extended family leaders (Hopwood and Atkinson, 2013:55). Occupants and users of land may not be members of that lineage but usually have a connection by marriage or friendship. A majority of people have claims to land-use rights under these customary principals. However low population densities prior to the LRA conflict left substantial tracts of land little used, and while it is unlikely that there were any completely unclaimed areas, there were hunting and grazing areas that were shared by different lineages, while competing claims to marginal or unpopulated areas were sometimes never contested in actuality.

Informal land markets trading in customary land have existed in urban and peri-urban areas of Acholi since the founding of Gulu in 1910. By nature they are complex and messy. Who represents the 'owners' with the right to dispose of customary land may be extremely unclear, and it is often not apparent what is being sold: 'vendors' may

assume they are selling rights to use the land for an (unspecified) period, on the model of the land rights of traditional ‘guests’ and in-laws; while purchasers may expect that they are acquiring permanent rights over the land. These informal land markets tend to spring up as soon as an area of land becomes commodified; and have by definition no formal dispute resolution or adjudication mechanisms – the notion of sale of customary land is inherently contradictory, as custom makes it inalienable; while the law is largely silent on matters of customary land, and in Acholi, equitable formal justice is in any case usually not accessible. Thus any commoditisation of customary land is likely to lead to land conflict (Hopwood and Atkinson, 2013:10-11). It is perhaps not surprising therefore that land conflict emerged as one of the principle dynamics in both of the locations examined.

Research Findings

Elegu

Elegu is on the border between two ethnic identities/language groups, the Acholi and the Madi, both of which occupy land on both sides of the international border; as well across an internal administrative border. Elegu trading centre and the land around it is the subject of competing claims as the ancestral land of two Madi lineage groups, and is also contested by the political authorities of Amuru (one of seven districts making up Acholiland) and Adjumani (one of two Madi districts). Elegu lies within Bibia West Village, or Local Council 1 (LCI) jurisdiction, the smallest government administrative division, which is one of the two Villages of Bibia Parish (LCII jurisdiction), in Atiak Sub-county (LCIII), in Amuru District (LCV). ‘Elegu’ is the name used for both the newly established market and trading centre immediately south of the Ugandan border post on the Gulu-Nimule road; of the rural area around this; and of the adjacent Elegu Parish (LCII) in Adjumani District. The administrative and trading centre of Bibia lies about seven kilometres to the south, while the centre of Nimule in S. Sudan is about five kilometres north-west of the border. The surfaced highway north to Juba was completed in 2012 – S. Sudan’s first paved road; the road south to Gulu is currently being surfaced, though has until recently presented one of a number of challenges to trade and communications between the two countries.

The area investigated has two very distinct parts. On the one hand is the trading centre and market adjacent to the border, on the other is the rural land to the south and west. The trading centre, established in 2013 when the customs post was re-located there, has become a major hub, attracting traders from many parts of Uganda, S. Sudan, and beyond, and serving as a transit point for most of S. Sudan’s imports. This has led to land in the trading centre becoming extremely valuable.

Reportedly with the support of the Amuru (Acholi) authorities, members of the Madi Oyapele clan (whose core clan land is across the border in S. Sudan), have established an informal land market, selling and renting plots to traders. However the land is also claimed by the Ofodro clan, also Madi speakers, based in, and supported by the local authority leadership of, Adjumani District; and on-going friction and occasional incidents mark this conflict (Barnabas and Jahn, 2012). Lucrative land sales by the Oyapele in the trading centre are reported to have taken place and have fuelled the antagonism of the Ofodro, while attempts by Amuru District authorities to establish control or ownership of areas in the trading centre are constantly challenged.¹⁹

¹⁹ LC1 Chairman, Bibia West.

It seems likely that the land in dispute was marginal and traditionally used for grazing by both clans and by the Oyapele during periods of displacement, although the land traditionally belonged to the Ofodro. More recently, and in a context of post-displacement land shortages in some areas, it has been settled with the approval of Amuru authorities by both Madi and Acholi people without an historical connection to the area. Until the land at Elegu became commoditised by the opening of the border post in 2012, both clans lived easily together, intermarried regularly and shared each other's territory at times of displacement (Barnabas and Jahn, 2007:9).

While there have been calls for the identification and repatriation of 'Sudanese' Madi, this is probably unrealistic.²⁰ While as a clan the Oyapele are S. Sudanese, as individuals their identity is more complex. Given the cross-border movements of Madi people over the last six decades, and the lack of records including birth certificates, some people do not know which side of the border they, or their parents, were born, and hence what their true citizenship is; in most cases there will be no evidence either way. The criteria for citizenship in both states mean that very many are no doubt entitled to joint citizenship; and even if it could be firmly and finally established that Oyapele land is entirely north of the border, and that as a clan, they have no customary claims to Elegu land, this would not provide a legal basis for establishing individual nationalities.

Traders from all parts of Uganda have arrived and established their own protection structure, with leaders of each ethnic group reporting to a 'zonal leader' elected from amongst them. This structure is the only local governance constantly on the ground, and is not necessarily open to influence by the government LC hierarchy, and serves the needs of traders rather than the general community.

Identifying residents of the trading centre is complicated by the fact that the S. Sudanese authorities are in the habit of regularly deporting Ugandans and others to Elegu and dumping them across the border. As these people are often destitute, they become trapped in the Elegu trading centre and may turn to theft to survive. While only one respondent, an LCIII councillor, mentioned it, the research team noted that prostitution is very visible, large scale and doubtless comes with its own public order as well as health threats. Public authority respondents reported that general lawlessness has led to a number of unsolved murders and large scale robberies, including a case of two billion shillings being stolen from the Uganda Revenue Authority office at the customs post.

Table 1 below shows the current security threats as identified by the sample of twelve end-users and five public authorities in Elegu. For end-users, economic threats are of more general concern than threats of violence: the danger from elephants is that they are destroying crops and, along with drought in the first six months of 2013, creating food insecurity. As expressed, people's fear in respect of the inter-clan and inter-district land conflict, as well as the border conflict, is that some would lose their access to land in the event of one side or the other prevailing, rather than that they would be targeted or caught up in violence. The instance of robbery described by an end-user was non-violent, though the large numbers of strangers at the border created an atmosphere of danger and physical threat for some.

²⁰ Repatriation of 'Sudanese' Oyapele is one of the recommendations made by Barnabas and Jahn (2012:6).

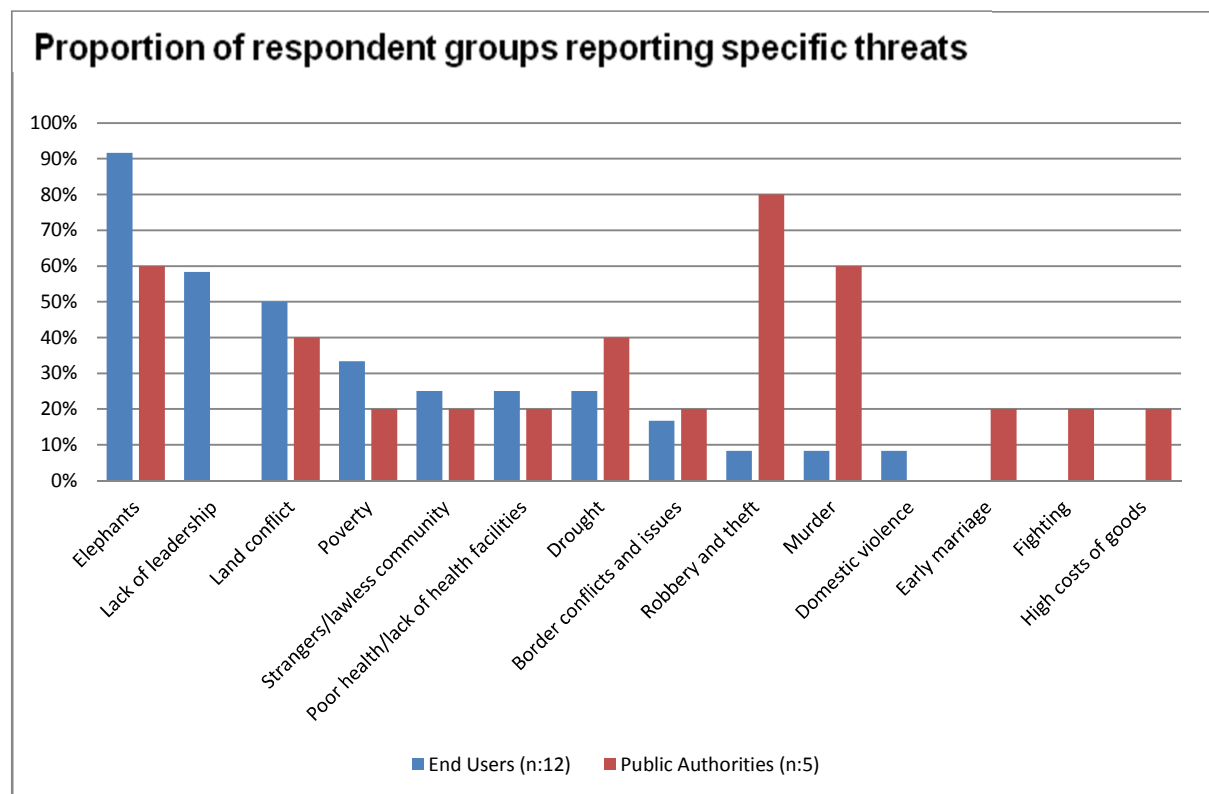


Table 1. Threats identified by respondents in Elegu.

Over half (seven out of twelve) end-user respondents specifically identified weak, corrupt or inadequate leadership at all relevant levels as the underlying problem to their security situation, in the context of land disputes and cross border incidents, problems that some felt could be easily resolved by higher levels of government, given the will. In June 2012 the road was blockaded by truckers complaining of corruption, harassment and even torture by the S. Sudanese army and authorities when crossing the border and in transit to Juba, and demanding Ugandan government escorts. In response, according to a press report,

The Uganda Police have deployed a contingent of about 100 hybrid police officers in Elegu, Uganda-South Sudan border to cool tensions following a three-day strike by businessmen and truck drivers, called off on Monday. The contingent comprising personnel from the police Field Force Unit (FFU), Counter Terrorism (CT), Traffic Police (TF) and regular police armed with anti-riot gear and backed by an armoured vehicle was deployed on the instruction of Police boss, Lt. Gen. Kale Kayihura following a meeting with his South Sudan counterpart at the weekend. (Candia, 2012).

In a meeting between Ugandan and S. Sudanese authorities it was agreed that “both countries carry out joint patrols along the border, with some South Sudan police officers on Uganda patrol vehicles and vice versa for easy handling of complaints and avoidance of suspicions” (Candia, 2012).

It is perhaps worth noting in respect of S. Sudanese authorities that the truck drivers, coming from countries across eastern and southern Africa, place relative trust in the Ugandan police, who are ranked by Transparency International as the most corrupt agency, public or private, in East Africa (Bogere, 2012). Schomerus and Titeca,

discussing the Sudanese People's Liberation Army (SPLA), refer to Andreas' (2003) identification of the personal financial interests of military actors as well as the interests of the state as significant for understanding border control priorities (2012:11). It is probably fair to say that the balance of these two factors is substantially different in the security forces of the two countries, with, arguably, the S. Sudanese state struggling to oblige its forces to represent its interests – in this case the ability to import basic commodities by limiting their extortion of funds from traders – or protect its citizens to any significant degree. The Ugandan state on the other hand can and sometimes does assert itself to provide a degree of citizen protection and is able when needed to oblige its forces to protect its interests. However, the rapid deployment and international negotiation described in the press report above is in contrast to other past and current border-related troubles between the two countries, where end-user perceptions of Ugandan government interventions to resolve major issues are of neglect and inaction.

Local government elected and administrative leadership is based seven kilometres away in Bibia trading centre, and clearly lacks the capacity to respond to the protection and security needs of either the rural population around Elegu, or the burgeoning, diverse and largely transient population of the new customs post and trading centre/market on the border.

End-user responses from the rural area south of the trading centre were contradictory in identifying state armed forces, and it seems there are in fact no Uganda People's Defence Forces (UPDF) or local defence units (LDUs) stationed in Elegu, only police. However the variety of types of police (some of which sound distinctly paramilitary) described in the press report above may explain why people are confused.

While several respondents described the UPDF as a past threat to civilians, they were now seen as a source of protection (though in reference to the above, this may in fact be provided by paramilitary police). Several respondents mentioned a recent incident where Ugandan security forces had used teargas to repel an invasion by members of the Ofodro clan from Adjumani, seeking to stake their claim to Elegu land.

Most end-users regarded the police as protectors in such general contexts, but of little help and deeply corrupt when it came to responding to and protecting individual victims of crime.

When Elegu end-users referred to traditional authorities, none appeared to have a direct relationship with them or be aware of who they were or how they functioned locally. There were several brief references to the *Rwot Moo*, an Acholi head of a chiefdom. It seems likely that these references are to the *Rwot Moo* of Atiak, a public figure who has worked with local government on mediating major land conflicts.

The only respondents who made any significant reference to traditional clan authorities were Acholi public authority representatives, based in Bibia or Atiak, and they did not relate these to the situation in Elegu. Only one of the twelve end-users was identifiable as probably a member of either of the Madi clans claiming ownership (an Oyapele); while another stated his land in Elegu had been inherited from his grandfather. Three others were explicit that they were incomers, one claiming he first moved there in 1995. Of the remaining seven, three were Acholi-speakers (i.e. likely

incomers), while the four Madi speakers gave no indication that they had a long-term connection to the land or relation to customary authorities.

While respondents were unanimous that the LC structure was grossly inadequate in providing protection, all respondents talked positively of their *rwot kweri*. In Elegu, the *rwodi kweri* have a lonely role as the only accessible public authorities in terms of citizen protection, and appeared to substitute for, rather than represent, both cultural and government structures. The LCI is based seven kilometres away in Bibia, while the leaders of the clans claiming the land are, it would seem, located at considerable distances - on the one hand in Adjumani and on the other in S. Sudan. Neither claimant's clan hierarchy seems to be engaged with end-users on the ground. The *rwodi kweri* were unambiguously highly regarded by all but one end-user respondent, and seen as the first reporting point for all security needs by all twelve. However there were accepted limitations to their authority, and problems arose when issues needed to be referred onwards to LCs or the police.

All end-users responded that they had sufficient access to land for their needs. This was notwithstanding the fact that most were incomers to the area and seemingly not part of a clan claiming ownership. Asked whether she was able to access the land she needed, one young woman responded, “Yes, if you are using the land for digging; the only issue they hate about the land is selling it.” Asked who owned the land, individuals or a clan, she answered, “Those who used to live on the land but now have no elders, the children who used to live on the land, cultural land [ngom kwaro].”²¹ However she went on to say that someone had told her husband that he should buy the land they were using, and since they could not afford this, she was now worried that they would be forced to move.

The difference in perceived threats between end-users and public authorities seen in Table 1 can to a degree be explained by the focus of three of the public authorities – the LCI and the LCIII Councillors – on the trading centre/market. The *rwodi kweri* on the other hand were closer to the perspective of the rural end-users. No end-users interviewed were resident in the trading centre, but public authority representatives reported a chaotic situation there.

One end-user respondent stated that the *Rwot Moo* and the LCII were active in distributing land for farming around Elegu to settlers. There is no basis for an Acholi *rwot moo* to distribute customary land belonging to an Acholi clan, unless it be specifically that belonging to his own Kal (royal) clan; and certainly no basis for him to distribute Madi customary land. LCIIIs were suspended from any role in land adjudication in 2012. However, distribution of ‘vacant’ land is periodically undertaken by local authorities, though not on any apparent legal basis, while potential motives vary. In the case of Elegu, a range of political or financial motives of political, military and cultural elites might apply.

All respondents reported being food insecure in the context of crop destruction by elephants and drought; and all stated that they lacked seeds and farming implements.

No respondents paid tax. Some were aware of pre-displacement local taxes and all regarded these as potentially legitimate if used locally on, particularly, health care and

²¹ Female farmer and charcoal burner, 26, Elegu.

education. On the basis of their historical experience, local taxation was viewed as an exclusively male liability, with female respondents seeming to find the idea that they might be expected to pay tax as bizarre or ridiculous.

Little was said about community level protection, although three of twelve respondents mentioned good neighbours as a resource. Churches and religious leaders were mentioned by only two respondents, though as a purely spiritual rather than a protection/security resource. NGOs were reported as being currently absent, though positively remembered from IDP camp days.

Other threats mentioned included lack of access to health services. It is seven kilometres to Bibia Health Centre – where very limited services and sporadic supplies of drugs are available.

Past security threats reported include the LRA (although accounts of how active they were in the Elegu area varied, with two respondents saying they were merely an occasional threat). Three respondents noted the SPLA as a past security threat, as having been predatory and violent on Ugandan soil until southern Sudanese independence (though they may have been referring to autonomy following the Comprehensive Peace Agreement (CPA) in 2005); however a death in 2012 of a woman farming near the border was believed by several respondents to have been caused by the SPLA. The UPDF and Ugandan LDUs were also cited as perpetrating murder and violence against civilians as recently as 2007.

Ngomoromo

Relations between the Acholi-speaking populations of Magwi County on the S. Sudanese side of the border and of Lamwo District in Uganda have been affected by the decades of overlapping wars that they have endured, with many people from each country having sought asylum in the other at various times. Land in Ngomoromo has served as both an internally displaced people's (IDP) camp and as a refugee camp for Sudanese.

Like Elegu, Ngomoromo appears to be atypical of Acholi in how and by whom land is occupied. Ngomoromo village includes what was a traditional hunting ground, shared by a number of lineage groups. This is now claimed by one S. Sudanese and two Ugandan Acholi chiefdoms. Reportedly in the 1920s clans from both sides of the newly-drawn border with the Anglo-Egyptian Condominium of Sudan took part in a major hunting expedition organised by a *rwot* from the Ugandan side of the border. One guest, a son of the *Rwot Moo* of Pajok in Sudan, was killed during the hunt, an event that required the host chiefdom to compensate the bereaved clan, and the basis of the Sudanese claim is that this compensation was paid in the form of the hunting ground itself.²² This is the story as it is told in Uganda. Members of the Pajok chiefdom however, assert that the hunting ground was always theirs, that it would be inconceivable in Acholi tradition to give hunting ground as reparations, and that this story has been engineered to minimise their claim. It seems likely that traditional Pajok hunting lands extended some kilometres into Uganda but that as they were poor

²² Personal communication with Francis Odongyoo, Executive Director of Human Rights Focus, a Gulu-based NGO.

and rarely used hunting grounds, the population on both sides of the border was tiny and the border unmarked this was never an issue.

In Ngomoromo the threats identified by both end-users and public authorities, as shown in Figure 2 below, were more of violence than economic. Inter-community land conflict, inter-clan conflict and the fighting are all aspects of the same issue: ‘fighting’ seems to refer to street clashes between young men of the rival groups of Ugandan clans. As one end-user put it, *“The problem of land wrangles started when people were moving back to their homes from IDP camps. For us here, some people from the Pangira [chiefdom] from Lukung came, claiming that this area was theirs. Later the Sudanese also came with the same issue, that this area belongs to them, which caused violence in this place between three groups: Pangira from Lukung, Sudanese from Pajok and the people of Ngomoromo.”*²³

Unlike in Elegu, the cross-border conflict has seen incursions by, reportedly, S. Sudanese armed forces – behaving in a hostile manner and threatening and occasionally attacking the civilian population. Instances of killings, arrests/abductions, imprisonment and torture by Sudanese forces are relatively common in respect of Ugandans in S. Sudan, but have also been reported in respect of Ugandans going about their legitimate business in Uganda.

The Ugandan police officer respondent reported,

*Farming is good, the problem is that people fear going to the garden, because South Sudanese move with guns into Uganda in the bush in the pretence that they are hunting, and the population is scared of being killed. And they do not like the movement of people from Uganda into Southern Sudan. In fact people from Ngomoromo move a lot to South Sudan for business. An example is a big incident that happened two weeks ago - a man selling cows in South Sudan was killed, and a boda boda man, and many others, and there is also torture of people from Uganda.*²⁴

²³ Male farmer, 36, Ngomoromo. According to unpublished research on land disputes in Lamwo and Kitgum by NGO Human Rights Focus, *“the clans of Pangira, Pabot, Pajele, Pucwere and Palangiro have locked horns with those of Pawoo, Abongo-Lajuk comprising of Pucwar, Pubala, Payugi, Lamogi and Pucii. Reports reaching us are that irate clans youth armed with bows, arrows, spears could easily be ignited by a slight cause in to full tribal wars.”* (HURIFO, 2012).

²⁴ OC Police, Ngomoromo.

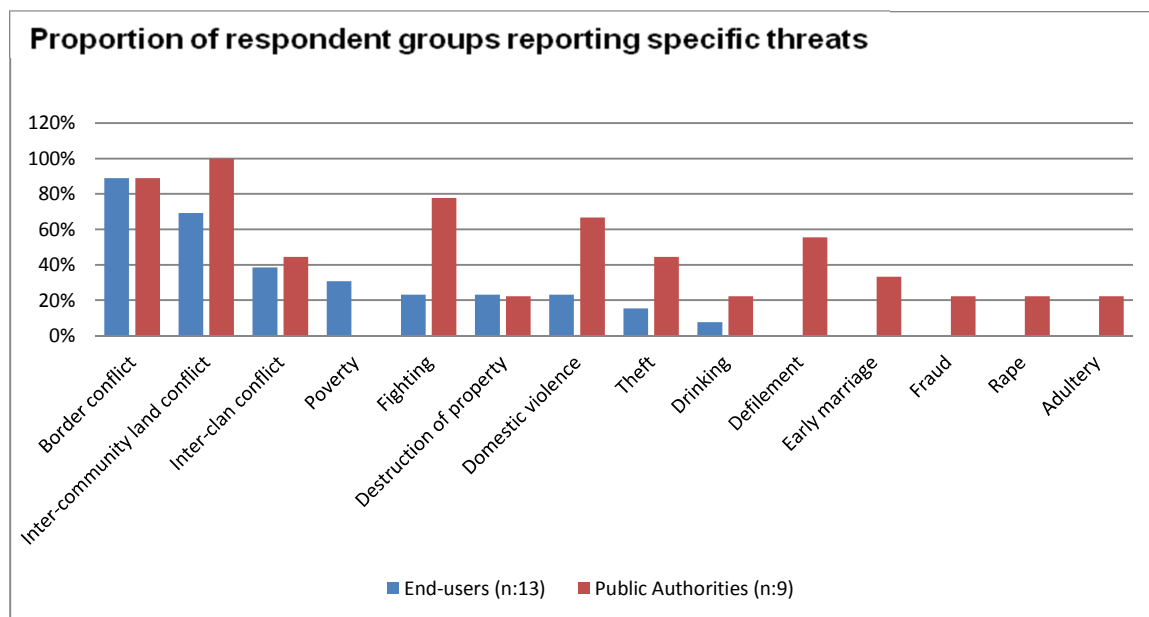


Table 2. Threats identified by respondents in Ngomoromo

Only a matter of days before the survey was undertaken in June 2013, the S. Sudanese had physically moved their border post seven kilometres into what had previously been assumed to be and treated as Uganda. Previous claims by S. Sudan that Uganda has unilaterally shifted the border north in past years may or may not have validity - as the Daily Monitor reported:

In its issue of October 25 [2011], the Sudan Tribune reported South Sudan accusing Uganda of tampering with international boundary markers between the two countries that extended Uganda's northern frontiers by tens of miles into South Sudan. This is the border area between Magwi County in Eastern Equatoria State of South Sudan and Lamwo District in northern Uganda. (Lucima 2011).

On this most recent occasion the Ugandan government reacted, and after urgent negotiations with S. Sudanese central government the border post was moved back to its original position, pending further bi-lateral negotiations. A month earlier in nearby Parapono parish, nine Ugandans had been arrested, imprisoned and tortured, while cutting trees on what was assumed to be Ugandan soil, by armed men thought to be SPLA soldiers; while in February a group of Sudanese including 'army generals and contractors' attempted to move the border with Lamwo 12km into what had been generally understood to be Ugandan territory (Komakech, 2013).

As well as the threat of violence by S. Sudan, the economic threat of being forced off the land is also present, and some people talked anxiously about recent moves to establish the location of the border on the ground, fearing that they might be forced to move away if it was decided that they were inside S. Sudan.

Ugandan local authorities appear to have intervened to stop people paying rent for their land to the Pajok (S. Sudanese Acholi) clan claiming ownership. One end-user respondent stated that "... in the past people used to pay some money to the Sudanese

community before using the land but that policy has been abolished and people are now free to access the land in this area."²⁵

As in Elegu, end-users seemed to be unclear or misapprehending whether the locally based Ugandan armed forces were UPDF, LDUs or police – according to the police officer respondent there is a local UPDF detachment who sometimes operate under police command in public order situations, but no LDU or paramilitary police.

Police received largely positive comments in respect of their general protection and relations with the public, but as in Elegu (and indeed all Uganda) were a combination of corrupt and under-resourced, resulting in them being only available for what amounts to private hire in respect of individual crimes. The UPDF have generally poor relations with the community dating back to IDP camp days, and are still prone to extort money from rural people by taking livestock and refusing to return it until paid.

Eight of the thirteen end-users interviewed expressed exclusively positive views about their LCI and said that they take all security and justice issues to him in the first instance. Of the remaining four, they variously thought he was corrupt (three), too young and inexperienced (one), while two simply favoured their *rwot kweri* as the first reporting point but expressed nothing specifically negative. No end-users commented on the LCII of Licwa Parish, but the LCIII council and officers of Lokung Sub-county, based in Olebi trading centre, were an important security resource. One respondent, himself a member of the LCI committee, said, *"In most cases when violence occurs we report to the office of LC III who has more capacity to settle disputes than LCI."* However the same person described the LC III court as reluctant to reach judgements. One respondent argued that making judgement in local courts carries significant risk: *"... they fear that if the mediator is openly against one of the parties then the person might decide to assault him on the way"*.²⁶

Asked about local courts, one young farmer said *"...we have minor cases and they are conducted by the LC [I], but when it's too serious then it is forwarded to the police... rulings are made, but here in most cases people are fond of bribing the police and that is why no proper rulings are made"*.²⁷ This reflected the general sense that where local solutions could be applied, they worked; but if a case was so serious that it had to be referred to a higher administrative level, corruption and inaction kicked in.

Regarding cultural authorities, two end-users described Ker Kwaro Acholi or the *rwodi moo* as an important resource in mediating land conflict, though the rest had nothing to say about them. Five respondents had a generally positive view of clan leaders as an important resource. As the young women quoted above said, *"to me the clan leaders are most important because if you forward any matter to them automatically you will be handled very fast"*.²⁸

However the remaining eight described clan elders as corrupt and unreliable, though three of these thought there were some instances where their intervention was

²⁵ Male farmer, 64, Ngomoromo

²⁶ Male farmer, 64, Ngomoromo.

²⁷ Female farmer, 23, Ngomoromo.

²⁸ Female farmer, 23, Ngomoromo

necessary. *“The thing I don’t find alright about them is that whenever you take any case to them, instead of settling your problem, they keep postponing your issue; for example they will always keep telling you to come the following day claiming one of their members is missing, and that happens whenever you go to them”* commented one young man.²⁹ This might be a symptom of the risks of retaliation when making a judgement against someone noted above in relation to LC courts. According to an elderly farmer, the clan leaders *“are there, but so corrupt because they need money before settling any case, making the poor fear them, and that is why anything, even the slightest, we run to the police.”*³⁰

The *rwodi kweri* of Ngomoromo attracted exclusively positive comment as accessible, fair and responsive, with two people describing them as their first reporting point for all issues; however they did not seem to be such central figures as those of Elegu, with most respondents saying they would go first to the LCI with security issues, regarding *rwodi kweri* as mainly relevant in resolving issues of land and farming. From his own responses as a public authority, it seems that the *rwot kweri* interviewed perceives himself as independent of both cultural and LC structures, though interacting with both. In terms of justice he favoured cultural responses, as less corrupt and divisive.

Whether *rwodi kweri*, lower level LCs and clan elders limit themselves to those justice areas prescribed by the state is doubtful. Besides the instance of traditional justice described in interview 9, one young woman end-user reported that *“I lost my younger sister in Olebi, so they discussed the matter and the other party was found guilty; and then the Rwot Kweri issued a warrant and compensation for murder [kwo] was paid.”*³¹

As in Elegu, all respondents reported being food insecure, with one exception. All reported lacking adequate food reserves, as well as seeds and tools for farming.

The most significant contrast between the two locales was that in Ngomoromo, seven of thirteen end users reported being members of village savings and loan schemes [*bol cup*] in contrast to none in Elegu; while nine of thirteen described good neighbours as being one of their principle security resources, versus three of twelve in Elegu.

As in Elegu, no respondents currently paid tax, though a few older individuals could recall local taxation from pre-displacement days. All but one – a young man from S. Sudan who said he would return home if asked to pay tax – said they would favour men paying tax to local authorities if it were devoted to local services and development. Again, this was seen as a gender specific issue.

The overall impression was that Ngomoromo was a functioning community, even if lacking many features of traditional kinship relations, with a cultural leadership, even though disputed.

²⁹ Male farmer, 28, Apuk (Ngomoromo).

³⁰ Female farmer, mid-sixties, Ngomoromo.

³¹ Female farmer and trader, 23, Ngomoromo.

Issues including defilement, rape, adultery and early marriage were raised exclusively by public authority members and reflect their broader and community-wide perspectives, and the problems they are required to respond to.

Public health services were seen by all as of low quality and with sporadic drug supplies. Nonetheless the presence of a private drug shop mitigated the sense of this as a major threat.

Elephants in the Room: individual and community strategies in response to security and protection needs

A member of the field research team raised the possibility that the reported threat posed by elephants in Elegu may be open to interpretation. This idea had been triggered by the fact that all end-users – and some public authority representatives – were apparently highly engaged in the charcoal business, although all reported this involvement as a default livelihood forced on them by destruction of their crops by elephants and the drought. Even in Ngomoromo, which lacks a major market, making charcoal is profitable, and in Elegu, the demand from across the border is high, as are prices. However it is risky: cutting timber was prohibited by central government in March 2012 in response to unsustainable levels of deforestation across the country and global warming (Illegal Logging Portal, 2012). One respondent in Ngomoromo offered a clue to this, stating “*here trees are many for charcoal-making which is making feeding my children very simple. This is a bit of a secret - when I first came here there were many trees unlike in Padibe, so at times I sneaked out and cut the trees for making charcoal.*”³² In this context the possibility arises that charcoal burning is many people’s livelihood of choice, with crop destruction providing an excuse should they be challenged or harassed by local authorities over tree felling.

This is speculation, but it illustrates the relevance of an interrogatory approach to the responses provided by the survey tools. Allen, in a critique of the conclusions of Acholi oral historians, concludes that from very early on, oral histories have been highly contaminated by prior texts and narratives in circulation (1991). He also notes the management of historical narratives, whether consciously and unconsciously, in reference to contemporary concerns.

Contemporary northern Ugandans are used to being interviewed by strangers, even in places as remote as Elegu and Ngomoromo, as the following exchange illustrates:

Q: Have you reported any of your problems to the higher authorities of this place?

A: No I have not reported to anyone except those who come up to my place and ask me things like you are. Those are the ones I always tell my problems.

Q: What happens after reporting to those people?

*A: Nothing happened yet.*³³

In fact most people who survived the LRA conflict will have had cause to manage their stories to interviewers and interrogators as a basic matter of personal security.

³² Male farmer, 64, Ngomoromo.

³³ Woman farmer, 33, Elegu.

Prior to displacement, rural households were periodically required to defend themselves from accusations by the UPDF of being LRA collaborators, and vice versa. Later in the IDP camps they will have been regularly surveyed by the World Food Programme to establish their status and size of household prior to food distributions; as well as by other international agencies and NGOs intent on providing services. Getting the answers ‘right’ was critical to the adequacy of their food rations and service provision.

An eminent American human rights academic, who was in Acholi in 2007 to assess local support for the ICC’s pursuit of Joseph Kony and three others, complained that in conversations it was as if everyone he spoke to had been coached, so unvarying was the response that Joseph Kony and the LRA should be forgiven and welcomed home without prosecution.³⁴ In a sense they had, as for several years, the Acholi religious and traditional leaders had, almost unanimously, been publically asserting that this was the best way to end the war, which was, unsurprisingly, the universal primary security concern.

Sverker Finnström talks of Acholis “*resisting domination by assuming the right to interpret the lived reality*” in his understanding of Acholi myths and rumours around the causes of the LRA conflict and the motives of the protagonists and other actors (2008:186). Narratives are shaped by a wide range of factors, and in the case of very poor people in insecure environments, getting the story ‘right’ is still an essential survival tool, or may seem to hold out the hope of future benefits: anyone asking questions is potentially a spy working for malevolent authorities on the one hand, or planning to distribute benefits on the other.

In conducting surveys in such environments, omissions may be as significant as what is said. One person we approached for an interview refused: he had been arrested and tortured by security services for publically raising the problem of deaths by landmines, and reasonably did not wish to put himself at risk again by discussing such issues.

Internal displacement was prolonged in the Ngomoromo area due to the presence of extensive unmapped minefields allegedly laid by the Ugandan government in the later years of the LRA conflict. Ngomoromo and Bibia were two of the most heavily mined areas of Uganda. Up to the end of 2011, 529 people had been killed by mines and unexploded ordinance (UXO) in northern Uganda, while 1,810 had been injured, the vast majority on the Uganda / S. Sudan border in Amuru and Lamwo, in or close to the research sites. Five of these recorded deaths and ten injuries occurred as recently as 2011 while data for 2012 is not available. By 15th August 2012, the deadline for Uganda to complete mine clearance under Article 5 of the international Mine Ban Treaty, six acknowledged mined areas, including Elegu, had still not been fully cleared, while further possible minefields in Ngomoromo had been identified (Landmine and Cluster Munitions Monitor, 2012). In April 2012 Ngomoromo families were reported as being still displaced from their lands as a result of mines (Owich, 2012).

It is possible that in the period since the missed deadline the area has been fully cleared, though this had not been achieved by January 2013 according to the Lamwo

³⁴ Private communication between Dr Eric Stover, Gulu, 2007.

LCV Chairman (Ericu and Komakech, 2013). It is also possible that none of our respondents had been directly affected by mines, or by fear or restrictions generated by them. However, these possibilities seem unlikely given how recent, deadly, large scale and local the mines threat has been or still is in both research locales.

In light of the above it is interesting and potentially significant that no respondent from either the end-user or public authority groups in Ngomoromo or Elegu referred to mines as a current threat, and only one (in Elegu) as a distant past threat. The off-the-record testimony of the individual who refused to be interviewed raises the possibility of widespread intimidation by government of the population in still- or potentially-mined areas. The government's public behaviour suggests that it has a considerable investment in being seen to meet its international commitments in respect of the Mines Ban Treaty. It may be sensitive on the issue as the mines were, reportedly, laid by the UPDF illegally in breach of Uganda's treaty commitments, and may also have been illegally used by them in DRC. The Ugandan government may simply be concerned with the good PR that successful mine clearance will provide, or there may be more serious consequences attaching to failure, perhaps in respect of relations with and receipts from key donor nations; or standing and influence in a variety of international stages.

As stated above, in Ngomoromo all respondents reported lacking adequate food stocks and in particular lacking seeds and farming equipment. However one young woman went on to say *"... this is my house; I built it with my husband through fetching water and making bricks to build the house. Then later we bought a cow and now we use it for digging and we are paying our children in school."*³⁵ By rural Acholi standards this suggests a degree of relative financial security, and it is highly unlikely that our respondent and her husband would prioritise school fees over basic subsistence requirements. It is likely that some respondents actually did lack seeds and tools. However, in a context of post-displacement regeneration activities by government, NGOs and the UN, when such items were widely distributed, it would also be sensible for poor families to identify these as needs: it would be natural for end-users to assume, given their experience over the last few years, that there was at least a chance that our researchers were assessing people prior to distribution of practical support, even if they had taken pains to explain that they were not. This is not to suggest that food insecurity is not a very real concern for very many rural Acholi, perhaps especially for those living away from their kinship groups, like most of those we spoke to in both Elegu and Ngomoromo. The dry first half of 2013 has led to many crops failing, or much reduced harvests, combined in Elegu with elephant crop destruction. Even if those in Elegu are primarily concerned with charcoal production, the loss of crop produce will have had a cost in terms of household incomes and wellbeing. This is to say that managed narratives are by no means necessarily untrue; rather it is to suggest that they are political, intended to influence through presenting a particular point of view.

³⁵ Female farmer and trader, 23, Ngomoromo.

Discussion

“People here take care of their life in such a way that when it clocks night, one should not move.”³⁶

While northern Uganda is undoubtedly more stable and secure than the other JSRP research countries, the border sites surveyed would seem to offer only partial security and protection to end-user residents. As it was described to us, the Ugandan state offers some general defence to the public against armed groups, internal and external. State armed forces are predatory, to an extent that seems more of an irritant than seriously dangerous, through extortion – though clearly this was very different during the conflict and displacement. The police offer individual protection to victims of crime mainly to those who can afford to pay for it.

Large scale land conflicts between clans, internal as well as cross-border, are seemingly much more frequent in Sub-counties along the northern border than any other parts of Acholi, and this would merit further investigation (Hopwood and Atkinson, 2013:35).

Few of the current threats identified overtly refer to border issues, but in practice many are interlinked and associated with cross border trade. S. Sudan imports almost everything, including basic foodstuffs and cottage industry-produced commodities such as charcoal and bricks, partly due to low production and partly to the difficulties or impossibilities of internal transportation. This has created a situation where goods for export to S. Sudan can be worth double or more what they are worth in the northern Ugandan domestic markets. Acholi peasant farmers, who in the past have waited until the end of the dry season to be able to sell their surplus millet or rice crop in Gulu or Kitgum for a 30% return, can now (albeit with a variety of risks) realise a 100%+ return at any time of year by transporting the goods to the monthly auctions at Elegu market for export to S. Sudan.³⁷

Both sites appear to be significantly atypical in land occupation and land use rights in relation to the Acholi and Madi norms, and the role of cultural and communal protection and justice seem atypical in both locations, especially in the countryside around Elegu. Here, virtually the only available protection and justice resources and services are the *rwodi kweri* and a community school, which is very short of teachers. In Elegu people primarily complained of the distance to access health care, whereas in Ngomoromo the issue was quality of care and drug availability. However in Elegu the lack of services seemed more threatening. Ngomoromo has a drug shop and thus people have access to treatment – there seemed to be a low expectation of free government health services so having to pay for drugs was not presented as a major hardship.

While the security threats reported in Ngomoromo appear to be more violent and life threatening than in Elegu, the existence of social and leadership structures generated less bleak responses about life there. People in Ngomoromo belong to cooperative savings schemes and farmers’ groups, have supportive neighbours, and they have

³⁶ Male farmer, 42, Elegu.

³⁷ These figures are based on personal communications during March and April 2013 with two Gulu-based farmers who started trading millet, rice and groundnuts at Elegu market in early 2013. Interestingly, groundnuts proved hard to sell even at standard Ugandan prices.

choices in where to turn for help and protection; and while both the elected local council and the cultural / hereditary leaderships may have their faults and be prone to corruption, they are nonetheless present.

What people in both locations seem to regard as lacking was not so much the functioning machinery of a rule-of-law state as local leadership with integrity, able to mediate disputes and provide protection through making and enforcing judgements on locally-defined crimes against individuals. A second lack was high level authorities and armed forces willing to consistently and decisively settle major issues over land claims and the location of borders. Some respondents indicated that this lack illustrated a failure of will to undertake simple and obvious remedies, for example marking the Ugandan-S. Sudan border on the basis of existing treaties. It is perhaps likely that this failure is based on the financial interests of powerful military and political elites on both sides of the border which are thriving on the existing confusion and conflict.³⁸ These interests may relate to active illegal trade – for example timber extraction from S. Sudan, as used to, and may yet, occur in Ngomoromo; or illicit taxing of illegal trade, and informal trading in customary land, as seems to be happening in Elegu. Collusion and conflict between coalitions of military, political and customary elites, sometimes across international borders, is suggested by the lack of conclusive action in both locations. Ironically though, trust in both governments is so small on both sides of the border that it is unlikely that any action they might take including marking the border would be seen as honest or legitimate.

End-users and local public authority representatives may or may not have information on illegal elite activities, and of the individuals benefiting, but are likely to face significant risks in revealing anything they know to strangers. A survey methodology is unlikely to expose these details directly. Intimidation of end-user populations for political ends is a possible and even likely scenario, as suggested in the case of land mines. Poverty and economic threats are also factors leading to highly managed responses. Whether these possible instances of narrative management are devised at an individual level, or consciously formulated by informal groups, or coordinated by local leaderships probably varies by issue and location, but examining this would be an interesting if challenging subject for further study.

Hermeneutically examining narratives such as those generated by this survey is to an extent dependent on the availability of additional sources offering the possibility of triangulation. Firm conclusions on the spectrum of major threats in insecure and conflict affected environments are unlikely to be achieved, but acknowledgement that management of narratives by end-user communities is one of their most essential protection strategies opens avenues for informed speculation.

Deductively, the cultural understandings of authority and justice described above, in conjunction with an absence of functioning formal rule of law, have profound implications for how public authorities are perceived by end-users, and the

³⁸ Not surprisingly, evidence for this is hard to find. In 2007 a report by Swiss-based NGO the Small Arms Survey accused the UPDF of extensive illegal teak logging in S. Sudan; while a recent news report suggests UPDF interest in illegal timber is on-going (Uganda Radio Network, 2013). Okello Lucima (2011) in a Daily Monitor opinion piece, argues that “*the communities on either side [need to] realise the real fight is not about where the colonial boundaries that separate them are, but to act jointly to stave off possible collusion by Ugandan and South Sudanese politico-military elites from illegally dispossessing them of their land and marginalising them economically*”.

expectations people have of them. Apart from anything else, the *distinction* between formal state justice and customary justice may not be apparent from within. Macdonald discusses the notion of *legalism* in relation to pre-colonial Acholi governance and justice arrangements: ideal spiritual normative principles and precedents that circumscribe a moral order but nonetheless have not coagulated into a fixed body of law with associated sanctions (2013). This may in fact be close to what many rural northern Ugandans still experience, expect and value. Contemporary Acholi notions of justice incorporate many cultural/traditional elements, with compensation payments very widely understood as an essential component of any viable resolution to criminal acts. There appears to be little community acceptance of the value of judicial punishment in the absence of compensation (Komakech and Sheff, 2009:25).

This continues to generate a double jeopardy for some offenders, particularly in relation to murder and manslaughter, where because it is perceived as the correct procedure by all parties, as well as to avoid blood feud, the killer and his clan must conclude tradition justice processes of apology, compensation and reconciliation ritual (the much discussed *mato oput*) with the victim's clan; while before or after, the state will pursue a formal prosecution and prison sentence.³⁹

Furthermore, the principles of formal justice are suspect to many. As one respondent stated of formal justice:

There is no transparency, and there is corruption. Why? Because people bribe the judge and he rules in favour of the person who has given him money... Government justice wastes a lot of time, they keep on telling you 'bring more witnesses', or 'come after two weeks' and it is extended for long. It is very expensive...if they tell you to travel to Kitgum or Gulu you have to spend money, and also transport witnesses for which the money at times it not there. Government justice is full of gambling, they judge without coming on the ground; they only depend on a statement and witnesses, where anybody can say anything."⁴⁰

However degraded the traditional authority structures may have been by a century of external and central impositions and the turmoil of the different post-colonial regimes, the Acholi remain attuned if not to many of their current chiefs and elders, then at least to the cosmology on which their authority was based. Girling, writing of Acholi around 1950, regretfully discusses the diminution of Acholi traditional society through colonial rule and population displacements. His descriptions of this cultural erosion feel strangely contemporary, so perhaps some core elements are stronger than they may seem.

³⁹ One such incident was recounted in an interview with a traditional authority representative, the *Rwot Moo*, in Ngomoromo: "If [killing] happens we mediate and perform rituals and pay compensation [culo kwor]. It happened here in Ngomoromo where a man killed his wife; he was suspecting that she was in love with a soldier. We had to intervene by performing rituals and compensation for the death, but later the police said this was murder and he was arrested and taken to court in Gulu."

⁴⁰ LCIII Councilor, Lokung Sub-county, Lamwo District.

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