

# **Land transactions in land under customary tenure in Teso**

## **Customary land law and vulnerability of land rights in Eastern Uganda.**

Judy Adoko and Simon Levine

January 2007

Judy Adoko is Programme Coordinator, Land and Equity Movement in Uganda.

Simon Levine is an Independent Consultant

## Table of Contents

Table of Contents.....	2
------------------------	---

---

### Section 1

---

Introduction.....	4
Methodology.....	5

---

### Section 2

---

Land rights in customary tenure.....	6
How is land under customary law managed in Teso?.....	6
Wills.....	8
Wetlands : the ownership vacuum, or a partnership for environmental development.....	9
Urban land issues.....	10

---

### Section 3

---

Trends in customary land management.....	11
Boundary conflicts.....	12
Isn't it just about too little land for too many people?.....	12

---

### Section 4

---

Vulnerability.....	13
where do rights violations come from?.....	13
Whose rights are at risk?.....	13
Widows.....	14
Children of unmarried girls.....	15
Wives.....	15

---

### Section 5

---

Land transactions.....	16
Changing land transactions.....	16
Land sales.....	16
Rental agreements.....	17
Mortgages - the missing story.....	17

---

**Section 6**


---

Land and Development.....	18
Land rights, PMA, gender and 'development'.....	18
Commercial farming.....	20
Certificates.....	21

---

**Section 7**


---

The implementation of the 1998 Land Act.....	22
--	----

---

**Section 8**


---

Conclusions and Recommendations.....	22
Annex : Ateso Research Questionnaire.....	25
Foot notes.....	35

# Section 1

---

## Introduction

One of the central planks of the Government's development strategy is land policy – and this is true for most formerly colonised states. Land issues are often ignored by many interested in development, either because they are believed to be too complex and specialised, or because their importance is not recognised. Nevertheless, land policy is one of the largest components of the plan for the modernisation of Agriculture (in which many more actors are interested).

Current land reform has been based around three main principles:

- a) the recognition, for the first time in Uganda's history, of customary<sup>1</sup> ownership of land (i.e. where land owners have never had any papers for their land, but everyone has always recognised the family as the 'rightful' owners of that land.
- b) the conversion of customary ownership to formal freehold titling, so that owners have greater security of tenure and can use the land as collateral for loans, and to facilitate agricultural growth and a land market.
- c) the development of a land market, so that investors can acquire land and use it more productively.

This strategy relies on certain assumptions, which have been critiqued on theoretical and practical grounds<sup>2</sup>. It seems obvious, though; that any work to improve a land tenure system will depend largely upon what is already there. Knowledge of what is actually happening within a rapidly evolving 'customary tenure' is lacking. Since it is inconceivable for the Government to incorporate the majority of land in Uganda within a formal State land administration in the short or medium term, customary tenure is going to remain the dominant land holding system for the foreseeable future. No-one believes that customary tenure is operating without problems. Unless it is believed that nothing can ever be done with customary tenure except to wait for it to die away, therefore, it is imperative to understand its workings and its limitations very well. The alternative is to abandon the majority people to their fate, rather than support them. Since land is rightly seen as a pillar of development, and is one of the main sources of conflict nationally, this does not seem an attractive option.

The Land and Equity movement in Uganda – LEMU has already conducted research in customary tenure in northern Uganda (in Lango and Acholiland).

This study is intended to investigate how customary tenure is currently working in eastern Uganda, amongst the Teso and Kumam people. Specifically, the research was to understand land rights under customary tenure in Teso, and the actual situation regarding land transactions and land administration of customarily owned land.

## Methodology

Six research sites were chosen to represent the widest possible range of land situations. These included both urban and rural contexts; areas of mass displacement; older and more recently settled areas; Teso and Kumam areas; and at least one site in each of the Districts of the Teso sub-region. The sites were: Otwanare village, in Ongino sub county and Kumi town council in Kumi District; Abuket village and Kichinjaji (Soroti municipality) in Soroti District; Acowa camp in Amuria District; Oongora camp in Magoro sub-county, Katakwi District. In Aminit village in Kaberamaido District it proved impossible to conduct meetings because the topic was so sensitive that people refused to speak to the research team.

In each of the six sites, we spent two days. In the first day, a community meeting was held to explain the purpose of the research and to identify key informants for interviews and focus group discussions. After the community meeting, each of the 5 researchers met with different key informants and groups of 5 to 10 people from various categories (land sellers, land buyers, widows, youth, LCs). Meetings were also held with members of institutions of land administration such as the tribunal members, land officers, district land board and one land committee. On the second day, the focus group discussions and interviews continued with different groups and at the end of it, another community meeting attended by between 20 to 40 people was held for the research team to give feedback on initial findings from the site and the implications of the findings.

The interviews and group discussions focused on the types of land transactions that are common and knowledge of land law. The research also looked at who is selling and buying land and why, procedures for selling land (including costs incurred), land conflicts, protection of rights, inheritance, and the use of land and food security.

Quantitative information was also collected using a structured questionnaire. The research sites were not randomly sampled, since it would be impossible to ask questions on such a sensitive issue as land without having previously held meetings with the communities. However, sampling within each site was random. A total of 350 completed interviews were conducted. *(A copy of the questionnaire is included in annex.)*

## Section 2

---

### Land rights in customary tenure.

#### How is land under customary law managed in Teso?

Some of the confusion about who ‘owns’ land under customary tenure is because ownership and management of land are not organised in the same way as for freehold land. In freehold, the person (or people) who have their names on the title have the rights to use land as they wish, as long as the planning regulations of the authorities are followed. They can choose whether or not they want to sell the land and to whom (though the Government currently does not allow them to sell land to non-citizens). The Government also sets up the legal and administrative context within which ownership takes place (e.g. institutions such as the District Land Boards, the Land Tribunals, and the Land Registry) without this being seen as an ownership claim.

In Teso customary law, which is almost the same as customary law in other parts of Northern Uganda, rights and responsibilities are not organised the same way. The clan elders have the responsibility for administering land, but this includes the right to say who can sell land and to whom. That is because they have the responsibility to protect the land for all the clan, and to make sure that everyone is given rights to land. (This duty does not exist in the freehold system – one person could conceivably own all the land in the country.) The family head manages the land on behalf of the family as the steward of the land. His rights to manage the land go together with the responsibility to look after the rights of others to use the land, and to make sure that the next generation will also be able to enjoy the land. Other people in the family also have rights over the land. Security of tenure over land always comes with land allocation, on condition only that a household is able to use the land. (This does not imply cultivating all the land each year: fallowing is normal). The family head is responsible for ensuring security of tenure, with clan authorities as the overall guarantor.

The question ‘who owns the land?’ is not really useful. Instead, we try to make clear below who has which rights and responsibilities regarding the land in Teso.

The Clan has responsibility for overseeing the administration of all the land. This means making sure that there are heirs appointed at household levels to manage the land and to oversee and authorise any land sales. The clan also owns land which is communally used, such as for hunting and grazing. It is responsible for ensuring proper use of the land and that there are no trespassers.

A son became head of household at marriage. He is then allocated land to hold and to manage for the good of his family. He is the steward of that land. His wives, children and other family members also have rights to that land, but he is the overall 'manager'. He allocates land to his wife or wives and children.

A widow becomes a head of household on the death of her husband. She then has the responsibility to manage the land which had been allocated to her, and to allocate land to her male children when they become adult and get married. The elders or the clan would appoint an 'inheritor' to support her and protect her from trespassers. The widow did not pass on her land rights to the inheritor – the land passed from her to her children. The inheritor was managed by the clan and would be dismissed if he abused his office.

In all cases the heir is a son and in most cases he is the eldest son who has shown signs of responsibility<sup>3</sup>. However, being an heir does **not** mean that the person inherits the land, but rather that he inherits the role of steward over the land, or the position of family head. (The distinction is crucial: confusion over this issue is the main source of rights violations.) A son who does not demonstrate responsibility loses his rights as heir to the next eldest son. When the head of the family dies, the clan installs an heir in a cultural ceremony. The previous head of the family had allocated land to different people, but some would have remained for his personal use. The heir is responsible for managing this unallocated land. (This role was possibly misunderstood when the law on inheritance Act was written. The law gives the customary heir just 1% of an inheritance, but as his/her own property. The role of heir as steward of all the unallocated land, but in the interests of others, is ignored.)

It was always presumed that a girl would eventually get married, so she would only be allocated land to use until she married and left the clan. On marriage her new clan would give her land to use. Should a girl remain unmarried, the head of the family would allocate land for her. If she has children without being married, she is the head of the family with the responsibility to manage and be steward for the land allocated to her family - the same responsibility which a married son has for his family.

Under customs, divorces are not expected. If a woman does divorce, she is expected to return to the brother who used her dowry for his marriage. He is expected to share his land with the sister. If the heir still has unallocated land, then the divorced woman is allocated land and becomes head of family. Her children may have rights to use the land but can never be given land to manage as heads of their family. They are expected to return to their father's land.

There is a principle that everyone must be given the right to use land. In the past, this was not a problem. Families owned large areas, and if land was short, a household could claim virgin land or could be granted clan grazing land. Nowadays, there are problems meeting these rights (see below), and inevitably there is a 'pecking order' in rights' claims. The pecking order is not based on official customary law, and so can depend on individual family practice. Broadly speaking, though, the more powerful come before the less powerful – as elsewhere in the world. Elder sons come before younger sons, if only because temporally, they usually marry first, and so are given their share of land first. Sons who have physical strength and show responsibility and aptitude for farming may be given more or have stronger claims: the disabled may have weak claims, if a stronger brother claims that they would be physically unable to use the land productively. Sons come before daughters. The children of an unmarried girl ("children born at home") may come last.

Although it is often said that under customary law, land could not be sold, land sales date back many years in Teso. In principle, these sales were regulated by the clan. Sales to other clan members who had little land for themselves would tend to be allowed, if the rights of all the members of the family selling the land were being taken care of. Land renting has become very common in Teso (see below). Since this is a temporary contract, questions relating to 'protecting land for future generations' do not apply. Rental agreements therefore do not need clan consent.

### **wills**

The study found very few cases of people making wills regarding the inheritance of their land. This is despite the fact that many organisations in Uganda have highlighted the making of wills as one of their messages, often in the context of AIDS-related work. It was not within the scope of this study to examine in detail why will-making was so rare or what messages people had been given relating to wills. One issue which arose was that encouraging people to make wills is usually set in relation to 'preparing for death' and is rarely set in a context of customary land law. Wills are thus seen as an individual matter, not witnessed or approved of by family heads or clan elders. As a result, wills are easily ignored, and people reported that they have little confidence they will be respected. The lesson is clearly that wills are not a 'stand-alone' solution, although they may have a role to play within a broader based framework for protecting land rights.

## **Wetlands: the ownership vacuum, or a partnership for environmental development?**

Another impact of the steadily weakening customary land management and clan authority is seen in the wetlands. In the past, these were managed as grazing land for the benefit of any clan members owning cattle – which was the majority of households, prior to the destruction of the Teso agro-pastoralist economy in the late eighties<sup>4</sup>. The situation was further complicated by the 1998 land law, which makes all wetlands state property (on environmental grounds). However, the State does not have the capacity to enforce this law, and has not yet surveyed and demarcated which areas are properly wetlands. A situation has been created in which there is a management and ownership vacuum. Rather than maintaining the wetlands as an environmentally protected ‘no-go’ area, a free-for-all has been created, where a ‘common property’ (with rules and management at community level) has been turned into an ‘open access’ (no rules) resource. The situation is extremely sensitive politically, because some of the encroachment onto wetlands has been from outside Teso, from different ethnic groups. This has led to many fears that the issue can be manipulated on ethnic grounds in either direction, either using the claim that ‘all Ugandans have the right to settle anywhere in Uganda’ or that “Teso lands are being stolen, because the Government is stopping Teso using their own land, in order to give them to ‘foreigners’ (i.e. non-Teso)”.

In fact, the case of the wetlands could be an area where a very fruitful partnership could be created between the State and customary land authorities. The State is (rightly) concerned to ensure the protection of wetlands, but not to prevent anyone from entering there. Environmentally sound management plans can be set up and approved by the National Environment Management Authority (NEMA) and the Ministry of Lands. On the other side, customary authorities have interests which are outside the realm of looking for titles to the land in order to sell the land for ‘development’. A joint management regime, whereby customary authorities oversee and manage the use of the wetlands according to State approved plans could be set up. This would turn neglected areas into economically productive resources, whilst protecting the environment: and would establish trust between local customary administrative structures and State administrative structures around one of the most sensitive areas of conflict, land. The use by non-Teso of state owned lands could then be negotiated within the context of an agreement which gave recognition to some customary management, but not ownership, of the land.

### urban land issues

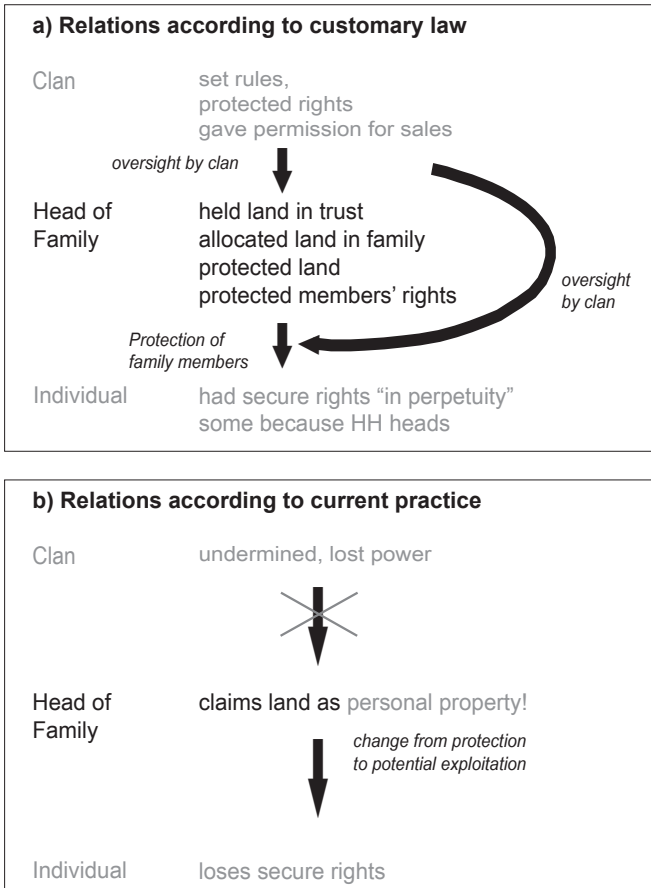
The urban land problems are numerous and slightly different from the rural problems. (Some of the same problems also occur, such as husbands selling land without the consent of their wives). The distinctly urban problems are as follows:

- Unprofessional behaviour of surveyors. (The registered surveyors are few, and those presenting themselves as surveyors may not be properly registered.)
- The presence of two 'planning maps', one drawn by the municipality (which has responsibility for planning) and one by the District Land Board (which has responsibility for allocating leases). Plots have been allocated before a deed plan was prepared by the Central Ministry, with the subsequent map giving a different plot number to that given by the District. There are cases where the plot was at cross-roads, but the maps even gave different road names, suggesting that work is done without visits to the fields. The confusion has led to inadvertent double allocation of plots and subsequently to conflict. Double allocation of land also occurs because the Municipality and the District Land Board have allocated the same piece of land to different people.
- Lack of purchase price and compensation paid by the District, when land is taken for 'development' (under compulsory acquisition);
- People are unable to acquire Certificates of Customary Ownership (CCOs), because there are no land committees. The District Land Board is instead issuing new leaseholds on privately owned (customary) land, and advising the owners to apply for conversion of the leasehold titles into a freehold. This means they incur the costs of surveying the land, which is not necessary for a CCO.
- District Land Boards treat customary land in the municipality as if it is "land not owned" or as if it is automatically State land, and issue leaseholds titles to third parties. This is illegal.
- Custodian board houses may be claimed by 3 to 5 people and all will have some form of legal documents to prove their claims.
- The boundary of Soroti town was established in 1962 by an Act of Parliament. But in 1980 Soroti district council resolved to extend the municipality, to be known as 'Greater Soroti'. No legal procedure was taken to make this a legal boundary of the municipality, though the municipal council has (illegally) tried to extend its planning authority over Greater Soroti.

# Section 3

## Trends in customary land management

The role of the family head as the steward of land for his (or, occasionally, her) family is being eroded for a variety of economic and social reasons. Increasingly, the family head is claiming that he owns the family land, holding it as his personal property, without any legal obligation to give land rights to all their family members<sup>5</sup>. In many cases, clan elders no longer have the power to counter the family heads. In the absence of access to a state administration or judicial authority which understands land claims under customary tenure, people's rights are regularly being violated. Such a situation is now commonplace in Teso.



**Fig 1. Diagram of changing relations in customary land ownership**

(It is interesting to compare the weakening role of stewardship of land in customary law with the parallel role of ‘trustee’ of land in the State administration. In recent years we have seen a gradual weakening of this relationship of trust, as Government’s too claim land held in trusteeship for the people as its own land to be given away as it sees fit.)

### **boundary conflicts**

As elsewhere, the main reported land problem is boundary disputes. These represented exactly half of all reported problems of questionnaire respondents. Some of these conflicts may be genuine disagreements about boundaries or unwitting trespass, but many follow the same pattern that we have described above, namely the ‘strong’ taking advantage of the ‘weak’. Mechanisms for dealing with the conflicts are not working well. The customary structure has been sidelined and has lost authority; it is necessary to pay to get access to the State system, which is often not even-handed; and the State system cannot enforce its judgements.

These conflicts are the main motivation of the minority who want to have their land surveyed. In fact, they are largely avoidable at far less cost, if there were a clan system of publicly agreeing on all boundaries in each village, and then marking all boundaries in a standard way (e.g. planting a specific species of tree). Cooperation between the State and the customary authorities to facilitate these kinds of processes would help avoid conflicts and reduce the strain on the justice system, but have so far not been prioritised.

### **isn’t it just about too little land for too many people?**

It is harder to explain simply why land grabbing is becoming more prevalent, since it is the result of many social and economic changes. Increasing population density and (relative) land scarcity do not seem to be absolute factors, since there is no evidence that land grabbing is confined to those with least land. However, it is probable that increasing land shortage is a factor, if only indirectly, as land gains an ever higher market value. What is clearer is the way in which increasing land scarcity is exacerbating the impact of the problem. Previously, the clan could intervene to protect those who had lost land rights, even if it couldn’t sanction or reverse the actions of rights violators. The clan had its own land as a clan, in particular land which it used collectively for grazing. Small plots of this land could easily be allocated to those who had lost land rights. This land is now scarce, and so the mechanisms for social protection have been eroded.

Land scarcity does cause problems in a rather distinct way, in that people can lose land without losing land rights. A family of five sons may own three acres of land. As each son marries, he is allocated a garden, e.g. of around an acre.

By the time the fourth son is ready to be given land, there is simply no land left to give him. No-one is disputing his right to land, and one cannot call this a case of land grabbing. He is left landless because his family do not have the possibility to grant him the rights which they accept that he has. Such a child has to move to town and seek an alternative livelihood, or has to rent land. These cases are becoming increasingly common. Land rental is clearly associated with areas of higher population density. The most striking case is in Katakwi, where much of the population is displaced in camps. These are areas of exceptionally high population density and where people are effectively landless, despite owning land in their villages (to which they have limited access because of insecurity). In Katakwi, land rental is one of the most common ways of accessing farm land.

Again, in the past, the clan had mechanisms for helping protect its members. One of the powers of the clan was to reallocate 'excess' land, which a family was not able to use to clan members who did not have land. (This power is a main reason why land held under customary tenure is so often erroneously said to be 'owned' by the clan.) 'Excess' land no longer exists. Indeed, the pressure on land today means that no family would wish to see land which they were not cultivating revert to the clan, because they are well aware that in the future their family/ies will be short of land, with no hope of ever getting an allocation from the clan. (In the past, when land was more plentiful, the power to reallocate land would have been considered socially acceptable and not threatening to an individual interest.)

## Section 4

---

### vulnerability

#### where do rights violations come from?

The research showed that vulnerability to losing land rights can be analysed quite simply in terms of power. There are two dimensions to this power: an internal one and an external one. The internal dimension relates to one's position in the 'pecking order' of rights discussed above. People lower down the order are vulnerable to those at the top who abuse their role as land stewards to claim the land as their own property. They give their claim quasi-legal justification on the basis of this very pecking order, by perverting some of the basic principles of customary law - '*women can't own land*', the head of the family '*owns*' the land on behalf of his brothers, etc. The external dimension comes from the way other features of power in society are used to reinforce land grabbing. These features may or may not overlap with those described

above. For example, an elder brother may, as a result, have a stronger social position within society than his younger brother, be better educated or wealthier. He can then use this position to get his own way, e.g. by intimidation, despite the fact that his claim in customary law is invalid. There are also cases where power is unrelated to position within the family, and here land grabbing is much more naked. A major problem currently stems from the recent arming of many young men as part of the 'Arrow Boys' militia. Some could use their guns to give physical threat to their land grabbing. Those who lose land are simply intimidated into silence, knowing the alternative could be death<sup>6</sup>. Orphans are losing land to their uncles in this way. There are two features about the trends of land grabbing.

- a) it is getting more frequent, according to all informants.
- b) it is getting more dangerous, because of the local proliferation of arms.

### **whose rights are at risk?**

As discussed above, vulnerability relates primarily to position in the pecking order. The most vulnerable are therefore those at or near the bottom. The most important instances are the following, since they put the land rights of many thousands of people under threat.

### **widows**

The vulnerability of widows has been well documented elsewhere, and was echoed just as strongly in Teso. The potential fear of losing land rights hangs over women's heads while their husbands are alive. They are essentially hostages to their in-laws which guarantees their 'good conduct'.

Unfortunately, the debate over widow's rights (and women's rights in general) has often been set in the context of individual rights. The problem is that an individualistic perspective of rights is not the actual (customary) legal context within which rights are claimed and given. It is true that women are given rights using a different language from that used in giving men rights, and it is understandable that this is felt wrong by those who fight for equality of the sexes. A widow's status position may be linked to being a mother of her late husband's children, giving her rights within a family context. However, the far more serious discrimination lies elsewhere. In practice, if widows need money for the education of their children, they are often prevented from selling a small part of the land which they (with their children) have inherited, although such a sale is clearly allowed by customary law. A father would not be prevented from selling the land in these circumstances. The discrimination which really affects women badly is that which restricts their rights to look after themselves and their children, within the context of their owning land as members of a wider family. Concentration on the fact that they do not have individualised ownership of land does not advance the cause of women in practice, because it is an assault

on the whole legal perspective of customary law, and not on the abuses and discrimination which are practised within that perspective.

### **children of unmarried girls**

According to Teso customary law, the children of unmarried girls (“children born at home”) are members of their mother’s clan, and as such have full rights to inherit land from their maternal grand-parents. They are, however, an easy target if their mother’s brothers are land-hungry. An excuse which is often advanced for stealing their land is that they have to be sent away because they are ‘badly behaved’ and ‘don’t belong’. (The excuse of bad behaviour is an easy one and also used against widows.) It is very difficult to interpret this charge. Is it merely an excuse with no foundation at all? It is also possible that the behaviour of the children has been influenced by the fact that they have been rejected almost from birth by their families (who resent their claims to family land and the failure of their mother to have brought in dowry?). Reportedly, the sons of unmarried girls are more likely to be rejected than the daughters. This would tend to reinforce the idea that the rejection is land greed and not really based on the behaviour of the children. Girls do not represent a great land threat, since the presumption is that they will marry and leave the clan - and its land. In fact, girls are of economic benefit, since on marriage they will bring bride price to the family.

It should be stressed that position at the bottom of the ladder does not mean one has no land rights, only that one is vulnerable to the behaviour of the rest of one’s family. Many in-laws and uncles take good care of their families and respect customary law. What is at stake here are excuses put about by land thieves: the problem with customary law is its inability to enforce itself, and not so much with the rights which custom actually gave people.

### **wives**

In Lango, we found almost no cases of the people being aware of the (State) law which says that a wife must sign her consent to the sale of any land on which the family depends<sup>7</sup>. Even when made aware of the law, there was widespread disagreement with the principle, even from LCs. In Teso, the situation for women was somewhat stronger. There was the same lack of knowledge of the ‘consent clause’ (even among LCs), but far more awareness of the idea of government’s position on women’s land rights, and far more respect shown by men to women’s land rights. In Lango, one regularly hears that ‘women can’t own land’, but this is not such a constant echo in Teso. Both men and women talk about farming together, making joint decisions on how to use family or household land.

## Section 5

---

### Land Transactions.

#### changing land transactions

It is difficult to be certain about the reliability of any figures relating to land sales or other transactions. A survey of 350 respondents showed that just 18% had purchased land – well below the results of other surveys. This figure is thrown more into doubt because only 5% reported that they had sold land. In the same way, 29% of households reported renting out land – but only 5% said they had rented land in. The one does not necessarily negate the other – a few could be selling or renting land to many different people – but it does raise questions about the data. More detailed statistical analysis on who is trading in land and why could not be developed. Ironically, qualitative questioning may be a better guide to what is going on than quantitative information of doubtful reliability, and we therefore largely restrict ourselves to qualitative analysis of land transactions. (Qualitative research can, of course, also provide unreliable information, but it does give the researcher the opportunity to probe and challenge!).

#### land sales

The land market has developed quite differently in Teso from Lango. In Lango, land purchases were often by the rich, and urban based people, who were using the land as an investment, rather than for immediate settlement and to farm personally. In Teso, purchases are mainly by local people with little land, who are looking for more land to farm themselves. Sales are far more likely to be within the wider family, or at the very least within the clan. This is partly because of the nature of the purchases: the buyers are not usually totally landless (only 35% of buyers), and obviously want land within the same area as they are already living and farming. However, there is also more cultural opposition to selling land to outsiders. It was not possible within this study to quantify to what extent this has prevented prospective buyers.

There are differences in the pattern of the land market even within Teso. The situation is quite different in Serere, where the population immigrated more recently, mainly from Kumi. Many clan elders there are selling land to finance consumption. Land conflicts seem highest here, and it seems that land sales are too, although it was not possible to get reliable enough quantitative data on this, or to be able to isolate other variables, to be certain.

A likely explanation is that the 'clan' is much weaker here since many families moved to Serere independently. Attachment to the land is also culturally weaker, with land seen more as an economic asset or factor of production. Both of these would facilitate a situation where land sales were less controlled.

## rental agreements

As we have seen, rental agreements are more common than land sales. Apart from isolated cases of people who had moved or who had sought to farm land of a different type, almost all cases of renting were due to the family land being insufficient. In a quarter of these cases, respondents said they had no other land. (This was just half of the people overall who said they had no land, who totalled just under 6% of the sample). Increasing pressure on land is therefore only just beginning to create landlessness: too small landholdings is still the main land problem. This is significant, since what counts as 'too small' to keep a family depends upon the productivity of land and market conditions. Land shortages may therefore be amenable to quite different interventions to those needed to tackle landlessness (see below).

Various problems could attend such rental agreements. Less than one third of such agreements involved a written agreement – in fact, a surprisingly high percentage, but still leaving the majority of people vulnerable to conflicting versions of the agreement. Such conflicts are not necessarily malicious: misunderstandings are common, and a common problem was the death of one or other party to the agreement. However, although these stories were heard during the group meetings, no respondents to the survey reported conflicts due to rental disagreements.

## mortgages – the missing story?

One land transaction which was found in Teso which was not seen in northern Uganda is local 'mortgaging'. Someone who needs cash urgently will borrow money, giving the land as security. The interest on the loan is paid by ceding the use of the land until the loan is repaid. In some cases there is a time limit, by which the money must be repaid, or else the land is forfeited, but in other cases the loan is open ended, with the continuing 'interest' being satisfactory for the lender.

It seems that in many cases, the arrangement is not a purely commercial one. The lender is someone known to the borrower, usually someone better off within the village. The loan is partly a favour, one of the social obligations which better off people have towards those in need within the local society. This fact possibly explains one obvious question which has nevertheless to be raised: why is mortgaging not more common across the country? Why would anyone want to sell their land to meet an emergency, if they could mortgage the land? In this way, they have a chance to repay the loan and so avoid losing the land. (In the worst case, they would simply lose the land, as if they had sold it.) If granting a loan secured on the land is a semi-favour, then there may be a difficulty in finding people prepared to advance loans rather than to take advantage of people's distress in order to buy land cheaply. This question needs much

more investigation because it opens a very promising way of helping avoid landlessness. If there could be better information systems regarding those needing loans and those willing to give loans (for which they gain the use of extra land without having to pay rent), then it may be that many 'distress sales'<sup>8</sup> could be avoided.

One other area in which there is potential to support these local transactions relates to documentation. Lack of written agreements is common, and this has created cases of difficulty, without there necessarily being any intended ill-will on either side at the time of making the arrangement. For example in one case, a man died owing money, and his wife simply lost the land. She had no details of the arrangement – about how much was owed, whether or not there was a time limit for repayment. In theory, the law would be on the woman's side, since the husband had no right to mortgage the land without the written consent of the wife (the so-called 'consent clause', normally referred to in reference to land sales, but actually covering all transactions on land.). However, we have already shown how the consent clause is unknown and inoperative across the country<sup>9</sup>.

Bringing transactions such as mortgages within a judicial framework within customary tenure would give the same measure of security and fairness to each side, but in a much more acceptable way: since the transactions take place within the culture of customary law, both parties can much more easily accept that they are subject to the rules of customary culture, as adjudicated by customary culture. Expecting a man who is trying to help someone in trouble by giving a loan to then submit himself to a legalistic procedure involving LCs and courts would almost certainly deter any prospective lenders to the detriment of all.

## Section 6

### Land and Development.

#### Land rights, PMA, gender and 'development'

Two sets of assumptions have been heard relating to development and land. On the one hand, there is a belief that for economic development to happen, it is necessary to transform farmers from being (conservative, or 'backward') subsistence farmers into being (innovative and 'modern') commercial farmers. This belief is the very basic premise of the Plan for the Modernisation of Agriculture (PMA), the centre of Government agrarian policy. This is coupled with a belief that in order to commercialise agriculture, it is necessary to have land titled (to give farmers security on their land) and to develop a land market

(so that progressive farmers can buy up land and use it more productively than current owners.) This is why land reform (e.g. the current project of systematic demarcation of land for titling) are included in, and funded from, the PMA.

On the other hand, there is a fairly common perception among gender activists that development can actually make things worse, because men are better than women at appropriating development initiatives for their own ends. The argument is roughly summarised as follows:

Many development practitioners are not sensitive to gender considerations, and regard technical innovation as 'gender neutral' – meaning that a seed which yields more will yield more for both men and women. In fact, improved seeds tend to be used more by men than by women, and that this is not in the interests of all, because men and women do not always share interests. Men use the fact that they are using improved seeds to take greater rights over the (family) land on which they are cultivating the crops. They use the harvest as a cash crop, rather than for feeding the family as used to be the case. They appropriate the money for their own purposes, such as taking on more wives, which are not necessarily in the interests of their families. Women are losing security of land rights because men have a greater appetite for more land for themselves. In this way, development agents are unwittingly bringing more problems for women.

The argument is certainly plausible and would make a classic case study for gender training, since there is no doubting the underlying theses which have been well documented and studied many times (that men's and women's interests don't always coincide, that most development agents don't think about this and that their interventions are used creatively by one side or the other to advance their own interests.) The questions which concerns us here is, are they true in the case of Teso?

According to Teso practice, men and women do not in general have separate fields, but cultivate together on the same land. As such, it is not strictly true that men can use the use of a particular seed to take over more land: the question is more about how decisions about land use get made and how harvests are controlled. Almost three-quarters of respondents (both male and female) said that they used 'improved' seeds (71% of female headed households, and 72% of male headed households.) In many cases, the respondent of a male headed

household was a woman. Looking only at these (female) respondents, over three-quarters (79%) told us that either they, as wives, made the decision themselves to use these seeds, or, more usually, that they decided together with their husbands. Fewer than 3% reported that the harvests were used only as a cash crop: two-thirds (64%) used them only for food, whilst the remaining third (34%) used the harvest both for food and for cash income. This was true even for households where (according to the respondent's report) it was the man alone who decided about the use of the 'improved' seed.

We cannot say that these figures necessarily hold true for the whole of Teso, since the study sites were not selected randomly (see above, methodology). However, since the story remains the same for all study areas, which were chosen to reflect a wide variety of situations, we have little reason to doubt it. If this pattern is true, then the promotion of new seed varieties is not currently a threat to women's rights to land. We did not look for evidence as to the benefits or otherwise of these innovations, but can report that no respondent reported that they did not use the new seeds because they did not like them. This would suggest that extension in this area has been both a positive and reasonably gender-neutral intervention. Threats to women's land rights are real and present in Teso, as we have seen, but agricultural development does not have to be opposed to these rights.

There is equally little evidence to support the other view, presented above, either that titles are necessary to allow a land market to emerge or that a land market will lead to a change in land use to commercial farming and, with it, economic development. This parallels findings from similar research in Apac District. Land transactions are common on untitled land, particularly rental agreements. Those buying land are using the land in the same way as those selling the land, with the transactions serving to redistribute land rather than to change its use. The real barriers to smooth land transactions are the high costs involved because there are no clear procedures to follow (LCs demand payments – with no legal authority to do so; witnesses also demand payments). The high uptake of agricultural innovations, including as a cash crop, suggests that farmers are looking for ways to develop their agriculture. Their constraints are economic: lack of investment capital and low prices for produce.

### **commercial farming**

The current pressure on land in Teso means that many households are starting to face the fact that they do not have enough land to produce a viable livelihood. Alternative livelihoods in the rural areas are insufficient to fill the gap. With a high rate of population growth, this problem is getting worse each year. Development policy is centred around turning so-called 'subsistence farmers' into 'commercial farmers'. Since all farmers in Teso produce for the market to

some degree, in practice 'commercial farming' really only means large scale farming. It is clear that it is not possible for most households to become large scale farmers, since the land is inadequate. In the medium term, agricultural development can only come from relatively small holdings. Intensification on the scale needed is going to require much more than the occasional release of new and higher-yielding varieties, important as these developments are. Higher value production requires a far greater investment than has been evident in research, in extension and in support to a more efficient and equitable marketing structure.

### **certificates**

The pilot process of systematic demarcation for titling was introduced in Soroti District, and has aroused much distrust and fear. Nevertheless, many people (28% of those sampled<sup>10</sup>) expressed a desire for certificates of ownership – more than in Lango. The reasons they gave relate to the collapse of trust in the ability of customary authorities to guarantee their ownership rights. In qualitative discussions, many expressed the worry that even though their security of tenure within the customary system was guaranteed, it was too easy now for 'an uncle' simply to sell your land behind your back – and nothing could be done. Questionnaire respondents mostly (60%) cited the desire to avoid conflicts with neighbours as the reason for wanting a certificate – in other words, they did not want a certificate so much as to have marked and securely recognised boundaries to their land. 24% of those who wanted certificates, or 6% of those sampled, wanted to protect the land from theft. Only three people said they wanted to use a certificate in order to secure a loan.

Certificates of customary ownership are provided for in legislation, but they have still not been operationalised by the state administration. The procedure for acquiring the certificates is laid down, and is not complex or expensive. It is difficult to understand why the Government is so slow to respond to people's desire for certificates, since this harmonises so well with current Government policy on land.

Certificates of customary ownership should not be seen as a panacea for land conflicts. By formalising ownership rights, they protect against some violations of rights, but open the way for others. It is beyond the scope of this study to discuss this in detail<sup>11</sup>.

## Section 7

---

### The implementation of the 1998 Land Act.

The implementation of the Land Act in Teso is not different from that in Lango<sup>12</sup>. The only land committee that was formed was in Kamunda in Soroti where the government systematic demarcation project was to start. Since this met with resistance, the district and land administrators have been wary of setting up other land committees. The second reason given for not appointing land committees is the lack of funds by the district council, though these posts do not have to be full time paid posts and could be self-financing from fees collected.

The situation of the District Land Tribunal (DLT) is poor, as the chairperson has to go in a circuit in 5 districts<sup>13</sup>. There are many complaints about the Tribunals. Cases have been adjourned up to 23 times. There are cases where the complainants and the respondents met in the DLT office and started to fight, because there was no other way of solving their dispute. There is a principle in law that 'justice delayed is justice denied': this is literally true in the case of the Teso DLT, because there are cases where a party to the case has died and the files simply closed. Some of the secretaries to the DLTs have been advising people not to file their cases in the tribunal, but to settle out of court or to go to the clan.

The position of Registrar, necessary in the formation of Communal Land Associations, remains vacant to date, eight year after the creation of the post by Parliament. The Recorder, who is the Sub County Chief, exists but is not carrying out any of the roles under the Land Act.

## Section 8

---

### Conclusions and Recommendations.

Customary tenure has proved more resilient in Teso than in northern Uganda, and has better adapted itself to modern economic realities whilst still maintaining a greater degree of respect for the values underpinning customary law.

Major threats to land rights violations come from three main sources: within the wider family, from family heads personalising property ownership, to the detriment particularly of wives, widows and the 'weak'; more obvious theft from within the community; and from local authorities taking over land without compensation.

The first two sources of violations can be dealt with most effectively within the customary structure, if this were supported to do so. In fact, it should even be held accountable for doing so, by the State administrative and judicial structures, but this can only happen if a partnership relationship is created.

Respect for women's rights generally in Teso gives a more encouraging possibility for dealing with women's land rights within the customary structure.

The third problem, of local authorities failing to compensate for land compulsory acquired is a failure of the legal system as a whole, including the inability of people to access justice through the District Land Tribunals. The causes of this are well documented, and include people's lack of knowledge of their rights, the local authorities' lack of knowledge of the law, and the lack of capacity of the DLTs to deal with the high number cases.

For land rights' protection under customary tenure, the state needs to change its attitude towards customary tenure and to improve its understanding of the rights and management systems in order to enter into a partnership with the clan system. Important areas of partnership are in the writing of laws to govern customary tenure and provision of a court system that starts with the clan and ends with the state courts. Currently, the Local Government Act gives the district councils the responsibility to pass ordinances and byelaws. They would need to be supported in this role by the Uganda Law Reform Commission, as it is a new role for the new councils.

A partnership could exist where the state management systems holds the clan system accountable to protect the rights of the vulnerable categories of people. Loss of land rights occur when land is sold without the consent of the family members, including the wives. The state needs to prescribe for the procedure for selling land, and ending the support with recording land transactions with the recorder.

The state also needs to understand the potential that customary tenure offers in its Plan for Modernisation of Agriculture and to support agrarian reform, based on what is happening on the ground, to happen. If the state continues to operate in the current way, by leaving customary tenure to its peril and working towards converting it to the formal system, we should expect a loss of land rights for mainly the "weaker" people, landlessness and an increase in poverty.

The central government needs to hold the district councils accountable for the implementation of the Land Act, especially in the recruitment of the Registrar, formation of the Area Land Committees and ensuring that the recorders are operational. The mandate of the recorders should be broadened to record

transactions on customary land that has no certificate or titles. Central government could discuss with the district councils possibilities of sharing the costs of recruiting key staff, i.e. registrar or discussing with the districts innovative ways of distributing the roles of a registrar to other staff, i.e. the land officer. This has been done in other districts such as Kamwenge.

## Annex : Ateso Research Questionnaire

Village (*Ecaalo*) \_\_\_\_\_

Sex of interviewee (*Inyona bo yen ingisingisio*)     Man                       Woman

Estimate of wealth of respondent     Rich     middle     poor

Age of HH head    a)  <18    b)  18-25    c)  25-35    d)  35-45    e)  45-55  
f)  >55

1. Is the head of the household a man or a woman?  Man     Woman  
(*Erai yen epolo kore ekiliokit arai bo aberu*)

2. What transactions have you ever carried out in relation to land?  
(*Anyoikana bo aisomanareta nu itolositor ijo nu ikamunitos alupo*)?

	Year	Year	Year
a) <input type="checkbox"/> Bought ( <i>agwelit</i> )	_____	_____	_____
b) <input type="checkbox"/> Sold ( <i>agwelarit</i> )	_____	_____	_____
c) <input type="checkbox"/> Rented out ( <i>aipagisaar</i> )	_____	_____	_____
d) <input type="checkbox"/> Rented in ( <i>aipagisa</i> )	_____	_____	_____
e) <input type="checkbox"/> Mortgaged ( <i>aititingaar</i> )	_____	_____	_____
f) <input type="checkbox"/> None ( <i>emame</i> )	_____	_____	_____

If Yes,

3. In what year(s) (mark the space provided above)    *Toma okaru bo ani*

4. Do you drink milk from your own cows or do you buy it?  
(*Akile nu imasi, icirununei jo akituk okn aria bo igwelininei jo*)?

a) Has cattle    b) buys milk    c) doesn't buy

5. Do you ever hire labour to work on your land?  
(*Itacenenei ijo eswamak aswam amusirin kon*)?     Yes     No

6. For food crops or for cash crops? a)  Food    b)  Cash    c)  Both  
(*Kanu ikorion lu'nyaman arai bo lu eraasi lugwelar*)

7. Do you ever work for other people on their land for money or for food?  
*(Ipakasaenenei ijo isirigin amusirin ka'lucie – KOMAM erai aleya arai bon at eiuwu)?*  
for money                      for food                      No
8. How do you prepare your field?  
*( eipone bo ani itemonokina jo amusirin kon)?*  
 a) own ox plough    b) rent plough    c) by hand-hoe
9. Do you ever use improved seeds on your land? Yes    No  
*(Itwasamaenenei ijo ikinyom lu isiteteunitai)?*
10. Which crops (Iraan bo ani?) \_\_\_\_\_  
 \_\_\_\_\_
11. Where did you first get them *(Aibo igeunia ijo adumun kesi)?*  
 a)  Bought them *(agwelun)*  
 b)  Gift from a friend *(ainakinet kama ipapero)*  
 c)  From NGO *(Kama ejai erionget kalu ojokotau)*  
 d)  From extension worker *(Kama ejai eswaman lo apugan)*
12. Do you keep improved seed to plant each year? Yes    No  
*(Ingadenenei ijo ikinyom lu isiteteunitai kanu aira ngon karu)?*
13. Do you use them for food crops or for cash crops  
*(Kanu ikorion lu'nyaman arai bo lu eraasi lugwelara)?*  
 a) Food                      b) Cash                      c) Both
14. Who made the decisions about planting them?  
*Lubo angai opotu itatamata nu aira?*  
 a)  Husband only  
 b)  Female HH  
 c)  Husband and wife  
 d)  Husband and other family members

15. Would you like to have a Certificate ownership for your land?

*(Ipuda ti ijo ajaut kede Aiwadikaet na itogogongit akon'lupok araut nukon)?* Yes No

If Yes ...

16. Why *(Kanu inyo)*?

a)  Prevent conflict with neighbours

b)  Prevent conflicts within family

c)  Prevent theft of land by others

d)  For collateral for a loan

e) Others *(Acie)*? \_\_\_\_\_

If No ...

17. Why *(Kanu inyo mam)*?

a) Unnecessary)

b) Cost

c) Land belongs to family

*(Eraasia alupok nu ekale / Ekale ngesi elopet alupok)*

d) Fear conflict within family *(Akurian engunget kotoma okale)*

e) Fear future sale more likely

*(Akurian bala epedorete agwelario mwakace)*

**For those who have bought land only.**

17. What was the reason for buying land?

*(Inyobo apeleikinet na agwela alupok)?*

- a)  Household had too little land for subsistence
- b)  to move
- c)  to have land of own (not family);
- d)  to have different kinds of land
- e)  to enlarge production, or commercial agric.
- f)  For building
- g)  Other \_\_\_\_\_  
\_\_\_\_\_

18. What was the size of the land you bought?

*(Etia bo ai alupok nu igwelik ijo)? (write in the units given by respondent. Give acre equivalent in brackets)*

\_\_\_\_\_ ( \_\_\_\_\_ acres) (year \_\_\_\_\_)  
 \_\_\_\_\_ ( \_\_\_\_\_ acres) (year \_\_\_\_\_)  
 \_\_\_\_\_ ( \_\_\_\_\_ acres) (year \_\_\_\_\_)

19. Was there any title to the land? *(Ajaatatar alupo ngun kede Aitutuket)*

Yes No

20. Was the sales agreement written down and recorded anywhere?

*(Aponi acamanar ngin na agwelakin kiwadikai kede aitolomikin nen dio)?*

- a)  Verbal only
- b)  Written, only with buyer and seller
- c)  Also with LC
- d)  Also with sub-county
- e)  Also with traditional authority

21. Who was involved in the decision to buy?

*(Lu ka ngai bo ajaasi toma aitojokario na agwela, agewlar, arai bo aipagiisa)?*

- a)  Husband only
- b)  Female HH
- c)  Husband and wife
- d)  Husband and other family member
- e)  Wife only

22. Do you have other land, apart from the land you bought

*(Kilema ber nu igwelit ijo, ijaatatar ijo kede acie alupok)?*

- Yes                       No

23. How big is the other land you own?

*(Etia bo ai alupok ngun acie nu ijaatatar ijo)? \_\_\_\_\_(acres)*

24. How do you get this land *(Eipone bo ani idumunia ijo alupok nu)?*

*(tick more than one if necessary. Indicate acres for each source)*

- a) Own from inheritance
- b) Have share in family land
- c) Given land
- d) Can use communal land
- e) Other

25. Are there differences in the way you use the land you bought from other land you use?

*(Ejaasi atiaketa toma oipone lo itwasama ijo alupok nu igwelit ijo, kede nu cie alupok)?*                       Yes                       No

26. What differences *(Inyoni bo atiaketa)?* \_\_\_\_\_

27. **For those who have sold land only.****Otherwise proceed to question 35.**

What was your reason for selling (*Inyoni bo iinakini ijo agwelar*)?

- a)  To meet emergency need for money (sickness, death, etc.)
- b)  fearing to lose land
- c)  no-one to leave it to,
- d)  to meet an 'investment' need for money
- e)  to move
- f)  to pay school fees
- g)  to pay bride price
- h)  conflict on land
- i)  other \_\_\_\_\_  
\_\_\_\_\_

## 28. What was the size of the land you sold

(*Etia bo ai alupok nu obu ijo kogwela*)?

(write in the units given by respondent. Give acre equivalent in brackets)

\_\_\_\_\_ gardens (year \_\_\_\_\_)  
 \_\_\_\_\_ (year \_\_\_\_\_)  
 \_\_\_\_\_ (year \_\_\_\_\_)

## 29. How did you choose which land to sell

(*Eipone bo ani obujo oseuna alupok nu'gwelara*)?

- a)  Least fertile land
- b)  Most valuable land
- c)  Smallest single plot
- d)  Largest single plot
- e)  Other \_\_\_\_\_

30. Was there any title to the land (*Ajaatatar alupok ngun kede edio title*) ?

Yes       No

31. Was there a sales agreement written down and recorded anywhere?

*(Aponi igirunai adio aitutuket)?*

- a)  Verbal only
- b)  Written, only with buyer and seller
- c)  Also with LC
- d)  Also with sub-county
- e)  Also with traditional authority

32. Who was involved in the decision to sell?

*(Lu bo angai apotu itatamata nu agwelar)?*

- a)  Husband only
- b)  Female HH
- c)  Husband and wife
- d)  Husband and other family member
- e)  Wife only

33. Did the wife give her written consent to the sale?

*(Abu aberu da kitolomu ake aiwadikaet acamakin agwelario ngin)?*

- Yes      No

34. How much land did you remain with after selling your land?

*(Etia bo ai alupok nu ideuna kede ijo akaulo na ijo agwelar alupok kon)?*

\_\_\_\_\_ gardens

35. ***For those who have rented out land only.***

What was your reason for renting out land?

*(kanu inyo ipagisaara jo alupok)?*

- a) Need for cash
- b) Unable to farm all the land
- c) To help someone who needed land

36. What kind of agreement did you have?

*(Aitutuket bo na eipone ani opotu eesi itolomutu)?*

If none: ask “did anyone act as a witness to the agreement?”

*(ajaa adio ajenak)?*

- a) Verbal, no witnesses
- b) Verbal, with witness
- c) Written

37. Who decided to rent out the land?

*(Lu bo angai apotu itatamata nu aipagisaar)?*

- a) Husband only
- b) Female HH
- c) Husband and wife
- d) Husband and other family member
- e) Wife only

38. Did the wife give her consent to renting out the land?

*Abu aberu da kitolomu ake aiwadikaet acamakin aipagisaar ngin?*

Yes    No

39. How did you choose which land to rent out?

*(Eipone bo ani iseunia ijo alupok nu ipagisaara)?*

- a)  Renter chose
- b)  Least fertile land
- c)  Most valuable land
- d)  Smallest single plot
- e)  Largest single plot
- f)  Other \_\_\_\_\_  
\_\_\_\_\_

40. **For those whom have rented in land only.**

What was your reason for renting in land?

*(Inyoni bo iinakini ijo aipagisai alupok)?*

- a)  Had no land
- b)  Household had too little land for subsistence
- c)  To move
- d)  To have different kinds of land
- e)  To enlarge production, or commercial agriculture.
- f)  Other \_\_\_\_\_  
\_\_\_\_\_

## 41. What kind of agreement did you have?

*(Aitutuket bo na eipone ani opotu eesi itolomutu)?*

If none: ask “did anyone act as a witness to the agreement?”

*(ajaa adio ajenak)?*

- a) Verbal, no witnesses
- b) Verbal, with witness
- c) Written

## 42. Who decided to rent the land?

*Lu bo angai apotu itatamata nu aipagis)?*

- a)  Husband only
- b)  Female HH
- c)  Husband and wife
- d)  Husband and other family member
- e)  Wife only

## 43. What size is the rented land?

*(Etia bo ai alupok nu ipagiisatai)?*

\_\_\_\_\_gardens

44. Do you use the rented land for growing food or for growing crops for sale, or both?

*(Itwasamai ijo alupok ngun ipagisat ijo kanu akorio inyamat arai bo ikorion lu'gwelar; arai bo kere)?*

- a)  food                      b)  cash                      c)  both

45. Do you have other land, apart from the land you rent?

*(Kilema ber nu ipagiisat ijo, ijaatatar ijo kede acie alupok?)*

- Yes                       No

46. How big is the other land you own?

*(Etia bo ai alupok ngun acie nu ijaatatar ijo)?*

\_\_\_\_\_ (gardens)

**(Footnotes)**

<sup>1</sup> The term ‘customary’ is misleading, since it suggests that practice is rooted in history, whereas local ‘customary’ rules are rapidly evolving. A better term might be ‘indigenous’, but we continue to use ‘customary’ because that is the legal term used in both legislation and in Government policy.

<sup>2</sup> reference – A land market for poverty eradication? By LEMU

<sup>3</sup> This is the origin of the idea that “*women do not own land*”, because the heir is always a man.

<sup>4</sup> Over ninety percent of the cattle in Teso were systematically stolen in three years.

<sup>5</sup> This situation is similar to current trends in Lango. We have illustrated, in this context, how some family heads have produced distorted, hybrid versions of state and customary law in order to ‘justify’ their claims. See A Land Market for Poverty Eradication?, [www.land-in-uganda.org](http://www.land-in-uganda.org)

<sup>6</sup> The use of naked power to grab land is not restricted to Teso. In Acholiland, we found people intimidated into silence by the threat of being called ‘rebel collaborators’ by powerful and legally armed people (see *Land Matters in Displacement*). In Lango, land grabbing was sometimes related to political power (see, *A Land Market for Poverty Eradication?*)

<sup>7</sup> S.39 of the Land Act (as amended 2004). See LEMU’s paper *A land market for poverty eradication?* [www.land-in-uganda.org](http://www.land-in-uganda.org)

<sup>8</sup> Distress strategies are used when coping mechanisms fail. Unlike coping strategies, they entail a long term negative impact, which is accepted because there is no (perceived) alternative. A ‘distress’ sale is one, therefore, which is made through pressing poverty, in the knowledge that it puts the livelihood of the household at long term risk, because it leaves them with too little land.

<sup>9</sup> see also Mwebaza R and R Gaynor, Land sector analysis, land market, land consolidation and land readjustment component – GOU.

<sup>10</sup> Note: the percentages only refer to the view expressed by the household member interviewed. This does not necessarily indicate a common position of the household.

<sup>11</sup> See Chapter 3, 'the way forward' in '*Land rights: Where we are and where we need to go*'. [www.land-in-uganda.org](http://www.land-in-uganda.org) People want titles or certificates as evidence of the rights to their land, and to establish their borders to prevent conflicts. For some people, these tasks may be better solved without recourse to titles, e.g. by communally accepted maps indicating land ownership, with trees planted on the boundaries of plots. The reason is that people expect the administration of the land to remain as it is in customary tenure but with the added security of papers. Unfortunately, this is not the case. Once land is titled, it comes under the state administrative system. For example, when the title owner dies, it is necessary to go to court for a letter of administration to change the names on the title deed. A person with a title would need the services of a lawyer for any land transactions..

<sup>12</sup> For a detailed analysis of the existing state of land administration in Lango, see '*Land Rights: Where we are and where we need to go*'.

<sup>13</sup> Since undertaking the research, the status and the role of the District Land Tribunals is not entirely clear. Caseload