

CULTURE IN GOVERNANCE

Does it work?



Four Ugandan experiences



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Culture in governance: does it work?

We increasingly recognise that important aspects of our cultural heritage, both tangible and intangible, provide important sources of inspiration and learning to address the nation's current development challenges. And few of us would disagree that one of these challenges concerns the way we govern ourselves to shape our future, including how we manage our resources, our identity and diversity for our peoples' benefit. The aim of this report is to suggest a response to the question: can cultural values, traditional governance systems and their current practices help us find a way forward in dealing with the contemporary governance challenges we face as a nation?

In the last decade, Uganda has achieved a period of political stability not witnessed in the post-independence period. The country has also successfully transitioned from a one-party to a multi-party state, a new Constitution has been approved and elections are regularly held. Official statistics tell us that a growing number of Ugandans benefit from peace, economic growth and prosperity.

Yet, in spite of this progress, do we see a sustained path to 'development', fundamentally reflecting people's aspirations and desire for physical and mental well-being? Everywhere we look, does another side of the 'prosperity and progress' coin not call for our attention? A point of departure for this report is that 'governance deficits' are one aspect of this reverse side: human and constitutional rights are constantly under pressure (with legal restrictions, or proposed restrictions on the media, NGOs and the right of association); the banning of radio stations and popular 'chat shows', such as *ebimeeza*; a Parliament increasingly controlled by the Executive; and the devolution – or recentralisation - of power to districts and regions the subject of conflict, often accompanied by violence (as in the 2009 'Buganda riots' that cost 27 people their lives and another 800 their freedom). In addition, election processes are questioned; the nature of citizenship is challenged (as in Kibaale and the proposed 'ring fencing' of political positions); corruption scandals keep

breaking, and impunity seems to prevail. Violence never seems very far from the surface.

In view of this, can culture (and in particular current governance practices derived from our cultural background) give us pointers? The central message of this document is that it can and indeed should. More specifically, it suggests that there is much to learn from our traditional governance systems, as currently still in use and often adapted to new demands, and from examining their potential contribution to enhancing our governance as a nation.

Culture, governance and civic action

For our purposes, we can define governance as the *evolving processes, relationships and structures by which a group of people organise themselves to achieve the things that matter to them*. To do so, people need to make decisions, among others, about group membership and identity, authority, accountability, and enforcement. Governance is therefore as much about people, power, and relationships, as it is about formal structures; and it is certainly not culture-neutral. It is indeed rooted in our cultural values and defines what we consider 'the right way' to get things done. In a multi-cultural and artificial colonial creation such as Uganda, we can expect that determining whose way is the 'right way' will be contested and the selection of case studies presented here therefore reflects a pluralistic understanding of governance.

If governance is inextricably linked to identity and to the 'political community' one relates to, then citizens will act in a space which may not be the nation state: it may be related to religion, ethnic group or other dimensions of locality where ethical principles prevail, where rights and responsibilities are exercised. The case studies in this volume therefore offer pointers as to whether non-state spaces, whose rules and values people are intimately connected to, offer

opportunities for civic action. Contrary to what is often assumed in the context of rights-based approaches, we therefore highlight the power of individuals to tackle a situation themselves, rather than that of disempowered communities whose claims on the State must be strengthened. At the same time, we recognise that civic change may run counter to democracy, may be racist, sexist, and segregationist. We need to understand this relativism, and therefore avoid falling into the romantic notion that we must 'respect the local culture'; or 'avoid importing foreign models'.

Legal pluralism: is culture 'opposed' to governance?

This understanding of governance and civic action challenges the supremacy of a 'unique law' and encourages us to examine the existence of several value systems, although the State may see 'its' system as universalistic (or at least superior) and exclusive of others. This may explain why 'culture' and 'rights' are often seen as invariably opposed, and why 'customary law' is generally considered 'below' statutory law.



Case 1: Protecting rights to customary land for all

The tension between the 'local' and the 'universal', between different sets of values is evident in current debates on human rights, which have become a key theme in the development discourse. International conventions stress the universal character of human rights and, amongst NGOs the acceptance of the universality of human rights is even more widespread than

amongst states. Yet, if we consider the *Universal Declaration of Human Rights*, one may question the perspectives of its drafters in 1948 (a group of white men) and, more broadly, what legitimacy the ex-colonial powers, ex-cold war warriors, perpetrators of atrocities, advocates of 'structural adjustments', have to dictate to others. At the minimum, we must recognise that legal frameworks *are* inspired by a cultural context and reflect international power relationships. Can we therefore not legitimately ask whether, if human rights are to be at all universal (as the rights of all human beings everywhere), they must be integral to the culture of all societies, and not only of Western societies? Further, we can recall debates about the pre-eminence of 'human rights', versus 'economic rights: which come first? Can one have human rights in a political instable environment fuelled by poverty: as an observer wittily put it, "*Human rights start with breakfast*"?

This discussion finds its echo in debates about Human Rights in relation to "African culture". African Heads of States adopted the African Charter on Human and People's Rights in 1981, which mentions the importance of '*taking into consideration the virtues of their historical tradition and the values of African civilisation which should inspire and characterise their reflection on the concept of human and peoples' rights.*' and an African Court first starting meeting in 2006 (although to date the court has only heard a single case).

Uncertainties therefore reflect the fact that, as these case studies show, we live in communities of mixed legal spaces, where a single act or actor is potentially regulated by multiple legal or quasi-legal regimes. Communities seek (and create) a wide variety of institutions, and practices to manage this mix. From across the world, we increasingly recognise that 'traditional' mechanisms have existed for years, providing a recognised system for governance and reconciliation, outside the formal system imposed by the State. While the State system associates justice with punishment, traditional institutions seek to combine these elements in keeping with the values of the community. It is therefore clear that the rule of law is not only a legal matter, but also a cultural one and it has therefore been suggested that legal pluralism offers not only a description of the world

we live in, but that ignoring the 'mix' mentioned above "as somehow not law is not a useful strategy." Communities that produce these norms - rather than nation-states – therefore provide a useful framework for understanding the diverse sources of values that have become the focus of much current international law scholarship and, increasingly, practice.

The four case studies

This report is based on the documentation of four cases, in different parts of the country and with a different focus. All illustrate the interface between forms of 'community governance', culture and the State. They approach the topic from different perspectives, are based on lived experiences and examine different dimensions of governance: human rights and justice; accountability; access to resources and conflict resolution.

The first case study, entitled "*Protecting rights to land, our most precious resource*", examines the work of LEMU, the Land Equity Movement of Uganda, in relation to customary land tenure; a tenure regime that prevails in 80% of the country. LEMU has been animated by a contention that "everyone, women, men and children need and deserve land rights."

Land is key to our governance as a nation, a critical social and economic issue, whether in terms of access and ownership, population growth, environmental degradation, or in relation to contested legislation. The advantages of customary tenure, its resonance with local cultural values of care and solidarity, its management mechanisms that are accessible to local people, including the poor, are considered. LEMU's work has helped to re-emphasise the relevance and usefulness of this type of tenure to many millions of ordinary Ugandans, albeit a system earlier seen as a remnant from an earlier epoch to be gradually replaced with freehold tenure.

Two aspects of its work which have contributed to this changed reality are illustrated. The first has been to document, update and publicise the norms and mechanisms to make customary tenure more effective and to ensure that they protect the rights of all in the community, including the poorest and

most vulnerable, and in the process revitalise the role of the clans in ensuring that these are adhered to. The second and possibly more decisive action has been on the policy front. As a result, the National Land Policy will, if implemented, reflect the status of customary land tenure as a system that deserves as much recognition and support from state authorities as others, and that can be linked to the state institutions for effective administration.

The second case, "*Traditional and modern conflict resolution mechanisms in Pokot*", examines the interface between traditional and state governance systems in conflict resolution, highlighting contradictions between local perceptions of cultural and human rights and how these are managed by mediators who use a cultural approach to conflict resolution, such as the Pokot Zonal Integrated Development Programme.



Case 2: Traditional conflict resolution in Pokot

The existence of two governance systems in Pokot raises a number of challenges in respect to the limitations identified in both systems, and to managing a productive interface between the two. On the one hand, most people met consider legal procedures as often unfair, slow, and corrupt. On the other, the traditional system, while effective to resolve some conflicts, has several limitations, including poor sensitivity to human and women's rights, disregard for the marginalised, and lacking in accountability to any other authority.

One area of contradiction concerns perceptions of justice: the traditional system places

emphasis on discipline, honesty, accountability, reconciliation and compensation while the state system seeks to establish right and wrong – in the process punishing the wrongdoer but not necessarily compensating the aggrieved. Without understanding these values in both systems, community members are likely to continue dismissing the legal governance system, which ideally provides for the protection of their rights. Having parallel, disconnected systems that aim at the same objective not only results in the ineffective use of resources, but occasionally in the mismanagement of conflict situations.

The third case study, “*Isaazi: Elders speaking out against corruption*” presents an anti-corruption initiative in Tooro, whose features distinguish it from official endeavours. First, it is the brainchild of a group of elders, explicitly drawing on the ancestral cultural values. Secondly, while it relies on well-established values, it mainly uses modern technology – an FM radio station – to promote its message. Third, it is run on a voluntary basis and is independent of external private or public funds. It therefore presents characteristics that make it replicable elsewhere in the country.

The experience of the *Isaazi* highlights the potential of culturally-rooted efforts to tackle such intractable current challenges as corruption. In this case, drawing on the legitimacy of cultural values and culturally-recognised persons – the elders and the *Isaazi* – acceptance and legitimacy have been quickly generated. This has been combined with new technology, the FM radio, to create a powerful, ‘modern’ space for the young and the elders to communicate.

While it may take time to build the trust associated with a new, ‘non-aligned’ structure in all quarters – including the political class - new energy has perceptibly emerged from the *Isaazi*: “*It is a voice for the people because they have no string attached; they can raise anything that they feel is in the public interest.*” Other parts of the Tooro region have expressed interest in such a mechanism and are attempting to develop their own *Isaazi*, as people recognise such a Forum as a uniting factor, going beyond religion, politics, age, and ethnicity.

The final case focuses on “*The Alur Chieftom and managing conflicts in fishing communities*”

and explores the interface between the traditional and local governance systems in Panyimur, Nebbi district.

The traditional institution collaborates to varying degrees with different local governance actors, all playing a role to curb insecurity and resolve conflict in Panyimur. In most cases the interface is not consistent or systematic but is often considered relevant. Hence the effort made to ensure mutual consultation takes place for a commonly appreciated outcome. Collaboration between the traditional and local governance system is nevertheless ad hoc and flexible, resulting at times in successful and conclusive management of conflicts and at other times in unresolved cases, thus perpetuating conflict. Both systems nevertheless fail to single-handedly deal with drawn out problems, such as insecurity, that divert time and energy for resolution, as opposed to developing the area.

The text points out that, while the traditional institution is likely to remain resilient as a source of cultural identity, its relevance in other spheres of development and in the private and public lives of the local community will largely depend on its ability to reinvent itself by retaining core traditional values and principles, while responding to changes in the wider environment, including the influx of new ethnic groups, the influence of education, religion and trade.

Learning points

Having set out some of the key issues in the first part of this text, what can we learn from the case studies presented in this report?

a. The relevance and resilience of ‘traditional’ governance mechanisms. All the cases highlight the resilience of structures, mechanisms and values that help local communities organise themselves and deal with the problems they face. We are far from the monopoly of a single state-inspired and directed framework representing the totality of responses to governance challenges. To the contrary, in all cases, traditional systems of governance are sought by local people. Why this resilience?

The most prominent ‘push’ factor appears to be a

widespread popular dissatisfaction with statutory mechanisms. 'Modern' state structures are seen as commercialised, distant (both physically and in terms of the values they represent), alien (for instance in terms of language and procedures), and incapable of delivering fairness and justice. They then lack credibility, as patronage and favouritism prevail or at least seen to prevail. As the LCs continue to offer the closest access to such state mechanisms, one may also ask how they are meant to operate in a multi-party system. Can a partisan system deliver impartial justice? We then see people voting with their feet, away from state structures.

Hence a desire to revert to 'informal' structures. Here the 'pull' factor reflects the mirror image of the above: non-state structures are immediately available, they are familiar and understood because they resonate with local values, and are often considered non-corrupt, impartial and non-partisan. The case studies highlight the 'usefulness' of informal structures in certain types of conflict resolution and reconciliation, in securing land rights and in exacting accountability for public resources. Such mechanisms, institutions, and practices in effect recognise that communities may legitimately wish to use 'their system' in particular circumstances.

b. Who are the 'cultural leaders'? While the four cases focus on the role of cultural institutions in various aspects of governance, it is the role of elders and clan leaders that emerges in all as determinant, rather than 'apex' institutions, such as kingdoms. Often too, it is the values that these leaders represent and promote that make them 'eligible' to qualify as cultural leaders. In the case of the *Isaazi* in Tooro, for instance, the recognised elders are not necessarily elderly, but are distinguished on the strength of their responsibility, exemplary behaviour and knowledge of the culture. Women are often absent as 'front benchers' although their influence may be exercised in a less apparent fashion.

c. A locally rooted value system open to change. As already noted with regard to alternative conflict resolution in Northern Uganda, both cases that focus on conflict management propound values that are different from those that emanate from the statutory legal framework. In both Pokot and Nebbi, the emphasis is on



Case 3: the *Isaazi*: an elder speaking out against corruption in Tooro

compensation and reconciliation, rather than punishment and retribution. Even where there is a less sharp distinction in values, the other cases illustrate the importance of what is considered 'ancestral values': in the LEMU case, where customary land tenure is informed by the need for collective solidarity and protection, rather than individual well-being and profit; and in the *Isaazi* case, in terms of clean leadership and probity. In all cases too, the communal aspect is important: what matters is the well-being and cohesion of the extended family and community, and less of the individual.

Further, not only are 'traditional' reference points being used, they are also being adapted to new sets of local circumstances, as several of the cases indicate. 'Culture' is in movement, fluid, open to interpretation and contestation, at times challenged by urbanisation and other social changes, but re-emerging in new guises, as the radio replaces the fireplace for the *Isaazi* and uncertain clan leaders' judgements are substituted with booklets on customary land tenure management. To this can be added a paradox stemming from the effects of globalisation: on the one hand, communities are exposed to new values and worldviews that threaten the existence of the local culture, and on the other, there is a sense of vulnerability and fear of getting lost in diversity, heightening the need for cultural identity. The survival of traditional culture will indeed depend on the context and the benefits of either being subsumed, or standing out to be recognised as a unique expression of identity in diversity.

d. Traditional systems offer governance solutions that do not depend on 'funding'

As an article on LEMU's work observes, *"It costs nothing to organise villagers to choose a tree that they will all recognise as a boundary marker and to encourage people to plant these trees."*

Similarly, a traditional court sitting in Pokot or the 'cultural' resolution of a fishing dispute in Nebbi is not dependent on public funds. This is because of the spirit of voluntarism that often animates cultural leaders, the local 'rootedness' of such mechanisms and the generally undisputed legitimacy they represent. Thus, the *Isaazi* experience in Tooro demonstrates the importance of the commitment displayed by the elders and the considerable voluntary resource they represent. So long as the young want to learn from their elders, and elders have the urge to pass on their knowledge, such a Forum can present an important instrument to help construct a corruption-free nation, that mostly depends on people's goodwill. On the other hand, reliance on limited resources, or even on complete voluntarism, opens the way for cultural leaders to be manipulated by the rich and the powerful.

e. 'Traditional' systems are by no means flawless...

One must avoid any romanticism about traditional governance systems, as these cases show: clan court judgements may be seen as arbitrary; cultural institutions are generally accountable to none but themselves, they may exhibit a tendency towards 'big man' politics that we recognise in other institutions, and may succumb to the power of the wealthy. They may experience a credibility gap, especially towards the urban elite and the mobile, cosmopolitan youth. Cultural leaders are not necessarily among the most exposed and best educated members in a local community and, where this is the case, it may cripple their ability to deal with pressing contemporary issues that do not squarely fit in the inherited cultural frame of reference.

Women are often excluded from such processes, whose leaders may express strong chauvinistic sentiments about the roles and responsibilities of women, 'hiding behind' cultural reference points, real or imagined. The LEMU case for instance describes the tensions associated with giving women a strong voice in decisions concerning the sale of customary land. Most often, issues affecting women may not find their way into such public fora

and the cultural leaders – overwhelmingly men – often adopt a paternalistic attitude towards these issues, often emphasising the need to 'protect' women, rather than to 'empower' them.

Finally, the cases indicate that the traditional system is most effective in a largely homogeneous community – with shared beliefs and values. With mobility, intermarriage and exposure, traditional leaders' influence is also challenged.

f. A perception of 'tradition' opposed to 'modernity' and rights opposed to culture still prevails

LEMU's attempts to 'rehabilitate' customary land tenure in the eyes of policy makers and human rights activists illustrate how customary law is still often seen (at best) as subordinate to statutory law, a view inherited from the colonial set-up, which also implies that 'culture', in the same way as 'tradition' is unchanging. As one document about its work observes, *"The problem remains that governments, academics and the urban elite of the NGOs have all inherited the prejudices against native or traditional culture from the colonial authorities."* All the cases indicate that these prejudices are usually ill-founded: the LEMU case shows how culture can in fact protect women's rights; other cases exemplify how local justice systems have provided a solution sought by many, though based on a different perception of 'rights', informed by culture, and often focusing on the community, rather than the individual.

g. Lack of synergy between systems

With different values - indeed worldviews, traditional and modern governance systems operate in isolation from each other, with little communication, although neither operates in a vacuum. At times, one undermines the other, as illustrated in cases where politicians reverse legitimate decisions taken by traditional leaders. There is a lack of guidance as to how they should link and, where there *is* interface, it is ad hoc, based on individual preferences and practices. This lack of consistency is inefficient and muddies the extent to which people have the freedom to 'subscribe' to one system rather than another. It favours 'forum shopping' where conflicts are 'resolved' using the system that is thought to be most promising by the strongest party, or allows other issues to remain unconcluded, having fallen 'between two stools'.

Lack of cross-referencing between the two systems then not only allows for continued human rights abuse, the neglect of some members of the community and the perpetuation of conflicts, it also prevents reflection and learning that could contribute to domesticating a state system that is perceived as foreign by many.

So what can be done?

a. Linking traditional and modern governance systems The case studies presented here suggest that benefits could be derived from moving from an 'either or' situation, to one where the positive aspects of both types of governance perspectives are brought together.

Is, for instance, legal pluralism desirable? For a start, while a value conflict among multiple, overlapping legal, or quasi-legal systems is probably unavoidable, this might sometimes be desirable as a source of alternative ideas and experiences that can contribute to the design of appropriate mechanisms, institutions, and practices. As Mamdani notes, *"Tanzania is the only former colony that has managed to uproot the colonial legacy of tribal rule and (...) create a single Tanzanian common law deriving from multiple traditions: pre-colonial history, the entire complex of colonial laws (both civil and customary) and the corpus of anti-colonial practices, (creating) the legal basis for a single citizenship."*

More generally, how could 'traditional' and 'modern' governance mechanisms re-enforce each other?

First, overall policy must provide a space for legitimate culturally-liked local mechanisms to co-exist and link up with state delivery mechanisms. An example of the way forward is afforded by the draft national land policy, which provides for mechanisms not only to recognise the responsibilities of clan leaders in administering customary tenure, but also hold the clan system to account, provide for appeal mechanisms, and ensure the enforcement of judgments.

Secondly, there is a need to create cooperative linkages, rather than competitive ones. One way would be to specify specific roles of cultural mechanisms (as in the customary land tenure case) and to codify elements of traditional practice that are aligned with human rights and other state-led practices. Procedures could entail having joint planning, implementation and review meetings 'across institutions' – recognising the contribution of the different stakeholders - not only to discuss, say, disarmament exercises and military interventions, but also national and district planning processes, operational plans, budgets and funds allocated. State operators also need to better understand the issues handled by the traditional courts, how livelihood challenges trigger conflicts and how traditional institutions can contribute to conflict prevention. There is a growing interest, for instance, in transitional justice, especially in northern Uganda. Could elders be formally part of LC courts? Could traditional leaders be trained to settle some issues? Could the nature of cases to be dealt with by the traditional governance system be established, beyond which a clear referral process is determined to avoid abuse of authority? Could legal aid providers link the two systems, with legal officers possibly involved in the traditional courts to provide guidance on the legal implications of the decisions that are taken? On the whole, although the existence of two governance systems provides alternative avenues for communities to access justice, it is therefore important that checks and balances for each system are put in place. Communities will need to be well informed of the justice and appeal processes, and referral of cases from one system to another well defined, so that cases can be tracked and conclusively handled.

Third, whether it is federated, the regional tier or even more districts, we have seen that governance is about people, not structures. Linkages therefore



Case 4: The Alur Chiefdom and managing conflicts in fishing communities

need to go beyond the structural. Thus the principles of integrity and accountability used in the traditional system need to be integrated into the state governance system and the community made aware that it is their right and role to hold government officials accountable. To do this effectively, they need, possibly through civic education, to have access to relevant information and the ability to understand development plans, budgets and funds allocated for implementation to assess whether the development objectives have been achieved or not.

Fourth, state mechanisms need to become fairer and more accessible: the State needs to ensure easy access to courts of law and to increase the number of legal officers to dispense cases efficiently. Courts must also use a language that is understood by the people or use translators for court proceedings, including explaining opportunities for appeal, bond, etc. Where appropriate, compensation must be adequately and efficiently dealt with and where this is not possible, the complainant needs to be explained why this is the case. For the relevance of the state governance system to be fully appreciated by community, local people need to understand what good governance from a government perspective is; know their rights and understand court proceedings.

Fifth, attitudes will need to change: state governance stakeholders need to take into account the cultural context and the strengths of the traditional system in terms of influence, access to information, and community management. As the LEMU case proposes, a genuine State-clan partnership will need to be forged and attitudes attuned to this, a formidable task. Thus, State authorities must make clear that the boundary trees will be protected as boundary markers by the law, that boundary maps will be respected in courts. When elders in Pokot ask soldiers who have harmed the community to *sit under the tree* and submit to local justice, this cannot be entirely ignored. On a broader front, respondents in Tooro suggested that the national government should learn from the *Isaazi* experience and mobilise retired civil servants, politicians, and others into a National Forum “to bring together all these un-expired brains and they would be willing to come and work without pay.”

b. Modernise and equip the ‘traditional’ This is perhaps the greatest challenge of all. One must accept that the world is changing and that, to remain relevant, customary governance mechanisms, like any other, will need to adapt to change. What would be required?

First, new responsibilities come with new needs. Most of the cases presented here suggest that the capacity of the traditional institutions to play their role more effectively needs to be strengthened. This could take the form of training (for instance on rights) or of documentation. In Pokot, for instance, the traditional conflict resolution system is well understood by the local communities, but its key principles and practices are not codified or documented, impairing any attempt to have these reflected in local by-laws. More generally, information on the law and rights must become more accessible than is presently the case, and work undertaken with traditional leaders to ensure that the communities understand their principles and thus collaborate for peace and justice.

Secondly, and perhaps more importantly, the capacity to adapt to contextual change also needs to be supported. Whether it is responding to socio-economic change and the ‘dilution’ of ethnic identity, to pressure on customary land to accommodate investors, or to growing demands for democratisation and respect for human rights, all these must be accommodated. Fortunately, culture is dynamic and responsive to new changes, but traditional institutions would do well to enhance their ability to identify universal cultural values, open up to inclusion and equal protection for the community as a whole, and resist “the politics of fragmentation” while retaining their strong local ‘rootedness’. They must be seen as impartial and relevant to all within their geographical cultural boundaries, or risk becoming outdated mouthpieces, relevant only to a few. They must also engage with the youth and ‘connect’ with them (modern information technology offers opportunities, as the *Isaazi* experience demonstrates).

To conclude, it appears that traditional leaders, if they are to continue playing an effective role in the current context, must indeed have the self-confidence to claim their legitimacy, to resist

co-option, to constantly reinvent themselves and ensure that there is no risk of being tainted with any suggestion of adhering to authoritarian and paternalistic values that are ill-fitting with people's contemporary aspirations.

Only then can they claim the legitimacy to help people reclaim their identity through vibrant local

governance systems and ensure that non-state spaces offer continued opportunities for civic action, which these case studies demonstrate is possible. In the process, they can contribute to a more legitimate and accountable exercise of power to the benefit of all citizens, in tune with the vital cultural values that can inform the future of the nation.

1. Protecting rights to land, our most precious resource

Introduction: Land, governance and the Land and Equity Movement

Land is key to our governance as a nation, whether in terms of access and ownership, population growth, environmental conservation, as a social and economic issue or in relation to contested legislation. Land for instance provides a sub-text to the 'federer' debates, Buganda and the '9,000 square miles' issue; foreign investors and customary land rights in northern Uganda; and the respective rights of immigrants and 'original' residents in Kibaale district.

This case focuses on governance issues linked to customary land tenure and on efforts to safeguard the rights of the marginalised sections of the population whose livelihood depends on this type of tenure. In particular, it examines the work of LEMU, the Land and Equity Movement in Uganda, to ensure fair access and effective use of land for all, and particularly for those depending on land held under customary tenure. From the start, LEMU has been animated by a conviction that *"everyone, women, men and children need and deserve land rights."* It positions itself as *"a facilitator and link between communities and the Government"*, learning about customary land rights, informing communities about these rights, and attempting to influence policy to safeguard them.

LEMU's focus has been on customary tenure in northern and eastern Uganda, where, traditionally, this type of tenure has allowed access to land by all. Possibly more than elsewhere in the country, people in this part of the country rely on land as their sole means of material and spiritual well-being. As many respondents stated during the interviews that inform this case study, *"Land is our most precious resource."* The region however faces special challenges in relation to land: first, long years of strife have resulted in many areas in the displacement of large numbers of people. With the return of peace, villagers go home but

this is often marred by conflicts, aggravated by the death of those who were fully familiar with land demarcations in areas sometimes abandoned 15 or more years ago. As land gains in value and as the region returns to normality, external interests are also aroused by the fertility of vast tracts of seemingly unoccupied territory. Secondly, with years of neglect and conflict, the north and north-east have lagged behind other parts of the country in terms of infrastructure, hence the poorly developed institutions concerned with land administration (District Land Boards and Land Committees). These factors aggravate the perilous situation of local communities and its more vulnerable members, who have often been the victims of abuses of the principles that have informed customary land holding for generations, but whose application has more recently become uneven at best.

Customary land tenure: perceptions, cultural norms and practice

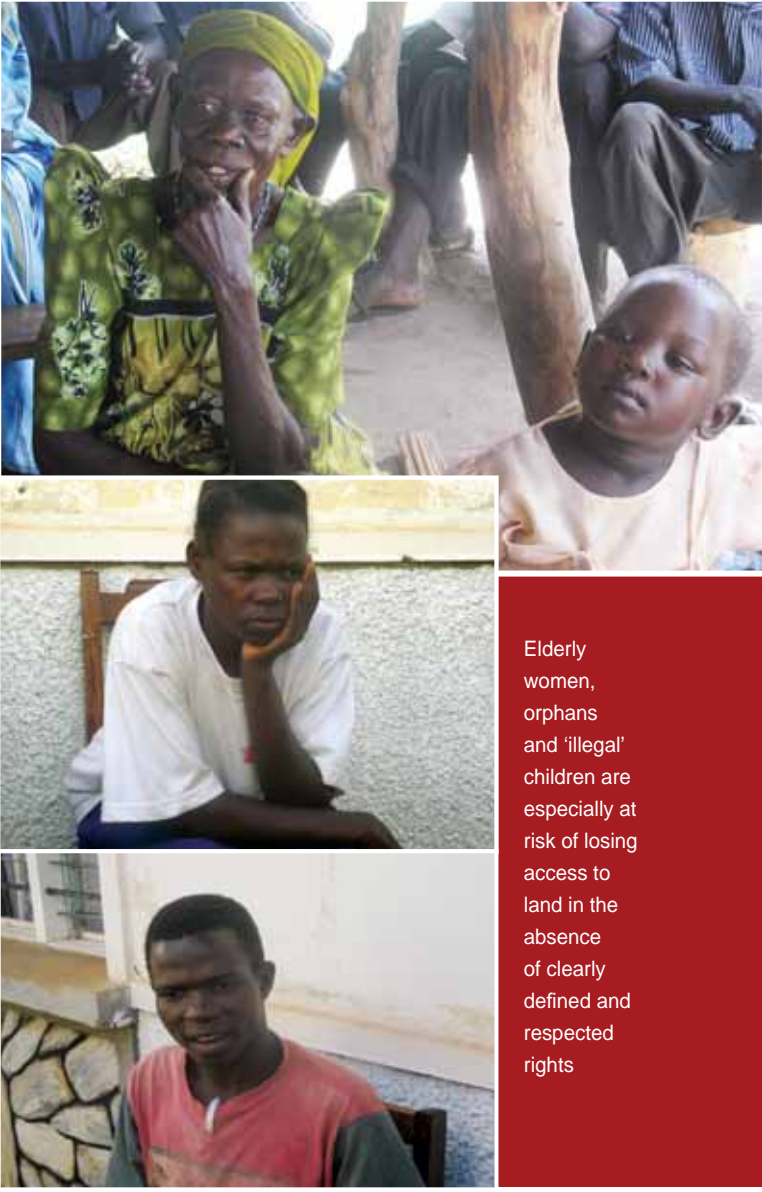
Perceptions and cultural norms Contrary to widespread perceptions, customary land tenure still prevails in most of the country - 80%, according to LEMU. This type of landholding is one of the four tenure systems recognised in the 1995 Constitution and the 1998 Land Act, that also provides for local systems of justice to determine land disputes, although the state also gave the right to go to courts of law. Yet customary land tenure has, until recently, been given little attention in debates on Uganda's land laws. At national level there is (as yet) no policy on the operation of the customary tenure system, or legal procedures that regulate clan courts. The reform of the land law focused on titled land and ignored the administration of customarily owned land. Such neglect reflected a perception of customary tenure as an outmoded form of holding, 'paper-less', and therefore 'unofficial', even un-serious. Such a perception has been fostered by two powerful schools of thought: first, one espoused by government and many of its international

supporters, whereby individualised freehold and generalised titling present an indispensable development-oriented way forward, creating a monetised land market, with land subject to sale and mortgaging. Secondly, there are the 'rights-based activists' who argue that customary land tenure, if not 'primitive', does not adequately protect the rights of the poorest, especially women and children, since customary systems are managed within a patriarchal system, for men's benefit. Especially at risk are widows and orphans.

Yet customary law is meant to protect women and children. Customarily, land is 'owned' by a family but controlled by the clan, and ownership is passed on by inheritance from one generation to the next, to the family rather than to an individual. The system builds in full land rights for everyone and protection through clan oversight. In the past, women were protected by their uncles and other male members of the family; and widows and unmarried women were not considered vulnerable to exploitation. Upon the death of a husband, the widow would take over the management of the family land in trust for the children and the clan. Although marriage was considered a permanent state and wives were not ordinarily expected to divorce, divorcees were entitled to land and a child born outside marriage would, if accepted by the father, be expected to draw land rights from the father's family. A widow and orphan would stay on the deceased's land and continue to be looked after by the clan. A woman's importance was however not attached to her ability to bear children but to other values and contributions she made to the home. Childless widows were traditionally expected to remain on their husband's land and were often responsible for bringing up other children, providing labour and food for the home and clan, and were respected as such.

Practice In practice, however, the administration of customary land tenure has suffered from its lack of integration in the state land management system and it has not received sufficient support to adequately play its role. Current practice then departs from traditional norms: over the years, it has become apparent that, the rights of the more vulnerable were frequently trampled on, sometimes by 'investors', more often by neighbours and family members, often too by those very same people – the clan leaders - who were meant to

give customary tenure its legitimacy (see Box 1). Contrary to the provisions of customary law whereby all land is owned by families rather than individuals, for instance, men would proclaim that "women don't own land" and grab it for themselves. Women's rights would also be denied when male relatives take over where there is no male heir in a family. In many cases, divorcees and separated women were thrown off land with their children, often violently, by their in-laws. Orphans were especially at risk; some men were known to mortgage land without the consent of the widow, who would then only learn about the sale when the transaction was concluded, followed by her prompt eviction.



Elderly women, orphans and 'illegal' children are especially at risk of losing access to land in the absence of clearly defined and respected rights

Such situations in part reflect the challenges faced by the clan leaders themselves. First, the population is increasing, people are migrating and cultures are mixing, a change from the past, when clans consisted of groups of people settled in geographically distinct areas. Secondly, some young women and men disregard the authority of the clan, as not adhering to 'modern' values or human rights standards (and committing abuses, such as when meting corporal punishment). The status of clan heads has also been challenged after their long stay in camps for Internally Displaced People, resulting in the loss of family, land, and cows. Many are traumatised by these shocks and have lost self-respect. People's attitude towards work has also changed: it has become more monetised at a time when the monetary value of land is also increasing. This also weakens the position of clan leaders and the 'voluntary' framework they represent. Clan heads then no longer take responsibility for preventing land grabbing, they do not receive public funds for their work and some succumb to bribery or intimidation by the wealthy, for instance giving consent for the sale of land without a family's consent. Some clan leaders have also started political activities and are seen as partisan. Finally, as the state has ignored the clan system, instead of supporting it and holding it to account, so clan leaders are at times ignorant of their roles, powers and responsibilities, and rarely can adequately represent themselves in a court of law.

As a result, land cases are often forwarded to formal courts of law rather than the clan courts or committees. This is another source of injustice: recourse to the legal system is often biased, expensive, and extremely slow. Court rulings also regularly reflect an ignorance of customary rules, or are simply not enforced. As a magistrate pointed out, the law also provides for winners and losers (rather than compensation and reconciliation) and it is often wealthy land grabbers who win cases at the expense of the poor. The educated who understand the legal processes to register land can take advantage of those who are less informed. Hence the existence of 'forum shopping', when land grabbers go directly to the courts of law – where they expect the outcome to be in their favour - without consulting the clan, banking on their ability to pay for legal support to win the case. LC courts were also criticised as being unfair,

unable to enforce judgements and costly, and often run by poorly informed adjudicators, who then need a clan head to mediate.

In addition, LEMU's research highlighted two aspects: first, while not intended by the legislation,

Box 1: Victimising widows: Sarah Akello's story

Sarah Akello (below) returned home to Atule village after divorcing her husband (with whom she had six children) a few years ago. After her return, she got involved in a land dispute with her brother: she had been living on land alongside him for six years until he decided to sell the land on which she and her two children (from a new relationship) lived. Her brother, supported by his mother, told her to leave. When asked to meet with other family members, he refused. Sarah went to the LCI who sent her to the clan leaders but they declined to discuss her case. She went to the sub-county leaders and they too sent her back to the clan, who took no action. She suspected that the clan leaders were being given money by others, whereas she had none to give. Sarah says her frustration led her close to suicide.

At the end of the interview, Sarah explained that one of the old clan leaders had defiled and impregnated her eldest daughter. She had taken the case to the Police in the attempt to have him arrested, a move that antagonised the clan leader. Eventually he paid 6 cows as dowry to her former husband and has taken the young girl as his second wife. This, she said, also contributed to the local clan leaders' unwillingness to support her in her land dispute with her brother.



demarcation and privatisation, far from protecting land rights, could accelerate land grabbing and render the very poor, especially women and children, even more prone to landlessness. LEMU in particular identified dangers with titling, which tends to make the head of household an exclusive owner and removes the land administration system from the 'local' to the 'foreign'. Secondly, where customary land tenure prevails, unwritten rules and uncharted boundaries made the administration of land matters especially challenging in the absence of recognised administrative channels.

Strengthening customary land tenure the “Principles, Practices, Rights and Responsibilities for Customary Tenure Management” (PPRR)

Developing the PPRRs In some parts of northern Uganda, with the restitution of traditional institutions, clan leaders had started discussing customary rules, including those related to land. From 2004, LEMU convened meetings attended by Land Board officials, cultural leaders and others. These resolved that the documentation of customary land rights and responsibilities was a necessary – and potentially effective – way to strengthen people’s rights to land, including those of the vulnerable.

LEMU steered the process to produce a ‘PPRR’ in Lango, Teso and Acholi by facilitating further meetings and drafting texts that were presented to the clan leaders and other stakeholders for comments. LEMU also carried out research to verify the knowledge generated and fill any gap. This process was not without challenges: thus, Faustino Olwitingol, who was the Prime Minister in the Lango Cultural Foundation at the time, recalls that the idea of a PPRR was initially received with suspicion, because it was seen as an effort to return to the past. Others thought that LEMU was fronting women’s rights. Yet others wanted a wholesale restoration of previously upheld values and principles, without compromise. Consensus was however eventually reached and PPRRs produced for the three regions.

These are innovative documents in that, for the first time, they put to paper and update the body of unwritten laws and regulations that had informed customary tenure in each region (Box 2). As clan

leaders met in Soroti pointed out: “*The PPRR is useful in documenting the customary land tenure system which could easily disappear if not captured as a publication and it will be of benefit to future generations*”. Similarly, ministers at the Iteso Cultural Union described the PPRR as “*a bible to us*,” a description echoed in the other regions: “*It*

Box 2: Example - The Teso PPRR

With a foreword by the Teso Paramount chief, the *Emorimor*, “The Principles, Practices, Rights and Responsibilities for Customary Tenure Management in Teso Region” was issued in June 2009 by the Iteso Cultural Union (ICU). The Teso PPRR was developed by a select group of experts on local customary tenure and validated by ICU council members and district councillors. It reaffirms the essential principles of customary land tenure, viz. that everyone is entitled to land; that inherited land is family, rather than individual, land (with the head of the family, whether man or woman, as its manager); and the clan has powers of oversight to enforce these principles.

The Teso PPRR documents land management in respect to several issues, including:

- Boundary disputes
- Land ‘grabbing’, especially from those, such as divorced women who return home, or widows and orphans
- ‘Irresponsible’ and fraudulent sale of land
- Conflicts arising from gifts of land, such as for schools.
- Conflicts arising from migration
- Sale of land without compensation
- The role of clans
- Conflicts brought about by “court rulings made without understanding customary land tenure”

2,000 Copies of the Teso PPRR have been produced in both Ateso and English, and have been distributed to magistrates, advocates, clan leaders, district councillors, ICU councillors and local government officials. About 800 copies have also been sold.



is relevant and has high ownership because the contents are well researched and its compilation involved ordinary people and their concerns, such as land ownership and disputes over boundaries. It is convincing because the contents are largely knowledge that existed in local people's heads and now has been transferred onto paper".

PPRRs and the role of traditional institutions

A main strength of the PPRRs thus stems from their cultural relevance. In Lango, for example, 93% of the land is under customary land tenure and its administration therefore strongly influenced by the clan courts or committees. The PPRRs reflect past knowledge, at a time when clan leaders were much respected and meant to unite the people and played an important role in mediating conflicts, responsibilities that were passed from one generation to the next. Land was seen as collective wealth, including the environment, forests and grazing areas.

Box 3: Roles of the clans in the management of customary tenure (as per the PPRR)

The Teso PPRR describes a hierarchy of elected clan committees at village, parish, sub-county and district levels, with either the chair or vice-chair being a woman.

Their main functions include:

- Keeping records pertaining to land ownership, sales and land conflicts
- Managing and protecting woodlands, grazing and hunting lands
- Giving consent for land sales and protecting people from 'land grabbers'
- Educating people on the dangers of landlessness and promoting boundary marking
- Obtaining certificates of customary ownership
- Mediating in land disputes



Clan leaders discuss the PPRR in Teso

The PPRRs thus recognise the clans' responsibility for holding land in trust for the community – preserving it for the present generation and those to come (Box 3). Clan heads and other elders are still considered the best sources of information in respect to land ownership and land boundaries; they are also described as being in a position to resolve disputes respectfully and not known to accept bribes. Culturally, a family or disputing party may offer the clan leaders groundnuts or local beer after the settlement of a case, but not money, although they may request and receive transport monies to visit the site under dispute.

The PPRRs however incorporate new prescriptions: the aspect of sale of land is discussed and a requirement of spousal consent for any such sale included. In the past land was mostly given out but not sold, unless as a last resort and priority was given to the clan. Other new aspects include other roles of women in decision-making (such as their right to be part of clan committees), and the drawing up of boundaries by signing up to sketches and planting trees (the "omara omara" or "etuba") (Box 4).

The PPRRs and their fit with the legal system

Can the documentation of customary land tenure, as represented by the PPRRs, foster a better 'fit' with state law? Although the PPRRs define practices and principles (rather than legal provisions), several respondents felt that the PPRRs represented an important step in the direction of a better 'fit'.

Several magistrates met in the course of this research pointed out that the law needs to take into account the local cultural context and that, in their areas of operation, culture is particularly important to cater for the marginalised and to resolve conflicts. Thus, the Lira Chief Magistrate pointed out: *"There is a need to work on positive attitudes towards culture (...) The PPRR does not conflict with the law but enhances the powers of the clan leaders (...) People value the traditional system as this goes to the heart of people. Conflict resolution is not only about seeing that justice is done but it has a spiritual dimension; it is about the living and the dead that are evoked in resolving problems and therefore reconciliation is between entire clans and not two individuals in relation to winners and losers. The legal system is foreign to the local people, to their perception of justice and*

Box 4: The PRRs: tradition or adaptation?

Several respondents were adamant that the PRRs represent the finest illustration of a caring and just tradition, so far as land rights are concerned. It is clear, however, that some areas have had to be adapted to new circumstances and these both address and fuel controversies. For example:

- **Clan committees:** must include a woman as either chair or vice chair at all levels.
- **Land sales:** to ensure that no individual or family head assumes the right to sell customary land, land can now only be sold with the permission of the entire family concerned - including wives and orphans – and the clan leadership for specified ‘good reasons’ (payment of dowry, school fees). If the spouse refuses, there will be no sale. Procedures for land sales include giving preference to clan members, drawing of sales agreements and site sketches.
- **Rights of widows** include the right to refuse ‘inheritance’ by a deceased husband’s brother; the right to pick an inheritor from outside the clan relatives; to manage land upon the husband’s death (until and unless she re-marries)
- **Land management:** the responsibilities of the clans and clan committees at various levels (village, parish, sub-county, district, and cultural institution) are specified.
- **Boundary marking:** drawing sketches and planting of recognised trees as a means to demarcate boundaries instead of grass.

reconciliation and it is considered the system for the rich and educated.”

Secondly, most of the cases handled by magistrates concern land conflicts, especially where there has been displacement of people, land grabbing and boundary disputes. Customary laws are applied in practice, although there are times when conflicts also arise from the way clan leaders handle land disputes. Thus, both the traditional system and the state land laws are in effect taken into account when determining cases. Clan leaders are called to court as key witnesses. The PRRs provide easy reference for legal court deliberations and decision-making and some magistrates refer to it, rather than referring cases to the elders.



Boundary markers

Other responses to the PRRs The PRR was launched in Lango in April 2009; in Teso and Acholi, a few months later. The impact is therefore still limited, but the PRRs appear to have elicited widespread support (Box 5): people recognise the positive elements of customary tenure and the PRRs as promoting unity and peace in the community and protecting it from land sales. During radio programmes, feedback on the use of the PRR indicates a positive reception. District councillors, clan heads in Lango, the ICU council, radio callers, Magistrates, add to public demands for cases to be handled culturally and to have more copies of the PRR available.

There are several reasons for this. First, the PRRs are considered a resource to the many clan leaders who can use it as a “bible” because it presents clear and uniform information on how land issues may be addressed and decisions arrived at. There is also room to review the PRRs periodically, to allow for reflection of the evolving reality ‘on the ground’.

Secondly, because the PRRs clarify the process by which returnees’ property is dealt with and how conflicts within the community and with neighbours can be resolved, a lower incidence of clashes has been mentioned where they are used. Administering the customary land tenure system is also increasingly seen to be cheaper and more accessible to all stakeholders than the legal system. As a participant stated, “*the police cannot be in every household, the clan can*”. One example is with boundary markers, which reduce conflicts,

especially when the boundary marking is done publicly and accompanied by drawing sketches, as the PRRs encourage. This record is generally accepted by the legal courts in case of a dispute over the same land.

Third, there is some emerging evidence that traditional institutions have helped to reduce inequalities related to women's rights through their use of the PRRs. In addition, it was previously impossible to defend decisions based on cultural practices in courts of law and women would not be able to articulate their rights in public without a point of reference to defend their position. PRR are now referred to in courts, during mediation and to define the rights of women and returnees.

Finally, some of the clan leaders met point out that, following their displacement between 2002-2007, returnees were resigned about recovering their land. With the PRRs, the traditional institutions have helped them to regain confidence in reclaiming their land. The courts recognise the authority and knowledge of the clan leaders and involve them when necessary: this has also improved their self-confidence.

Challenges with the PRRs As one would expect, they are also challenges. First, the limited reach of the PRRs is a frequent complaint, from several perspectives. First, in terms of actual distribution, the demand for the booklets has so far exceeded the supply, whether these are free copies, or sold (at UGS.5,000). Secondly, the PRRs outline principles to protect vulnerable widows and orphans but more men are aware of the PRRs than women, who have more limited access, because of high cost, preoccupation with household chores, and illiteracy. Third, LEMU staff also encountered language and translation challenges, leading to some ambiguities and inconsistencies. Some issues were said to require clarification, including reconciling traditional and state law with regard to the status of illegitimate children; dealing with elopement – the question of entitlement of a child born in such a union; and the return of divorced women claiming land / property. Other emerging 'grey areas' concern the interpretation of 'customary certificates as 'individual land titles'; the use of land in the wetlands, and land that is traditionally allocated for watering animals but is now being encroached upon to plant rice.

Areas of controversy The PRRs also highlight several controversies. The first concerns titling: communities are currently encouraged to obtain customary land certificates as such land is rarely surveyed and boundaries are assumed. In this case, the titles would be in the name of the family rather than individuals. Any transaction would require the consent of the family in question, and this would allow access to a loan after verification from the bank and ascertaining the family's assets. This however entails a significant change of attitude towards ownership and sharing resources, although at present the responsible institutions are not functional, sub-county chiefs are not trained to handle the legal and certification processes and there is a lack of infrastructure for registration. While it has been pointed out that registration of customarily held land as, say, a clan association can protect from encroachment, several respondents noted that the money economy has influenced the attitudes of people and the drive to acquire certificates of title is likely to influence land ownership eventually. There is also the issue of common-access lands: cultural leaders have become mere observers when it comes to the abuse of wetlands and other natural resources because these areas have been gazetted and are therefore now out of their area of authority. Traditionally there was little concern in protecting wetlands and similar resources because land was in abundance. There is now controversy as to whether traditional institutions should be given back a right of oversight over such areas.

In the past there was no need to sell land and there was no distinction between public and privately owned land. According to the PRRs, in the event of sale of land, thorough consultations are made with the family, the clan and relevant community members. First priority of sale is given to clan members. Land may only be sold under the following circumstances: (i) a bright child needs school fees to attend higher education. (ii) a person kills someone from another clan and compensation is needed (iii) to discourage elopement, a young man needs to marry (and therefore a dowry). However, where possible, the clan tries to provide financial support or leases land for a limited period. Some community members however use the "strength of poverty" to dis-empower others, making them believe that they plan to introduce a communal project, obtaining

Box 5: Are the PPRRs making a difference?



Avocats Sans Frontières (ASF) and FIDA are LEMU partners. They have run a programme on access to justice in Soroti District since February 2009. This includes activities related to gender-based violence, legal education and awareness, and legal aid. They work with the LCs, magistrates, lawyers, medical psychosocial providers, and the police. ASF and FIDA distributed copies of the PPRR to community leaders and organised a feedback session on the use of the PPRR in resolving land related problems. Approximately 60 participants were invited to share their experiences.

The main problems highlighted were land ownership, inheritance and boundary disputes. It was noted that these disputes have reduced significantly. On the positive side, clan leaders were found to be knowledgeable about land boundaries and rights, and tended to distribute land without segregation. They are also in position to resolve disputes respectfully and are not known to accept bribes as opposed to LCs whose support is accompanied by financial costs. The PPRR has been referred to in relation to equitable distribution of land; resolution of family disputes by LCs; advising community members on the need for consent of the wife and children in case of sale of land; the rights of widows in cases of land grabbing; defining the rights of divorced women who return home and claim land / property (although this is still a contentious issue); and inheritance of children born out of wedlock.

But there was a perception that some clan leaders are reluctant to do their work and have lost some respect. As a result, land cases are being forwarded to formal courts of law rather than the clan court, especially in town, where the LCs work more effectively than the clans. Some clan leaders have been unfair in their decisions and have been misled into allowing the sale of land for personal benefit without the family's consent. There is therefore a need, participants said, to build the capacity of clan leaders to play their role more effectively.

their written consent and using this to apply for an individual title.

A second controversy concerns the principle that has provided for the protection of vulnerable widows and orphans in the past but is now questioned. Terms such as “illegal” children, rarely used before, have now become more common. With population growth, land has become scarcer and this is beginning to erode the traditional values attached to fair distribution and sharing of this precious resource. Mobility, mixing of cultures, intermarriage, individualistic decision-making, ‘modern’ values and changes in the geographical jurisdiction of clan leaders all contribute to weakening their roles. Some district leaders and some youth are therefore opposed to PPRRs, the values and practices they represent. Generally, privatisation threatens collective ownership and is likely to cause conflict.

A third debate relates to the rights of girls, women and orphans. Initially, there was a perception that the PPRR was a publication to empower married women to ‘grab land’, as traditionally women were provided for within the family. While customary tenure allows for ownership in trust – the same for man and woman – where a woman's rights exist within the family, women activists push for individualised land rights, creating confusion. One contention was about women's consent to land sales. The clans reviewed this and agreed that a widow should retain ownership as long as she remains within the home and does not remarry. The aspect of a wife's consent is also new and it evokes strong sentiments, especially since, if a wife rejects the sale, even if family members consent, it would be null and void. This has aroused chauvinistic arguments, such as “*Women's rights are misunderstood by many women – who demand rights to decision-making and managing the property but also display excessive independence, drinking alcohol and behaving promiscuously*”, as some clan leaders in Lango said. Women are expected to enjoy their rights to land in their matrimonial home, but some now use both laws to claim land in the husband's and father's home. Others were said to have acted without consulting the clan and acquired loans using land as collateral, risking its loss in case they fail to pay. Clan leaders can then disassociate themselves from women who recover their land. With regard to children, they do not own land and

can only inherit land through their father. This is also contentious; conflict arises when a child grows up in the mother's home then begins to claim ownership and demand property where the father has not provided for the child. Thus, although the PPRR clarifies the rights of children and women, these are not necessarily followed in practice and greed takes precedence.

Incorporating customary land tenure and national policy work

LEMU's work in spearheading the development of PPRRs was accompanied by an initiative to influence the legislative framework, the Land Act and the Land Policy.

The 1998 Land Act, recently amended (2009)

Although the Land Act made customary authorities part of the justice system on relevant land matters, there were few efforts to make this a reality, either by ensuring that they are sufficiently equipped to discharge their responsibilities or by integrating the two systems – clan and State. The amendment to the Land Bill initially emphasised illegal evictions from land (with other land regimes especially in mind), rather than encroachment by the powerful, especially at the expense of women and orphans, of people seeking return to their ancestral land, or onto communal land, all problems experienced where customary land tenure prevails. Further, the need for courts to adjudicate illegal land occupation or eviction would have made this, in practice, impossible for ordinary people – and certainly for the poorest and most vulnerable - for reasons described above. (By January 2010, it was estimated that 20,000 people in Acholi were still in camps because of land wrangles, with thousands of cases before courts). LEMU was instrumental in having the relevant clause of the amendment bill deleted, having mobilised traditional leaders from Acholi, Lango, Alur and Teso to sign up to a position paper presented to the Parliamentary Committee on land. To replace the deleted article, a new sub-section was introduced, to emphasise that District Land Boards cannot enter into land transactions, this being contrary to practice under customary tenure.

The draft Land Policy At the time of writing, this had reached its ultimate draft. LEMU had

presented a position paper in 2008 and cultural institutions met in early 2009 to lobby. Many of the paper's recommendations eventually found their way in the final text of the Policy, recognising customary land rights as entirely legitimate and 'modern'. Secondly, the Land Policy draft accepts the need to harmonise the dual operation of the customary and the statutory systems in land rights management, administration and dispute resolution, empowering legally the customary authorities to perform these functions.

According to an observer of the process, what made the difference was the joint submission by traditional institutions from northern Uganda. It was well articulated and highlighted the opportunities to enhance customary land tenure for equitable development in a modern world, as well as 'using' traditional rulers as administrators and adjudicators on land issues. LEMU also exploited its membership of the National Land Policy Working Group, bringing together government agencies, NGOs and others, to express its views and to inform various parties about its field research. Its views on the relevance of customary tenure in respect of current development challenges were said to have been especially decisive in changing the prevailing perceptions of customary land tenure as outmoded and needing to be transformed into freehold. The government proposal that customary land tenure be phased out into freehold tenure was successfully resisted (this will require a constitutional amendment as it currently stipulates that land under customary tenure can be turned into freehold ownership by registration).

The draft policy therefore accepts that the four tenure systems will remain as enshrined in the Constitution, but the nature of property rights under these tenure regimes will be clarified, by amending the Constitution, the Land Act and other relevant laws to strengthen the legitimacy of culturally acceptable tenure systems as a means of preserving access rights to common property resources; to strengthen the land rights of women, children and other minorities under all tenure regimes in existence; and to place customary tenure at par with other tenure systems.

Further, it was agreed that customary tenure be strengthened to facilitate and promote its orderly evolution into a 'progressive and productive' land tenure system. This is to be achieved by, for

instance, documenting tenure rules, a programme for the certification and registration of customary tenure rights, and a programme for common property resources to be vested in communities to be managed under customary law. To ensure that the land rights of women, children and other vulnerable groups are respected, the Policy also provides for Government to review and liberalise customary law and to ensure that family land is held in trust for the family. To strengthen traditional land management institutions, measures will be taken to enforce the decisions of traditional institutions as mechanisms of first instance in respect of land rights allocation. The policy states that measures will be put in place to ensure that community management structures relating to land under customary tenure are strengthened. Measures will be taken to recognise community-based boundary making systems for land held under customary tenure.

With regard to land markets, the Policy proposes, among others, to promote the land rental market and long-term benefit-sharing arrangements rather than one-off compensation for loss of land rights, by supporting contract farming schemes for smallholder farmers, out-growers schemes, equity-sharing schemes and joint-ventures. To avoid conflict and confusion between statutory systems and customary systems, land rights administration functions will be decentralised to customary land governance levels to enable traditional institutions to operate as the tiers of first instance in respect of land held under customary tenure

The Land Policy may thus well end up with a unique approach to customary land tenure, recognising and supporting it. As a sympathetic observer notes, *“There is now no longer a need to phase it out or to replace it for the sake of ‘modernisation’, but to enhance its application.”*

Conclusion: customary land tenure - relevance, challenges and way forward

Whereas customary tenure was earlier seen as legitimate, but as a remnant from an earlier epoch to be gradually discarded and transformed into freehold, LEMU's work has shown that customary tenure is still relevant and useful to many millions

of ordinary Ugandans. The advantages of this type of tenure, the way it resonates with local cultural values of care and solidarity, its local management mechanisms that are accessible to local people, including the poor, the sense in which that land is the most important asset that the community owns have been described.

Two aspects of its work have especially contributed to this changed reality. The first has been to document norms and mechanisms to make customary tenure more effective, including its aim of protecting all - the poorest and most vulnerable too - and in the process, to revitalise the role of the clans in ensuring that these are adhered to. This focus on land administration and the prevention of land conflicts highlighted LEMU's approach to protecting rights and a recognition that the state justice system on its own will not be able to defend the rights of all the women (and men) who face land grabbers.

The second and possibly more decisive action has been on the policy front, where the revised Land Act and especially the National Land Policy will, if implemented, reflect the status of customary land tenure as a system that deserves as much recognition and support from state authorities as others in the land, and that can be linked to the state institutions for effective administration where necessary. Should the policy finally be approved in its current form, this will have been a significant contribution to ensuring a safer livelihood for many millions, including women and vulnerable groups in many communities.

As an article on LEMU's work states, *“Lack of resources is not the problem. It costs nothing to organise villagers to choose a tree that they will all recognise as a boundary marker and to encourage people to plant these trees. It costs nothing to encourage everyone to draw maps of their land, and getting their neighbours and clan leaders to sign these maps. The state does not need to do this on the ground – but it must set the policy lead that this will be supported, and must make clear that these trees will be protected as boundary markers by the law, that these maps will be respected in courts. The problem remains that governments, academics and the urban elite of the NGOs have all inherited the prejudices against native or traditional culture from the colonial authorities”.*



Magistrates and cultural leaders will need to work together to make the Land Policy a reality on the ground

There therefore remain two tasks ahead: first, should the Land Policy be eventually approved by Parliament, there will be much to do to ensure that the significant shifts that are envisaged become the practice 'on the ground'. A genuine State-clan partnership will need to be forged and attitudes attuned to this, a formidable task. The PPRRs will need to be extensively disseminated and their use monitored and supported; ambiguities will need to be clarified; other publicity and information campaigns will need to be undertaken, in collaboration with Government authorities and other non-governmental organisations. And with new responsibilities come new needs. There is clearly a need to help the clan leaders play their role effectively. Copies of the PPRR will need to reach all clan leaders in each village, accompanied by capacity building on the contents and their role. The issue of inter clan conflicts will also need to be addressed.

Second, one must accept that the world is changing and that, to remain relevant, customary land tenure will also need to adapt. In response to the question whether customary tenure is under

siege, the Teso Cultural Leader, the *Emorimor* said that the system is likely to change with time but this will be by evolution rather than revolution. The desire for communally owned land is still strong although in times of difficulty part of the land may be sold. With this comes a need to reflect on how the 'modern' pressures can be managed and accommodated. A menu of options for the future, argued one interviewee, needs to be developed. Some respondents suggested that land for investment should be clearly demarcated and agreements made with the community as out-growers, to ensure that customary land is protected. They also suggested that preference should be given to local investors as opposed to foreigners and that there was a need to show how development initiatives can be planned for and be viable using the current land regime, indicating how to improve on the land and the life of the people who use this land. LEMU has shown that customary land tenure is capable of protecting the poorest, of adapting to change and of being productive; it will need to ensure that, as pressures for further change mount, its relevance remains.

2. Traditional and modern conflict resolution mechanisms in Pokot

This case study examines the interface between traditional and legal governance systems in conflict resolution in Pokot, highlighting contradictions between cultural and human rights and how these are managed by mediators who use a cultural approach to conflict resolution, such as the Pokot Zonal Integrated Development Programme (POZIDEP). Research entailed semi-structured interviews with councils of elders, young men, women's groups, other cultural resource persons, Local Councillors, and representatives from development organisations in the district.

Pokot and its people

Pokot is a newly created district in the north-eastern part of the country. It is remote, with poor infrastructure and a largely illiterate population. In 2002, there were 70,000 Pokot in Uganda, with a greater number in Kenya. There are 43 clans and 200 sub-clans, close knit entities that share common values. The Pokot rely on cattle as a source of livelihood, wealth and social status. They are traditionally pastoralists who migrate in search of pasture, or in the event of the death of the family head.

In the past, elders report, the Pokot lived harmoniously with their neighbours and depended

on traditional mechanisms to govern their communities, strictly adhering to rules prohibiting theft, promoting discipline and respect for parents and elders. In the post-independence period, however, incidents of cattle rustling directed at neighbouring ethnic groups increased, reaching a peak in the 1970s when guns were acquired. Despite attempts by subsequent governments to control cattle rustling through disarmament exercises, the practice persists and fosters violence and lawlessness. Most youth still consider cattle raiding heroic and are named according to their demonstration of physical strength. Other types of conflict include disputes over land, cattle, honey, fishing boundaries and equipment, as well as domestic conflicts related to adultery, alcoholism, and barrenness / sterility.



Boys and young men are responsible for managing cattle – a treasured resource in Pokot

The traditional governance system

To date, the great majority of the crimes are handled by the traditional courts, whose jurisdiction is meant to apply to all members of the community on both sides of the international border.

The value of integrity, respect for elders and discipline are still cherished and social ranks associated with age and the corresponding initiation rites rigorously observed. Elders give instructions to manage the community, including determining periodic grazing land, raiding cattle from the neighbours, resolving conflicts within and beyond Pokot, and pronouncing punishment and compensation for offences committed, great and small. Elders are men who command respect and are meant to ensure harmony in the community: when an offence has been committed, they call a meeting to hear the case.

There are several spaces to resolve conflict in the traditional governance system and, in all, men are the main actors. These include the clan court (*Kokwo*), discipline enforcement (*Ameto*), and more recently peace committees. Most respondents stated that these spaces are considered effective and decisions taken are respected and implemented.

The Kokwo Traditionally, the Pokot make daily decisions regarding the management of the community and their cattle. This practice has continued and a daily call can be heard at 5.00 a.m. for elders and young men to convene at a designated place to agree on routine community issues such as the location for cattle grazing, conflict resolution, regarding domestic violence, adultery, cattle theft or land disputes amongst the Pokot or between the Pokot and their neighbours. These meetings are called *Kokwo*; they involve the presentation and adjudication of cases, physical punishment (caning), compensation and reconciliation.

At a *Kokwo*, about 50 men sit according to their age and status in the community. The elders are the main decision makers, followed by young men who have been initiated into manhood (*karachuna*'s) and the youth. In case of a conflict – most often cattle theft and adultery - the accuser and accused are expected to be present at the

meeting and are given an opportunity to air their grievances. The *Kokwo* aims at reconciliation, rather than revenge or punishment (Box 1).

Once a case has been settled by the elders, it is rare for further reports to be made to the local authorities. The traditional conflict resolution is final

Box 1: The Kokwo: punishment and reconciliation

After a case is heard, with the expertise available amongst the elders, a decision is taken regarding the compensation that is required for reconciliation, although corporal punishment can also be meted out as part of the process. Compensation is commensurate with the crime committed and made either immediately or during a specified period. The offender is usually fined a number of cows or the equivalent value in goats. For instance, the fine for stealing a beehive of honey is 6 cows; adultery attracts a fine of 30 cows (also depending on the dowry paid for the wife) and the adulterous woman and man are caned; for the theft of a cow, the fine is the number of legs of the cow (4 cows) in addition to returning the stolen animal. The penalty for murdering an unmarried, childless person is 100 cows and 60 cows for a married person with children. In the case of cattle rustling, the culprit is instructed to return the stolen cows, an equal number of cows as a punishment for this offence as well as to present gifts to the elders.

If an individual is disobedient, the elders pronounce a curse which can only be removed by the slaughter of bulls and cleansing by the elders. If the culprit does not have sufficient cattle, his family, relatives and clan are expected to contribute. When a person without cows has committed a minor offence, he can be forgiven, though not without being heavily caned. In the case of murder, once an agreement has been reached and compensation made, a spear is broken to signify the end of the conflict – the parties are blessed by the elders and prayers held.



A Kokwo in session

although, if a case is brought before the *Kokwo* and the guilty party insists that s/he has been falsely accused, a truth telling ritual (*muuma*) is carried out through oath taking. The accused and accuser drink a sacred mixture and it is believed that, after two or three months, the guilty person will begin to experience illness and death in the immediate family and clan and, if s/he does not confess, the person will eventually die.

The Ameto This is a collective action by the youth to discipline their peers, as directed by the elders. Young men who have strayed, such as disregarding elders' instructions to preserve pasture for calves, are caned at random by the older boys. Traditionally, the kind of offences that would attract *ameto* include unauthorized raiding, disregarding instructions on grazing areas, unintentional killing, and disobedience towards parents and elders. The young men do not resist the *ameto* because this may provoke a heavier punishment which could include killing their prized bull. After the beating, each individual provides the elders with local beer and the main culprits slaughter a bull to purify their wounded bodies, short of which their wounds would, it is believed, lead to death.

Peace committees Since the 1960s, cattle raiding has been the main source of conflict between the Pokot and their neighbours, the Karamojong, Turkana and the Sebei. In addition to cattle rustling, there have also been long-standing conflicts over land boundaries and ownership, and the allocation of administrative posts to non-Pokot, resulting in an uneasy relationship with government authority and the perception that the Pokot are unfairly treated.

Traditionally, elders from one group would send a message to the other to propose a dialogue, especially in cases of significant loss of lives and cattle. If accepted, the elders of the warring groups would agree on a date and a neutral meeting place to resolve their differences. More recently, as the intensity and frequency of conflicts increased, peace committees have been established by NGOs in an effort to bring together warring groups. These consist of representatives from the *Kokwos* within Pokot and elders from the other communities. Their main purpose is to facilitate peaceful dialogue and to resolve conflicts. These committees are part of the traditional system in so



Elders are integral to peace committees

far as they consist of elders who are selected by the community to take decisions on their behalf and to ensure that they are acted upon.

Perception and effectiveness of the local system The *Kokwo* is generally recognised as a fair, transparent, accessible and responsive court and is much relied upon in the rural areas. The process is swift and well understood by all parties; justice is immediate, compensation is defined and implemented. There is no other cost attached to the judgment, which is less influenced by an individual's wealth or social status, it is said, than within the state system. Further, the *Kokwo* ultimately aims at reconciliation and not revenge or punishment and this fits with local cultural values.

The outcomes are usually seen as beneficial. For example, in the case of adultery, if the man is arrested, the Police will not feed his wife and it is therefore considered preferable to judge the case traditionally, whereby the adulterous man may be asked to pay the same number of cows paid for dowry to the aggrieved husband, after which the woman is returned to her marital home. The culprits may be brought before the *Kokwo*, blessed by the elders and the issue is resolved. If a similar

case is handled by the Police, the husband of the adulterous woman is not compensated, will not be satisfied with the judgment and may opt to kill adulterous man.

Drawbacks The disadvantages of the traditional system, as mentioned by some NGOs and other respondents, include the marginalisation of women, of the poor and of the non-Pokot; punishments that sometimes violate human rights; and a system that is not accountable to another authority, making any decision final.

In Pokot, men are the main players in governance, reflecting a family hierarchy that begins with the man, followed by his sons, his wives and daughters in that order. Women are marginal in public life and do not participate in decision making at the *Kokwo*. Normally, they are not even allowed to speak: if a case concerns a woman, for instance in respect to a husband's alcoholism and domestic violence, she is expected to sit besides the main meeting place and to listen to the discussions. If the woman is spoken to she is expected to remain seated when she responds to questions. The accused husband and his friends are called to listen to the elders. The man is forced to provide a bull to the elders as a fine, after which he promises to care for his wife and the couple is blessed by the elders – the issue is resolved.

Today, however, women who have been educated can be allowed to speak standing and are also occasionally allowed to represent men in meetings, but do not take decisions. The elders met felt that having women representation on the LC is good but, during the clan courts, their participation should be restricted. In Pokot there is no woman chief and when asked their opinion, some of the women interviewed said they were happy with their position as silent 'observers' to the *Kokwo*, while others felt that elderly women who are knowledgeable about things that men have little information on should be allowed to sit in.

The poor, those with fewer than 30 cows and 3 wives, are also marginalised by the traditional system and lack influence, contrary to the wealthy who can sway local rules and organise successful raids. If an offender is weak, originating from a small family that is not able to appeal (by asking for the court to sit again), decisions may be taken about their cases without sufficient consultations

with the elders. The local MP cited one example where a person was accused of being a wizard and was immediately hanged. Such rushed judgements often occur when the accused are not in position to demand that elders come from afar to widen the expertise available and to listen to their case. Elders, however, are also held accountable - in the event that an elder makes a mistake, he would be reprimanded by his peers, fined and caned, if necessary.

The state and conflict management

State governance mechanisms were almost absent in Pokot until 1979, when the Uganda Police started work in some parts of the district and 2007, when a magistrates' court was established in neighbouring Nakapiripirit. Respondents felt that the police and armed forces have not been very effective until recently, when the army undertook disarmament exercises. Civil and criminal cases reported to the Police in Pokot are now recorded and sent to Nakapiripirit magistrate's court where the magistrate is available two days a week, an improvement on the previous situation when the court was in even more distant Moroto.

Managing local conflicts Various organs may intervene. In Karita sub-county, for instance, the LC3 chairperson may receive cases which she resolves in consultation with the traditional leaders and local communities or forwards to the Police or Magistrate's court. Complaints received relate to market dues, arrest without clear charge, cattle thefts, and domestic issues, such as neglect of children and orphans. Common complaints received from women are in respect to material needs and domestic violence. Some of these complaints are handled by the *Kokwo*, but, within the trading centre, cases are taken to the LCI first. In rare instances, a civil or criminal case may be reported to the Police if it has not effectively been dealt with by the traditional courts. The cases reported to the Police often conclude with the offenders being imprisoned. Sometimes too, elders make a decision and forward the case to the Police themselves, and it is resolved there.

At times, the traditional courts are entirely bypassed: this may happen when youth no longer recognise the traditional mechanisms and embark

on their own cattle raids and when they are not satisfied with the judgment made by the elders and they proceed to the Police and Court. Non-Pokot, when not satisfied with the resolution made through the traditional system, may also go to the Police or take the law into their hands. Other cases may require a combination of stakeholders beyond the *Kokwo*, such as in a recent land dispute between the Uganda Wildlife Authority and the community.

Managing conflicts between the Pokot and their neighbours The method to manage such conflicts depends on their nature and magnitude, and whether they require wide consultations, for instance involving the clan court, the Resident District Commissioners, Members of Parliament, and the army or government officials across the border. Community members and elders are often consulted to identify the culprits, but if the army fails to consult or to obtain correct information, it may resort to forceful means commonly known as “UPDF operations”.

Limitations of the state system The state system is perceived as imposed and foreign, with objectives that are poorly understood and therefore viewed with suspicion. The few who have attempted to use it have been frustrated by lengthy proceedings, judgments influenced by corruption and the lack of compensation for the complainant. Some also reported that they find the legal process inconclusive to resolve conflicts. The time required for the Police and the Magistrate to handle a case also makes the legal process an unappealing option. Once reported, cases need to accumulate to at least 20 – 30 before even being submitted to the magistrate’s court. Another difficulty is that the legal proceedings are held in Karamojong and a translator is rarely present. Some people were reported to have been sentenced to prison, but could not appeal or complain because they did not understand their offence, let alone their rights as defendants.

According to some of the elders interviewed, the state system is also influenced by external forces. There is a perception that the Police are corrupt, delay the process of submitting cases to the civil court where, furthermore, judgment can easily swayed if the offender is able to pay a bribe. According to the *Karachuna*’s met the police

often record statements promising to resolve the problem but do not do so. When an accuser runs to the police, in their view, it is assumed that the person who comes first is in the right and, even if this person is later found guilty, the judgment can be influenced if s/he has money. The *Karachuna*’s consider ‘disturbance’ by the government a main source of conflict, especially when they do not understand the reasons for their arrest as, they say, government does not listen to the youth and takes it for granted that they are always at fault. At the *Kokwo*, by contrast, one cannot lie because everyone is present. the accused and accuser are given an opportunity to air their complaints and the judgment is conclusive.

Recent disarmament exercises led by the Army have been especially controversial: according to POZIDEP staff, some local government officials were not clear on their roles and the disarmament exercise was therefore poorly managed. The army has been accused of using unwarranted violence on unarmed civilians, forcefully taking their milk and honey, and raping women. Rather than targeting offenders, entire families or communities have been victimised and little effort



The *Karachuna*’s maintain order, upon the elders’ instructions.

has been made to ensure that decisions made are to the satisfaction of those involved. The elders in Kalita narrate how the recovery of raided animals has been mismanaged: following a recent raid, soldiers came and took cows forcefully from innocent families and ate some while claiming to keep them in safe custody before returning the others. One elder retorts, *“Do you think government is doing a good thing? If the matter of stolen animals is taken to the Kokwo, the thieves are brought and told to return the animals. It would be better if the government asked the Kokwo what approach they should use to recover cattle and arms. But they do not consult and that is why the disarmament is failing”*. Francis Kayonga, the local MP, recalls how elders called all area MPs and requested them to look for the soldiers who took women and ate their honey during a recent disarmament exercise because they wanted to punish them traditionally: *“... they too must be brought under the tree and tried!”*, thus demonstrating that, according to custom, no one is above the law and all must be held accountable.

Mediation: the work of NGOs

Conflicts between different ethnic groups often call for mediation. Traditionally the role of mediator was played by the elders of the warring parties who were involved in blessing raids and punishing wrong doers.

Since 1997, however, POZIDEP has played a mediating role, bringing together the Pokot and their neighbours to address cattle rustling in the area (Box 2). Local communities have confidence in POZIDEP because it is church-based, has been operating in the region for considerable time and is not influenced by other parties. Through its programmes, POZIDEP has also established rapport with various communities and is known to advance developmental concerns, especially with regard to peace building. During mediation meetings, the elders act as arbitrators, although the *karachuna*'s are often given time to express their views and grievances. Honesty and openness are encouraged; offenders are mentioned by name without fear, regardless of their status or age. The task of the mediators is to cool tempers and to ensure that discussions do not get out of hand.

Box 2: POZIDEP's mediation efforts with cultural leaders

POZIDEP – the Pokot Zonal Integrated Development Programme - is the implementing arm of Karamoja Diocese. It is actively engaged in conflict resolution.

When invited to mediate, POZIDEP staff visit both parties, request a meeting at a mutually accepted venue and insist that both parties should come unarmed. Usually the invited individuals have been or are instigators of conflict (including raiders) to ensure that they do not perpetuate conflicts. POZIDEP provides a platform for dialogue; it witnesses the discussions, notes reactions and recommendations and only poses questions when the discussions have reached a deadlock. POZIDEP also follows up on actions agreed upon in previous meetings. As mediators, POZIDEP ensures that the staff involved are well informed about human rights and provide the necessary guidance to divert punishment from any abuse of these rights. They must inform the elders of the legal implications of their decisions and, according to POZIDEP, the elders have often responded positively and made attempts to reconcile human rights and cultural practices. POZIDEP staff also stress identifying common values within the tradition and Christian beliefs, such as integrity, respect for elders, and obedience to parents.

A challenge POZIDEP faces is the inability to meet simultaneously warring parties who are far apart, as this can be used by some to perpetuate a conflict. In addition, the very influential diviners can easily instigate raids and disrupt a peace process. The youth often listen to the diviners and will follow their instructions, in the conviction that this is right and that they will succeed. Some of the diviners do not participate in peace committee meetings because they may suspect the intentions of those who invite them. In an effort to address this issue, POZIDEP invites the elders in general meetings without isolating the diviners (to avoid suspicion of being singled out and hence abstain from attending), and engages them in dialogue on peace ensuring that the issue of destructive foretelling is discussed.

In instances where the disputing parties fail to agree or get into heated exchanges of words, the meeting is postponed. Before the next one is held, POZIDEP tries to meet each party separately to establish the root of their problem. POZIDEP has noted that it is not useful to intervene when a conflict is at its peak and that mediation is often only successful when the demand for peace talks is initiated by the warring groups, rather than externally driven.



POZIDEP staff discuss mediation efforts

Today, about half of these peace dialogues are initiated by the communities who invite POZIDEP as facilitators or witnesses and may involve the LCs, the Police and the Army as well. The presence of the latter provides an opportunity for the community to express their grievances about the conduct of the security forces and to inform them about the traditional conflict resolutions opportunities in place.

Others NGOs include the African Leadership Institute (AFLI) and ZOA. AFLI uses a culturally sensitive approach in respect to human rights, using traditional examples and encouraging communities to change from past practices that are outdated. ZOA has also chosen to work with the elders who act as change agents in their community. AFLI has noted changes in some areas where, with the intervention of POZIDEP and AFLI, it is now uncommon to find women severely beaten.

The interface between traditional and formal governance systems

Although the interface between the traditional and formal governance systems is ad hoc, according to some respondents, having the Police and *Kokwo* as parallel systems provides the community with alternatives avenues to resolve conflicts. Rural folk tend to prefer the traditional system, while some urban residents tend to use the Police and Court. Further, if a complainant is not of Pokot origin or does not have a male representative to present the case, the traditional system may not be effective and the person has the option of going to the Police or LC.

First, there is an interface between these systems when the traditional leaders are consulted by the Police or the LCs before a case is handled, during the case and, when it is not successfully resolved, or where the Pokot are involved with their neighbours. The LC3 members met in Amudat thus explained that they often take cases to the *Kokwo* first and, if they are not conclusively resolved, they are referred to the Police, A complainant who is not satisfied with the judgment of the *Kokwo* may also opt to take the case to the LCs. There are also instances when Police cases are referred to the *Kokwo*.

Most local conflicts are handled by the traditional conflict resolution mechanisms and only reach the LCIII when these are unresolved, and often of a criminal nature. But there are no clear demarcation lines: when cases are referred to the LC3, the first step is to consult the community and visit the site where the conflict occurred. Elders, neighbours and relatives are invited to verify the facts. After consultations, the LC resolves the matter, specifies compensation and the elders assist in following up to ensure that compensation is made. Even in a murder case, if the culprit is arrested and serves his term in jail, he is expected to compensate the family of the deceased as per the traditional justice norms upon his release.

Much also depends on circumstances. In the event of murder, for instance, the traditional decision is to offer compensation. If a case is brought to the elders, the compensation may be made by the entire clan and should the traditional court decide that the compensation requested and paid is sufficient, the police do not get involved. If such a case is forwarded directly to the LC or Police, the murderer is imprisoned, unless an understanding is reached: for example, in a recent case of manslaughter involving two neighbours, the community came to claim the culprit from the Police, who released him 'to sort out the problem traditionally.' A *Kokwo* was called and the case closed after compensation was paid.

In the event of a conflict between the Pokot and their neighbours, the respective LCs are invited to a meeting and collaboration at this level is often said to be smooth. It is at this time that the dates and venue for a reconciliatory reunion are agreed upon and each LC3 is tasked to mobilise the people at their own cost to attend, including elders and *Karachuna*'s from both sides. A bull is slaughtered and the conflict resolution process takes the form of a traditional court, although the LC3s come as representatives of Government to witness the process and the final decisions taken by the elders. In the case of raiding, Anna Namitti, the LC3 Chair of Karita sub-county states that, while it is the responsibility of Government to recover raided cows, the community can also contribute because they know the raiders' parents and they can approach them to resolve the problem. The culprits can then be followed up until the cows are recovered.

Box 3: Cultural values and land dispute resolution

Some conflicts involve people who migrate, then return to claim land, identifying the foundations of a hut, graves and other forms of evidence that they once lived there and challenging current occupants, if any.

In one such case, Mr. Swale, an LC3 chairperson in the area, took a neutral position pointing out the need to develop the land and improve livelihood, noting that not everywhere one settles, one becomes lawful owner of the land. He encouraged the returnees to construct houses with iron roofs and to take their children to school, but ensured that the complainant was compensated. Reconciliation and compensation are key in resolving conflict in Pokot and the LC3 makes sure that all parties are satisfied with the outcomes of any resolution made.

With time, however, the elders' authority has waned as the youth have gained access to guns which they use for raiding with impunity, dismissively stating, *"My gun is my protection, no longer the elders"*. According to the elders, in the past, the youth respected them because they could be relied upon to pay dowry. Today, with the consistent cattle rustling, there are fewer cattle and parents who have many sons may fail to provide for all of them. Despite this, some youth still feel the need to involve elders in reconciliation, restoration of peace and agreement on collective grazing for their cows. According to Rev. Joseph Lomongin, the POZIDEP programme team leader, amongst the Pokot, only 30% of the youth have drawn away from traditional authority.

The challenges of managing legal pluralism

The existence of two governance systems in Pokot raises a number of challenges, both in relation to their respective limitations, as well as in managing a productive interface between the two.

Varying perceptions of justice While both systems place emphasis on justice, the traditional system emphasises compensation and reconciliation. It stresses discipline, honesty and accountability, while the state system follows the law of the land and focuses on establishing right and wrong – punishing the wrongdoer but not necessarily compensating the aggrieved. The state system appears more susceptible to external

influences, such as political interests and bribery, while the traditional system is less influenced by these factors and is therefore locally considered just. Without understanding the value base in both systems, community members are therefore likely to dismiss the statutory system, although it should ideally protect their rights.

Contradictions in value systems Another area of contradiction concerns human and cultural rights (Box 3). POZIDEP for instance sensitises the community about human rights, while some of the punishments meted out may include severe caning, an abuse of human rights. According to Rev Lomongin, *"In the Pokot tradition, not all sons grow to become good people, if one proves stubborn and adulterous and the family is constantly paying cows in compensation, the father calls his brothers and if proved guilty, he is beaten by his brothers"*.

In the case of women, domestic violence appears to be the norm. Omitting to perform expected household chores such as 'locking the gate' (a main responsibility), sweeping the compound, fetching water, bringing in the shield and spear after the man has returned from hunting, may result in severe beating, sometimes death. Rev. Lomongin notes that *"formerly men beat their wives to death and no one in the woman's family would question it: if a woman is given - a woman is given, even if she dies there. However, today things are changing: even if cows were given, the family comes in and asks why they were not consulted if the wife is not behaving well. If she is killed by her husband, the man is also killed - human rights in the traditional way!"* Today, if a wife is found to be in the wrong or unjustly treated, divorce (*alathorn*) is allowed and the cows paid in dowry are returned to her husband's family. Few leaders have been exposed to information about human rights and therefore work according to traditional perspectives on women's 'rights', reflecting the community lack of appreciation of domestic violence as a crime. Thus, according to an NGO informant, *"if one does not beat his wife, he is considered an outsider to the Pokot culture and his wife is not treated as a Pokot woman if she is not circumcised and beaten."* But this is not a clear cut situation: some of the elders who have been in the civil service, exposed to civic education or called to witness during court cases, are aware

of rights and are able to advise other elders to better take these rights into account.

POZIDEP has been mediating conflicts in Pokot for several years and has also found challenges in managing contradictions between religious (Christian) and traditional values. The traditional conflict resolution process involves elders, some of whom are diviners, sorcerers and seers. Every village in Pokot has an elders' shrine where dialogue and reconciliatory meetings are held. The elders have the authority to invite any divine power to the shrine to foretell the outcomes of various events, valuing both traditional and Christian leaders as capable of prophesying the truth. A conflict however arises with the Christian leaders when traditional diviners foresee "free" cows in a particular location and instruct the youth to go and "collect" them, whereas this amounts to raiding neighbouring communities.

Ad hoc referral, poor collaboration and 'forum shopping' While the traditional system may effectively deal with various community concerns, there is no systematic process through which conflicts are managed from one forum to the other. Although reference may be made back and forth with the LCs, the Police and traditional courts, there is limited follow-up once a case is passed on and this leaves room for inconclusive resolution, unaddressed human rights abuse and injustice in cases influenced by corruption (Box 4). The motivation to move from one court to another then depends on how satisfied the person is with the outcome. Some political leaders for instance align themselves with the culprits in the community to win votes and this perpetuates conflict when decisions taken by the traditional courts to bring the culprits to book are overridden. In addition, some district officials who are not very knowledgeable about the traditional system overturn decisions taken by the elders and the peace committees, use the legal system but end up releasing culprits from jail.

The traditional system has resourceful people to collect intelligence information, enforce law and order and address community concerns, which they seem to do to the satisfaction of many. The state governance system also has the mandate and material capacity to enforce law and ensure security. Having parallel, disconnected systems that aim at the same objective can result in the

ineffective use of resources, and occasionally in the mismanagement of security and conflict situations. With poor coordination and insufficient recognition of the roles played by the different actors, some cases are not effectively dealt with. For instance, if the traditional leaders are not consulted, they may withhold important information, and observe the police and army struggle with their investigations and act upon inaccurate or incomplete information, which is then perceived as poor execution of their duty.

Effective traditional principles and practices are not codified and documented for easy reference by the state law enforcers but rather kept in the heads of traditional leaders and other custodians. State law enforcers then have a limited understanding of



Women met are often content with their culturally defined roles

Box 4: Uneasy interface between governance systems

- Cecilia Keruto is a 17 year-old from Sebei who lives in Karita with her mother. Cecilia dropped out of school when she was impregnated by a Pokot man. The relationship turned sour when his relatives harassed and physically abused her, accusing her of having HIV/AIDS and being unworthy of him. When she attempted to fight back she was beaten by his relatives, so she sought refuge at the Police post. She was later arrested by the Police, having been accused by the man's family of beating his sister and sent to Nakapiripirit where she was imprisoned for 3 weeks with her 3-month old baby. At the prison, no one came to follow up her case and, upon her release,, one of the father's brothers paid the police to re-arrested her. Subsequently released, she is currently undertaking community service for 6 months. Cecilia, whose only close relative is an aging mother, said she went to the Police because she needed an immediate response to her problem. She had earlier reported the case to the elders who called the family and rebuked them but without effect. Eventually the elders referred her to the Police. She foresees no peace in this community as she expects the relatives to continue harassing her, and she lacks the elders' protection.
- This case was referred in succession to the Police, the LC3 and to the *Kokwo*. A man paid partial dowry of 15 cows (leaving 5 cows to be paid at a later date) for his first wife. Without completing payment, he proceeded to marry 3 other wives despite constant reminders from his brothers-in-law. The latter chose to use traditional means to handle the case by forcefully taking five cows from his kraal. The husband reported the case to the elders and LC3 who agreed that the action taken by his brothers-in-law was in accordance with custom. Unsatisfied, the husband proceeded to the police and filed a civil case. The Police arrested the brothers for theft, for which they would be imprisoned and forced to return the five cows. The Police requested a bribe of UGS.100,000 and the brothers were released on bond. Upon release, they decided to return all 20 cows and demanded that their sister and her children be returned to the family saying. The man returned to the Police to complain that his family was being taken away. The LC3 stepped in, met the Police and told them that they had mismanaged the matter, as they should have accepted the decision taken by the traditional leaders. Another meeting was called involving more elders and it was agreed that the husband should return the 20 cows, for the family's sake. The husband returned the full dowry and his wife and children were allowed to return home to him.

the traditional system and, with low literacy levels, the traditional leaders are equally ignorant of state law. According to Francis Kayonga, government programmes are failing in the region because the law enforcers do not understand 'how things are done' in Pokot: *"Recently some government soldiers were killed, and the usual reaction is to hit back at the community in general, often affecting the innocent. This is misplaced energy and time wasted, without understanding the community mechanism to enforce governance. For instance, a government official can call a meeting and address the people but after he has left, another meeting is held to review and ignore what he has said. An elder is more respected than the president (...) the Pokot appreciate and understand the traditional laws which they have been practicing and see the state laws as foreign."* This has resulted in a negative community attitude towards the disarmament exercise, perpetuated conflict and reinforced the a perception that the Police and Army are less concerned about law and order than in exploiting the local communities.-

Conclusions and recommendations

Dealing with the source of conflict The main source of conflict amongst the Pokot concerns cattle. With limited exposure, the Pokot are not informed of alternative sources of livelihoods to diversify their wealth base. According to Francis Kayonga, unless the economic needs of the Pokot and Karamojong people are met, it is likely that conflict will continue so long as the main source of livelihood – cattle is threatened. He laments that *"Business people come into the region and ferry stones but the people do not know their value of the stones and therefore observe passively, as outsiders with knowledge come and exploit their resources."* One could therefore introduce development programmes that provide alternative means of livelihood, including using existing resources such as milk, honey, stones, lime etc. and establishing cottage industries to process these products as alternative sources of employment and income. Trading opportunities between the Pokot and neighbouring districts in Uganda and Kenya could also be improved.

Increase the relevance of the state governance system For the statutory system to be fully appreciated by the community, the Pokot need

to understand governance from a government perspective; know their rights and understand court proceedings. The State needs to ensure easy access to courts of law by establishing a Magistrate's court in Amudat and increase the number of legal officers to dispense cases efficiently. Courts must also use a language that is locally understood or use translators. Where appropriate, they must ensure that compensation is efficiently dealt with and where this is not so, ensure that the complainants understand why.

Address corruption The principles of integrity and accountability used in the traditional system need to be integrated into the state governance system and the community sensitised that it is their right and role to hold government officials to account. To do so effectively, they need, possibly through civic education, to have access to relevant information and to understand development plans, budgets and funds allocated. Checks and balances that involve the traditional leaders need to be established, to ensure that community members are not exploited and clear avenues to report and address corruption cases are known.

Provide information and knowledge Human rights and the law are documented and literacy would enable members of the community to understand these rights, without relying on civic education run by NGOs that is often time bound. With more education and schools can come the ability to lobby and present concerns at different levels of governance; to represent themselves and request measures to address their priority needs. Civic education could be undertaken throughout the district in consultation with the traditional leaders on issues related to human rights and state laws; one could provide training on human rights for LC3s and support them to interpret and explain rights related issues when resolving conflicts.

The traditional conflict resolution system is well understood by the local communities, but its key principles and practices are not codified or documented. By underlining formal education, the Pokot will be better positioned to document the traditional system and initiate its incorporation in by-laws within the region.

Strengthen collaboration between state and traditional leaders Because the traditional governance system is considered effective by

local communities, it is important that actors in the state governance system make a deliberate effort to understand the cultural context; convey information on the law and rights and work with traditional leaders to ensure that the communities understand their motives and thus collaborate for peace and justice in the region. The state governance system needs to take into account the strengths of the traditional system in terms of influence, access to information, community management to enhance their ability to play an effective role in the community. These would entail having joint planning, implementation and review meetings – recognizing the contribution of the different stakeholders - not only to discuss disarmament exercises and government interventions but also to understand the issues being dealt with by the traditional courts. Legal officers could also be involved in the traditional courts to provide guidance on the legal implications of the decisions that are taken and efforts could be made to pre-empt conflict, including lobbying government to respond when the community reports signs of imminent conflict. Establishing the nature of cases that will be dealt with by the traditional governance system, beyond which a clear referral process is determined to avoid abuse of authority, is necessary.

To conclude, the way the legal governance mechanisms were introduced in Pokot has influenced perceptions of this system as questionable and often ineffective. On the one hand, legal procedures are considered unfair, slow, corrupt and not meeting the communities' sense of justice. On the other, the traditional system while effective in resolving some conflicts, has a number of limitations in respect to sensitivity to human and women's rights, disregard for the marginalised, especially women and non-Pokot, and lacks in accountability to any other authority.

On the whole, therefore, although the existence of two governance systems provides alternative avenues for communities to access justice, it is important that checks and balances for each system are put in place; that community members are well informed of the justice and appeal processes and referral of cases from one system to another are clearly defined so that cases can be tracked, conclusively handled and access to justice and conflict resolution mechanisms improved.

3. Isaazi: Elders speaking out against corruption

Akagambo ko'mukuru guba mukaro - An elder's word lasts like dried meat

Introduction – corruption and culture

Corruption has for several years been recognised as a grave challenge facing the nation. For almost as long, efforts have been made by Government to curb this practice and new institutions and laws designed for this purpose. The Leadership Code and the Inspectorate General of Government were among the first to come into being, followed by a Ministry to handle ethics and, more recently, an Anti-Corruption Court. Despite this, the misuse of public resources appears to be increasingly pervasive. While the older generation recounts lower levels of corruption in Uganda's past, the Corruption Perceptions Index, which measures the perceived levels of public sector corruption in 178 countries, put Uganda at 127 out of 178 in 2010. Corruption has percolated into all spheres of life, both public and private, and fraudulent practices have become the expected norm. As corruption becomes ingrained in the local culture, efforts to curb it appear to be increasingly ineffective.

Corruption is at least partly culturally-informed. Behavioural studies have for instance shown that it is often possible to predict who will act corruptly, according to the level of corruption in one's country. The corrupt act is therefore not only driven by economic costs and benefits, but also by culturally determined norms, nepotism and patronage, which guide the way individuals and institutions function.

This case study presents an attempt to curb corruption, whose features distinguish it from official endeavours. First, it is the brainchild of a group of elders, explicitly drawing on the ancestral values of the local culture. Secondly, while it relies on well-established values, it mainly uses modern technology – through the opportunity offered by an FM radio station – to promote its message. Third, it is run on a voluntary basis and is independent of public or external private funds. It therefore

presents characteristics that make it replicable elsewhere in the country.

Change in Tooro, elders and the 'Isaazi'

In Tooro tradition, as elsewhere in Uganda, the family would often sit around the fireplace in the evening. This was an opportunity for news to be exchanged, decisions to be taken and for children to listen and learn. It was also a time for them to imbibe cultural values, passed on by the older generations, often through story-telling. According to Dr. Kabura, one of the current *Isaazi* elders, *“Traditionally, the Isaazi was a place in front of the house. People would sit around the fireplace, the young and the old, women and men, and they would talk. It was a place for relaxation, for quality time for the extended family and the neighbours; a place for a very rich experience. It was a classroom of some kind.”* It was also, in every home, a space for the young and the elders to meet. Traditionally, women were present around the fireplace too. This recognised their role, as mothers to the young generation, as teachers and transmitters of knowledge. Such meetings would also be held for the entire village, where elders – women and men - would form their own *Isaazi*, to discuss community affairs and the shape of the future they envisioned for their area. Translating the '*Isaazi*' as an 'elders' forum' does not therefore fully convey its meaning.

Amongst the traditional norms that would pass from one generation to the next was the important value of probity. Stealing was unacceptable and social sanctions were especially heavy when one was branded a thief, an *omusuma*, - 'a person who steals with uncontrollable appetite for what does not belong to one'. If caught, not only would the culprit have to return the stolen property, but one would carry the label of 'thief' to the grave, and one's children would have to carry it too. Further, a song and dance (*orunyege*) would be composed



Current *Isaazi* elders (l-r): Prof. Rugumayo (chairperson), Fr. Dr. Kabura, Mr. Isingoma

by villagers and mention the thief by name, and this would reach the ear of the thief's children and grandchildren.

The *Isaazi*, once a widespread practice, nowadays rarely takes place. One important reason for this is the changing nature of the family institution and the challenges it faces. As elsewhere in the country, the population has adapted to economic change by becoming more mobile; HIV and AIDS have ravaged countryside and towns alike; and the young often find themselves in schools, far from their cultural environment, particularly when they are in the increasingly popular boarding establishments. Dr. Kabura adds: *"The problem these days is the gap created between the young and the elders. Especially with modern education, the young are alienated from their culture, from the elders. They may even not speak the local language – it is sign of alienation"*. No other institution has replaced the *Isaazi* and the family of the olden days: Prof. Rugumayo, another *Isaazi* elder, points out: *"The Local Councils can solve local problems but they are not inspired to impart morals and other [social] skills to the youth. That is not their role. In the village, elders no longer discipline the young playing 'matatu' and drinking. So there is idleness all over the place (...) parents are even scared of their children these days! They cannot even wash plates."* Yet cultural values associated with the *Isaazi* were ready to be revived...

Isaazi: the beginnings

In 2006, a prominent local NGO, the Kabarole Research and Resource Centre (KRC), organised a leaders' retreat: this was prompted by a perception that the region was increasingly engulfed in conflicts, which also afflicted the Tooro Kingdom, itself divided among factions. These conflicts often reflected political divisions and the search of personal benefits out of political office. Political parties had recently been re-established as the country had abandoned a single-party system of governance, but the introduction of multi-partyism and the political campaigns that followed had been experienced as very divisive in the region. There was a need for healing, for conflict resolution and for re-emphasising cultural values associated with honest leadership.

At this retreat, local leaders complained that elders had stopped playing their traditional role of guidance, as the conflicts within the Kingdom seemed to attest. A suggestion was made that an *Isaazi* be resuscitated to steer the region towards a more peaceful future, guided by 'clean leadership'. *"The Isaazi did not come out of the blue; there was a vacuum and also a general consensus to recreate this tradition, despite people's different affiliations - political, religious and ethnic."*

With time and some financial support from KRC, such an elders' forum was established in May

2007. It was led by a group of prominent Tooro elders, many retired, led by Prof. Rugumayo, who had by then left his post as government minister. It was named 'Isaazi Ly'Abantu Bakuru Ba Tooro' (literally the courtyard of the Tooro elders) and established as a 'voluntary, democratic, non-partisan and non-profit making association, open to all elders of impeccable character'. This was

Box 1: Joining the Isaazi as an elder



Fr. Dr. Paschal Kabura works at the Bishop Magambo Counsellor Training Institute in Fort Portal.

"Here you can be considered an elder because of age, but also because of the work you do. I guess for me, it was because of my contribution to the community; the consultations I make – every politician in this area has sat in this office for consultation or counselling. That gives me the experience that I can take to the Forum and contribute to the community that way.

In my family, I was blessed to be almost the last born; my parents were advanced in age; so I learnt much about the culture and the language. My father died at 90. So elders are amazed and ask me how I picked all this knowledge. In the last 10 years, I also did much research on cultural issues related to mental health care.

My personal role also qualified me. Even our young King is a leader; religious leaders, however young, also are because of their occupation. My training as a psychologist which draws many people to me for advice, counselling and conflict management was also recognised.

Then I mediated the conflict that was dividing the Tooro Kingdom and we moved some distance. I have also mediated conflicts among politicians".

understood not only age-wise, but in terms of a track record of having contributed to local well-being and being 'above partisan politics' (Box 1).

At the outset, the Forum decried the erosion of "the rich cultural heritage, to the detriment of our identity on the basis of which development is premised." There was a need to resurrect elders' knowledge: while recognising the special role that elders had to "nurture, train, mentor, instil discipline and moral virtues in the up-coming generation", the Forum saw the predicament of a region with a deficient leadership. The region needed a leadership that is "caring, dynamic, morally upright and incorruptible" to lead a society where differences are reconciled and where people "move forward together for the common good". This informed the Forum's objectives, with an emphasis on mentoring the youth, fostering unity and acting as mediators in conflicts 'to champion harmonious co-existence among different ethnic groups in our midst'.

The Isaazi was seen as a 'pool', where expertise could be found, rather than a classical NGO. It was to be, in Prof. Rugumayo's words, "a virtual organisation, to infuse ideas of leadership and responsibility at all levels." A 9-member Executive Committee was elected for 3 years by those present at the inaugural meeting, with Prof. Rugumayo as chairperson and a group of 'mentors' responsible for various thematic areas (such as culture, leadership development, and conflict resolution). A Secretariat was envisaged but is yet to come into existence. Among the Isaazi's first activities were inter-party dialogues and a successful mediation of conflicts within the Tooro Kingdom. As an observer shared, "That proved the point that elders can play a role in our society – they had been pushed aside as useless."

The fight against corruption and the appeal to cultural values

With time, the Forum concentrated on two core objectives: first, to mentor young people, so they become effective, culturally-informed leaders; and secondly to bring forward elders' advice to help government lead society to better address current concerns in the region, and revive its cultural strengths.

Box 2: Fighting corrupt practices

Richard Nyakana, a Kabaole district councillor, is an *omwujukuru*; he has pursued local cases of corruption: *"I raised several cases of corruption, forwarded them to the Police and the Inspectorate of Government, but also raised them at the elders' council. Because we trust them; they do not need support from anyone and they can summon anyone. The elders picked some of the issues I raised and passed resolutions. The elders' council helped me a lot with public awareness and aired my issues on the radio and put the political leadership under pressure (...). At one of the Isaazi meetings, we discussed health and education and the use of public resources. The delegates were not happy but the technical people were shying away from the conference and perhaps they were not at liberty to explain"*.

As a result, some civil servants have been interdicted and others taken to court. According to Richard Nyakana, some of the cases brought to the attention of the *Isaazi* include:

- A maternity ward that lies half completed at the back of the health centre in Kabende, 35 kms from Fort Portal. The contract sum was inflated, and almost the entire amount paid to the contractors before finishing the work, which started in 2008. The site is abandoned, and the structure cannot be used. The matter was raised by the people of the area in the elders' forum on education and health. Elias Ntwirenabo, a local counselor, says *"As the council of Kabindi parish, we asked for a maternity wing because our mothers were suffering traveling 36km to the hospital in Kabarole. The builders started well but somewhere in the middle the work stalled. Soon, we heard that the contractor was paid about 75m and there is only 5m remaining on the account. We made the scandal public over the radio, telling how these people had taken the money meant for our maternity wing and disappeared. The Kabarole LC5 chairman investigated and reported to us that the contractors were nowhere to be seen, they had disappeared with the money."*
- In Rutete, funds (27 m) for training water committees to maintain water points were embezzled. The district water engineer formed a company to do this and has been accused of sharing the proceeds with local officials. Nothing was done. The authorities wanted to suppress the case, but it was mentioned at the elders' radio programme. He was forced to return the money.
- A cocoon drier was constructed at the cost of U.shs 13 m for silk farmers at Karambi in the vicinity of Fort Portal in 2008. But the sub-county was not aware of the contract and there was no technical supervision – it is not functional, although the contractors were paid.



The maternity ward and the cocoon drier

The *Isaazi's* activities have so far concentrated on public events and dialogues where topical issues are debated by a large group of people, and a weekly radio programme described below. In May 2010, a first public event or 'consultative meeting' was held on the theme of 'leadership and accountability' at which a cross-section of people were invited in their individual capacity (from local government, NGOs, faith-based organisations, the Kingdom, women and youth leaders, business people, government civil servants). More than 500 men and women, elders and young people, political leaders and candidates came, in spite of some intimidation by some local politicians to discourage attendance. The meeting was fully funded by well-wishers, with donations in cash or in kind.

One of the presentations was made by a district councillor, also an elders' 'grandson', on corruption (Box 2): this aroused much controversy and some local leaders felt targeted as this was raised in the presence of some of them, including a Government Minister. By this time, the *Isaazi*

radio programme (see below) had also started and allegations of mismanagement of public resources by the local authorities were broadcast as well.

At a subsequent conference, on education and health, presentations were made by specialists in their field. The presentations highlighted the plight of the region in relation to health and education indicators, in some cases below the country's average. A recurring cross-cutting theme was local leaders' accountability and the use of public resources. The forum for instance noted that corruption had contributed to the declining standards of education and school infrastructure. In health, corruption was linked to poor management and inadequate supplies. Recommendations included imparting better information to raise health and educational standards, tackling poor performers and corrupt tendencies, fostering community support to, and closer linkages with, local health and education personnel; and empowering the population of Tooro to take more responsibility for, and demand better-quality services. The role of parents in education at home was for instance stressed, as well as their role in school management committees.

The focus on corruption has struck a strong chord in Tooro, in part because *"communities are losing faith in the formal structure and shifting to the elders' council."* Chris Businge at KRC says: *"the Isaazi can fight corruption because it has hidden power... The attendance at the dialogues shows that people were yearning to have these discussions on accountability and good leadership, they were yearning to find a solution; they discovered power in the elders in bringing them together to find a solution to this problem."* Richard Nyakana, another *omwujukuru* (elders' grandchild) similarly observes: *"The Isaazi does the advocacy and brings the problem to the attention of the local authority and asks it to do something about it. It is a voice for the people because they have no string attached; they can raise anything that they feel is in the public interest."*

The Forum feels that corruption, especially in the civil service, is *'retarding development efforts'*. The conferences have exposed the weakness of some local leaders and this has alarmed those who feel exposed. The health and education conference thus stated that *"whereas a lot has been done, corruption continues to be the biggest*

challenge in the region, the meeting resolved that anyone in public office found to be guilty of embezzling public funds or any form of corruption be prosecuted, his or her assets be auctioned to recover the money and should not be allowed to work in any public office. If that person is an elected leader, be stopped from contesting for any office and be seen as a reject and disgrace in society." The *Isaazi* however not only targets public servants in its fight against corruption. The elders also stressed that fighting corruption is the responsibility of ordinary people. Prof. Rugumayo for instance enjoined: *"If a politician buys your vote, don't blame him. Blame yourself"*. The elders are seeking community commitment to make public infrastructure work. Thus education is about a school, in their opinion, but also the family school, and the community school, as well as the structures we are familiar with.

Using the radio

While the *Isaazi* conferences have evoked much interest, the Forum's most prominent current activity is a weekly radio programme aired on a local FM station. This has contributed much to revitalise the *Isaazi* which had been somewhat dormant after its initial days in 2007. The programme (*"Akagambo k'omukuru"* – the elder's word) allows listeners from across the Tooro region and neighbouring districts to phone in with comments and questions and centres on a weekly theme – often of a topical nature - supported by proverbs and elders' experiences. As Dr. Kabura observes, *"Our Isaazi has been modernised; these evenings, the family will sit around the TV so as elders, we said the radio programme could play this role where the young sit around the elders and the young ask questions."* Recent themes have included 'destiny' (the need to shape one's own destiny through one's own work and to plan for the future), 'identity' (speaking the local language and self-esteem) 'leadership' (and the lack of guidance for young people), 'unity' (and the need by political aspirants not to use religion and clans as divisive factors) (Box 3).

Two hours' of airtime is provided free of charge by the radio station every Monday evening and the programme follows a set format. A topic is introduced by an *omwujukuru* in the studio. This

young person presents himself as somewhat at a loss when confronted by a contemporary issue. The *omwujukuru* then asks the panel of elders in the studio to provide guidance: the mentoring session has started. Elders discuss past situations (e.g. children disciplined by their parents), how the situation has changed (how Universal Primary Education can be disempowering for parents) and measures needed (rekindling parental responsibilities).

This is a courageous action by the radio station, first by availing free airtime to a group of programme makers who would not normally fit the bill when seeking enhanced profits. On this score, the gamble has probably paid off because, by all accounts, the programme has become one of the popular broadcasts, and thus helps to advertise the station. “*Akagambo k’omukuru*” for instance elicits every week a number of reactions and questions from the audience in all parts of the region and in

Box 3: Translated excerpts from a “Akagambo k’omukuru” programme

0:00:04 Omwujukuru: (Introducing the show; names the hosts and guests)

0:00:09 (Brief talk about Late President Binaisa) As grandchildren, we are blessed to be surrounded by old men who lived in Uganda during Binaisa’s regime, particularly Prof. Rugumayo who was Speaker of Parliament at the time of his swearing in.

0:01:30 Elder Isingoma: First of all, in the olden days grown-up people (16 year olds and above) used to swear an oath of friendship (omukago). This required that one be loyal to the other, share food, don’t talk ill of one another. If one wronged a person with whom they shared omukago, they would be cursed with a swollen stomach. Today, omukago is no more, there is no longer ubuntu (a sense of community) People no longer have a conscience; they do not ask themselves: is this action against my neighbour reversible? Can I take back the bad things I am going to say against him?

0:05:42 Elder Kabura: Our leaders seek to separate us on grounds of tribe, religion and others, instead of uniting us. They are amateurs and have not yet understood their duty as leaders.

0:06:00 Elder Kabura: Today, our leadership has been attacked by business trends. For instance an aspiring Member of Parliament calculates his salary for 5 years (one political term) and decides to make an investment of say 10 million, which he will earn in less than 2 months as an MP; he can therefore afford to take a loan of 10m to buy votes that will earn him much more in 5 years. Such a man will not be accountable to the electorate because he bought this position and is only in politics to make a profit not to serve.

0:40:00 Elder Kabura: People’s perceptions are imbedded in their language. In Rutooro we say ‘we will pick him’ when we mean that ‘we will vote for him’. We say ‘we have dropped him’ to mean that he has lost an election. We need to start from our language if we are going to redefine our politics. Phrases like ‘he has fallen’, ‘he has burst’ and ‘we have dropped him’ leave our leaders feeling useless, and indeed they become useless (...) I also appeal to politicians to stop using bad language against each other.

1:01:45 Phone calls: (Several calls to thank for the programme) These politicians pay to get into power. That is why they embezzle government funds to pay themselves back.

1.20.15. Another elder: It is upon us the voters to choose wisely according to politicians’ promises. If we chose widely, if he has not paid for our vote, we shall be able to hold him accountable.

1.50.30 Elder Kabura: Let’s us not give up on selecting good leaders; we are still a young democracy and we shall get there; at least our grandchildren will. The journey is still on-going. And for us in the Isaazi, we shall continue teaching, but let’s have others also involved. It is the responsibility of all leaders to teach about mutual respect.

1.58.30 Elder Rugumayo: (asked to wrap up) Someone mentioned that corruption is caused by poverty; but there is a Rutooro proverb Ndyabuke etaaha mirembe – You stay peaceful when you eat little. Goodnight.



Going on air at the Fort Portal radio studios

neighbouring districts, as judged by the listeners' call-ins and the response (even on other stations) on the subsequent days. One of the organisers says: *"The other day, the President was in the region and we were told not to air the programme as they needed this popular time. Many people then rang to find out what was happening (...) that is why people are fighting it, because we have an audience"* In effect, Dr. Kabura points out, the radio programme has replaced the *Isaazi* (in the sense of a space bringing old and young together) since the youth call in, wanting to talk to the elders. One youth shares his feelings: *"When these people get on air, everyone feels some kind of a relief that I can address my problem, my concern to this forum!"* Dr. Kabura adds: *"Many young people call the station to ask the elders. This is an agreement with a very rich African culture whereby the elders hold a very special place of responsibility to teach the young and to listen to them and solve their problems. This is what I see happening: The majority who call are the young with questions, concerns and suggestions"*.

As is the case with the conferences, corruption, leaders' accountability and the proper use of public resources have been recurrent themes on the radio programmes. Elders are being asked questions on public resource management every week. The programme has also proved an effective instrument to spur the formation of local *Isaazis* and to inspire similar groups (Box 6).

Achievements and challenges

Acceptance and legitimacy For a start, the *Isaazi* has been able to establish itself; it appears to be much liked and respected, as conference attendance and contributions indicated, as well as radio listenership. The *Isaazi*, Dr. Kabura notes, *"...is now well known by the young and old. The comments we hear are 'please, we need more, keep on'. Other parts of the region call and ask us to come and organise the elders elsewhere. That popularity in such a short time is really amazing. They also give their input: please stay neutral: we need you to stay longer to survive than politics."*

There appears to be several reasons for this. One is the *Isaazi's* inclusive nature (irrespective of political, ethnic or religious affiliation) which it

combines with its emphasis on non-partisanship: people are looking for such a space, as a uniting factor in the region. The elders themselves cut across political and social divisions. As a result, its voice is listened to by a wide range of sections of society. Its interventions are increasingly called upon. After the second conference, for instance, the elders were asked by the local authorities to develop a paper on health and education for the district. Many callers at the radio programme simply do so to say 'Thank you'. Others ask for more frequent programmes than once a week.

Secondly, Prof. Rugumayo notes that *"I (and the Isaazi) have followers because of what it stands for, because we are touching a chord in people, issues which were never addressed from an objective angle, issues like destiny, managing one's life, how to run a home or a school; and moral values like leadership and integrity. In that process, unplanned for, you get followers..."*

Third, it is clearly seen as a locally owned initiative. Contrary to run-of-the-mill NGOs, it does not depend on donor support (and does not fall under the scope of NGO legislation). So far, its activities have been funded locally by providing free labour, and donations in cash or kind, including approximately U.shs 5 million for every conference. Those taking part in the weekly radio programme have to cover their transport and other costs. Many elders want to make contributions and some of the people met for this study expressed a desired to contribute money, once the *Isaazi* has opened a bank account.

Firm engagement, especially towards the youth

The *Isaazi* has also gone beyond the confines of an old men's talk shop. As the conclusion to one of the Forum conferences pointed out, *"The choice is yours to come and join this crusade or stay in your problems (sic)." It has engaged directly with the youth and they appear to have responded with keenness to the opportunity to air their concerns (Box 4). As one said: "When they launched the Isaazi in 2007 they said it was ours, because it is to mentor us, we say it is our Isaazi. At the meetings at least 60% are youth."* The radio programme gives a prominent role to the youth (the 'grandchildren') and every effort is made to bring forward issues that are of relevance to the young. As one young interviewee said, *"The values*

of the *Isaazi* drive me towards it". Youths have also proposed a youth conference convened by elders.

With regard to public resource management, the radio programme and the conferences have provided an opportunity to air cases of malpractices, which have resulted in civil servants being interdicted and on-going court processes. The high profile of the *Isaazi* leaders has also provided a measure of protection to those who would not normally want to venture into this delicate area. Several respondents suggested that people now take leaders more to account because the radio has publicised the issue.

For all its successes, the *Isaazi* is however not without meeting challenges:

Finance, capacity and expectations Regarding finance, without funding and without subscription fees, the *Isaazi*'s activities are prone to risk, such as the risk of the radio station no longer providing it with free airtime. Limited finances also restrict the *Isaazi*'s reach: there have been demands for the *Isaazi* to visit districts beyond Kabarole, such as Bundibugyo and Ntoroko; these have so far gone unmet. Secondly, the *Isaazi* depends on the availability of key individuals, such as prominent 'retired' elders, highly respected and 'well-connected' individuals that give it clout and a measure of protection from those who contest its activities. The radio panellists and the 'grandsons' who accompany them will also need to continue dedicating their time and other resources to the Forum. More 'omwujukuru's' for the radio programme, for instance, will need to be found.

So far, the *Isaazi* has aroused many expectations; elders are increasingly being called upon to mediate conflicts, to advise and to mentor, in all parts of the region. There are suggestions of a newspaper in Rutooro and an ambitious strategic plan has been prepared. More conferences are planned. There is a proposal to set standards for local leaders (e.g. one good school and health centre per sub-county). More independence is sought from the radio and KRC, and an office is soon to open in the Royal Palace. This is a large set of activities for a voluntary group. How will the *Isaazi* meet these expectations, or will they turn into disillusion?

Box 4: *Isaazi*, the response from the youth



Youth being interviewed about the *Isaazi*

On the *Isaazi* and its values:

- "The *Isaazi* is ours; before, we were like in a desert, like sheep without a shepherd; They have taken us back to the basics of our culture- how we need to conduct ourselves as Batooro, and how to lead exemplary lives."
- "I find it easy to respond to an elder's call if I am in the wrong and they seek to correct me"
- "I feel inspired by these people; they are not looking for money; they concerned about the citizens."
- "When they had their first conference, they invited us as youth to participate in the organisation (...) We heard a politician wanted people not to attend, but we attended; and we noticed that the problem is not with *Isaazi* but is instead with the political leaders. They said that *Isaazi* was pursuing personal ends, but we did not see that".
- "I would advise *Isaazi* to keep away from politics. They should stay honest to their mission and not get mixed up with party politics, but some elders are partisans."

On the radio:

- "People look at the radio programme because it offers solutions and cuts across boundaries and solves disputes."
- "When we heard the call by *Isaazi* on radio, we as the youth of Tooro felt that there were people who really cared about us. We can call in and ask all sorts of questions and they are answered without segregation."
- "The young people of Tooro like listening to *Isaazi* on radio because the elders on the show are respectable. Secondly, we have come to learn that they have our best interests at heart; they are grooming us to be the leaders who will bring back the glory of Tooro as leaders at home as well as at national level."
- "The *Isaazi* programme on radio has given respect to the youth; they have made us part of the programme as their grandchildren and it is our questions/problems that guide their discussion. They have given us a platform."

Perceptions Cultural perceptions are often deeply ingrained and, inevitably, many people will continue to dismiss the elderly as ‘expired’ and therefore irrelevant. Secondly, the *Isaazi* appears as heavily male-dominated. While there were as many women as men at the conference on education and health, for instance, all the main presenters were men. Similarly, while the *Isaazi* vice-chair is a woman and many women make calls to the radio stations, none has so far appeared on “*Akagambo k’omukuru*” panel because of the late evening airing time. “*At the Isaazi, we are only seeing men*” said one caller, and the idea of recording female voices for future radio programmes is to be welcomed.

An ambivalent political class The work of the *Isaazi* has been met with mixed feelings by some political leaders (Box 5). Thus, the NRM party chair discouraged attendance at the first Forum conference and went on the radio to stress his message. Without the intervention of Prof. Rugumayo and his contacts, this might have turned into a difficult situation. In spite of this intimidation, more than 500 people turned up. Dr. Kabura observes: “*Culturally, this displayed who had authority over the population; in effect they chose Rugumayo over the NRM. So, at the next meeting, the chair made sure he attended, as well as the local MPs and resolutions were to be incorporated in the [Government] decentralised planning activities.*”

Still, there is a feeling that the *Isaazi* is often branded by politicians as being part of the ‘opposition’ and the protection it derives from its cultural legitimacy and its high-profile leadership cannot be limitless. At the outset, some politicians perceived it as a political pressure group, even selecting candidates it would like to support for political office. This perception was emphasised because of errors in appearing to support opposition political candidates, for instance in the selection of invitees. A young person met therefore exclaimed: “*As grandsons, we want respect for the Isaazi, but the waters are very rough.*” According to Prof. Rugumayo, this is because we live in an era dominated by political ‘followership’, hence the politicians’ reactions: “*Politicians feel threatened because we seem to be capturing some of their followers. We are saying there is more that unites us than divides us.*” It is hard to

toe the ‘non-political line’ at all times: there have for instance been demands for the elders to go to Kyenjojo district because it has experienced political divisions. However, as another ‘grandson’ observed, “*the more it gets involved, the more it will be seen to poke its nose in affairs it should not work on*”.

Uneasiness was heightened when issues of accountability and the use of public resources became a feature of the *Isaazi* conferences and radio programmes. Thus Dr. Kabura points out that “*the Isaazi, as promoter of cultural and national values, has recently come into headlong collision with corruption. It is such a monster now and it fights any institution that tries to stop it. Hence some elements feel threatened by the Isaazi, especially in the areas of governance and management of public resources. Then you are considered antagonistic*”. The issue has been further emphasised by the *Isaazi*’s broadening the notion of corruption, beyond the usual cases of embezzlement. As Prof. Rugumayo remarks, “*Take corruption: you go to your office at 10, leave at 2, you get a full salary. Is that not corruption? You invite people for 9.00 and turn up at 12.00. Hundreds wait for you. Have you not robbed society of productive work? So we discuss all this.*” It has also proved difficult to be seen as independent when it is known that some of the well-wishers are themselves implicated in corruption cases.

Another risk is that taken by the radio station owners. Radio stations have recently experienced an uncertain future in Tooro when handling political controversies. In the current atmosphere, the media exercise much self-censorship and, with the unease of the political class, especially as elections approach, the hazards are ever-present.

This notwithstanding, Dr. Kabura, as a psychologist, sees this conflict in a positive light: “*It is the young who are in the political positions. I see this as an adolescent fighting a parent. In fact it can promote dialogue, respect; if their anger can be tapped, it can contribute to the development of society and help the young think back: ‘I was angry but maybe he is right’. And the elder: ‘maybe we moved too fast, let’s call the young and ask to talk over it’.*”

Box 5: A response from the political class



Michael Mugisa, the LC5 chairperson for Kabarole District mooted the idea of a new Isaazi in 2007:

“The idea of the Isaazi was to create a forum where people inside and outside the political system can meet, where people can freely work together, put their ideas together for everybody’s prosperity. It was our idea as leaders in this region to tap new ideas and contributions for development, in an environment free of Government regulations. The Isaazi can bring ethics, norms and values. We make simple mistakes, especially in community development. In the past, there was no need for ordinances, the elders were the custodians of good behaviour and good practices, such as having food stores, clean water, the common good and working on a bridge or a road. Now society is on the receiving end; we no longer contribute. For development priorities to be the preserve of elected officials only, we miss the point. With new fora we broaden the thinking, enhance ownership and go beyond district boundaries and discuss regional issues, and we can solve conflicts through dialogue.

However, people entrusted as elders in Isaazi should be exemplary and not engage in any partisan activity. The Isaazi members were elected in a rushed way. We became suspicious, as political leaders. But we said, ‘ok let’s proceed’. The problem was the guest of honour brought [at a conference] who was a political candidate. So at the Isaazi we need to be careful, neutral and above the local issues and be able to call anyone in leadership – but today we are not called! Yet some people we have parted with have access to the Isaazi. And it has started believing in them... We now feel alienated. We formed Isaazi, it is doing some work but it is not to our expectation. They should not be fronting any candidate.

The Isaazi has a role to play in the fight against corruption, because it promotes ethics. As a local government, we have experienced problems with the management of funds and make every possible correction. But Isaazi does not explain exactly what happened to the people. It gives half-baked information and taints the image of the district. Kabarole is second in corruption levels among Uganda’s districts, they say, but this is second in the number of complaints received. They amplify these cases. We must work together with Isaazi on corruption. There is so much progress, but nobody appreciates...

Lessons learnt and conclusions

Elders represent a considerable resource Why, in its short existence, has the *Isaazi* achieved a measure of influence? There are several reasons for this, but the most significant is probably the elders’ culturally-ascribed role and continued legitimacy. As one of the ‘grandsons’ observed, *“People believe in the elders, because by tradition, they played an important role in advising society and there is that trust in them. They have influence because of their following – even politicians come to listen because of their power. It re-awakens also the power of society to change things, to choose leaders and to analyse the services it gets.”*

Hence the suggestions made by respondents that the national Government should learn from this and mobilise retired civil servants, politicians, and others into a National Forum *“to bring together all these un-expired brains and they would be willing to come and work without pay.”*

Relevance and generosity This last quote underlines that not only are elders still respected and listened, they have something to offer that is relevant. The *Isaazi* is however not all one way for the elders involved: it is also, Dr. Kabura states, *“an opportunity for them to remain young and relevant and live longer; they feel ‘someone’ [important]; they feel respected”*. They are generous, with a strong attachment to voluntarism that is evident to all: elders do not seek financial compensation, and neither do those who associate with their work, including participants at their conferences. This demarcates the *Isaazi* from NGO practice where allowances increasingly dictate the scope and pace of activities.

The *Isaazi* elders have also been able to ensure that their contributions are seen as entirely relevant to current-day concerns. This was achieved not only because they are ‘unexpired’ but also because of their deliberate involvement of the youth in their activities, whether in the conferences or in the radio programmes. This relevance also extends to technological means and the successful use of a medium, the FM radio, enabling the elders to be in touch with the people on a regular basis and vice-versa.

The future of the Isaazi First, will the *Isaazi* succumb to its foes? Generally, its supporters feel that it might be muzzled by politicians, but truth will prevail in the end. “*You cannot fight the Isaazi, maybe only some individual within it,*” said one. Dr. Kabura concurs: “*I believe that truth will always win, not the battles, but the wars. Isaazi could momentarily be suppressed, but it will remain as long as the culture and the leaders are there. Isaazi could be outlawed by some crazy person, but how long could that last? It will be killed, but it will resurrect sooner or later if it has real cultural value (...) You cannot fight the Isaazi, the space between the young and old. You cannot kill that because where the people are, the Isaazi is there.*”

Secondly, in a changing society, will the *Isaazi* become obsolete as ‘modern’ values are increasingly taken up as the only relevant ones, especially by the younger generation, under the influence of global forces not always in tune with the local cultural context? Prof. Rugumayo acknowledges that this is the greatest threat, especially where young people are subject to increasingly powerful and unregulated global media that promote alien cultural values and practices. But will the young not always want to learn from their elders, and elders always have the urge to pass on their knowledge? Dr. Kabura is convinced that “*the older people will also be there and they will always be relevant. It’s an unborn urge for people to want to pass on something of themselves, to resurrect themselves to live in the next generation; so it is something you cannot kill... There is an equally strong urge among the youth to look for their roots.*” Prof. Rugumayo shares a more politically-oriented prognosis: “*There will always be space for an Isaazi. With more education, young people will demand more political space, so there will always be space for us.*”

Thirdly, the *Isaazi* elders have a vision of every community in the region mobilised by a local *Isaazi*. At all levels, elders will influence local institutions through school management committees, church committees, business enterprises and play their mentoring role, possibly leading to the demise of the *Isaazi* as currently constituted. Prof. Rugumayo sets out this vision: “*We want to see the process coming from the bottom, an elders’ forum for each parish. (...) If we could have local groups, we*

will have succeeded. Elders should fulfil roles at different levels. An ‘umbrella organisation’ might not be necessary, but we need the guiding hand of elders at these different levels because the family structure is collapsing without much to replace it. Isaazi hopefully will bring back the good aspects of family life and other positive cultural values, while the negative ones are slowly discarded.”

In conclusion, the experience of the *Isaazi* in Tooro highlights the potential of culturally-rooted efforts to tackle such intractable current challenges as corruption, mostly by reaching out to the general public. In this particular case, drawing from the legitimacy of cultural values and culturally-recognised persons – the elders and the *Isaazi* – acceptance and legitimacy were quickly generated. This was combined with new technology, the FM radio, resulting in the creation of a powerful, ‘modern’ space for the young and the elders to communicate.

While it may take time to build the trust associated with a new, ‘non-aligned’ structure in all quarters – including the political class - new energy has perceptibly emerged from the *Isaazi*. Already, it has evoked a measure of impartiality, inclusiveness, confidence, generosity and relevance. Other parts of the Tooro region have expressed interest in such a mechanism and are attempting to develop their own *Isaazi*, as people recognise this as a uniting factor, going beyond religion, politics, age, and ethnicity.

Is the Tooro *Isaazi* replicable in other parts of the country? Similar attempts have already been in existence in several areas, but the Tooro experience shows the importance of the strong commitment demonstrated by elders and the considerable resource they represent. To be effective, such a forum needs to avoid taking on too much and to rigorously keep out of partisan politics (with all the challenges that this represents). It also needs to start organising both at village and regional levels, and to identify strong and renewed flag bearers for the idea, both elders and youth. In this way, and so long as the young want to learn from their elders, and elders have the urge to pass on their knowledge, such a Forum will present an important instrument to help construct a corruption-free nation.

Box 6: The beginnings of a local Isaazi?

Karugutu is in Ntoroko, a new district between Kabarole and Bundibugyo. It has an ethnically mixed population, with Batuku, Bakonjo and Batooro.

An elders' association, now with 53 members, the "Karugutu Ekigambo Kya Bakuru", was formed in 2009: *"We learnt about the growth of Isaazi through the radio programme. We heard them give advice to the people of Tooro and we decided that it was high time we started as well. We would like the Isaazi elders to come and guide us on running our forum because they have the knowledge about Tooro culture that we may be lacking here. (...) If we discussed and agreed with Isaazi lya Tooro, it is possible that we would be their Karugutu branch; we can discuss it and see (...) We later heard that elders in Rwebisengo also have a platform called Ikoomi (...).*

"With a Forum, we can protect our culture especially for the benefit of the young generation that is fast going astray. We feel very encouraged by the Isaazi and we have made contact with them through telephone calls. (...) And when we listen to the Isaazi programme on radio every Monday, we take some lessons and use the same topics as discussion points in our monthly meetings. (...) We were inspired by the programme because we suffer from two problems here: the youth, influenced by foreign values; and division influenced by politics (...)

"Our first discussions centred on the issue of corruption because that is the biggest problem of our country Uganda (...) As old men and women, we also needed to be appreciated in this area as useful (...) We must show that there is no tinge of corruption amidst us, before we can advise others. Then others will follow our example. (...) As the first 4 people, we set standards for the kind of members we would recruit. We looked at the person's conduct at home and in the community. We investigated and ensured that our members were not corrupt leaders in the past; We got only the best (...) We invite young leaders and advise them on the proper way to lead our community, and caution them against this vice of corruption. (...) Our young people often come up to contest for political positions because they are educated but sometimes do not have the heart for leadership. They go to work in a bid to 'eat'. (...) We have also decided to start from the bottom, with our own families. We shall screen our leaders from the community level and ensure that those we forward have a clean record with the police and the community. Contesting political leaders have a habit of 'buying' people's votes. That is definitely grooming corruption; we must make the electorate aware that such a person will be a corrupt leader. If we move stage by stage from the grassroots upwards, we shall eliminate corruption".



Members of the Karugutu Ekigambo Kya Bakuru

4. The Alur Chiefdom and managing conflicts in fishing communities

This case explores the interface between the traditional and local governance systems in Nebbi district, with a focus on conflict resolution amongst fishing communities. The research, which was carried out along the shores of Lake Albert in Panyimur, involved a number of key informants including councils of elders, local government officials, representatives of Beach Management Units (BMUs), fishermen and a women's group.

Panyimur and its people

Panyimur, in the West Nile region of Uganda, is a fishing port situated at the tip of Lake Albert, close to the border with the Democratic Republic of Congo and part of Nebbi district. The Alur constitute the dominant ethnic group on both sides of the border. Market days are important events in the sub-county, as people from Congo, Sudan, western and northern Uganda converge to trade in Panyimur and once a week, the small town hosts

over 100 vehicles and a large number of traders. The fish trade is dominated by women (who control this income and may also own fishing boats and gear) but the fishing itself is the preserve of men, reflecting a traditional belief that women should under no circumstance fish or collect fish from the boats as men return from the lake.

While fishing is a source of unity and convergence, it is also the main source of livelihood and any threat to the occupation can therefore cause conflict. There is violence amongst both men and women, with deaths sometimes ensuing. The theft of fishing gear is considered a main concern, as it often results in violence, including murders on the water.

For the last five decades, the population in Panyimur has grown and diversified: elderly residents attributed the growing incidence of conflicts to this growth. The lack of clear rules to access the lake and the consequent overexploitation of fish was also cited as a source

Box 1: Cultural norms and the lake

- *"The cultural leaders are the forefathers of the land and they are our fountain of wisdom; they were the first owners of all the local resources, before the police and government...but now, the lake does not belong to anyone, people come from any part of Uganda and even Congo and just start fishing indiscriminately, without asking permission. Today the community is mixed and some members do not recognise and respect the elders. In the past, the cultural leaders were responsible for directives to preserve the water resource and for safety while on the lake."* - a group of elders
- *"When we are invited to the palace as subjects, the so-called 'savedees' usually decline, saying whatever is taking place there is ungodly and they do not adhere to cultural norms such as removing shoes when getting into a fishing boat."* – a group of women respondents



Lake Albert and Payimur attract people from far and wide; fishing regulations are a point of contention

of resentment and conflict, and this was linked to a lack of respect for cultural norms (Box 1). This was a sentiment shared by a group of women met at the chief's palace, who attributed many conflicts to lack of respect, limited consultation, disregarding penalties imposed on offenders and the general violation of cultural laws, especially by the youth. Some also attribute the weakening of culture to newly introduced religions. Control over fishing methods was also considered a source of conflict by some elderly community members. One recalled that *"In the 1950s, we used traditional boats made out of logs, and used sisal nets to catch larger fish. If you caught a small fish accidentally, you had to throw it back into the water. If not, once caught, you would be imprisoned for 6 years, that is why people were afraid and managed to preserve the young fish. But today, the modern fishnets catch all sizes, so the small fish are not preserved and the old fishnets are no longer of any use"*.

Traditional conflict resolution mechanisms

Depending on the nature of the conflict, local people have two avenues to channel their cases for redress: the government law enforcing institutions and the traditional courts. With the abolition of the cultural institutions in the 1960s, traditional governance systems and leaders saw many of their roles overtaken by local governments and state courts. However, with the 1995 Constitution, aspects of their role have found renewed expression, including conflict resolution.

Culturally, the community in Panyimur is governed by a *Rwot* (paramount chief), assisted by an advisory council of chiefs or elders, who represent the identity and origin of the people. The current chief, Charles Ombidi has retained the traditional leadership role played by the institution in terms of allocating responsibilities, maintaining consultative processes with the council of elders, responding to community needs and resolving conflicts. The council of elders see it as their responsibility to sensitise all those living in their community on accepted cultural norms. The position of chief is hereditary and men who demonstrate maturity and responsibility are groomed to take over from their fathers or uncles. The chiefs are also responsible

for specific geographical areas and report to the paramount chief any instances of insecurity. In addition to the chiefs, ministers (*Jodongo* - often heads of clans), are appointed by the *Rwot* and belong to the council of elders. Depending on their ability, ministers are assigned responsibilities ranging from managing spiritual and cultural issues (the *Jodong Kal / Jadit mi Kal*), inter-clan matters; security; collecting relevant information to be presented to the chief for action; and acting in the *Rwot's* absence. The chiefs are assisted by local persons, the *Jargo*, who are close to the community and responsible for keeping the chiefs informed of local affairs. This hierarchy of authority in the traditional governance system is replicated in different sub-counties in Alur-land.

Women are recognised and respected within this system although not as elders or chiefs. They are generally excluded from matters of security and engagement with external parties. Women nevertheless play an important role in the selection of clan heads, who are then eligible to become chiefs and may sit in the council of elders.

The conflict resolution process Cases of conflict are brought before cultural leaders who demand the truth and resolve them with a fine and compensation. The *jargo* is often the first to receive a complaint, which may be in respect to inheritance, succession, land or marriage disputes. The case is forwarded to the chief who convenes a meeting of elders with the relevant families, witnessed by concerned community members. Judgment is made at a public hearing: following presentations by both parties, a decision is taken regarding who is at a fault and a fine is imposed on the guilty party. In principle, the accuser covers the elders' transport and other costs, while the accused, if found guilty, pays all the costs related to the proceedings, as well as compensation to the accuser. The elders listen to cases brought before them regardless of the ethnic or religious background of the complainant, but judgment is made according to Alur norms although, in cases of suspected witchcraft, the *Jadit mi Kal* is called upon to establish the nature of the offence, unless a case is presented by Christians who may oppose the presence of a spirit medium. In the event of suspected murder, a traditional ritual is performed in the presence of the accused and accuser's families and compensation agreed

upon and made. Depending on the nature of the offence, judgement may involve the performance of traditional rituals to pre-empt criminal behaviour (*Lam* – the curse) or for reconciliation (*Aroka*) (Box 2). If either of the parties wants to appeal, a letter is given by the chiefs responsible for convening the meeting, to forward the case to the police for government intervention.

Recognition and relevance These conflict resolution mechanisms are considered important and effective by many Alur in both Uganda and the Congo. Their relevance was highlighted during the last two decades, as Panyimur experienced the increase in insecurity mentioned above. The *Jargo* of Dei, Emmanuel Odongo, recalls the rampant murders and, despite reports to the government officials, their intervention failed to stem the many instances of theft of fishnets and conflicts in the community. Robert Okumu, the LCIII chair in Panyimur, also recalls that stealing of fishing gear and murder was prevalent: *“The Fisheries officers, Beach Management Units, the Army, Police and Local Councils all attempted to curb criminal activities on various occasions but their success was short lived.”*

It was at that time that the local leaders called upon the cultural heads who were equally concerned about the situation to intervene. A meeting was held: *“Representatives from the various government institutions as well as those in charge all the landing sites in Panyimur converged. A live sheep was taken and thrown into the middle of the lake and left to drown. The traditional chief then pronounced the curse – “anyone who goes fishing with a weapon will not survive and will die like the sheep.”* On another occasion, with increased poaching in the national park and on the request of Uganda Wildlife Authority, the *Jodongo mi Lam* was called upon to pronounce a curse on those involved in poaching or transporting poachers and game meat on the lake. Six people disregarded the curse and went poaching. On their return, their boat capsized and all six drowned, instantly reaffirming the community’s belief in the effectiveness of the elders’ curse.

As a result, there was a significant reduction in thefts, murders and poaching. At Kayonga, both fisherfolk and the Commander of the Police Station reported fewer killings on the lake and attributed this to the pronouncement of a curse by

the traditional chief. Nyipir Mir Ariyo, the Minister of Culture (in charge of cursing at the palace in Panyimur) observes: *“Since then, we come together as cultural leaders from different places, we curse people. That instils fear in wrongdoers. We also deal with issues of witchcraft and night dancers. We curse the culprits under this very tree, and the truth is revealed.”* The recognition of their role and sense of achievement in bringing about order in the community also gave the leaders confidence to continue overseeing community matters, helped by the widespread adherence to cultural practices and values. Community members, Alur and some non-Alur believe in the chief’s words and that disobedience can lead to mysterious death. As a number of respondents said, *“there is a strong belief in the power of the*

Box 2: Curse and reconciliation in Alur

A curse – *Lam* - is only pronounced after there have been several outcries about a particular problem, for instance rampant theft of fishing gear, rape, adultery, poaching or death committed on the water or at a landing site. A public gathering is convened and the elders responsible for cursing (*Jodongo mi Lam*) pronounce the curse which may either be directed at the community in general or at an accused individual who has refused to confess. The weight of the curse is the same for all offenders – death or madness. It may be withdrawn if the guilty individual(s) confess(es) and willing to pay all required dues, otherwise a curse lasts a lifetime if the issue is not resolved.

The *Aroka* is a reconciliation ritual performed when murder or death occurs in a conflict. At a public gathering of the concerned parties, a hole is dug into the ground, over which a goat and cow are slaughtered. Spilling of blood signifies cleansing and all anger should be relinquished in the elders’ presence. The meat of the slaughtered animals is eaten by the families concerned. The *Aroka* is recognised as an effective means of conflict resolution because it is believed to unite people and settle the spirit of the deceased.



A curse cleansing ceremony in progress

curse - the words of the traditional leaders are like weapons. The elders are entrusted with powers to manage the community; they can put a stop to an activity or subject one to a fine commensurate with the offence."

The effectiveness of such mechanisms is however undermined by new developments. On the one hand, the population has grown and diversified, with an influx of people of different ethnic backgrounds and cultural values, and not all people recognise the traditional institution or the means it employs to ensure adherence to norms. On the other, external factors such as religion, modernity and information on human rights have influenced how tradition and culture are perceived. As Joyce Katusabe, the treasurer of the Kabolwa Beach Management Unit says, *"People believe in the curses but, ever since I got saved, I no longer do. We all have different views and beliefs."* Mr. Okello, a fisherman and resident of Panyimur also notes: *"Increasing modernity and exposure to other people within the society has made some people stop believing in their traditional leaders. And that is how finally the cultural beliefs have been weakened."*

Collaboration between the 'modern' local and traditional governance systems

Local government authorities include district officials and technocrats, local councillors, police officers, district and sub-county security officers. With beach management units, they all play a role in curbing insecurity and resolving conflict, singly or collectively. All have had occasion to work with the traditional institution in Panyimur and value its role for different reasons.

Working with Beach Management Units (BMUs)

Until the 1990s, fish landing sites were managed by centre masters who collaborated with the cultural leadership. They were then replaced by Beach Management Units, organisations meant to foster the participatory management of fishing resources. A BMU brings all actors engaged in fishing activities into a General Assembly that elects an Executive Committee (with 1/4 of the members women) tasked with planning activities at specific landing sites, ensuring compliance

with fishing regulations and, if necessary, taking offenders to court. The BMU is also meant to sensitise fishermen on sustainable techniques, to monitor fishing activities, ensure security and resolve conflicts along the beach, to collect revenue and to cooperate with other fishing communities.

In Payimur, the BMUs collaborate with the Local Councils and the cultural leaders to resolve thefts and other instances of conflict, although they refer murder cases to the police. The traditional leaders are consulted and involved in witnessing the election of BMU members, inspecting fishing gear, identifying thieves and resolving conflicts. The BMU Executives cannot take the law in its own hands, however, so cases are often left unresolved, encouraging the community to take them to the traditional institution for conclusive results. For instance, in Dei, along the Uganda/Congo border, fisherfolk and traders interact across the border and the BMU Executive reported that witchcraft cases are common and handled by the LCI and cultural leaders. The traditional leaders are regarded as influential: if the local cultural leader commands the termination of particular activities, the community complies. As a female representative on the BMU Executive observed, *"the major problem we face is that people tend not to tell the truth. But if the cultural leaders are involved, people don't lie, because they believe that lying to cultural leaders may lead to misfortune. We also run to the police, but there is a lot of corruption and truth can never be revealed; without truth, there is no justice."*

Prior to the establishment of BMUs, traditional leaders were however more actively involved in managing fishing resources but, with the politics of BMU elections, the cultural leaders are often left out, to the chagrin of many. Some elderly people thus felt that the traditional leaders were not visible in the official management of the landing sites. As one asserted, *"these days all the issues concerning fishing on the water are handled by the BMUs. When BMUs fail, they forward the case to the LCs who in turn forward it to the court. Nowadays, the cultural leaders do not get feedback from the community on what is happening."* Mr. Okello, the elderly fisherman in Panyimur added, from a different perspective: *"The elders in the BMU today are also behaving*

like the youth; you cannot compare them to the local leaders in the past because the BMU is just a money generating business and so the BMU cannot work well with cultural leaders.”

In all three BMUs visited, the Executive members highlighted the importance of involving cultural leaders in managing people and resolving conflict. Some would therefore like to see them more involved (Box 3). Currently, the structure and composition of the BMU Executive Committees however do not allow for the formal inclusion of representatives from traditional institutions.

Working with the Local Councils Jamala Brunasa, the LCI I Chairperson of Ganda Parish, has worked in Panyimur for 10 years and often collaborates with the traditional leaders on matters concerning marriage and other family conflicts, and cultural issues. During a recent conflict between two clans involving arson, for instance, the legal authorities were unable to establish the root cause of the incident and the traditional institution was requested to intervene. Using its truth compelling methods, it established that two brothers had previously quarrelled over land – a dispute involving witchcraft which, it was claimed, resulted in the death of a family member. Together with the LC, the traditional leaders were able to resolve the conflict. Mr. Brunasa therefore considers the cultural leaders a unifying factor in the community and important stakeholders to work with for harmonious coexistence. This collaboration however does not extend to joint planning, implementation and monitoring of government programmes, as this is considered outside the mandate of the traditional institutions. Cultural leaders are therefore not called upon by the LCs to participate in planning and budgeting meetings. Some of the chiefs in Panyimur therefore wryly noted that they are only sought during pre-election periods.

Working with district officials and technocrats

Several civil servants in Panyimur are not conversant with the local culture and rely on the traditional chief to manage situations involving cultural norms and practices. The district authorities also invite the cultural, religious and other opinion leaders to council meetings, an opportunity to listen and contribute to reports on public development and financial issues. Comfort Ochan, the Community Development Officer,

Box 3: BMUs: a role for cultural leaders?

- *“The government has interfered with the old arrangement like having landing site centre masters who were directly linked with the palace; they would invite a representative from the palace to sit on the committee when there was a conflict, then they would take a report to the chief. But now it is only politicians - cultural leaders are out and often not informed. When the cultural leaders were involved in lake management, we benefited a lot because issues like theft were solved amicably, as people trusted, as well as feared the cultural leaders.”- a BMU Chairman*
- *“Ever since the government came in, some of the information does not reach us; we no longer get communication from the landing sites and when people do not report cases, there is nothing we can do.”- Nyipir Mir Ariyo, Chiefdom Minister of Culture*
- *“I know that the BMU does not want cultural leaders on the team but I find it very important to include them. We get views from them and also share ideas so that action can be taken. Any intervention from the cultural leaders is like a fresh breath of life. When they bless us we are sure to have rain in season and we know that our businesses will boom.”- a BMU Chairperson*

highlighted insecurity on the lake and across borders, flouting of fishing regulations and conflicts within the BMUs as some of the issues that are handled in collaboration with traditional chiefs. Ms. Ochan found cultural leaders resourceful persons in the sub-county because they are well informed about the cultural norms, perceptions and attitudes of the community. They can play an instrumental role in resolving conflicts both locally and between Alur communities in Uganda and Congo. Ms. Ochan’s office often deals with the paramount chief and the relevant members on the council of elders to persuade the community to adhere to regulations issued by her office, and to deal with any anticipated resistance to change: *“the traditional paramount chief has the voice and authority to influence the community; the community listens to him and often his word is final.”* An example concerned the cultural leaders’ involvement in persuading the community to vacate a disaster area recently affected by floods. —

Working with the Police and security officers

The police often consult and collaborate with the cultural leaders on family related cases since,



Some players in Payimur's local governance: Left - Right, Rwot Ombidi, the O/C Police, the Fisheries Officer, an elder and Executive members of a BMU.

the Officer-in-Charge says, it is preferable not to take members of the same family to court, if a case can be amicably resolved outside. He has noted that people take domestic conflicts to the traditional chief first because the legal justice process is lengthy and is resorted to if the traditional resolution mechanism fails. The Police refer cases of arson, witchcraft, and cultural clashes to the traditional leaders as they are found to be better suited to deal with cases of this nature. Beyond this, the O/C says *"The people have trust in the paramount chief; they listen to him; consult him and when he speaks he is understood. It is clear that many believe the traditional institution is of value to them. Although the Constitution does not stipulate dealing with the traditional institution in security matters, it is important to collaborate with them"*. Thus, in a recent case involving a child had who allegedly died of witchcraft and where the bereaved family burnt down the homes of the accused family, if the chief had not been called, the police officer believes the situation would have got out of control. The case was handled by the traditional institution and resolved. Other respondents pointed out that, in the event of death or suspected murder,

the police are involved in finding the body and establishing the cause of death. Reconciliation between the families concerned and contribution to the funeral expenses is then managed by the cultural leaders, although the Police may be invited to witness the reconciliation, agreements made, compensation requested and the conclusion of the issue. Once concluded, no appeal is made to the local government, although refusal to accept the terms of reconciliation is interpreted as a desire to retaliate and the case is forwarded to local government authorities.

Traditional leaders are also a source of vital information, which often reaches them before it gets to government authorities and, once this information is shared with the police, action can be taken. The District and Sub-County Internal Security Officers listed the problems they confront as the influx of Congolese people, the theft of fishing gear, piracy, witchcraft and poaching. They found that residents tend to give sensitive information to the cultural leaders because they are more approachable than the security officers. This can then be passed to security officers and, depending on the nature of the case, the cultural leaders may be involved in discussing any action

to be taken. However, according to the officers, while these leaders are very effective, their influence is limited because of 'lack of resources'.

Challenges in working together to resolve conflicts

Although the cultural institution collaborates to varying degrees with different local governance actors in curbing insecurity and resolving conflicts in Panyimur, and although this interface is considered relevant in most cases, this is neither consistent nor systematic. There are a number of challenges related to communications, resourcing, political interference, selective recognition of the traditional institution and the legal limitations stemming from the 1995 Constitution.

The 1995 Constitution The Constitution restricts the role of cultural leaders to cultural affairs, yet they are in reality called upon, by virtue of their influence in the community, to engage in governance related issues by state actors. Some government officials however consider engagement with traditional leaders on governance issues as going beyond their mandate. As the O/C Police, for instance asserts, *"The relationship between the traditional institution and local government is stable with no conflicts and is likely to remain so if the traditional leaders remain law-abiding citizens and stick to the provisions of the Constitution in respect to their rights and roles"*. Traditional leaders, to the contrary, are of the opinion that the Constitution restricts their ability to engage with and support their communities effectively. Chiefs in Payimur stated that *"The 1995 Constitution and Land Act have caused more problems because these recognise only a few aspects of the useful functions that the traditional institutions play, such as fostering harmonious living in diverse communities."*

Lack of synergy The interaction between the traditional and local governance systems tends to be ad hoc. Local government officials recognise the influence of traditional leaders and work with them to resolve conflicts and to enhance community cohesion, while the traditional leaders in turn appreciate the necessity of the law and the enforcement mechanisms run by the state. In practice, however, the terms and limitations of

their engagement are unclear. The Community Development Officer will, for instance, attempt to involve the traditional institution in budget and planning meetings, while the LC representatives do not consider cultural leaders relevant to government programmes and do not involve them. Similarly, the involvement of cultural leaders is neither systematic nor stipulated in law yet governance decisions that involve both parties are of a legal and binding nature. This creates ambiguity as to where the authority of traditional leaders begins and stops. Government officials and the Police for instance tend to avoid cultural and witchcraft cases because they lack the 'necessary authentic means' to handle them and any information provided by witchdoctors through divination is not recognised in law. Witchcraft however appears to be a common problem in the community. While these cases are often referred to the cultural leaders (to identify witches or wizards, pronounce or lift curses, perform reconciliation and cleansing rituals), the law is silent on how these should be dealt with and fails to recognise the role of cultural leaders in providing an alternative conflict resolution avenue.

Exploitative relationships and political interference While local government officials may insist that the role of the traditional institution remain non-political and non-administrative, they will use their influence for community mobilisation, to buy into government programmes or to solicit support during election time. Elders in Pakwach noted that local government will not include them in the planning and budgeting processes where their involvement could be duly recognised and financed: *"The chiefs' role has now been reduced to mobilisation for government programmes, advising community groups for income generating projects and the National Agricultural Advisory Services."* Chiefs met in Panyimur complained that some government officials dismiss them and ignore their authority, preferring to deal directly with the LCs. As the Police in-charge observed, *"Traditional institutions are influential, can instil discipline and enforce sanity in society. However sometimes there is pulling ropes with government especially in the case of central government and it is therefore necessary to clarify the mandate of the different governance systems."* When politicians also use traditional leaders to garner community support during their campaigns, this

undermines their authority and their ability to manage conflicts in the community. As Nyipir Mir Ariyo, the Minister of Culture asserts, *“There is a conflict between the cultural leaders and the politicians which causes mistrust, especially towards the cultural leaders. The politicians keep on telling people that whatever the cultural leaders are saying is not true. The politicians defend wrongdoers in their interests, making it difficult for the cultural leaders and the local government to administer justice.”*

Differing value systems The laws of Uganda, as well as development thinking and practice, are much inspired by western values that are inadequately explained or understood by traditional leaders or local communities. In the area of justice, the emphasis is placed on enforcement and on determining right from wrong, with local government and security organs relying on a body of law that is often confrontational and punitive in its orientation and entails lengthy investigative processes. When evidence is not found, cases remain unresolved and conflicts perpetuated. The traditional leaders, on the other hand, will rely on cultural values and principles, emphasising consultation, consensus, compensation and reconciliation. The traditional methods appeal to a sense of integrity, to social status and identity and, if necessary, resort to cursing to extract the truth and restore harmony in the community. Some cultural leaders have been exposed to human rights and women’s rights (and endeavour to ensure that the penalty and compensation demanded from wrongdoers does not violate the law), but many have not.

Other constraints The scope, sustained effectiveness and mobility of traditional leaders is also significantly constrained by limited resources. Although the Chief in Panyimur has been permitted to collect revenue from fishing activities and shells at the *“Rwot Landing site”*, this does not adequately meet community demands. Although they play a supportive role in community affairs, the cultural leaders are not consistently involved in local level planning and there is therefore no official district budget to support their work, placing a burden on the community members to cover their costs, for instance to convene and attend meetings.

Conclusions

Conflicts in Panyimur are attributed to social and environmental changes, including an expanding population, with an influx of people with different cultural values, the infusion of new cultural beliefs and values, and a limited concern for the common resource – the lake – beyond its immediate exploitation. The ability of the custodians of culture and of law enforcers to recognise these dynamics and to manage the tensions that arise poses a challenge.

With the abolition and subsequent restoration of the traditional institutions, cultural leaders not only struggle to manage a transition from being ostracised to being recognised by the state, but also have to re-establish their relevance in a context that has changed from that of their forefathers. They have not been allowed to develop alongside the changes that have taken place over the past four decades and now have to determine new reference points and a meaningful role to play.

One such role concerns conflict resolution, based on cultural beliefs and the recognition of the importance of reconciliation (*aroka*) in accordance with Alur culture. Currently, the local population is predominantly Alur and the traditional system - especially the pronouncement of the curse - can provide a strong deterrent. The scope and responsibility of the traditional leadership in the past required certain competences that however need up-dating and broadening to address current development challenges (e.g. knowledge on human, children, women’s rights, legal procedures, development processes). Without this, the cultural leaders will not be able to engage effectively in local governance and will be reduced to figureheads exploited by politicians and others, or to being mobilisers and ad hoc conflict mediators.

By contrast, the local governance system enjoy a broad mandate, but this is based on a ‘foreign’ ideology which does not inspire community members to cooperate fully (even in the face of severe penalties), making some interventions by local government short lived and ineffective. An inadequate understanding of government decisions, for instance in the design of the

BMUs, leads to the implementation of initiatives that are seen as Government-sponsored, rather than genuinely owned by 'the people'. The state system is then perceived by some as politicised, commercial and in some instances corrupt, questioning the values and principles that determine justice, rather than offering an opportunity for development and redress for Alur and non-Alur alike, and for those who do not ascribe to local cultural values.

If the state governance mechanisms are, to a large extent, perceived as an imposition on local communities, it appears all the more imperative for its agents to better understand the context, the culture, community perceptions and beliefs, and to collaborate with a traditional institution that is a permanent part of the community. We have seen that this collaboration is currently ad hoc and, while it may in some instances results in the successful and conclusive management of conflicts, in other instances it results in unresolved cases that are not followed up by either side. Without an effective and systematic interface, the weaknesses in both systems cannot be adequately dealt with and may result in the perpetuation of community conflicts, diverting valuable time and energy from the pressing development priorities in the area.

It is suggested that a way forward lies in officially recognising and supporting the role played by the traditional institution in managing the community, rather than exploiting its influence. The expeditious management of civil and criminal cases, to which cultural leaders can contribute because of their legitimacy, privileged access to information, could, for instance, enhance the community's appreciation of the local governance

system effectively. Where these leaders can conclude conflicts traditionally, especially where compensation and traditional reconciliation are relevant, this can also contribute to harmony in the community. Similarly, every effort should be made to involve recognised cultural leaders in public programme design and implementation to allow as good a match with community needs as possible.

While the traditional institution is likely to remain resilient as a source of cultural identity, its relevance in other spheres of development and in the private and public lives of the local community will however largely depend on its ability to reinvent itself by retaining core traditional values and principles, while responding to changes in the environment. With the arrival of other ethnic groups, the influence of education, religion and trade, the effectiveness of the traditional institution will diminish unless it embraces cross-cutting cultural values, drawing from its diverse community. To remain relevant in mixed communities, it will need to cultivate the ability to deal with diversity, short of which its effectiveness and relevance will shrink to a specific ethnic group. Even within this group, if it does not respond appropriately to current development challenges, its relevance will gradually be reduced to an icon of the past. According to Charles Ombidi, the *Rwot* of Panyimur Kwonga, cultural leaders have the potential to play an effective role in community management and development. This may however require a candid reflection on the calibre of these leaders, their competences and ability to connect beyond their ethnic boundaries, as well as recognising the need for building skills and knowledge to actively engage in development issues.

This publication is part of a series of case studies illustrating the importance of adopting a cultural approach for sustainable development. This study is reinforced by a DVD film documentary, which can be obtained at the CCFU offices.



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