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Tradition in Transition: *Customary Authority in Karamoja, Uganda*

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INTRODUCTION

In Karamoja, customary law is more than a legalistic code governing right from wrong. Unlike the relatively narrow confines of Western justice systems, customary law is the normative framework that regulates the judicial, political, social, and religious processes of the groups that live within the region.¹ The central principle to customary law in Karamoja is to maintain community bonds and group integrity with the aim of restoring harmony and unity between individuals of communities when disputes and conflicts arise. Customary law is the mechanism that also governs the performance of religious ceremonies and divination rituals concerning matters of security, community health, animal migration, marriage and other important aspects of life in Karamoja. The spiritual component of customary law threads together the judicial, political and social elements of daily life in Karamoja. To fulfill individual responsibilities in accordance with customary law, each member within a community has roles to perform – depending on age, sex and group affiliation – that maintain social organization and support the cultural norms and values.

For the populations of this study – the Tepeth, Matheniko, Jie and Dodoth – customary law is at its root a local and regional mechanism that promotes and maintains cultural values. It is a mechanism to resolve disputes at the household level and guide protocols concerning the mitigation and resolution of inter-group conflict. Formed over the course of many generations, customary law provides the guiding principles on management of important resources like water, animals, and grazing land. It is also an instrument of power, giving authority to elders to enforce discipline upon members of their communities with the aim of punishing perpetrators of violence or reforming degenerative behavior. Based on its breadth and cultural resonance, customary law systems are often central to the identity of a people or peoples, especially for groups that have been marginalized by or excluded from centralized power and state and judicial processes for decades or generations. Once we understand the all-encompassing nature of customary law and the linkages to individual and group identity we can better comprehend the extent of disputes and controversy over customary interpretations and challenges.

Within Uganda there are multiple systems of customary law in accordance with the multiple and diverse regions of the country.² The Ugandan constitution allows for customary legal practices to exist as long as these are compatible with constitutional norms.

1 As described in depth by Odhiambo (2010), 'customary law' is difficult to define, has different meanings depending on usage, and the 'correct' definition is a topic of academic debate that is beyond the scope of this report. The authors of this report use the terms 'customary law' and 'customary authority' to refer to the broad range of governance functions that determine many of the social, political, economic and spiritual norms and codes of the communities in question and are performed without reference to official codes.

2 Incidentally, and reflecting the arbitrary nature of colonial boundaries, customary law in Karamoja has more in common with the systems in Kenya's Turkana and South Sudan's Toposaland than it does to many other areas of Uganda.

BACKGROUND & METHODOLOGY

Karamoja comprises seven districts of 10,550 square miles and is home to an estimated 1.2 million people.³ Although largely semi-arid, ecological diversity exists in both microclimates in hill regions and in belts of higher rainfall and more arable land in the western, southern and mountainous areas.⁴

While outsiders generally refer to the population of the region as the ‘the Karamojong,’ there is no one unified political entity or identity but rather a series of different tribal, ethnic and territorial groups engaged in shifting alliances.⁵ The three main ethnic groups are the Dodoth, Jie and Karimojong, and within these main groups are multiple different territorial groups.⁶ The Karimojong, for instance, once a unified ethnic entity, now identify primarily with their separate territorial affiliations of Matheniko, Bokora and Pian. Ngakaramojong is the language common to the region, but minority groups such as the Tepeth and the Ik, among others, retain separate languages.

The research for this study took place with four different groups in Karamoja in an effort to capture the breadth of customary law experience and to allow for a comparative element. We selected population groups in two sets—the Jie and Dodoth in northern Karamoja and the Tepeth and Matheniko in southern Karamoja. This pairing allowed us to examine the role of customary systems in relationships between groups, including conflict, trade, and shared access to resources.

The fieldwork was conducted in three iterative phases between October 2011 and April 2012. Each region was visited in each field trip and we refined the focus of each field visit based on what was learned from the data in the previous trip. We used qualitative methods, including semi-structured open-ended interviews and key informant interviews. Focus group discussions in local communities were segregated by age and gender. We found that focus group discussions were conducive to the subject matter, as there was much exploration of ideas and topics within the groups.

3 The 2002 census put the estimated population at just under 1 million people, but this is widely considered to be an underestimate. The World Food Programme is using a revised figure of 1.2 million for the population estimate.

4 The *Karamoja Action Plan for Food Security* released by the Office of the Prime Minister (March 2009) characterizes Karamoja as having three livelihood zones: i) the Wet-Agricultural Zone in the west, ii) the Agro-Pastoral Zone in the center of the region, and iii) the Arid-Pastoral zone on the far eastern border of Karamoja. Certain variations between these delineations exist at the level of sub-county.

5 The authors of this paper follow the example of Ben Knighton and other scholars in delineating between the “Karamojong” (the inhabitants of Karamoja) and the “Karimojong,” the formerly unified ethnic group consisting of the Pian, Matheniko and Bokora. Based on the same sources, the shared language is Ngakaramojong. These different spellings are used intentionally and should not be taken as errors. See Ben Knighton, 2005, p 19.

6 These ethnic groups are the Matheniko, the Tepeth and the Bokora of Moroto district, the Pian and Pokot of Nakapiripirit district, the Jie and Tobur (sometimes called the Acholi Labwor) of Kotido district, and the Dodoth, Nyangia (sometimes called the Napore) and Ik (sometimes called the Teuso, but distinct from the Teso to the west) of Kaabong district. All these groups use Ngakaramojong in school and in administrative offices. For more information on different groups, see, *inter alia*, Ben Knighton, 2005; Sandra Gray et al., “Cattle Raiding, Cultural Survival, and Adaptability of East African Pastoralists,” *Current Anthropology*, vol. 44, December 2003.

OVERVIEW OF CUSTOMARY LAW

Customary law in Karamoja is rooted in the authority of the elders and, specifically, in the sacred councils known as *akiriket*, a term which also refers to the grove of trees where the council meetings take place. Historically, *akiriket* assemblies served as a governmental and judicial body for local populations, navigating crises, arbitrating disputes, and functionally serving as the highest community authority. Being an elder is not merely a reflection of age, but of initiation into the gerontocratic age-based leadership system. Karamoja is presently governed by the senior *Ngimoru* (Mountains), the elder generation-set, and beneath them are the junior *Ngigetei* (Gazelles). While decisions are typically reached in consultation with the broader community, the decisions of senior generation-set (*Ngimoru* at present) are traditionally the law of the land and their orders are carried out by the *karacuna*, or male youth.⁷ While the *akiriket* acts as a kind of “supreme court” for the community⁸, interpersonal conflicts are often handled in more informal spaces where both parties to a conflict present their grievances to the elders. Dialogue is critical to advancing justice, resolving disputes and achieving reconciliation.

In practical terms, customary legal mechanisms in Karamoja are meant to perform a wide variety of functions ranging from the everyday mundane (such as decisions on natural resource management) to the ceremonial (overseeing rituals for weddings, initiations, naming ceremonies of infants, etc) to reparation (providing redress and punishment following stock theft, adultery, rape, and murder) to the diplomatic (peace negotiations and exchanges with allied or enemy groups). There is no clear distinction between criminal and civil crimes and both are addressed by the same procedures.⁹ While this array of functions required adaptability, this adaptability would have occurred naturally due to the integration between these systems and all other aspects of the Karimojong way of life. Customary legal mechanisms were thus relatively adept at dealing with challenges as they arose.¹⁰

However, there are many aspects of customary law in Karamoja that would not be considered equitable by western liberal standards that prioritize individual rights, particularly those of women and children. Critiques of customary legal systems often highlight inadequate rights for women in land ownership and inheritance, inequitable marriage codes, including rights of widows, polygamy, early marriage and decision making in marriage for girls, and inequitable standing for women before traditional courts.¹¹ In short, rulings and practices put in place via customary legal systems normally support the status quo which, in a society such as Karamoja, is predicated upon male seniority.¹² Such systems favor a collective rights-based approach to addressing conflict and abuses between individuals and can appear, when viewed through a Western rights-based lens, to ride roughshod over basic human rights.

7 Dyson-Hudson 1966; Stites et al. 2007; Mutengesa and Hendrickson 2008; Gray 2010.

8 Gray 2010.

9 Knighton 2005.

10 Knighton 2006.

11 Tripp 2004; Ewelukwa 2002; Bennett, Faulk et al. 2004; Hodgson 1996.

12 Dyson-Hudson 1966; Chapman and Kagaha 2009.

The authors of this study are aware of the nature and merits of this debate, but did not design this study to contribute to this debate or to offer opinions as to pros or cons of customary systems. Rather, the study was designed to examine local perceptions of customary systems, highlight changes to these systems over time, and investigate the ability of these systems to adapt to the current dynamics of conflict, changing livelihoods, and state interaction in the region.

The lack of formalized statutes or codified precedents within customary law allows the system to be flexible and dynamic. In theory, customary law is a living, collective arrangement, evolving to meet the needs of the moment according to the traditions accepted by the community.¹³ However, this study finds that customary law's ability to adapt to modern challenges in Karamoja has been, at best, uneven.

CHALLENGES TO CUSTOMARY LAW

Overall, this study finds that customary law in Karamoja today is weakened and that elders in most study locations have not been able to fully respond to the changes that have taken place. In some instances, elders and the customary systems they represent have conceded much of their authority to state institutions such as the police and formal courts. In others, migration and trade have resulted in an influx of new ideas and practices that have challenged formerly established traditions. Throughout Karamoja, internal conflict and the loss of livestock (upon which much of customary law depends) have severely undermined the authority of the elders. This study finds that there are multiple factors that explain the decline of customary institutions in Karamoja. Each will be discussed briefly in turn.

Changing Livelihoods and the Loss of Animals

Typically discussions of livelihoods center on economic impacts. For the purpose of this study, however, we are interested in the ways in which the changes in livelihoods have impacted the practice and application of customary law. To understand this connection we need to consider the institutions, policies and processes that lie behind the mechanisms of everyday livelihood assets and strategies. These formal and informal institutions, policies and processes create the governing environment that allows livelihood strategies to function and, in the pastoral example, include such things as market systems for livestock inputs and sale, systems of alliances allowing access to resources, the gendered division of roles within a community, and the expectations and norms that are meant to govern behavior and action regarding interaction with other groups. Also included are the aspects of governance that allow the extended pastoral livelihood system to operate as a cohesive whole. In a well-functioning model, there would be close synergy between the governance systems and daily livelihood endeavors, as the systems of governance would dictate everything from water and grazing access to market sales. Livelihood systems require management and governance (formal or informal) if they are to operate effectively, and, in the converse, these governance institutions need livelihood systems *over which* to govern in order for these systems to have resonance with and relevance for the communities. When there is profound livelihood loss as in the case of the demise of livestock-based systems in Karamoja, the governance

¹³ Knighton 2006

institutions have much less influence in people's daily lives as their management of systems such as water and pasture is less relevant. If the customary systems are not able to adapt to fill this gap in influence, the very effectiveness of these systems can itself be undermined.

As pastoral activity and animal-based livelihoods have become less prominent in Karamoja, the authority of the male elders is on the decline. Livelihoods that were once primarily pastoral are diversifying to include casual labor, petty trade, and heavy exploitation of natural resources – in other words, livelihoods practices over which the elders have not historically exercised any ritualized authority. This change is proving to be extremely challenging to elders as they lose their base of authority over livelihoods and the areas of their traditional control are undermined. As traditional livelihoods erode, the elders lose their areas of influence, resulting in the erosion of communally-based asset management to a shifting emphasis on individual (e.g., household) well-being where members of households work largely to provide basic provisions for themselves without expectations that others will be able to assist them in periods of hardship.

Loss of animals has seriously undermined the functionality of customary law and removes the basic means not only for ceremony and ritual, but also the basis for reconciliation, compensation, external negotiation, and redress. Elders face a shrinking constituency in the absence of animals for exchange. Marriages without bridewealth are unofficial, and neither the women nor the children from such unions become official members of the man's community or clan. Youth and elders were once tightly bound in a relationship of deference and influence, whereby male youth would make offerings of respect to the elders in the form of animals, and the elders had influence over the actions of the youth. These offerings, including *lokokuwo* (an animal offered to the elders in recognition of their sanction) after a successful raid, are now rare, and the elders have accordingly seen their ability to shape, mitigate or manage the acts of young men to diminish. Similarly, without horizontal exchanges of cattle, elders are unable to establish and maintain the larger social network of alliances and friendships across internal and international borders that allowed for the mitigation of vulnerability through access to dry season grazing, refuge for herds in periods of drought or insecurity, or a temporary home for family members who were vulnerable to food insecurity or were surplus labor in a given season.¹⁴ Finally, judicial rulings lose their weight in the absence of compensation in the form of a fine paid by the perpetrator. Amends without a shared feast following an animal sacrifice lack the weight to mend the rift that has been created by the wrong-doing.

In the absence of livestock, community members have taken a number of different actions in an effort to address those issues that would have traditionally been handled through exchange or sacrifice. In some locations, for instance, elders are reportedly ordering fines for reparations or transgressions to be paid in cash in lieu of animals. Cash, however, is very difficult to come by and few people would have sufficient cash to make a complete payment at one time. Respondents also point to the increased use of *ameto*, a form of punishment where the offender's peers physically beat him or her at the elders' instruction.¹⁵ Increasingly, according to respondents, *ameto* is employed in instances where historically it would not be warranted.

14 See Gulliver 1955 for a discussion of these social systems.

15 Muhereza 2008, Gray 2010.

In spite of these overall livelihood changes in the region, livestock do remain important to the livelihood strategies of a large percentage of the population in Karamoja. Animal ownership is increasingly inequitable¹⁶, however, and recent and prolonged droughts coupled with the involvement of the Ugandan military in animal husbandry through the protected kraal system have led to declines in animal health.¹⁷

Changing Worldviews and Migration

Over time, the increased movement of people and ideas – due to increased trade, education, and migration – has acted to undermine the role and authority of customary law, watering down the exclusive authority and management of worldviews that was previously the purview of customary authority.

The gradual expansion of external influence is an important factor in thinking about change in any traditional structure. Outmigration has long been a method of coping with hardship for the population of Karamoja, motivated by famine and/or armed aggression, but respondents and secondary literature suggest sharp increases in outmigration starting in the 1960s with the exodus of the Bokora.¹⁸ Outmigration rose again in the mid-1970s and then in the years immediately following the 1980–81 famine. Many migrants returned to Karamoja – either periodically on a seasonal basis or permanently when the period of hardship had ended – and they brought with them new ideas, with impacts on basic livelihood activities (like the types of crops planted and agricultural practices) to gender roles (men in regions closer to the Teso have long been more heavily involved in farming than in other parts of Karamoja, for instance) to marriage customs (as people began to inter-marry with neighboring groups).¹⁹

The inflow of new ideas and practices with migrants does not automatically result in the erosion of customary authority, but according to the study population, the influence is real and can present a challenge to customary institutions to evolve and accommodate evident cultural shifts.

Failures of Succession

The failure of succession of the senior generation of elders to pass authority to the younger generations has had a negative impact on the customary authority system. The senior generation set, *Ngimoru* (Mountains), have not handed over power to the junior generation set, the *Ngigetei* (Gazelles) in more than 50 years. Most respondents and some academics say that this handover should have taken place approximately 25 years ago.²⁰ In the absence of this succession ceremony, the *Ngigetei* cannot open up a new generation set to initiate their sons, many of whom are now approaching middle age. Youth say they have lost respect for elders who themselves do not respect the traditional system and the requisites for handing over

16 Ocan 1992.

17 Stites and Akabwai 2009.

18 Gray, Sundal et al. 2003.

19 For information on more recent migrants, see Sundal 2010.

20 There is disagreement on the length of time between succession in the academic literature, with Dyson-Hudson (1966) claiming 25–30 years, Lamphear (1976) stating 35–40 years, and Knighton (2005) stating 50–60 years. Key informants and respondents for this study most commonly cited 25 years as the norm between successions.

power. However, this may be changing, with reports of the final age set (called *Ngiru*) of the *Ngigetei* generation-set opening in some areas, meant to herald in the start of succession planning. Male respondents of various ages and in multiple study sites state that the passing of power from the senior generation to the juniors should make progress towards rectifying the damaged relationship and lack of trust/influence between the elders and youth.

Lack of Control over the Youth

Critical to understanding the elders' loss of authority over the youth is the loss of livestock. Cattle, as the purveyors of status and livelihood, are of central importance to customary institutions and the maintenance of social cohesion. A shortage of livestock, which elders have been unable to address, undermines the give-and-take social compact that informed traditional culture in Karamoja.

The consequences of this reverberate for youth in the rites of marriage (e.g., the inability to provide bridewealth), a loss of livelihood, and the absence of economic security to provide for their families and themselves. Without livestock, customary institutions are constrained in their ability to underwrite livelihoods security or adjudicate crime, since punishment often hinged on livestock compensation. In other words, livestock shortages weaken both the carrots and sticks available to customary institutions. In such an environment, elders struggle to sustain their relevance for the younger generation. Perhaps the most obvious illustration of elders' failure to maintain social cohesion is the rise of *lonetia*, or criminal youth. This phenomenon will be discussed below, but, in general, the inability of elders to control crime by youth contributes to a sense of helplessness among the elders, and impacts how others in a given community perceive the strength of customary law. This may contribute to people's increasing willingness to contact state officials outside of their villages to intervene and help settle disputes, without first engaging directly with elders.

Rise of Crime and Internal Conflict

Under customary law, crime and punishment are communal in conception, and sanctioning is collective. For example, the victims of theft are compensated by the family or community of the perpetrator, with payments made in livestock. Legal sanctions create an incentive for intra-communal policing of miscreants.²¹ As noted above, the loss of livestock has placed considerable stress on this arrangement, undermining the authority of the elders and encouraging the youth to seek livelihoods and status outside of traditional frameworks. Youth have always been the central actors in cattle raiding, but raids were normally sanctioned by the elders and the wider community. Many respondents describe a new type of criminality taking place today, and ascribe this shift, in part, to lack of sustainable livelihoods for youth and the struggle to realize status in a rapidly changing environment.

One of the major changes in the nature of youth crime is the increase in what respondents of all ages call "thuggery." Some of these youth are referred to as *lonetia*

21 Chapman and Kagaha 2009. Crimes were also conceived as having a spiritual or sacred dimension that reflected the communal conception of justice. For example, a murderer was traditionally considered a cursed person and had to be ritually cleansed before he or she could be reintegrated into a community.

(a term reportedly derived from the widespread theft of mosquito nets). Respondents report that *lonetia* live outside of their communities and carry out attacks on homesteads to steal any moveable asset, including food, cooking utensils, clothes, etc. Unlike the organized cattle raids of the past, these crimes are apparently taking place without the consent or knowledge of their elders. Although there is widespread condemnation for these activities, people across the study population report that these young men were driven primarily by desperation. For instance, when asked why youth carry out criminal activity (of any kind) against other groups, many respondents across the study population report that poverty, hunger, and the need to support a family or pay school fees are the primary factors behind the rise in criminal activity across Karamoja.²²

Some respondents are bitter about the inability of the elders to control or prevent these activities on the part of the youth. The weakness of customary institutions may have important implications for inter-group relations in this regard. In some cases, the failure of customary institutions to maintain peace and restrain raids by *lonetia* is a consequence of both incapacity and a lack of will. For example, it is claimed by some Dodoth respondents in Loyoro sub-county that the criminal activity of their own sons is largely ignored because these communities lack confidence in customary institutions to prevent Jie incursions and theft of Dodoth animals and properties.

The Inability to Negotiate with External Groups

Historically, customary law provided a template for navigating tribal relations, particularly when it came to negotiating access to the finite resources of Karamoja. Because seasonal fluctuations and regular droughts necessitated the moving of cattle to greener pastures, groups cultivated cooperative arrangements to accommodate seasonal needs, and customary institutions provided the mechanisms for managing inter-group rights of access to these resources. Elders were the traditional and necessary conduits for these arrangements, as well as the mediators in times of tension. There is contemporary documentation of elders acting as negotiators to head off inter-tribal conflict and reconcile differences and defuse tempers (for an example with the Matheniko, Pian, and Pokot, see Quam 1997).

However, multi-dimensional challenges have undermined these arrangements, shifting the ground on which inter-group cooperation was founded. These include population growth in agrarian areas; limitations on mobility imposed by the UPDF and district political leaders—policies that are meant to reduce raiding, but that also reduce opportunities for peace-building and exchange between groups; the demise of the elders' influence and authority over all areas of governance due to loss of animals and the collapse of systems of reconciliation and restitution; and the years of raiding and violence perpetrated by the different groups upon their neighbors, both within Karamoja and beyond its borders.

22 Youth Focus Group (FG), Panyangara sub county, Kotido Dist. 29 Nov 2011; Youth FG, Panyangara sub county, Kotido Dist, 30 Nov 2011; Rengen sub-county, Kotido 2 December 2011; Youth FG, Rupa sub county, Moroto Dist, 22 Nov 2011; Youth FG, Kathile sub-county, Kaabong Dist, 6 November 2011; FG Youth, Tapac sub county, Moroto Dist, 26 Nov 2011.

Role of the State

As alluded to above, one cannot discuss the changing dynamics of customary law in Karamoja without an appreciation for how the region fits into the political unit of Uganda. Indeed, and as will be discussed in greater detail below, the conflict between customary and formal institutions is a key force behind the gradual debilitation of customary law in Karamoja. This has been a generations-long process in Karamoja and, many would argue that this process is not entirely negative. Customary institutions long preceded the presence of the central organizing state, but as Kampala has slowly extended its reach the elders are increasingly challenged by their state counterparts.

This process is evident in the historical literature. Even before Karamoja was declared an ungovernable “closed district” by the British colonial administration in 1921, the region had a complicated relationship with external authorities. This has continued through to the present time, with the post-colonial Government of Uganda’s various attempts to impose its will. Tensions with Idi Amin’s Government reached a zenith with the massacre at Nawoikorot village by GoU forces in 1972. The collapse of Amin’s regime in 1979 was a seminal event in the region: the looting by (mostly) Matheniko of the military armory at Moroto, in which thousands of weapons and ammunition were absconded, resulted in a massive increase in available weapons throughout Karamoja. The consequences were two-fold. First, Karamoja increasingly saw the rise of new local sources of authority, centered on armed gangs, which undermined the mandate of the elders. Second, in the 1980s the GoU resumed (after a twenty year hiatus) the at-times brutal disarmament campaigns of dubious effectiveness that contributed to the decay of regional stability.²³ Given the limited reach of state security forces in the increasingly chaotic region, illicit guns typically provided the only source of security for self-armed communities.²⁴ Armaments increased throughout this period and insecurity had reached new heights by the early 1990s. The state—and most international actors—largely ignored the region for much of the 1990s due to the extent of the insecurity and political problems elsewhere in the country.

Disarmament returned to the agenda in 2001, with a short and uneven campaign that left many communities who had disarmed, voluntarily or otherwise, vulnerable to attack and asset stripping by groups that had not disarmed. The UPDF stopped the campaign abruptly in March 2002 when troops were transferred to the north as part of Operation Iron Fist against the Lord’s Resistance Army.²⁵ The next (and continuing) disarmament campaign began in 2006 and involved greater stakeholder consultation and planning but was quickly beset by criticism of human rights abuses. Reports of abuse have decreased in recent years and many officials in the region feel that security has greatly improved as a result of disarmament. Communities within the study population have experienced these positive impacts more slowly, with many reporting a period of intensified violence and lack of protection for the first few years of the disarmament campaign. This trend appears to be shifting in some but

23 Gray, Sundal et al. 2003.

24 Bevan 2008.

25 Ibid.

not all areas, and some within the study population express relief that the period of regular cattle raiding has ceased, at least in the present time. In regards to customary authority, however, elders (and some district officials) complain that much of these activities took place with little to no involvement (aside from some initial 'sensitization') of the elders. In fact, respondents in many areas report that elders were often targeted for humiliation by the soldiers. Likewise, respondents felt that their elected local officials (primarily local councilors at the village and sub-county level) were powerless in the face of the military presence. In this way, the military campaign effectively undermined both the customary and official state systems in the region.

Development activities (both national and internationally initiated) have greatly increased in the region in recent years and, in many study areas, people have had their first interaction with the state that did not involve a pre-election visit or a disarmament campaign. A variety of programs to address the region's problems have made their way through Parliament, including the Karamoja Integrated Disarmament and Development Plan (KIDDP) and the Karamoja Action Plan for Food Security (KAPFS). Many more initiatives have been funded by bilateral donors, and the region is awash with both national and international non-governmental organizations (NGOs). The national agenda continues to lean heavily towards sedentarization and the pursuit of an agricultural solution to the 'cattle problem' of the region, with relatively little concern for the ecological realities and associated vulnerabilities of the region (or the past failures in this regard).²⁶ Sustainable development may be possible in Karamoja if the ecological realities of the region are taken into account and a concerted effort is made to improve rule of law. However, given the history of state involvement in the region, it is not surprising that there is limited trust of the government. This has started to change in recent years due in part to increased international awareness and pressure, but continuing efforts, visible results, active outreach to the population, and a focus on local priorities will need to continue for some time before a durable civilian-state contract can be said to be in place.

CUSTOMARY LAW: PERSISTING STRENGTHS

Despite the various challenges that have contributed to the weakening of customary systems, specific aspects of customary authority remain intact, in some instances because the customary institutions are able to operate in ways that the formal systems are not. Within the study population, there is a great deal of variation by area, with customary law stronger in some areas and weaker in others.

Dispute Resolution

Customary institutions still provide an important method of dispute resolution in Karamoja. This is particularly the case where formal institutions – such as the police and the magistrates – are ineffective, under-resourced, or entirely absent. As will be discussed below, understaffed and poorly facilitated courts in Karamoja

26 See, for instance, Walker 2002, Levine 2010, Mamdani et al 1992, Okudi 1992.

often lack the capacity to handle their caseloads. The police, while in some places effective, are also inaccessible for much of the population and suffer from allegations of corruption in a number of study locations. As a consequence, in many cases customary institutions provide the preferred – and sometimes the only – avenue for plaintiffs.

Furthermore, customary institutions often provide a much more efficient method for addressing crime than the formal courts, where cases may languish for months, if they are addressed at all. This was the view of many respondents. According to them, customary institutions offer the most efficient avenue for adjudicating crimes such as petty theft, assault, adultery, defilement (sex with a girl child under 18 years) and rape (non-consensual sex with any woman). While there is some variation within the study population – and increasing numbers of cases of defilement, rape, and assault with injury are being reported to police – most of these cases are adjudicated through customary institutions overseen by the elders.

Disciplining the Community

As noted above, there are significant challenges for elders to maintain control over the community, particularly in the case of criminal youth. Disciplinary authority by elders varies greatly by location, but it is worth pointing out that in some areas the discipline meted out by elders, particularly when applied towards male youth, is still thought to be highly effective. In such communities, customary processes of adjudication continue to be practiced.

Elders will take into consideration the circumstances of the offense and will determine a suitable punishment, though – as noted below – the shortage of livestock has circumscribed elders' ability to impose livestock compensation as a way to punish offenses. If a violator of customary law does not have animals, it is likely that he will be beaten through *ameto*. There are communities within all four groups where *ameto* continues as a means to punish violators of customary law. Within the groups studied, the process of *ameto* appears to be strongest among the Jie and Tepeth. In a few extreme cases of *ameto*, respondents report that offenders are killed if they lack animals and refuse to acknowledge guilt for the crime. In most cases, however, following punishment the offender is considered rehabilitated and remains an active member of the community.

Compensation

The payment of compensation is integral to maintaining community harmony, and allows for redress and reconciliation. Historically, cattle were required as compensation for crimes including adultery, rape or murder. These crimes warranted as many as 80 heads of cattle be paid for each offense.²⁷ Compensation now is considerably less due to high levels of poverty following the loss of animals. The inability of many offenders to pay compensation in accordance with traditional principles has forced elders to change the types of punishments levied. As the Ugandan Shilling has become more common in the trade of goods and remuneration for services, it has also become common for

²⁷ Knighton, p. 108.

elders to rule that offenders offer monetary – rather than livestock – compensation, though the amounts are small relative to what was historically owed.

The decrease in traditional forms of compensation (animals) and the overall lower levels of comparable payment led many community members interviewed for this study to posit that the system of traditional compensation and reconciliation is less effective now than it was in a previous time. However, the system nonetheless continues to exist in one form or another in most study locations. Generally speaking, respondents feel that some compensation is seen as better than none at all, and complain that the formal justice system does not guarantee that victims will receive any form of compensation.

Transparency

The *ekokwa* – the daily meeting of the elders – serves as a regular court for local civil and criminal cases. These fora are located within every community and are able to host cases immediately as they happen. People choose to engage their customary systems for various reasons. Foremost among them and best illustrated by the *ekokwa* system, customary systems are local and accessible; the community ultimately decides how best to resolve disputes and maintain group harmony. There is transparency when cases are resolved within communities and people can witness the proceedings of the *ekokwa*. Fairness is maintained when both the perpetrator and victim find the punishments appropriate to the crime or crimes committed. As discussed earlier, however, and also expressed by some members of the study population, there are concerns that such systems include an inherent gender bias and are not always impartial to claims brought by or violations committed against women.

Customary proceedings are a community affair and, as such, are believed by respondents to be more effective than formal courts in leading to admissions of guilt on the part of perpetrators. While it is the council of elders that makes absolute determination (through consensus) on how a case should be decided, the entire community is witness to the proceedings and can weigh in. In contrast, people express mistrust for the formal system that takes place behind closed doors where they believe that perpetrators are more likely to be able to spin the truth. Related to this is the greater transparency that is believed to exist when the community can witness and be a part of the proceedings. As will be discussed later, this particular preference for the customary system is particularly important when we consider that the main complaints regarding the police are corruption and, more specifically, the ability of people to buy their way out of prison.

One of the reasons that the customary systems remain in place and are respected (though to varying degrees) in many areas is that they are able to move much more quickly and effectively than the formal court system, even in areas where such courts exist. Because of this, people who want quick resolution are more likely to take their cases to the council of elders.

Crime and punishment

Generally, crimes can be separated into two different categories: those that are perpetrated against another person or one's own community, and crimes that are perpetrated against larger society. For crimes against person or community, these are generally dealt with through traditional justice proceedings. Crimes

against society are more serious crimes that may adversely interfere with peace between groups, or even rainfall or land fertility.²⁸ They are punishable by much more substantial measures, such as community expulsion or death.²⁹ Jie youth within the study population report that breaking peace (a crime against society) is in violation of customary law with consequence of severe punishment. Jie elders confirm this by pointing out that a youth who raids when there is peace has committed a crime against society, and will be caned for such an offense. Respondents explained that these crimes were particularly dangerous because they contribute to cycles of revenge.³⁰

Customary institutions are better positioned than their formal counterparts to address the communal element of crime,³¹ largely because of their emphasis on the communal value of adjudication. A central tenet to traditional justice in Karamoja is the preservation of social harmony and the endurance of community. Secondary to that is the notion of individual rights, which are respected if compatible with community objectives of unity.³² When offenses are committed – whether against an individual or a community – elders take action to address what is considered best for the community’s wellbeing.

Furthermore, customary legal proceedings are often more attractive, from a household standpoint, than lengthy formal processes. A defendant tried within the formal system may be locked away for an extended time, and is thus of no value or support to his or her family or community. Witnesses know that if they do not come forward to participate in the formal system, the suspect is likely to be released and the issue dealt with at the local level, with community reintegration following a punishment as the most likely outcome. If this is considered the more desirable outcome (by either the witness or by the community and applied through pressure), a witness may be reluctant (or frightened) to come forward.

PERCEPTIONS OF CUSTOMARY LAW

Among the study population, there is a great deal of variation in people’s opinions regarding the strength of customary law systems. Elders’ abilities to control, punish and reconcile criminal behavior are important factors informing these opinions, which vary both across the study population and from

28 See Knighton, pg 105.

29 Defilement can be another contentious area, as offenders are rarely taken to the police. If the elders find the accused guilty of the crime, they will stress to a defiler the seriousness of the crime and hand down a punishment. In some cases it may include livestock compensation if the defiler does have animals; otherwise, it may include payment of money. It was reported in one Tepeth community that a man guilty of defilement who cannot pay compensation deserves torture, especially when the police are too far away to respond, or when police are unlikely to punish the defiler (Interview, Women FG, Tapac sub county, Moroto District, 27 November 2011).

30 Elder male FG, Nakapelimoru sub county, Kotido Dist 26 Aug 2011.

31 It should be noted that crimes under customary law are not necessarily crimes under Ugandan law, but are nonetheless violations of customary law in Karamoja. Those include, inter alia, drunkenness, refusal to pay dowry, insulting elders, non-sanctioned resource extraction (e.g., cutting of protected *akiriket* trees) neglecting livestock, failure (among women) to perform household responsibilities, and refusal to provide animals to elders’ for sacrifice when instructed to do so.

32 Muhereza 2008, Knighton 2005.

one demographic group to the next. Views vary to similar degrees among local and district officials. The wide range of perceptions is considered in this section.

Perceptions among Elders

Not surprisingly, most elders interviewed for this study consider themselves to be the bearers of traditional authority in Karamoja. Even as many do recognize that such authority has diminished, most prefer to see this as a momentary lapse typically blamed on either interference by the UPDF or on the widespread loss of animals. The latter reported cause for the decline in influence is particularly unsurprising, given that elders' power is partially contingent on the size of herds they have under their control. Today, elders' roles of adjudication and ritual are performed less frequently than in the past due in large part to decreased animal populations available for compensation or ceremonies. Without animals elders cannot perform rituals and lack the leverage to maintain social control of people in their communities. This results in not only a decreased role for elders, but also leads to fewer communal activities, threatening the social bonds between people, households and villages.

There is, in general, reluctance among elders to believe that customary institutions themselves are weak or ill-suited to the times. For example, many will blame their lack of control over the youth as a problem rooted in the recalcitrance of the younger generation, as opposed to any internal weaknesses of the cultural system itself. In response to queries on the changes in customary law over time, most elders within the study population felt that there had been and would be no change. They see any waning of the elders' power as being a temporary situation to be rectified once herds are replenished, allowing them to carry on with the observance of their traditions as they have in the past.³³

Perceptions among Women

Overall, women in the study population were among the most vocal in expressing criticism of customary authority. In private conversations, women were often pointed in censuring the elders themselves. This may not seem surprising given the socio-cultural context. Traditionally, women have played a negligible role in decision-making outside of the household. Their roles include the day-to-day maintenance of the home and family-oriented rituals such as naming and birthing ceremonies. However, the criticism levied by women against customary institutions, and the elders themselves, seems to be generally rooted in more modern developments. Firstly, women's roles have adapted to the changing livelihoods conditions. To support their households, women are increasingly engaged in resource exploitation, petty trade, and, in some cases, are migrating to other areas in search of work. In general, the livelihoods activities of women have become more diversified due to the decrease of animal populations and the corresponding decline in economic roles for men. Today, women are primarily responsible for providing for their households by collecting firewood, wild fruits and vegetables, through small-scale farming, charcoal production and sale, and by petty urban labor, among other tasks. Customary authority as exercised through the elders has little to no influence over these activities,

33 Elder FG, Kacheri sub county, Kotido, 29 Aug 2011.

meaning that women see little relevance in the role or governance duties of the elders. Furthermore, some livelihoods adaptations – such as resource collection in remote areas – expose women to increased protection threats, and they blame the elders for failing to control the youth that are responsible for these criminal activities.

Secondly, since the start of the most recent disarmament campaign, violent attacks and theft of households assets (food, cooking utensils, clothing, etc) have become more prevalent within the home, meaning that women (and their children) are much more vulnerable to such violence than they had been when animals were the primary targets of asset stripping.³⁴ Again, the powerlessness of elders in the face of this new dimension of the conflict has done much to undermine women's perceptions of customary authority.

Lastly, there are gender biases inherent within the customary systems that pose a problem for women seeking access to justice. Women tended to agree that customary law systems are male-dominated institutions more easily influenced by men. Women, both young and old, complain that elders are biased against women and, regardless of the specific circumstances of a case, most often side with males in charges of domestic violence or other household disputes. According to many women, rarely does the *ekokwa* favor women in disputes involving men. Some women even complained of being beaten without cause when they simply sought to bring cases before the elders. Women claimed that men “buy” the patronage of elders with beer and other favors to avoid reprimand. Women are therefore most often found to be in the wrong regarding household level disputes, including domestic violence, and can receive beatings as part of their punishments. Many expressed frustration over male domination of the community and household, a tension perhaps newly animated by the increased role women are taking in providing economically for their households. Domestic violence – most often perpetrated by men – is generally condoned by the customary systems if the husband provides justification for his actions. Such justifications are overtly subjective, but nonetheless fall within the boundaries of what many elders consider to be maintaining social harmony by reinforcing traditional gender roles.³⁵

Women also discussed the importance of livestock, not just for the purpose of marriage, but as a means to strengthen their status and role within the home and community. Some express that in the absence of animals, their sense of “womanhood” is diminished. Nonetheless, it is common for officially married women (i.e., from a marriage which included the full transfer of bridewealth) to claim that they face more severe forms of domestic violence than those wives whose marriages are not official (i.e., no bridewealth exchanged). “They paid dowry, so the men own us,” reported a group of officially married Matheniko women in Nadunget.³⁶ Similar reports were heard among Jie, Tepeth and Dodoth women. This difference is because women who have been married with animals are less able to leave their husbands (unless the bridewealth is returned), while

34 Stites and Akabwai 2009.

35 Reasons for the acceptance of domestic violence can include a woman's failure to cook properly or on time, wash clothes or fetch water, neglect of children, or refusal of any request made by a husband or other person with authority over the woman.

36 Women FG, Nadunget sub county, Moroto Dist, 22 Aug 2011.

those who are not formally married have greater autonomy. A group of Jie women explained that men who have not paid bridewealth normally limited their beatings of their wives, as they fear that the women will leave if they are treated too roughly.³⁷

Some women within the study population were also critical of specific methods of customary law. *Ameto*, or punishment through collective beating, is practiced in all areas among the four groups as a method to discipline community members, particularly male youth, and can also reportedly be used to make people work.³⁸ Women express desire to see the practice of *ameto* reduced, at least as a form of punishment against women. Jie women complain that *ameto* is torturous and that people are sometimes killed through the beatings. Women from all groups report receiving *ameto* beatings due to false accusations by men.³⁹ Interestingly, despite specific complaints about *ameto* and gender-bias, most women say that they would like to continue to see most domestic issues handled by the customary systems, but in a more even-handed manner. In particular, women in all four study areas were supportive of male youth being disciplined through the customary system. They would like, however, more serious crimes be dealt with by police and courts.⁴⁰

As a sub-group within the study population, elderly women tend to echo the views of the male elders. For example, Matheniko women complain that female youth have become unruly and no longer pay attention to their elders. Elderly women blame the lack of animals for this. Without animals, they explain, the marriage unions are weak. The absence of official traditional marriages leads to a lack of respect among families and households. Furthermore, elderly women feel that the absence of livestock has led male youth to no longer have respect for young women and to conduct rape without fear of consequence (such as payment of steep livestock fines).⁴¹ Again, the source of distress is not the system itself, according to women elders, but the lack of resources on which the system of authority depends.

Perceptions among Male Youth

The perceptions held by male youth of customary law are the most nuanced within the study population. On the one hand, similar to women, the views of male youth of the customary system have shifted in accordance with the changes in their livelihood strategies. Young men used to rely heavily upon the decision-making, knowledge, and governance of the elders regarding systems of animal husbandry. As pastoral-based livelihoods have become less central for a large number of these young men, the day-to-day relevance of customary authority has also become less relevant. Those youth fortunate enough to find new livelihoods in, for instance, petty trade, construction, or migration are now

37 Women FG, Panyangara sub county, Kotido, 30 Nov 2011.

38 Male FG, Kacheri sub-county, Kotido, 30 Aug 2011; Male FG, Panyangara sub-county, Kotido, 8 Aug 2011.

39 Women FG, Tapac subcounty, Moroto Dist, 24 Aug 2011; Women FG, Loyoro sub county, Kaabong Dist, 2 September 2011.

40 Ibid.

41 Women FG, Nadunget sub county, Moroto Dist, 22 Aug 2011.

operating beyond the management capacities of the elders as the authorities of customary law. In general, elders have been slow to adapt customary systems to shifts in livelihoods activity. Some male youth voiced frustration with elders' roles in managing, or failing to manage, the economic well-being of their communities as pastoral livelihoods have diminished and new ones have emerged to fill this gap.

Many youth struggle to find meaningful means of supporting their families, but reports from those who are employed illustrate the range of livelihood activities pursued by male youth (and all outside the elder's authority). Dodoth youth report their involvement in farming, part-time work digging wells or constructing roads for the government. Jie youth report burning charcoal for sale, farming, hunting rats and selling tobacco. Matheniko are commuting into Moroto town for casual labor such as construction work or digging latrines. They are also involved in mining minerals (primarily panning for gold) and rock quarrying. Tepeth youth are engaged in trading sorghum, helping women perform farm work, bee keeping, and other casual labor within Moroto town. But through observation in the study locations, it is apparent that many youth are under-employed, if employed at all. In some cases, youth resort to thievery and armed raiding to deal with rising poverty, hunger and insecurity, presenting another challenge to customary institutions and the social stability these institutions are meant to underwrite. Incidentally, this devolution is not lost on male elders. As described below, many elders are increasingly turning to state justice and security providers to manage the growing rift between male youth and elders.

While there are evident fissures in the relations between male youth and elders, this is not uniformly the case, with stark variations at times apparent from one community to the next. Notably, a sizeable number of male youth in the study population express both appreciation and respect for elders' authority. These youth say they are hopeful that elders' power will be restored for a number of reasons including the strengthening of peace between groups, decrease in criminal activity within communities, and a return of large animal populations. Importantly, some youth hope for restoration of customary authority so that if and when these youth assume leadership roles in their own right, there will be a customary system still intact for them to stand as authority figures within their respective communities.

The Jie youth within the study population tend to speak the most pessimistically about the reduction of their social roles, but many continue to express value in the roles they do continue to perform, particularly around *akiriket* activities, protection of cattle within village kraals, digging wells and constructing huts and other structures including manyatta walls. However, one group of Jie youth claims that their social roles have been reduced to nothing: "We are just sleeping and roaming about in villages." Such outlooks influence their perception of customary law, leaving youth disdainful of the merits of customary authority when their elders lack the power to strengthen community well-being by increasing herd sizes or developing strategies to increase livelihoods opportunities. But youth also feel that if peace should arrive to Karamoja, and the constant threat of animal theft and raiding put aside, then there is reason to hope that livelihoods opportunities will increase, and with them, the relevance

of elders rule.⁴² Such ideas are rooted in the widely-held idea that pastoralism is key to an economically viable future, and that the restoration of animal herds will eventually happen.

The data show a growing political interest and awareness of young men within the study population. Many male youth have organized community-level youth groups to heighten their political participation locally while also increasing their peace efforts both within their communities and across groups. By increasing their involvement in formal politics in Karamoja, youth are not necessarily doing so to strengthen customary law, but rather to provide support to their own need for livelihoods opportunities. Where youth have organized themselves in community peace committees or political groups, they are increasingly exercising their autonomy outside of elders' authority, a development that does not necessarily reflect poor youth-opinion of elders, but instead indicates the interest and agency on the part of male youth to move beyond the traditional power relations with elders.

In a similar evolution, male youth are becoming more involved in settling their internal disputes. This new trend of youth dealing with their own community-level disputes is perhaps a positive step toward maintaining order and assisting the adaptation of customary law.

CUSTOMARY LAW'S INTERACTION WITH THE FORMAL SYSTEM

As discussed earlier, the formal state played relatively little role in Karamoja for much of the past century, particularly in comparison to colonial and post-colonial policy elsewhere in Uganda. This has changed gradually in the Museveni period and more so in recent years. Many district level posts still remain unfilled and schools in remote areas struggle to attract and retain qualified teachers, but overall the national government is affording Karamoja much more attention than in previous decades. An inevitable part of this increased role and visibility for state institutions is greater interaction with the customary authority systems. This section briefly examines these relationships and the views of the formal institutions of their customary counterparts.⁴³

Local Councils

Local Council 1 (LC1) chair people serve at the village level and are an important link between local communities and police and district-level government. They perform two main roles: first, reporting to higher government offices on the economic, health and social concerns of the people they represent; and, second, promoting the observance of the national laws of Uganda by

⁴² Male youth FG, Nakapelimoru Sub county, Kotido Dist, 27 Aug 2011.

⁴³ To note, data from the formal institutions was uneven due to issues of access. For instance, while we have a great deal of data regarding how the study population feels about the security forces, it was difficult (usually impossible) to secure interviews with the rank and file soldiers or police who were engage in these interactions. We have the greatest amount of data from the village and district authorities, who were normally very willing to talk to the team and to share their candid impressions. This was also the case for court authorities, but the small size of the functioning formal court system in Karamoja means that relatively few court officials were actually interviewed.

handling minor civil and criminal cases.⁴⁴ Elected through open village elections, LC1s represent their communities within district-level government and serve underneath the LC2 (Parish), LC3 (Sub-county), LC4 (county) and LC5 (district). Most communities recognize LC1s as government representatives who report local needs (e.g., teachers, water, medicine, food) to local government offices, often acting as advocates for community well-being. LC1s are granted administrative powers to address civil cases such as debt and land disputes and criminal cases related to community members on conflict with the laws of Uganda, such as assault (without injury). However, LC1s' interpretation of their jurisdiction is often somewhat arbitrary. Many LC1s interviewed for this study admit to not receiving proper training and to having a poor understanding of the laws of Uganda.

Technically, the LC1 chairperson has jurisdiction to administer his village by virtue of being the highest-ranking government official at the village level. However, in most cases his *de facto* administrative authority is second to that of the elders.⁴⁵ A majority of LC1s are young men, and as junior members within their communities, they typically serve in a supporting role to the elders.⁴⁶ This is apparent in the adjudication of disputes, where elders often take the lead, calling upon LC1s to deal with those cases where elders' rulings are effectively contested by offenders, or when the elders find that they cannot themselves resolve the dispute through consensus.⁴⁷

The relationship between LC1s and elders informs the relationship between formal and customary institutions at the local level. When reporting matters to higher-up government officials or police, LC1s report that they are typically reporting what has been requested by elders.⁴⁸ However, this is not always the case. Where LCs successfully interface with the police or district-level government, they are seen as providing a service that the elders cannot. Young men in one Dodoth community, for example, reported being increasingly reliant on their LC1s to settle disputes. They were more likely to take an issue directly to the LC1, circumventing their village elders—a clear indication of the elders' weakened authority in this location.⁴⁹ In other instances, male youth report that the LC1s provide a more equitable means for resolving conflict. Dodoth youth interviewed in Karenga sub-county claim that there is little space for youth to express criticism of elders' adjudication of cases: once elders have decided a case, there can be no objections. They find their LC1 to be more receptive to people's

44 The Uganda Constitution forbids "traditional or cultural" leaders from assuming any LC office. Local Government Act 1997, section 116.3.

45 LC FG, Kathile sub county, Kaabong Dist., 14 Feb 2012.

46 LC FG interviews, Nandunget sub county, Moroto Dist 12 March 2012; Karenga sub county, Kaabong District, 17 Feb 2012.

47 LC and Youth FG Panyangara sub county, Kotido Dist 22 Feb 2012; LC FG Rengen sub county, Kotido district 20 Feb 2012; Rengen sub county, Kotido District, 21 Feb 2012.

48 LC FG, Nadunget sub county, Moroto District, 3 Mar 2012; Rupa sub county, Moroto District, 1 March 2012.

49 Youth FG, Loyoro sub county, Kaabong Dist 3 Sept 2011.

opinions on matters of crime and punishment, and therefore more willing to base decisions on community input.⁵⁰

LC Perceptions of Customary Law

Some local councilmen interviewed for this study express reservations towards the rule of elders and in some cases express a desire to limit the elders' powers. Concerning *lonetia*, for instance, some LC1s point to this group's continued evasion of customary law and elders' control as an example of why customary law is not effective. If police were to be involved, LCs claim, then the police would follow up on known criminals and pursue them with force, something the elders cannot do.⁵¹

Many LC1s believe that customary law will continue to weaken as elders pass away and the knowledge of customary law is lost. Further, they claim that elders are too rigid in their administration of customary law and there is little room for community dialogue on important issues when only elders preside over cases within the closed space of the *akiriket*.⁵² In other instances, some LC1s complain that elders simply dismiss cases that they do not want to hear. The LC1 could not review such a case without the possibility of conflict with the elders.

Most of the LCs interviewed for this study believe that the loss of animals is the end of elders' authority, and they tend to blame the elders for allowing the years of raiding that resulted in today's depleted animal herds.⁵³ In addition, many LC1s are critical of customary institutions as they now function. In a village in Tapac sub county, Moroto, Tepeth LC1s describe customary law as failing to protect its people, particularly women and children. Customary law is static, they claim, in contrast to the changing world around us. Men have too much power and women are sidelined, even when they are the ones performing important livelihoods activities keeping households going. Further, when the male of a household dies, there are increasing incidents within Tapac of the man's relatives taking all of his possessions and chasing off his widowed wife and children, leaving them with nothing. In today's difficult economic conditions, LCs lament the unfortunate reality whereby customary law cannot seem to manage or improve the despair of local people.⁵⁴

Nevertheless, many LC1s do not relish an environment without customary institutions. This apparent ambivalence is likely a consequence of their position at the intersection of their local community and the district-level government. Some LC1s express concern that the government does little to support customary law, and in some areas blame the government for actively trying to obstruct customary practices which in the end further diminish the role of elders.⁵⁵ Incidentally, this ambivalence is also apparent in the opinion of many LC1s in regard to the police. While some LCs praise the efforts of the police, others do

50 Youth FG, Lolelia sub county, Kaabong District, 15 Feb 2012.

51 LC FG, Kawalakol sub county, Kaabong, 16 Feb 2012.

52 LC FG, Panyangara sub county, Kotido, 23 Feb 2012.

53 LC FG Nadunget sub county, Moroto District, 2 March 2012.

54 LC FG, Tapac sub county, Moroto district 29 Feb 2012.

55 LC FG, Rengen sub county, Kotido dist 20 Feb 2012.

not, believing that the police are not particularly well-positioned to maintain law and order.

District Officials' Perceptions of Customary Law

There are two types of officials who serve at the district level. The first are appointed by Kampala and are rarely from Karamoja, i.e., RDCs, CAOs, and DISOs. Those in this category interviewed for this study see their role as helping to promote government policies aimed at increasing agricultural production and the streamlining of the formal justice system. The second type of official, the LCVs, are directly elected, are native to their districts and are the highest-ranking government officials in Karamoja from the region.

District officials hold varied views concerning customary law in Karamoja. To some extent, this variation is explained whether they are in an elected or appointed position. The appointed officials from outside the region tend to be more critical of customary institutions, whereas the elected LCVs tend to be more sensitive to tradition and customary law. That said, there is consensus across most district officials that customary law is in need of considerable change. Those who generally support customary authority see this change as being needed if the system is to remain coherent and to maintain its cultural significance among the social, economic and political transformations taking place in the region. Although not always spoken so directly, appointed officials appear to see less of a role for customary institutions as Karamoja continues to 'modernize.' All district officials interviewed for this study generally agree that the elders are weak and that this weakness enables forms of criminal activity, particularly armed theft and violence. The continuation of criminal activity among male youth across all four groups disrupts efforts (official and customary) to achieve greater peace and security.

Even among those officials who are critical of customary authority, there is recognition by state institutions that the state alone cannot currently provide adequate services to all people and communities. With this in mind, local government officials and ministers of parliament express genuine concern over the waning authority of elders and believe there is a need to focus efforts to keep these elders engaged with formal government in order to increase their capacity to help bolster district and regional government initiatives. Ultimately, according to most district officials interviewed, the overarching challenge in Karamoja is to reconcile traditional forms of governance with the formal institutions so that gaps are filled and basic rights are observed.

According to many district officials, the main strength of the *akiriket* is that it delivers information to communities, and as elders remain the real opinion leaders at the local level, it is necessary to work with them to change local attitudes towards government and the security sector. Government issues are pushed through at the local level primarily because elders allow this to happen, according to a deputy CAOs. If peace is to be achieved as the first step toward other goals in the development of peaceful Karamoja, it will be done through better cooperation and communication between government and the *akiriket*, i.e., the elders. If government is to establish a relationship with the elders, and hence influence the opinions of elders, it has to make a decision around how to support the elders, too. Similarly, a number of LCVs believe that, in some areas,

the *akiriket* remains strong and elders remain pivotal intermediaries between district government and local communities. However, in many communities where decisions are still made within the *akiriket*, elders lack the strength to enforce security, making them dependent on the cooperation of state services, primarily the police.

Police

Police presence in Karamoja has increased notably since 2008.⁵⁶ Although police outposts are not present within all sub-counties, police are generally throughout the region, and many people, including elders and local council chairmen, are seeking their assistance for various matters.

There is confusion within many communities both about the specific role of the police. In particular, concepts of jurisdiction are not clearly understood. While some victims of crime choose to go directly to the police for assistance, elders see this as an affront to their authority and ultimately harmful to the integrity of traditional justice systems. However, when elders are unable to reach settlement between parties within the traditional justice setting, they may call upon the police – either directly or through their local council chairman – to intervene. Elders generally prefer that they themselves function as the link between the police and the community, with the LC1 perhaps serving as an intermediary.

Where police do maintain a regular presence and are accessible by communities, some respondents described positive interactions. In a village in Nadunget in Moroto, Matheniko women appreciate that the police are respectful of their manyattas and do not enter before asking to do so. In cases of domestic violence, the police have established a procedure to follow-up with the accused to ensure that medical costs, if applicable, are paid on the woman's behalf. When this has not occurred, police reportedly pursue these cases until resolved. Such follow-through on the part of police has been effective in helping form favorable opinions of the police among women. These women believe that if there were a greater police presence, then the mere threat of their intervention may deter potential criminals, and cause potential abusers of customary law to adhere more closely to acceptable behavior and, ultimately, strengthen local customs and customary law.⁵⁷ In other instances, however, the supporting role of police cannot be taken for granted. In a village in Rengen sub-county, Kotido, people generally trust the police, characterizing officers as “respectful,” even as they have deep reservations about the UPDF. However, women in Kotido also said that they must pay the police for their services. When there is no money the police reportedly release criminals and/or fail to punish perpetrators.⁵⁸

Among some communities, a perception of police corruption erodes local trust in formal law enforcement. Police are said to demand money, first from the victims in order to carry out an investigation, and, second from alleged perpetrators to release them from jail. Obviously this is seen to undermine the entire process. When the police release suspects, community people have a

56 Saferworld 2010.

57 Women FG, Nadunget sub county, Moroto, 20 Aug 2012.

58 Women FG, Rengen sub county, Kotido district 2 Dec 2011.

tendency to see this as an example of police corruption and a failure of the community's decision-making that opted to refer such cases or criminals to police jurisdiction.

In some cases, the police are seen as actually contributing to lawlessness. For instance, elders in one location say that police there are not helpful, and even encourage the activity of *lonetia*. This is because, they claim, police are not arresting *lonetia* but are instead releasing them back into the community without punishment, yet at the same time instructing local communities to turn criminals over to the police rather than try them within communities.⁵⁹ This illustrates a common gap that most communities express when discussing police activity in their areas. There is a need for greater understanding around how police procedures work, particularly when considering the limitations present when evidence and witness testimony are difficult for police to ascertain. Across all communities, people are reluctant to provide oral testimony as witnesses to crimes out of fear of suffering reprisals.

Police Perceptions of Customary Law

Among the police interviewed for this study, perceptions of customary law overlap to some extent with that of district officials. While the police expressed the opinion that the authority of the elders has greatly declined – and that this decline is an important contributor to regional insecurity – many believe that elders remain central to strategies to attain peace in Karamoja. According to police interviewed for this study, customary institutions can still be effective in mediating local conflicts and lower-level criminal activity, including land disputes, adultery, petty theft, and common assault without injury, in addition to other culturally-specific issues including respect for social hierarchies and behavioral expectations.

To some extent, this appreciation for the elders is due to the limited reach of formal institutions, including the police themselves. This is certainly the case in Moroto, Kotido and Kaabong, where police admit to having a limited capacity to enforce the law of Uganda. The primary factor constraining the police in Karamoja appears to be a lack of resources, resulting in a lack of logistical support to mobilize police units, set up police posts in all sub-counties, and interact with communities on a more regular basis.⁶⁰ In this vacuum, customary institutions are often able to outperform their formal counterparts. The police acknowledge that local leaders are able to administer some aspects of justice and the police find that the payment of compensation to resolve disputes is both effective and appropriate when it serves the purpose of reconciling perpetrators and victims.⁶¹ Police also acknowledge that communities continue to deal effectively with juveniles, particularly concerning petty crime of a non-injurious nature.

Yet even where the elders are effective, a range of concerns persisted among the police interviewed regarding customary systems. These concerns included

59 Male Elders FG, Kaabong District 15 Feb 2012; Kotido District 20 Feb 2012.

60 Interviews, District Police Commander, Kotido 26 August 2011; Deputy District Police Commander, Moroto 18 August 2011; DPC, Kaabong 1 September 2011; District Crime Intelligence Officer, Moroto, 19 September 2011.

61 Regional Police Commander, Kaabong 19 February 2012.

draconian sentencing that too often equates with a violation of the rights of the accused, and sometimes even their death, intentional or not, as a consequence of beatings. Police also expressed concern over the gender biases inherent in customary institutions, resulting in a justice gap for women, particularly in cases of defilement, rape and domestic violence. Generally, the police are accepting of the fact that if victims are satisfied with the community response to addressing their grievances, then they will not bring cases to the police. However, the police have been putting forth more effort to develop ways to increase reportage of sexual and gender-based crime, something that remains a real challenge for them.⁶² Finally, while the police interviewed were often appreciative of customary institutions, they also recognized the limited reach of the elders. The police were most concerned with the elders' ability to respond to grave violations under Ugandan law. These violations include murder, assault with injury, gender and sexual violence, and armed criminal activity including cattle rustling. Similarly, where elder authority has declined and customary institutions prove incapable of mitigating local disputes, vigilante or mob justice may result – a phenomenon that the police are keen to curtail.⁶³

In some cases, police complained that elders and formal justice actors are at odds. The District Police Commander in Kaabong claims that elders have rejected cooperation with the police and that youth are now a problem for the police and military.⁶⁴ Furthermore, police may find their attempts to address security concerns undermined by elders' unwillingness to engage formal institutions. According to some police, this is particularly problematic in the case of inter-group conflicts. Most often, when elders do kill a thief or violent perpetrator from another group, it is unlikely to be reported to the police.⁶⁵ The inability of police to intervene in such killings may encourage perpetrators to commit such crimes as the act is further normalized at the community level.⁶⁶

UPDF

In nearly all communities, people prefer police to the UPDF. This is due in part to past atrocities perpetrated by the military as part of disarmament, including allegations of torture, murder, detention, destruction of property and theft of animals.⁶⁷ However, concerning cross-border incursions from Toposa, Didinga, Turkana and Pokot raiders, communities express gratitude for increasing levels of security and attribute the rise in security along borders to the presence of the UPDF. In addition, some Dodoth elders claim that UPDF barracks deter *lonetia* activity, therefore helping some communities carry out livelihoods

62 Police officials in Moroto suggest that increased rates of reported domestic violence in 2009 and 2010, as compared to previous years, is the result of greater police presence in areas previously lacking police-posts.

63 Deputy District Police Commander, Moroto 18 August 2011.

64 District Police Commissioner, Kaabong District 1 September 2011.

65 Deputy District Police Commander, Moroto 18 August 2011.

66 In Kaabong District, four sub-counties have no police-post presence: Loyoro, Lodiko, Kawalakol and Kaabong East.

67 Youth FG, Panyangara sub county, Kotido district, 29 Nov 2011. See also Stites and Akabwai 2009.

activities free of fear from attack.⁶⁸ Furthermore, in Kaabong some elders express gratitude for UPDF protection of animals from raids, and feel that the protected kraal system has been advantageous in their area.⁶⁹

The sense that the UPDF provides some added security is counterbalanced by the fact that communities in all areas blame the UPDF for failing to pursue cattle thieves and for doing little to assist in the return of stolen animals. In Moroto, Matheniko elders in some villages purport that the UPDF does nothing to pursue thieves, but will obstruct Matheniko attempts to reclaim animals themselves.⁷⁰ Common among the Jie is the impression that the UPDF ultimately does not care enough about Jie animals to intervene and protect them.⁷¹

From a legal perspective, when the UPDF does attempt to address livestock thefts, it is often without the restraint of due process. Elders from communities in all areas claim that UPDF soldiers wrongly accuse people of having stolen animals. In these instances, it is common, according to elders and youth, for the soldiers to beat the alleged thieves and take the animals to a local barracks. Attempts to reclaim animals once they are in the possession of the army is difficult, time consuming, and people are hesitant to go to barracks for of fear of being beaten and/or detained as thieves.

In an egregious violation of local culture, there are widespread allegations across all study areas of UPDF soldiers cutting the trees of *akiriket*. Given that the *akiriket* is a sacred space tied to customary institutions, such an act is of course seen as highly disrespectful to local culture. Attempts by elders and LC1s to discuss the matter with the military have reportedly been met with aggression, in some cases beatings.⁷² The government “is trying to weaken us by destroying our sacred spaces,” claimed Jie elders in Panyangara sub county.⁷³

There are also allegations of the military intentionally interfering with traditional ceremonies. One example came from Nakapelimoru sub-county in Kotido. Elders described a cultural ceremony in which an elder needed to ritually cleanse his home and slaughtered a goat as required by custom. The UPDF came upon the ceremony and accused the elders have having raided the animal and now celebrating that raid. The military then forced the elder to eat the raw meat of the animal (which was forbidden under Jie tradition), and he reportedly died days after the incident.⁷⁴ Women in a village in Kaabong report that in order to perform important naming ceremonies they must first ask the military for permission in the form of a written letter. People also report that they are rarely allowed to remove animals from their herds at the protected kraals to be used as bridewealth for marriages.⁷⁵

In addition, many respondents object to what seems to be unnecessary intrusion by the soldiers in people’s daily lives. These intrusions often more often

68 Male Elders FG, Lolelia sub county, Kaabong district, 15 Feb 2012

69 Male elders FG, Loyoro sub county, Kaabong district 18 Feb 2012

70 Nadunget sub county, Moroto District, 3 March 2012; Rupa sub-county, Moroto district, 1 March 2012.

71 Rengen sub county, Kotido district, 21 February 2012

72 Male elders FG, Panyangara sub county, Kotido district 30 November 2011.

73 Panyangara sub county, Kotido district, 30 Nov 2011.

74 Nakapelimoru sub county, Kotido, 26 August 2011.

75 Male elders FG, Kathile sub county, Kaabong district, 6 December 2011.

take the form of limitations, such as prohibitions on moving between communities, accessing resources, selecting grazing areas for animals, selling animals on the market as needed, etc. These restrictions constrain livelihoods, peace negotiations, animal health and grazing, the ability of children to move without fear, and social kin systems and exchanges. The combination of these two aspects regarding military-community interaction—perceived disrespect for customary institutions and limits on livelihood systems—undermine both the effectiveness of the UPDF mission and the perceived credibility of the traditional authorities in the eyes of their communities.

While many respondents blame a multitude of problems on the military, others have started to recognize that the UPDF is likely to be in the region for the long-term. Those who adopt this practical approach also realize that the best way to minimize UPDF involvement in daily affairs (or to get the UPDF out of the region entirely) is to facilitate internal peace. This attitude may contribute to the gradual transformation that appears to be underway, whereby a growing number of communities are embracing the benefits of peace and other groups are seeking to emulate these experiences.

UPDF Perceptions of Customary Law

Based on the observations made in this study, many members of the UPDF hold a low view of cultural traditions in Karamoja, including customary law. To some extent, this is rooted in simple prejudice. When asked what was the most challenging obstacle in bringing peace to Karamoja, a UPDF intelligence officer in the 503 Brigade in Kaabong responded: “the Karamojong need to wear pants and that they don’t bathe.” This response highlights the contempt that is felt by some security officials in Karamoja toward the people in the region, and the divide that exists in trying to cooperatively work towards common objectives of peace between communities and the military.

Courts

According to the magistrates interviewed for this study in Kotido and Kaabong, the courts are inadequately serving the population of Karamoja. These court officials say that in the absence of traditional methods to resolve disputes, most complainants would have little opportunity to seek redress for crimes and unresolved disputes.

These self-professed limitations within the court system have to do with lack of facilitation, funds, and under-staffing. One magistrate said that the caseloads are simply too burdensome for his and other courts in Karamoja to effectively manage. The effective management of his system therefore depends on local communities being able to resolve a significant number of disputes *out* of court. For capital offenses such as murder, aggravated defilement and rape, some alleged perpetrators of these crimes have been held in jail without trial for up to four years.⁷⁶ The primary cause for the obstruction of due process for capital offenders is the lack of qualified magistrates in Karamoja and reluctance on the part of witnesses to respond to summons to appear and provide testimony. Furthermore, at the time of this research there was only one Chief Magistrate qualified to try

76 Chief Magistrate, Kotido, 23 February 2012

capital offenses in Karamoja, and that magistrate presided over both the Soroti and Moroto magisterial areas, with a majority of time spent in Soroti. Without a sitting Chief Magistrate in Moroto with jurisdiction to try capital offenses, it is common for alleged offenders to sit in jail for up to six months before being granted bail. Without witnesses to provide testimony, the alleged offenders are most often released from prison and the cases left unresolved.⁷⁷

Beyond the problems caused by a lack of capacity among the courts in Karamoja, the magistrates interviewed for this study also identified corruption as a persistent and widespread problem that afflicts social institutions both formal and customary. The magistrates interviewed feared that local justice mechanisms, embodied in the elders and LC1s, are susceptible to compromise in the form of bribes at the community level. There was also a great deal of mistrust surrounding the police. Several of the magistrates interviewed for this study expressed the concern that police effectiveness is highly compromised by corruption, lack of transparency, and a reluctance to cooperate with courts to process criminal and civil cases. There are accusations that police neglect to file cases formally with the courts but instead resolve them within police headquarters or within the village where the crime occurred. One magistrate claims that the police make money through such circumstances, and that money has a tendency to decrease their “morale and motivation” to get cases into courts.⁷⁸ In other cases, the police are believed to mishandle stolen animals. In one instance in Kotido, police captured 23 animals, but only 13 were officially reported captured. After several weeks, the animals were sold, and the money allegedly entered state coffers.

Court Perceptions of Customary Law

While magistrates are concerned that elders and LC1s lack knowledge of Ugandan law and the judicial process, and often go beyond their mandate in the adjudication of crimes, court officials simultaneously recognize that without local forms of legal provision, many cases would go unresolved.⁷⁹ Unfortunately, when cases of sexual and gender-based violence are managed by elders and LC1s, women face discrimination and lack proper representation that could otherwise provide them protections if those cases were held within magistrate courts.

However, even when women do bring cases of domestic violence to the magistrate level, often they appear in court to ask for dismissal of those cases. The

⁷⁷ According to a state prosecutor in Moroto, the understaffed Moroto magistrate’s court cannot handle cases as is required. This is especially true for cases that must be presided over by the Chief Magistrate living in Soroti. With rare visits to Moroto, that Chief Magistrate cannot try all the crimes falling within the court’s jurisdiction, even cases of murder, defilement and aggravated assault. Those cases can often be dismissed. Furthermore, such cases that come from Nakapiripirit and Napak require witnesses to travel from those areas to provide testimony, something that is unlikely to happen despite attempts to issue summons requiring their presence. Typically, resources to transport witnesses are reserved for only the most serious cases, usually murder. To address this shortcoming, the Moroto magistrate court holds what the State Prosecutor calls “quick wins.” This is a process where cases are expedited. A chief magistrate from Soroti or Jinja is brought to the court after summons have been issued to witnesses. If the witnesses fail to arrive, then the accused are released from jail. The cases can be reinstated later if witnesses do decide to come forward, but overall the turnout is poor. The quick-win process allows for the accused to leave prison when there is no promise of a possible trial.

⁷⁸ Chief Magistrate, Kotido, 23 February 2012.

⁷⁹ Ibid.

same is true for cases of defilement, where the victim and or her family claim that the disputes have been resolved locally and there is no longer interest in pursuing the case by formal means.⁸⁰ One magistrate acknowledges that in most cases, the best scenario is if women victims can negotiate terms of compensation locally. As long as the court is notified of such out-of-court agreements, charges are dropped against the accused and the case dismissed. Magistrates in Kaabong and Kotido encourage this type of resolution, again, because they cannot handle the cases themselves and offenders could otherwise languish in prison without trial. In other instances, cases come to court on evidence that is insufficient to convict the perpetrators, leaving victims with no appropriate means of legal appeal, at least within the formal courts. In such a case, officials report, it is best to allow for customary forms of justice to unfold, and when done with fairness, the community stands to benefit.⁸¹

CONCLUSIONS AND RECOMMENDATIONS

This report illustrates the breadth and depth of customary law as lived and experienced by four communities in Karamoja. As shown, the reach and relevance of customary authority extends far beyond ‘law’ as conceived by western audiences, and covers management of natural resources, mediation of small and large disputes, prayers and prophecies (such as rain making, drought prediction, etc), peace negotiations, judicial hearings, punishment and reparation, and the marriages, initiations and other ceremonies central to the life of a community. This final section of the report provides concluding thoughts on some of the main themes with direct relevance to conflict mitigation and livelihoods change, and then provides programmatic and policy recommendations where possible.

As illustrated throughout this report, great changes have occurred throughout Karamoja in the past thirty years and in the past decade in particular. While there are variations by location and group, overall this study shows that while the elders feel that they still have authority over their populations, many other members of their communities—including women of all ages and male youth—question the relevance of these authority structures. When asked directly, many people respond that customary mechanisms have not been able to evolve along with the changing conditions over which these mechanisms are meant to govern. We emphasize that this is not the case in all locations and that some respondents feel that the customary system is still relevant and effective. However, given the importance of this finding, this section revisits themes from throughout this report that highlight some of the reasons behind this perceived ineffectiveness, taking into account the views women and youth as well as elders.

The Loss of Livestock

As demonstrated in this study, livestock *are the* central component to the processes of customary law: the exchange or sacrifice of animals underpins every

80 Ibid.

81 Ibid.

ceremony and ritual and, as such, the customary judicial systems. Under customary authority, animals are meant to be paid as compensation for wrongs committed, sacrificed as a means of making amends, and exchanged in bonds of social reciprocity that secure relationships, heal old wounds, and establish a guarantee of assistance in difficult times ahead. Elders manage and orchestrate these processes. We heard time and again from not only the elders but all community members that the loss of animals has rendered many aspects of customary law ineffective and has eroded the power of the elders.

The central role of livestock raises challenges for those stakeholders seeking to support aspects of customary law that allow for livelihoods management and conflict mitigation. While some respondents report that “returning all the animals” would most effectively address the erosion of customary authority, this is neither a practical nor possible solution in the context of rapidly changing security and livelihood conditions. In the current context, animals themselves create a liability for communities and increase the risk of raids. Simply restocking depleted herds, at this point, would not be feasible or productive. That said, programs that focus on improving and protecting animal health, supporting livestock markets (where appropriate), encouraging growth of industries in the livestock value-chain, and bolstering community veterinary programs (among numerous other forms of pastoral support) are all positive ways of supporting existing herds and encouraging growth through reproduction, acquisition and exchange. Improved rule of law and effective and transparent civil policing will need to be in place to ensure security of herds.

Livelihoods

After a decade marked by multiple shocks and decreasing resilience, the community systems that had boosted resilience through systems of reciprocity and exchange are today handicapped, and many households as well as some individuals within households are finding that their safety net has become much smaller. Neighbors and relatives are no longer able to assist in times of hardship, as the impacts of these shocks are widespread. Alliances with external groups (such as between the Jie and the Nyangia, the Matheniko and Turkana, the Tepeth and the Pokot) still exist to varying degrees, but restrictions on mobility, insecurity in adjacent areas, sporadic or more serious thefts, and limited numbers of livestock for exchange have caused these relations to fray.

Over the course of the fieldwork for this study, however, it became apparent that respondents in some areas were well aware of the essential role of communities in their own survival and were taking active steps to repair the erosion of communal ties. This was apparent, for example, in the increased involvement of women and youth in political initiatives, development activities, peace-building (including on their own initiative), and community dialogue. While impossible to assign causality, this study found that the communities in which people felt that the relations between youth and elders were positive were also the communities to report that elders played a more effective governance role. Much of this may be based on personal leadership styles and the way in which a given community has been impacted by shock. However, if the customary mechanisms (and the elders) can adapt to the changing needs of their constituents, it is hoped that communities themselves can regain the important role they have played in

providing support and resilience for their members.

The need for improved livelihoods in the Karamoja region is apparent to both communities and external actors. International stakeholders are involved in various livelihoods activities, and the most visible of these at the local level are the vocational training activities and opportunities. While those local programs that include a thorough assessment of the labor market and absorptive capacity, adequate training and refresher courses, and start-up capital may help individuals diversify and expand their livelihood options, these programs will only be able to impact a relatively small number of beneficiaries and will have difficulty having a sustainable impact on the wider region. That said, such programs may be able to improve conditions in targeted areas. In such locations the interventions should take a community-based holistic approach as opposed to focusing specifically on individuals. In other words, although a project may aim, for instance, to support individuals moving into the brick building industry or working on animal husbandry, in its design the project must remember that livelihoods are just as much about households and communities as they are about individuals. A thorough understanding of household objectives, constraints, assets and opportunities should therefore be undertaken before any specific livelihood program begins in the region. In order to bolster customary authority, the elders should be involved in the planning of any program, and there should be regular feedback and consultation with elders as the community leaders throughout any such intervention.

The longer-term livelihoods intervention will have to come through economic development and openness in the region through government initiatives, prioritization, funding and follow-through. The role of international stakeholders is one of advocacy, technical assistance, and pressure to ensure transparency and accountability in the use of funds and effective and appropriate delivery of the relevant services.

Land Use

In the semi-arid environment of pastoral Karamoja, grazing land is a key if fragile resource. Customary institutions have historically provided means for managing vulnerability through the cooperative use of land as a grazing resource. A key element in mitigating vulnerability has been the ability of elders to negotiate access with other groups as part of a long-term strategy for surviving droughts. Given that rainfall is sporadic, and that resource availability consequently varies over time and space, customary law has provided a framework for groups to avoid zero-sum competition and instead focus on mutually beneficial land-sharing schemes. Unfortunately, external interference in grazing systems has, in recent years, contributed to the breakdown of these cooperative practices, contributing to the unrest, mistrust and conflict between groups. Policies implemented by national and district officials preventing cross-border migration have severely hampered mobility, which remains the key to animal (and hence human) health and well-being. UPDF involvement in animal husbandry through the protected kraal system has also been destructive, as communities have been unable to access dry season grazing areas, split herds to mitigate vulnerability, or access adequate pasture. Management of land use must be returned to local communities, with an eye toward revitalizing the traditional

systems that mitigate vulnerability.

In general, governance by and involvement of local communities should be the standard by which resources are managed throughout Karamoja. Resource exploitation by government and private sector actors should serve (not exploit) the local communities, and responsibly address the risks that any project poses to the environment, communities, and livelihoods systems. Such projects should be transparent and fully involve local communities and elders throughout every stage of the process.

In the fragile eco-system of Karamoja, sustainable development that takes into account the climatic and ecological realities should be the byword. As discussed by numerous authors, healthy and functioning pastoral systems are the solution to (not the problem behind) Karamoja's economic woes.⁸² Efforts to force sedentarization and the adoption of agriculture will only increase vulnerability and decrease resilience.⁸³ Local communities should be seen not as obstacles, but as partners and beneficiaries, in addition to being the most practiced stewards of the land. These communities have, over hundreds of years, demonstrated that animal-based systems (with opportunistic cultivation where possible) are the most reliable and sustainable models for the environment. Violence and criminality reached epidemic proportions in recent decades, but these aspects need to be addressed separately from enforced livelihoods change. Overall, land use policies should build upon local knowledge and experience and should seek to mitigate (not increase) vulnerability.

Education

Education of future generations will undoubtedly play a key role in the future of Karamoja, which people at the local level are increasingly recognizing. As the Turkana say, "Education does not know drought." Education can empower communities, cultivate new leaders, link people to the broader world and develop the human capital necessary for sustainable development. For education to be expanded, parents and local communities must be brought in. Because most rural adults have not themselves attended school, they have no idea what education entails. Consequently, the success of education depends not solely on the education of the children, but also on illuminating their parents on the value of the schoolhouse and helping them to understand the basics of what their children are learning.

However, as a modernizing force, education can be double-edged, particularly when it implies contempt for cultural values. Key informants in several communities, including LC5s, have expressed this concern, believing that education erodes cultural identity. This view is unfortunate but understandable given the discrimination towards the region apparent in the national dialogue and the disdain expressed by segments of the Karamoja elite for their uneducated and rural counterparts. Education is not, however, inherently anti-pastoral. Over time, a more education population heralds the diversification of livelihoods strategies, which may ultimately support pastoral livelihoods by decreasing pressure on animal resources while also expanded services and institutions run

82 See Levine 2010.

83 Walker 2002, Levine 2010, Mamdani et al 1992, Okudi 1992.

by people from the region. Building local skills in Karamoja, and educating a generation of health practitioners, teachers, mechanics, veterinarians, and business people will provide important new avenues for enriching the region. In addition, promoting education within Karamoja will also allow more people native to the area to qualify for police posts and jobs in education and medicine.

Educational curricula should be sensitive to pastoral values and not disparage them as sub-par. An educated generation will include natural leaders of their communities, and these individuals will be well positioned to both sustain customary institutions as well as prompt their evolution to meet new needs. For customary law to continue to be effective, traditional institutions must adapt to incorporate newly-educated populations. The stresses of recent years have limited the system's ability to do so.

Legal Aid

As a starting point to foster greater cohesion between the informal and formal systems of justice and governance in Karamoja, each side must develop a greater understanding and respect for the other. There are individuals within government, the police, the military and the justice system who acknowledge the need for greater synergy and learning between the customary and official systems. Civilians and traditional authorities need to have a better understanding of the workings of the official system, and vice versa. It is the responsibility of the formal actors and institutions to reach out to communities in a way which is respectful and culturally sensitive. Outreach programs should seek to teach populations how formal law and order mechanisms function as well as their rights and responsibilities as Uganda citizens.

Male and female elders and youth have varied opinions about the value and strength of customary law and elders' ability to maintain it. Likewise, they share different views regarding the role of state justice and security providers in Karamoja. Despite these differences, there is agreement throughout communities in Karamoja that customary law provides people with a sense of identity: it threads together the spiritual, economic, political and social dimensions of Karamoja society. Therefore, it is not possible to target justice and security initiatives in Karamoja in isolation, or simply to supplant traditional methods of customary law with state justice mechanisms. While customary law underscores the daily life of people in Karamoja, the police, formal courts and the state laws they enforce are still very new concepts and institutions in the minds of many in Karamoja. Furthermore, while they may provide an alternative method for dispute resolution, the increased reliance on the police is problematic in a region where almost all respondents reported that members of the police force take advantage of their positions, require money to respond to cases, and provide protection (or release) to anyone able to pay.

Understanding what is criminal and how it is addressed locally would provide some assistance in determining areas where traditional and formal justice systems can harmonize attempts to increase security and rule of law. These are all areas for potential expansion by national and international legal aid programs.

Gender-Sensitive Programming

As noted above, women typically occupy a secondary status in customary institutions, and this is reflected in the kinds of cases that elders will hear, as well as in sentencing. Developing gender-sensitive programming can be a fraught process. There have been domestic violence cases in which men claim that women caused the problems after learning of their “rights” from NGOs who sought to intervene in the area. To avoid blowback from the communities and to preserve the safety of women, working on gender issues should perhaps be done indirectly, through the cultivation of women’s peace-building activities, women’s livelihoods programs, and educational programs for male youth and male elders. Incorporating these messages into alternative programs can decrease the negative association (by men) of outsiders bring “rights” messages into the communities.

Civil Society

After years of livelihoods degradation and the undermining of traditional institutions, it will be critical to strengthen and enhance the capacity of civil society throughout Karamoja. Civil society programming should focus on basic rights education, building civic partnerships between civilians and government officials, and increasing the functionality of formal justice systems.

Critically, women’s groups are playing an important role in this capacity building and their growth allows for further opportunities for intervention and support. These women often initiate discussions between themselves, elders, police, military and youth on security issues. They have also formed committees to promote inter-group peace. This development should be framed realistically and kept in context: a female MP from Kotido notes that most women are still constrained by illiteracy, lack of transportation, limited status among men, and the gender biases inherent within the customary systems, all of which limit their ability to develop stronger inter-group relations and improve the relationships between adversarial groups.⁸⁴ Nevertheless, the trend towards greater involvement in civil society by women is promising. Furthermore, many of these efforts by women’s groups are in support of customary law, directly or otherwise. As noted above, while women as a group have ambivalence about customary law and see the authority of elders as having deteriorated, they realize the importance of adherence to traditional systems to maintain group identity and strengthen existing livelihood opportunities.

The evolution of civil society in Karamoja could potentially also benefit from the founding of a pan-Karamoja body, comprised of representatives from various demographics within each group (youth, women, elders, etc.), to provide guidance and coherence on regional affairs and aid in consensus-building, in addition to cultivating local leadership. According to the Kotido LC5, such a body could help bridge the gap between customary institutions and the national government at district and national levels. While elders may lack capacity in key areas locally, a unified voice that can represent the seven districts of Karamoja may help address some of the gaps currently exposed within community and group administration of customary law, particularly in addressing concerns of

⁸⁴ Interview, Kotido Woman MP, Kampala, 18 November 2011.

security and livelihoods development.⁸⁵ According to the Kaabong Resident District Commissioner (RDC), such a body – which would include youth and women – would temper the worst excesses of customary law (such as its gender bias), while extending customary institutions' capacity for building social coherence.⁸⁶ This is but one idea emerging from our discussions; the point is that increased interaction, representation, and institution building—whether these be formal or informal systems—will help to build civil society and ultimately strengthen the civilian–state contract that is sorely lacking in Karamoja.

Security

Security is necessary for the proper functioning of livelihoods, which in turn affords elders the opportunity to maintain the positive aspects of customary law. Those communities that describe themselves as relatively secure (i.e., with limited risk of attack) also appear to be those that report the greatest degree of satisfaction in their elders, in the relations between elders and youth, and in their ability to make and maintain peace with other communities.

Consequently, the provision of security for communities in Karamoja is one of the basic conditions necessary to reinvigorating customary institutions. Unfortunately, at present, formal security institutions are unable to adequately provide for the security needs of communities, and, in some cases in this study, state actors contribute to insecurity in Karamoja. The UPDF was often cited in this study as an imperfect actor in this regard. The UPDF continues to need training in human rights and community interaction; sensitivity training on the role and importance of customary laws; and better outreach methods for local communities. Perhaps most fundamentally, however, the UPDF must be relieved from its role in providing community policing so that military resources can shift to the more appropriate role of border protection. This should lead to a decrease in weapons smuggling and cross-border raids, while encouraging the legal cross-border trade and mobility that are important livelihoods coping strategies in Karamoja.

In order to facilitate this change in emphasis for the UPDF, the civil police force in Karamoja must be expanded. While the police are a relatively new presence in the region, they stand to be important partners for the elders and their communities. However, the defects apparent in the police system should be addressed. The police should receive rights-based training, there should be a sustained effort to decrease and punish corruption, and more young men and women from Karamoja must be recruited into police ranks. The underreporting of crime to police could be better managed if more police were of Karamoja origin. However, at present, most male and female youth lack the minimum qualifications to enter the police force. A minimum of S-4 education is generally required, though in some instances an S-2 level has been accepted.⁸⁷ If this trend were reversed, through education outreach and development, it could open up a new avenue for police to make further inroads to addressing crime within rural communities.

85 Interview, Kaabong LCV Chairman, Kaabong District, 2 Sept 2011.

86 Interview, Resident District Commissioner, Kaabong, 17 February 2012.

87 Interview, District Police Commander, Kotido 26 August 2011.

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