

TENURE IN MYSTERY:
Status of Land under Wildlife, Forestry and Mining Concessions
in Karamoja Region, Uganda

By;

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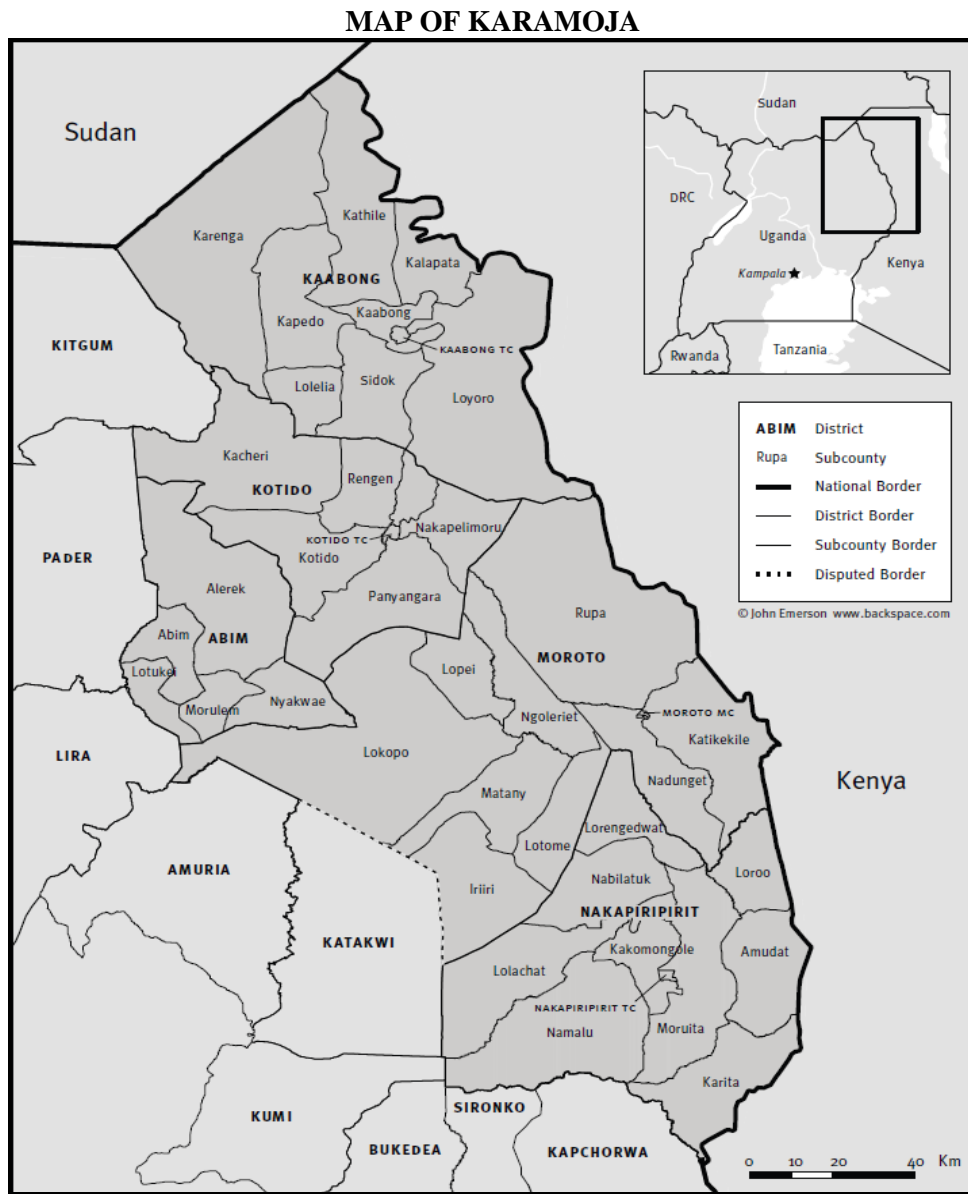
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Source: Archives, 2010

OVERVIEW

Tenure in Mystery collates information on land under conservation, forestry and mining in the Karamoja region. Whereas significant changes in the status of land tenure took place with the Parliamentary approval for degazettement of approximately 54% of the land area under wildlife conservation in 2002, little else happened to deliver this update to the beneficiary communities in the region. Instead enclaves of information emerged within the elite and political leadership, by means of which personal interests and rewards were being secured and protected. It is thus not surprising, to observe communities in Karamoja cursing the inconsiderate persons who drive Uganda Wild Authority for loose of community rights in favour of wild animals. All this while what is rightfully theirs is restored unto them but is unknown to them.

Divergent from this trend, are the lands held under Central Forestry Reserves, accounting for approximately 12% of the land area in Karamoja, whose status is unlikely to change in the near future, because they embody critical water catchment areas linked to bio-diversity or sensitive eco-systems. The obscurity for their non-access and non-use by communities in Karamoja, matches the desolate anonymity associated with minerals and mining concessions offered to private companies for approximately 25 % of the land area. All this, takes place within a policy attitude and mindset characterized by enduring negative perceptions about the region, taken to be chaotic, backward economically irrational and environmentally destructive under the pastoral land use and production system.

The aim of this study then, is to factually ground interventions for securing tenure and livelihoods on contemporary and up to date information obtained from the relevant departments or agencies of government concerned with wildlife conservation, protection of forested areas and mining of minerals in Uganda. Findings show that communities are vulnerable to internal and external loss of land and its resources without information, that empowers them to protect, negotiate and participate in their ownership, use and management. Set in four Chapters, this report details changes generated by the degazettement of conservation areas in 2002 and the current status of Forest reserves in Karamoja region, with community views on their existence and utilisation in the first chapter.

The second chapter is devoted to understanding the context within which mineral exploration and mining under concessions is operated and attained in the Karamoja region under the current legal and policy framework. In all this, what ought to be the status of community rights is clearly articulated. In the third Chapter, the milieu for tenure security under customary land within the Karamoja region is dealt with, showing the limitations accruing from the duality of statutory and customary law in the attainment of ownership, use and access to land. This study concludes with an analysis of key issues under protected area, mining and land tenure security. It draws out possible interventions that can be undertaken to address the issues.

Data was collected through focus group discussions with leaders at district and sub county level. Interviews were also conducted with key informants and the political leadership of the region. However, much of the information was extracted from the district land offices, the national data archive in the Geology and Mines Department, the Conservation Coordination office of Uganda Wildlife Authority and the Directorate of Natural Forest at the National Forestry Authority.

Views expressed in this document are those of the authors.

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1. PROTECTED AREAS IN KARAMOJA

1.1 Background to Gazettement of Wildlife Conservation Areas

In the 1920s and 1930s, Karamoja was one of East Africa's prime hunting areas, with large herds of buffalo in Dodoth, Eland and Zebras spread across the plains, and giraffes common near Kadam. Topi and hartebeests were also common and in large numbers in Jie and Bokora. During the wet season, elephants moved south through Karamoja following the ripening of *Borassus* fruits, returning north to the hills around Kidepo in the dry season. However, after 1950, continuous decline of wildlife was observed and led to the creation of National Parks and Game Reserves.

Records available from Uganda Wildlife Authority¹ indicate that, in 1962, the Government of Uganda established Kidepo National Park covering 1,436 square kilometres. In 1963, three controlled hunting areas of Napak covering 196 square kilometres, North Karamoja covering 10,820 square kilometres and South Karamoja covering 7,882 square kilometres were also established. In 1964, three game (wildlife) reserves of Matheniko (1,573 square kilometres), Bokora (2,145 square kilometres) and Pian-Upe (2,152 square kilometres) were established. By 1965, a total of 26,204 square kilometres (94.6% of Karamoja) was under protected areas for wildlife conservation out of a total land area of 27,700 square kilometres for the whole region. Between 1972 and the early 1990s, protected areas and land under for conservation was extensively encroached and settled due to State neglect and inability to effectively take charge of, large tracts of land.

In 1996, Uganda Wildlife Authority (UWA) undertook a field survey that confirmed over 65,000 persons illegally residing in protected areas and with wildlife conservation sanctuaries severely encroached. With additional concern voiced by local leaders and political leaders of the region, that the protected areas of Karamoja occupied the most fertile areas of the region, UWA realised that the protected areas were seen as expansion zones for agriculture and a means by which the region can become self-sufficient in food production². This is because much of Pian-Upe, Bokora Corridor and Matheniko wildlife reserves lie on 'verstolic black cotton' soils, which although prone to water logging in the wet season are amongst the most fertile soils in the region. None of the other soils are highly productive except for patches of moderately fertile 'eutrophic brown soils' at the base of Napak and Kadam Mountains, which are better drained than the verdistisols of the plains and were already under cultivation by the encroaching communities.

Based on the results of the 1996 survey, UWA moved to adjust several protected areas boundaries to exclude as much as possible those parts that were heavily encroached and no longer served any useful conservation purpose. This move is said to have been backed by extensive public consultations before the actual review and degazettement.

"...Uganda Wildlife Authority claims that a Karamoja conference was held in 1995, and the issue of degazettement came up...the political and technical leaders agreed and the community were consulted. Consultations started at sub county level then to the district level and finally the Parliament. It is just that people who attended the meetings for reasons best known to them decide to hoard the information..."³

¹ From the office of James Omoding, Community Conservation Coordinator, Uganda Wildlife Authority, April 2010

² Noted in UWA Brief on current status of wildlife conservation in the Karamoja region by the Uganda Wildlife Authority prepared by James Omoding, Community Conservation Coordinator, April 2010

³ James Okware, Senior Warden, Uganda Wildlife Authority – Moroto Office, April 2010

Much as the stated criteria for degazettement was considered to be heavily encroached areas, a number of heavily settled areas, that were considered to be water catchment areas or within sensitive eco-systems, for instance forested patches or river beds, especially at the foot of Napak and Kadam mountains were never degezatted.

1.2 Land Area under Wildlife Conservation in 2002 and 2010

In 2002, with the approval the Parliament of Uganda, the Wildlife Authority reviewed the wildlife conservation areas and degazetted 14,904 sq kilometres (53.8% of total land area in Karamoja) drastically reducing coverage from 26,204 square kilometres (94.6% of Karamoja) to 11,300 square kilometres (40.8% of the total land area in Karamoja). Table 1 below illustrates the change in status of the one national park, three wildlife reserves and three controlled hunting areas, in area size and percentage term. It also shows the area under recently created community wildlife areas in Irir, Karenga and Amudat.

Table 1: Status of Wildlife Conservation Areas in Karamoja

Category	Before 2002 (Kms ²)	%	Area Degazetted in 2002 (Kms ²)	Area Gazetted as at 2010 (Kms ²)	%
<i>National Park</i>					
Kidepo Valley	1,436		0	1,436	
Total	1,436	5.2%	0	1,436	5.2%
<i>Wildlife Reserves</i>					
(a) Pian Upe	2,152		109	2,043	
(b) Bokora	2,245		312	1,833	
(c) Matheniko	1,573		180	1,393	
Total	5,870	21.2%	601	5,269	19.0%
<i>Controlled Hunting Areas</i>					
(a) North Karamoja	10,820		10,820	0	
(b) South Karamoja	7,882		7,882	0	
(c) Napak	196		196	0	
Total	18,898	68.2%	18,898	0	0.0%
<i>Community Wildlife Area</i>					
(a) Iriri CWA	0		1,030	1,030	
(b) Karenga CWA	0		1,540	1,540	
(c) Amudat CWA	0		2,025	2,025	
Total	0	0.0%	4,595	4,595	16.0%
GRAND TOTAL	26,204		14,904	11,300	
(%) of 27,700 Kms ² Karamoja	94.6%		53.8%	40.8%	

Source: Uganda Wildlife Authority, 2010

Evidence for legal establishment and modification⁴ of these wildlife conservation areas in Karamoja is found in:

- (i) Statutory Instrument No. 220 of 1964, for the Pian-Upe Wildlife Reserve, which was amended by Statutory Instrument No. 136 of 1965, and whose boundaries were modified in 2002 by the Parliament of Uganda;
- (ii) Statutory Instrument No. 223 of 1964, for the Bokora Corridor Wildlife Reserve, which was amended by Statutory Instrument No. 68 of 1967, and whose boundaries were modified in 2002 by the Parliament of Uganda;
- (iii) Statutory Instrument No. 219 of 1964, for the Matheniko Wildlife Reserve, which was amended by Statutory Instrument No. 136 of 1965, and whose boundaries were modified in 2002 by the Parliament of Uganda;
- (iv) Kidepo Valley National Park initially established as a game reserve in 1958 and amended to Game Park status by statutory instrument in 1962.

⁴ In interview with James Omoding, Community Conservation Coordinator, Uganda Wildlife Authority, April 2010

1.2.1 Kidepo Valley National Park

The Kidepo Valley National Park is one of Uganda's most remote and spectacular national park, harbours scenery unsurpassed in any other park in East Africa. Tucked into the corner of Uganda's north-eastern border with Sudan and Kenya, It has breathtaking savannahs studded with hills and outcrops. A huge latitudinal range and correspondingly wide climatic conditions have evolved an extremely diverse flora. As a result the variety of animal species in the park is equally abundant including many which are found nowhere else in Uganda. Mountain forest dominates some of the high places, while areas along the Lorupei River support dense *Acacia geradi* forest. The flora and fauna of the park are more typical of Kenya than the rest of Uganda.

Kidepo Valley National Park has retained its original acreage of 1,436 square kilometres as of 1962, accounting for 5.2% of the land area in Karamoja. 86 species of mammals—including bat-eared fox, striped hyena, aardwolf, jackal, cheetah, and wild dog, 473 species of birds—notably hornbills, eagles, and ostriches—and 692 plant species have been recorded. To date, the park is still managed under the policy of strict protectionism⁵.

Unlike other parks in the country, in Kidepo Valley National Park, there is strictly no grazing and once a person is found grazing they are arrested. However, in case of disaster the Minister responsible for tourism has statutory powers to permit controlled grazing, just as it often happens in Lake Muburo Natural Park. According to James Okware, Senior Warden, Uganda Wildlife Authority in the Moroto Office, access can also be granted for collection of some forest products within the Park, such as fire wood, bee keeping or honey, collection of herbs. This however requires that the community enters into an agreement in form of:

“...a Memorandum of Understanding with the Park Authorities, so that specific access gates are assigned for their use (both entry and exit) and the demarcation of specific passages that are adhered to, especially with people in parishes nearby⁶”.

For such an undertaking to happen the communities surrounding the park, need to be equipped with information, on the basis of which access can be attained. In Uganda, wildlife is legally owned by the state, for the benefit of its citizens (Uganda Wildlife Statute No. 14 1996 sect. 4 (1)) and terms for access and use of areas which hold or harbour wildlife on official basis is contained therein. The survey through focus group discussions and interviews established that communities surrounding this national park are not aware of such opportunities for access especially during prolonged dry seasons, when such emergency measures are of importance.

1.2.2 Wildlife (Game) Reserves

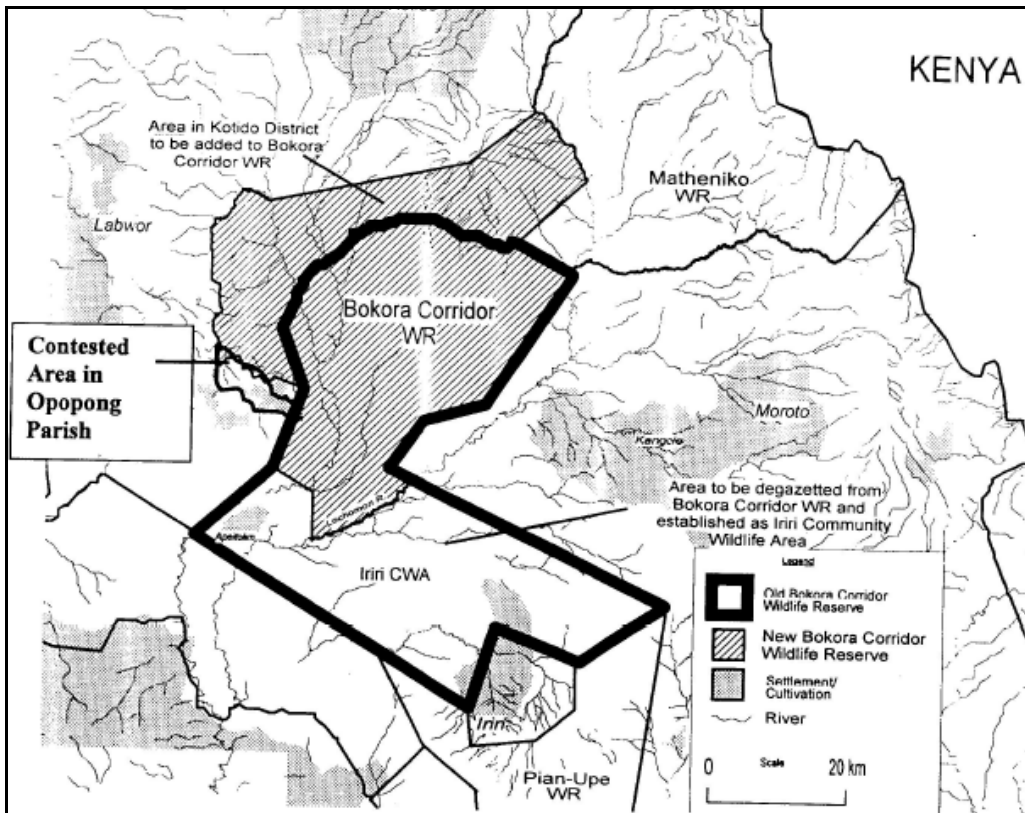
Wildlife reserves accounted for 21.2% before the review of their status in 2002, this decreased slightly to 19% of the land area in Karamoja after degazettement. The 1996 Wildlife Survey on the basis of which review and re-adjustment of the reserves was undertaken, revealed that, the Bokora Corridor was heavily utilized on seasonal basis, with 60,000 – 100,000 cattle moving through the southern half of the reserve from Kangole and Matany to Teso and back during the October – February Period. In addition, dams along the Lochomon River were being rehabilitated, which lead to increased pressure on the wildlife reserve for grazing. Above all, there were human settlements in the areas adjacent to the reserve and within the reserve i.e. Apeitom Village and Kobuline and

⁵ In interview with James Omoding, Community Conservation Coordinator, Uganda Wildlife Authority, April 2010

⁶ James Okware, Senior Warden, Uganda Wildlife Authority – Moroto Office, April 2010

Kopopwa Village, with a population range of 600 households to 900 households and 2,400 households respectively.

Map 2: Bokora Game Reserve after the 2022 Degazettement



Within the Bokora Wildlife Reserve, the following changes were effected:

- (i) A section of the reserve south of Longirikipi Dam was downgraded to community Wildlife Area status and renamed Iri Community Wildlife Area
- (ii) A wildlife corridor to northern Pian-Upe Wildlife Reserve was maintained.
- (iii) The Bokora corridor was extended to include the woodlands and thickets around Toror Hills, and westwards towards Labwor, to include Combretum woodlands not adequately represented in the Protected Areas network. The northward extension was justified on the basis of giving further protection to Uganda’s only breeding population of Ostriches.

By downgrading the southern section of Bokora Corridor wildlife reserve, the communities at Apeitolim and Kopowa (totalling about 4,000 people) were ‘legalised’. At that time, there were no permanent settlements within the modified Bokora Corridor Wildlife Reserve and no communities would be affected as shown the Map below. However, these communities have now come back from wherever they had migrated due to insecurity and are claiming their land, which is an issue that needs to be addressed.

Whereas Uganda Wildlife Authority effected the changes on the reserves on the basis of aerial photography, wildlife survey and bio-diversity evaluations, the actual on ground mapping and demarcation has never been effected. In addition, the Authority lacks an on ground presence to patrol and police the conservation areas in the whole of Karamoja region, except for the Kidepo Valley National Park, neither are the conservation areas clearly demarcated for observance by the communities. This situation is a fertile breeding ground for community-wildlife conflicts and

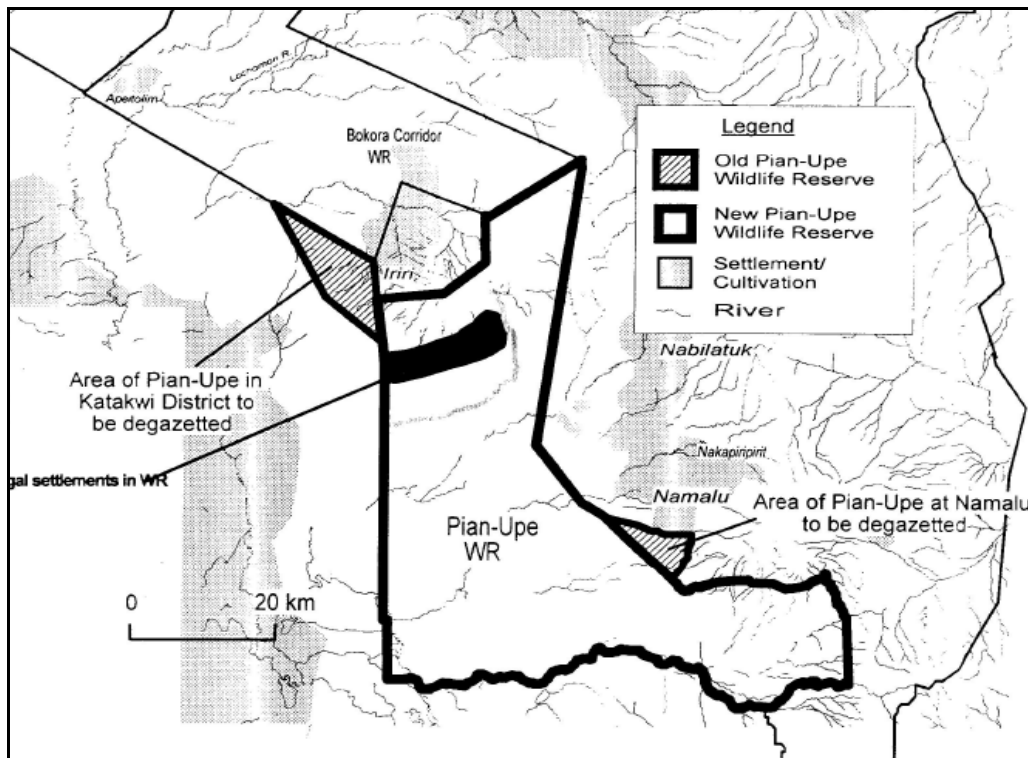
community–Wildlife Authority conflicts, when the eventual on-ground demarcations take place. The Wildlife Authority claims that plans for on-ground demarcation have been halted for the last 9 years due to insecurity in the area. There are several claims to land and occupation of protected areas in the Karamoja region because of the prolonged absence and failure of the Wildlife Authority to enforce the protected areas policy on ground. This is because;

“...the 1964 gazettelement was done, but this gazettelement remained on paper. Boundary marking was not done on the ground. Today it is clear that Wildlife Authority has not been on the ground in the past, its re-appearance makes the Karamojong conceptualize the marking of boundaries as a fresh gazettelement of land⁷”

“Getting people to come and settle and therefore work in Karamoja was not possible that is one of the reasons why these boundaries were not marked then and therefore marking them now is facing resistance; but the boundaries of for example Kidepo are not being disputed because they were marked long ago⁸”

It needs to be understood, that unless if specifically guided, most communities may not leverage with the Uganda Wildlife Authority for both information, interaction or indeed any form of negotiations for access or use.

Map 3: Pian–Upe Game Reserve after the 2002 Degazettelement



The 1996 Wildlife Survey also revealed that Pian-Upe Wildlife reserve is utilized on seasonal basis, with 20,000 cattle moving through the reserve during the October – February period to graze along Lake Opeta in the south end of the reserve and in East Teso. In addition, there were 22 Pian settlements (of approximately 3,000 persons) within the reserve to south of Namalu, and another

⁷ James Okware, Senior Warden, Uganda Wildlife Authority – Moroto Office, April 2010

⁸ James Okware, Senior Warden, Uganda Wildlife Authority – Moroto Office, April 2010

1,400 settled around the base of Napak Mountain inside the reserve, which seriously compromised the integrity of Napak Forest Reserve, due to high fuel wood demands, thus degrading the forest and reducing the catchment area.

In the Pian-Upe Wildlife Reserve, the following changes were effected:

- (i) A small part of Pian-Upe that was falling within Katakwi District was excised from the reserve, since it was no longer serving any conservation function, because most areas had been settled.
- (ii) The encroached area at Namalu was excised from the reserve covering approximately 56 square kilometres
- (iii) It was proposed that, the 22 illegal Pian settlements, comprising 1,400 person established around the base of Napak Mountain be relocated to section of Bokora Wildlife Reserve south of Longirikipi Dam that was downgraded to Community Wildlife Area status.

Uganda Wildlife Authority in their official statement on status of conservation areas in Karamoja secured from the department of community conservations accepts that, even with all review process and changes in the region, there are still overlapping issues that need to be addressed such as, “the issue of illegal settlements needs to be addressed in consultation with the National Forest Authority since Napak Forest Reserve overlaps with part of Pian-Upe Wildlife Reserve where settlements are evident”, because over the last 10 years, the human population is said to have grown to about 15,000 persons in this location alone.

Grazing, which is a key livelihood requirement for the agro-pastoral communities of Karamoja, in wildlife reserves is allowed without permits, although crop cultivation is not permitted. Concurring, the Senior Warden of UWA, revealed in an interview that:

“From time immemorial, grazing and watering of animals as well as accessing resources for domestic uses have been allowed in the wildlife reserves. Access for domestic related resource of building poles, crafts materials, grazing, medicinal plants etc has always been allowed. What is not allowed is settlement and agriculture because this disrupts the ecosystem of the whole area thereby defeating the logic of conservation. Actually it is because of this that we have confrontations with the local communities⁹”.

This basic right of use and access is unknown to the communities in most of the locations surveyed in this study. Indeed, many communities and leaders involved in this survey, doubted the prior existence of conservation areas to the extent that, re-opening, re-marking and re-demarkation of the degazetted areas is perceived by the local communities as land grabbing or just trying to demarcate their land without their permission. In this sense, the local community is justifiably ignorant about on ground demarcation, even though it was common knowledge that much of the land in the region was under protected status, without pointing it out on the ground, it could never, have been observed by the communities.

In other instances, there are genuine claims by communities, especially in Bokora, where the 1996 survey found persons in displacement therefore marked their area as unoccupied, as shown in the excerpt below:

“...there is also this corridor at the border with the Bokora people, which was taken by UWA. This land was our communal grazing land and we used to share it with the Bokora

⁹ In interview with James Omoding, Community Conservation Coordinator, Uganda Wildlife Authority, April 2010

people; it was because of insecurity that we stopped grazing from there and also abandoning our old villages; but the day this insecurity ends we shall return...¹⁰”

“...When we left UWA came and fenced of our land and that is the current Matheniko Corridor you hear about, it crosses the road from Kotido to Moroto and on the upper side it goes up to Kaabong The land that was gazetted by UWA was originally communal grazing land. We started hearing about the Matheniko corridor in 2009; yet this was land which the people abandoned because of insecurity....¹¹”

The Wildlife Authority accepts that:

“The only contentious area is Opopong Parish in Abim. When we were making these changes, people had run away from this area because of insecurity and when security prevailed, they came back and started contesting for this area. Actually there is proof to show that these people initially owned this area and we are thinking of de-gazettement¹² “

In addition, the Matheniko claim that the land which is now being enclosed into gazetted areas is the site of their cultural ancestral heritage with several religious and cultural artefacts that they use in their traditional religion. It is also their 6 months’ wet season grazing area. There are also claims by the Tepeth that Mount Moroto is their ancestral land, even if it is not a wildlife zone, it is a forest reserve.

“Our relationship with UWA is hard to describe; when they approached the sub county, they said that someone is coming to build a hotel and that the sub county will benefit from it. They carried out a baseline survey and the local people were also involved in boundary marking; people were given jobs. As community we did not ask for compensation; but later on when we called them for more talks and started asking questions relating to compensation they kept on saying we shall see...¹³”

“In the case of UWA, they surveyed the land without the consent of the people, the meeting which sat at the sub county here, we totally refused, but they went ahead and surveyed the said, they actually told us that parliament had given the order to block this land for the animals. Yet this was the most fertile land and during the rainy season the grass is very good for our animals¹⁴”.

For effective management of the Wildlife Reserves, the Wildlife Authority signed Memoranda of Understanding with all the five districts of Kaabong, Kotido, Abim, Nakapipirit, Moroto with to jointly manage wildlife in the districts, this process was preceded by a consultative process.

In addition, tripartite collaborative management agreements with private sector companies and local district administrations for the management of some of the wildlife reserves in Karamoja have been signed. The private sector companies participating in the co-management of the protected areas in Karamoja are; Karamoja Safari Ltd and Karamoja Overland Safari Ltd. The basis for pursuing this arrangement is articulated as follows:

¹⁰ Focus Group Discussion with Community Elders at Panyangara Sub County, Kotido District on 20th April, 2010

¹¹ Nakapelimoru Sub County Council Meeting, April 2010

¹² In interview with James Omoding, Community Conservation Coordinator, Uganda Wildlife Authority

¹³ Nakapelimoru Sub County Council Meeting, April 2010

¹⁴ Nakapelimoru Sub County Council Meeting, April 2010

“...since government is not a good businessman, the Districts, Communities and Wildlife Authority came together to manage the Wildlife Reserves by involving the Private Sector, through two Companies. In September 2005 Karamoja Overland Safaris and in June 2009 Karamoja Safaris are some of the private companies that partnered with the Districts and the local people in the management of wildlife in the region¹⁵”.

“The idea in doing this was to allow government manage these areas as a business that benefits all parties involved and the local community benefits financially from the existence of wild life with in their areas as well as accessing resources for domestic use in the protected areas...We are actually trying to emulate people in the arid Kalahari desert who survive because of mixed ranching i.e. people privately owning cattle that co exist with wild animals...¹⁶”

However, most communities never actually get a share of the monies that arise from the management agreements as these are channelled directly to the districts. According to the Community Conservation Coordinator, of UWA communities are yet to form associations that will sign Memorandum of Understandings (MoUs) on behalf of their communities, so that the monies from these arrangements are directly received by the communities. For moment, the only monies received by the communities are those from spot hunting since it does not require the approval of an association.

1.2.3 Controlled Hunting Areas and Community Wildlife Areas

Controlled hunting areas used to cover 68.2% of Karamoja, accounting for 18,898 square kilometres of land area, completely degazetted in 2002. In their place, three Community Wildlife Areas (Iri CWA, Karenga CWA and Amudat CWA) were gazetted covering 4,595 square kilometres which is 16% of the total land area of Karamoja.

“There is also what we call community protected areas especially in Karenga, they are managed by the community members. In these areas, the people co-exist with the wild animals, so the people do actually graze their animals but they are not allowed to kill an animal without a license, although people are free to graze their cattle¹⁷”

Under the Community Wildlife areas, individuals who have property rights in land may carry out activities for the sustainable management and utilization of wildlife, if the activities do not adversely affect wildlife and the land use measures are prescribed by the State, as indicated in the interview excerpt below:

“...With the community wildlife areas and the spot hunting programme, people are beginning to see the value of wild life because it has become a source of income. For instance an animal spot hunted can fetch around 4000 dollars to the community. Clearly no cow however big and fat can fetch that amount of money...¹⁸”

Although land under game reserves is government land, the Game Warden for the Moroto Wildlife office, noted that, “in controlled hunting or community wildlife management areas our business is purely wildlife”. It is only in the National Parks and Game Reserves where the government

¹⁵ James Okware, Senior Warden, Uganda Wildlife Authority – Moroto Office, April 2010

¹⁶ In interview with James Omoding, Community Conservation Coordinator, Uganda Wildlife Authority

¹⁷ In interview with Chief Administrative Officer, Kaabong, May 2010

¹⁸ Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit District, Minister of State for Energy and Minerals in interview in May 2010

through Uganda Wildlife Authority owns the land. It is therefore on this basis, that one can hold ownership rights either customarily or through titles in controlled hunting areas¹⁹. There are also complaints that the land set aside for conservation, even with the recent degazettement process, is still the most fertile in Karamoja region as articulated in the excerpt below:

“...Land which has been set aside for conservation is some of the most fertile land in the area, such as the over 40,000 square kilometres of very fertile land in the current Kidepo Valley National Park. Before its gazettement, this area was a communal hunting and grazing ground but now all human activities have been suspended from this area. Also, all the fertile slopes and plains are protected for under conservation. Actually over 60% of Karamoja’s fertile land is protected, hence people have no access at all to it yet they live in rough and rugged areas...”²⁰”

With all these changes, of such significant implications for the people of Karamoja, one would imagine that several moves have been made by the leaders and civil society to inform the communities of the opportunities that may arise with these changes. The Wildlife Authority readily availed this information which is nearly 9 years old to the research team, however within the district there is a clear absence of information, to the extent that the district administrators and technical staff are at loss on how to advise communities as shown in the excerpt below:

“There is no clear ownership of land, and this makes its management a headache. We keep hearing that that land has been offered to UWA, UWA has demarcated a lot of land for its activities and this is being done without the knowledge of the local people. When they gazette, they leave barren land only...There are no boarders or boundaries between land belonging to the people and that of UWA, there are very many rumours considering the fact that UWA has not talked to the people and clearly say which land is gazetted and therefore people are not allowed to use it and that which the people are free to use.. Clan ownership is reduced to ownership by word of mouth only.”²¹”

Even though majority of the civil society organisations operating in the area are involved in livelihood support, to which is a key crucial component, few are addressing this aspect. To the extent that some civil society organisations engaging in projects related to securing community rights over land such as Uganda Land Alliance have fallen victim to the failure to share this information, thus placing piloting titling projects such as the case with Nabawal Parish in Pian – Upe reserve is untenable because the location is in the reserve.

1.3 Land under Forest Reserves in Karamoja

The history of gazettement of forests started in 1932 in Buganda region then it spread out into all the kingdoms and districts of Uganda. This process involved negotiations with kingdom officials/district officials before boundary plans could be agreed on in areas that had human settlement. In accordance with Forest Ordinance of 1932 two types of forests were gazetted; the Central Forest Reserves which are managed and controlled by central government and the Local Forest Reserves which managed and controlled but not owned by local governments.

The current legalisation, the National Forestry and Tree Planting Act, 2003 has maintained this status, with provisions for re-generation and sustainable harvesting under the National Forestry

¹⁹ James Okware, Senior Warden, Uganda Wildlife Authority – Moroto Office, April 2010

²⁰ In interview with Reverend Father Lokodo Simon., MP, Dodoth County, Kaabong District and Minister of State for Industry and Technology, May 2010

²¹ Round Table Discussion with District Officials 21st April 2010 Kotido District

Authority. Within Karamoja, the NFA is managing Central Forest Reserves, since there are no Local Forest Reserves in the area. Currently there are 19 Central Forest Reserves covering a total area of 3,222 square kilometres (or 322,210 Hectares), which is 11.6% of the total area of Karamoja as shown in the table below.

Table 4: Forest Reserves in Karamoja

FOREST RESERVE	LOCATION	SIZE IN HECTARES
1. Kadam	Pian	39,917
2. Moroto	Matheniko	48,210
3. Napak	Bokora	20,316
4. Akur	Labwor	6,434
5. Alerek	Labwor	7,433
6. Ating	Labwor	1,318
7. Kaabong	Dodoth	41
8. Kano	Labwor	8,293
9. Lomej	Dodoth	759
10. Lopeichubei	Dodoth	1,090
11. Lotim -Putu	Dodoth	1,958
12. Lwala	Dodoth	5,884
13. Morongole	Dodoth	15,063
14. Nangolibwel	Labwor and Jie	20,210
15. Napono (Part)	Jie	1,709
16. Nyangea-Napore (Part)	Dodoth	27,677
17. Otukei (Part)	Dodoth	1,254
18. Timu	Dodoth	11,751
19. Zulia	Dodoth	102,893
Total (Hectares)		322,210

Source: National Forestry Authority, 2010

The gazettement of forest reserves in the region was based on the recognition of (1) prime areas in terms of bio-diversity (they have a rare type of acacia called albizia) which cannot be entrusted in anybody's care, and Forest areas atop almost all the hills without much expansion area. (2) because of that, almost all forests were scientifically located either to protect water for production or to help agriculture by protecting soil erosion and over 95% of forests have a relationship with a water body as water catchment areas.

The basis for protecting these areas within Karamoja region has not altered, nor is the change arising out of human settlement considered destructive enough or sufficient to cause review of the status of forest reserves, as the Director for Natural Forests, at NFA articulates below:

“There is general destruction of forests as most of the forests are established on hills and yet these hills have been taken up by communities that went up there to protect their cattle either from cattle rustling or civil wars”. The Tepeth on Mt. Moroto have turned the reserve into an agricultural area, Tororo Cement is extracting some of its resources from one of our forests, Boundary problems even in Moroto town itself, people have built in the reserve and around, but all this does not change the need for preserving the integrity of water bodies and water catchment areas”²²

Most of the Forest reserves constitute high altitude Forest zones (dry montane). Widely distributed tree species include *Juniperus procera*, *Teclea nobilis* and *Olea chrosophylla*. Low altitude Forests include semi-evergreen and deciduous thickets. These are confined to some riparian environment, rocky hills and inselbergs. Examples of species include *Acaciabrevispica* and *Terminalia brownii*. Both these species are exploited intensively by the communities due to their good properties for

²² In interview with Achaye Godfrey, Director Natural Forests, National Forestry Authority, April 2010

charcoal production. However, these trees cannot tolerate fires and do not reproduce fast (particularly the *Terminalia spp.*). The Forestry Authority is mindful of human activity in these reserves and points out that:

“In Moroto and Abim the communities want access. They specifically want that area between Namalu prison Farm and Kadam Forest reserve to be used for agriculture because the area receives relief rainfall from Kadam Mountain. However, we are now thinking of collaborative Forest Management (It’s actually in our 2004 Policy). Also, since agriculture is not a basic activity, locals want us to keep the mountains and forests intact because they associate them with livelihoods and also know that if the forests are tampered with, water sources will diminish or vanish”²³

“There were people staying this reserve at the time of its gazettement. Morungole central forest reserve has been encroached and people have reached the top of the mountain”²⁴

The recognition of community rights of access to resources in the forest reserves is a long accepted tradition, which the Director for Natural Forests at NFA asserts is secured:

“Right from the first forest ordinances of 1932 up to to-date in the National Forestry and Tree Planting Act, 2003, it is clearly stated that local communities are free to enter and pick any forest produce as long as it is for domestic use. Nobody has ever been denied that right”²⁵.

In addition, local authorities have powers to issue licenses to whoever wanted to buy forest products and also to manage these forests substantively and indeed their management, according to Director of Natural Forests, “has been was very good because it formed the basis for calculation of central government forestry incentive or grant to that specific local authorities²⁶”. According to the Chief Administrative Officer, in Kaabong, all would have been well except for problems basically brought by the politicians and urbanites who want to benefit from the matter of forest reserves politically and commercially.

1.4 Private Investment and Protected Areas

The Uganda Government’s aspiration for private sector-led economic growth has attracted several private investors into the country, especially those interested in commercial agricultural ventures that require large tracts of land. These seek Government’s support in acquiring the land cheaply or at no cost in order to minimize their initial investment costs. In 2002, Libyan investors sought the degazettement of Pian Upe Wildlife Reserve for commercial agricultural purposes, which were not detailed.

The permanent and seasonal wetlands of Lake Opeta located in the southwest of the Reserve are the only permanent wetlands in Karamoja, internationally recognized as a habitat of great importance for birds (including the globally threatened Shoebill and Papyrus Gonolek), and are currently being considered for higher-level protection status under the Ramsar Convention²⁷. Despite objections by technocrats from the Uganda Wildlife Authority (UWA), who also provided

²³ In interview with Achaye Godfrey, Director Natural Forests, National Forestry Authority, April 2010

²⁴ In interview with Chief Administrative Officer, Kaabong, May 2010

²⁵ In interview with Achaye Godfrey, Director Natural Forests, National Forestry Authority, April 2010

²⁶ In interview with Achaye Godfrey, Director Natural Forests, National Forestry Authority, April 2010

²⁷ African Conservation Foundation, 2004

other feasible alternatives, the Libyan investors were able to garner the commanding support of the President, who directed UWA to devise a way in which the wildlife could be secured for the investor. Civil society organizations on environment and conservation vehemently opposed the proposal²⁸.

One of the proposed activities of the Company, for whose benefit the wildlife was being degazetted, was the development of infrastructure for irrigation and commercial scale farming on 500,000 acres of land²⁹. However, this would heavily disrupt dry-season pastures and water resources offered by the reserve for tens of thousands of heads of cattle from Nakapiripirit and Moroto Districts, which provides a conspicuous example of eco-agriculture practice that, conserves wild habitats and species while encouraging agricultural production and improving the incomes of poor communities. After a pro-longed push, the matter was dropped to which the Minister comments as follows:

“...Some so called investors wanted all the land in this reserve but local opinion and political leaders refused because they were already requesting for degazettement of that fertile land for communal use. We proposed some 4000 sq kms towards Teso land but the investors said that acreage was small for their commercial activities and they left...”³⁰”

“...the Karimojong used to run away from fertile lands claiming that their cows would contact foot and mouth disease so when the whites came , they simply gazetted these lands but most of these of them have been degazetted. If you look at the areas of the Matheniko most of them have been degazetted...”³¹”

In the above, the investor’s interest was at some moment lost, but this does not imply that there won’t be others. Even though the evaluations may have been on-going as the investors’ interest arose, there seem not to have been any guidelines to follow in accessing land for investment. Indeed within the legal and policy framework, such guidelines have been non-existent until, the draft National Land Policy attempted to avail guidelines, these need to be nurtured and applied in subsequent land legislation to safeguard interests of communities such as the Karamojong.

Additional case was articulated by the Chief Administrative Officer of Kaabong, in his words:

“In Karenga Sub County, an investor sidelined the district and entered into agreements with the local people through the sub county authorities and 100 acres were acquired by this investor. He started negotiation with these people in 2007; as we speak know he is applying for a freehold title and he has restricted his operations with the Karenga Sub County Officials and the Area Land Committee of Karenga. Ignorance is a very big problem in the district and this is being manipulated. Any attempts to invite this man to the districts to discuss how this land has been acquired and try and explain to him the procedure of land registration are being ignored”³²

²⁸ It is a common trend for government to degazette for investor interests; in 1997, the Government of Uganda degazetted 1,006 hectares of Namanve Forest Reserve (1,816 hectares of peri-urban plantation forests planted to supply poles and fuel wood) for development of an industrial estate. In 2000, Government attempted to degazette 3,500 hectares of the approximately 6,500 hectares of protected forest estate on Bugala Island for the development of an oil palm estate by BIDCO Oil Refineries Ltd; In 2001, the Government of Uganda degazetted Butamira Forest Reserve for the benefit of commercial sugar cane growing by Kakira Sugar Works Ltd (KSW); In 2008, government of Uganda attempted to degazette Mabira Forest for the benefit of commercial sugar cane growing by Lugazi Sugar Works

²⁹ KACL, 2002

³⁰ Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit, Minister of State for Energy and Minerals in May 2010

³¹ Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit, Minister of State for Energy and Minerals in May 2010

³² Chief Administrative Officer Kaabong, interviewed in April 2010

Such occurrences are an isolated but seem to be scattered across the Karamoja region, given the high levels of ignorance about laws on mineral, wildlife, forestry and land registration, the communities are likely to be lost out to such unscrupulous individuals.

1.5 Conclusions

The Government of Uganda is keen to attract foreign investments, even in locations as far or as distant as Karamoja, which has caught the attention of commercial agricultural ventures that require large tracts of land. For instance, in 2002, Libyan investors sought the degazettement of Pian – Upe Wildlife Reserve for commercial agricultural purposes, which were not detailed. Such acquisitions if pursued to conclusion, are seen by the local communities in Karamoja as an extension of the long standing annexation of their land, without due regard to their needs for dry-season pastures and water resources tied to their transhumant or agro-pastoral livelihoods, necessitated by virtue of harsh climate conditions and erratic weather mostly, unreliable rainfall.

With regard to area under wildlife conservation, the status drastically changed with the 2002 degazettements which took place with Parliamentary approval. In this study, Uganda Wildlife Authority confirmed that, as of 2010, 14,904 sq kilometres (53.8%) were degazetted thus leaving only 40.8% of the total land area in Karamoja under wildlife conservation. Whereas these changes have been in effect since 2002, their on-ground demarcation is yet to be affected, to enable communities distinguish their returned lands and observe the conservation areas.

Indeed information on the changes has not percolated through to the communities and seems to be a preserve of a few selected individuals and leaders who have access to the Wildlife Authority. Even some civil society organisations engaging in projects related to securing community rights over land such as Uganda Land Alliance have fallen victim to the failure to share this information, thus placing their piloting titling project in Nabawal Parish partly in the Pian – Upe game reserve. It is therefore not surprising, that the change in the status of conservation areas is yet to impact access and use of land in the region, because the changes are unknown and no deliberate efforts have been made by either government or civil society to ensure that benefits of degazettement are felt and enjoyed by the communities.

Aside from changes in the status of conservation areas, the utilisation and investment potential is also being harnessed by the Uganda Wildlife Authority, with the involvement of the 5 district local governments, but excluding communities contrary to the Wildlife Act. For instances, Memorandums of Understanding (MoUs) for licensing of two private companies to management, the three wildlife reserves of Pian-Upe, Bokora and Matheniko were executed at district level, whereas by law, these should be undertaken at community level and benefits are supposed to accrue directly to the communities, instead of the district local governments. The hindrance cited here is that communities are yet to form associations for this purpose, which is not surprising as no entity or civil society is involved or positioned to prop them up or avail them information, capacity and opportunity to organise themselves and reap the benefits due to them.

Communities also argued that the demarcation of conservation areas is not mindful of traditional uses of land such as sites of their cultural ancestral heritage with several religious and cultural artefacts. There are also complaints that the land set aside for conservation, even with the recent degazettement process, is still the most fertile in Karamoja region.

Currently there are 19 Central Forest Reserves covering a total area of 3,222 square kilometres (or 322,210 Hectares), which is 11.6% of the total area of Karamoja. Within Karamoja, the NFA is

managing Central Forest Reserves, since there are no Local Forest Reserves in the area. The basis for gazetting Forest Reserves in Karamoja, either as prime areas in terms of bio-diversity (for the rare acacia, albizia) or scientifically as water catchment areas in relation to a water body and to protect from soil erosion has not altered, nor are the changes arising out of human settlement considered destructive enough or sufficient to cause review of the status of forest reserves.

However, the Forestry Authority recognises the need to shift forestry management in the region to collaborative management involving communities. The hiccup in this move is the fact that communities are not sufficiently prepared to negotiate their engagement in ways that are beneficial to their access and use rights, as persons living adjacent to the forest. Furthermore, since the National Tree Planting Act 2003, already offers opportunity for community engagement in collaborative forestry management, the pro-active mobilising of communities and their organisations in seeking management arrangements including Memorandums of Understanding (MoUs) with Forestry Authority is an area that need capacity to be built for and explored for beneficial interest and use by the Karamojong.

2. MINERALS AND MINING IN KARAMOJA

Minerals used to rank among Uganda's top economic activities and foreign exchange earners in the 1960s, contributing one-third of the exports and up to 7 percent of the GDP. However, by 1986, the contribution of the sector to GDP had dropped to 1% from 7% during the 1960s. In 1988, mining was 0.1% of GDP and 0.7% in 1997, declining to 0.3% in 2008. Between 1998 and 2002 mining grew at 8 percent per annum. From 2004 to 2008, the sector on average grew by 13 percent per annum (NDP, 2010).

The Department of Geological Surveys and Mines³³, acknowledges that Karamoja is home to unevaluated deposits of gold with shear-hosted gold in gneisses and granulites of the Mozambique belt whose prospective geological environment and mineral potential is yet to be evaluated, thus mineral deposits of economic volume are yet to be confirmed, what is commonly seen are companies either exploring or prospecting. Potential for minerals in Karamoja based on the 1960/1961 data is identified along the Karasuk Group of rocks (1300 Ma) which comprises rocks from *Archaean* to upper *Proterozoic* that were subjected to events of the Mozambique *orogenesis*. They consist of acid and basic *flaggy gneisses*, *quartzites* and *marbles* with a unique feature of *chromite-rich* 'pods'. Additionally marble occurs extensively in the *carbonatite ring complexes* that stretch to the *carbonatite* at Tororo and *phosphates* at Sukulu (See Map in Annex 1).

2.1 Policy and Legal Framework for Mining

Until 2000, when the Mineral Policy was formulated, policy direction was expressed through the annual ministerial statements for budget purposes or five year development plans. The consistently dropping figures in the mineral sectors contribution to GDP prompted the Government of Uganda to review the policy and legal framework to boost public investment

2.1.1 The 1995 Constitution of the Republic of Uganda

Within the framework of the 1995 Constitution, all minerals in Uganda are vested in the Government. This is articulated in article 244 (a result of the 2005 constitutional amendments) which vests petroleum and mineral resources in Government on behalf of the Republic of Uganda. It has been criticized as contradictory and dealt with in the draft National Land Policy, which has considered the fact that the radical title to land is held by the citizens of Uganda.

A constitutional amendment is proposed by the Draft National Land Policy to vest these vital resources in the State to hold in trust for the citizens of Uganda as government changes hands, but the State does not. It should thus be the duty of the State to grant to individuals and companies the right to explore, develop and exploit mineral resources, which can be executed through Government or State Departments. Indeed, all constitutional principles embrace the State and mandate it to;

- (i) protect important natural resources, including land, water, wetlands, minerals, oil, fauna and flora on behalf of the citizens of Uganda in objective 8;
- (ii) stimulate agricultural, industrial, technological and scientific development in objective 11; and;
- (iii) promote the rational use and development of natural resources in objective 28.

³³ In interview with Vincent Kato, Acting Assistant Commissioner – Geology and Principal Geologist – Exploration, Department of Geological Surveys and Mines Entebbe, Ministry of Energy and Minerals, May 2010

Article 244, excludes clay, murram, sand or any stone commonly used for building or similar purposes in the definition of minerals and mandates the Parliament of Uganda to make laws regulating;

- (a) the exploitation of minerals;
- (b) the sharing of royalties arising from mineral exploitation;
- (c) the conditions for payment of indemnities arising out of exploitation of minerals;
- (d) conditions regarding the restoration of derelict lands
- (e) minerals and mineral ores shall be exploited taking into account the interest of the individual land owners, local governments and the Government.

In the sixth schedule of the Constitution, the functions and services for which the Government is responsible are detailed. Regarding minerals, the following is relevant;

- (a) Item 7 mentions, land, mines, minerals and water resources and the environment.
- (b) Item 20 commits government to setting national standards (related to mineral resources).
- (c) Item 22 specifically tackles national surveys and mapping (including geological, geophysical, geochemical and seismological) and
- (d) Item 26 relates to control and management of epidemics and disasters (caused by or associated with geo-tectonic or mineral resources).

The constitutional framework laid the foundation for the eventual formulation of a Mineral Policy in 2000 and the Mining Act in 2003. At the heart of both legislations, is the firm intent of increasing the contribution of the mineral sector to national development through employment provision and economic growth.

2.1.2 The Mineral Policy 2000

The policy lays the framework for the development of the mineral sector, aiming for significant contributions to national economic and social growth, by providing gainful employment and providing alternative source of income particularly for the rural population in Uganda. At the heart of this policy is a three-pronged focus; on large-scale mineral production by investors; small-scale artisanal production and reversing the contribution meagre of the mineral sector to GDP.

To avail information and data for Large Scale Production, Government of Uganda commits to carry out geological, geochemical and geophysical surveys of the entire country at various scales; process, analyse and interpret the geo-scientific data; disseminate, package and archive the data to potential users through print and electronic media; oblige private operators in the sector to provide acquired geo-scientific data at appropriate stages of exploration for enhancing the National Geo-scientific Data Bank; and avail mineral prospects to investors.

To create conducive environment for Small Scale Production, Government commits to encourage artisanal and small-scale miners to form associations and other organisations in order to improve capacity to produce and market their mineral commodities. It further commits to light-handed regulations in small-scale mining, and maintaining a continuous dialogue with miners' organisations to address matters of small-scale mining and carry out awareness campaigns targeting artisanal and small-scale miners. It also commits to stakeholders involvement in the evolution of sector policy and legislation.

To mitigate adverse social and environmental impacts, Government commits to ensure compliance with the existing laws and regulations on environment, human health and safety by:

- (a) strengthening the environment monitoring unit of the lead agency;

- (b) carrying out sensitisation of the society;
- (c) encouraging the application of environmentally friendly technologies in mineral exploitation;
- (d) drawing up and establishing health and safety regulations;
- (e) formulating preventive measures against accidents and other human health and safety hazards; and
- (f) promoting affirmative action in favour of women and prohibiting child labour in mining.

The Mining Policy 2000 also outlines the institutional framework for mineral management in Uganda. The Ministry of Energy and Mineral Development retains the core function of policy development and direction. The Directorate with three departments of energy resources, petroleum exploration, production and mineral resources is considered the technical arm responsible for advice on technical matters. The Department of Geological Survey and Mines holds the overall responsibility for implementation of policy, oversight and monitoring of the mineral sector.

For minerals not administered under the Mining Act and Goldsmith Licenses, the District Local Administrations are responsible for, receipt and forward of applications, arbitration in compensation cases, the resolution of disputes and granting of licenses. The National Environment Management Authority approves all environment impact assessments and reports for mining projects. A stakeholder Association, the Uganda Chamber of Mines is also acknowledged as important for stakeholder participation and involvement, even its membership is unclear within the provisions of the policy.

2.1.3 The Mining Act 2003 and its Implications

Mining Act 2003 is a revision of the outdated 1964 Act, which derived from the pre-Independence Mines Ordinance that sought to implement the colonial policy favouring the exploitation of minerals for export, with limited concern on building local utilisation capacity. This Act details:

- (a) the mineral rights and licenses tenable for mining, exploration and prospecting,
- (b) the sharing of revenues from royalties
- (c) separation of powers in management of mineral development
- (d) compliance with National Environment Act
- (e) Compensation and dispute resolution

The Act provides for the following licenses:

- (i) *Prospecting License (PL)*: This enables the holder to prospect for minerals country wide. It is not area specific and does not bestow exclusive rights to any part. It allows one to identify areas where they wish to explore. It is granted for one year only and is not renewable. In practice this license carries no implications on land holding except for prospecting teams surveying areas or locations in which mineral are likely to obtain.
- (ii) *Exploration License (EL)*: Is an area-specific license for a maximum duration of seven years (initially three years and renewable for two terms of two years each) that allows for location of minerals but not mining. It is area specific covering a maximum area of 500 square kilometres to enable the investor to carry out conclusive exploration work. On each renewal, at least half the license area is relinquished to enable other interested parties to explore the ground. This licensee guarantees the right to look for minerals but not to mine. The licensee has a right to plant beacons showing demarcations of his/her area and is obliged to compensate the land owner for any damages that arise in the execution of his duties.

- (iii) *Retention License (RL)*: This licence is granted to a holder of an Exploration Licence, when mineral deposit has been identified in the exploration area but due to adverse market conditions, economic factors and other factors beyond reasonable control which are temporary, commercial exploitation of the deposit is not possible at the time. It is granted for a period of three years and is renewable for a single period not exceeding two years. Basically the rights to a specific area of exploration are retained but mining is outlawed, even though a few samples can be extracted for laboratory purposes.
- (iv) *Mining Lease (ML)*: This is for mining operations involving substantial expenditure. It is granted for a minimum period of 8 years and a maximum not exceeding 21 years or the estimated life of the ore body to be mined – whichever is shorter – and is renewable for a period not exceeding 15 years.
- (v) *Location License (LL)*: The licence is for prospecting and mining operations by methods that do not involve substantial investment (not exceeding US\$ 6,000 equivalent) and use of specialised technology. It is aimed at encouraging Ugandans or corporate bodies with majority share holding of at least 51% held by Ugandan to get involved in small-scale mining operations. It is granted for two years and renewable for further periods not exceeding two years at a time.
- (vi) *Mineral Dealer's Licence (MDL)*: This is given out to non miners who just buy from whoever is mining (middlemen). It allows buying and selling of minerals and lasts up to end of December in the year in which the licence is granted.
- (vii) *Imports and Exports Permits*: These are instruments granted to holders of mineral rights and mineral dealer's licences to monitor trade in minerals.
- (viii) *Other Licences*: include the Jewellers Licence granted for fabrication of artefacts or articles using precious minerals.

The Mining Act 2003 further provides for:

- (i) *Mineral Agreement*: this agreement governs operations under an exploration licence or a mining lease, it enables both the investor and government to sign a contract relating to operations in order to stabilise legal, social and economic obligations of either party.
- (ii) *Streamlined administration*: of the mineral sector by separating powers of the Minister responsible for minerals and those of the Commissioner of the Department of Geological Survey and Mines. The Commissioner grants and monitors performances all mineral licences, and the Minister carries out arbitration functions or settlement of disputes, as well as issuance of statutory instruments. Unresolved matters may be referred to Courts of Law or International arbitration or sole experts.
- (iii) *Royalties*: All minerals obtained in the course of prospecting, exploration, mining and mineral beneficiations are subjected to payment of royalty. The royalty is shared amongst Government (80%), Local Governments (17%) and owners or lawful occupiers of the land (3%). However, the Minister may waive a royalty with the approval of Cabinet, in the interest of mineral exploitation and production. Rates of royalty are: 3% for precious and base metals and 5% for precious stones. Royalty for industrial mineral is quantity based. Royalty is paid by all holders of mineral rights licenses and mineral dealers. The royalty for each mineral is specified and is determined as a percentage of gross value mined or quarried, however assessments depend on returns that licensee files. The department of mines does not have any other technical way of determining this value, except in instances when “...the figures look ridiculously low, we recommend somebody to go there and make inspections”³⁴

³⁴ In interview with Vincent Kato, Acting Assistant Commissioner – Geology and Principal Geologist – Exploration, Department of Geological Surveys and Mines Entebbe, Ministry of Energy and Minerals, May 2010

- (iv) *Taxation:* Due to the unique nature of the sector, fiscal incentives such as zero customs duty for all mining equipment have been put in place by government. Furthermore, a variable rate income tax that ranges from a minimum of 25% to a maximum of 45% has been put in place. This means that the level of taxation is based on the profitability of a particular mining project in the sector.
- (v) *Adequate compensation:* The law provides for fair compensation for the disturbance of owner or lawful occupier of the land. Such compensation shall take into account the market value of the land without taking into account an enhanced value due to presence of minerals.
- (vi) *Requirements:* for Grant of exploration license or mining lease is subject to:
 - (a) submission of an approved Environmental Impact Assessment (EIA) report from the National Environmental Management Authority and the observance of the National Environment Act;
 - (b) an environmental restoration plan of the exploration or mining area that may be damaged or adversely affected by exploration or mining operations;
 - (c) All relevant legal documents as regarding company registration;
 - (d) Proof of ownership of resources or capacity to carry out the intended activities;
 - (e) For a mining lease additional proof of;
 - i. ownership of exclusive rights of the land covering the intended mining period is needed;
 - ii. existence of resources to warrant your existence in the area for the stated period;
 - iii. a certified survey report.

2.2 Mining Concessions in Karamoja

Recently, the Government has undertaken Airborne Geological Survey and produced a Mineral Assessment Map of the Country, which covers 80% of the country, leaving out 20% of the land area covering the Karamoja region due to hostilities. Mineral information for Karamoja, therefore is as old as 1960/61. Its only private companies that have small bits of new information of mineral developments that is recent within the Karamoja region, whose accuracy cannot be ascertained³⁵. In such a situation, the likelihood of private companies manipulation such data to their advantage cannot be rule out, neither are local land holding communities or individuals immune from such manipulations to their disadvantage.

2.2.1 Area under Mining Concessions

Out of the total land area of 27,700 square kilometres, that is the total land area for Karamoja, 6,876.92 square kilometres (24.8% of Karamoja) is covered by Exclusive Mineral Exploration Licenses and Location Licenses. A further 20 square kilometres is covered by the only mining lease in the whole of Karamoja, given to Tororo Cement Ltd for limestone mining in Moroto District.

Nakapiripirit District has the smallest amount of land area under mining licenses of approximately 429 square kilometres compared to Abim District which has the largest amount of land area under mining licenses covering 2,370 square kilometres. In Nakapiripirit District, a total of seven (7) licenses have been issued, covering the total land area of 428.92 square kilometres. Five (5) exploration licenses are shared between four (4) companies and two (2) location licenses by a company called African Minerals Limited, which is considered a Ugandan company. However,

³⁵ In interview with Vincent Kato, Acting Assistant Commissioner – Geology and Principal Geologist – Exploration, Department of Geological Surveys and Mines Entebbe, Ministry of Energy and Minerals, May 2010

HK Mining Ltd holds the largest exploration license in the district covering 266.30 square kilometres in Nakapiritpirit District. The table below shows the total land area under mining licenses in the five districts of Karamoja region.

Table 5: Area under Mining License in Karamoja Region

Districts*	No of Concessions (Licenses)	Area under Mining (in sq.kms)
1. Abim	8	2,370.50
2. Moroto	17	1,550.20
3. Kotido	3	1,283.00
4. Nakapiritpirit	7	428.92
5. Kaabong	3	1, 245.30
Total	38	6,876.92

Source: Mines Data Bank, 2009

* See Annexes 2 - 6 for District Specific Details of Companies and Minerals

In Moroto District 1,550.2 square kilometres is under mining licenses parcelled out amongst seventeen (17) licenses which is the highest number in Karamoja region. Of these, 20 square kilometres of mining license is to Tororo Cement Limited, in addition to an exploration license for limestone covering 122.5 square kilometres. Four (4) location licenses that enable an investor to retain rights over an area that has already been explored are equally shared between Harambe Africa and Great Lakes Cement Ltd. The remaining twelve (12) exploration licenses are shared between various companies. The largest is held between two companies Kush Management Service and Tiger Cement, each holding 500 and 437 square kilometres respectively of exploration licenses.

In Kotido district, three (3) exploration licenses have been issued covering a total land area of 1,283 square kilometres. These are held by three companies exploring for iron, marble, limestone, gold and base minerals. Similarly, in Kaabong District, three (3) exploration licenses have been issued for a total land area of 1,245.3 square kilometres between two companies, New Kush Mining Ltd and Embuyaga Exploration Ltd. In Abim District eight (8) licenses covering an area of 2,370.5 square kilometres are held between two companies, Fifth Element (Investments) Ltd holding more than half the land under exploration and Mota Limited.

2.2.2 Information, Consultations and Mining Concessions

It would not be iniquitous for this report to assert that the state of mining in Karamoja is “covert and stealthy” as “investors” stream in without notifying any local leaders or communities. In the opinion of communities, a lot seems to have been going on between the central government and the companies involved in exploration and prospecting without their participation, as the excerpt below shows:

“...before Branch Energy came, this area was owned by the Dodoth, nobody was consulted when Branch Energy was commencing its operations, any attempts to inquire they would tell you that we are still sampling and yet they are armed and everyday you see planes landing and taking off. The gates to these entrances would be manned by armed white men³⁶.”

³⁶ Round table discussion with Kaabong District Technical Staff in April, 2010

Fed up of such concealed occurrences, local leaders took matters into their hands, accusing the Ministry of Energy and Mineral Development of grabbing land and exploiting natural resources without the knowledge and acceptance of the local people. On 28th April 2009, the *New Vision*, a Daily Newspaper reported that the local leaders attempts to grasp the situation lead to active engagement as captured in the excerpt below:

“.....Authorities in Katekekile sub-county in Moroto district on Saturday seized keys of Tororo Cement’s Oruk limestone mining site in Kosiroi village. A team of local leaders and elders led by Matheniko county MP Samuel Abura and special presidential adviser Michael Lokawu, stormed the mining site in a Police vehicle...This follows failure by the Tororo Cement officials to show up for a meeting earlier convened for them to explain how they acquired a mining lease....the elders...resolved to confiscate the company’s keys...accused the company of despising the Karimojong. “We shall not rest until we get to know the person who sold the Karimojong Wealth,”...the leaders halted the company’s activities, demanding legal proof that they were cleared to operate in the area...”

Majority of the community members met during this survey are at the brink of such riotous actions, mainly because of the absence of information from government leaders on the mining occurrences they witness within their communities. Whereas the local government leaders are willing to avail the information, they themselves lack facts on the status of mining in the region. Much as the leaders are aware of the existence of natural resource deposits like gold and other mineral deposits, they are not sure of the volumes of the deposits. In the words of the Chief Administrative Officer, Kaabong District the level of omission from the chain of knowledge or information is expressed in the excerpt below:

“....companies have explored and prospected in Kaabong since 1997...in all this time there has not been any activity related to mining that the District is aware of, the District is never consulted on issues related to prospecting, those are regarded or viewed or considered to be a preserve of the State³⁷”

Communities further allege attempts at consultation are often not in good faith, as such these processes are either manipulated by local leaders or local elites, who convene communities to rubber stamp processes with the promise of sinking bore holes, building schools and hospitals etc. the communities and never fully explain the implications of mining concessions. The engagement is thus neither constructive nor participatory, but aims more to silence any form of opposition that may arise and hoodwink communities into submission. Technical staff in Kaabong District pointed out that;

“...even when consultations are carried, they are often a manipulation and confusion creation tool that enables investors to take advantage of the community’s ignorance, poverty and illiteracy. Often those who pose as wanting to help the communities in engaging the investors often end up taking the land and the minerals in the name of negotiations...”³⁸”

In other instances, there is a level of connivance by local elites either for self aggrandizement or as conduit units for other investors’ interests, either way they play on community’s ignorance of the

³⁷ In interview with the Chief Administrative Officer, Kaabong District, April 2010

³⁸ Round Table Discussion with Technical Staff of Kaabong District, in April, 2010

law, to make them forfeit their rights in favor of companies that they exploring or mining. The example below, which arose during a focus group discussion in Rupa Sub-County, illustrates that:

“In Rupa parish the land belongs to the people. It is communal grazing land, this man...has been tricking us by cutting bulls for us and he tells us to mine and he buys from us; before we could realize...he had gotten a lease over the area which has marble³⁹.”

In other cases, the absence of information and low levels of knowledge has worked to the disadvantage of communities as in the excerpt below:

“In Karenga Sub County, an investor sidelined the district and entered into agreements with the local people through the sub county authorities and 100 acres were acquired by this investor. He started negotiation with these people in 2007, as we speak know he is applying for a freehold title and he has restricted his operations with the Karenga Sub County Officials and the Area Land Committee of Karenga⁴⁰”

The absence of information is also tagged to the politicization of mining interests in the region, as both local and national leaders seek to gain political mileage from a population that has high levels of ignorance. In the words of a civil society officer⁴¹, attempts at informing local communities about their rights in land over mining concessions are often interpreted as interference in political matters by political leaders leading to confrontation that civil society cannot sustain, since they themselves lack information and are deemed to be non-partisan. This limited engagement has meant that community knowledge has remained low on mineral rights and advocacy engagements with investors and leaders at all levels on mineral rights is nearly non-existent.

2.2.3 Land Rights and Mining Concessions

The observance of land rights and interests of communities or individuals in areas where mining licenses are in operation is dependent upon the tenure system in the area and the type of license issued which then details the restrictions and obligations of both the licensee and the land holder. For the case of Karamoja, which is mainly customary tenure, licenses that have the least implications on land rights and interests include: (1) the prospecting license, which merely allows one to identify an area to explore for minerals; (2) the retention license, which enables the investor, to carry out conclusive exploration work by either assembling resources or laboratory testing to confirm presence of minerals in an area under exploration;(3) the mineral dealers license, which allows middlemen to trade in minerals, and (4) the import and export licenses, all other licenses have implications for land holdings.

Under the exploration license, an investor or company holding such a license, has the right to search for minerals but not to mine, thus has a right to plant beacons showing the demarcation of the area under exploration and is obliged to compensate the land owner for any damages that arise in the execution of his duties. Under a location license, a Ugandan Citizen or a company in which Ugandan Citizens hold the majority share, is granted mining rights up to the maximum of 8 acres, upon presentation by the licensee of a consent agreement from the land owner for land owned by a third party or a land title for self owned land. In the case of Karamoja however,

“...land owners have no land titles as proof of ownership so they do not get this percentage...in areas of communal or customary land, we have begun relying on written

³⁹ FGD Rupa Sub-County, Moroto District in May 2010

⁴⁰ CAO, Kaabong District

⁴¹ In Interview with Simon Nangirol, Karamoja Agro-pastoral Development Programme, June 2010

proof from the district that people or communities named in the document are the rightful owners of land in question...⁴²”

Whereas the Mining Act 2003, specifically provide for adequate compensation of the land owner or occupiers on market value rates without consideration to enhance value due mineral discovery, communities and their leaders are emphatic that, since the commencement of concessions in the region, no form of compensation has ever been received as shown in the excerpt below:

“...If the land belongs to the people why are we not they consulted before mining concessions are given out? It means that once the mining exercises takes off people forfeit their rights to land to the mining company yet there is completely no compensation. There is completely no procedure of exchanging land rights⁴³”.

The Mines Department and political leaders in charge of Ministry of Energy and Mineral Development, argue that efforts are being made to ensure that the communities in Karamoja benefit from the mineral resources. It is asserted thus that:

“...we have arranged with the districts to certify ownership of communal land owners although most times it’s corrupted...and district officials channel the royalties to their relatives⁴⁴”.

“...we are telling people to form societies, have documented evidence of community/ society ownership of land thereby creating credible ways of receiving the money. They can do so by having community leaders having the endorsement of the Resident District Commissioner (RDC), the Local Council 5 Chair (LC)5, the Sub County Chief and Chairperson LC3...⁴⁵”.

“...land in Karamoja is purely customary...it is not surveyed at all. This therefore means that people do not have any documentary certification that they own that land and in case of anything, they can easily loose ownership of that land. What we as leaders are doing right now is to ask individuals to survey their land...some people like me have private family land⁴⁶”

With regard to a mining lease which is issued for a minimum of 8 years and a maximum of 21 years, to large companies, such as that held by Tororo Cement for limestone in Moroto District, in addition to all relevant legal documents as regards company registration, an Environmental Impact Assessment Report is required from the National Environmental Management Authority and proof of ownership of resources or capacity to carry out the intended activities. In relation to land, the company is required to show proof of ownership of exclusive rights over the land covering the intended mining period. This could take the form of a Freehold title or a Leasehold Title and a certified survey report that proves the existence of mineral resources to warrant existence in the area for the stated period. However, should the investor fail to secure land from the communities

⁴² In interview with Vincent Kato, Acting Assistant Commissioner – Geology and Principal Geologist – Exploration, Department of Geological Surveys and Mines Entebbe, Ministry of Energy and Minerals, May 2010

⁴³ In interview with Reverend Father Lokodo Simon., MP, Dodoth County, Kaabong District and Minister of State for Industry and Technology, May 2010

⁴⁴ In interview with Vincent Kato, Acting Assistant Commissioner – Geology and Principal Geologist – Exploration, Department of Geological Surveys and Mines Entebbe, Ministry of Energy and Minerals, May 2010

⁴⁵ In interview with Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit District, Minister of State for Energy and Minerals, June 2010

⁴⁶ Interview with Reverend Father Lokodo Simon., MP, Dodoth County, Kaabong District and Minister of State for Industry and Technology, May 2010

or individual land owners, which in legal terms under the Mining Act 2003, is considered to be a form of blockage of access for extraction of mineral resources, then alternative actions such as obliging the land owner to sell or to lease the land are taken. Nevertheless, when sale or lease is not tenable then the Government invokes powers of compulsory acquisition, mandates a valuation against which payment is made for purchase of the land by either the licensee or the Government.

“Karamoja is not happy with the mining sector really because most of the local would be beneficiaries are ignorant of their rights. The Karamojong have a common problem of lack of evidence of community ownership of land. Although the law gives renewable time limits for anybody who wants to prospect for minerals, most prospectors take unusually long periods of time on peoples land”⁴⁷.

“...when insecurity started, we had to abandon our villages; the area behind Toror hill those were our native villages but when raids from the Bokora started, we run away and that is how we ended up in the Manyata called the biggest in East Africa. When we left UWA came and fenced off our land and that is the current Matheniko Corridor you hear about it crosses the road from Kotido to Moroto and on the upper side it goes up to Kaabong. The land that was gazetted by UWA was originally communal grazing land. We started hearing about the Matheniko corridor in 2009; yet this was land which the people abandoned because of insecurity”⁴⁸

The intent of government is questioned by communities and the suspicion of selling off the entire mineral wealth of the Karamoja is also existent in the minds of the community. In other cases, it is merely considered to be land grabbing, albeit sanction by either government or those in government.

2.2.4 Livelihoods and Mining

The sealing of exploration areas, upon conclusion of exploration is mandatory action under the Mining Act 2003, even though its implementation is a double blow to artisan miners deriving livelihood from the areas that are now under mineral exploration. To the local communities, this considered malicious denial of access to ancestral resources for the Karamojong, a fact that does not augur well with their continued need for resource access and use, upon departure of prospecting and exploration companies or individuals as the excerpt below shows:

“...When Branch Energy was going they mixed gravel, cement, and closed the entrance to the mines; they even brought very poisonous snakes in that area and people who tried going there were beaten by these snakes and a minimum of three people died”⁴⁹

“...we have three gold mines in Kaabong. Initially the local people did some mining at a local scale but once the land was transferred to park authorities (UWA) stopped local mining activities. In the second and third mines, Branch Energy from South Africa displaced people from the mines and people lost their privileges. Sadly though, when Branch Energy left they sealed off all wells with concrete and left poisonous snakes”⁵⁰

⁴⁷ Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit District, Minister of State for Energy and Minerals in interview in May 2010

⁴⁸ Nakapelimoru Sub County Council Meeting, Kotido District, April 2010

⁴⁹ Round table discussion with Kaabong District Technical Staff in April, 2010

⁵⁰ Interview with Reverend Father Lokodo Simon., MP, Dodoth County, Kaabong District and Minister of State for Industry and Technology, May 2010

“The Kaabong mines exploration license was given to a South African company... at the end of their explorations they brought a letter to the ministry saying that the gold there was not of substantial quantities to warrant commercial activities so they sealed off the pits they had dug as a mandatory requirement and left...actually, people were doing some artisan mining before the South Africans did the explorations and when the South Africans left, we told people to go back and continue with their artisan mining but to my knowledge nobody has gone up there to date...the snake story is rumours⁵¹”.

Additionally, due to extensive acreage devoted to exploration in Moroto and Nakapiripirit Districts, and large acreages under mining concessions in Kotido and Kaabong Districts, communities complain that their livelihood options are stifled in preference to the companies, as such concessions carry with them restrictions on animal movement as large grazing areas are cordoned off;

“...Mining concessions which sometimes take up as large as 50 square kilometres are unfortunately in the most fertile areas that are suitable for grazing and human habitation yet there is zero tolerance of human activities in mining area...⁵²”

“Exploration however has major consequences...vast tracks of land are fenced off limiting access...people do not get loyalty because they do not have documentary proof of land ownership...there is an allegation that government has put poisonous snakes in wildlife areas so that people who used to mine small quantities of gold can no longer access it⁵³”

However, political leaders hailing from this region counter the community opinions’ asserting that, some level of dialogue is beginning to take place as regards, exploration and mining that allows for better co-existence and reaping of advantages minerals, especially encouraging investors to secure mineral dealers licenses, so that local communities sell them what has been mined as in the excerpt below;

“...we have sought guidance from the Ministry of Energy and Minerals and that of Lands and as I speak now, several round table discussions have taken place...mining companies that could not accommodate the land rights of the Karimojong have left and those willing to accommodate co-existence with local people have remained. The local people do the mining and sell to the licensees. The companies provide better tools and water and in that way, they feel they are part of the process...⁵⁴”

However, on close scrutiny, of licensing records, no such license has been issued in the whole of Karamoja region.

2.2.5 Royalties

Investments in the mineral sector as measured by increase in mineral exploration and development has grown from 220 licenses to nearly 500 licenses yielding Uganda shillings 2,718,363,850. The presentation of this figure attempts to articulate the view of the Minister of State for Mineral:

⁵¹ Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit, Minister of State for Energy and Minerals, May 2010

⁵² Reverend Father Lokodo Simon., MP, Dodoth County, Kaabong District and Minister of State for Industry and Technology in May 2010

⁵³ Simon Levine, Independent Consultant, April 2010

⁵⁴ Reverend Father Lokodo Simon., MP, Dodoth County, Kaabong District and Minister of State for Industry and Technology in May 2010

“...We should also look at the economic aspects of this. These licensees are paying corporate taxes, profit taxes, loyalty, provide employment and some provide basic infrastructure and amenities to communities...”⁵⁵”

The table below illustrates the total incomes from various licenses and royalties issued in Uganda in 2009. Note that this figure covers 550 licenses, of which 38 licenses are issued in Karamoja region.

Table 6: Details of Income from Mineral Licenses

Details	Amount in UGX (Year 2009)
Prospecting Licenses	15,450,000
Exploration Licenses Fees and Rents	350,440,000
Location Fees and Rents	19,850,000
ML/ SML Fees and Rents	70,637,925
Mineral Dealers License	56,000,000
Royalties	2, 057,120,497
Import Fees	147,365,428
Gold Smiths License Fees	1,500,000
GRAND TOTAL	2,718,363,850

Source: Mines Data Bank, 2009

The 1995 Constitution, the Mineral Policy 2000 and the Mining Act 2003, stipulate the sharing of royalties that arises when minerals are mined is based on the fact that minerals are owned by the government (State) and land is vested in the citizens of Uganda, who for the case of Karamoja are holders of customary tenure, thus 80% on gross value mined or quarried is supposed to be remitted to Government, 17% goes to the licensee and 3% to the land owner. Communities surveyed in this study pointed out that, as individual land owners they have never received any form of royalty:

“...the local people do not get any money because since the land is communal, they do not have evidence of ownership of land and as you know, documented proof of land ownership has to be there for one to qualify for their 3% royalty...”⁵⁶”

“...Royalties are usually taken to the sub county; although we do not know how much money he gives to the sub county and how much as a community we are supposed to get”⁵⁷.

“...When minerals arrive at Tororo cement and before entering the factory, we have staff there who measure tonnage which we add and compare with their schedules at the end of the month. Thereafter we apply royalty principles of 80% 17% and 3% respectively. The truth is that Moroto District gets a lot of money i.e. actually the biggest share of all the five districts of Karamoja...”⁵⁸

The failure to secure royalties is also blamed on the inability of communities to secure location licenses that would enable them to undertake mining by themselves other than await external investors and then claim, what is due to them as land owners;

⁵⁵ Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit, Minister of State for Energy and Minerals, May 2010

⁵⁶ In interview with Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit District, Minister of State for Energy and Minerals, June 2010

⁵⁷ Clan leaders and Elders in Focus Group Discussion at Rupa Sub-County, Moroto District in May 2010

⁵⁸ In interview with Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit District, Minister of State for Energy and Minerals, June 2010

“For starters minerals belong to the government but if they want to, they should look for areas that aren’t occupied and apply for small scale location licenses. They have not applied for any type of authority yet they claim others are getting mining rights. Because nothing can come at no cost in the world, let them apply for location licenses which are for local people. The other licenses are also charged per square kilometres so one can apply for what he can afford to pay”⁵⁹.

In the review of literature, it is documented that, two EPL licences covering the whole of Rupa Sub-County, in Moroto were issued in 2001. Local communities in Rupa resisted mining exploration by Rupa Investment and Technology Ltd because one of the Exploration Licenses would block the cattle movement from five nearby villages while the other would block the cattle movement from five nearby villages to one permanent water point⁶⁰. To secure this land from external mineral interests 34 elders from Rupa applied for a customary tenure certificate at District Land Board in order to coerce the mining company to go into negotiations with the community. The drive for this action was based on deep pits dug in the exploration process, which were too dangerous for cattle to move around and much of the topsoil was removed, making it impossible for grasses to grow.

A second example is given in the area of Exploration Licence 4567 north of Karukocho hills located exactly along Rupa River on the grazing route the Rupa cattle take in the dry season when heading up to Nakiloro. The risk was that free access to water and pasture resources for people and cattle from Rupa would be blocked when more locations are opened for exploration along the mountain foot hills. In this area exploration was considered incompatible with the way in which people perceive their rights to these lands. Though still in dispute, the Rupa experience shows that local communities try to formalize their ownership rights in order to bargain for local people’s involvement and the protection of customary usage of the land.

2.3 Conclusions

In the literature review, it was estimated that by 1996, 22,010 square kilometres of land in Karamoja were licensed to 13 companies who either engaged in mining of marble or gemstones or were holding exclusive or special prospecting licenses.⁶¹ Records from the Mines Department in Entebbe show that, by 2009, a total 38 licenses were issued to companies holding 6,876.92 square kilometres (24.8% of Karamoja) under by Exclusive Mineral Exploration Licenses and Location Licenses. A further 20 square kilometres is covered by the only mining lease in Karamoja region issued to Tororo Cement Ltd for limestone mining in Moroto District.

In 1960s, mining used to rank among the country’s active economic activities, contributing 7% of the GDP. By 1986 it had dropped to 1 % and further dropped to 0.3 in 2008. However in the past five years there is sign of recovery of the sector, which has been growing at 13 percent per annum. The 1995 Constitution vests all minerals in the Government as articulated in article 244 (a result of the 2005 constitutional amendments). The Mineral Policy 2000 lays the framework for the development of the mineral sector and outlines the institutional framework for mineral management in Uganda. The Mining Act 2003 details mineral rights and licenses tenable for

⁵⁹ In interview with Lokeris Peter Aimat, MP Chekwii County, Nakapiripirit District, Minister of State for Energy and Minerals, June 2010

⁶⁰ In Muhereza 2002, p. 23

⁶¹ Uganda Land Alliance, 2000

mining, exploration and prospecting, the sharing of revenues from royalties and compliance with National Environment Act in mining.

There is an information gap on mining occurrences in the region, this gap mainly relates to status of mining and the type or nature and volume of deposits. Failure by government to publish such information has resulted into allegations of land grabbing; interference with decentralisation and social unrest. Whereas the local government leaders are willing to avail the information, they lack facts on the status of mining in the region. *The Mining Act 2003 provides for adequate compensation of the land owner or occupiers on market value rates without consideration to enhance value due to mineral discovery.*

There is a big information gap between the Karamoja local community, the government and mining companies operating in the region. The Department of Geological Surveys and Mines acknowledges that Karamoja is home to unevaluated deposits of gold, marble, phosphates and other mineral deposits of economic volume yet to be confirmed as mineral information on Karamoja is as old as 1960/61 because recent Airborne Geological did not cover the region due to security concerns and hostilities. The local community is not informed about minerals, their prospecting or exploration and mining, therefore feels left out thus the tensions with private mining companies operating in the region. Local leaders are accusing government of conniving with mining companies to grab land of the Karamojong. Investors and Private Companies are taking advantage of the community's ignorance, poverty and illiteracy to confuse communities with partial or incomplete information to stealthily acquire land in the area. .

Karamoja as a cattle keeping area, faces problems of restriction in movement of animals when extensive acreage is devoted to exploration. This is especially true when mining concessions carry with them restrictions on animal movement and large areas for grazing are cordoned off upon construction of beacons. Secondly it is a legal requirement to seal of exploration areas, upon conclusion of exploration, which is a disadvantage to artisan miners deriving livelihood from areas, under mineral exploration. To many communities, it has been termed malicious denial of access to ancestral resources for the Karamojong. .

The legal framework governing mining stipulates the ratios for sharing royalties as; 80% on gross value mined or quarried is remitted to Government, 17% goes to the licensee and 3% to the land owner. This ratio is premised on a principle that all minerals are owned by the government (State). However in the case of Karamoja no person has ever received this 3%. Explanation advanced for this anomaly is that under customary tenure, which obtains in Karamoja, there is lack evidence of land ownership, the basis of claim and negotiations for the communities with the companies for acquisition or compensation for rights over land is not in place. This situation has been acknowledged by the Mines Department as the key reason why no single community or individual has received compensation or royalties arising out of mining activities in Karamoja.

Additionally, the issue of location license and the mining license requires the company involved to show proof of ownership of exclusive rights over the land covering the intended period of mining. However, communities are unable to secure proof or formal recognition of their rights in land in order to bargain for their involvement. Apart from the prospecting license; the retention license; the mineral dealers' license; and the import and export licenses, all other licences issued to companies have implications on land ownership. Since rights are formalized, communities are not able to secure location licenses that would enable them to undertake mining by themselves or negotiations for compensation when private companies acquire concessions over their land.

Finally, it is important for this study to highlight the need for building the capacity of the local people through information dissemination; advocating for both the local people and investors in areas of formalised land ownership; volumes of mineral deposits and possible private-public partnerships as far as exploration, prospecting and mining is concerned.

3. LAND TENURE IN KARAMOJA

3.1 Background

The evolution of the four main systems of land tenure – Freehold, Leasehold, Mailo and Customary – was mainly a product of the way in which the British colonial administration interacted with Uganda's pre-colonial tribal chiefs. The British colonialists, made strategic choice to engage small peasant agriculture under the prevailing customary practices as the dominant economic structure for production of goods needed to support the industrial boom in Europe. It was considered dangerous by the colonialist to modify customs, as arbitrary imposition of change would cause a total failure of efforts to administer the local indigenous population. Therefore, in order to appease the local chiefs and get local political allies in the effective administration of colonial Uganda, the administration introduced polices which could accommodate customary tenure as a non-registered form of land holding, alongside mailo and leasehold tenures, which were introduced as registered forms of land holding (Rugadya, 2010).

According to UNHS 2006, a minimum of 70% of households in Uganda hold their land under customary tenure, under two broad systems:

- (i) Communal holdings, which include grazing areas, burial grounds, sensitive eco-systems and hunting grounds under arrangements of common property resources regimes with the management vested in clans. User rights are guaranteed for farming and seasonal grazing, access to water, pasture, burial grounds, firewood gathering, and other community activities. No specific ownership rights of control are conferred on users;
- (ii) Holdings by individuals, family, or clans, with the household as the primary unit, holding land in trust for its nuclear and extended members. Emphasis is placed on use rather than on ownership of land. Male elders are the custodians who sanction transactions and determine distribution of land to members of the household.

In Karamoja, what ought to have been customary land was devoted to state use as gazetted areas for wildlife conservation and forestry, in addition to interests of exploration and prospecting for minerals. However, the States' non-recognition of customary tenure did not deter its continued traditional use as the main mode of access and its practices nested in the socio-economic character of the Karamojong society. Given that the communities are both agro-pastoralists and transhumant, access by clans and households is based on agreements with other clans, permitting the movement cattle during the year to areas where pasture and water were available. Thus, households did not seek access to a piece of land in a particular community or lineage on which to build shelter and plant crops, but rather access to land harbouring range resources.

3.2 Customary Tenure in Karamoja

At present, customary tenure has evolved into individualized and communal sub-tenures, each with distinct characters and resource rights embedded therein for the individuals, households and the community at large. Within communal customary, two sub-tenure types are distinguished; the grazing lands and the shrine areas, while within individualized customary sub-tenure is the arable land and land used for homesteads, where *manyattas* are constructed.

Communal Customary: Grazing Lands

These are open access areas that are communally held and constitute the stock of land that is continuously being alienated into gardens and settlements. Individuals and communities are users

and not owners of this kind of land. On grazing, land authority rests with elders and kraal commanders regarding resource use and regulation.

“...communal grazing land is shared by everyone and therefore centrally owned and managed. No one person can claim ownership over grazing land or a dam, these are community resources in a pastoral society. However, for agricultural land and settlement; land is owned by a family and it therefore manages its land”⁶².

Whereas elders derive authority from initiation into age-sets or groups, the kraal commanders' authority is premised on the ability to predict adversity likely to befall kraals in terms of diseases and raids and the courage or advice in confronting such adversity whenever and wherever it occurs. As a result, the elders' major responsibility is to determining pasture use patterns including pastures banks for dry and wet season grazing, while kraal commanders decide herd numbers and day to day grazing locations.

“In Karamoja, we own customary...the clan leaders have knowledge on which land is suitable for either settlement or grazing...because know they boundaries and demarcation of land”. The head is helped by elders who have a lot of knowledge in land issues. Elders will know which land belongs to which family and they go ahead to distribute this family into parts for; cultivation, settlement, shrines areas etc. Land is managed by elders who define it or apportion it according to functions⁶³.

Grazing lands do not hold definitive borders as they straddle across local government administrative demarcations and communities.

“There are no fixed boundaries between the gardens and grazing land; there are instances when what was formally grazing land is converted into land for gardens; usually what happens is that the clan adjust to the grazing land will shift the boundaries of its gardens, this is usually fuelled by exhaustion of grasses”⁶⁴

According to Reuben de Koning's (2003), agro-pastoralist societies of Karamoja have one shared principle that structure people's behaviour in grazing matters: the principle of opportunistic management – this implies that every cattle owner is entitled to access resources where and when available, in order to sustain his herd. The access rights to pasture and water resources are mainly based on group membership, history and opportunistic behaviour. The concept of access security concerns the legitimacy with which one is able to move herds freely within the tribal boundaries and occasionally beyond; based on customary right of history of usage, and the accepted strategy of opportunistic tracking which guarantees secure access for the herd-owners.

Communal Customary: Shrine Areas

These are locations of sanctity where traditional religious worship takes place with strict rules of access, the breach of which attracts severe sanctions from the elders and the community at large. The shrines are in numerous locations with each shrine having definitive boundaries often marked by particular trees or shrubs that community members can easily identify but are prohibited from cutting or even picking for firewood. Although these are communal locations, they are not open access areas because of the rules in place.

⁶² Community Elders at Panyangara Sub County

⁶³ Round Table Discussion with Kaabong District Technical Staff, April 2010

⁶⁴ Kotido District Round Table Discussion with District Officials

Individualized Customary: Homesteads

Arises when open access areas are alienated into gardens or *manyattas*, this conversion is not standardized, however two forms of practices were common. The less prevalent practice is identification of a location, occupation and use without approval or sanctioning from any authority whether customary or statutory. The most common practice is where individuals seek permission from the patriarchs or elders of neighbouring *manyattas* to locate their own settlements within the vicinity of existing ones due to security. Homesteads are not communal lands, but they highly individualized settlements that are either nucleated or scattered. However, the practice of scattered *manyattas* that was once common is slowly being altered in part because of the collective kraal policy as a result of heightened insecurity. Access to water is also a contributory factor to this change.

Individualized Customary: Gardens

Similarly, opening up areas of cultivation is adjacent to settlement (*manyatta*) areas. Gardens plots have definitive boundaries marked by a variety of features including trees, anthills, and rocks. However, the most common boundary markers are strips or bands (*ekukoru*) of uncultivated land between garden plots.

“...demarcations are very clear, we use trees, stones but instances where stones are both used; both neighbours agree to leave a buffer zone where no activity takes place. This practice is mainly in gardens and you both respect it. In case one of the people who agreed to use stones violates the boundary, elders come in to settle the dispute. Currently we use a tree called milk bush to mark boundaries...”⁶⁵

“The role of the elders is to protect the land because the elders know the boundaries. when a person tries to grab land from children and the elders are on the side of the children you are permitted to perform a ritual where you pick soil from the dispute land and throw it on the person who is trying to cheat you and they will die”⁶⁶

This type of land is in the realm of family authority and family heads hold conclusive rights over these plots, including the right to even engage in various land transactions. It is thus no surprise, that this is the type of land for which registration into title is taking place across the region in Karamoja. It is not uncommon for such land to be sold or share cropped or lent out as the excerpts below show:

“As Matheniko we inherit land. This land was inherited from our ancestors, we also acquire land through grazing. There are people who buy land. For me I have never sold land but I saw my neighbour sell land at 1.5 million. For me I bought at 200,000. It was half an acre in 2003. We also borrow land and we pay for it may be with one cow”⁶⁷.

I am not from here I am from Turkana and I survive from renting land e.g. 1.5 acres at 50,000 a year but it also depends on the demand of the land. I got land through marriage, my in-laws gave land. That time I had little land. It is common for land to be given. It can also be asked for as a bride price”⁶⁸.

⁶⁵ Focus Group Discussions with community elders in Kotido District, May 2010

⁶⁶ Round Table Discussion with Technical Staff Kaabong District, May 2010

⁶⁷ Focus Group Discussions with clan leaders and elderly both women and men at Rupa Sub County, April 2010

⁶⁸ Focus Group Discussions with clan leaders and elderly both women and men at Rupa Sub County, April 2010

These landholdings are often of small sizes and are considered to be individual property. It can be transmitted to kin either by inheritance or sub-division within families.

“The parents show you which land belong to you when it is time to show you. Both girls and boys inherit land...”⁶⁹

Table 7 below summarises the sub-tenures on customary land in Karamoja

Table 7: Sub-tenures under customary land in Karamoja

TENURE	TYPE OF LAND	CONTROL	RIGHTS THEREON	
Communal customary	Grazing lands (rural)	Kraal leaders and Commanders Elders	(i) (ii)	Only use rights permitted Restrictions exist on access to areas
	Shrine locations ‘akereket’ (both rural & Urban)	Elders	(iii) (iv)	Only use rights (grazing) permitted; Highly restricted on resource access rights.
Individualized customary	Gardens or Cultivation areas	Wives	(i) (ii)	Use rights (both grazing and cultivation); Usually allocated by patriarchs to married women but the women have ‘caveat rights’ on use/ reallocation thereafter.
			(iii)	Is inherited by children (both girls and boys) of the woman allocated, including daughters in law to whom she may have given use rights while alive.
	Manyattas or Homesteads	Men	(i) (ii)	Construction rights are mostly for the male, here women have access rights. These locations are inheritable by male members of the families.

Source: Field Survey by Study Team, 2010

According to de Koning, 2003, when a man gets married, his parents give him land, often (part of) the land – that his mother used to cultivate. At death, the general rule is that ownership rights to land are ideally passed on to sons. Secondary rights are attributed to grandsons and third rights are reckoned to the brothers of the initial male land owner. Families thus always make sure that land is not alienated from the patrilineal decent group. User-rights and occasionally management rights as well, can be attributed to a female spouse of the male owner, provided that she will transfer the land to sons born in marriage, whereas temporal user-and management rights are allocated to females. So, when a woman dies, her sons are the first to inherit the land their mother used to cultivate.

“Most of the land is owned communally in clans and for us the land we are currently occupying and using belonged to our ancestors; and we inherited it. The inheritance system follows generations; a mother will show the children the land that her husband or father in-law gave her when she got married; and when the father or mother or both are deceased; the children know which land belongs to them”⁷⁰.

Findings in this study show that in the event of marriage the wives assume controlling authority over such land, and if a husband wishes to take another wife, he has to negotiate with the senior wife for a garden and settlement area to be allotted to the new wife or if a son takes a wife while still subsisting in the same household, the mother curves out a plot for use by the daughter in-law. If one has only daughters, the male children of the daughters are entitled to inherit or a male child is brought in from the paternal side to inherit. Full or partial payment of bride price has

⁶⁹ Focus Group Discussions with clan leaders and elderly both women and men at Rupa Sub County, April 2010

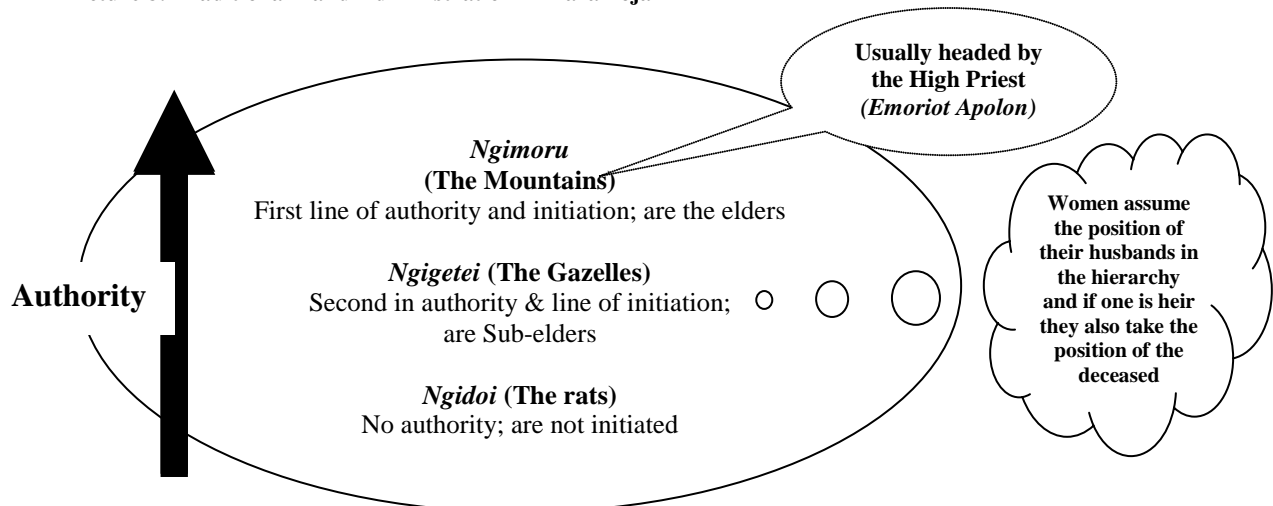
⁷⁰ District Community Elders at Panyangara Sub County, April 2010

implications on the land rights of a married woman. If bride price was fully paid and the marriage fails and children are involved, then the land rights of the woman in question remain secure. However, these rights are lost if the woman in question is childless and bride price was not fully paid.

3.3 Management of Customary Tenure in Karamoja

Customary tenure in Karamoja, indeed as in other parts of the country is governed under a legal dualism whereby the statutory legal system is superimposed on the customary system of land tenure, thus a co-existence of multiple sets of rules and laws. The two legal systems, institutions and enforcement mechanisms to control how people access, control and transfer land, are without clear hierarchy and points of assimilation. Across the region, communities are organized using a caste structure on the basis of completing initiation rites which depicts the hierarchy of authority in society. Elders in the upper caste and wield conclusive authority on nearly all matters in society. It is only disputes of a criminal nature and serious severity that are taken to the formal statutory dispute resolution institutions as shown in the illustration below.

Picture 8: Traditional Land Administration in Karamoja



The elders plan grazing but also decide matters of inheritance and arbitrate any other issues especially in relation to divorce or return of daughters married elsewhere. The authority of elders is recognized on all types of land though in varying degrees. On shrine locations they have conclusive authority of oversight and enforcing sanctions if the rules that govern these areas are not adhered to. On grazing lands, elders' authority focuses on pastoral resource access issues like deciding pasture banks by delineating dry and wet season grazing areas. However, the kraal commanders decide herd numbers and day to day grazing locations. It is important to note that matters concerning gardens and *manyatta* locations are generally decided at family/ clan level by patriarchs.

Reuben de Koning (2003) notes that in Moroto, territorial groups are the social structures through which access rights to grazing lands are negotiated. By being a member of a certain tribe, section, sub-section (cluster of *ngereria*) or *ngereria* (cluster of villages), individual herd-owners acquire access to pasture and water resources. As a result of the separation of sections, each of these has tended to appropriate rather exclusive user rights over certain pasture resources that are located in relative close proximity to the sectional heartland. Territorial divisions of the tribe, the section and

the sub-section are of great significance in allocating rights to pasture and water resources in mid-distance and peripheral grazing areas.

The smallest unit of Karimojong territorial organization is the *ere* which ideally covers one extended family, headed by an elderly man with several wives (and the children of these) as well as unmarried children, and possible other related and non-related dependants. The next territorial division is the *ngereria*, consisting of several on average from 6–12 cooperating *ere* spread about a square mile. The *ewae* and the *ekal* are the (family) units that hold use and transfer agricultural land properties. Management rights e.g. the rights to lend out land, and divide land amongst children and other wives of ten remain in the hands of the husband.

An interesting relationship exists between this traditional setup and the formal land management structures like the Area Land Committees and the Local Councils as explained in the focus group discussion below:

“...it is the elders who know how to deal with customary tenure; am a member of the area land committee so when we get an issue we refer to the elders although the law does not recognize them...even at sub county level when we need a location of land for grazing it is the elders to decide and demarcate. Currently, the area land committees are demarcating land for schools, health centres, sub counties and other institutions that are currently undertaking land registration⁷¹”

Formal and informal land management systems operate concurrently in the management of customary tenure. As far as area land committees are concerned, the elders sit and decide, whereas the committee puts in writing the decision of the elders rather than its own decision. This study established that in the rural areas the area land committees make no decision over land, but formalize the decisions of the elders. For the local councils if land is needed to establish any community infrastructure either schools, health units or even administrative centres like parish headquarters, the elders are approached with the request and then the decision to avail land for such purposes is made by the elders in consultation with people occupying or using the land.

However, if the elders are convinced about the community wide benefit of the development, they have powers to extinguish any existing land rights that the occupiers or users may have in any specific location in favour for development. It was also acknowledged in this study, in the interviews that the power of elders over land has been continuously eroding due to the changing socio-economic situation, as the excerpt below shows:

“You will note that the presence of the gun in the district has resulted in erosion of the powers of the elders over land. The elders have lost powers to control land issues to the youth because of the gun power they wield”⁷²

Despite the occurrence of land sales, they are often not approved by the traditional institutions or elders supposed to be responsible for sanctioning such land transaction as shown below:

“Currently the boys have gone mad and they are selling land without the knowledge of the clan; you only see people approaching you with papers saying that you are on their land and that they bought it. What the clan does, they first chase away you the person who

⁷¹ Focus Group Discussions in Kaabong District, May 2010

⁷² Chief Administrative Officer Kaabong, interviewed in April 2010

claims to have bought and then they cane the boy, in some instances you can be stoned to death”⁷³

In dispute resolution over land, the elders still hold the central role:

“In the Karamojong culture, we start at household or family level, the leader at this level is the father, and then we go to the clan level and at this point there are clan leaders who also handle disputes because we rely on their historical knowledge. The clan leaders will then be constituted into a council of elders at village level and this council may be composed of elders belonging to the same clan or not”⁷⁴

“We do not want LCs in the villages dealing with disputes, because most of them are still young, they do not know about boundaries, and people make statements like “was the LC there when my ancestors were giving me this land?” Except in urban centres, even then we limit their involvement in witnessing land transactions not resolving boundary disputes”⁷⁵

In the absence of functional state driven statutory bodies, it no surprised that the situation above obtains in Karamoja region. Since the land tribunal created after the 1998 Land Act, were never enough to cover the entire country and so those that did exist soon built up a massive back-log of cases. The administration of the tribunals was subsequently shifted from the Ministry of Lands to the Ministry of Justice and their work was formally suspended in November 2006. The handling of land cases has effectively been handed back to the courts.

3.4 Registration of Customary Tenure in Karamoja

Until 1995 when Uganda’s Constitution was passed and 1998 when the Land Act was passed and the degazettement of protected areas in 2002, it was impossible for land users and ancestral owners of land in Karamoja to obtain titles for their land, as one or other state agency officially held the whole region either as protected or reserved lands. The only forms of registered tenures in existence were restricted to the urban centres mostly in and around the towns of Moroto and Kotido previously gazetted as statutory leaseholds to their urban councils.

“...land is communally owned and the levels of registration are very negligible. You may find only two people with land title in the whole of Kaabong Town Council...”⁷⁶

“...the land titles that are issued for rural areas are mostly freehold titles ...”⁷⁷

Uganda’s 1995 Constitution provides all holders of customary land with the right to obtain a Certificate of Customary Ownership (CCO)⁷⁸ and the Land Act 1998 specifies the procedure for how such certificates should be issued. The Act provides for issue of individual, family and communal certificates taken as conclusive evidence of the customary rights and interests endorsed on the certificate⁷⁹. In order to apply for a CCO, an applicant must first submit his or her application form, together with the required fee, to the Area Land Committee where the land is

⁷³ Community Elders at Panyangara Sub County, Kotido District, April 2010

⁷⁴ Chief Administrative Officer Kaabong, interviewed in April 2010

⁷⁵ Round Table Discussion with Local Government Staff in Kaabong District, April 2010

⁷⁶ Focus Group Discussions in Kaabong District, May 2010

⁷⁷ Focus Group Discussions in Moroto District, May 2010

⁷⁸ Constitution of the Republic of Uganda 1995, Article 237(4) (a)

⁷⁹ Land Act 1998, section 5, and 9

situated. The Land Committee is then supposed to survey the land in question and confirm its boundaries. The committee should also post a notice, in prescribed form, in a prominent public in the parish in which the land is situated. The notice should invite all concerned persons to a meeting, not less than two weeks from the date on which it was posted, to consider the claim.

Claims of any other person affected by the land, for example, through rights of way, must also be heard and the Land Committee can adjourn its proceedings if necessary to carry out more detailed investigations. On conclusion of its hearing, the Land Committee is required to write a report setting out its findings with respect to the claim and its own conclusions and recommendations' regarding the application and a report is submitted to the relevant district land board together with the original application. The Land Committee could recommend acceptance, rejection or conditional acceptance of this application. On receipt of this report the District Land Board can then decide whether or not to issue a CCO. Once the board has made a decision it must communicate this to the Recorder. Where the board recommends that a certificate be issued the Recorder should do this, subject to any qualifications or restrictions required by the board.⁸⁰

Despite these provisions, a high level of ignorance was exhibited in the field survey regarding the registration of customary tenure as expressed in the excerpt below:

“...drafting laws and policies without involvement or consultations, definitely results into people not knowing, all you hear people saying is that “land belongs to the people” but what does this statement mean? We have had instances of people who used to “stay” where the district headquarters are coming and claiming back their land because the land belonged to their ancestors and that the law says land belongs to the people, so they want it back”⁸¹

The low levels of registration are associated with high costs of registration especially survey, low capacity for statutory land administration and the lack of staff in the department plus ignorance makes the situation worse. Taking the example of Kaabong district, it was exhibited that:

“The land office at the district lacks personnel and the sector is not financed as well and therefore not in position to carry out any activities. This has made statutory land administration a challenge. The district was created in 2005, the first land board was created in 2007 but the outgoing secretary and chairperson did not hand over so when we assumed office we started keeping records afresh. We will provide the books but that is the problem with them”⁸²

Other districts in the region exhibited similar problems especially on legal illiteracy by both the district technical staff and the local people coupled with the ignorance of the local people has greatly contributed to the low levels of titling.

“...As a former member of the tribunal we would find it difficult to interpret the laws. I would always notice a conflict between the law and customary practices and norms”.⁸³

“...they have just recruited a Surveyor, Registrar of Titles, and Records Officer...but still you find one officer holding three positions: the Physical planner is the Acting Land

⁸⁰ Land Act, section, 5 6, 8 and 9

⁸¹ Round Table Discussion with Local government Staff in Kotido District, May 2010

⁸² Round Table Discussion with Local Government Staff in Kaabong District, April 2010

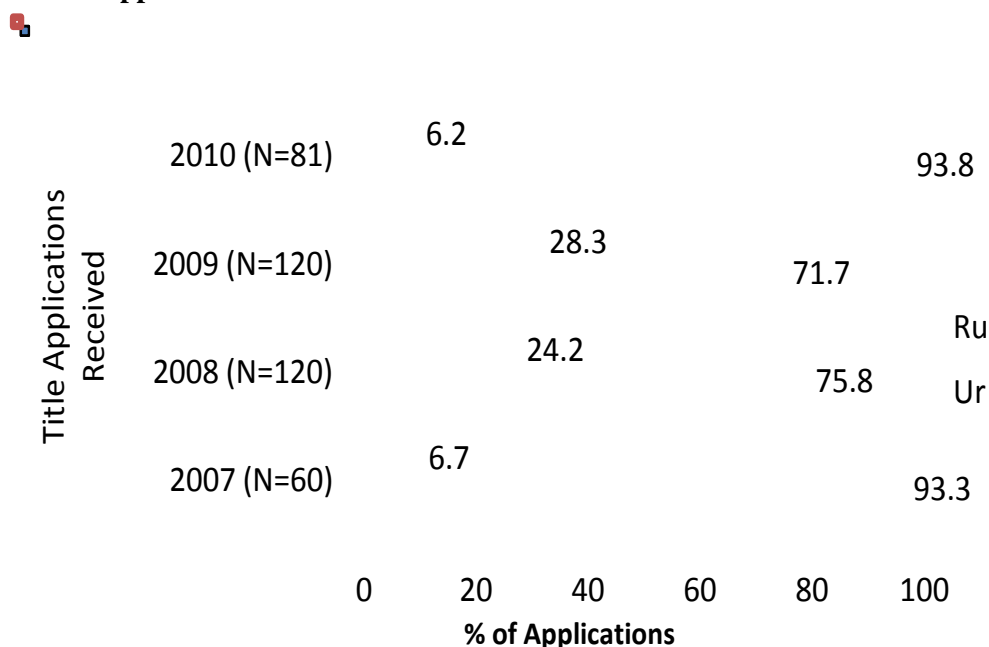
⁸³ Round Table Discussion-Kotido District Technical Staff April 2010

Officer and the Secretary to the Land board. The board itself is not well remunerated and facilitated, so things like sensitization are greatly lacking, most of the time the board is not working...”⁸⁴

“Every sub county has an area land committee in place although these have never been trained. Most of the positions in the district land office are vacant, the district service commission has advertised but there has not been any response”⁸⁵

To ascertain to extent to which land has been alienated to registered tenure from customary forms, land records were obtained from Moroto Land Office, regarding applications for registered titles for the period 2007- 2010. Findings show a highly sporadic manner spread of application for registration with the highest number of application received so far being 120 per year for the years 2009 and 2008, while 2007 had 61 applications. Majority of the applications are in urban areas for leasehold titles as illustrated in the figure below:

Figure 9: Title Applications Received at Moroto Land Office



Source: District Land Office Records – Moroto District, extracted in May 2010

The Land Act 1998 also provides for the formation of Communal Land Associations for the purposes of ownership and management of land under customary law or other law.⁸⁶ A Communal Land Association may own land under a CCO, leasehold or a freehold. Members of the association can also hold some or all of the land within it, in an individual capacity while other parts are set aside for common use under a common Land Management Scheme. It should however be noted that, registration of communal interests or group rights in natural resources and other common pool resources is not in the names of the Communal Land Associations but rather in the management committees under the Common Land Management Scheme.

“The issue of communal land associations has not been embraced because the people are ignorant”⁸⁷

⁸⁴ Round Table Discussion with Local government Staff at Kotido District, April 2010

⁸⁵ Round Table Discussion with Local government Staff at Moroto District, May 2010

⁸⁶ Land Act 1998, sections 16 – 17

⁸⁷ Round Table Discussion with Local government Staff at Kaabong District, April 2010

Attempts were previously made to form and register communal land associations but without much success because of the absence of personnel in the district land office and the hefty survey costs, besides the would-be beneficiaries of these associations were also very ignorant of the intent of the associations. In Kaabong district, efforts to form a land association could not proceed because of the non-operational land office as stated below:

“.....With the help of Oxfam, a proposal to constitute two communal land associations was undertaken. We planned a total of 5 meetings to conclude the process, in the end had held only 3 meetings...a study was carried out in preparation for these associations and the clan leaders embraced the idea...However, we have been disorganized by things like the land office not been operational for the past 13 years”

Mining Interests

The activities of mineral prospecting and mining companies and individuals do not involve the communities in the process of grant of concessions. This has triggered apprehension and suspicion towards mining activities.

“.....as Kaabong we were never consulted, we do not know anything concerning minerals yet the land is ours. Before Branch Energy came, this area was owned by the Dodoth. Nobody was consulted when Branch Energy was commencing its operations; any attempts to inquire they would tell you that we are still sampling and yet they are armed and everyday you see planes landing and taking off. The gates to these entrances would be manned by armed white men. There was nothing we would do. There are people in the district who will tell you that guns were drawn at them because of inquiring about the minerals”⁸⁸

“...we are not opposed to mining, it brings development and opens up the area to other prospects....what we do not understand is why we agree to the mineral to be taken and then the land is also taken....this is like giving you food on my plate and instead of eating only the food you also take my plate.....this what the Tororo Cement people at Kosiroi did...taking the mineral is ok but not our land”⁸⁹

Unknown Status of Conservation Areas

Conservation activities of NFA and UWA are perceived in the communities as a source of tenure insecurity. This is particularly the case in the Lopei-Lokopo and in the Lopei-Nakiloro areas where demarcations for wild life are taking place.

“...The question of land management is very difficult to answer considering that almost all land is protected areas. What was once communally grazing land has been taken over. There was an outcry of land scarcity in western Uganda and government ranches were given out to people; why can't the same be done for Karamoja; instead more land is being curved out for wild animals. The land between Moroto and Kotido in a place called Lopeeyi has been surveyed, we do not know who is doing it and why it is being done. From Kidepo to Kalapata; Kaabong Town Council to Matheniko in Loyoro wildlife ranges is now patrolled”⁹⁰

⁸⁸ Round Table Discussion-Kaabong District Technical Staff in April 2010

⁸⁹ Community Focus Group Discussion, Singila – Moroto District, May 2010

⁹⁰ Round Table Discussion-Kaabong District Technical Staff in April 2010

Government involvement in Disarmament and Protected Kraals

Government in its push for resettlement of pastoralists in the region has set up settlements in locations considered to be dry season grazing areas yet these same areas are the tracts were cattle rustlers regularly pass. This is creating a potential conflict situation. In addition, Protected Kraals as collective kraals for protected by the army against cattle rustlers are attracting the cattle owners to settle in the areas around their locations. This is heavily eroding the eco-systems around such locations.

“Because of protected kraals, the protected location is over grazed; this inevitably affects the quality of pastoral products. Currently people do not have much choice but to stay in these protected grazing areas, because security in the villages is not guaranteed against raids”⁹¹

Threat of the Land Market

Trends in urban centres where land is held as individualised customary tenure, transactions in the land market are evident. These transactions are perceived as threats to tenure security as the community becomes more aware of the value of land, triggering tendencies of protectionism. The elite and younger members of whose access rights are guaranteed stretch these rights to sale or transfer.

3.5 Conclusions

Forms of tenure in Uganda are an everlasting mark of colonial legacy which selectively maintained customary practices of use and access in specific regions, while opportunistically introducing registered tenures in areas where, higher stakes for political influence could be garnered on the basis of control over land resources. Karamoja region happened to be arid and uninviting for schemes of individualised use of land given the transhumance lifestyle dictated by the harsh climatic condition and unreliable rainfall.

Throughout the colonial period, Karamoja was taken as an extensive area of land devoted to conservation of wildlife and the preservation of bio-diversity species. This perception meant the traditional systems of land use and management under customary tenure thrived outside of the legal regime and dedicated themselves to opportunistic harvesting of range resources to sustain herding, with limited regard for the isles of conservation and preservation that statutory frameworks embraced, thus a dualism in management and use of land. With no assimilated hierarchy to the statutory system, the traditional land management system is run on the basis of caste along the age-sets, setting apart elders (*ngimoru*) at the apex of authority, for use and allocation of land, but also allowing for emergence of a class of kraal commanders (*ngigetei*) on the basis of bravery in g adversity related to diseases or cattle raids and dealing with the consequence thereafter.

At present, customary tenure in Karamoja is characterised along four lines of sub-tenures, the grazing lands and the shrine areas considered communal. Arable land and land used for homesteads, where *manyattas* are constructed considered to be individualized customary. Within the communal, authority rests at two tiers, the elders, whose position derives from the initiation of age-sets and groups, and the kraal commanders whose authority is based on the ability to predict likely adversity related to diseases or raids. On individual customary land, the family heads hold conclusive rights with authority to transact by way of sale, sharecropping or renting out and to

⁹¹ Round Table Discussion-Kaabong District Technical Staff April 2010

transmit through inheritance or sub-division. Heads of household are also charged with the observance the rights to access for nucleus and extended family members.

The authority of elders is recognized on all types of land though in varying degrees. On grazing lands, elders' authority focuses on pastoral resource access issues like deciding pasture banks by delineating dry and wet season grazing areas. However, the kraal commanders decide herd numbers and day to day grazing locations. It is important to note that matters concerning gardens and *manyatta* locations are generally decided at family or clan level by patriarchs. Women play significant roles of assignment in use of land within the household on behalf of their spouses and in some instances may allot the inheritance rights over land, with the first priority assigned to their sons or male relatives of their spouses.

A complementary relationship accepting the position of elder exists between traditional and statutory land management institutions, with the decisions that to solicit community support for use of land, resting on the blessings and sanctioning from elders before any formal systems such as Area Land Committees endorses any transactions. In essence, the statutory institutions only formalize decisions already made by the elders under the traditional institutions. However, this trend of events does not set aside the erosion of the power of elders as institution in the face of armament or guns, protected kraals and forceful sales of land by the youth. With regard to dispute resolution a similar arrangement obtains since the land tribunals, which statutory bodies referred to in the Land Act 1998 and the Constitution 1995, were summarily discontinued by the Judiciary in 2006, reverting the responsibility to the ordinary court system.

Alienation of customary tenure into registered form, mostly in leasehold is still limited to gazetted urban centres and town councils. Whereas the Land Act 1998 and the Constitution 1995 provide avenues for obtaining Certificates of Customary Ownership and communal holding of land under Communal Land Associations, both avenues have not been utilised in Karamoja, except for the likely benefits that will arise from the pilot titling project of Uganda Land Alliance in Nabwal. This is due to low levels of awareness of the existence of these options and the non-staffing of district land office which would support such processes.

Communities also articulated several threats to tenure security in the region, including but not limited to minerals and mining interests, that are often undertaken without community knowledge and involvement, the unknown status of conservation areas which through the re-opening of boundaries smirks of land grabbing together with land sales picking up to support the land market especially in urban areas. Additionally government is involved in disarmament and therefore set up protected kraals to safeguard cattle from being rustled. Grass quality, fertility and other range resources have been degraded and eroded in such locations.

4. KEY ISSUES AND RECOMMENDED INTERVENTIONS

4.1 Status of Protected Areas (Wildlife and Forestry) in Karamoja

Four key issues stand out regarding protected area in the region:

- (a) In this study, the Uganda Wildlife Authority confirmed changes in the status of wildlife conservation areas that degazetted approximately 53.8% of land area reverting it to communities for access, use and ownership as of 2002. Whereas this reversion may be clear on paper and remain on paper, not communicated and not understood by the would be beneficiaries within the communities, enclaves of indigenous elites and political leaders, who have access to this information, have opted not to share it or publicise it. Instead, a number have used it as tools for political mileage and self aggrandizement, securing for themselves hectares of land and personal interests in entities investing in either tourism, mining or ventures in commercial agriculture within the region.
- (b) Even though communities are entitled to benefits from utilisation and investment in wildlife conservation areas in their region by law (UWA Act), they are not sufficiently organised or positioned in terms of information, capacity and opportunity to engage the Uganda Wildlife Authority on such matters.
- (c) Additionally, Uganda Wildlife Authority citing insecurity in the region and having effected changes in land use on the basis of aerial photography and satellite imagery have neither demarcated the changes on ground nor communicated them to beneficiary communities, giving rise to a gap in communication of accurate and factual information on the status of land under conservation in the region. Henceforth, communities in Karamoja region are unable to distinguish, degazetted lands that have been returned to them, from lands still under conservation which ought to be observed and preserved.
- (d) The status of the 19 Central Forest Reserves covering 11.6% of the land areas in Karamoja is not likely to be reviewed, readjusted or changed in the near future. This is because basis for their protection is still considered valid by the National Forestry Authority either as prime areas in terms of bio-diversity (for the rare acacia, albizia) or scientifically as water catchment areas in relation to water bodies or protection from soil erosion. In view of this recognition and pressure from human demands for settlement and use, the Authority has made a policy shift to collaborative management involving communities. However, the delivery of opportunity for management and benefits under such an arrangement may not be attained if the communities are not sufficiently prepared for this engagement.

Recommended Interventions:

1. Ensure that communities are equipped with knowledge and information to engage and negotiate for involvement in investment ventures on the basis of entitlements contained in Uganda Wildlife Authority Act for their beneficial interests and collaborative co-existence of their herds and other land uses with the conservation agenda. For example, Memorandums of Understanding (MoUs) for licensing of two private companies to manage the three wildlife reserves of Pian-Upe, Bokora and Matheniko are also executed at community level as mandated by law so that benefits accrue directly to the communities, instead of the district local governments. This requires the systematic flow of factual information on the status of degazetted land and community entitlements as well rights in those still existing, to communities for appropriate use of land.
2. Ensure that civil society organisations engaging in projects related to securing community rights over land such as Uganda Land Alliance do not fall victim to the failure to share information, which jeopardizes the securing of rights for communities with the region.
3. Communities adjacent to or in the periphery of Central Forest Reserves need capacity to negotiate their engagement in collaborative forestry management in ways that are beneficial to

their access and use rights as provided for under the National Tree Planting Act 2003. For example, negotiating Memorandums of Understanding (MoUs) with Forestry Authority that guarantee access to shrines and areas considered sacred in these locations or access for fuel wood, gathering fruits and harvesting of herbal and medicinal plants.

4.2 Mining and Minerals

With regard to mining, the following issues stand out:

- (a) Approximately 24.8% of the land area in Karamoja is Exclusive Mineral Exploration Licenses and Location Licenses and a further 20 square kilometres is covered a mining lease to Tororo Cement Ltd as per the 2009 records from the Mines Department. This status of mining, extent of concessions, nature and nature or volume of mineral deposits is not known at district level or within community. At national level, the Geological Surveys and Mines Department confirms that mineral information on Karamoja is as old as 1960/61 because recent Airborne Geological did not cover the region due to security concerns and hostilities. However, it acknowledges the existence of unevaluated deposits of gold, marble, phosphates and other mineral deposits whose economic volume is yet to be confirmed.
- (b) Exploration and mining is based on information from private companies applying for licenses. The process of licensing is not understood by local government leaders who lack facts on the status of mining in the region nor is it appreciated by local communities, who view it as a ploy to grab their land. Obligatory compensation or royalties to land owners as mandated by law are unpaid due to lack of proof of customary ownership. Additionally community involvement and consultation over land acquisition or for exploration set by law is largely ignored.
- (c) Local leaders are accusing government of conniving with mining companies to grab land of the Karamojong. Investors and Private Companies are taking advantage of the community's ignorance, poverty and illiteracy to confuse communities with partial or incomplete information to stealthily acquire land in the region.
- (d) Fencing of land and erection of beacons in exploration or mining areas restricts the movement of animals in an area that is known to depend on agro-pastoralism and transhumance as the means of livelihood due to erratic weather and a hostile climate. Wildlife movement is equally affected. At the closure of exploration missions, local artisans are disadvantaged and denied continued access to mineral deposits, as exploration companies are legally required to seal off sites with concrete, which is considered malicious denial of access to ancestral resources.

Recommended Interventions:

1. Liaison with the Mines Department and the Ministry responsible for Land, to secure acceptance for other forms of proof of ownership of land under customary tenure that are legitimate and recognised within communities, in instances when location and the mining licenses are issued to private company to facilitate compliance with the requirement for payment of royalties and compensation.
2. Building the capacity of the local people through information dissemination; advocating for both communities and investors on issues of formalised land ownership, volume and nature of mineral deposits and possible private-public partnerships as far as exploration, prospecting and mining is concerned.
3. Empower leaders negotiate with the mine department and private companies for artisan mining and access to areas where exploration has not yield commercial deposits, in order not to stifle livelihoods for community members.
4. Negotiate for the right of way or passage including animal movement for grazing in areas under mineral exploration with private companies.

4.3 Land Tenure and Protection of Rights

In this regard, the following issues arose:

- (a) Because land is held in customary tenure, claims to rights of access, use and ownership are not backed by formal documentation. Instead institutions of elders and kraal commanders manage and control access to land resources considered communal, while the family or clan controls land owns land considered to be individualized customary. As focal points for definition of rights over hand, the power of these traditional institutions has been eroded over time due to the power of the gun, the disarmament process and the set of protected kraals.
- (b) Reforms in land administration and dispute resolution articulated in the Land Act 1998 and the Uganda Constitution in 1995 have remained un-implemented. Thus on ground, the system is near comatose because of lack of capacity within districts to recruit and retain of qualified staff, to operationalize the statutory system. In instance were partial operations have been attained especially with the appointment of Area Land Committees they have needed the backing of traditional institutions such as elders to legitimize or formalize their work. Communal Land Associations to formalize the holding of land and its resource in communal form have not been embraced.
- (c) Pockets of registered tenure are being to emerge, but concentrated in gazetted urban centres and town councils. Whereas the Land Act 1998 and the Constitution 1995 provide avenues for obtaining Certificates of Customary Ownership and communal holding of land under Communal Land Associations, both avenues have not been utilised in Karamoja, except for the likely benefits that will arise from the pilot titling project of Uganda Land Alliance in Nabwal. This is due to low levels of awareness of the existence of these options and the non-staffing of district land office which would support such processes.
- (d) Communities also articulated several threats to tenure security in the region, including but not limited to minerals and mining interests, that are often undertaken without community knowledge and involvement, the unknown status of conservation areas which through the re-opening of boundaries smirks of land grabbing together with land sales picking up to support the land market especially in urban areas. Additionally government is involved in disarmament and therefore set up protected kraals to safeguard cattle from being rustled. Grass quality, fertility and other range resources have been degraded and eroded in such locations.
- (e) There is a general lack of information on various land and resource tenure issues ranging from title acquisition procedures, grant of mineral concession processes to gazettement and degazettement. This translates into untold vulnerability for the communities in Karamoja. In addition, the basics of land and resource rights as enshrined in law or policy are not known by both community leaders and members. It is not clear to the community which legal regimes have precedence with regard to customary tenure which is most prevalent in the region.
- (f) Most if not all publications and literature about the Karamoja region are old, the region is not well researched and documented, which contributes to wrong development policies and programmes. The attitude and mindset about the region is characterized by enduring negative perceptions about pastoralism as an outdated, chaotic, backward economically irrational and environmentally destructive land use/production system.

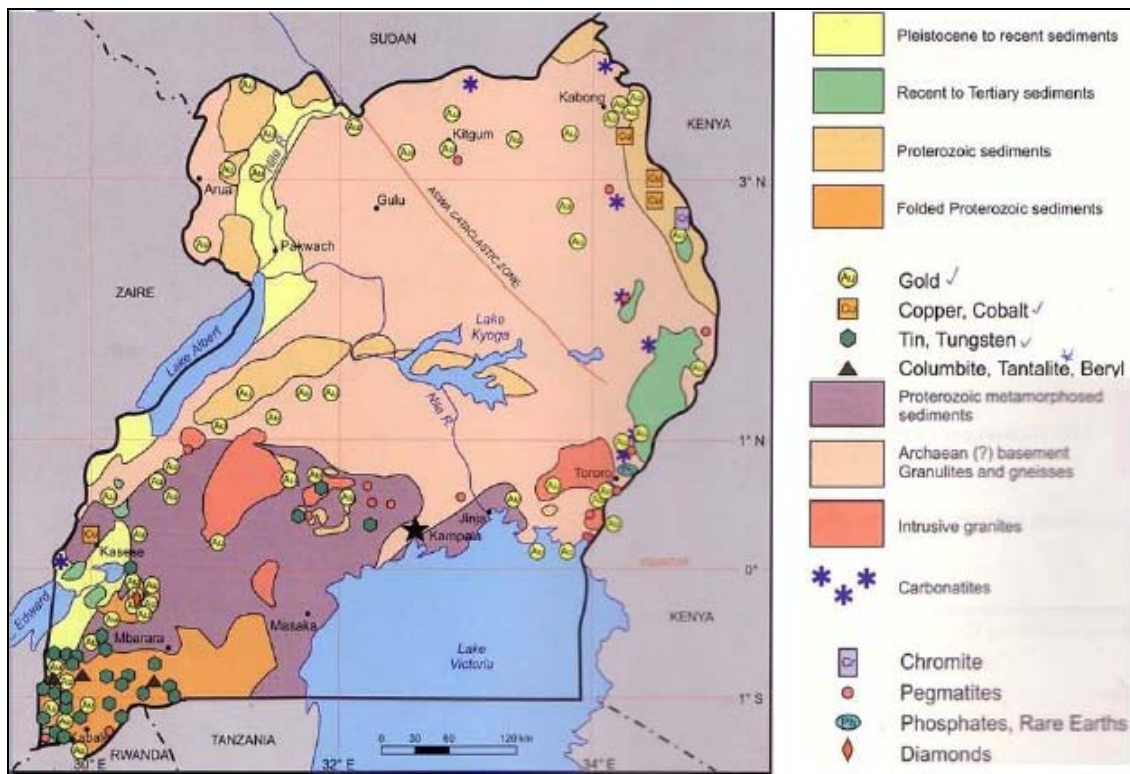
Suggested interventions

1. Initiate and sustain a community level dialogue aimed at building consensus on a specific type of boundary marker recognisable by all. Without involving any technical survey initiatives, pilot the clarification of parcel boundaries using the selected markers. This should involve the council of elders, local civil society organisations and local councils.

2. Educate the community on establishing communal land associations as vehicle to realise legality of the council of elders and incorporate the council of elders as a management structure in the CLA.
3. A concerted legal education and advocacy through partnership with local NGOs and CBOs, carried out by paralegal to provide the community, leaders and the elders with awareness, facts and information in a local dialect.
4. Through sponsorship and partnership with institutions of higher education in Uganda provide grants for research, piloting and publication of various development concepts in and about the Karamoja region or introduce a competitive research grant on Karamoja. These efforts should be short term with the aim of opening up, publicising and creating a positive interest in the region.

ANNEXES

Annex 1: Minerals and Mineral Potential in Uganda



Source: Joshua T. Tuhumwire, Commissioner, Department of Geological Survey and Mines at Symposium on Uganda Airborne Geophysical Surveys, Kampala 16-17 July 2009.

Annex 2: Areas under Mineral Licenses in Moroto District

License Holder	Period	Area (Sq. Kms)	Minerals	L
1. Kush Management Service Ltd	2008 - 2011	500.00	Uranium and Graphite	EL
2. Tiger Cement Limited	2008 - 2011	437.00	Limestone and Marble	EL
3. Moroto Cement Industries	2008 - 2011	130.00	Limestone and Marble	EL
4. Simba Resources	2006 - 2009	126.00	Platinum and Base Metals	EL
5. Tororo Cement Limited	2009 - 2012	122.50	Limestone	EL
6. NPK Resources Ltd	2009 - 2012	90.00	Gold, Copper, Cpbalt, Nickel and PGM	EL
7. Supercom International Ltd	2008 - 2011	57.00	?	EL
8. Omaniman Gem Prospectors Cooperative	2008 - 2011	48.00	Precious Stones and Base Metals	EL
9. Tororo Cement Ltd	2003 -2023	20.01	Limestone	SML
10. Hikima Investments and Technology (U) Ltd	2009 - 2012	20.00	Iron and Base Metals	EL
11. Great Lakes Cement Ltd	2007 - 2010	11.00	Limestone and Marble	EL
12. Harambe Africa	2007 - 2010	4.00	Limestone	EL
13. Hikima Investments and Technology (U) Ltd	2009 - 2012	4.00	Gold and Base Metals	EL
14. Harambe Africa	2009 - 2011	0.15	Limestone	LL
15. Harambe Africa	2009 - 2011	0.15	Limestone	LL
16. Great Lakes Cement Ltd	2009 - 2011	0.15	Limestone	LL
17. Great Lakes Cement Ltd	2009 - 2011	0.15	Limestone	LL
Total Sq. Kms		1,550.2		

Annex 3: Areas under Mineral Licenses in Nakapiripirit District

License Holder	Period	Area (Sq. Kms)	Mineral	L
1. H K Mining Limited	2008 - 2011	266.30	Marble and Gypsum	EL
2. African Minerals Limited	2008 - 2011	69.00	Limestone	EL
3. Chn Hena Zhonghua	2008 - 2011	36.00	Iron	EL
4. Chn Hena Zhonghua	2008 - 2011	36.00	Wolfram	EL
5. XL Mining Ltd	2009 - 2012	21.3	Limestone and Marble	EL
6. African Minerals Limited	2009 - 2011	0.16	Limestone	LL
7. African Minerals Limited	2009 - 2011	0.16	Limestone	LL
Total Sq. Kms		428.92		

Annex 4: Areas under Mineral Licenses in Abim District

License Holder	Period	Area (Sq. Kms)	Mineral	L
1. Fifth Element (Investments) Ltd	2007 - 2010	490.00	Gold and Base Metal	EL
2. Fifth Element (Investments) Ltd	2007 - 2010	469.00	Gold and Base Metal	EL
3. Fifth Element (Investments) Ltd	2007 - 2010	458.00	Marble and Gem Stone	EL
4. Fifth Element (Investments) Ltd	2007 - 2010	450.00	Gold and Base Metal	EL
5. Mota Limited	2009 - 2012	152.50	Gold and Base Metal	EL
6. Mota Limited	2009 - 2012	117.00	Gold and Base Metal	EL
7. Mota Limited	2009 - 2012	117.00	Gold and Base Metal	EL
8. Mota Limited	2009 - 2012	117.00	Gold and Base Metal	EL
Total Sq. Kms		2,370.5		

Annex 5: Areas under Mineral Licenses in Kaabong District

License Holder	Period	Area (Sq. Kms)	Mineral	L
1. New Kush Mining Ltd	2007 - 2010	458.00	Au, Cromite, Marble, Platinum and Group Metals	EL
2. Embuyaga Exploration Ltd	2007 - 2010	420.00	Gold, base minerals and PGE Minerals	EL
3. New Kush Mining Ltd	2007 - 2010	367.30	Au, Cromite, Marble, Platinum and Group Metals	EL
Total Sq. Kms		1,245.3		

Annex 6: Areas under Mineral Licenses in Kotido District

License Holder	Period	Area (Sq. Kms)	Mineral	L
1. Embuyaga Exploration Ltd	2007 - 2010	500.00	Gold, base minerals & PGE Minerals	EL
2. Tiger Cement Limited	2008 - 2011	480.00	Limestone and Marble	EL
3. Hikima Investments and Technology (U) Ltd	2007 - 2010	302.00	Iron	EL
Total Sq. Kms		1,283		

Annex 8: Status of Conservation and Protected Areas in Karamoja as of 2010

