

Property Rights Enforcement by Other Means: the Role of Non-Governmental Organizations

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Recently several African countries, Ghana, Kenya and Uganda among them, began providing universal primary education. This has proven to be wildly popular with populations for whom school fees were an impediment to receiving even the most basic education. However, there are some unintended, albeit predictable consequences, when poor states open up their educational systems without dramatically increasing educational capacity by providing more teachers and new schools to accommodate the new students flooding into the system. In the absence of these investments in infrastructure, alternative schools emerge, drawing fee-paying students trying to escape the overcrowded classrooms of the government schools. Private schools have become a money-making venture, meeting the demands of concerned parents who want their children to get attention from teachers and a decent education.

Private schools are an example of privately ordered solutions to a societal problem of institutional inadequacy, that allows those who have money to purchase an alternative education. We would anticipate that these schools can charge fees because they are better than the state institutions with which they compete. This is an example of what institutional scholars predict should be

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happening around the world in a variety of contexts. When the state is absent or provides substandard services, privately ordered institutions should arise to take its place.

Robert Ellickson has observed that legal centrists, those who assume law has a critical role in forming the nature of society, are prone to assume that actors know and honor legal rules. Observing cattle ranchers in Shasta county, California he noted that resources were not distributed according to statute law, but rather followed social norms which contradicted the written law. Rather than following the written law, cattle ranchers followed a set of social norms which had developed organically, were acceptable to the population at large and were enforced through informal sanctions (Ellickson 1991). Ellickson argues that this privately ordered institutional arrangement was more efficient in addressing the problems of liability created by wandering cattle. Other scholars have noted that privately ordered institutions may provide optimal solutions where state policies are poorly defined or absent (Smith 1992).

As we witness the retreat of the state in some sectors and geographic areas of Sub-Saharan Africa, we should take a careful look at what institutions arise to take its place. Is it organic institutional development that relies on citizen cooperation? Market-based provision of services through private security firms and private schools and clinics? Or something altogether different? Because clear property rights are in demand across the African continent, as they are

essential to the functioning of the economy, it is particularly important to observe what happens in the absence of state enforcement of property rights. We should expect to see a variety of privately ordered institutions substituting for the state where it withdraws or is simply unable to provide secure property rights.

In this paper I examine the role of one set of ‘privately-ordered institutions’ non-governmental organizations and the role they play in enforcing property rights. The paper will proceed in four parts. First, I examine the role of NGOs in the post-independence African state and the proliferation of the non-governmental sector in the past two decades. Then, I discuss the role of NGOs in enforcing property rights, giving concrete examples from Uganda. The third section of the paper will evaluate the effectiveness of NGOs in property rights enforcement and their social welfare provision contrasted with that of the state. The paper will conclude with a discussion of how we might view the encroachment of NGOs into the area of law enforcement and specifically into the economically important realm of property rights.

Non-governmental Organizations and the African State

In the early literature on civil society organizations, civil society and the state were presented as competitors fighting a zero-sum game for power within a territory (Migdal et al. 1994). This state-society distinction proved inadequate in describing the struggle for resources among civil society groups that might be mediated by the state or an understanding of the state that recognizes it as the

focus of the competing societal groups (Chabal and Daloz 1999; Fatton 1992). Moreover, the definition of 'society' now encompasses a variety of groups that are not always unified in terms of their agenda or goals. For example, although organized ethnic groups, churches, women's associations, indigenous human rights organizations and rotating credit societies are all elements of civil society, each has distinct goals, locations, and methods of operation.

Though NGOs have traditionally focused on health, education and human rights, they have increasingly become involved in the enforcement of property rights as well. The early literature on NGOs dates from the late 1980s and post Cold-War era when a burgeoning NGO sector drew the attention of governments, political scientists and sociologists. This literature revived the state-society argument in a more specific form that targeted NGOs. The central issue was whether states would allow NGOs to function autonomously or restrict NGO action to a very limited sector, such as humanitarian assistance. Michael Bratton wrote in 1989 that the key issue was "the proper role of the state in economic development and civil society" (Bratton 1989: 570) with the purpose being to guarantee the autonomy of NGOs to act apart from government control. Later assessments saw the role of NGOs as paralleling that of the state, supplying the same services, but perhaps to different populations or geographic regions (Fowler 1995). Twenty years on, the worm has turned. Current evaluations of the role of NGOs in weak states see them as supplanting the state in politically detrimental ways, providing healthcare and education services to the extent that

expectations that the state would, and should provide these services disappear (van de Walle 2001). The conflict is still over the proper role of the state in economic development and civil society, but fears that the state would overwhelm civil society have given way to a different concern altogether. How much of the appropriate function of the state will now be handed over to NGOs?

In many countries in Africa the state has allowed NGOs to control health and education, providing services that were thought to be the responsibility of the state (van de Walle 2001). The education of the young and basic healthcare, previously have been conceived as state responsibilities. These sectors were once expected to be funded by taxes, providing a vital link of accountability between the government and the population. As big NGOs have taken over these services citizen expectations of the state have shifted and from looking to the state to provide to looking for outside organizations to provide for healthcare and educational needs.

Increasingly, the retreat of the state is evident not just in health and education but in the provision of security. Throughout Africa and the world we are seeing progressively more security and law enforcement hired out to private contractors (Avant 2005; Ferguson 2005; Singer 2004). James Ferguson notes the deterioration of the capacity of African states in areas in which state functions have been 'outsourced' to NGOs (Ferguson 2005). Assessing causality of this phenomenon is not a simple task. If NGO involvement encourages the state to

withdraw from where it was previously providing services then NGO activity is problematic. But if, as in the case of privatized educational services, NGOs are filling gaps where the state's services are inadequate or absent, we can view NGO involvement as a beneficial solution to weak state capacity.

The enforcement of property rights is a public good. When citizens are aware that the state is enforcing property rights, contracts are honored, resources are passed peacefully from one generation to another, and the number of conflicts in need of the dispute resolution services of the state is reduced. My 90-year-old grandmother lived in the same house for 65 years. She had a neighbor who wanted to put up a fence that encroached on her property. My grandmother objected. When a building crew arrived to try and install the fence in exactly the place she had contested, she threatened her neighbor with legal action and he changed his plans. Without the threat of state intervention and enforcement of her property rights, could my grandmother have prevented her neighbor from constructing that fence? It is unlikely. Her neighbor responded to the threat of state involvement.

Where the strength of the state is low, we can expect the vacant political space to be filled by 'others' capable of engaging in conflict resolution, broadly understood. However, 'others' encompasses a great variety of private actors: warlords, traditional leaders, mafias, entrepreneurial bureaucrats, etc. The consequences to communities can be detrimental if the actors providing conflict

resolution are motivated only by personal gain. Consequently, it is not necessarily optimal for the state to be replaced with organically developing institutions, as those institutions may prove to be quite costly (warlords), or unjust (as I note can be the case with some traditional leaders), (Joireman 2008).

NGO Enforcement of Property Rights

NGOs are distinct from mafias and gangs because profit is not the primary motive for their actions. Rather than take a normative view of the role of NGOs, I report their actions below and reflect on their implications for property rights enforcement and the state. In this section I will be describing two NGOs acting in a law enforcement capacity in Uganda. First I will describe the activities of a well-known international organization, The Federation of Women Lawyers, or FIDA. The second example is an indigenous Ugandan NGO, The Mifumi Project, which has used creative methods to promote law enforcement in its own community.²

FIDA

The International Federation of Women Lawyers (FIDA) operates in many parts of the world. Each FIDA office addresses the specific legal problems the women of the country in which it operate face under the overall rubric of

² Both FIDA and Mifumi were active in Eastern Uganda where I and my students conducted fieldwork intermittently from 2004-2007. My thanks go to Abbi Martin and Dustin Choate for their assistance in research.

providing legal aid to women.³ In Uganda, FIDA is officially called the Ugandan Association of Women Lawyers, but is known throughout the four regions of Uganda where it operates by its international acronym of FIDA. FIDA focuses on advocating for women through family law related to inheritance, divorce and child maintenance. It also handles cases that are specifically related to women's land and property rights. In both rural and urban areas, FIDA provides not only legal counsel but also enforcement of law. It runs public educational seminars to inform communities about the content of the Ugandan law as it relates to issues concerning women, lobbies the government on women's issues and provides legal advice and mediation to women who seek its services.

Although the FIDA staff are lawyers, they use Alternative Dispute Resolution (ADR) techniques when possible because it is cheaper and less socially divisive than court proceedings. When a client, usually female, comes to FIDA with a problem, she meets with a lawyer who assesses the merits of her case and informs her of the content and application of the law. If there is a clear violation of law and the woman chooses to pursue her complaint, FIDA issues a 'letter of invitation' to the parties in the dispute. The letter requests the presence of all parties at a negotiation session where the FIDA lawyer can explain to them what the law of the country demands in the situation and try to set up a mechanism for

³ Interestingly in some countries, such as Ghana, FIDA will also provide legal aid to men who come to them in need of assistance. Statistics we recorded from one year of FIDA activity (June 2005 to June 2006) in their office in Kampala, Uganda demonstrate that the vast majority of applicants are groups of people. When the applicant is a single individual, that person is female in 82.5% of the cases and male in 17.5% of the cases.

resolving the conflict out of court. If this mediation is ineffective FIDA has the resources to take some cases to court.

FIDA's actions are valuable in three ways pertinent to this chapter. First, FIDA plays a critical role in educating the populace regarding the content of the law. It is not unusual for parties to a dispute to be ignorant as to the content of the formal law of a country regarding issues such as marriage and inheritance. This is particularly true in Africa where there is a competing body of law, customary law - that informs people's actions in family matters. For example, the legal requirement that children from a marriage be maintained financially by their father is often a surprise to both parties in a divorce or separation. In its educational role, FIDA plays an important role in compelling adherence to the law simply by informing citizens who would choose to be compliant.

Second, FIDA's intervention demonstrates that there is an outside authority observing and responding to people's actions. Their use of ADR commands accountability to the law that would otherwise be absent. The extent to which ADR is perceived to be a real threat of enforcement should not be underestimated. A person who is not well-educated, unused to dealing with bureaucracies or unaware of the law is unlikely to ignore a letter requesting his or her presence at a legal arbitration.

Third, FIDA enables women to bring cases to court. Without FIDA in Uganda, pursuing a court case would be out of the question for most women, due to their lack of both education regarding legal processes and time and money with which to pursue a case. FIDA provides both lawyers and court fees for women to pursue a legal resolution to conflicts that cannot be resolved through other means. Although women interviewed in the Tororo area of Uganda repeatedly noted the time and monetary constraints that they faced in traveling to a FIDA office for assistance, they saw it as their only way of proceeding with a complaint that might require a lawyer or access to the state courts (Women's Guild of Tororo 2005).

To assess the impact of FIDA on the enforcement of property rights, we can look to the example of the consent clause. Since the adoption of Uganda's 1998 Land Act there has been a legal restriction on a spouse's ability to sell the "land on which is situated the ordinary residence of the family and from which the family derive sustenance" without the approval of the other (*The Land (Amendment) Act, 2004* 2004). While the implementation and enforcement of the Land Act has been difficult to achieve overall, the active role of FIDA and other women's groups has raised awareness about the content of the law as it *pertains to women's property rights* throughout the country. Evidence from a 2006 survey of 2,227 households in 20 districts of Uganda conducted by Associates for Development and the Centre for Basic Research shows that

consent is now being sought by spouses in most areas of the country (Associates for Development and Centre for Basic Research 2006: 77-78).⁴

The Mifumi Project

The Mifumi Project is a Ugandan NGO that takes its name from the small village of Mifumi in Eastern Uganda where it began its work. The original goal of the Mifumi Project was to build a primary school in the village. When this was accomplished, the organization expanded its vision and incorporated as an NGO in 1990 with the goals of reducing the burden of poverty and defending human rights with a special focus on women and children. Mifumi has been involved nationally in a campaign against the payment of bride price and has been a strong and solitary voice in the region against domestic violence. In the area in and around Tororo, Mifumi provides legal advice and support, counseling, educational services, and financial assistance to women and children in need.

Mifumi has used creative means to change the structures that impede human rights within its area of reach. In its campaign against domestic violence Mifumi has provided legal aid services, trained health care professionals in dealing with domestic violence cases and led educational seminars for police officers. One of the challenges that the Mifumi Project identified in their campaign against domestic violence was a lack of education among the police force and a lack of police capacity to respond to emergencies. In addition to their training on the

⁴ The percentage of respondents who sold land and did not obtain spousal consent was 26% in the North, 14% in the East, 8 % in the Central area and 10% in the West.

law, Mifumi sought to address these problems by purchasing a motorbike which allowed officers to move about the area and respond to domestic violence and presumably other cases as well. They also built the police in their town a new office (Turner 2005). Mifumi recognizes the police, doctors, judges and government officials as 'duty-bearers' without whom they would be unable to combat crime and domestic violence (Ndira 2008). Mifumi's goal is to equip 'duty-bearers' to respond and enforce law that exists.

Because the consent clause of the 998 Land Act relates to women's property rights, Mifumi led a campaign to raise awareness regarding the legal requirements for the sale of land. In 2006, Abbi Martin conducted an informal survey of the women in two areas surrounding the town of Tororo. In Mifumi village, twenty women were surveyed and 70% were aware of the legal requirements of the consent clause. However, when a group of 26 women from the same sub-county but in Paduka, a village 5 km east of Mifumi were surveyed, none (0%) of the women were aware of the consent clause or even the Land Act.

Both FIDA and Mifumi play a critical educational role in defining the boundaries of legal behavior for a populace that has few sources of information and a plurality of systems of law. They both operate in areas in which the state is either weak or absent. In the case of Mifumi, the absence is geographic as Mifumi is located far from the capital city and is of little strategic importance to the state. With FIDA, the absence of the state is more one of neglect than of geography.

With all of the pressing needs of development and administration in Uganda, educating the populace with regards to the content of law, particularly where it contradicts customary law or tradition, has simply not been a concern great enough to elicit state resources. However, legal education is critical in law enforcement as many people choose to follow the law, rather than engage in behavior that might lead to punishment.

Limitations of Property Rights Enforcement by NGOs

NGOs will never be as effective as the state in enforcing law because the state has a monopoly on the legal use of force. An NGO that tries to use force to compel actions, even though it might be enforcing a legal obligation, will soon find itself out of business. Limitations on the effectiveness of NGOs fall into four categories: restrictions on their ability to use force, specific missions that control the types of cases they can consider, constrained budgets, and a bounded geographic reach.

Because NGOs cannot use force, they cannot threaten more than further legal proceedings. The effectiveness of their mediation and educational techniques will be most pronounced among those who perceive them to be more powerful than they actually are (rural people unused to bureaucracy and uneducated people who might be ignorant of their role) and among those who choose to comply with the law in any circumstance. While education and mediation are effective in many cases they will be insufficient for disputes over large and/or

valuable properties where the stakes are higher and legal counsel is likely to be employed on all sides.

Though there are a few legal aid organizations that will provide any sort of legal services necessary, those we have focused on in this paper have a specific mission to protect the rights of women and children. They do not concern themselves with enforcing everyone's legal rights as the state is obligated to do. This is the second limitation of NGOs – their bounded Even within their limited sphere they are focused on the enforcement of women's legal rights qua women rather than qua citizens. Thus they restrict their practices to marriage and family law, or to law which immediately effects the economic situation of women and children. These organizations would not handle women's complaints regarding employment or auto accidents or such things unless their legal problems relate to their sex.

In Uganda other NGOs provide legal services to clients regarding the enforcement of property rights. The Legal Aid Project of the Uganda Law Society formed in 1992 to serve indigent people in their efforts to access justice. They have an office in Kampala where they provide legal aid to all Ugandan citizens who come to solicit their services, male or female and regardless of the type of complaint. Examining the statistics for single filer complaints over a one-year period of June 2005-2006 we found that 52% of complainants were male and 48% female. If we look statistics we recorded from the same year of FIDA

activity in their office in Kampala, Uganda we found that the vast majority of applicants are groups of people. When the applicant is a single individual, that person is female in 82.5% of the cases and male in 17.5% of the cases. What we see in these figures is the degree to which women are likely to solicit services from a women-oriented NGO in addition to their use of regular legal aid services. In other words, women are not just using woman targeted NGOS they are also using general purpose NGOS.

Figure 1 Nature of Disputes Heard at Legal NGOs

<i>Subject of Dispute</i>	<i>Percentage of Cases</i>	
	FIDA	LAP
Land	11	16.1
Inheritance	9.9	6.2
Criminal	1.1	5.7
Civil	3.3	36.3
Criminal and Civil	0	0.3
Domestic	66.4	20.1
Legal Aid	2.6	0
Missing/Other	6.2	15.4

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A third limitation on the services of NGOs is the restriction low budgets place on their ability to offer services.⁵ NGOs typically function with skeletal staffs and use as many volunteers as they can find. Law enforcement NGOs in capital cities can often get lawyers to pick up cases on a pro bono basis, but in rural areas, there is not enough of a concentration of lawyers to make this sort of staffing strategy sufficient. Additionally, the services of NGOs may not be stable from one year to another as budgets fluctuate. The FIDA Uganda office located in Mbale – the Eastern part of Uganda closed unexpectedly in 2008, leaving people in the area who would seek its services without access to legal services.

Closely related to this issue of funding is that of the geographic reach of these organizations. Law enforcement NGOs with small budgets have fewer offices and their reach throughout the country is truncated. It is quite possible, as noted in the example above, to have the law enforced by NGOs in one area, but for people a few miles away to be unaware that the laws being enforced even exist. Law enforcement NGOs create zones of enforcement which are beneficial, but substantially more limited than what we would hope to see a state do.

NGOs are far more limited than states in their provision of law enforcement. They are constrained by the restriction on the use of force, specific missions, limited budgets and geographic reach. Yet evidence in rural Uganda indicates that although these NGOS are fulfilling an important role in the provision of

⁵ Clearly here we are not referring to Big International NGOs (BINGOs) which may very well have budgets that surpass the law enforcement budgets of developing countries.

services, their substitution for the state may be problematic. Interviews with government officials in the Tororo area illustrated two potentially troubling trends 1) faced with issues they could not solve, government officials referred people to NGOs. And 2) even after a person had begun a formal dispute process in national courts there were points at which they would be directed out of the state enforcement system and to NGOs rather than appealing upwards in the system. An example may help to illustrate these general trends.

In one case a man was planning to dispose of property his partner farmed without her consent. They were an unmarried couple, but they had children. She went to her Local Council (LC) I official, a formal government office and the lowest level of government representation in Uganda.⁶ The LC issued a summons to the man to appear before the local council. When the man did not respond, the Local Council referred the woman to FIDA. FIDA then assisted her in lodging a caveat on the property to protect the rights of their children.

An interview with a lawyer from one of the NGOs substantiated this point further:

“Most of those you know our local councils yes they are local leaders but if I may tell you these are political posts, they are not government appointed, they are not civil servants , they are political posts, so most of these people are not knowledgeable in law, that is why institutions like Mifumi and FIDA pick them out and they train them.

⁶ The Local Government Act of 1997 established Local Councils (LCs) within each district. LC responsibilities are divided in a hierarchy from LC 1 which has the least authority and responsibility for villages or small areas to LC 5 – the district level of representation.

... most of the clients that come here, come with referral letters from those Local Councils....[that] say we have tried to advise the husband, we have sat, we have done what we needed, an he wants to continue to sell. He has totally refused, he has abused our courts so we are referring her to you for what for further assistance. So it not like the other people have totally failed or they have not handled or they do not consider them but they go there first and when they fail they refer them” (Bwenene 2006).

Even the highest public officials in the area did not dispute this lawyer’s assessment above. An interview with a Local Council Level III official substantiated this point. He noted that if they were unable to solve a case they sent it to FIDA (Okitwi 2006).

Assessing Social Welfare

Rather than simply noting the ways in which NGOs are substituting for the state and labeling these as helpful or unhelpful, it is useful to refer back to our rubric for assessing social welfare from Chapter 1 and to ask what is happening in terms of the provision of social welfare. Recall that there are five criteria by which we assess the social welfare of institutions providing services to the population: predictability; accessibility; equity; effectiveness; and restraint. We

can begin to make judgments regarding the role that NGOs are playing vis-à-vis the state by assessing the degree to which they surpass or trail the state in any of these areas.

NGOs involved in law enforcement rival the state in terms of their ability to enforce the law with predictability. Their goal is legal compliance and law enforcement that is on par with the state. Anyone going to a legal NGO could be assured of the fact that whatever solutions they suggested would completely adhere to statute law rather than customary law or some other sort of extralegal arrangement. The only point at which NGOs might diverge from state policies would be in their political lobbying for legal change, but this sort of activity is obviously separated from consultation and dispute resolution services.

Accessibility of legal NGOs is significantly more limited than the accessibility of the state. This is true for Uganda and every other country in Africa where I have worked. Those with access to the legal services of NGOs are privileged by geography or residence in the capital city. Where the state is obligated to have legal outposts throughout the country (insufficient as these may be) NGOs are not and can rarely afford more than a few offices. Typically, one will be located in the capital city and any others, if they exist, will be in major urban centers in other parts of the country.

The equity of state institutions of law enforcement as compared to NGOs is difficult to assess. Although it is true that the NGOs I highlighted here could not rate higher than medium on our assessment scale because of their targeted clientele, it is not at all clear that the state institutions would be superior as their ability to function with complete equity has been called into question in the dealings of the state with less privileged groups. Generally speaking, the equity of state institutions of law enforcement and dispute resolution are high. However, some research suggests that with regard to specific legal issues, such as domestic violence, state institutions of conflict resolution are quite problematic for women to negotiate (Manji 1999). We might then view the role of these NGOs as corrective to the state in some areas where the state's ability to handle cases equitably has been challenged.

Similarly it is difficult to compare the effectiveness of these two sets of institutions. We would normally expect state institutions to be at the high end of the scale in terms of effectiveness and NGOs to manage no better than a medium due to their inability to use force to compel a resolution. Yet in rural Eastern Uganda, starting with the state dispute resolution mechanisms does not seem to lead to a final resolution as state officials are pushing cases out of the formal system of resolutions and to the NGOs. Ideally, we would have charted outcomes of disputes pursued in a variety of settings and through these pluralistic processes. We could then discern the effectiveness of these processes and know whether going first to the LCs or to FIDA or Mifumi's Advice

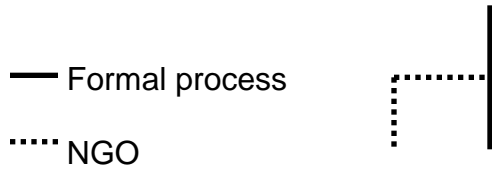
Center affected the outcome of the case. As it is, we cannot say conclusively which is more effective because of the 'cross-fertilization' of processes in play.⁷ Both the state and NGOs are restrained in their response to violations of law. Neither the state nor NGOs are likely to resort to violence to solve disputes. In the case of NGOs any use of violence would almost certainly cause NGOs to lose support and their ability to serve a populace. While the state uses the threat of force or the force within the law. Supporters of nonviolent conflict resolution would perhaps prefer the methods of the NGOs, but as our concern in this category is on the use of force within the bounds of the law, the actions of the state rate as high.

Conceptualizing Legal Processes

The way that these legal NGOs are functioning in Uganda challenges our thinking on the enforcement of property rights and other law. There are two extant models for conceptualizing the role of NGOs in the legal sphere: the traditional model and the parallel model. In the traditional model we think of NGOs providing services of education and advice that will in most instances prevent complaints from ever making it to the courts. Through legal advice and ADR, legal aid NGOs are able to fully resolve many of the disputes that come to them. For those they cannot resolve, the NGOs funnel the cases into the formal court system, providing legal and financial support as they do so. We can think of this as looking like Figure 2 below.

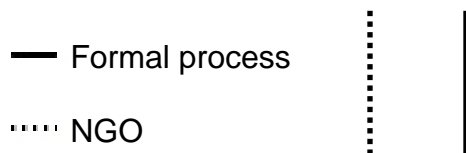
⁷ Se Sousa Santos notes the cross-fertilization of law in Mozambique (de Sousa Santos 2006). I find the term applies well to the integration of a variety of legal processes as well.

Figure 2



Two separate literatures (that pertaining to state failure and some of the studies of privately ordered institutions discussed above) suggest another possible scenario. Both of these literatures discuss the development of alternatives to the state either because the state is not able to provide services (due to failure) or because privately ordered institutional responses are more efficient. These models suggest the development of institutions which parallel those of the state in a way suggested by Figure 3 below.

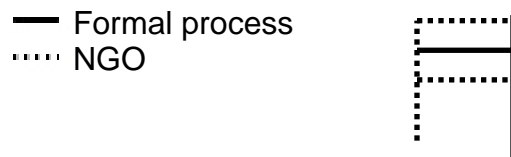
Figure 3



While there can be no doubt that we do see institutions of property rights enforcement developing in autonomous and parallel fashion, as noted in

Chapters 2,3 and 4, this model does not fit what is happening with the legal NGOs. Legal NGOs are clearly sharing in the responsibilities of the state in some instances, for example in their educational role and in the provision of legal advice. Additionally, they substitute for the state in a limited way through the provision of dispute resolution. Yet, what we see in the case of Uganda is neither of the two legal processes above, but rather an interdependent legal process in which the NGO refers cases to the state legal system, but the state legal system and political structures also refer cases out of the formal system and back to the NGOs. Conceptually, we observe a systems working like Figure 4.

Figure 4



Conclusions

The state may set limits on social activity through the creation of law, but which parts of what laws ultimately get enforced in many areas of sub-Saharan Africa is influenced by the activity of non-state actors. This suggests 1) a far more pervasive relationship between NGOs and the state than that which has been previously articulated with overlapping state and NGO activities in education and training; 2) a law enforcement process that is neither completely

organic nor state-imposed and 3) an interlinking of legal processes with private entities.

It has been suggested in the literature noted earlier that privately ordered institutions can substitute for the state where it is absent, yet economic historians and development specialists alike have noted the importance of a correspondence between private institutions and statute law for the law to be most effective (De Soto 2000; North 1990). Indeed, in an ideal world informal social norms and laws would be mutually supporting, reducing the costs of law enforcement and increasing the degree of compliance.

The Ugandan NGOs, that I have noted here are involved in both the enforcement of law and the creation of social norms. They can engage in both processes precisely because they are not the state. Their educational activities inform people of the law and attempt to build social norms of compliance with laws that respect the rights of women and children. When this fails they try to enforce the law. Moreover, they also work behind the scenes to equip the appropriate government officials to do their jobs well in relation to women and children.

The activities of these NGOs fall into the category of law enforcement. Law enforcement will not solve all a state's problems, and the activities of these NGOs will never be a complete substitute for the state. NGOs will always be operating at the margins, working with groups that are less privileged or in

regions where the state does not have a strong presence. Where they are located, law enforcement NGOs are supportive of state policies and seek to build social norms around laws that already exist. While they substitute for the state in this regard their activities are ultimately benign. Indeed, the only threat these NGO activities present is to expectations. Insofar as the state looks to them to fill in for its role in supervising and educating bureaucrats or enforcing law, NGO activities become a crutch for the state and a justification for the allocation of state resources to other worthy endeavors. Additionally, NGO involvement in law enforcement can limit the expectations that citizens and even public officials have of what the state ought to be doing. If citizens and bureaucrats see state involvement in the enforcement of law as optional then it will be unlikely to occur. That said, people living in the areas in which legal NGOs are working are better off as they face a higher chance of knowing what the law is, finding a resolution to their conflicts and accessing the legal system should they desire to do so.

Appendix

	Low	Medium	High
predictability	Unclear what the cost will be to utilize the institution. Unclear whether the institution will work or how it will work	Not entirely apparent why or how decisions are made. Costs, documentation and other needs unspecified	Costs and time frame are clearly defined up front. Needed documentation obvious. Nature of decision-making process is clear
accessibility	Not affordable for the average person either due to fees or side payments which are demanded, location requires a large sacrifice in terms of time or money to reach	Affordable for some people in the society, although beyond the reach of others, proximate to some, limited need for side payments	Fees are affordable for the average person, proximate venue to people who will be accessing
equity	Only serves the needs of some members of society. Discriminate on the basis of sex, ethnicity or other trait	Discriminates against some members of the society, serves the needs of others	Serves the needs of all members of the community. No discernable discrimination based on individual traits
effectiveness	Unlikely to resolve problem. Will need to pursue some other parallel or competing process to achieve goal	Can resolve conflicts in certain circumstances although in others it is necessary to pursue other institutional remedies	Will resolve problem and/or provide service finally and completely
restraint	Processes rely on violence or the threat of violence, intimidation or other harm	While generally free from violence or intimidation at times these can enter into the process	Completely free from unrestrained or illegal use of violence and threats

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