



Akiro nu Epolok Kotoma Osubune lu Ekot Apugan Atekerin Aitwasam Epupete Imusagon.



Land and
Equity Movement
in Uganda (LEMU)

Making land work for us all

3rd December, 2014

Adieket (arai **ekooti**) nes aurianet na itutubere akiro kotupitete ikisila luapugan, arai nes aurianet na ekodet lo itunga lu ejaikitai apedor aipup imusagon, aitemonokin ingungeta ka aitutub akiro kokisila. Ekisil lo Alupok (Land Act, 1998), Esula 227, atutubet 88 nes ijaikit atekerin apedor na "aipup ka aitolomun etube lo ikamunit alupok nu eyaitai kopiten (koinono), arai araut apuron kiding itunga lu ejaasi ka engunget lo eipone edio kere lo elomunit kanu alupok nu eyaitai kopiten." Koipone kalo epedorio do anyara ikomiitin da lu atekerin lu epupete imusagon lu alupok kwape 'adieketa.'

Edio ekomiiti lo ateker lo epupi engunget kes ekotoi kiitunitos atupit iponesio lu ejokuka kanu aitolomun **etube loibecokina**. Iponesio lu ejokuka kanu aitolomun etube loibecokina apolouke nes **aswam kitiirianite arereng kanu iwaitin kere**. Etiakak aswam na irwan aarei: 1) ekisil lo imikit atubon aise ikur obaaleariit, loda ijaikit itunga amunokina apupio ka etube lo emusago, kosodi 2) apedor na ngol ewai acamakinio einer ka apupokinio, neda ikwenyanarere iwaitin kere nu ikamunitos emusago lo iwosao, arereng na eirian kanu iwaitin abongonokin nu iwosao ka arereng einer akiro kec nu ikamunitos emusago.

Iponesio lu ejokuka kanu aitolomun Etube Loibecokina.

- 1) **Eriakas itunga kere kokisila**, Ekot **ikomiitin lu atekerin** ayait ngitunganan eirian, komam apodokit ejautene kec, arai luabarak arai luican, idwe arai luapolok, ekilokit arai aberu, arai lu ateker 'A' arai ateker 'B'. Ebeit ngitunganan adumun etube ka aijaanakinio naka ekomiiti lo ateker eirian (kwape na aitac isirigin lu adieket lu eriakas). Apolouke ekot ikisila da lu etupitai iwosao koriakas kanu itunga kere. Emamei itunganan yen epol yen epedori aigir aiwosao ka aibwo kongaren na ekisil, arai etia agogong ka apedor ke ai katutubet.
- 2) **Amamus aigangit ewai ediope**: Mam ekotoi atubon kojaasi ka eipud ke elope bon toma otube lo itolumuni ngesi, ido mam ekotoi ngesi ariit aigangit ewai ediope adepar loce kapak na itolomunia etube. Arai ijenasi arai ijeni ijo idiope kotunga lu iwosasi, ekot ijo aikwenyakin ekomiiti lo ateker kopupete itunga kere nu ikamunitos ajena kon kede itunganan ngin kosodi ajalakin aipup emusago ngol. Mam ibusakinit ijo aitub emusago ngol kojautene kangol naarai aticepak ipedori ijo adumun acodunio na aigang ikon pajan.
- 3) **Aidelel**: Mam ekotoi aibwait nu iswamas iwosao emusago kokomiiti lo atekerin, ekot kosesenete ido komisiikitos itunga kere nuiswamas.
- 4) **Etube lo Edolit**: Ekot etube lo itolomunio kotupite ikisila lu itutubitai atupit lu ejenete ka lu ecamunitos itunga kere katutuber arai ikisila lu apugan na Uganda. Kwape nat aanyunet, kanu aitogongong itunganan yen ejatar apedorosio alupok nu ejai angurian toma; ibusakinit ainomun ekitoi lo idodunit epone lo ejaar ajena/aurio tetere ingarakini aisiaun jokan kotoma otunga iyarei, ngai ejatar apedorosio nu alupok kanu ejai angurian toma. Kotupitete eitabo loka ikisila lu idaritere alupok nuka einono (**Eipiten**) lo iwadikait atukot naka ICU. Eitabo lo egwelaro 3,000/= lo Ateso ido lo Amusugun inyalitai ka Ateso 6,000/= Idumakini jo kes oyapesin luka lteso Cultural Union (ICU) arai LEMU. Inom esimu enamba 0352280028.
- 5) Enamba lo imemban lo edolit aitolot aurianet. Ekot imemban lu ekomiti ikany ojaasi ngin pak na ebeitor aipup emusage. Ebeit imemban lu inyalal angor ka ikiliok

6) **Apedor na apupokinio:** itunganan yen aticepak etoronitai kotoma akiro nu itutubit ekomiiti lo ateker nges ejaasi ka apedor na apesikin adieket akiro ke nu itepegitor ngesi akiro ngun eroko itolomuna etube. Imoriarit na alingakin aitijenikin itunganan ngin apaaran ka aiboisit na ebeitor ekomiiti lo ekooti lo ateker aipup awosan kede ainakin ngesi arereng ka apak na akapakin awosan na itepegitor ngesi akiro nu iwosatare ngesi. Apolouke ebe idio itunganan kere yen iwosatai ebe ediakarit nges ejaasi ka apedor alimokinio aronis na ebakai ebe iswamat ngesi ka aitodikinio ajenanut na iwosatare ngesi tetere epedorete aitolomun awosan kec na itepegiaata nu iwosatare kesi. Ekot ainakin iwaitin lu iarei kere apak aingingit ajenak lu ayaunenete iwaitin lu ingungasi, konye ibusakinit ajenak alomar okooti ainakin ajenanut idiopediope. Ekot ekooti aitogogong ebe ericio nuta:

a. **Aiboisit na eyuara kanu einer.** Komusagon icie. aticepak ekuriakanar ajenan einer abeit kere kojaasi lukowai kaje kalu iwosaete. Arai ikoni nen, edolit agitar aipup ajenanut na itunganan kangin kaiyeyea kane mam ewosan yen kowai kaje epupunio nu inerai. Komusago kwa kalo, edolit aimor ajenanut na ajenan kwa kangin kede ewai je kalu iwosasi.

b. **Apedor na aijulir emusago.** Ejaasi itunga kere kede apedor aijaikinio aiwadikaeta nu idokokitai akan nu ejaasi akiro nu iwadikat adieket na apupere awosan kosodete ayangar emusago lo awosan kadieket nakokuju arai mam kesi iyalamasi kede etube lo itolomunit ekomiiti lo ateker kec. Kwape aanyunet, epedori itunganan yen mam iyalama kede etube ayangar emusago anyoun kadoketait na ekomiiti lo etem lo ateker toni adieket na adoketait na ebuku lo ateker, kotupitete aiwadikaeta nu itlomunit adieket na ateker nakokwap.

c. **Ekot ekooti lo ateker aiwadik Etube:** Etube nges akirot na awasia na etojoka ekooti aria aitisilario nu itutubi ekomiiti lo ateker kapak na epupio emusago lo alupok, arai aomisio nuka imeeban lu ekomiiti lo ateker nu ainakinete kesi itolomuniete nuetutuboto kesi. Etube nes itolomunio akaulo na angetakin aipup awosan neda itolomunia ekomiiti lo ateker nuitutubitos kesi kojaasi ido kopupete itunga kere arai apak ngipongin arai ekaulo kapak acie na itijenikinio itunga kere. Kwape einono lo awosan na edio epone kere, imeeban lu ekomiiti lo ateker lu apupete awosan kes ngupengul ebeit aitolomun etube ka aidok akanin toma aiwadikaet na etube kec. Ekot etube ka akiro nu itutubio kojaasi kede:

- *Aitetemet na emusago.* Imoriarit na yen enguriani, epone lo anguurian ke, yen iwosatai ido nu ilipitos iwaitin lu iwosasi adieket aismamaki kesi.
- *Akiro nu eyaunitos engunget.* Kotupitete ejautene lo anguurian, ekot ekomiiti lo ateker angicun akiro nu eyaunitos engunget lo ka amisiikin abeit na ejai kau kec kere.
- *Aitutub akiro:* Ekot ikomiitin lu ateker aitolomun nu itutubete kesi kanu ikamunitos yen eteleka emusago arai acie akiro, kotupitos akiro nu ineritos iwaitin lu iarei ka ajenak (arai ejaasi adio) kede aingiseta nu iwatin kalu iarei nu ikamunitos akiro nu eyaunitos engunget.
- *Akiro nu igangitos etube:* Ekot ekomiiti lo ateker alimor akiro nu ejaikinete kesi aitolomun etube lo etelekaria ewai ediope ewai je.
- *Aidok akanin toma otube:* Ekot ekomiiti lo ateker aidok akanin otube kec kosodete aisiom kopupete itunga kere. Ekot lu engurianete da aidok akanin otube aria ecamunitos kesi etube aria bo aitijenikin ekooti lo ateker alosikinet aijulir emusago. Iburai yen ekot aijulir aismamaun ngun kotoma apaarasia 14 ido ekot ekooti lo ateker ainakin lu ewosaete aiwadikaeta lu apupere emusago ka etube.

Erai na aiwadikaet na itolomunit LEMU kanu aingarakina atekerin nuka lteso epupete imusagon lu alupok. Aria ikoto jo ainakin awomisio kon ikamanra kede aiwadikaet na, inom esimu enamba 0352280028 arai ayau akon awomisio oyapesi loka LEMU Soroti lo ejai Pamba eiduny keda Soroti Municipal S.S, Plot 1 Etyeku Road off old Mbale Road. P. O. Box 113, Soroti – Uganda aria ijukak so email ko soroti@land-in-uganda.org



Important Principles of Natural Justice that Government expects clans to apply when hearing cases.



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A **court** is a meeting where legal decisions are made, or a session of an official body that has the authority to try cases, resolve disputes and make other legal decisions. S.88 of the Land Act – CAP 227 gives clans the responsibility of determining disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure. Clan committees hearing land disputes could therefore be called “courts”.

As courts, it is important that clan committees overseeing dispute proceedings should have the principles of **natural justice** at the back of their mind. Natural Justice simply refers to **the duty to act fairly**. This duty is divided into two major parts: 1) the rule against bias or favoritism, which keeps people’s trust in the system; and 2) the right to a fair hearing, where parties are given notice of the case, a fair opportunity to answer it, and an opportunity to present their own case. These two principles are further divided into the following:

Principles of Natural Justice

- 1) **Everyone is the same before the law. Clan committees** must treat each person in the same way, no matter who they are: rich or poor, young or old, man or woman, from Clan A or Clan B. Everyone should be able to access the law and the services of the clan committee equally (for example, paying the same fees). It also means that the rules apply in the same way to everyone. No person is too big to face the law, no matter how powerful or influential they are in the community.
- 2) **Impartiality.** A decision maker must not have a personal interest in the decision she or he is making and must not favor one person over another when they are making a decision. If you are personally related to or know one person in the conflict, you should tell the clan committee openly about your relationship with that person and step down. It would not be right for you to make a decision in that situation because you may be tempted to favour your relatives.
- 3) **Transparency.** What happens in the clan committee proceedings is not hidden or secret, and can be seen and understood by the general public.
- 4) **Fairness.** The decision should be made on the basis of a set of established rules that are known and accepted by the community and the State laws of Uganda. . For example, determining who has land rights by drawing their family land rights trees and using it to analyze of the two conflicting parties, who has land rights as provided for by the customary law book also called the Principles, Practices, Rights and Responsibilities written by Iteso Cultural Union and LEMU. A copy of this book is sold at 3000/= for Ateso and 6,000/= for English and Ateso from office of Lango Cultural Foundation (LCF) or LEMU offices. Call 0352280028.
- 5) **Quorum:** The members of the committee must be the same five people at all times the case is being heard. The members must have female and male members.
- 6) **The right to be heard:** a person who may be affected by a decision made by the clan committee has a right to present their side of the story before the decision is made. This

includes telling them in advance about the date and location of the clan committee court and giving them the opportunity and time to get their defense ready. It also means that anyone who is accused of doing something wrong has a right to be told what it is they are said to have done wrong and to be shown the evidence against them so that they can defend themselves against the accusation. Both sides should be given the chance to ask questions of the witnesses of the conflicting party but the witnesses should be in court, one at a time. The court must also ensure the following take place:

- a. **A safe space to talk.** In some cases, a witness may be afraid to tell the truth when the other side of the conflict is also present. When this happens, it is best to have a private meeting with this witness when the other person is not hearing what is being said. In such a case, the statement of the witness must be shared with the conflicting party.
- b. **The right to take the case to a higher authority.** All people have a right to receive a written and signed copy of the court meeting notes and ruling and take the case to a higher authority if they are not satisfied with the ruling from their clan committee. Appeal must be within 14 days of the ruling basing on the written notes from the clan court process.
- c. **Clan court must write a Judgment:** This is a decision or sentence of a clan committee in hearing land case or the reasoning of the clan committee members which leads to their decision on which party has land rights. A judgment is given at the conclusion of a hearing where the clan committee makes its decision in the open either immediately or at a later date communicated. As a general rule, the clan committee members that heard the case should make a judgment and it should be signed by the said members of the clan committee. Judgments or decisions should contain the following:
 - *Statement of the case.* This should include the complainant, the nature of their claim, the defendant and what the parties are seeking from the court.
 - *Points of determinations.* Depending on what the nature of the claim is, the clan committee should identify the area of contention and determine truth underneath it all.
 - *Decision.* Basing on the statements made by the parties and their witnesses (if any) the inter party questions asked in relation to the point of contention, the clan committees should decide on the party with the rights to the claim or any appropriate remedy, there under.
 - *Reason for such decision.* The clan committee should clearly state what prompted them to rule in favor of one party against the other.
 - *Sign judgments:* The clan committees should sign the judgment and read it out in the open. The parties should also sign if they accept the judgment or inform the court of their intention to appeal. They must appeal within 14 days and the committee must give the party a signed copy of the case proceedings and judgment.

This paper produced by LEMU to assist clans in Teso when they determine and mediate land cases. If you want to give feedback on the paper, please Call office on Tel: 0352280028 Or bring your comments to the office of LEMU in Soroti at Plot 1, Etyeku Road, Soroti Municipality, off old Mbale Road Pamba. P. O. Box 113, Soroti – Uganda or you can email us at soroti@land-in-uganda.org.