

Principles/Values of Teso customary Land Tenure System

1. Introduction

The customary land tenure system is the most predominant in Uganda and since its nature and transactions are predominantly oral, it is the system that has different and various interpretations of rights, meanings of words such as “ownership, inheritance, responsibilities, etc. Unfortunately, some of these different interpretations take on abusive behaviour, especially on the rights of women and children. It also leads to some of our clan members with the responsibilities to manage and protect land rights and land from abuses to choose laws or their interpretation of the law to suit their selfish and abusive actions. This has made customary tenure to be riddled with land conflict and to have a bad name with policy makers. Despite the bad name and the numerous land conflicts in customary land, the customary land system remains predominant.

This paper is written to remind the people of Teso of the goodness of customary tenure and that this tenure system goes to the heart of the values of the people of Teso. If the values and principles upon which the tenure system is built are lost, we fear that the people of Teso will also be lost. The paper calls on clans and the people of Teso to manage their customary land in accordance with the following values and principles.

2. Values and Principles underpinning customary land tenure system.

Land is not for sale because all the people born and married into a family have land rights to customary land. The children of the next

generation have birth rights to the land. Because of this, all family members must consent to land sales before the clan also consents. The clans must consent because family members who become landless without alternative livelihoods are a problem to the clan and communities they live in. The family land is managed one at a time by the following heads of family (married man, widow, unmarried woman, divorced woman). As heads of families, they must protect land rights of all family members and the family land.

Inherited land is given as an inheritance: At marriage a boy and his wife are allocated land to own equally together with the children they are to give birth to. Because of this, the unborn children already have birth rights to the inherited. The family land is first managed by the man and if the man dies first, thereafter by the widow.

Land gifts and allocations were oral but permanent – Once land is allocated, it cannot be taken back by the giver or the relatives of the giver. Under Teso customary laws, all family members have land rights to land allocated by parents to son and wife and to their children born and yet to be born. If retraction of land gifts were allowed it would give insecurity of tenure which would interfere with development and would undermine government efforts to support customary tenure. If you do not respect land allocation or land gifts, you are making a statement about customary tenure as being bad system. Before you retract a land gift remind yourself that if the allocation or gift was in writing you would probably not do it. Also remind yourself that your own land allocation from your parents is probably not in writing. Are you therefore not

sending the message to the government that customary tenure system is not a good system? If you insist on past transactions being in writing, what will you do if someone asks you to produce your parent's writing that he allocated land to you?

Land inheritance is allocated to a man and only that wife, not subsequent wives - Once land is allocated to husband and wife, the husband cannot take any part of the land to give a second wife even though this is a common practice in Teso since this was a gift to both the wife and the husband. This is why parents only pay dowry once. If a man wants other wives, he has to work for the dowry by himself. This is the same principle of land being allocated only to the first wife. If he wants more wives, he has to find another land by himself for other wives. If husbands were allowed to take the land allocated to him and the first wife and give it to subsequent wives, it would imply that the husband had more rights to the land than the wife. It would also give insecurity of tenure to the wife and this would be against the principles of land tenure by government which wants tenure security in order for people to invest in the land.

Children inherit land from their mothers - In a polygamous marriage, land allocated to each wife is what is further allocated and shared amongst the children she produces. This means that land can never be equal. A wife who produces more children will give less land to her children.

Land rights are birth and marital rights - Land rights to wives, children, men, widows are human rights and therefore one does not have to have good behaviour to have land rights.

Land rights come from one of two families – marital or maiden – For especially women and children, their land rights come from either maiden homes or marital homes. **(See attached for details)**. The tendency today is for both families to deny land rights of women and children. The book of Emorimor spells our land rights of all categories of people of Teso. It is the

responsibility of the clans to determine to which clan a child born out of marriage belongs at the birth of the child.

Wives are the same clan as their husbands. A wife becomes the same clan as her husband and because of this, as a widow, she cannot remarry within the same clan of the husband as she is already a member of the clan. If she gets a child with a non clan member, as an unmarried member of the clan, the child becomes the same clan member as her and her late husband and not that of the biological father since the biological father did not marry her.

A man who wants to be an inheritor to support a widow must move to her home – The role of an inheritor is to support the widow and fill the vacuum the husband left. The inheritor moves to her home. The land rights of the widow remains with her; the inheritor has no land rights over the widow's land.

Children must be born in a marriage and if not clans give options for the man responsible and his clan to do the right thing - The acceptable way to have and to raise children is when a marriage takes place. If a child is born out of marriage Iteso culture regards the children as a blessing and as such they cannot belong to a biological father who produces the child in an improper way such as with unmarried woman, separated married woman. The Iteso culture punishes him for the wrong doing and gives him an opportunity to do the right thing. This is why in Teso; there is the payment of “*ekingol*”. ***It is the responsibilities of the clans of the girl to ensure the biological father and his clan are held to account because the choice to marry or not marry, to claim the child or not is made by them.*** The family and clan of the girl must approach the family of the boy for them to do the acceptable cultural thing **a)** – to marry the girl; **b)** to pay penalty (*ekingol*) and name the child after his family clan name. If the family of the boy fails to do the right thing, the family of the girl, will accept the child as their own since it is not the fault of the child.

Adoption of children from relatives exists -

A childless family (widow, widower, unmarried girl but with children, husband, wife) can adopt a relative as their own child to inherit their land.

Acceptance of a non blood relative to become part of a family -

Anyone not a blood relative can be accepted as a member of a family or community and can then be entitled to land right allocation as a gift. This is how the people of Teso catered for people who took refuge in their communities, catechists, in laws, etc.

Protection of women and children by the male members of the family -

Because they are physically strong, the male members of a family protected land rights of women and children as well as land from external threats. This is the main role of the HEIRs. Today, it is very common to find the men, especially heirs, in laws, brothers, uncles abusing the land rights of the very people they are supposed to protect under the culture of the **itesot**. **The question to ask, who will protect their women and children should they also die?**

Heirs have the responsibility to protect land rights -

An heir is always the eldest, best behaved son, except where there are only girls then a girl is chosen. This is because an heir

has an added responsibility to PROTECT land rights and to see to it that the family is peaceful, land rights of all family members are protected, and the wishes of the deceased father such as land given out as a gift or sold, is respected. They respect the wishes of the deceased and protect the widow and not take it that they are the owner of the family land. The widow takes over the management of the family land and the heir gets his allocation as one of the children.

It is an assumption that all girls will marry and not divorce and not the truth to act upon -

Even though culture assumes that all girls in families will marry, this assumption does not always come true and for no fault of the girl. It is therefore important that when land is being allocated to the boys, some land is left in the family pool in case your girls do not marry; the married girls divorce and return home or choose as widows to return home. As a male member of the family, your role is to see that boys do not abuse your sisters by making them pregnant and running away, and if she gets pregnant out of marriage, your role is to approach the biological father and his clan and ensure they take the best option of marriage or paying “ekingol” so that they can take the child as a member of their clans.

Conclusion

Customary land tenure system has survived for long because it is underpinned by important cultural values and principles stated above. The values ensured respect and protection for land rights of family members, especially for women and children. In turn, the values and principles ensured that families’ expansion and their legacies passed on to the future generation. The fact that there are many land conflicts in Teso today and mostly targeting women and children, makes one wonder if these values and principles are still being practiced. For those clan members who are practicing customary land tenure values and principles, we urge them to continue and for those who have become abusive of the rights of women and children, we urge you to remember that “your legacy is your family” and if you have abused family members land rights, what will happen to your family after you pass on?

This paper is written by Members of Teso Customary Land Rights Advocates (TECLARA) Interest Group listed below:

- 1) Iteso Cultural Union (ICU)
- 2) Kaberamaido District NGO Forum (KADINGOF)
- 3) Land and Equity Movement in Uganda (LEMU)
- 4) Soroti Catholic Diocese Justice and Peace Commission (SOCAJAPIC)
- 5) Soroti Catholic Diocese Development organization (SOCADIDO)
- 6) Teso-Karamoja peaceful Co-existence Initiative Programme (TEKAPIP)
- 7) Teso Religious Leaders Efforts for Peace and Reconciliation (TERELEPAR)
- 8) Teso Women Peace Activists (TEWPA)
- 9) Teso Initiative for Peace (TIP)
- 10) Teso Legal Aid Project (TLAP)
- 11) Teso War Victims and Cattle Rustling/Dept claimants' Association (TWECCA)
- 12) Uganda Land Alliance - Katakwi (ULA)
- 13) Teso Media Association (TMA)
- 14) Elders Forum for Peace and Development - Amuria (EFPDA)
- 15) Kolir Women Development Organization (KOWDO)
- 16) Uganda Law society (Legal Aid Project)
- 17) APOOLO NA ANGOR (ANA)
- 18) Action for Community Development (ACD)
- 19) Teso Karamoja Women Initiative for Peace (TEKWIP)



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