

# Treacherous Exploitation and Land grabbing is Sin against God.

This paper is written by the following institutions;

Lango Muslim District Council

Teso Religious Leaders Effort for Peace and Reconciliation

Pentecostal Assemblies of God

Land and Equity Movement in Uganda



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## 1. Background

Many people in Lango and Teso take it that land conflicts are rampant. For us who come face to face with land conflicts on a daily basis; conclude differently – that genuine land disputes are very few and when they occur, families and traditional institutions resolve them quickly and that what is happening in our society today is **crafty Boundary marks extension and Land grabbing which are equivalent to stealing ones property. Stealing is sin against God, the state laws and customs.** This position paper is written based on lessons we draw from two researches conducted by Land and Equity Movement (LEMU) on land rights of 512 and 208 Widows in Lango and Teso respectively and a land grabbing research conducted by Northern Uganda Land Platform in 2014.

**2. Purpose of this paper:** **1)** To highlight the problem of land grabbing and to voice Gods Words against these sin, and to call on land grabbers to have a change of heart and withdraw their claims to land they have grabbed from the most vulnerable people, especially women and children, **2)** To spell out clearly the long term negative impact of land rights abuses of the most vulnerable persons on families and society, **and 3)** To propose solutions to end land grabbing.

## 3. The situation of land grabbing within families and communities - our Learning and findings

Research<sup>1</sup> has shown that the category of people who are victims of land grabbing are women, especially widows, children, the elderly and the disabled while the land grabbers are predominantly men, especially brothers in law who grab land from the wives of their dead brothers; wealthy people, especially business people; those in formal employment; politically connected people and educated people. There

<sup>1</sup>Uprooting bad faith: The Quest for Appropriate Land Dispute Resolution in Northern Uganda, A publication of the **Northern Uganda Land Platform** With generous support from Trócaire, Oxfam GB, and Concern Worldwide, in October 2013

are four types of vulnerability that are exploited by a party to a land conflict who has more power: namely: **a)** physical weakness such as that of a widow immediately after the death of her husband<sup>2</sup>, a minor, a sick person, the elderly, a person with not many male relatives; **b)** Weakness of customary tenure – i.e. being based on oral transactions and not written **c)** Differences between state or customary land laws and choosing the law that allows a land grabber to grab land. An example is given below. **d)** Lastly, land grabbing is allowed to happen by some clans interpreting the customary laws in the Principles, Practices, Rights and Responsibilities (PPRR) strictly without the flexibility as a guideline to ensure justice is upheld. This paper will examine each of these vulnerabilities below:

### a) Exploiting physical /social weaknesses

- The exploitation of physical weakness is against all categories of women namely; widows, divorced, unmarried, separated or in cohabitation. This exploitation is also against children, especially orphans who are also minors and the disabled. Since they do not have many relatives in the areas, those who migrated long time ago and were given land as a gift by other clans and their main clans live in other parts of Lango and Teso such as the preachers of the gospel and faith-based institutions also suffer from the fact that they do not have many clan members to help them protect their land. Their land is therefore also being grabbed. Sadly and shamefully, the people who are expected by customs to protect them, i.e., strong men, are the very people who are now exploiting their weaknesses and vulnerabilities to grab their land.

### b) Exploiting weaknesses in customary tenure: Everyone knows that customary tenure is predominantly an oral system based on truth, good will; trust and protection of land rights of vulnerable

<sup>2</sup>Research on land rights of 208 widows in Teso in June 2016 found that for 85% of the widows conflict over their land started 6 months after the death of the husband and 43% of the aggressors are in laws.

people and land so that land stays in the families. And yet today, the land grabbing party to a conflict will demand of a weaker party to the conflict, which was deliberately initiated at an opportune time, produces written evidence such as land sales agreements, written evidence of land gifts given as far back as 60 years ago by parties long dead. Such conflicts usually do not start until the vulnerability of the weaker party has increased, i.e. such as the death of a husband, leaving a widow, vulnerable.

**c) Exploiting the differences between the state and customary land laws** – Even though Statelaw says that customary laws will apply to customary land unless it is discriminatory to women, children and the disabled, there are cases where both families owning land under customary tenure will choose to apply state laws instead of their customs which is Different to the state law. For example, under customary law, the land rights of a child born out of marriage comes from the family of the biological father if he claims the child to be his or from the family of the biological mother of the child if the biological father denies the child. It is now very common for the family of the mother to “quote” the Children’s Act (CAP 59) as giving sole responsibility of the child to the biological father and the family of the father to quote customs to avoid responsibility by saying they did not pay the penalty called **Ekingol** (in Ateso) and **Luk** (in Lango, Acholi and Kumam) to make him responsible for the child. The effect of these crafty choices by the two families is to grab land from both the child and the mother who then become landless, and clan less. The spirit with which these choices are made is one of greed and land grabbing and it is not made based on an important biblical, cultural and state principle of fairness and equality.

**d) Interpreting the PPRR strictly without flexibility.** In order to challenge the

untrue but very common statement that “customary tenure does not allow women to own land”, the traditional institutions in Lango, Teso, Kumam, Bunyoro and Alur wrote down their laws and called it Principles, Practices, Rights and Responsibilities (PPRR). Unfortunately, in some clans, the written customs are being applied strictly but only selectively – with only the “rights” sections applied and enforced but not the “clan responsibilities” sections applied. The concern for social justice also seems lost when some decisions on land rights are made. For example, a married and pregnant woman might have left the husband and returned home 60 years ago and living peacefully on land allocated to her and her child by her parents when she returned. But, the moment the parents who allocated the land die, the brothers then apply the customs which says married women and children born in marriage have land rights from the marital homes and fight her and the child to leave. They ignore other circumstances of the case and the other customs which say one can give land as a gift. For justice, they could have ruled that the girl and the child got a land gift from her parents. The brothers and the clans do not remember their responsibility to end marriage or to settle marital disputes. They forget that marriage and ending marriage is between two clans. They abandon the girl and the child to take care of themselves. Under clan responsibilities, they could have engaged the husband’s clan to end or save the marriage but they do not do this and wait for 60 years to evict their daughter and grandchild. In these cases, the brother’s interest and intention is to grab land from their sister and their nephew.

#### **4. Impact of Land grabbing on families and communities.**

The impact of land grabbing from women and children might appear on the surface to be

affecting only the victims but a deeper analysis shows that the impact of this will be on families and communities, as explained below:

**a) The disintegration of families and communities.**

The most common land disputes are inter- families and communities over family and community grazing land or wetlands. Conflicts have brought hatred amongst brothers and sisters and have torn many families and communities apart. When a widow is thrown off her land, her children will follow her and when they are old, the children are then also thrown off from the land of the maiden home of the widow. On return to the marital home, they might find their land is all sold or occupied by the very person that should have protected the land for the child. Some women and children are rejected by both maiden and marital families. What will such women and children do? Should we be surprised that cases of imprisonment and deaths resulting from Land conflicts were reported in the research by The Northern Uganda Land Platform of 2013 to be for (Lira, Gulu and Kitgum) between 51.5 – 65.5%? Some of these deaths are claimed to be resulting from witchcraft. The question to also ask is: Are the customs of Lango and Teso meant to exploit vulnerability or to protect land rights of people who are vulnerable? We know that customs have values of love, peace, harmony and inclusiveness and anything to the contrary is not customs. The disintegration of families also means that families and communities are reducing on their social capital that extended families provided in the past which are extremely important for support in education, sickness, disaster, famine and insurgency, and more so now that the cattle that provided for these needs were rustled and have never been replaced.

**b) The negative image of customary land tenure as an abusive system-** More than

90% of the people in Northern and Eastern Uganda own land under customary land tenure system. Customary tenure system is predominantly oral but it worked because it is based on respect, truth, trust and protection of land rights and land by the land managers who are the clan members. With the current land grabbing practices, the questions we ask are: with so much exploitation of women and children and of the tenure system currently going on, what image of the customary tenure system does the Government and other stakeholders have? Are the land grabbers concerned enough of the negative image their actions give the Government and other stakeholders on customary land tenure?; How can the government implement the 2013 National Land Policy to support customary land tenure system to exist as an equal to Freehold if the customary tenure system is abusive to women and children? Do the land grabbers understand the long term impact and damage of their actions in this regard? **We think not.**

**c) Land that is grabbed is sold without family and clan consents.**

- Most of the land grabbed seems to be sold immediately<sup>3</sup>. This has three impacts—**a)** it goes against the most important principle - that customary land is not for sale except under exceptional circumstances, and with consent from the family members and the clan<sup>4</sup>. Land must remain in the family for the future generation. If clans do not protect the land rights of women and children, this important principle cannot be met. **b)** Having land grabbed and then sold for no good reason is a clear sign that the clans are weak and unable to enforce their own laws. If the clans are too weak to protect the land rights of women and children, do they not risk the Uganda Government concluding that

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<sup>3</sup> Information from cases brought to NGOs such as LEMU.

<sup>4</sup> The principles, Practices, Rights and Responsibilities (PPRR) of Lango, Teso, Acholi, Kumam, Alur and Bunyoro.

clans should not be entrusted with the responsibility to be the first to hear and resolve land disputes as proposed by the National land policy of 2013? c) Selling land, from whichever family, reduces the land that families need for their livelihoods and endangers the future of the families and communities in Lango and Teso as well as that of Uganda as it is the vision of the Government that Ugandans prosper.

## **5. Proposed Solutions to Land Grabbing.**

### **Are the Legal and Social Punishments able to prevent and stop land grabbing?**

The normal recourse legally and socially available when one's land rights are abused is to go to either the state court or the clan forum for dispute resolution. Vulnerable people lack knowledge of the state land justice systems, have no funds, time and knowledge of the law and so research<sup>5</sup> shows that they prefer to seek justice in the clan system whose main function under customs is to protect, defend and restore relationships. Unfortunately, in some cases, the clans will side with the powerful person against the vulnerable person; sometimes the powerful party grabbing the land intimidates the clans as well or ignores the clans and takes the case to another forum that the vulnerable person cannot access e.g. magistrate's courts, where the courts do not know about the customs or intimidate them by saying customary laws (PPRR) books are not laws for them to use in the courts of law. The case might need the testimony from the clans who are already angered by the fact that the case did not pass via them. Sometimes the powerful party co-opts the power of the state by reporting to the Police that a "crime" has been committed by the vulnerable party and the Police may then arrest the vulnerable person on the words of the powerful party, pending investigation. Sometimes the accusations levied against the

vulnerable person cause them to be isolated from their society. An accusation such as one is a witch and used witchcraft to cause the death of a person can rally the family members, neighbors against a vulnerable person. The fact that witchcraft is difficult to prove or disprove only makes the situation worse for the vulnerable person. So, with the social complexity that a vulnerable person has to get land justice, the common "choice" is often for one to give up the land or to compromise with the land grabber by accepting to lose some of her land. This paper explores from where the change for the better of the security of a vulnerable person should come

#### **a) Change of heart of the men in families**

– Land grabbing will stop only if there is a change of heart by the male adult members of the families such as brothers in laws, brothers, fathers, fathers in law, heirs, realize that by preying on the physical weaknesses of the women and children in their families, they are weakening the futures of their families and communities in the long run and that they actually hurt themselves more. Therefore the men should use their strength for what customs meant them to be used: to protect the land rights of women and children and to protect land from irresponsible sales. This is because the values of our customs are the same as the values of God and the State. Therefore a society that preys on the weak has no peace, no development and cannot sustain itself. Instead, in the long run, they will destroy themselves.

#### **b) Harmonisation of state and customary systems**

- The government, especially the Judiciary (Judges, Magistrates' and Police) and lawyers need to recognize, realize and respect that customary land tenure system is different from state law and not necessarily discriminatory, and is the system that the majority of people know and practice. They need to work

<sup>5</sup> Uprooting bad faith: The Quest for Appropriate Land Dispute Resolution in Northern Uganda, A publication of the **Northern Uganda Land Platform** With generous support from Trócaire, Oxfam GB, and Concern Worldwide, in October 2013.

together and in harmony with traditional institutions. This is why customary land tenure is recognized by the law as a different tenure system. The two systems need to agree on a task force to share the differences such as exists and harmonise them so as to avoid selfish deliberate choices and distortions of laws as is described about. In the meantime clans and families need to ask themselves why they deliberately choose to apply state laws instead of their customs, even when these choices mean their children and girls become landless and clanless? The families and clans should also remember that customary *tenure is about people, humanity and fairness; it has never been about land*<sup>6</sup>. Decisions by clans on land are reflecting greed for land rather than the wellbeing of the widows and the children. **Justice is about people and what is right.**

- c) **Women and children – do not give up your land rights easily**- It is a common practice for victims of land grabbing to give up and lose their land; indeed this is the purpose of the land grabber – to demonstrate enough power – even when this power is sometimes a crime such as assault, beating, destruction of property, blocking pathways so that the victim may give up. The paper is recommending a different strategy – for the vulnerable people who are victims of land grabbing not to give up but to fight for your land by reporting the case to the clans, to the Police, to other stakeholders and ensuring you request and keep records of all the documents from these processes. The managers of customary land - the clans and the Police are encouraged to analyse land conflicts and identify land grabbing attempts and give the victims the support. The Police have a law in the Land Act that allows them to arrest people taking land that does not belong to them. This is S.92 of the Land Act. They could assist the victims by investigating the case and

warn parties using this law.

- d) **Turning back to Religious values and the principles of justice and truth** as the only other way we can improve the situation of land conflicts and land grabbing in our families and communities. Even though many people believe that deaths are occurring because of witchcraft, as people who believe in God, shouldn't the people of Lango and Teso not first ask themselves whether or not they are under God's Curse because of grabbing land from widows and orphans and removing or moving boundaries? Could the deaths claimed to be caused by witchcraft actually be God's curse because of grabbing land from widows and orphans and removing and changing land boundaries? The following scriptures state very clearly that God protects widows and orphans and those who abuse their land rights will be cursed:

- **Exodus 22: 22-24** states: *“You must never do anything bad to women whose husbands are dead or to orphans. If you do anything wrong to these widows or orphans, I will know it. I will hear about their suffering. And I will be very angry. I will kill you with a sword. Then your wives will become widows and your children will become orphans. Similarly,*
- **Deuteronomy 19:14**; states: – *“You must not move the stones that mark your neighbour's property. People put them there in the past to mark each person's property. These stones mark the land that the Lord your God gave you. Deuteronomy 27:17 says, “Cursed is the man who moves his neighbors boundary stone; and all the people will answer Amen”. Proverbs 22: 28, further says, “never move an old boundary mark that your ancestors established”. Proverbs 23:10 &11; says, “Do not move an ancient boundary stone or encroach on the fields of the fatherless, for their Defender is strong, he will take up their case against you”.*

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<sup>6</sup> Wise words of Mr. Yolamu Nsamba, Retired Personal Private Secretary (PPS) to the King of Bunyoro,

**Proverbs 22:22-23** states that “God says *Do not take advantage of the poor just because you can; don’t take advantage of those who stand helpless in court. The Lord will argue their case for them and threaten the life of anyone who threatens theirs*”. **Proverbs 15:25**; says “*The Lord will tear down the proud man’s house, but he keeps the widows boundary intact*”. **Proverbs 28:13 says**: “*No one who conceals his sins will prosper; whoever confesses and renounces them will find mercy.*”

- **Psalm 24:1 says** “*The earth is the LORD’s, and all it contains, the world and those who dwell in it.*”, and **Psalm 33:5 says**: “*He loves righteousness and justice; the earth is full of the loving kindness of the Lord.*”
- **Corinthians 10:26** - “*For the earth is the Lord’s and everything it contains.*”
- **Leviticus 25:34** - “*But pasture fields of their cities shall not be sold, for that is their perpetual possession.*”
- In **1Kings 21:1-19**, God punished King Ahab and his wife Jezebel for killing Naboth, after Naboth refused to give king Ahab a piece of land (a garden).

**The Holy Bible continues with words that promote peace and harmony and justice:**

- **Proverbs 3:31 says**: “*Do not envy the man of violence, never model your conduct on his.*”
- **Psalm 34:1114 says**: “*Turn away from evil and do good; seek peace and pursue it.*”
- **Micah 6:8 says** “*You have already been told what is right and what Yahweh wants of you. Only this, to do what is right, to love loyalty and to walk humbly with your God.*”

- **Matthew 5:23** says – *if you have dispute with your relative, go and get forgiveness first before coming to Church.*”;
- **Matthew 5:9** says “*Great blessings belong to those who work to bring peace. God will call them his sons and daughters*”

**Similarly, the Quran** has the following to say about the people who sin and the punishment given to them:

- **Holy Quran, Surah 16: An Nahl: 90 says** - “*Indeed, Allah orders justice and good conduct and giving to relatives and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded.*”
- **Sahih al-Bukhari hadith 6114, alt. Vol. 8, Book 73, hadith 135 says** - *The Prophet Mohamed (PBUH) also said “The strong man is not the one who can use the force of physical strength, but the one who controls his anger.”*
- **Holy Quran, Surah 29: al-Ankabut 69 says** - “*And as for those who strive in our path—we will surely guide them in our ways. And indeed, Allah is with those who are of service to others*
- **Holy Quran, Surah 4:An –Nisaa’: 135 says:-** “*Oh ye who believe! Stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor: for Allah can best protect both. Follow not the lusts (of your hearts), lest ye swerve, and if ye distort (justice) or decline to do justice, verily Allah is well-acquainted with all that ye do.*”

## 6. Conclusion.

The religious institutions in Lango and Teso and LEMU call on all the people of Lango and Teso to reflect on their abusive actions against the vulnerable people, especially widows and orphans and have a change of heart as well as reflect if their actions of land grabbing from women and children is not SIN that has **put them under God's curse and judgment or punishment and if God's curse is now mistaken by them to be witchcraft. Land rights of Women and children and of other vulnerable people in our families** are supposed to be protected by the male family members. The authors of this paper call on the people of Lango and Teso who have used their powers wrongly to grab land from women and children to have a change of heart and to repent and turn back to God in accordance to God's Word.

*If reading this paper leads to your change of heart and leads to you withdrawing your claim to land that you know does not belong to you, or to stop other family members and neighbours from taking land from a woman or child or other vulnerable person, we thank you in God's name and ask God to bless you and your family. We also ask that you kindly inform your Imam, Pastor, Priest or Land and Equity Movement in Uganda - (LEMU) of your change of heart and action in the following addresses:*

- **Lango Muslim District Council – Plot 49/51, Obote Avenue, P.O Box 155 Lira, Lira Municipality: [langislam@gmail.com](mailto:langislam@gmail.com)**
- **Pentecostal Assemblies of God, West Lango Pastorate, Akoko Road, Apac Municipality, P O Box 70 Apac; [richardadupa@yahoo.com](mailto:richardadupa@yahoo.com)**
- **LEMU Soroti office – Plot 1 Etyeku Road, Soroti Municipality, off Mbale Road, Pamba, email: [soroti@land-in-uganda.org](mailto:soroti@land-in-uganda.org)**
- **LEMU Apac office – Plot 1 Church Road, Biashara Cell, Western Ward, email: [apac@land-in-uganda.org](mailto:apac@land-in-uganda.org)**
- **LEMU Lira office – Plot 50 Ogwal Ajungu Road, Adyel Division, Lira Municipality, P.O Box 1066, Lira: [susaneirau@land-in-uganda.org](mailto:susaneirau@land-in-uganda.org)**
- **LEMU Kampala, Plot 4, Close 13-8<sup>th</sup> Street, Industrial Area, Namwongo Road, email: [judyadoko@land-in-uganda.org](mailto:judyadoko@land-in-uganda.org) Address: LEMU, P. O. Box 23722, Kampala**



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