

# The Tragedy of the owners of the commons – Lessons learnt in Karamoja by LEMU.

## 1. Introduction:

Land in Uganda has seen different management and legal regimes – from the colonial days when land was declared CROWN land vested in the Queen of England with government giving only rights in Mailo and Freehold, to Independence when Leasehold land rights were also introduced. It is during the colonial and independence period that Karamoja lost most of its land to the State with 40.8% of the land gazetted as government land as of 2010. By 1995 when the Uganda Constitution recognized customary land tenure system, the predominant system in Karamoja, and vested land in citizens, Karamoja had already lost almost half of the land. Today, besides loss of almost half of its land, Karamoja has another challenge. Out of the total land area of 27,700 square kilometres, 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.<sup>1</sup>

It is against this background that Land and Equity Movement in Uganda –LEMU, supported by DanChurchAID and other stakeholders implemented a programme of *“Land security for improved livelihoods in Moroto, Nakapiripirit, Napak and Amudat Districts in Karamoja.”*

**a)** to support communities that were supported by the Uganda Land Alliance (ULA) to form Communal Land Association (CLA) and **b)** to strengthen the capacity of communities to articulate and utilize the available formal legal and institutional framework and traditional provisions to protect their land rights, and **c)** to strengthen the capacity of the legal and moral duty bearers to effectively manage land and protect land rights of vulnerable people.

In one year, LEMU met with 38 Communal Land Associations (CLAs) members who had been facilitated by Uganda Land Alliance (ULA); held workshops with 144 state land administrators; met with 25 male and 1 female members of faith based institutions; met with 167 (19 women, 148 Men) members of the council of elders of Pian, Bokora, Matheniko and Pokot. The primary purpose of these meetings was to find out how far the CLAs formed had progressed, document the rules governing grazing land; the names and leaders of clans and their geographical locations, their totems, the shrines the elders go to; the roles of elders in land management and traditional governance structure in Karamoja. The information gathered to inform the findings was validated in two big meetings of 150 people (27 women, 123 men) for the Karamojong and Pokot who were met before to give information. The findings and lessons learnt from these meetings is the primary reason for writing this information leaflet so as to share with key stakeholders the challenges in protecting communal land rights and to

<sup>1</sup> Rugadya, Tenure in Mystery, 2012.

generate consensus in appropriate solutions and actions.

## 2. Findings of our work in Karamoja:

- 1) 1) Karamoja has six main clans namely: *Ngikaala*, *Ngitaruk*, *Ngimariamong*, *Ngigetei* and *Ngimoru* and *Ngidooi* in the districts of Napak, Moroto and Nakapiripirit. **These 6 main clans have 47 Sub clans. Amudat district is said to have 21 main clans and 88 sub clans.**
- 2) The traditional governance structure of the Karimojong is more to do with clusters of people, living together and who are concerned with the security of their animals and the people and not so much of land. Land is taken for granted to always be there. Land administration and dispute resolution are handled by the Ekokwe or Akiriket, an assembly of initiated male elders. These elders are well known and greatly respected in their areas and follow clear procedures in their administration and dispute settlement mechanism, which also provides for appeals; but their names and structures are not known to outsiders. The ultimate authority in Karamoja is said to be the council of representatives from the territories (the Akiriket and Ekitela).
- 3) Knowing who an elder is has been equally difficult. There seems to be three categories of elders namely: **a)** those who were named to link communities to the district councils; **b)** those who were facilitated by the Ministry of Gender and

are now organized under Karamoja Elders Forum (an NGO), and **c)** The traditional elders who are known only when there is a function such as “akiriket”. The one who was the first to be initiated is the elder who leads. Further work to understand the names of elders and the structure is therefore still necessary.

- 4) The communities met informed us that a lot of their land is being titled by individuals. There is no information on this. It is also not clear if people understand the difference between land that was taken by government and gazetted before 1995 and land that is being titled after 1995 when land was now vested in citizens.

All communities met were unhappy with the influx of people involved in mining but coming from other districts. It is said that the only communal land association formed that is now receiving 3% royalty are mostly people who were not all originally from Karamoja.

- 5) The Karimojong say they know their boundaries and do not need to mark them with trees. And yet, leaving the land unmarked enforces the belief that the land is “un owned” and risks being given away by the District Land Board to individuals who will then title the communal land as their individually owned land. The land is also large and marking it with traditional trees would need major organization and commitment by all people. Moroto district leaders also advised against boundary

tree marking. Some work to map grazing areas but not borders with GPS has been done by Karamoja Development Forum with support from GIZ and LEMU who is also a member of this interest group could tap into this initiative.

### **3. Implication of our findings on protection of land rights in Karamoja and our recommendations.**

- 1) Although the Land Act provides for means of protecting communal land by communal land owners by first registering as a legal entity and then applying for either a certificate or Title, this protection will be very difficult because: **1)** there is risk of entering the names of those who are not the traditional leaders in the certificates/titles because traditional structure is complex and hard to understand; **2)** Land owners each own or have access to two types of land – one for rainy season and one with bigger number of people for the dry seasons. Some of these lands fall outside the geographic boundaries of districts and Karamoja. Any issuance of certificates or titles would first need to understand the movement pattern of the land owners; **3)** the law on forming communal land associations, (CLAs), as it stands today is too risky because it allows the names of individuals to be entered into the certificate or title and as such the individuals could easily sell the land. The implementation of the Land Act to issue CLAs in its current form is therefore not recommended. A possible alternative is to register the community land owners under a different law as Community Based Organisations (CBOs.)
- 2) Planting boundary trees and drawing sketch maps of the land - An alternative and more social ways of protecting land is to plant boundary trees, draw sketch maps of the land and document the land owners. This option is also difficult because the land is large and marking it with traditional trees would need major organization and commitment by all people. The risks therefore remains in that leaving the land unmarked enforces the belief that the land in Karamoja is “un owned” and can be given away by the District Land Board to individuals who will then title the land. An alternative to the Karamojong marking their land is therefore to have the gazzetted areas marked by the Authorities such as Uganda Wildlife Authority, National Forest Authority, etc. A third alternative is also for government not to allow any individual titles to be issued in Karamoja, the same way that the President ordered for Buliisa District.
- 3) There is need to understand the governance structure and the names of the traditional leaders, who wield respect so that any land rights protection work is with their knowledge, consent and participation.
- 4) If this is that some of the miners come from outside Karamoja and just settle to start mining, it would imply that anyone can own land in Karamoja by simply entering and settling. This is against the legal ways to acquire land in Uganda – by birth, by gift, by purchase and government allocation (before 1995)

and by compulsory acquisition under Article 26 of the Constitution. With a lot of land in Karamoja already gazetted as government land and the remaining land used by miners, the people of Karamoja need to engage with mining issues by first reading and understating mining policy and the related laws. This is so as to ensure it is the owners of land who get the 3% royalty

- 5) The rules for governing land that have been documented need to be discussed and passed as District ordinances so that the process of selling land is governed by law. Any titles given without community consent after 1995 could also be challenged in court.

#### 4. Way Forward:

- 1) Meet all the stakeholders (elders, district councils, the media, Members of Parliament, religious leaders, civil society organizations, donors, National Forest Authority (NFA), Uganda Wildlife Authority (UWA), Ministries of Lands, Housing and Urban Development and Energy and Minerals Development and share the findings with them in order to discuss, brainstorm and as much as possible agree the best ways to protect the communal land rights of the people of Karamoja.

- 2) As much as possible, agree with all stakeholders on areas of implementation and lobby message and implement these with one voice.

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