

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 gazzeted 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 kilometers, 6,876.92 square kilometers (24.8% of Karamoja) is covered by Exclusive Mineral Exploration Licenses and Location Licenses. A further 20 square kilometers is covered by the only mining lease in the whole of Karamoja, given to Tororo Cement Ltd for limestone mining in Moroto District.¹

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” to a) support communities that were supported by the Uganda Land Alliance (ULA) form Communal Land Association (CLA) and b) 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) 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 Community Land Associations (CLAs) members who had been facilitated by 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 and registered their Associations had progressed, the rules governing grazing land; the names and leaders of clans and their geographical locations, their totems, the shrines the elders go to sacrifice, the roles of elders in land management and traditional governance structure and system in Karamoja. The information gathered on names of clans and their leaders, rules and structure was validated in two big meetings for the Karamojong and Pokot. The validation meeting brought together 159 people (27 women, 123 men) who were

¹ Rugadya, Tenure in Mystery, 2012.

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 community land rights and to generate consensus in appropriate solutions and actions.

2. Findings of our work in Karamoja:

Karamoja has six main clans namely: Ngikaala, Ngitaruk, Ngimariamong, Ngigetei and Ngimoru and 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.

- i) The traditional governance structure of the Karimojong seems very complex. The governance 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 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 others. The ultimate authority in Karamoja is the council of representatives from the ten territories (the Akiriket and Ekitela). 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); c) The traditional elders who are known only when there is a function such as "akiriket" or parliament. The one who was the first to be initiated is the elder who leads. They still wield great respect. Further work to understand the names of elders and the structure is therefore necessary.
- ii) All 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 gazetted before 1995 and land that is being titled after 1998 when land was vested in citizens.
- iii) All communities met were unhappy with the influx of people from other districts on their land to mine. It is said that the only community land association formed that is now receiving 3% royalty are people who were not originally from Karamoja.¹ If this is true, it would imply that anyone can own land in Karamoja by simply entering and settling. This is not the case in other parts of the country. 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.

3. LEMU's opinion and position.

Why protecting community land under the Land Act is risky.

- Although the Land Act of 1998 provides for means of protecting community land by community land owners by first registering as a legal entity and then applying for either a certificate or Title, protecting community land under the Land Act will be very difficult because of the following reasons- **1)** if the traditional structure is complex and hard to understand, the names of the traditional leaders who are respected are not easily known and yet their names is what should be entered in the registration Certificate as the owners of the land on behalf of the communities; **2)** There has to be two registrations and certificates/titles – one for the land the communities live during the rainy season and one with bigger land and bigger number of people who migrate to graze during the dry seasons. Some of these lands fall outside the geographic boundaries of districts and of Karamoja. Facilitating a large number of communities to form associations, elect leaders, register and agree rules to govern their land is very difficult; **3)** The law on CLA as it stands now is too risky because it vests land management in 3 to 9 individuals who could easily sell the land.
- iv) Why it is difficult to protect land under traditional means -Traditional ways of protecting land could be simply in the form of planting boundary trees, listing names of owns, drawing sketch maps and marking the size of the land. However, this approach might not work because the Karimojong say they know their boundaries and do not need to mark them with trees. Moroto district leaders also advised against boundary tree marking. Some work to mark boundaries with GPS has been done by Karamoja Development Forum and GIZ and LEMU could tap into this initiative. An alternative is to invest in marking boundaries the way the Road Authority has done on roads. And yet, leaving the land unmarked enforces the belief that the land is "un owned" and can be given away by the District Land Board as land privately owned.
- iv) the land is large and marking it with traditional trees would need major organization and commitment by all people. Further difficult arise from the fact that the gazetted lands are not marked on the ground for the communities to exclude the gazetted land.

LEMU's alternative recommendations on ways to protect land in Karamoja

1. With a lot of land in Karamoja gazetted as government land and the remaining land used by miners, the project needs 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.
2. The project also needs to engage with the statutory bodies managing gazetted land so as to understand what is due to the communities and what access rights, if any they still have. The statutory bodies should also be requested to mark the boundaries of their land, together with communities, with the stones such as UNLA used to mark road reserves.

3. To protect the land from being titled by individuals, we propose that the rules that have been documented by this programme is passed as an ordinance so that the process of selling land is governed by the law and so that any individual title given after 1995 can be challenged in court.
4. Understand governance structure and names of elders and council of elders and document this.
5. Ask the President to suspend the issuing of any private titles in Karamoja as he did for Buliisa. It would also be important to find out if the claims made by communities that many titles are given to individuals over community land is true or false.
6. Meet the following stakeholders to share the findings; discuss the best way to protect land in Karamoja; share the findings and share LEMU's alternative recommendations in order to build a consensus. The stakeholders are:
 - Members of Parliament from Karamoja
 - The district councils and propose that the rules governing land in Karamoja be passed as Ordinance.
 - The media in Karamoja, NGOs and faith based institutions.
 - The Ministry of Lands, Housing and Urban Development (MLHUD).
 - The council of elders and their communities

Information leaflet by

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LEMU - For discussion with various stakeholders
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(Endnotes)

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