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## **Customary Land tenure Management and Land Rights' Principals and Practices No.1 of 2008**

Principles and Practices to provide for rights over  
customary land, procedure for sale of land and to  
provide for other land-related and land incidental  
matters in Teso

**June, 2008**



**Land and  
Equity Movement  
in Uganda (LEMU)**

*Making land work for us all*

## Part 1 - Interpretation:

### SECTION 1

In these Principles and Practices, unless the context otherwise requires

- a) "A Clan" is "Ateker" recognised in Teso and registered with the office of Iteso Cultural Union (ICU).
- b) "An heir" is a person appointed by the clan members after the death and burial of his/her head of family to take over management of the "estate of the deceased"
- c) "Estate of the deceased" is that land that was left in the pool undivided amongst individual members of the family and land that had remained for personal use of the deceased.
- d) "Bad reasons" for selling land may include selling land for liquor, for touring places, purchasing luxurious goods such as radio cassettes, for marrying another wife after the first one when not yet divorced and for buying fancy clothes.
- e) "Customary land" means inherited land in Teso region that is not registered with the Registration of Titles Act or owned by or vested in the local or central government of Uganda.
- f) "Common Property" is property where land rights are with clan(s) members as opposed to rights with family or individual, for example, grazing and hunting land.
- g) "Ekingol" is the penalty paid to the clan of a daughter by the man responsible for impregnating her so that the child born may take on the lineage of the biological father and not that of the mother.
- h) "Good reason" for selling land may include selling land for fees for medical treatment, school fees, dowry, payment in execution of a court order and for viable economic business.
- i) "Head of the family" includes an heir, a married man whose father has allocated land for use and management, a widow, an orphan who is the oldest member of that family, a single and unmarried woman born in the same family and a divorced woman who returns to her birth place.
- j) "important information concerning land sale" may include why s/he wants to sell land, how much land s/he wants to sell and how much the family will remain with, the number of dependants on the land, if s/he has sold land before and how many times s/he has sold land before and how much land s/he has sold in total and any other important and revealing information.

- k) Iteso Cultural Union is a traditional institution as described in the 1995 Constitution, as amended under which His Highness; The Emorimor Papa Iteso is elected.
- l) "Recorder" is as per the 1998 Land Act, as amended.
- m) "Selling" land includes renting, mortgaging, gifting of land.
- n) "Teso region" means the districts of Soroti, Kaberamaido, Bukedea, Kumi, Katakwi, Amuria, or any other districts or parts of the country curved out of and/or incorporated within the existing Teso Region.
- o) "The clan" of a family is the clan of the head of the family household.
- p) LC is the local council established by the Local Government Act and includes its replacement or equivalent.
- q) "Marriage" is defined as that marriage or union of man and woman made under the laws of Uganda.
- r) "Orphaned minor" is a child whose parents are dead and is under the age of 18 years.
- s) "Clan Committees" are Village Clan Committees, Parish Clan Committees, Sub County Clan Committees, District Clan Committees, ICU Council established under these Principles and Practices following rules of office for elections, duration as established by the constitution installing His Highness, The Emorimor Papa Iteso.

## Part 2 - Principles and Practices of customary tenure.

### SECTION 2:

Customary land in Teso region is vested in the respective clans of Teso to hold and manage in trust for the people of Teso.

- a) Customary land in Teso is not for sale by any individual or head of family entrusted with the management of land for the benefit of members of family and future generation.
- b) Land can only be sold if it is for "good reason" and with the permission of the majority of all the family members, whether present or

absent, permission of the clan committee and consent of the wife or wives.

- c) The clan committee must not allow the sale of land for “bad reasons”.
- d) The land where the head of family is an orphaned minor must not be sold without the permission of the parish clan committee.
- e) Consent will be assumed not to have been given if any of the wife or wives with rights to the land refuses to grant consent and if the majority of the adult children refuse to grant consent.
- f) Consent will be assumed not to have been given if the majority of the members attending the parish clan committee meeting vote against the sale of land of an orphaned minor.

### **Part 3 - Rights to land.**

#### **SECTION 3:**

All persons born to or married into a family except children born to a married female member of a family have rights to customary land.

#### **Right of heads of families.**

- a) Heads of families hold land in trust for the family and have the rights to allocate land to members of their family and to protect land rights of women and children from trespassers.

#### **Rights of an heir.**

- b) All heirs to family land have the rights and responsibilities of heads of families over their own allocated land, over the land of the previous deceased head of family, and over land left unallocated in the pool for the use of the whole family.

#### **Rights of unmarried boys and girls.**

- c) All children, boys and girls born to a family have the right to inherit their fathers land and right to use land allocated them.
- d) Children born in marriage to a daughter married in another clan have no right to inherit land but maybe allocated land to use.
- e) Children born by daughters out of marriage have full rights to land same as children born in the family, unless their biological fathers

pay penalty or Ekingol.

- f) All children have the right to agree or refuse to the sale of land managed by heads of their families.
- g) Daughters have full rights to use land same as boys until they marry. They retain the right to give consent should the head of the family want to sell the land.
- h) Divorced daughters of a family who return to their fathers' homes have full rights, the same as other male and female children. Their children may have the use of land but not own it.
- i) On marrying, all boys become heads of their families with the right to allocate land to their families, protect women and children's land rights and to protect land from trespassers.
- j) Adult boys and adult girls who do not marry remain with the right only to use land within the family unless they have children in which case they then become heads of their families.

#### **Rights of widows**

- k) A widow has the right to choose whether or not to take a relative of her deceased husband as her partner (or to be inherited) or to leave the family and return to her father's home.
- l) All widows whether living alone or with a male partner from within the clan become heads of their families upon the death of their husbands with full rights to manage her land and the land of her children who are minors
- m) The clan of the deceased husband shall appoint a man to protect the land rights of a widow from trespassers but the land rights of the widow shall not pass onto the officer appointed to protect the widow.
- n) A widow who remarries into another clan loses her right as head of family in the family of her deceased husband and this right passes to the heir of the family as appointed by the clan. This right may be regained on return.

#### **Right of an orphaned minor.**

- o) An orphan has the right to be head of family. The parish clan committee must ensure that the land of orphans is not grabbed by others.

## Part 4 - Land Management.

### SECTION 4:

#### (1) The Clan.

- a) The responsibility to elect an heir to a deceased head of family is that of the clan from which the deceased head of family belongs if the deceased did not name an heir.
- b) Upon the death and burial of a head of family, the clan must meet to elect or confirm an heir to replace the deceased as heir and head of the family and to appoint the protector of the widow.
- c) Minutes of the meeting in which an heir and widow's protector are elected must be written, with a list of all the names of people who attended and a site sketch of the land the deceased was managing drawn and filed with the parish clan committee and with the Minister for Lands in ICU council.
- d) The heir may use the minutes of the meeting electing him in his application for letters of administration for managing the estate of the deceased.

#### (2) Village Clan Committees.

- a) There shall be a committee to be known as Village clan committee.
- b) The committee shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- c) The committee shall consist of 9 people with the positions of chairperson and vice chairperson held by a woman and a man. Other posts shall be for secretary, treasurer, youth, disabled person, security and two female members.
- d) Members of the clan committee will be elected from all the members of the same clan with permanent homes in the village.
- e) If the numbers of members of a clan are too few for election, they may choose, as a clan, in a meeting and a decision in writing, to belong to one village clan committee of their choice.
- f) The procedure, tenure of office and qualification for election are as per the

constitution of the Iteso Cultural Union.

#### (3) Functions of the Village Clan Committees.

The functions of the Village clan committee shall be to:

- a) Identify, protect, hold and manage grazing lands, wetlands, picnic sites, recreation sites, hunting lands, woodlands and other fragile ecosystem for the clan.
- b) Give consent to family households to sell land, following procedure laid down in these Principles and Practices.
- c) Refer any appeals against the decisions on land sales of a family to the parish clan committee.
- d) Refer applications for land sales by minors to the parish clan committee.
- e) Ensure and run awareness programmes on the dangers of landlessness to discourage land sales.
- f) Register the names of the heirs and heads of families in their village.
- g) Protect the land of orphaned minor from trespassers and would be land grabbers.
- h) Procure certificates of customary ownership for grazing lands, wetlands, picnic sites, recreation sites, traditional sites for ceremonies, hunting lands, woodlands and other' fragile ecosystem for the clan from the District land Board to protect it from outside trespassers on behalf of the owners in the clans.
- i) Refer any cases related to land sales and land conflict that they are not able to solve to the Parish clan committee.
- j) Ensure that communities are informed of policies and laws on all lands vested in government of Uganda in trust for the people, such as wetlands, forests, etc.
- k) Keep records of all lands in the village and protect and inspect wetlands, road reserves, forests, etc. for public good.
- l) Promote the planting of Ejumula/Eligoi boundary tree and drawing of site sketch before boundary conflict arise.
- m) Determine and mediate on land cases from customary land as authorised by the 1998 land Act, as amended.

#### (4) Meetings.

- a) The chairperson shall preside

at all meetings of the Village clan committee and shall, in addition to his or her deliberative vote, have a casting vote.

- b) Where the chairperson is absent, the vice chairperson shall preside at the meeting and shall, in addition to his or her deliberative vote, have a casting vote.
- c) Where both the chairperson and vice chairperson are not present, those in attendance will elect a chairperson from amongst themselves.
- d) The quorum for meeting of the village clan committee is 5 and shall be composed of the chairperson, vice chairperson, disabled person, a woman and secretary, unless it is for mediation in which case the quorum will be 5 people chosen by the parties to the land conflict.

#### **(5) Parish Clan Committees.**

- g) There shall be a committee to be known as parish clan committee
- h) The committee shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- i) The committee shall consist of 9 people with the positions of chairperson and vice chairperson held by a woman and a man. Other posts shall be for secretary, treasurer, youth, disabled person, security and two female members
- j) Members of the parish clan committees will be elected from all the Village clan Committees in the parish.
- k) The procedure, tenure of office and qualification for election are as per the constitution of the Iteso Cultural Union.

#### **(6) Functions of the Parish Clan Committees.**

The functions of the parish clan committees shall be to:

- n) Identify, protect, hold and manage grazing lands, wetlands, picnic sites, recreation sites, hunting lands, woodlands and other fragile ecosystem that is in more than a village.
- o) Hear appeals on decisions on land sales and land conflict from Village clan

committee.

- p) Refer cases related to land sales and land conflict that they are not able to solve the Sub County Clan Committee.
- q) Ensure that communities and village clan committees are informed of policies and laws on all lands vested in government of Uganda in trust for the people, laws such as on wetlands, forests, wildlife and environment.
- r) Keep records of all lands, land sales and land conflict in the parish.
- s) Protect and inspect wetlands, road reserves, forests, etc. for public good.

#### **(7) Meetings.**

- e) The chairperson shall preside at all meetings of the parish clan committee and shall, in addition to his or her deliberative vote, have a casting vote.
- f) Where the chairperson is absent, the vice chairperson shall preside at the meeting and shall, in addition to his or her deliberative vote, have a casting vote
- g) Where both the chairperson and vice chairperson are not present, those in attendance will elect a chairperson from amongst themselves.
- h) The quorum for meeting of the parish clan committee is 5 and shall be composed of the chairperson, vice chairperson, disabled person, a woman and secretary, unless it is for mediation in which case the quorum will be 5 people chosen by the parties to the land conflict.

#### **(8) Sub County Clan Committee.**

- a) There shall be a committee to be known as Sub County clan committee
- b) The Sub County committee shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- c) The committee shall consist of 9 people with the positions of chairperson and vice chairperson held by a woman and a man. Other posts shall be for secretary, treasurer, youth, disabled person, security and two female members
- d) Members of the Sub county clan committees will be elected from the elected parish clan committees.

- e) The procedure, tenure of office and qualification for election are as per the constitution of the Iteso Cultural Union.

**(9) The functions of the Sub County clan committees shall be to:**

The functions of the Sub County clan committees shall be to:

- a) Identify, protect, hold and manage grazing lands, wetlands, picnic sites, recreation sites, hunting lands, woodlands and other fragile ecosystem that is in more than one parish.
- b) Hear appeals on decisions on land sales and land conflict from parish clan committee.
- c) Refer any land sales related and land conflict cases that they are not able to solve to the District Clan Committee.
- d) Ensure that communities and Parish clan committees are informed of policies and laws on all lands vested in government of Uganda in trust for the people, such as wetlands, forests, etc.
- e) Keep records of all lands, land sales and land conflict in the Sub County. f) Protect and inspect wetlands, road reserves, forests, wildlife, environment for public good.

**(10) Meetings.**

- a) The chairperson shall preside at all meetings of the committee and shall, in addition to his or her deliberative vote, have a casting vote.
- b) Where the chairperson is absent, the vice chairperson shall preside at the meeting and shall, in addition to his or her deliberative vote, have a casting vote.
- c) Where both the chairperson and vice chairperson are not present, those in attendance will elect a chairperson from amongst them.
- d) The quorum for meeting of the sub county clan committee is 5 and shall be composed of the chairperson, vice chairperson, disabled person, a woman and secretary, unless it is for mediation in which case the quorum will be 5 people chosen by the parties to the land conflict.

**(11). District Clan Committees.**

- a) There shall be a committee to be known as District Clan Committee
- b) The district clan committee shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- c) The committee shall consist of 9 people with the positions of chairperson and vice chairperson held by a woman and a man. Other posts shall be for secretary, treasurer, youth, disabled person, security and two female members.
- d) Members of the District clan committees will be elected from the elected sub county clan committees.
- e) The procedure, tenure of office and qualification for election are as per the constitution of the Iteso Cultural Union.

**(12) Functions of the District clan committees.**

The functions of the District clan committees shall be to:

- g) Identify, protect, hold and manage grazing lands, wetlands, picnic sites, recreation sites, hunting lands, woodlands and other fragile ecosystem that is in more than one sub county.
- h) Hear land sales and land conflict related appeals referred from the Sub County clan committees.
- i) Refer land sales and land conflict related cases which they are not able to solve to Iteso Cultural Union Council.
- j) Ensure that communities and Sub County clan committees are informed of policies and laws on all lands vested in government of Uganda in trust for the people, such as wetlands, forests, etc.
- k) Keep records of all lands, land sales and land conflict in the District l) Protect and inspect wetlands, road reserves, forests, environment for public good.

**(12) Meetings.**

- a) The chairperson shall preside at all meetings of the committee and shall, in addition to his or her deliberative vote, have a casting vote.
- b) Where the chairperson is absent, the vice chairperson shall preside at the

meeting and shall, in addition to his or her deliberative vote, have a casting vote.

- c) Where both the chairperson and vice chairperson are not present, those in attendance will elect a chairperson from amongst them.
- d) The quorum for meeting of the district clan committee is 5 and shall be composed of the chairperson, vice chairperson, disabled person, a woman and secretary, unless it is for mediation in which case the quorum will be 5 people chosen by the parties to the land conflict.

### **(13). ICU**

- a) The ICU shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
- b) Procure certificates of customary ownership for the cultural sites to protect it from outside trespassers on behalf of the people of Teso who have land rights to the land in Teso Region.

### **(14). Membership of ICU Council.**

- a) The membership of the current ICU Council shall be as follows:
  - I. Two representatives, a man and a woman from each Sub County elected by and from the sub county committees,
  - II. One woman and youth from each of the districts,
  - III. A chairperson of the district clan committee, and
  - IV. A representative of people with disability, elected from the district clan committees
- b) The procedure, tenure of office and qualification for election are as per the Constitution of the Iteso Cultural Union.

### **(15). Functions of the Iteso Cultural Union Council.**

- a) The functions of the Iteso Cultural Union Council shall be to:
  - b) Identify, protect, hold and facilitate ceremonial cultural sites in Teso Region.
  - c) Monitor the implementation of these Principles and Practices concerning customary land management in Teso region.
  - d) Be responsible for the overall management

of all customary land and sites in Teso Region.

- e) Be responsible for keeping records of land in Teso region.
- f) Ensure that the cases decided upon by clan committees are not contradictory to the principles and practices, to state laws and principles of natural justice.
- g) Study the common reasons given for selling of land and land conflict and find solutions to reduce the sales and conflict if they lead to poverty and landlessness.

### **(16). Meetings.**

- a) The chairperson shall preside at all meetings of the council and shall, in addition to his or her deliberative vote, have a casting vote.
- b) Where the chairperson is absent, the vice chairperson shall preside at the meeting and shall, in addition to his or her deliberative vote, have a casting vote.
- c) Where both the chairperson and vice chairperson are not present, those in attendance will elect a chairperson from amongst them.
- d) The quorum for meeting of ICU Council is as provided for by ICU Constitution.

## **Part 5 - Procedure for land Transactions in Teso Region.**

### **(17). Procedure for consent to sell land.**

- a) The head of the family who wants to sell land must first discuss with members of the family household, whether they live with the head of the family or not, the intention to sell.
- b) The head of the family should then give "important information" to the chairperson of the village clan committee concerning the sale of the land.
- c) The chairperson of the village clan committee will convene a meeting of all the members of the family household wanting to sell land to find out if the members consent to the sale. The consent, if agreed should be in writing and signed by all the members of the family household, indicating whether they agree or disagree with the sales, witnessed by the chairperson of the village clan committee

and another member of the committee.

**(18) Process of marking boundary for land to be sold.**

- a) The members of the family wanting to sell land and members of the village clan committees will inform other clan members of the land being sold and if none of them is able or interested to purchase it, or is offering a price below the market price, the head of family selling land may then advertise to sell land outside the clan.
- b) The buyer, seller, all neighbours to the land to be sold, chairperson of the Village Clan Committee and LC1 of the area where the land is situated, must then visit the land to be sold and verify and agree on boundaries and plant Ejumula/Eligoi tree or any other approved boundary mark on the boundaries.
- c) The LC1 must cause to be drawn a sketch site of the land to be sold with details on measurements, campus direction, names of neighbours, description of any visible land marks.
- d) The site sketch must be signed by the buyer, seller, LC1, neighbours, agreed witnesses and chairperson of the Village clan committee.

**(19) Drawing Sales Agreement and sketch sites.**

- a) LC1 must then draft a sales agreement using, as a guideline, the format provided for by the Land Act 2002 regulations, as amended and must include the family consent letter and the wives consent clause as integral parts of the sales agreement.
- b) After payment of all of the agreed purchase price of the land by the buyer to the seller, the sales agreement must be signed by the buyer, seller, the wife or wives of the seller (if any) and witnessed by the LC1 and the chairperson of the Village clan-committee or the vice chairperson.
- c) The LC1 must ensure that 5 copies of the signed sales agreement and signed site sketch of the land sold are made and a copy each given to the seller, chairperson of the Village clan

committee, the recorder, ICU Council, a copy kept on the LC1 chairperson's file and the original copy to the buyer.

**(20) Referral.**

Any person aggrieved by the decision of a clan committee at a lower level may refer the matter for consideration to a clan committee at a higher level. Referrals will lie from village clan committee to parish clan committee, from parish clan committee to sub county clan committee; from sub county clan committee to district clan committee and finally from district clan committee to ICU council.

**(21) Penalties.**

- a) Any sale of land carried out without a written consent as required by these Principles and Practices is null and void.
- b) Anyone who sells land without written consent from the family members, wives, and Village clan committee must return the purchase price of land given to him or her to the seller. The burden of proof of getting consent is on the seller. In this case, the village clan committee should assist the buyer to recover his money from the seller.
- c) The Village clan committee should repossess land that is purportedly sold without consent from the buyer and return this to the family from which it is purported to have been bought.
- d) Any person who sells land without the consent of the village clan Committee, family member and wives is liable to pay costs incurred by all parties as determined by the Village Clan Committee or committee of referral.
- e) Anyone who cuts Ejumula/Eligoi or approved boundary tree commits an offence and is punishable under the Penal Code of Uganda.

**PART 6 - REGULATIONS**

**(21). Regulations**

- 1) Iteso Cultural Union will be responsible for the implementation of these Principles and Practices.
- 2) Without prejudice to the general effect

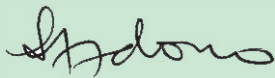


of sub section (1) and within the laws of Uganda, ICU may:

- a) Fix fees to be charged for the preparation of any documents for or in connection with any disposition of dealing in land;
- b) Fix charges to be made by the clan committees in respect of their function under these Principles and Practices.
- c) Fix fees to be paid as stamp duty when land is sold and determine how it is to be distributed.
- d) Prescribe anything under these Principles and Practices.

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**END**

A handwritten signature in black ink, appearing to read 'Adono', is written below the word 'END'.