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**Theme**

**Family, Gender and Households**

**Session 40 : Cohabitation, Marriage and Remarriage Patterns**

**Topic Marriage Rights and Privileges**

***Luo Leviratic Union (Wife/Husband 'Inheritance') Revisited***

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**Preamble**

The Editor-in-Chief of **EQUAL TIME**, a publication of the *Group on Equal Rights for Women in the United Nations*, recently requested me to give them an article on 'the changing customs of wife inheritance of the Luo people in accordance with modern life'. According to Marcia Brewster, President, *Group on Equal Rights for Women in the UN*, "this topic is of interest to the UN Women's Group and its publication '**EQUAL TIME**'."

I accepted to give *the U.N. group* my views on this topical issue. For this reason, the views I express here were initially and foremost meant for that global consumption. Consequently, I have deliberately left out details that would confuse a non-Luo. I have also tried to locate the Luo in their cultural and historical environment to enable a foreign reader to know and understand whom I am talking about.

*"What then is time! If nobody asks me, I know. If I try to explain it to one who does not know, I know not". (St Augustine of Hippo).*

Time has been defined as a matrix of social life, where social life is viewed as a temporal matrix in which individuals, groups and communities live, move and have their being with the assurance that they will be known and remembered. Their **Being** in life and death is *ipso facto* part of the social order. Thus, when the *Group on Equal Rights for Women at the U.N* called their publication EQUAL TIME, their advocacy is probably that the women deserve equal chances and opportunities not only at the U.N but wherever they are and as they operate in the diverse matrix of social relations in time and space.

The 5<sup>th</sup> African Population Conference has been convened as a global get-together of scholars, professionals and other stakeholders to review the state of knowledge and knowledge gaps on various population issues with the primary aim of promoting an integrated approach to the study and application of knowledge on population dynamics. It is our considered opinion that the hub and most visible of the population issues is the family. That explains my interest in Cohabitation, Marriage and Remarriage patterns in Africa. But it would be naïve to generalize for the entire continent of Africa. For that reason we shall confine ourselves to the Luo woman and family in the context of equal time. But first, who are the Luo?

The Luo are a Nilotic-speaking people. The *Nilotes* who share a common progenitor, *Sin Akuru Kuku Lubanga*, evolved at Dog Nam in the vicinity of Lakes Baringo and Turkana in northwestern Kenya around 2348 BCE. They have been clustered into three groups, namely; **Plains Nilotes** - Turkana, Samburu and Maasai; **River-Lake Nilotes** - *The Luo or Jii-speakers* - Jieng', Naath, Collo, Anywa, Alur-Jonam, Palwo, Acholi, Padhola and Joluo; and the **Highlands Nilotes** or *Kalenjin cluster of peoples*, namely, Pok, Kony, Langi, Ateso, Tugen, Elgeyo, Marakweta, Nandi and Kipsigis. Sin Akuru Kuku Lubanga was a contemporary of Naram-Sin of Babylon (2254-2218 BCE).

The Luo of Kenya are among the *Jii-speakers* and are commonly known as **Joluo**. They speak **Dholuo**. They live along the shores of Lake Victoria and spill into North Mara in Tanzania. They are found in diaspora in all major towns of East Africa and major

cities of the world. Until the last census (1999) brought their numbers down, they have been the second largest community (tribe) in Kenya, after the Bantu-speaking Kikuyu.

The traditional political structure of the Luo revolves around **Ot** (household), **Dala/Pacho** (homestead), **Anyuola** (clan, extended family lineage system), **Oganda** (nation) and **Piny** (a conglomeration of nations). The household is headed by the woman and is made up of a mother and her children. The homestead is headed by the man and is made up of a man, his wives, children and any other people living with him in the homestead. The head of the senior family of the clans leads *Anyuola*; while *Oganda Luo* - the Luo nation, is overseered by a Council of Elders under the leadership of a *Ker*. The Luo have a lot of respect for their political as well as religious leaders. Among the religious leaders are the prophets/prophetesses and divivers.

Women played a pivotal role in the entire Luo leadership structure. A wise man or woman was accorded and the respect he/she deserved. There was never discrimination by sex among the Luo. This explains why their great prophetess, **Owila Latworo** (1460) who apparently wrote the Luo history of migration and settlements in advance, remains legendary to this day. Seen in the light of her prophecies, the Luo southern trek and lifestyle had been foretold. The respect the Luo have for their womenfolk should explain why the Luo were the first community in Kenya to elect a woman mayor of their hometown of Kisumu. They were also the first community to elect a woman to parliament in Kenya. A Luo woman who respects Luo normative ethics of role and responsibility has cut a niche for herself and would never be marginalized as one would be led to believe.

It is against this religio-political leadership structure and histo-cultural role and responsibility background that we want to look into *Change and Continuity in Marriage Rights and Privileges* with specific reference to the Luo practice of **Leviratic Union** (*Ter*) under the general sub-theme of Family, Gender and Households, our focus is on Cohabitation, Marriage and Remarriage patterns for which we use the Luo of Kenya as paradigms for analysis and interpretation. Welcome.

### ***Cohabitation in the Luo Marriage System***

By the Act and Consummation of Marriage, an individual became a wife/husband or daughter/son to a household, a homestead, a clan or the nation. Thus, the woman became invariably *Chi Chuore* (wife of her husband), *Chi Ot* (the wife of the household), *Chi Pacho* (the wife of the homestead) and *Chi Oganda* (the wife of the clan). In other words, marriage, among the Luo is not a husband and wife affair. It is the entire extended family affair. Its aim is to integrate the couples into a defined social system, the complex Luo network of extended family relations. The woman became part and parcel of the husband's family and clan.

The Luo marriage system is exogamous. The woman comes from outside the lineage or clan. The Luo also do not marry blood relations, however distant these might appear. Thus, the wife was often a stranger who must be integrated fully into the family she is married to. She has all the rights to property including land, livestock and household goods. Her privileges include full membership to the family, right and privilege to have a say and to determine the upbringing and future of her children. Widow and orphans are highly respected by the Luo. Thus taking care and protection was a noble and respectable responsibility.

Under normal circumstances, marriage was entered into following an extended process of courtship, often involving go-betweens (*ja-yoo* or *jo-yoo* plural). The forms of marriage included *Sepo* (analogous to modern Christian wedding), *Por* (where a woman just moved in with a young man), *Ywecho* (abduction either while the bride wealth was being paid or before) and *Siweho* (where a woman brought her sister, cousin or niece to be her co-wife). For lack of space, we shall not go into the details of each case. Suffice it to state that the families of both the man and the woman were directly involved in the marriage negotiations that culminated in the sealing of the marriage deal by the payment of the bride wealth the first payment of which was symbolically made by the boy's father or paternal uncle.

The animals used in marriage rites were symbolic. For example *Diend Aroka* (defloration goat), *Diend Riso* (a goat slaughtered and cooked for the bride as a ritual of aversion and integration, to welcome the bride (*miaha*) into her mother-in-law's household), *Dher Atung'* (a cow paid to a select paternal uncle of the bride); *Dher ner*

*nyako* (a cow paid to the maternal uncle of the bride); *Dho i Keny* (general bride wealth) and so forth. Because of the nature of the negotiations and the sealing process, marriage was contracted once and was permanent. There is no room for divorce among the Luo except where the man proved to be impotent or a glutton. All other marital grievances were treated as normal if not trivial and were quickly sorted out and the marriage remained intact. Death did not bring marriage to an end either. Why?

Among the Luo, marriage was a binding contract between the spouses and their extended families. The attendant rites of transformation, also known as *life crisis rituals* are binding to the spouses. This is why, in the event of death of either of the spouses, the family of the deceased had a responsibility to provide a replacement. When a woman dies, it was the responsibility of her family to provide another woman to come and look after her children (if she had any) or to take care of her husband. This was a normal, common practice among the Luo (call it ***husband inheritance***). Unfortunately, this marriage arrangement is rarely talked about as people discuss Luo marriage system. In the same way, should a husband die the family of the deceased had a responsibility to provide another man, often a brother or a cousin to take care of the widow and her children. This is what is mistakenly known as '***wife inheritance***'. What actually happens here is ***levirate*** or ***leviratic union***, an arrangement whereby one is required, by tradition, to take on the brother's widow (from Latin *levir*-a husband's brother) and provide support and protection.

Because of the binding nature of marriage, and the rituals entailed in the consummation of marriage, the disorientation that is caused by the death of a spouse is not a small matter among the Luo. It leads to temporal panic in the family and society. It is a drama of loss and needful redemption. A Luo who lost a spouse had *Tora* ( a load of psychic pressure that often leads to bad omen and fatal ailments). This remains traumatizing until purification rituals were performed and the household or homestead is restored to normality, that is, the wife or husband is cleansed and cleared to mix freely with people and to perform his/her normal duties without undue pressures. What happens in this process is the restoration of an idealized past in order to guarantee a prosperous future. This idealized past has a strong basis in ritual and ceremony. It is symbolized and entrenched by the idiosyncratic Luo pride of who they are as a people and their unique

boasting culture (*pakruok*, *sunga* and *chamo nyadhi*). It defines the boundaries of Luo temperament or Luo social system. It is part and parcel of what distinguishes the Luo from other peoples. It should also explain why the Luo are viewed as a proud and arrogant people who will always want to excell.

The observances following the death of a spouse are complex. For example, when one loses a wife, he is not allowed to sleep inside their house or mix with other women. He is to sleep at the veranda (*Agola*) of the dead wife's house or in the sitting room with the door partly open until he dreams of having sexual intercourse with his dead wife. It is the dead wife to set him free to continue using their bedroom. This could take days, weeks, months or even years depending on how the couple related to each other in life. Before this cleansing dream, the man was more or less a 'prisoner'. There is no shortcut to it and there is no telling of lies about it. The normative rule has to be adhered to. It is our practice. It also explains why Luo men handle their wives with unique tenderness and care in life. Because of this, the Luo are generally known to make good husbands.

Following the death of a husband, the woman also had *tora*. Until the cleansing rituals were performed she symbolically, tied a belt of banana fibers (*Okola*) around her waist to give her the strength. She also dressed in her late husband's clothes and observed mourning period of one to three years. Her hair was never shaved nor did she receive things from men's hands, not even from the hands of her own sons. She was not allowed to sleep in other people's houses during the period of mourning.

Meanwhile, the *Osuri* (the stick that forms the pinnacle of the grass thatched houses in the homestead) were pulled down to show that the particular homestead had lost its head or was 'kingless'. It was analogous to flags flying at half-mast. This was a warning to any would-be intruders that the normal functioning of the home had been interrupted and that normality had not been restored.

### ***Remarriage at the Demise of a Spouse***

Invoking the rites that included leviratic union terminated the period of mourning. The widow was asked whether she had made any friendship with any of her brothers-in-law during the mourning period. If she had, then *her choice* was respected except where there was cultural impediment. Where the widow had nobody in mind, the family

members, in consultation with her and elderly women in the family, decided on who should take charge of this home. The decision was public and the set date (evening) to start the process of restoration was made known to family members. There was no secret about it given that many rites and family members, from both sides of the marriage contract were involved. The woman consulted her people for advise and guidance.

Where the widow was still young, (in her child bearing age), that is, had not reached menopause, the process began by breaking the sexual fast followed by elaborate rites that could last up to a month or even more. Where the woman had reached menopause, there was no sexual intercourse involved. The enactment of *Leviratic union* took a symbolic format. The brother/cousin (*jater*) either stayed vigil until cockcrow or gave the widow a roll of tobacco. The requisite rituals were then performed and the widow(s) set free to lead normal life. She was redeemed from psychic pressure. This is what the Luo call *Ter* or *Chodo okola* (breaking or removing the banana fiber belt) or *golo kode* (removing the psychic pressure or cleansing). It was a life crisis ritual of normalization or restoration of idealized past.

In this whole process, sexual intercourse plays a very small part. What matters most are the attendant rites of purification and restoration, who takes charge; and adhering to marriage contract as well as roles and responsibilities. "*We are not going to allow OUR wife to be taken by strangers simply because our brother is dead,*" the Luo would say. It is not uncommon to hear a woman tell her husband, "*If you refuse to take your dead brother's wife (yuori or nyieka = my co-wife) what will happen to me when you die? Do you want your brothers (yuochena) to abandon me!*"

In recent times, however, a lot of changes have taken place. Marriage has been reduced to a casual deal between two individuals, the husband and the wife. The Christian vow, "until death do us part", is taking its toll. As far as cleansing is concerned, sexual intercourse is given the center stage to the extent that widows think that once they make love with any man following the death of their husbands then the 'job' is done. Consequently, there has emerged a group of people commonly known as *professional joter* (commercial 'wife inheritors' = *sex terrorists*). These kinds of *joter* are a social nuisance and are culturally unacceptable. This is a recent phenomenon created by affluent Luo in their quest for shortcuts to the restoration process.

Otherwise, the institution of *Ter* (*leviratic union*, "wife inheritance") remains a healthy institution that accords the widow/widower a sense of belonging and continued contractual responsibility and respect for the dead. It also ensured that the rights and privileges of the widow are not infringed and the family is not exploited.

The amount of respect a woman commanded in her place of marriage was gauged by the level and extent of her attachment and identification with the family of her marriage, either as an individual or because of the children she had raised for that family. The intensity of this respect has created four categories of women, namely *Chi Chuore* (a woman whose allegiance is confined to her husband); *Chi pacho* (a woman who commands honor and respect in the whole homestead); *Chi anyuola* (a woman highly respected in the entire lineage) and *Chi oganda* (a woman whose respect embraces the entire Luo community), in that ascending order of recognition.

What is unfortunate is that most of the modern or westernized Luo women tend to fall in the lowest category of *Chi chuore*. In the view the westernized Luo men and women there should be no binding attachment beyond the husband and the children. *Chi pacho* category sees little beyond the homestead she is married in. Her allegiance and attachment is *ipso facto* egoistic and confined. *Chi anyuola* and *Chi oganda* is the kind of woman the Luo will refer to as *our wife*. They are a source of pride to the entire community. They are the kind of women who carried the flag of Luo norms and values. Their husbands cannot fool around with them because of the mass protection they enjoy from the community. They have carved a niche for themselves and are very cautious about careless attack of Luo norms and values. In general, they have no problems with Luo beliefs and practices. They are the Luo wives *par excellence*.

In the modern world, where the self is surrounded and buttressed by the legal and social institution of the autonomous ego of the *Individual*, affluence, Christianity, money economy and private property ownership has done a deathblow to the time tested *leviratic union* arrangement. *Ter* is taken as an act performed by the renegades of society. The would be *joter* are scorned at, treated as sex maniac and are summarily dismissed as people who are out to plunder the property that has been privately acquired by the widow and her late husband. According to the Christian vows, death brings the marriage contract to an end and the woman is free to marry whoever and wherever she chooses.



This is a very unfortunate development and a fundamental threat to the otherwise well ordered provision for the sustenance of the Luo marital vows, roles and responsibilities.

However, depending on the respect a woman commanded in the family, clan or community she was married to, the Luo will not allow 'their wife' to be remarried outside the family, clan or community. That would be a sign of irresponsibility on the part of family concerned. Such families were publicly scolded and young women avoided young men from such families when it came to planning for marriage.

Failure to go through the traditional cleansing rituals, leads to *Chira* (a fatal ailment that comes as a violation of accepted normative behavior). It is the fear of being hit by *Chira* that has led some families to insist that their widows have to go through the cleansing rituals. In some isolated cases, families or even children have forced their widows or even mothers to go through the cleansing rituals by soliciting the services of *Jokowiny* (non family members). There are also known cases where the widows (mostly Christian and affluent) have gone through less elaborate rituals secretly or avoided the rituals altogether. Because the restoration rite was a family affair, it was up to the family members to decide on what and how they wanted to handle the restoration process. External forces do not dictate terms.

It must be intriguing, that it is among the Luo that the practice of the *Leviratic Union* has been viewed as a social obligation and hence more resilient. As a result, advocates of women's rights have been up in arms condemning the practice as repugnant and retrogressive. Some advocates even insist that women's freedom to take off and choose new and 'fresh' husbands is being infringed. I wish to reiterate that it all depends on what marriage means to the particular woman and how she relates to the family she has been married to.

Isolated cases of force and where family members are claimed and feared to have helped themselves to the property of the deceased are typical examples of where a woman had strained relations with the husband's kinsmen, either because they were poor or because they were less educated. There are also cases where women come from tribes or communities where marriage is not binding. Should such a woman threaten to take off as soon as the husband is buried then she definitely meets the wrath of the in-laws. Because the Luo are a patrilineal society, they will not allow the woman to deny the children a

sense of belonging simply because she wants freedom to try her marital luck elsewhere. Thus, the merits and demerits of *leviratic union* (*ter*) remains a complex matter.

### ***Elers' Forum : Family, Gender, Households and HIV/AIDS***

In the wake of HIV/Aids scourge, the Luo perennial practice of *Leviratic Union* has again been at the centre of controversy. That the practice has been identified as one of the causes of the rapid spread of HIV infection in the community cannot be denied. This is because where a man enters into *leviratic union* and sleeps with a woman whose husband has died of Aids, chances are that he will contract Aids which he will in turn transmit to his wife and both will eventually die. In this regard the Luo Council of Elders have cautioned the Luo people to be very cautious in such circumstances and to take care of their widows and orphans without necessarily getting into reckless sex life. On the other hand, the Luo also appreciate that young women whose husbands have died of Aids and who have been set loose to do as they please (*ochot*) are more dangerous as they are likely to infect more people.

At the same time, the Luo are in dilemma as to what to do with young responsible widows who choose to stick to their families of marriage to which both themselves and their children belong (*viz.* the story of Ruth and Naomi in the Bible). How are they expected to respond to their conjugal impulses? It is necessary to make such people feel wanted. This is critical because emotions or the mere feeling of being unwanted can be so sickening as to lead to premature death from the crushing weight of social expectation.

It needs to be noted that the spread of HIV/Aids is not a woman's specialty. The widowers are equally liable to spreading the disease. This is why the Luo Council of Elders has strongly spoken against reckless entry into *leviratic union* and gone ahead to recommend test for Aids and safe sex habits. At the same time, the Council feels strongly that families should not abdicate from the time-tested practice of caring for widows and orphans. Whereas the affluent and well educated can fend for themselves and depend on their private wealth and property, the majority (over 90%) of our people need family protection and extended family support. The ideal here is support not exploitation so as to increase the misery of the already bereaved.

### ***Idiosyncratic Tendencies in a Global Situation***

The nagging question we wish to clarify is: Do the Luo inherit wives? The answer is definitely NO. The Luo do not inherit wives. They enter into *leviratic union*. It is therefore, a misnomer to talk of 'wife inheritance' among the Luo. At the same time, it needs to be noted that what the Luo practice is more complex than meets the eye. What we are fed on by the often less informed debate in mass media are far from the reality. Let me explain.

To inherit is to receive property as a right or a title by succession. Thus in order to inherit one must have been an heir apparent, that is, have had or been accorded the right to take and own at second hand level. The connotation here is that of property. But a wife is not anybody's property nor is there cultural arrangement, among the Luo, whereby an heir apparent is identified before hand, not even where the husband was aging. The farthest a sick man would go is to plead with his brothers/cousins to make sure his home was taken good care of in the event of his death. It is a Luo tradition and belief that once married, a woman remains a wife to her husband and death does bring this relationship to an end. Any man entering into *leviratic union* with his brother's wife does not, culturally speaking, look to this woman as his wife. If such a man was unmarried, he was encouraged to marry his own wife even where children had been raised out of the *leviratic union*. Such children belonged to the dead brother. They were raised on his behalf.

The Luo also have a strong extended family system that often baffles women from other communities. The practice of polyandry ( a woman having more than one husband at the same time) is rare among the Luo. However, there are known cases where a woman marries other women and solicits the services of men to bring up children for her. In all these cases, marriage rights, privileges and responsibilities are adhered to. The couples are guided by the normative Luo rules and regulations. And, the time tested traditional norms and values are strictly adhered to.

In spite of the inevitable *change and continuity* in the Luo belief systems, it needs no emphasis that marriage remains a powerful institution among the Luo with deeply rooted and protected rights and privileges that are entrenched by ritual and ceremony.

Whereas the processes of socialization and preparation for marriage have changed, the Luo cultural ethos, relating to marriage remains generally intact.

Parental roles and responsibility in the upbringing of children are still taken seriously. It is for this reason that single parenthood has been an embarrassment as the children will often want to know where they belong: their fathers, family and clan. The marriage rituals that are traditionally performed, by both parents before the marriage of the children is sealed often put the single parents into extremely precarious predicament.

### ***Conclusion***

What emerges from this brief account and which should trigger more debate at the 5<sup>th</sup> African Conference on Population, is that there are forces of change and continuity in *Cohabitation, Marriage, Remarriage as well as the attendant Rights and Privileges*. However, these should be discussed objectively within the context of traditional and/or cultural environment. *'He who loses his past loses his future.'* A social system, like the Luo social system, when its boundaries become permeable to outside influences will indeed perish.

Given the primary objective of this conference, which is to review the state of knowledge and knowledge gaps on various population issues that affect our continent, and given our focus on the next decade, we will not allow ourselves to perish, but to discuss the norms and values relating to cohabitation, marriage and remarriage as adhered to by various communities in the continent.

My contention is that this conference needs to make a close look at the family, rampant gender issues and culturally diverse relations within the household in order to appreciate population dynamics, growth or decline and then detect the consequences often made manifest in high levels of poverty, poor education, low economic growth, environmental degradation, and food insecurity. It needs no emphasis that it is all at the family and household levels that Millennium Development Goals (MDGs) must be realized and impact of globalization diagnosed. May the insights from the resilient Luo norms and values help reflect on the other African communities and enable us make some progress in the next decade.

### **Abstract**

*It needs no emphasis that contemporary Africa faces numerous population and development opportunities and challenges, including, among others, rising school enrollment rates, lower childhood mortality and declining fertility. It is the argument of this paper that to equitably address the problems of investment in human development, there is dire need to probe and understand family creation processes, gender relations and household dynamics. This entails closer look at the processes of cohabitation, marriage and remarriage as practiced by various communities in Africa. Because it would be naïve to generalize for the whole continent of Africa, given the diversity of norms and values governing the family, gender and household dynamics, we have singled out the Luo community of Kenya as paradigm for analysis and reflection. It is our contention in this paper that a close look at the family, rampant gender issues and culturally diverse relations within the household should enable us appreciate population dynamics, growth or decline and then detect consequences often made manifest in high levels of poverty, poor education, low economic growth, environmental degradation and food insecurity.*