



29th August 2016

The Minister of Lands, Housing and Urban Development,
Kampala-Uganda

Dear Hon. Betty Amongi,

**R.E:LETTER TO THE MINISTER OF LANDS REGARDING THE PROPOSAL TO
USE COURTS TO DEPRIVE CITIZENS OF THEIR RIGHT TO FAIR AND
ADEQUATE COMPENSATION PRIOR TO LAND ACQUISITION**

The above refers

The Africa Institute for Energy Governance (AFIEGO), the Guild Presidents Forum on Oil Governance (GPF OG) and 26 Community Based Organizations (CBOs) from the sub-counties of Kiziranfumbi, Buhimba, Buseruka and Wenseko in Hoima and Buliisa districts take this opportunity to congratulate you upon your appointment as the minister for Lands, Housing and Urban Development (MLHUD). We also thank you for your current leadership in the ministry.

We are however concerned about your recent proposal to amend Article 26 of the Constitution which entitles every citizen affected by compulsory land acquisition a prompt payment of fair and adequate compensation prior to any acquisition or possession. Your ministry wants parliament to enact laws to the effect that whenever government proposes to compulsorily acquire land, you will set compensation rates and once the majority affected people consent to the said rates, government will proceed to pay them.

For the minority who may reject the compensation, their compensation, calculated based on the rates accepted by the majority, will be deposited in court and once the deposit is made, government will go ahead to evict all the people from the acquired land. The only remedy for those aggrieved will be to go to court for redress on what is fair and adequate compensation.

It seems that your proposals and the government in which you serve does not appreciate the conditions under which majority of Ugandans live. For many years, land owners, especially the poor and rural communities, have continued to suffer grave land rights violations ranging from CUT-OFF dates set by the government during compulsory acquisition, unfair and inadequate compensation, delayed compensation, use of absolute compensation rates, compensation paid

after many years of assessment but does not cater for inflation, land grabbing and many other challenges.

Indeed, the available evidence indicates that a lot of land rights abuses are happening even when the Constitution and other laws provide against deprivation of property and human rights violations by protecting the right to prompt payment of fair and adequate compensation prior to compulsory acquisition, but because of poor implementation of the said laws by government, citizens continue to suffer without any redress. It is therefore a shame that instead of addressing the existing challenges, government wants to worsen compulsory land acquisition problems through dishonest amendments.

Further, government is aware of the incapacity of the majority of Ugandans to seek court redress due to poverty and a difficult judicial system characterized by high costs of litigation, delays to complete human rights cases, corruption in courts and many other challenges. Amidst these, government wants to amend land laws and take away the only remaining possible tool that those facing injustices would use in defense of their rights.

We also wish to remind you that it is sad to hear your government proposing to involve courts in acts that violate the fundamental rights of the citizens. How does government expect an affected person who is displaced from his or her own land before he or she receives fair and adequate compensation survive? Why does government want to hide behind courts to punish citizens? How does the deposit into court of disputed compensation funds replace the affected person's right to fair and adequate compensation before acquisition? How does such a deposit guarantee the survival of the victim? Why does government think that the consent of the majority should deprive the minority of their right to negotiate and receive fair and adequate compensation before compulsory acquisition as provided for under the current Constitution? Hon. Minister, we need answers to these questions.

As you may be aware, many communities across the country are suffering grave injustices not because they have been refusing government from taking their land but due to the fact that government has used her might to effect displacement before compensation. Communities including those of the Naguru Estates, the Shimon Schools, those along the Jinja-Kenya transmission line, communities along the Mbarara-Rwanda transmission lines, the Kabaale-Hoima refinery communities, the Hoima-Kaiso Tonya road communities, the communities in Mubende and others totaling to over 20,000 people are living a life worse than that of refugees in their own country because they were displaced or stopped by government from using their land before receiving fair and adequate compensation.

For example, government placed a CUT-OFF date of June 2, 2012 on the refinery land in Hoima but since 2012 to date, all the people who asked for relocation are still waiting to be relocated. For over four years, they have lived in total isolation with broken families, health, education,

water and other services. What is your government planning to do to ensure that such suffering does not happen to Ugandans again in the future?

It is also difficult to understand why government wants to deposit into court disputed compensation funds as it proceeds to compulsorily take over private land. These actions of involving court in processes that violate citizens' rights will only serve to bias the court whose mandate is to give justice to every party that comes to it. It is therefore our duty as Ugandans to say no to such manipulations and we strongly condemn such unfair plans.

It is also sad that the government has failed to strengthen district land boards, sub-county recorders and area land committees and this has failed the said institutions to execute their mandates of supporting customary and communal land owners to register their land and acquire certificates of ownership and communal land certificates. The government also failed to run land tribunals at districts and sub-counties as provided for under the Land Act 1998 (as amended) and this deprives the people facing land injustices an opportunity to access to affordable justice for redress. Now government wants to place the fate of such people who have no or limited capacity to the traditional courts that are expensive and take many years to decide most of the cases.

Finally, we note with concern that since 1965 when the current Land Acquisition Act was enacted, your ministry has failed or ignored to honor section 20 of the Act that provides for the formulation of regulations for the assessment and payment of compensation regarding compulsory acquisition. As a result of this lacuna, land owners continue to suffer because their fate is determined by the government based on discretion on what is prompt, fair and adequate. The Resettlement Action Plans which are always prepared to guide compensation processes are simply an extension of the government's discretionary powers that have no force of law to protect the weak.

Through this letter, Hon. Minister, we request you to do the following:

1. Government should not amend Article 26 of the Constitution to protect the sanctity of citizens' property rights. Instead, your ministry should urgently consult the public and formulate regulations for the assessment and payment of compensation as required by section 20 of the Land Acquisition Act, Cap 226 of 1965. The regulations should among other things provide for the following:

a). Provide for a formula on how to ascertain what is fair and adequate compensation to be paid to any person affected by compulsory acquisition.

b). Set a time frame within which an affected person should receive his or her compensation after the date of assessment.

c). Protect the property owner to enjoy his/her property rights without any interference until he/she is fully compensated. CUT-OFF dates should never be placed on any person's property until government has paid fair and adequate compensation to the affected person.

d). An affected person who opts for relocation as opposed to cash compensation should have a right to decide where he or she should be resettled. No one should be forced into a special settlement like it is happening to the people of Kabaale-Hoima. All households who opt for relocation should be given land equivalent to what they lost, titles and a house.

e). An affected person should have a right of access to accurate and timely information regarding compensation processes including the details on assessment, compensation rates, dates of payment, amount to be received, resettlement and rehabilitation schemes, environmental impact assessments and others.

f). The regulations should establish Compensation Tribunals in all districts and sub-counties to ensure access to affordable justice to the affected people.

2. Courts should not be used as depositories for disputed compensation funds. Instead, government should continue to pay compensation to affected land owners before acquisition and where there is a dispute that goes to court, such a dispute should be handled expeditiously. Government should not acquire the affected land until court determines the compensation, and that compensation is paid to the land owner.

Thank you for taking action.

For God and My Country

Signed by AFIEGO and GPF OG

Dickens Kamugisha,

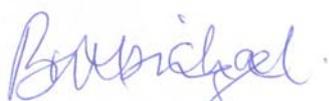


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About AFIEGO

Africa Institute for Energy Governance (AFIEGO) is a registered public policy research and advocacy organization dedicated to influencing energy policies to benefit the poor and vulnerable.

About GPFOG

The Guild Presidents Forum on Oil Governance (GPFOG) is a university, youth-based association comprising of guild presidents, guild ministers, district university student associations' leaders and other youth leaders from all universities and tertiary institutions in Uganda. Its main objective is to promote good governance and development in Uganda.

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- The Chairperson and all members of the NRs Committee of Parliament,
- The Chairperson, Uganda Human Rights Commission,
- Shadow minister for lands.
- The Inter-religious Council of Uganda