



27/February/2017

Open letter to President Yoweri Kaguta Museveni on new Justice Bamugemereire Land Commission of Inquiry

Integrity of some commission members is questionable, political will and corruption should be addressed for success

Your Excellency,

Africa Institute for Energy Governance (AFIEGO), a public policy research and advocacy organisation dedicated to influencing energy and related policies such as those on land to benefit the poor and vulnerable, takes this opportunity to appreciate your efforts to address the land challenges affecting Ugandans.

Among others, you have superintended over processes to put in place laws and policies to protect land owners, including *bibanja* owners, have supported land reforms aimed at benefitting the poor and have personally dialogued with poor Ugandans facing evictions such as you recently did with the people of Bukasa, Kito and Namataba villages in Bweyogerere Division, Wakiso district who wrongfully settled on land belonging to the National Forestry Authority (NFA).

Most recently, you instituted a Commission of Inquiry on Land and not only is this inquiry timely, it is also commendable. The Justice Catherine Bamugemereire-led commission, which was sworn in last week on February 21, 2017 and will, over a six-months' period, inquire into the effectiveness of laws and systems in the land sector, gives Ugandans an opportunity to finally have their land secured. These Ugandans include also those found in the oil region.

While appreciating the role the commission could play, we also note that there are a number of factors that could hinder this commission's effectiveness. As you are well aware Your Excellency, innumerable commissions of inquiry have undertaken investigations, have made recommendations and thereafter, Ugandans have waited for implementation of the recommendations in vain.

Perhaps freshest in Ugandans' memories is the Commission of Inquiry into the Uganda National Roads Authority (UNRA) which in its May 2016 report recommended the prosecution of over 90 public officials and others. You backed this recommendation, Your Excellency, by ordering the Inspectorate of Government, Criminal Intelligence and Investigations Directorate and Attorney General to ensure that the commendation is followed through but to date, no prosecutions have

been made. In fact, Ms. Sarah Kulata of the Ministry of Lands, who was recommended for interdiction by the report, challenged its validity in court.

Other inquiries whose recommendations have been ignored include the 2011 Commission of Inquiry into the Uganda Wildlife Authority led by Prof George Kanyeihamba, the 2002 Commission of Inquiry into Corruption in Uganda Revenue Authority (URA) led by Justice Julia Sebuntide and the 2011 Justice Sebutinde-led Commission of Inquiry into Corruption in Police.

Billions of taxpayers' money is wasted when little or nothing comes of these inquiries and through this letter, we highlight how this must be avoided. Importantly, we list some of the issues that must be investigated and addressed by the commission in order to address the needs of ordinary Ugandans, especially those in the oil region.

- (a.) First, it is most unfortunate that the commission has been instituted at a time when there is grave mistrust between government and the public. As you are well aware, government, through the Minister of Lands, is pushing for proposals to amend the Constitution and land laws to allow developers including government to forcefully take Ugandans' land before payment of fair and adequate compensation. The proposed amendments want courts to be involved in this illegality through allowing for depositing of aggrieved parties' compensation with court! These proposals have caused suspicion between government and the public, suspicion that cannot allow for proper addressing of land challenges in Uganda despite the commission's best efforts.
- (b.) Secondly, corruption in Uganda is the biggest cause of land disputes in Uganda. You yourself noted this during your recent visit to Bukasa, Kito and Namataba villages during which you called some lands officials "thieves". However, the commission you instituted is not directly setting out to address this matter. Instead, the scope of inquiry of the commission includes the processes and procedures by which land is administered and registered in Uganda, the role and effectiveness of the Uganda Land Commission in administering public land and the management of wetlands and forest reserves. Indeed these are important areas to inquire into but without decisive action on corruption, no inquiry will rid Uganda of land challenges.
- (c.) It is this corruption in addition to inequality that has seen poor Ugandans lose their land to the rich. Recently, Minister for Lands Hon. Betty Amongi was in Buliisa where locals reported that despite a moratorium you placed on land transactions in the oil region, members of the Buliisa District Land Board issued land titles for areas suspected to have oil to rich man Mr Franco Kaahwa. This, despite community protests! In the same vein, it is corruption and inequality that saw Mr. Joshua Tibagwa evict thousands of people from Rwamutonga in Hoima for an oil waste management plant. Last year, court declared that the people were wrongfully evicted. Without addressing inequality, the commission's efforts will be in vain.

- (d.) If communities such as those above had customary land certificates, they would be in position to protect themselves from land grabbing. However, despite Section 4 of the 1998 Land Act providing for issuance of customary land certificates, this provision has largely remained on paper. This is despite repeated calls by communities in the oil region to Ministry of Lands to issue these certificates. Without proof of ownership of land, evictions will continue. It is important to recall that over 75 percent of land in Uganda is held under customary ownership. The commission should inquire into why issuance of customary land certificates has been slow. Is it a case of lack of resources as the Ministry of Lands reports or are other factors such as plans to favour the corrupt at play?
- (e.) Your Excellency, allow me to relate this experience to demonstrate how weak land boards and authorities are in Uganda. In a 2015 meeting in Hoima, an elderly Area Land Committee member in Buliisa reported that he does not know what a customary land certificate looks like! Yet he is an integral part in the issuance of these certificates. His admission demonstrated how weak local lands authorities and district land boards are. The boards neither have the human nor financial resources to enable efficient governance over land! Strong, incorruptible land boards are important to address land challenges and the commission should highlight practical ways in which they can be strengthened.
- (f.) In addition to weak district land boards is a lands system that has failed to enable the operation of community lands tribunals. In 2006, the mandate of the district land tribunals which are provided for under Section 74 of the Land Act (1998) expired and out of the carelessness of government, the-then Chief Justice directed that the hearing of land cases be transferred to the Chief Magistrate and Grade One Magistrates' courts. This directive is unfortunate because courts are too expensive and far from some communities, denying them access to justice. Little wonder that frustrated Ugandans are killing themselves over land! In addition, without these tribunals, handling of disputes between project affected persons and developers is left to developers, which as you know is an unfair system favouring developers. The commission must therefore show how the tribunals can be reinstated and how they can be efficiently run outside the vagaries of corruption.
- (g.) Finally, the commission must compel the Minister of Lands to honour Section 20 of the Land Acquisition Act (1965) that provides for the formulation of regulations for the assessment and payment of compensation regarding compulsory acquisition. In addition, the integrity of the commission must be ensured. At the moment, this integrity is questionable as some of its members have dirty hands. Mr. George Bagonza for instance faces charges including that of failing to be impartial during acquisition of communities' land for the refinery; he favoured the party which was acquiring land. Attorney General Fred Ruhindi is also being investigated for his role in the illegal Shs 6B payout of oil money. Finally, the scope of investigation of the commission is too wide. Little or nothing will be achieved if it is not reduced especially because the commission only has six months within which to do its work.

In view of the above, we recommend the following:

- (i.) Make specific and reduce the scope of investigation or terms of reference of the commission.** As they are now, the terms of reference are too wide and many. The commission will not do them justice. As you are aware Your Excellency, a jack of all trades is never a master of any.
- (ii.) Remove from the commission of inquiry individuals without integrity** as without integrity, the commission's report will not stand. The aforementioned 2002 inquiry into corruption in URA was marred by integrity challenges with two commission members denying the final report. Little wonder it was nullified by court. This inquiry should not be subject to that.
- (iii.) Stop government plans to acquire Uganda's land prior to compensation.** If government goes through with the proposed amendments on the above, no amount of inquiries will stop Ugandans from fighting for their land thereby constituting a failure to address land challenges which the commission of inquiry has set out to do.
- (iv.) Put in place dispute handling mechanisms in the form of land tribunals.** Tribunals at community level have the capacity to limit land grabbing and the killings arising out of land disputes.
- (v.) As the head of state, decisively address corruption.** Without this, the commission's investigations will be useless and will only result in wastage of taxpayers' money. The commission of inquiry should also show how corruption in the Ministry of Lands is facilitated and show how this should be decisively remedied.
- (vi.) Strengthen district land boards and issue customary land certificates.** The commission of inquiry should show why the Ministry of Lands has failed to issue customary land certificates. Is the excuse that there is no money for issuance of these certificates true? Are there other factors for this failure? How can it be addressed? In addition, district land boards should be strengthened. Failure to do so will result in continued land challenges despite the commission's efforts.

If the above are not effected, not only will the commission's work be in vain, Ugandans will continue to kill themselves over land, project affected persons will continue to get low compensation resulting in conflicts, the environment including forests and wetlands will continue to be degraded and Uganda will continue to suffer food insecurity among others.

Thank you,



Dickens Kamugisha
Chief Executive Officer, AFIEGO

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- The Chairperson, Commission of Inquiry on Land
- The Minister of Lands, Housing and Urban Development
- The Minister of Energy and Mineral Development
- Speaker of Parliament
- The Chairperson, Natural Resources Committee of Parliament
- Area MPs of Hoima and Buliisa districts
- The Chairperson, Hoima District Land Board
- The Chairperson, Buliisa District Land Board