



March 28, 2018

Dr. Yorokamu Bamwine,
The Principal Judge,
High Court of Uganda.
P.O. Box 7085, Kampala.

Dear Dr. Yorokamu Bamwine,

R.E: PLANNED PROTEST BY THE OIL REFINERY AFFECTED PEOPLE AGAINST DELAYED JUSTICE

The above refers,

We greet you in the name of Almighty God and thank you for providing leadership to the High Court of Uganda. We hope you will receive our letter in good faith and take necessary actions as a matter of urgency.

This letter is to inform you that on April 5, 2018, 20 women and 10 children representing 7,118 oil refinery-affected people of Kabaale parish, Buseruka sub-county, Hoima district will travel from Hoima and camp at your High Court to show dissatisfaction with Uganda's judiciary for the delay in deciding our case, civil suit No. 343 of 2014.

We hope to stay at the court until you assure us that the High Court will stop facilitating injustice against us. What we want is our case to be heard and determined as a matter of urgency. The High Court, through delays, has denied us justice for over four years and this has caused untold suffering to our families, our children and has left us a broken and destitute society. We want justice, now. We cannot wait any longer.

Why are we protesting?

In June 2012, the government of Uganda displaced us from Kabaale parish, Buseruka sub-county, Hoima district using her powers of compulsory land acquisition and we accepted to give up our property to support development. In return, government promised to compensate us promptly, fairly and adequately prior to the said acquisition in line with Article 26 of the 1995 Uganda Constitution and other relevant laws. Unfortunately, government defaulted on her own commitments and this led to violation of our constitutional rights.

Filing of the suit No 343 of 2014

To stop the violation of our rights, in March 2014, we filed a civil suit under Article 50 of the 1995 Uganda Constitution asking the High Court to stop government's violation of our constitutional rights including the right to prompt, fair and adequate compensation prior to acquisition or possession of our land as provided for under Article 26 of the Constitution. In the suit, we are asking the High Court not to interpret but enforce our rights to be compensated based on well-known and established constitutional principles including:

- To use compensation rates approved by the Hoima District Land Board;
- To use updated compensation rates;
- To ensure prompt, fair and adequate compensation in line with the refinery project's Resettlement Action Plan (RAP) that was compiled in December 2012 by the government of Uganda. The RAP was meant to act as a memorandum of understanding between government and the affected people in regard to the said land acquisition and compensation processes. However, government ignored the RAP with impunity and this is the reason we went to court to get redress. However, our case is yet to be fixed for hearing over four years later.

Previous letter to the High Court

In August 2016, we wrote a letter to your office to intervene and ensure that the High Court fixes our case for hearing. Unfortunately, for some reason, your office ignored our complaint. It is 2018 today and we still do not have a date for the hearing of our case that we filed in March 2014. We were told to appear in court on June 12, 2018 but there is no guarantee that the hearing will commence.

In the period between 2014 and 2018, our case has been moved from judge to judge including Justice Vincent Zehurikize, Justice Eva Luswata, Justice Ketrach Katunguka and currently it is before Justice Andrew Bashaija of the Land Division.

We have appeared many times before the above judges and every time we appear, lawyers from the Attorney General's office raise unnecessary excuses and technicalities to delay justice thereby perpetuating impunity against us. To make it worse, every new judge who takes over our case begins it as if it is a new matter without considering that we are poor people who have suffered constitutional violations for nearly six years.

For instance, at our last appearance in March 2017, Justice Andrew Bashaija threatened to send our case to be heard in Masindi High Court, yet we had been in the Kampala High Court for three years. It is sad that the High Court can allow lawyers to delay justice using unnecessary technicalities. We have suffered a lot of injustice and the only thing we want immediately is justice because, justice delayed is justice denied. We appeal to your office to urgently intervene in this matter.

New evidence: Six years of human rights violations confirmed by Auditor General

Through our petitions to different government offices including the Inspectorate of Government, the Ugandan Human Rights Commission, Parliament and others, the Auditor General of Uganda under Article 163 of the 1995 Uganda Constitution conducted an audit of various government projects including the implementation of the refinery RAP. On pages 109-114, the Auditor General report makes the following findings on what went wrong regarding the refinery land acquisition:

- That all of us PAPs complained about the unfairness and inadequacy of the compensation but in the end, **ONLY** two unknown PAPs saw their 2012 compensation packages re-assessed based on up-to-date rates of 2016/2017 and consequently, their compensation amount increased from UGX 1.09 billion to UGX 2.2 billion and another's increased from UGX 74 million to UGX 189 million. This was an increase of over 100% to only two PAPs, yet todate, 31 PAPs who have not received their compensation are being forced to accept the rates set in 2011/2012. Isn't this real injustice and the highest level of corruption? How many years does the High Court need to address this injustice and outright corruption?
- That while the PAPs who opted for cash compensation were given full disturbance allowance of 30%, the PAPs who opted for physical relocation to Kyakaboga in Hoima were denied full disturbance allowance. They only got disturbance allowance on crops and not on their land value contrary to the Constitution and section 77 of the 1998 Land Act.
- The audit further found that while 99% of the PAPs who opted for cash had been paid by November 2017, 96% of land owners and licensees in Kabaale were paid outside the promised compensation period of June 2013 to February 2014. That by November 2017 when the audit was done, others were yet to be compensated using 2011/2012 rates. As a result, all the affected people could not could buy land equivalent to what they had lost to government.
- That the Ministry of Energy and Mineral Development (MEMD) compensated all of us the affected people using unapproved, outdated and obsolete compensation rates of 2011/2012 and this affected the fairness and adequacy of the compensation paid.
- Further, the report found that for the people who had opted for physical relocation (land for land), only 46 houses were completed in November 2017 yet the people were supposed to have been resettled by February 2014. Others who had opted for physical relocation had not been given houses and there was no clear procedure for selecting those to get and those who were not to get houses. Some people who did not have houses in Kabaale were given houses in Kyakaboga while those who had houses are still being denied houses.
- That nearly six years have passed since the cut-off date of June 2, 2012 was placed on the PAPs' land in Kabaale but the MEMD has failed to give the affected people their land titles.

The original title is still in the names of government. In reality, the PAPs have no evidence that the land they have been resettled on is theirs. People are living in fear of having their land grabbed again because they are neither protected by customary land or freehold land registration.

- The report also found that by November 2017, the only school being built in Kyakaboka resettlement area to enable the oil refinery-affected children to get an education was not yet complete. To date, children of school-going age in Kyakaboga are at home while other parents in the other parts of Uganda are sending their children to school.
- Under the RAP of 2012, the government of Uganda had committed never to resettle the PAPs in special settlements/camp but after making people wait for nearly six years, government defaulted on the RAP and forced all those who opted for physical relocation into a camp. The PAPs are now being fed by government on posho, beans and rice like refugees. Did the PAPs commit a crime in giving up their land to government to promote oil development for the entire nation?
- The camp life has completely shattered people's customs, culture and social fabric. The PAPs no longer have privacy and cannot practice agriculture. They cannot own cows, goats, hens, sheep and others in the camp environment. The displacement has turned people that used to grow and own enough food and income into a destitute community.
- The report further found that to date, no livelihood restoration programme has been implemented and consequently, affected people in Kyakaboka have no access to the promised clean water, electricity and others. They have been confined and isolated in the middle of 500 acres of land with no shops, no health centers, no business opportunities, and now their children cannot even get education.

Conclusion

The above evidence is now available to government in the official Auditor General's Annual Report of December 2017. If the High Court had any doubts about our claims of human rights violations, the record has been set by the Auditor General. We therefore need redress, now.

With this letter, we inform you that on April 5, 2018, we shall camp at your office until you meet and assure us that our case shall be heard and determined with the urgency it deserves. Our case is not of civil nature but a human rights matter filed under Article 50 of the 1995 Uganda Constitution and as such, we request that you should not allow technicalities to perpetuate violations and constitutional abuses against us.

We also request that our case be heard and completed from Kampala High Court to avoid more delays of shifting to Masindi. At least since the filing of the case in 2014, neither we nor

government have ever complained about the jurisdiction. Violation of rights in one place is a violation everywhere. You should use your powers to keep our case in the Kampala High Court.

A group of oil refinery affected 20 women and 10 former pupils will come and peacefully camp at your office in the struggle for justice.

We thank you in advance understanding our suffering

Yours faithfully,

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Dickens Kamugisha

Chief Executive Officer-AFIEGO

The refinery-affected people listed below are part of the PAPs who were displaced from the 13 villages in 2012 by government to acquire land for the oil refinery project. They have also signed this letter on behalf of the refinery-affected people.

| No. | NAME | SEX | VILLAGE | CONTACT |
|-----|-----------------------|-----|-----------|------------|
| • | Nyamahunge Millius | F | Kitegwa | 0392966232 |
| • | Esther Abigaba | F | Kyakaboga | 0787435965 |
| • | Makune Jenifa | F | Kitegwa | 0788406229 |
| • | Byabataguzi Plakiseda | F | Kabaale | |
| • | Tumusiime Grace | F | Kabaale | |
| • | Ngamitha Jackiline | F | Nyahaira | 0782576400 |
| • | Muber Leuticia | F | Nyahaira | 0773299876 |
| • | Akumu Makulata | F | Kyakaboga | 0787116262 |
| • | Mungureiki constance | F | Kabaale | |
| • | Awambe Jackline | F | Kabaale | |
| • | Ochokdhogu Julius | M | Kyakaboga | 0777314552 |
| • | Gipatho Grace | F | Kyakaboga | 0775750421 |
| • | Oaikani Janet | F | Kyakaboga | |

| | | | | |
|---|---------------------|---|-----------|------------|
| • | Arirathi Justine | F | Kabaale | |
| • | Tumwebaze Innocent | M | Nyahaira | 0789726114 |
| • | Byaruhanga Godfrey | M | Kitegwa | 0783473773 |
| • | Tugarukeyo Aberi | M | Kyapaloni | |
| • | Turyamuhika Deus | M | Kyapalon | 0783772670 |
| • | Nyagoma Christine | F | Kyakaboga | |
| • | Tumwebaze Bulandina | F | Kyakaboga | 0777947325 |

About AFIEGO and the refinery-affected people signatory to this letter

Africa Institute for Energy Governance (AFIEGO) is a registered public policy research and advocacy NGO whose main objective is to promote energy policies that work for the poor and vulnerable communities. AFIEGO has worked with the refinery-affected people since 2012 and they requested AFIEGO to share this letter with you.

Cc:

- The Chief Justice of Uganda
- The Minister of Justice and Constitutional Affairs
- The Minister of Energy and Mineral Development
- The Auditor General of Uganda
- The Executive Director, Petroleum Authority of Uganda
- The Chairperson, Legal and Parliamentary Affairs Committee
- The Chairperson, Public Accounts Committee of Parliament
- The Chairperson, Ugandan Women Parliamentary Association
- The Chairperson, Parliamentary Forum on Oil and Gas
- All Bunyoro MPs
- The Chairperson, Uganda Human Rights Commission
- The Inspector General of Police

- The President, Uganda Law Society
- Bemanyisa & Co Advocates