



AUGUST 30, 2016

COMMUNIQUÉ ISSUED BY AFIEGO, GPFOG AND OTHER PARTNERS ON GOVERNMENT'S PROPOSAL TO AMEND LAND LAWS AND INVOLVE COURTS IN ILLIGAL COMPENSATION ACTIVITIES

Background

Yesterday, on August 30, 2016, Africa Institute for Energy Governance (AFIEGO), the Guild Presidents Forum on Oil Governance (GPFOG) and 26 Community Based Organizations (CBOs) from the sub-counties of Kiziranfumbi, Buhimba, Buseruka and Wenseko in Hoima and Buliisa districts met at AFIEGO's field offices in Hoima town to discuss the new proposal by the Minister of Lands, Housing and Urban Development (MLHUD) to amend Article 26 of the Constitution and other land laws on compulsory land acquisition.

The groups noted that government's proposal to change land laws on prompt payment of fair and adequate compensation is clear evidence of the extent to which government leaders are removed from the conditions under which majority of Ugandans live. Government seems not to appreciate the extent to which land owners, especially the poor and rural communities, are already suffering from grave land rights violations ranging from CUT-OFF dates set by the government during compulsory land acquisition processes, unfair and inadequate compensation, delayed compensation, use of absolute compensation rates, compensation that does not cater for inflation, land grabbing under the name of government projects and many other challenges.

The meeting observed that the 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. Because of poor implementation by government, Ugandans continue to suffer without any redress.

Indeed, it is a shame that despite the many laws in place, government continues to violate Ugandans' rights with impunity. Government is aware about the incapacity of the majority of the people to seek court redress due to poverty and the difficult judicial system characterized by high costs of litigation, delays to complete human rights cases, corruption in courts and many other challenges.

But amidst the above challenges, the Minister of Lands wants to amend land laws and take away the only remaining possible tool that those facing injustices would use in defense of their rights against the government, other land grabbers and human rights violators.

Further, the meeting noted that it is sad to hear that government is proposing to involve courts in acts that violate the fundamental rights of Ugandans. 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 to survive? Why does government want to hide behind courts to punish citizens? How does depositing disputed compensation funds with court replace the affected person's right to 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 prompt payment of fair and adequate compensation before compulsory acquisition as provided for under the Constitution?

The group further questioned the way government displaced communities including those from the Naguru Estates, Shimoni Schools, the Kabaale-Hoima communities for the oil refinery and others but for many years, the land acquired has remained idle while all the people in Kabaale-Hoima who opted for relocation are still waiting to be compensated over four years after they were stopped from using their land through a CUT-OFF date of June 2, 2012.

There is no evidence that citizens have been stopping government from taking their land for development but mismanagement of compensation processes by the leaders is creating suspicion between citizens and government. Instead of addressing the real obstacles to ensure a win-win situation, government wants to use her might to silence suffering citizens. That can never be called development in a free and democratic country.

Partners at the meeting also observed that government's plan to deposit into court disputed compensation funds will only serve to bias the court whose mandate is to provide redress when parties fail to resolve their disputes. Government wants involve courts in illegal acts before any case is filed. It is our duty as Ugandans to say no to such manipulations and we strongly condemn such unfair plans.

Additionally, the meeting observed that since 1965 when the current Land Acquisition Act was enacted, the Minister of Lands 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 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 government's discretionary powers that has no force of law to protect the weak.

Further, the groups discussed the impact of the weak district land boards, sub-county recorders and area land committees which among other things have failed to support registration of

customary land, consult communities on compensation rates and have failed to educate the people on how to use their land for maximum benefits.

To make it worse, the same government that wants to deprive citizens of their right to prompt payment of fair and adequate compensation before compulsory acquisition failed to run land tribunals at districts and sub-counties years ago. This has left the poor who cannot afford high costs involved in seeking redress from traditional courts at the mercy of the rich and government who want to grab their land.

In view of the above observations, the meeting concluded by demanding for the following from the Minister of Lands and the government:

1. The Minister of Lands, Housing and Urban Development should not amend Article 26 of the Constitution but instead 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 for measuring what is fair and adequate compensation to be paid to the affected persons;

b). Set a time frame within which an affected person should receive his or her compensation from 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;

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

f). An affected person should be given an option to lease his or her land to the developer and if the project deals with an exhaustible resource such as oil, the person should, if interested, repossess the said land after the end of the project;

h). The regulations should establish in all districts and sub-counties Compensation Tribunals to ensure access to reliable and 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 owners before acquisition and where there

is a dispute that goes to court, such a dispute should be handled expeditiously and government should wait until court determines the matter. Both the courts and the judiciary have a responsibility to ensure quick justice to those seeking for redress.

Thank you.

For God and our country.

Signed by AFIEGO and GPF OG on behalf of the 28 partners at the meeting:

Dickens Kamugisha,



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Chief Executive Officer, AFIEGO

Asadhu Ssebyoto



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General Secretary, GPF OG

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 GPF OG

The Guild Presidents Forum on Oil Governance (GPF OG) 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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CC

- The Speaker of Parliament,
- The Chairperson and all members of the NRs Committee of Parliament,
- Ministry of Energy and Mineral Development,
- Ministry of Finance, Planning and Economic Development,
- Uganda Human Rights Commission,
- Shadow minister for lands.
- The Inter-religious Council of Uganda