PROPOSED LAND ACQUISITION AMENDMENTS: LAWS MUST PROTECT PROJECT-AFFECTED COMMUNITIES

AFIEGO staff and members of a community taskforce that was formed in April 2021 at Nyairongo village in Kikuube district. The taskforce’s role is to defend Bugoma forest and communities from land grabbers. Government’s proposed amendments to land acquisition laws should protect communities.

In this newsletter:

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Dear reader, permit us to tell you a story that happened in April 2021. This story is related to a huge debate that is ongoing in the country today: that of the Ugandan government’s proposal to amend land laws. On to the story.

On April 30, 2021, the Masindi High Court made a ruling with huge implications for all land owners in Uganda.

In a case that pitted the mighty government against over nine poor people or families from the oil-rich Buliisa district, court ruled in favour of government.

On that black Friday of April 30, 2021, court ruled that the aforementioned Buliisa households who had stood their ground and had rejected the low and unfair compensation that was being given to them so that their land could be compulsorily acquired for the Tilenga oil project would have to accept it.

Court ruled that government could deposit the rejected compensation in court and that the families had up to three months to pick the said compensation.

Further, court ruled that the poor families had to vacate their land for government to take possession. Court also absolved government of any liabilities.

This decision had its origins in the rejected 2017 Constitutional (Amendment) Bill number 13 that was tabled before parliament on July 13, 2017 by the-then deputy Attorney General, Hon. Mwesigwa Rukutana.

Through the proposed amendments which were roundly rejected by the public and parliament and were dropped by cabinet in 2018, government sought to give itself powers to compulsorily acquire citizens’ private property prior to prompt payment of fair and adequate compensation in case of disputes.

Government proposed that the disputed compensation would be deposited in court as government took possession of citizens’ land and implemented the projects for which the land was required.

In effect, the 2017 amendments intended to remove the current constitutional protection which provides that in all cases, government can apply its powers of compulsory land acquisition or take possession of private land ONLY after payment of fair and adequate compensation to the affected persons.

The unfair 2017 proposed amendments are still fresh in Ugandans’ minds. So is the ruling against the Buliisa Tilenga oil PAPs.

Amidst the above, this month, on July 16, 2021, Uganda’s Prime Minister, Rt. Hon. Robinah Nabbanja, presented government’s legislative agenda for the next one year to parliament. At the top of this agenda are government plans to amend land laws.

Away from the mailo land question which must be addressed with the concerned cultural leaders and all stakeholders, the planned amendments are also aimed at easing compulsory land acquisition processes for public projects. Purportedly, government is also seeking to provide a procedure to determine what fair and adequate compensation is.

Based on government’s ill treatment of
the Buliisa Tilenga oil and indeed other PAPs not to mention the rejected 2017 land amendments, government plans to amend compulsory land acquisition laws are not being taken lightly. Government is viewed as still having a selfish agenda to acquire private land for big oil projects such as the East African Crude Oil Pipeline (EACOP), Tilenga, Kingfisher, oil roads, hydropower dams and others at the expense of Ugandans' rights, especially local communities.

In our **Word from CEO and Partners**, we highlight the fears Ugandans have in relation to the planned land acquisition amendments and recommendations to address the ongoing land rights abuses in the country.

In our **pictorial** section, we bring you some of the activities that we implemented or participated in this month. For instance, we participated in the virtual hearing of the EACOP court case that we and three civil society partners filed in the East African Court of Justice (EACJ).

The case was filed against the Ugandan as well as Tanzanian government among others to stop the EACOP project's environmental, climate change, social and other dangers.

Further, we supported Bugoma forest communities to send a petition to the president amongst other stakeholders to stop the destruction and human rights abuses against the Bugoma forest communities. Over 20,000 people signed the petition.

In addition, we supported youth clean energy champions from Kanungu district to organise a film screening and radio talkshow through which they sensitised communities on the potential impacts that could arise from government’s licensing out of Ngaji oil block in Queen Elizabeth National Park and Lake Edward for oil exploration.

Further, we supported community leaders from the Democratic Republic of Congo (DRC) to organise film screenings and disseminate radio updates highlighting communities’ fears of oil dangers as well as their aspirations for clean energy. We share these and other activities in the pictorial section.

In the **lobbying** section, we bring you the aforementioned Bugoma forest communities’ petition to the president to save the forest. We also bring you a letter that we and our partners wrote to the Minister of Water and Environment requesting that government implements the International Union for Conservation of Nature (IUCN) 2016 World Conservation Congress (WCC) commitment to stop or avoid infrastructural developments as well as industrial and extractive activities in protected and other critical biodiversity areas in the country.

In our **in the media** section, we bring you some of the articles that were written by staff and our partners and were published by the media.

We hope you enjoy the newsletter.

**Editorial team:**
Diana Nabiruma
Rachael Amongin
Balach Bakundane
AFIEGO has community video footage upon footage of oil project-affected persons (PAPs) decrying the land rights and other abuses that have been meted against them by the Ugandan government and oil companies.

The elderly, youth and even the young have complaints. These range from the age-old grievances of under-valuing, under-compensating and delaying to compensate PAPs to bullying and steamrolling of PAPs so that they accept low compensation.

The PAPs' complaints are heartbreaking, and no doubt, land acquisition processes must be changed to be humane and rights-centred.

On July 16, 2021, government presented its 2021 legislative agenda to parliament. Among others, the Prime Minister, Rt. Hon. Robinah Nabbanja, who presented the agenda to parliament, informed the August House that there was need to amend land acquisition laws. The amendments will enable government to avoid delayed government projects due to the current rigorous land acquisition processes.

How about protecting PAPs' rights? Well, parliament was informed that the amendments would provide a procedure to determine what fair and adequate compensation is.

Would the amendments serve PAPs' interests considering that the lack of definitions of what fair, prompt and adequate compensation is has led to disputes over the same, with government often taking the day to pay PAPs' delayed, inadequate and unfair compensation?

Well, before the Prime Minister’s July 16, 2021 presentation before parliament, government had on April 30, 2021 got a controversial ruling from the Masindi High Court. In a dispute between government and over nine Tilenga oil PAPs, court ruled that government has a right to deposit the PAPs’ money into court and take possession of the PAPs' private land.

Through the ruling, court also directed the Tilenga oil project-affected people to pick the said compensation from court within three months from the date of the ruling. Court further exonerated government from any liability.

The court ruling originated from a case filed by government against over nine Tilenga oil PAPs from Buliisa district. The PAPs had rejected the compensation offered by TotalEnergies for their land in Buliisa district. The PAPs argued that the compensation was unfair and inadequate, contrary to Article 26 of the 1995 Uganda Constitution.

This was the first time since the promulgation of the 1995 Uganda Constitution that government went to court to compel PAPs to vacate their land before payment of fair and adequate compensation.

The Masindi High Court ruling implies that despite the existence of Article 26 of the Constitution, any citizen can be displaced from his or her land before compensation and government is exonerated from any liability.
In addition to the absurdities of the above court ruling, it should be remembered that in July 2017, government presented before parliament the constitutional amendment bill No. 13 to amend Article 26 of the Constitution.

The bill sought to provide that in cases where government has identified any land for compulsory acquisition and the owner disputes the proposed compensation offered, government could deposit the proposed amount in court.

Upon depositing the disputed amount in court, government could proceed to acquire and take possession of the land. The only remedy to the owner would be to file a court case and wait until the case was determined.

In effect, the amendment was meant to take away citizens’ constitutional right to payment of prompt, fair and adequate compensation before any compulsory acquisition or possession of property by government. The amendment was also meant to take away the right to a fair hearing before displacement.

Luckily, the amendment was roundly rejected by citizens, parliament, local governments, local communities, religious and cultural institutions, civil society and others. Under pressure from the whole country, government withdrew the bill from parliament in September 2018.

FEARS OVER LAND ACQUISITION AMENDMENTS
For a long time, Ugandans and especially poor local communities have suffered untold land rights abuses characterised by land grabbing, displacements as well as unfair, inadequate and delayed compensation.

Other injustices include delayed justice, unaffordable legal systems and at times, many including women and children have been physically assaulted, raped and sometimes killed in land disputes and grabbing processes.

It cannot be denied that at the moment, the country is united in the call for reforms in the land acquisition laws. However, where can citizens get confidence and trust that the proposed reforms will eliminate land injustices and not worsen the situation?

The Buliisa Tilenga oil PAPs’ case, grabbing of Bugoma forest land with government officials’ assistance, displacements for sugar projects in Amuru and many others make it difficult for citizens to trust government.

To restore citizens’ trust and confidence in the proposed land acquisition reforms, government must assure the public that the reforms are honest and genuine with intentions to protect citizens’ rights and promote livelihoods.

RECOMMENDATIONS
In effect, the reforms must enhance the benefits of Article 26 of the Constitution and other relevant laws that seek to empower Ugandans’ security of tenure. Where compulsory land acquisition must take place, the proposed land reforms must provide for the following guarantees:

(a) The reforms should provide for protection for every citizen against losing his or her property before payment of fair
and adequate compensation.

(b) The reforms should define fair and adequate compensation to include environmental, social and economic losses. The affected person must be restored to a better socio-economic and environmental position than at the time of the proposed acquisition. Some oil-affected communities have been resettled in dry lands where access to clean water is difficult and where rains as well as fertile soils are rare.

(c) The reforms should provide that prompt compensation means compensation must at all times be paid within six (6) months from the date of assessment.

(d) The date of assessment must be that time when government signs an acquisition assessment agreement with the affected persons.

(e) Further, the reforms should provide that NO other person or entity apart from government has powers to use compulsory land acquisition powers and where government delegates its powers to developers or private entities, government will be liable for any resulting damage or injury to the affected person.

(f) Cut-off dates which are placed on PAPs’ properties must be limited to six months. If compensation is delayed past the six months, the agreed compensation must be paid with interest at the prevailing commercial bank rates. Disturbance allowance of 60% must also be paid.

(g) More so, the reforms must provide that any person who takes possession or acquisition before payment of fair and adequate compensation for any private property commits an offence and if found guilty, is liable to conviction of 12 years and must compensate the affected person.

(h) Further, the reforms must clearly provide that protected areas and areas of critical biodiversity can only be acquired and land uses changed after consent from host communities and all interested stakeholders.

(i) Last but most importantly, the reforms must define the concept of “public good” as basis for compulsory acquisition to mean projects that serve the majority of citizens. There also must be a compulsory multi-stakeholder committee comprised of government, eminent elders, religious and cultural leaders, professional institutions, CSOs and host communities’ representatives to define what is “public good”.

In effect, any proposed land acquisition reforms need to strengthen the enjoyment of citizen’s rights to property and improve livelihoods as well as conservation efforts.

Moreover, no compulsory land acquisition reforms should be undertaken without government establishing an independent multi-stakeholder committee composed of religious and cultural leaders, CSOs, professional institutions, elders and government among others to lead the process of consulting Ugandans and compiling their views to inform the new land amendments.

By CEO and partners
June 2021
AFIEGO organised a film screening for youth and women from the Queen Elizabeth landscape.

The films that were screened portray the impacts oil and gas exploitation activities have had on the environment and communities in various countries. Youth and women were empowered to defend protected areas from extractive activities following the film screening.

July 2, 2021
AFIEGO supported and facilitated its lawyers and partners to participate in the virtual EACOP court case hearing at the East African Court of Justice (EACJ).

The case hearing was aimed at asking the EACJ for a temporary injunction to stop the EACOP project dangers.

The Ugandan government requested for more time to file its evidence.

July 10, 2021
AFIEGO supported DRC CSO partners to organise a film screening for fishing communities, youth and women groups in the Ituri province in DRC.

The targeted stakeholders were empowered on their roles and responsibilities in protecting natural resources from oil dangers.

July 13, 2021
AFIEGO supported CSOs working in the extractives sector in Uganda to compile and submit a report to the UN Human Rights Council to inform the assessment of Uganda during the Universal Periodic Review in 2022.

The objective of the CSOs’ participation in the UPR processes is to improve the human rights situation in Uganda.
July 23, 2021

AFIEGO supported clean energy youth and women champions in Kanungu district to organise a radio talkshow at Kinkizi FM.

The talk show was used to empower communities near Queen Elizabeth National Park on the negative impacts of oil and gas activities on the environment and community livelihoods.

July 20, 2021

AFIEGO supported CSO partners from DRC to organise media engagements through which they captured and disseminated community aspirations for clean energy.

The community views were aired for action by the Congolese government.
This month, AFIEGO and our partners wrote to the Minister of Water and Environment. We called on him to engage the Ugandan government to stop infrastructural, industrial and oil activities in protected and other critical biodiversity areas in the country. The letter is based on a 2016 commitment that IUCN members, including Uganda, made at the IUCN World Conservation Congress.

In addition, AFIEGO and our Save Bugoma Forest Campaign partners supported communities to send a petition to the president and other stakeholders to stop the destruction of Bugoma forest.

致中国工商银行关于东非原油管道的函

尊敬的陈四清董事长、廖林行长，

我们将向21家乌干达、15家刚果民主共和国和3家肯尼亚的民间社会组织向中国工商银行致函。银行可能会为东非原油管道项目（EACOP）的开发提供25亿美元的项目贷款。对此，我们想向贵行表达我们的深切担忧。

我们希望贵行更加注重其环境、社会和治理（ESG）方面的努力，尤其是贵行在2020年《公司社会责任报告》中所表明的关于环境保护和公共福利的承诺。报告声明，工商银行的战略目标是“建设国际领先的绿色银行，成为具有良好国际声誉的绿色银行”。此外，我们也知道贵行正在采取措施，积极响应习近平主席在去年提出“30·60”目标，努力实现碳中和。

我们希望贵行对于绿色金融的承诺，将在东非原油管道项目中得以体现。因此，我们代表当地社区，致函于贵行，表达我们对该项目的担忧，并寻求与贵行进行积极对话。

AFRICA INSTITUTE FOR ENERGY GOVERNANCE

Hon. Sam Cleopatra,
Minister of Water and Environment,
Kampala-Uganda.

28th July 2021

Dear Sir,

RE: IMPLEMENT THE 2016 WCC RECOMMENDATION-102 TO SAFEGUARD PROTECTED AREAS FROM EXTRACTIVES

The above refers

On behalf of Africa Institute for Energy Governance (AFIEGO) and the undersigned signatories, allow me to take this opportunity to thank you for your ministry’s leadership and for coordinating as well as hosting the International Union for Conservation of Nature (IUCN) committee members in Uganda. We appreciate your recognition of the important conservation roles played by IUCN and all its constituencies across the world.

AFIEGO is an incorporated public policy research and advocacy Ugandan organisation whose main objective is to promote good energy governance to safeguard the environment and community livelihoods. We work to protect nature and communities especially the poor and vulnerable from the dangers of energy activities such as oil, gas and others. AFIEGO joined IUCN in 2020.

As an IUCN member, AFIEGO appreciates the Ministry of Water and Environment’s efforts to continue mobilising the entire country to respect and implement all IUCN’s resolutions, recommendations and decisions in line with IUCN’s Statutes and Rules of Procedure.

The main objective of this letter is to request you to advise the Ugandan government to stop the conduct of oil and gas activities in protected and other critical biodiversity areas in the country.

The second objective of this letter is to inform you that we plan to write a letter to the leadership of IUCN to take action against Uganda if government fails or ignores the calls to stop oil activities from taking place in protected areas.

This letter is based on IUCN’s 2016 World Conservation Congress (WCC) Recommendation 102 through which IUCN members including Uganda committed to and recognised previous IUCN
This month, staff and research associates wrote newspaper articles which were published in the leading newspapers including the New Vision, Daily Monitor, The Observer and EarthFinds. Some of the published articles are captured below.
Upcoming events

August 1, 2021; Hoima and Kikuube: Support Bugoma forest host communities to petition their local leaders to join efforts to stop the ongoing destruction of Bugoma forest by Hoima Sugar Ltd

August 5, 2021; Buliisa: Field visit to meet the nine Tilenga PAPs who are appealing the Masindi High Court ruling to stop land grabbing and illegal eviction

August 11, 2021; Kampala: Meeting with the EU on the need to save Bugoma forest from sugarcane growing, land grabbing and other threats

August 12, 2021; Kampala: Engage the Ministry of Water and Environment on the need to comply with IUCN recommendations and resolutions amidst oil and gas activities in Uganda

August 16, 2021; Greater Masaka: Support EACOP PAPs to petition government authorities to stop intimidation of the EACOP PAPs

August 17, 2021; Online: Reflection meeting for IGEN-EA members

August 27, 2021; Kampala: Petitioning Ministry of Lands, Housing and Urban Development on what must be considered in the amendment of land acquisition laws

August 30, 2021; Kampala: Engagement with the Minister of Energy to implement the 2016 Compact Agreement to promote renewable clean energy as a means to mitigate climate change

August 4-30, 2021: Engagements on and hearing of the EACOP case at the East African Court of Justice (EACJ)

About Africa Institute for Energy Governance (AFIEGO)
Africa Institute for Energy Governance (AFIEGO) is a public policy research and advocacy organisation dedicated to influencing energy policies to benefit the poor and vulnerable. Based in Kampala, Uganda, the organisation was born out of the need to contribute to efforts to turn Africa’s clean energy potential into reality and to ensure that the common man and woman benefits from this clean energy boom. Through lobbying, research and community education, AFIEGO works with communities and leaders to ensure that clean energy resources are utilised in a way that promotes equitable development, environmental conservation and respect for human rights.

Our Vision
A society that equitably uses clean energy resources for socio-economic development

Our Mission
To promote energy policies that benefit poor and vulnerable communities