



05/April/2019

COMMUNIQUE CALLING ON THE MINISTER OF LANDS TO USE THE PROPOSED AMENDMENT TO THE LAND ACQUISITION ACT (1965) TO STOP INJUSTICE AGAINST PROJECTS-AFFECTED PEOPLE IN UGANDA

1. Introduction

On April 1, 2019, Africa Institute for Energy Governance (AFIEGO) organised a meeting in which civil society organisations (CSOs) discussed government's proposal to amend the Land Acquisition Act that was enacted in 1965.

The CSOs at the meeting included those working to ensure that oil activities do not damage our biodiversity and avoid violating citizens' land rights. They came from the districts of Hoima, Kikuube, Buliisa, Masindi, Nwoya, Pakwach, Masaka, Lwengo, Rakai, Kiboga, Kakumiro, Kagadi, Mpigi and others where oil activities are ongoing or are being planned.

At meeting, the CSOs observed that on March 21, 2019, Hon. Betty Amongi, the Minister of Lands, Housing and Urban Development (MLHUD), informed a national dialogue on land governance challenges in Uganda that was held at Skyz Hotel in Kampala that government was in the process of presenting a bill to Parliament to amend the 1965 Land Acquisition Act.

The minister stated that the amendment will provide for the following among others:

- Establish a specialised land tribunal with the mandate and obligation to receive and determine all matters on and relating to compulsory land acquisition within a period of 30 days from the date of filing.
- All the members of tribunal shall be appointed by the President and approved by Parliament.
- Any appeal against the decision of the tribunal shall be lodged with the High Court and the High Court will be under obligation to hear and conclude the appeal within 45 days.
- The High Court shall be the final court of appeal and its decision shall be binding on all parties in question.

The CSOs noted that the above developments were a great step towards addressing land governance challenges amidst oil developments in Uganda. They recalled that in 2017 and the first

half of 2018, government sought to amend Article 26 of the 1995 Uganda Constitution to allow itself to compulsorily acquire citizens' land before payment of compensation in case of disputes.

The CSOs further recalled that government had proposed that after it took over citizens' land before payment of compensation, land owners would only be left with the option of going to court which would determine the payable compensation. At that time, government said that taking citizens' land before compensation would solve the problem of delaying government projects.

The CSOs observed that the above proposals were dangerous to citizens considering that over 98% of Ugandans still depend on land to survive through growing food, grazing their cows, getting small incomes from small-scale farming, accessing water and others. How would the victims of such an amendment survive if government took their land before compensation?

The CSOs therefore appreciated government for listening to the demands of CSOs such as themselves and citizens which resulted into dropping the amendment to Article 26 of the Constitution.

Further, to ensure that the proposed amendments to the Land Acquisition Act of 1965 end or at least mitigate land injustice in Uganda while promoting environmental conservation, the CSOs made a number of observations and proposals that are captured below:

2. Observations and proposals

a). Weak institutions: The CSOs noted that it is commendable that government plans on establishing land tribunals in host communities to handle compensation disputes within 30 days. They however noted that there are no guarantees that the tribunals will not fail to work or underperform like district land boards (DLBs) and other government agencies due to poor funding, corruption, political interference and others.

b). Corruption: Corruption is the single biggest challenge that is worsening land and other governance questions in the country. Corruption continues to fail aggrieved citizens from accessing justice from court because courts get compromised by the rich. However, the minister did not show how corruption, which weakens institutions, make access to justice unaffordable and others, will be addressed, the CSOs observed.

c). High costs of accessing justice: They further noted that it is good that the tribunal that government plans on establishing will attempt to be less legal than the courts of law. However, they expressed worries that the High Court may continue to rely on the dictates of the traditional judicial system where communities will require lawyers for their cases to be heard. The CSOs observed that even when the High Courts will be required to complete cases in 45 days, which is commendable, the challenge of unaffordable courts will not be addressed. The rich will therefore continue to be favoured by such a system over the poor. This creates a fertile ground for corruption and injustice.

d). Lack of political will: The CSOs at the meeting observed that available evidence indicates that majority beneficiaries of land grabbing and other land governance injustices are perpetuated, aided, abetted and supported by government officials at both political and technical levels. It is these people who always position themselves wherever government plans to establish any infrastructure so that they can earn from compulsory land acquisitions. In the end, they create an impression that ordinary people are the ones delaying government projects but in reality, it is these connected people causing trouble because they own land and compensate themselves. Consequently, these illegal beneficiaries can never be controlled by laws but rather through informed and determined citizens pressuring government to comply with laws and best practices. Short of this, the proposed amendments to the 1965 Land Acquisition Act will not save citizens, especially the poor and communities that continue to live at the margins of life including those in the oil region, the CSOs said.

e). Failure by the minister to put in place regulations for the assessment and payment of compensation: Further, the CSOs at the meeting observed that it is unfortunate that since 1965, the Ministry of Lands has ignored one of the most important provisions on assessment and payment of compensation. The ministry has failed to put in place regulations for assessment and payment of compensation as mandated to under section 20 of the 1965 Land Acquisition Act. How can Ugandans trust a Minister of Lands who failed or ignored to comply with existing laws to provide leadership to put in place new laws to address land injustice in the country? The CSOs at the meeting noted that the failure by the Minister of Lands to put in place regulations for the assessment and payment of compensation is evidence of lack of political will to address land challenges in Uganda. Without this will, no law will save Ugandans from land injustices.

f). Relevance of Bamugemerire Land Commission of Inquiry: The above commission was put in place by the President to gather evidence on the causes of land problems in Uganda and to make evidence-based recommendations on how on to address such problems once and for all. Already, government has spent over Shs 30 billion on the commission. Before it presents its findings and recommendations to guide on what should be done to improve land governance challenges in Uganda however, the Minister of Lands is proposing to amend the 1965 Land Acquisition Act without any clear evidence that her proposals will end land injustices. What is the minister and government's motive? Did they put the commission in place for cosmetic reasons and do not expect it to guide government to address land governance challenges in Uganda, the CSOs asked?

g). Communal rights, use of cut-off-dates and failure to pay compensation for indigenous trees: The CSOs at the meeting also noted that any proposal to amend the 1965 Land Acquisition Act without addressing how to compensate communities for communal rights such as access to grazing land, water wells and others will not solve the challenge of unfair and inadequate compensation. They also observed that government's continued use of cut-off-dates which stops communities from growing food and putting up any new developments on their land causes food insecurity and loss of family incomes. Further, the CSOs noted that government failure to compensate communities for indigenous trees which government says have no commercial value

is undermining conservation. They observed that amendments to the 1965 Land Acquisition Act should address the above challenges.

h). Protected areas not covered by the minister's proposal: In addition, the CSOs at the meeting said that it is sad that Uganda continues to lose its national parks, lakes and rivers to oil and other challenges. The CSOs noted that government continues to think that forests, national parks, rivers, lakes, wetlands and other protected areas are open land for them and they can change the use of that land at will. The CSOs said that unless amendments to the 1965 Land Acquisition Act empower citizens to have a say in whether oil and other polluting activities should be allowed in protected areas, government would continue to destroy forests, national parks, rivers, lakes and wetlands for oil and other activities.

i). In their final observation, the CSOs warned that government should not try to smuggle provisions from the proposed land amendments to Article 26 of the 1995 Uganda Constitution into the amendments to the 1965 Land Acquisition Act. The CSOs noted that though the amendments to Article 26 were dropped by government in September 2018, government was so interested in the amendments to Article 26 that the president went around the country in 2017 to ostensibly sensitise the public on the same. The CSOs emphasized that the proposed amendments to Article 26 were bad and government should not smuggle them into the amendments to the 1965 Land Acquisition Act.

3. Recommendations

In view of the above, the CSOs made the following recommendations:

- i. Strengthen institutions to fight corruption:** Government must ensure that transparency institutions such as the office of the Inspector General of Government (IGG) are supported with sufficient funds, political will and are given sufficient funds and independence to enable investigation and punishment of the corrupt to end land injustices.
- ii. Create individual liability and make corruption costly:** Government should also make corrupt officials to be individually liable for their crimes. Further, should a government official be found to be corrupt, stiff penalties including confiscation of properties acquired from corruption proceeds should be enforced.
- iii. Strengthen government institutions such as DLBs:** Further, government should strengthen the independence of DLBs and other government institutions through training, providing sufficient funding and through legislation that gives separate powers between DLBs and the Chief Government Valuer (CGV) to prevent inadequate and unfair compensation.
- iv. Appoint more judges and magistrates:** Government should appoint more judges and magistrates for the land divisions and should ensure sufficient funding for the judiciary so that land disputes can be heard in the timeframe being proposed in the amendments to the 1965 Land Acquisition Act.

- v. **Sensitise communities:** Government and CSOs should sensitise and support communities to ensure that good laws that will end land injustice are enacted and enforced. CSOs should also sensitise communities so that they can participate in decision-making processes such as those involving whether to allow oil activities in protected areas or not.
- vi. **Put in place a law to govern Resettlement Action Plans (RAPs):** Amendments to the 1965 Land Acquisition Act should provide for the conduct and implementation of RAPs. Currently, no law in Uganda provides for the above, making commitments made in the RAP un-enforceable by the law.
- vii. **Put in place regulations defining terms and timeframes for compensation:** Ministry of Lands should put in place regulations that define what prompt, fair and adequate compensation is. Without the regulations, compensation disputes will continue to exist and communities will continue to be paid unfair and delayed compensation. Further, the regulations should provide for how indigenous trees and communal property will be compensated. The regulations should also put timeframes within which cut-off dates expire to end the injustice of government stopping project-affected communities from using their land for indefinite periods of time without compensation.
- viii. **Citizens must be consulted before giving away protected areas for oil, other developments:** Finally, amendments to the 1965 Land Acquisition Act must provide that the public must be consulted before government gives away protected areas for oil and other developments to stop government from destroying protected areas for oil activities.

Signed by:

- Africa Institute for Energy Governance (AFIEGO);
- National Association of Professional Environmentalist (NAPE);
- Environmental Conservation Trust of Uganda (ECOTRUST);
- Guild Presidents Forum on Oil Governance (GPFOG);
- World Voices Uganda (WVU);
- Green Organisation Africa (GOA);
- Center for Constitutional Governance (CCG);
- Oil Refinery Residents Association (ORRA);
- Kakindo Orphans;
- South Western Institute for Policy and Advocacy (SOWIPA);
- Kasese Citizens Coalition to Safeguard Biodiversity against Oil and other threats;
- Katwe Sanitation and Clean Energy Women's Club (Kasese)
- LAPOTA of Nwoya and Amuru.