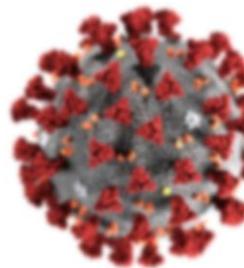


LAND JUSTICE IN THE MIDST OF THE COVID-19 PANDEMIC: CALL FOR ACTION

Kampala, 4 June 2020

COMMUNIQUE



“Government should lift the suspension on lodging caveats and develop operating standards on how the local council courts should operate during this Pandemic”

On June 4th 2020, Food Rights Alliance (FRA) and land sector stakeholders held a high-level online dialogue on the impact of COVID 19 on access to land justice. The objective of the dialogue was to create a platform for actors working on access to land justice to deliberate on what roles they can play to protect the land rights of vulnerable Ugandans during this period of the pandemic and how communities can be supported to access land justice.

PREAMBLE

RECALLING that globally there has been a general lockdown in different countries as a result of COVID-19. With the World Health Organization declaring it a global pandemic, many countries installed emergency actions to curb its spread. In Uganda the first case was reported on the March 22nd 2020 and the government declared a number of emergency actions to curb the spread of the virus. Upon lifting some of the lockdown measures, the government allowed a few essential services to resume or maintain operation. Among these was the Judiciary albeit with some guidelines from the Chief Justice. Provision of legal services was later permitted allowing for access by citizens.

WELCOMING the implementation of Minister’s directive and directive from the Chief Justice, we commend the Government of Uganda through the Ministry of Lands, Housing and Urban Development and the Judiciary for putting in place directives with the aim of protecting

Ugandans from land rights violations during this period. Among these was the guideline which stated that: *“No land transactions (Searches, transfers, subdivisions, Caveats, assessment and payment of Stamp duty) to be handled by any Land office during this lockdown; No one should be evicted from their bibanja or the land they are in possession of during the current COVID 19 lockdown period, for any reason including non-payment of Ground rent and all Court Orders on evictions, whether issued before or during this period must not be enforced until after the COVID 19 quarantine is lifted.*

We further welcome the directive by the Judiciary of Uganda on May 27th 2020 which allowed operation of Courts albeit with some restrictions. Under this directive, a judicial official was allowed to handle a maximum of five court cases per day. This meant that there is some opportunity for communities to access courts of law and obtain land justice.

We welcome the chief Justice guidelines released on May 27th 2020 under paragraph 4 that gives discretion to the judicial officer faced with different situations to judge the situation and take decisions on how to handle different cases in those situations. This means that if there is a situation in a court in one of the border districts whereby all the litigants in a case have managed to make it to court the Judicial officers have been given mandate to handle such a case while observing the standard operating procedures of the Ministry of Health. This provides an opportunity for the communities living in the 40 border districts which remain partly locked to access justice. We also welcome the resumption of the World Bank funded project of hearing of land cases in different areas by the Judiciary.

CONCERNED that there are unscrupulous persons using illegitimate measures to wrongfully evict vulnerable people during this period, leaving Ugandans landless and properties destroyed despite the stay of execution on evictions, there have been cases of victims taking the law into their hands to protect their land rights as was the case in Oyam district¹. Further, there have been ongoing land disputes and land transactions among the communities despite the directives from MOLHUD. We are also concerned that the suspension of all land transactions including lodging of caveats denies communities an immediate remedy of protection against their land being grabbed by unscrupulous people.

¹ <https://www.monitor.co.ug/News/National/Oyam-police-boss-arrested-following-death-four-people-land-fight/688334-5544436-format-xhtml-10nqle2/index.html>

We are concerned that the local council courts have not been issued operating guidelines by the Ministry of local government and yet they handle majority of cases on customary land. We are also concerned that there are no plans in the budgets of most local governments to build the capacity of local council courts in the next financial year 2020/21 and are further concerned that the affected communities are facing challenges to access justice since formal justice structures are operating below capacity with courts allowed to handle only five cases a day. This is still an insufficient number given that there has been an increase in land rights violations during the lock down. Further given the fact that the judicial courts were only registering land cases without hearing them, there has been an increased case backlog, one of the main challenges to access to land justice.

RECALLING that Government at all times has a duty to protect its citizens together with their property by providing for every individual the right to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law,

WE RECOMMEND that Government urgently addresses the following issues. These recommendations have emanated from the participants of a dialogue hosted by FRA with participation of representatives from Ministry of Lands, Judiciary, local governments and from actors working in the land and justice sector.

1. The Government through Ministry of lands lift the suspension on lodging caveats since it's the first step in safeguarding land rights of Ugandans from land grabbing.
2. The Ministry of Local Government guides and develops operating standards on how the local council courts should operate particularly on how they should handle land matters during this pandemic.
3. The Ministry of Local Governments and Judiciary prioritize capacity building of the local council courts to enhance their ability to effectively resolve land disputes during this period. The Judiciary should enhance supervision of the local courts to ensure that they operate within the ambit of the law.
4. The Ministry of Lands and the Judiciary carry out continuous dissemination of information on land particularly on the avenues through which communities can access land justice during this pandemic.
5. Government through the Ministry of Lands, Housing and Urban Development cause arrest of the perpetrators of evictions, order for cancellation of all evictions and land

transactions that took place during this lockdown period. Efforts should be made to reinstate the evicted communities back on their land and provide compensation for victims of evictions during this lockdown period.

To Non-State Actors

1. Non- state actors should be vigilant in identifying and documenting land rights abuses particularly during this pandemic.
2. Non-state actors should provide rapid response mechanisms in case of land rights violation and link up with stakeholders in order to provide services to communities. Further, they need to create linkages and synergies across the board to ensure that land rights violations are monitored and reported. This can be done through mapping the referral pathways and collaborative frameworks with actors working on land justice.
3. Non-state actors should support government in providing continuous awareness to the populace by disseminating the various guidelines by Ministry of Lands and the Judiciary.
4. Non-state actors should increase dissemination of information to the public on where to report land rights abuses and perpetrators in order to access remedies. Community actors can be used to support this function during these pandemic.
5. Non state actors supporting access to justice should innovatively provide services to the communities in line with the standard operating procedures of Ministry of Health. This can be through operating call service centers to provide legal aid to communities. An additional innovation is the creation of a Situation room where real time emergencies are discussed, responded and remedied immediately.
6. Non state actors should provide litigation in cases where land rights abuses are being conducted on a wider scale.

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