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ISSUE PAPER

ON

LAND RIGHTS VIOLATIONS DURING THE COVID-19 LOCKDOWN:

“Amplifying community voices in regard to land rights violations”

PREAMBLE

Over the last few decades, Uganda has continued to experience increased foreign direct and local investments in various fields including the natural resource exploitation sector, industries and agriculture among others. Since 2010, the country has been on an ambitious path to become a middle-income economy by 2020. Uganda’s Agenda 2040 is focused on accelerating socioeconomic transformation.¹ Whereas all this investment is critical to economic growth, which, if well directed can lead to further realization of human rights, certain development projects and forms of investment have been associated with human rights abuses,² and created tensions between balancing human rights and development. The fact that many of the investments require large pieces of land has fueled increased land grabs, illegal and forced evictions across the country.³ This in itself affects economic growth and affects sustainability of development projects.

¹ Uganda Vision 2040

² Institute for Human Rights and Business Submission to the United Nations Human Rights Council Universal Periodic Review (UPR) Session Review for Uganda, March 2011.

³ For example research by Friends of the Earth in 2013 implicated Palm Oil Giant Wilmar International’s subsidiaries in Uganda to land grabbing on Kalangala Island, See for example the case of Bamutakudde and Kaweeri Coffee in Mubende and Rwamutonga evictions among others.

The abnormal demand has further led to land acquisitions that are executed in total violation of all regulatory frameworks in the sector but only to quench their desires of acquiring land. Unfortunately, there still exists a clear lack of information on what is exactly happening during these transactions especially as told by the communities affected since in most cases the aggressors have access to media and other channels of communication.

Food Rights Alliance (FRA) in partnership with Democratic Governance Facility (DGF) held three high level online dialogue meetings on land rights violations on sub-themes such as; *Panorama on land evictions, Impact of Covid 19 on access to land justices and Responsiveness of the Land Sector to the COVID19 crisis to guarantee Food security and optimum land use*. The objectives of the online dialogue meetings were as follows: *1) to amplify community voices against illegal land evictions:2) 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: 3) to discuss the impact of COVID 19 to food security and optimum land use and how land governance can be streamlined to promote optimum land use now and after the COVID 19 health crisis respectively.*

All the three dialogues brought on board stakeholders from different sectors including; MOLHUD, Policy makers, Judiciary, district local government representatives, Academia, Civil Society Organizations both regional and international, Community representatives from the different regions across Uganda i.e. Kiryandongo, Amuru, Buliisa, Kween district (Benet community), Hoima, Soroti, Mubende, Moroto, Gulu, Nebbi, Mukono, Lira, Tororo etc . The action points from these meetings have been documented into this communique for presentation before duty bearers to inform them on issues that are affecting communities and to seek possible solutions to these issues.

Key note: whereas the ministry passed on a directive to stop evictions and land transactions during the lockdown, it is not clear whether communities at grass root level had any information in regard to that directive. It is also not clear whether those who carried out evictions had received communication on the directives. As a result;

- A lot of land evictions and transactions took place during the lockdown against the directive from the ministry of lands housing and urban development.
- Evictions conducted where without due notice of six months or court order as provided for under the eviction guidelines and was carried out without compensation even when some of the victims were bona-fide occupants who are legally protected by the law.
- The main perpetrators of the evictions were the Companies, UPDF, UWA among others and in some cases the evictions were violent and resulted into torture, death, loss of properties especially in Kikube, Benet community.
- Most of the victims have not accessed justice due to the fact that there was a lockdown and many still cannot access justice due to the cost involved.

RECALLING that in March 2020 the World Health Organization declared COVID-19 a world pandemic. Following this announcement Uganda implemented various measures to curb the pandemic - including closure of schools, suspension of public and private transports, practicing social distancing, suspension of mass gatherings including religious events, political events, social/cultural events and sport events. In addition, different line ministries and departments undertook measures to safeguard the public including, the judiciary and the Ministry of Lands Housing and Urban Development.

WELCOMING the directive/guidelines put in place by MOLHUD on 16th March 2020 that stated ; *“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.* Further we are recognizant of the directive by the Chief Justice of Judiciary on 19th March 2020 and later on revised on 27th/May/2020 that allowed for resumption of court albeit with some restrictions and this meant that the courts continued registering cases during the lockdown as a measure to keep track of land rights violations

We commend the Government of Uganda through the Ministry of Lands, Housing and Urban Development and the Judiciary for being conversant of the fact that land rights violators could use the country lockdown as an opportunity to disfavor vulnerable communities hence put in place these directives with the aim of protecting Ugandans from land rights violations during the pandemic.

In addition to this, we recognize the need to acquire land for sustainable industrialization for inclusive growth, employment and sustainable wealth creation. However, this should be done in cognizant of the due process as provided for in the legal framework and international principles and guidelines that Uganda has signed up to.

CONCERNED, that over the years there has been increase in Land rights violations, and this has impacted the lives of many Ugandans negatively as evictions are carried out without compensation and in disregard to human rights principles. Many have become landless and homeless without other sources of livelihoods; progress towards justice and tenure security has been frustratingly slow, and in some cases has stalled altogether. Many victims have been unable to access justice due to delay in handling their cases caused by court backlogs, others have died without receiving the justice that they hoped for. The issues encountered during the lockdown are not any different from what has been encountered before, and this calls for a joint action to find out a workable solution to prevent repetition of such scenarios. We are concerned that there were several scenarios during the lockdown where these directives were not followed as evidenced in Kiryandongo⁴, Kasanda⁵.

RECALLING THAT; Article 20 (2) provides that the rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government and by all persons and that the state has a duty to protect its citizens together with their property. Upon this background, FRA and partners and the affected communities would like

⁴ <https://witnessradio.org/multinationals-use-covid-19-crisis-to-violently-grab-land-of-poor-communities-with-impunity/>

⁵ <https://nilepost.co.ug/2020/04/12/four-police-officers-arrested-for-frustrating-investigations-into-abid-alams-gruesome-acts/>

to present to the following concerns that were raised by the communities during the online dialogue meetings organized by FRA.

A. Forced Evictions;

During the lockdown many communities were confronted with evictions despite the directives from MOLHUD, this included communities in Kikube, Kiryadongo, Amuru, Kween, Hoima, Buliisa among others. The evictions were carried out without undertaking any legal procedures required for evictions as stipulated in the Land (Amendment) Act 2010. Communities were given 6 days to vacate their land and homes despite the inaccessibility of transport means. The 6 days' notice is contrary to the requirement of a minimum of a six months' notice and a court order before any eviction. Most of the community evicted have been occupants of the land uncontestedly for over 20 years hence they are protected by the law as bona-fide occupants on the land and thus cannot be evicted without due compensation. The community also cited the perpetrators to include, Government departments (UWA, NEMA), companies and individuals. The evictions were carried out with the help of UPDF.

Recalling that; Art 26. Provides for the right of everyone to own property either individually or in association with others and that no person shall be compulsorily deprived of property or any interest in or right over property except where conditions provided for in the law are met. Further the National Objectives and Directive Principles of State Policy X provides that the State shall take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them.

We recommend that;

1. The Government needs to intervene and where possible reinstate the community that were affected back on their land or resettle them to another land especially where rightful procedures of eviction were not followed. This is because the evictions were carried out against the ministerial guidelines. It should also be noted that leaving the community landless will only increase the poverty status since 87% of Uganda's population depend on

agriculture for their livelihood hence this is likely to affect the Country's growth and development.

2. The Government must engage the people affected to participate in the land acquisition process as they undertake a suitability assessment as provided for under the National Objectives and Directive Principles of State Policy X and this engagement should be at every stage of the process.
3. The Government through MOHULD should support the land sector by developing a sector disaster preparedness plan to manage epidemics and other disasters. This can be undertaken in the financial year 2021/2022.
4. Since there are multiple claims over land by both the government and the community, there is need for the government to prioritize the creation of land inventory for government land since this will enable them track and keep records of the lands that they own.
5. Massive land rights awareness campaigns should be prioritized by the Ministry of Land Housing and Urban Development. It is important that people know their rights on land so that they can engage meaningfully in the development processes ongoing across the country. Issues around meaningful compensation should be recognized.
6. There is need for the Government through the Ministry of Land Housing and Urban development to develop country guidelines aimed at promoting Free Prior and Informed Consent during land acquisition for development purposes.
7. Government through Ministry of Lands, Housing and Urban Development should monitor the practices, actions and inactions of institutions undertaking land acquisition for development practices.

B. Destruction of economic (livelihoods) and social rights;

Knowing that many communities in Uganda derive their livelihoods on land, participants from the affected areas noted that the eviction destroyed their livelihood including economic activities and access to shelter. They have become food insecure, landless and homeless due to the evictions. In some instances, like in Kikube district, they are not allowed to farm their land. That the eviction

notice of one week was given through a mega phone and not put in writing leaving them with inadequate time to harvest their garden foods and retail shops became dysfunctional. They also noted that many were going hungry and others opting to eat one meal a day to survive. This is regardless of age, hence children, old people, youth, pregnant women, have all been victims of the same circumstances.

The community are still anticipating continuous disruption of livelihoods and food insecurity owing to the disruption of the farming activities and inaccessibility to their land to harvest already planted foods.

Recalling that the National Objectives and Directive Principles of State Policy XIV provides that the state shall fulfill the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that— (a) all developmental efforts are directed at ensuring the maximum social and cultural well-being of the people; and (b) all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits. Further Article 26 provides for prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property;

We Recommend that;

1. The Government in bid to fulfill its obligation needs to come up with strategy to support communities affected by such evictions especially through distribution of food aid, resettlement on different land and economic activity support.
2. Government and individuals/companies that carried out the eviction should compensate the affected community for the loss of lives and properties during such evictions. This should be adequate enough to restore them to their original state than leaving them worse than they were found. The market value of land should not be based on the prices of land in the location of the PAPs but should also consider prices of land in neighboring areas since in most cases land values within the project areas tend to increase with the development

C. Other Human rights issues

Since most of the evictions were carried out with force, the communities from affected areas noted loss of lives especially among the Benet communities, and Kikube community (those whose boats capsized as they were migrating to other areas) injuries, trauma, and depression since people were being shot to death by rangers, whipped with sticks, subjected to slaps, threats of violence, and forced to sleep out as doors to houses were closed.

Recalling that Art 50 (1) is to the effect that any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.

We recommend that;

1. Government should at all times undertake their obligation on protecting the human rights of the people. The MOLHUD should always intervene to condemn and respond to victims of land rights violation.
2. Government through the Judiciary and MHULD should cause arrest of the perpetrators of evictions, order to halt all evictions and land transactions that took place during this lockdown period. Government and individuals/companies that carried out the eviction should compensate the affected community for the loss of lives and properties
3. Further, efforts should be made to reinstate the evicted communities back on their land and provide compensation for victims of evictions during this lockdown period. There is need for the government to always provide psycho-social support for the populace during evictions since it may cause panic and anxiety. Failure to support community mentally and emotionally risks other factors such as domestic violence. Experience has shown that there is a strong correlation between land rights and domestic violence.

4. Government should always consider land for land compensation incases of such massive evictions. This gives opportunity for the victims to restore their livelihood and it will reduce instances of landlessness in the country.
5. Priority of land rights should be given to citizens of Uganda. In the instance's cases of Kikube district. The citizens are being pushed out to give land to the refugees.
6. The boundary between reserved areas and community areas should be drown clearly. MOLHUD and other responsible government agencies should promote Peaceful co-existence among community leaving near reserved areas. Evidences in Queen district and Amuru district show how UWA officials and the community are losing lives in the hands of one another due to boundary issues

D. Access to justice issues

Since it was a lockdown time with means of transport restricted, most of the communities failed to access justice. It should be noted that for communities whose issues started before the lockdown like those of the Benet community, Kiryadongo, Amuru, they have still not been able to get the justice that they have been longing for. Such delay in justice has left many community members aggrieved.

Recalling that; The Constitution under Article 26 and 50(1) grants a right of access to a court of law by any person whose interest or right over the property has been violated. Article 50 (2) grants any person or organization to bring an action against the violation of another person's or group's human rights. Further the Constitution grants rights to every person to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law. In addition,

WE RECOMMEND that;

1. The Judiciary as a vital arm of Government should devise various mechanisms of remaining functional at all levels even in such pandemics so as to dispense land justice expeditiously.

The technology-on line-based hearings should be encouraged and funded to ensure that they can function effectively even in the event of such health threatening pandemics as Covid-19.

2. The Judiciary should plan for innovative strategies on how Justice structures can offer remedial recourses to the affected communities. This can include toll free numbers and emergency response units.
3. Land cases resulting from massive land acquisitions should be given the priority it deserves in Courts of Law.
4. Fee structures for reporting massive land acquisition cases should be removed or reduced. This is because most times affected communities are left disadvantaged financially. The burden of legal fee is a worry that may exempt them from accessing justice.
5. There is need for the Government to increase funding to the Judiciary to enable it operate more efficiently and optimum level. This will enable the judiciary recruit more judicial officers to reduce the case backlog in Courts of Law.
6. There is need for MOLHUD to strengthen the mediation roles of the land administrators at subcounty level Since they are affordable and accessible in nature and operation. These mediation committees should also incorporate the cultural or traditional systems to tap into their restorative and non-adversarial approach to dispense justice and to have as their decisions guided and respected by the judiciary among other entities.
7. Land administrators especially the Ministry of Lands and the District Land Boards should keep all channels of communication open amidst any pandemic e.g. availing to the wider public toll free numbers to report illegal land evictions because without channels being open it will be hard to detect land rights violations at the grassroots. The pandemic has exposed how un-coordinated the land sector is, therefore as a matter of urgency, there is need for development and make available an inter-sectoral coordination and cooperation framework between the different MDAs across the board to help in ensuring smooth land

administration while focusing more on the protection of land rights generally. In times of disasters, the frameworks need to spell out a continuation of land administration by the different MDAs to respond to the challenges of land rights violations.

8. Expedite the formation of land acquisition, rehabilitation and resettlement policy and include clauses of land administration during disasters specifically increase the disturbance allowance to 65% in times. This will provide a clear path for communities to complex land challenges that come with displacement/evictions. Currently, a disturbance allowance of either 30% of the total compensation amount depending on the grace period given (minimum 6 months or less than 6 months respectively).

AS CIVIL SOCIETY WE COMMIT TO

1. Rendering pro-bono services to help communities affected by unlawful evictions to access justice and condemn actions of delayed justice by some of the judicial officers.
2. To monitor and assess implementation of laws relating to land acquisition for development purposes
- 2.To partner and collaborate with all stakeholders especially line ministries, Departments and agents of government who are directly or indirectly involved with land acquisition processes in the country.
3. we are committed to support community especially grass root communities with knowledge creation on land rights and laws that govern land rights in the country and create awareness on access to justice.
4. To support the benet community in kween district and enable them to engage the office of the Prime Minister (OPM) so that land can be degazetted and given for settlements of about 3000 acres. We further commit to supporting all the communities that have been illegally evicted to get fair settlement in return for their land.

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