

**ACQUISITION OF LAND FOR THE OIL REFINERY:
TRACKING PROGRESS IN RESETTLING
PROJECT AFFECTED PERSONS
WHO OPTED FOR LAND FOR LAND COMPENSATION**



**A Report By
Global Rights Alert
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EXECUTIVE SUMMARY

This study was initiated by Global Rights Alert (GRA) and undertaken in Kabaale Parish Buseruka Sub-County, Hoima District. It follows an initial study on the plight of people affected by the proposed oil refinery that the government of Uganda plans to build in the area. Both of these studies are part of GRA's **"Promoting meaningful Participation of Women and Men in the Social Accountability and Development Process of Uganda's Oil and Gas sector"** supported by the Democratic Governance Facility (DGF). This particular study focuses on Project Affected Persons (PAPs) who opted for land for land compensation instead of cash compensation.

The aim is to establish what progress government has made towards fulfilling its commitment to resettle the said PAPs since the initial assessment of their properties and living conditions in 2012.

According to the Ministry of Energy and Mineral Development (MEMD), 93 out of a total of 1221 households opted for land for land compensation instead of receiving money equivalent to their land and the property on it. Their decision was based on fear that they would be relocated far away into environments they were unfamiliar with. The government disputes this. The fact is that the valuation for especially land was way below the market price of land in surrounding villages PAPs would have preferred to resettle although government insists it followed due process. There are concerns within some families, especially raised by women, that money from compensation would not be well utilised.

According to the Resettlement Action Plan (RAP) that the Ministry of Energy and Mineral Development (MEMD) contracted a private company Strategic Friends International (SFI) to prepare, government committed to identify alternate land on a case by case basis in the neighbourhood of the refinery

project where most affected people, both those who chose cash compensation or relocation, preferred to relocate. The RAP's general objective is "to lay down a framework for managing the loss of economic activities and livelihoods or resettlement from the site."¹

The PAPs who chose land for land compensation were also encouraged in their choice by the resettlement package as government presented it through SFI. Besides land, people awaiting relocation would have a house constructed for them, would benefit from community awareness campaigns in health, hygiene and sanitation issues, expansion of existing schools, children's play spaces, water sources, healthcare facilities, electricity and any other amenities as agreed to by the host community and FBOs.

Two and half years since SFI did the initial assessment there is barely any evidence of slow progress in respect to resettling people who opted for land for land compensation. The government says, without providing evidence, that it has acquired land where to transfer the people and it is preparing physical plans for it.²

The pace of progress is runs counter to the commitments and timelines the government set for itself.³ It infringes the rights of those directly affected, jeopardises their lives, sows and perpetuates disaffection among them. It affects the social licence that is necessary for projects like the oil refinery to succeed, and sets a bad precedent especially considering the fact that the government still needs to acquire more land for other related projects like the oil pipeline. As such, it would not be an exaggeration to suggest future acquisitions might be met with hesitation and hostility. What is worse, currently the government is proposing to change the present land holding system in order to have more access and control of land, which the constitution of Uganda vests with citizens. In areas

¹ Resettlement Action Plan for the Proposed Acquisition of Land for the Oil Refinery in Kabaale Parish, Buseruka Sub-County Hoima District (2012) Pg 2 .

² Comments on draft report by PEPD official made on March 19, 2015

³ Ibid Pg 54-56

like Buseruka, where people already feel unfairly dispossessed, such proposals, should government insist on them, are bound to add certain bitterness to the mouth the consequence of which is not hard to imagine.

Government dispensed with identifying land on a case by case basis as the RAP provides apparently because of the high number of PAPs involved and the need to maintain social and cultural relations amongst them. Instead, it reportedly procured a chunk of land measuring 533.59 acres in Kyakaboga village, about 21Km from where the refinery will be constructed.

Apart from conducting site visits with the leadership of the PAPs in question, its reluctance to display proof of purchase is a source of an unhealthy speculation that the said land has not actually been paid for yet. After all, the government admits when the initial site visits were made in early 2014, it had not paid for the land. The lack of clarity over the status of the land, which the government insists it purchased and holds title deed for, feeds a longstanding anxiety over when exactly the relocation will take place. This uncertainty prolongs and worsens the PAPs present living conditions.

Since majority of people who opted for cash compensation left, what were once vibrant communities appear deserted today. People who await relocation live “in the middle of nowhere”. The footpaths that lead to their homesteads are engulfed by overgrown bushes whose clearance was previously a communal activity. In such circumstances, they have to contend with security against robbers, wild animals, and snakes. They are confronted with lack of clean water because when their boreholes broke down they were unable to raise the money needed to repair them or cause those in authority to repair them. The same obtains for education and health facilities.

Although the government relaxed its restrictions against people tilling their land after it had been assessed, it continued to advise against cultivation of perennial crops such as cassava, which is the backbone of their household incomes. As such, the in-

ability to cultivate perennial crops has bred a shortage of food that is unprecedented in the areas and that residents say is likely to graduate into famine.

In view of this, GRA recommends to government:

- (a) To uphold internationally acceptable standards on involuntary resettlement as incorporated into its guiding document - The RAP.
- (b) Enhance security of person and property of PAPs through clearing overgrown bushes and routine security response and checkups by the district security team.
- (c) Immediately provide social services like water, education, healthcare pending relocation/resettlement.
- (d) Provide timely and clear information regarding latest developments especially in regard to possible times for relocation, construction of houses; progress on construction of public infrastructure like roads, schools and health facilities on the relocation site as a means to curb anxiety and to enable PAPs plan better
- (e) In accordance with the International Finance Corporation (IFC) and World Bank (WB) standards identified in the RAP to guide the implementation of the project;
 - Fast track the relocation/resettlement process;
 - Expedite cash compensation of valued property on the land as PAPs await relocation.
 - Stop advising against cultivation of perennial crops especially as the exact date of relocation remains uncertain.

IN THE MIDDLE OF NOWHERE

Since majority of people who opted for cash compensation left, what were once vibrant communities appear deserted today. People who await relocation live “in the middle of nowhere”. The footpaths that lead to their homesteads are engulfed by overgrown bushes whose clearance was previously a communal activity. In such circumstances, they have to contend with security against robbers, wild animals, and snakes. They are confronted with lack of clean water because when their boreholes broke down they were unable to raise the money needed to repair them or cause those in authority to repair them.

Winfred Ngabiirwe

Executive Director

LIST OF ACRONYMS

CBOs	Community Based Organisations
LC	Local Council
GRA	Global Rights Alert
IFC	International Finance Corporation
MEMD	Ministry of Energy and Mineral Development
NGOs	Non-Governmental Organisations
PEPD	Petroleum Exploration and Production Department
RAP	Resettlement Action Plan
RCDAP	Resettlement and Community Development Action Plan
PAP	Project Affected Persons
SFI	Strategic Friends International
UDHR	Universal Declaration of Human Rights
WB	World Bank

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1. INTRODUCTION

In 2013, Global Rights Alert undertook a number of studies to document the human rights issues faced by communities affected by the impending construction of the proposed oil refinery in Kabaale Parish, Buseruka Sub-County, Hoima District. The studies analysed a number of issues including; gender equality, protection and enforcement of rights, remedy and access to justice on the one hand and on the other transparency and accountability issues that relate to the necessary acquisition of land for public investments such as the oil refinery.

Two reports namely “*SLEEPLESS NIGHTS: The Fears and Dilemmas of Oil Refinery Project Communities in the Face of Government of Uganda’s Resettlement Plan*” and “*Our Land is Our Bank: Gender Issues in Uganda’s Resettlement Action Plan*” were produced. The findings in these reports yielded significant attention to the plight of the PAPs. They, in part, encouraged government to review its assessment and valuation of some aggrieved people’s properties, to improve its communication, to prioritise spousal consent thus giving women an opportunity to participate in related decision making processes, and to take special attention to the concerns of the disabled and elderly persons.

As of January 2015, 1945 out of the 2615 PAPs who opted for cash compensation have been paid⁴ albeit long after assessment of their properties was done; a fact that affects the value of money they eventually receive.⁵ At the time of writing this report, the MEMD, through SFI, was clearing the last batch of 670 people whose properties, like those before them, was assessed and sealed in 2012.⁶

All PAPs who have received their payments have vacated the proposed refinery project land. Their departure has left behind a small group of 46 households who opted for land for land compensation. Majority of

these people are situated in the villages of Nyahaira (61 households) and Kyapuloni (26 households) according to the MEMD. Bukona B Village has four (4) households. Three (3) of these four households in Bukona are categorised as containing vulnerable people.

Owing to their minority status, GRA took interest to establish the progress with regard to their relocation three years after assessments were completed. The study also aimed to identify their present living conditions as a means to amplify their voice and buttress their rights. This owes to overwhelming evidence how, more often than not; voices and rights of minority are trampled upon not only in Uganda but nearly the world over.

It is important to note that whereas the Constitution of Uganda empowers government to acquire land in the public interest, it also impresses upon it an obligation to secure the rights of its lawful occupants. Specifically, it requires;

‘...the compulsory taking of possession or acquisition of property is made under a law which makes provision for prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and a right of access to a court of law by any person who has an interest or right over the property’.⁷

The government acknowledges the rights and responsibilities that accrue to it as demonstrated in the preparation of the RAP, which was guided by key national and international policies and legal frameworks as well as international good practises. Some of these frameworks include the National Oil and Gas Policy 2008, National Land Use Policy and the draft National Land Policy; the Land Act Cap 227 and Land Acquisition Act Cap 226; the Universal Declaration of Human Rights and the African Charter on Human and

⁴ Interview with Bashir Hangi, Communication Officer at PEPD in charge of Community Affairs

⁵ Interview with Richard Orebi, chairperson of households that asked for land for land compensation

⁶ Observations by research team at Kyapuloni Primary School and interview with Bashir Hangi

⁷ Article 26, 1995 Constitution of the Republic of Uganda

People's Rights; and the International Finance Corporation Standards on Environment and Social Sustainability and the World Bank Operational Policy on Involuntary Resettlement.

Yet all too often, where government is concerned, acknowledgement does not necessarily translate into adherence. In communities like Kabaale where the population survives entirely off the land, when people feel dispossessed of it without prior compensation that is fair, adequate and prompt, their very lives are put at risk. The way in which the government has gone about conducting the compensation exercise has triggered queries whether it considers some of the citizens as less important than others.⁸

Objectives of the Study

The specific objectives of this study are;

- (a) To establish progress towards the relocation of PAPs who opted for land for land compensation;
- (b) To establish adherence to the RAP in resettling the PAPs in question;
- (c) To establish the present living conditions of people who opted to be relocated;
- (d) To suggest possible interventions with the aim of enhancing the protection and enjoyment of human rights by PAPs.

Methodology

The study employed a qualitative and quantitative approach in order to meet its objectives. In-depth interviews with affected people and key informant interviews with leaders at local, sub-county, district and central government levels were supplemented by a thorough review of national and international legislation and standards regarding involuntary resettlement.

- (a) **Document Review:** Key documentation on acquisition of land for public investments was reviewed. These included the 1995 Constitution of the Republic of Uganda, The Land Act Cap 227

BY THE NUMBERS

1,945

As of January 2015, 1945 out of the 2615 PAPs who opted for cash compensation have been paid.

At the time of writing this report, the MEMD, through SFI, was clearing the last batch of 670 people whose properties was assessed and sealed in 2012.

670

93

All Project Affected Persons who have received their payments have vacated the proposed refinery project land. Their departure has left behind a small group of 93 households who opted for land for land compensation.

and Land Acquisition Act Cap 226, the RAP, the World Bank Operational Policy on Involuntary Resettlement, the IFC Standards on Environment and Social Sustainability, among others.

- (b) **Key Informant In-depth Interviews:** In-depth interviews were carried out with a total of 60 out of 93 affected households (which represents 64.5 percent), Local Council leadership at village, parish, sub-county and district levels as well as one Community Based Organisation working in the affected area. The study also extensively engaged the Petroleum Exploration and Production Department at the Ministry of Energy and Mineral Development. All these engagements sought to establish personal experiences of the affected people and gain understanding from authorities regarding the progress and challenges in implementing the relocation plans.

- (c) **Interview Guide:** A question guide/toolkit was developed and employed in gathering primary data from the field. Each meeting commenced with an introductory message of the purpose of the study, issues of confidentiality and liberty of participation. The guide sought to document the areas as outlined in the objectives for the study including the RAP.

⁸ Interview with respondent in Hoima, December 2014

2. BACKGROUND

In 2010, the Government of Uganda conducted a feasibility study for the development of an oil refinery to add value to commercial oil deposits that it first discovered in 2006. These deposits now total 6.5 billion barrels. However, according to Mr. Ernest Rubondo, the Commissioner for Petroleum Exploration and Production Department (PEPD) the recoverable quantity—the oil which can actually be sucked out of the ground—has only improved marginally, from 1.2 billion barrels to 1.4 billion barrels.⁹

Following the completion of the study, the government through the MEMD contracted SFI to prepare the RAP. Its purpose was to establish “parameters and entitlements for project affected people (PAP), institutional frameworks, mechanisms for consultation and grievance resolution, time schedules and a budget, proposing a monitoring and evaluation system.”¹⁰

The RAP was to form a basis for compensation and resettlement of people off the 29.34 Km² of land the government had earmarked for the refinery in Kabaale Parish, Buseruka Sub-County, Hoima District. It was to provide a framework for mitigating the loss of eco-

nomnic activities and livelihoods following the necessity of resettling households from the site of the refinery since the two were deemed impossible to co-exist.

Prepared under specified guidelines drawn from different national and international policies, legal frameworks and best practises, the RAP recommended land for land compensation; an arrangement “where PAPs prefer resettlement option and full replacement costs where cash compensation is preferred.”¹¹

A comparison the RAP did between national legal provisions and international requirements that relate to acquiring land in the public interest and compensating its occupants concluded that,

“...land for land compensation has inbuilt benefits that follow resettlement of the affected people...Consequently, the international requirements are more favourable to project affected persons and the ministry [of energy] should therefore apply legislation in a very flexible manner to ensure compliance with international requirements.”¹²

⁹ <http://www.independent.co.ug/news/news/9276-ugandas-oil-reserves-now-estimated-at-65-billion-barrels#sthash.ueyJpE3o.dpuf>

¹⁰ Resettlement Action Plan for the Proposed Acquisition of Land for the Oil Refinery in Kabaale Parish, Buseruka Sub-County, October 2012, P.2

¹¹ ORAP P.vi

¹² RAP P.9



Initially, only 27 out of the 1221 affected households chose land for land compensation. However, this number grew to 93 over the course of the one year MEMD allowed households to think through and be sure of their preferred compensation option. The minimal increase of this group, in spite of extensive awareness campaigns about the pros and cons of each one of the compensation options, has been attributed to intense fear, which the MEMD insists was/is unjustified, that government would actually relocate people to Karamoja or Bundibugyo.¹³

Nine (9) of these households are of the elderly and vulnerable people whom government decided to include in this category even though they had chosen cash compensation and had agreed with SFI officials how their property had been assessed. According to the government,¹⁴ this inclusion was informed by the emergence of different people who all claimed to be caretakers of the elderly and vulnerable people. Following wide consultations, government decided to relocate them instead of paying them out. They, however, claim that had taken out loans on the knowledge that they would repay them from their

cash packages. It is not clear how the change in their status is likely to affect them or their outstanding obligations.

To prepare the RAP, SFI conducted socioeconomic, valuation and land censuses from late May to July 2012. It set the cut-off date at June 2012. Any developments on land after this date would be ineligible for compensation. The MEMD initially discouraged people from cultivating their land on grounds that compensation would be timely. Later, however, when it could not meet its timelines, SFI relaxed its restrictions but maintained those against cultivation of perennial crops like cassava that were/are the main source of household incomes.

¹³ Interview with Richard Orebi, chairperson of persons who opted for land for land compensation

¹⁴ Interview with MEMD officials, January 2015



Hon. Peter Lokeris, the Minister of State for Minerals, addressing the communities affected by the proposed oil refinery.



Community members attending a meeting with the Minister and the area Members of Parliament





3. LITERATURE REVIEW

According to the government, the compensation and resettlement of people who would be affected by the oil refinery project is/was supposed to be guided by the RAP, whose preparation was guided by national and international legislation and best practises in order that the effects of involuntary resettlement are mitigated as much as possible.

Under the RAP Implementation Schedule and Monitoring and Evaluation Plan, the PEPD set itself between one and two months after the June 2012 cut-off date in which it would have sourced for and bought land in the neighbourhood of the oil refinery to resettle affected households that had chosen to be relocated. The schedule set two months in which physical and architectural plans for the land would have been drawn and verified. Thereafter, SFI, the RAP implementation agency, was supposed to have outsourced and overseen the start of the construction of households for PAPs between two and five months. Then, the MEMD was supposed to hand over the houses and land titles to PAPs between five and seven months from that. This means that within a year after assessments, the PAPs who opted for land for land compensation would have received their land and been relocated to their houses.

Relocation of people who opted for land for land compensation was supposed to comply with the laws of Uganda and international best practises. This is important so as to manage and mitigate negative impacts associated with displacements that are inevitable in face of oil related developments. As a matter of fact, RAP emphasises compliance with international requirements since they are more favourable to project affected persons compared to national legislation.¹⁵

Specifically, the RAP states, “the implementation process will ensure that it is in compliance with IFC’s Performance Standard 5 and WB [World Bank] OP

[Operating Procedures] 4.12.”¹⁶

3.1 IFC Performance Standards

The IFC defines involuntary resettlement to mean both physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or other means of livelihood) as a result of project related land acquisition and/or restrictions on land use. It thus recognises that project related land acquisition and restrictions on land use can have adverse impacts on communities and persons that use this land.

As such, the IFC requires its clients to apply Performance Standards to manage environmental and social risks and impacts so that development opportunities are enhanced. In its Performance Standard 5,¹⁷ the IFC requires project implementers;

- (a) To avoid, and when avoidance is not possible, minimise displacement by exploring alternative project designs.
- (b) To avoid forced eviction.
- (c) To anticipate and avoid, or where avoidance is not possible, minimise adverse social and economic impacts from land acquisition or restrictions on land use by; a) providing compensation for loss of assets at replacement cost and; b) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected.
- (d) To improve, or restore, the livelihoods and standards of living of displaced persons by providing compensation at full replacement cost for land and other assets lost and assistance during relocation.

¹⁵ RAP P.9

¹⁶ RAP P.31

¹⁷ Performance standard 5 was issued on 1st January 2012 and deals with Land Acquisition and Involuntary Resettlement.

- (e) To improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.

Further to this, it requires that compensation standards must be transparent; they must be applied consistently to all communities and persons affected by the displacement; they must emphasise land based compensation; possession of acquired land and related assets should not happen until requisite payment is made; and, where applicable, resettlement sites and moving allowances have to be provided to persons being displaced in addition to compensation.

The IFC also emphasises the need to involve people being displaced in plans for their relocation; advocates strong and transparent grievance handling mechanisms since involuntary resettlement inevitably triggers all manner of grief.

An open and transparent resettlement exercise where there is greater involvement of intended beneficiaries and clear, timely and adequate information has the advantage of minimising disruptions to people's lives and winning and/or affirming the people's trust in their government.

3.2 World Bank Operational Policy on Involuntary Resettlement (OP 4.12)¹⁸

The World Bank acknowledges that involuntary resettlement under development projects, if unmitigated, often results in severe economic, social, and environmental risks; dismantle production systems; and impoverish the people that they affect.¹⁹

Therefore, the Bank has designed elaborate policy

guidelines that aim to improve the lives of people who are affected by the inevitable development projects. These largely augment provisions by the IFC, its affiliate body. They emphasise the centrality of the affected persons in the planning and implementation of their resettlement.

For instance, this can be through the establishment of "institutionalised arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented."²⁰

Where displacement is deemed inevitable, there must be sufficient assistance to affected persons "to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher."²¹

In cases where land for land compensation has been provided, beneficiaries "should be encouraged to visit the relocation sites so that they personally see the land, its qualities, and the need for improvements."²² The land should be of equal, or should be elevated to, the standard as the one taken especially if agriculture is involved.²³

According to the World Bank, development of the new site and subsequent relocation must be preceded by, among others, "payment of compensation to affected assets", "identification of residential and agricultural settlements", "development of resettlement sites, including provision of civic amenities and the basic agricultural inputs required."²⁴

¹⁸ See World Bank, "Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects" (2004), pg 371.

¹⁹ *Ibid.*, para. 1.

²⁰ *Ibid.*, para. 2.

²¹ *Ibid.*, para. 2.

²² World Bank Sourcebook n.38, P. 169.

²³ *Ibid.*

²⁴ *Ibid.*, P. 260.

3.3 National Legislation and Standards

The laws of Uganda that apply to acquisition of land in the public interest such as to establish development projects like the oil refinery are very clear about the rights and obligations the government bears whenever it requires to take over any privately owned piece of land to fulfil its commitments to the public good.

Article 26 of the Constitution appears to capture this dichotomy very precisely. It guarantees individual or associational ownership of property even as it gives the government the powers to take over that ownership only if the following conditions are satisfied:

'...the taking of possession or acquisition is necessary for public use or in the interest of defence, public safety, public order, public morality or public health; and (b) the compulsory taking of possession or acquisition of property is made under a law which makes provision for – (i) prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and (ii) a right of access to a court of law by any person who has an interest or right over the property.'²⁵

Enabling laws such as the Land Act and the Land Acquisition Act take their cue from this and other articles such as 237 (1), which vests ownership of land to Ugandans in accordance to the tenure systems recognised by law; and 237 (2) (a), which vests in government and local authorities statutory powers to acquire land in the public interest without trampling on rights of bonafide occupants.

These two key laws – the Land Act and the Land Acquisition Act – have essential provisions. These include the application of the prevailing market value for compensation of land and between 15 and 30 percent disturbance allowance; the obligation to District Land

Boards to compile, maintain and annually update the value of property like crops and buildings; and, the right of appeal against an assessment of compensation to the High Court within 60 days from the date of valuation.

What is conspicuously absent in both laws is the provision for land for land compensation, which might suggest that the government is not amenable to this option of compensation. It lends credence to reliance on international requirements and best practises that give it premium in cases where people have to be displaced in preference for a public project.

It is instructive that the RAP, the primary guiding document in how to displace and compensate people in Hoima, recognises adherence to the Universal Declaration of Human Rights as well as the African Charter on Human and People's Rights. Uganda signed and ratified both of these international instruments, which underline, more than anything else, the right to own property. Both of them are clear on how any displacements in the public interest should only happen under due process of the law.

²⁵ Supra Pg.9

4. FINDINGS



Senior government officials work their way through pathways that are being engulfed by overgrown bushes. The team was heading to Bukoona Village as part of GRA-MDAs visits to affected communities.

For the PAPs awaiting relocation, the departure of their neighbours, friends and relations has presented them with pressing challenges. They hardly have capabilities to respond to any of them efficiently since they were previously handled communally. Majority of these people are situated in the villages of Nyahaira (61 households) and Kyapuloni (19 households) according to the MEMD. Bukona B Village has four (04) households, Kigaaga B one (01), Nyamasoga (01), Bukona A (02), Kitegwa (03), Kabaale (01), and Nyakasini (01). Three (3) of these four households are categorised as containing vulnerable people. As one respondent put it,

“People who opted for relocation are suffering. We have sort of been neglected even though ours is an urgent matter. The government has not come out with a clear announcement about when and how we will be relocated. When they were assessing, we were told it wouldn’t take more than a year before everything is completed.”²⁶

4.1 Safety and Security

All the respondents noted that the departure of the majority of their village mates who opted for compensation has rendered the environment risky and dangerous. The bushes have overgrown following the departure of the majority of the residents making some paths impassable. Respondents say they have been attacked by thieves who think they have compensation money in their houses. Parents fear for their daughters who face a risk of being raped while on their way to school or to collect water from water points which are miles away. The overgrown bushes have provided sanctuary to snakes, rodents, porcupines, and, occasionally, foxes. The PAPs who remain are incapable of keeping these paths as clear as before. School going children walk long stretches in bushes that cover them up to their heads. Some have to attend school irregularly because the safer routes are longer and cannot be used on a daily basis.

²⁶ Interview with a respondent in Hoima, December 2014

4.2 Declining Education Services

School going children are not only affected by nearly impassable paths to schools but a decline in actual learning once they make it there. The departure of households that opted for cash compensation led to a significant drop in pupil populations at both Nyahaira and Kyapuloni Primary Schools.²⁷ The exit of nearly two-thirds of the pupils took with it the teachers' enthusiasm to teach.²⁸ According to Mary Gulyetonda, the headmistress of Nyahaira Primary School, enrolment in 2012 was 610 pupils. By close of second term 2014, the school had only 58 pupils. Plans to transfer and amalgamate the two schools with others in Nzorobi village (in case of Nyahaira) and Katooke village (in case of Kyapuloni) were paused after a meeting in December 2014 involving MEMD, members of the equal opportunities committee of Parliament and Hoima district officials where the district committed to keep the two schools operational until all the PAPs have relocated.²⁹

CASE STORY

Janet Oikan, 34, has lived all her life in Nyahaira. The mother of six children first heard government's interest in her one acre of land from her LC chairperson who told her it would be part of where the oil refinery would be built.

"I couldn't resist since it was government but I asked that I should be given the same size of land as I was losing. I also wanted to be allowed to choose where I wanted to go but now I hear that the government has found land for everybody. I don't know how it looks like."

Ms Oikan says her livelihood revolved around cultivation from where she raised money to pay school fees and for other needs like healthcare. The volume of cultivation has since fallen since the government initially discouraged them from further cultivation of the land. Even though it relaxed this restriction, cultivation has yet to pick up yet.

"Life has changed dramatically. We struggle to continue sending our children to school because it is a bit difficult to feed them. They used to take at least four meals a day but now to get two is quite a challenge.

"At first we were told the refinery would improve our lives but from what has happened, it is not easy to see how that will be possible. Will the government even meet the promises that it made at least? It has now taken three years. Will it happen soon?"

4.3 Access to Clean Water

Water in Kabaale is mainly supplied by boreholes. Whenever they broke down and needed repair, the community collectively contributed towards their servicing. However, with the departure of most members, the remaining few households with their low incomes have been unable to keep them in working condition. District and sub-county authorities that would otherwise keep them functional long abdicated their role. Those who presently need to use them have no way, given their small numbers, to bring pressure to bear on these authorities to pick up their roles. Out of desperation, resettlement PAPs have resorted to fetching water from streams within their neighbourhood. However, these do not offer access to clean water. In the long run, PAPs stand a risk of water borne diseases.



One of the boreholes that has since broken down located in Kitegwa village

²⁷ Francis Mugerwa, Oil refinery: Leaders petition government over affected schools, Daily Monitor News Paper, Tuesday, September 23, 2014, P. 14.

²⁸ Ibid

²⁹ Correspondence with Francis Elungat, Land Officer, MEMD

4.4 Acute Food Shortages

The RAP acknowledges that nine (9) in ten (10) households in the area identified for the oil refinery derive their livelihoods from farming. Yet government imposed farming restrictions immediately it assessed and valued people's properties even though they had not been compensated yet. This runs against the law. Although it relaxed this restriction, it still barred households from cultivating perennial crops like cassava from where they derived most of their incomes. For households awaiting relocation, these restrictions have conspired perfectly with the continued absence of the exact time they will be resettled to "suck out the morale for farming out since they worry that no sooner might they have planted than the announcement is made for them to move."³⁰

"Government has rendered us dormant. You cannot go to your gardens and cultivate normally because you keep thinking you might leave immediately you have planted and all that energy will have been for nothing," said one respondent.³¹

As if that is not bad enough, the departure of the majority of people seems to have encouraged pastoralists to turn the area into grazing land. This has bred tensions and conflict with the remaining people since the former let their animals stray into and destroy whatever crops the latter would have set up.³² This, coupled with attacks from wild animals, led to a decline in harvest and therefore little or nothing is saved for sale and livelihood support and protection.

4.5 Lack of Information and Transparency

Government acknowledges these challenges and

expresses deep regret over the delay to relocate households awaiting resettlement.³³ Yet its performance at communicating with those in much need of information has had the effect to exacerbate anxieties than to allay fears and enable them to plan their lives and activities a little better than they presently do.

Take, for instance, the acquisition of land where it intends to relocate people who opted for land for land compensation. According to the MEMD, 533.59 acres of land have already been bought in a place called Kyakaboga, which is at least 21km from the proposed refinery area, and work to survey and plan for it has already begun.³⁴ Indeed, the 9-member committee that represents the resettlement PAPs have been taken on a tour of the land. Nobody else, among those awaiting resettlement, has visited the land unless out of self-initiative. The MEMD remains disinclined to reveal, either to the committee or to the entire group, the title deed for the land that it insists it possesses.

"We have communicated that we have purchased the land. Now someone wants to follow and find out can I look at the purchase agreement? That is really arm twisting government way too much."³⁵

As government we are an institution, and much as you want to be working with people, unless you want people to relocate and come and sit with us and start drafting the letter to so and so. Because the only proof they are going to get is titles for their pieces of land. I believe that is the only thing that is going to satisfy them and then seeing themselves there."³⁶

³⁰ Interview with CDO, Buseruka Sub-County, December 2014

³¹ Interview with a resettlement PAP, December 2014

³² Stephen Muneza, Balalo Evicted From Hoima Refinery Land, Red Pepper, February 23, 2014 accessed online <http://www.redpepper.co.ug/balalo-evicted-from-hoima-refinery-land/>----- *Police To Evict Pastoralists From Hoima Refinery Area, Red Pepper, March 10, 2014, accessed online <http://www.redpepper.co.ug/police-to-evict-pastoralists-from-hoima-refinery-area/>*

³³ Interview with PEPD officials, January 2015

³⁴ Interview with PEPD officials, January 2015

³⁵ Interview with Bashir Hangi, Communications Officers in charge of Community Affairs in the oil refinery area

³⁶ Ibid.

The absence of this proof of purchase has only served to sustain rumours that the government has actually not paid for the land yet. As such, that is why it will neither relocate people there nor say when exactly it will do so. These rumours are not without basis. Government admits that when, in early 2014, it first took the resettlement PAPs committee to see the land it had actually not paid for it yet.³⁷

“When they first showed it to us, they said they were still in negotiations. Now they say it has been bought. When we have asked to see the title they say it is not necessary. How can we believe that they have actually bought it?” wondered one respondent.³⁸

Government, through the MEMD, not only contracted SFI to prepare the RAP but also to implement it. The RAP specifies the rights and entitlements that accrue to people affected by the refinery project. However, the development of the new resettlement area is entrusted to an inter-ministerial committee that includes representatives from the Ministries of Lands, Water, Energy, Health, Education and Works. The committee has a “working arrangement”³⁹ that it has not shared with the beneficiaries of its activities.⁴⁰ Nor does it take guidance from the RAP. This has bred uncertainty over how or whether they will uphold what is entitled to resettlement PAPs. Yet according to the MEMD, the role of the inter-ministerial committee is to guide the development of social infrastructure on behalf of government.

*“As you will realise the required infrastructure cuts across different lead ministries of the government. Therefore to ensure quality control and standards it is only proper that the relevant government agencies are involved.”*⁴¹

Gender Concerns

“My daughter can no longer go to school. How can she pass through those bushes alone? I fear she could be raped. Let her stay home, fetch water and cook as we wait to move to an area that has a nearby school.”

Women and young girls are particularly challenged since they bear most responsibility to provide water and food in homesteads. For the case of women, also ensuring children go to school. Because it is difficult to access these essential necessities, women’s ability to contribute substantially to the sustenance of their families today and in the near future is greatly hampered. Without this, women cannot assure their own development, nor contribute to the development of their families and communities. It would appear as though the implementers of RAP are working on the simple assumption that men and women are equally and similarly impacted by the delayed resettlement processes. Yet clearly the women are increasingly getting isolated and overburdened with repercussions for families that may extend to communities at large.

CASE STORY

Bulandina Tumwebaze put up a fierce fight against 10 in-laws for a 7.2 acre piece of land her partner had left when he died. She wanted it kept as it was for her son and his other siblings. The relatives, however, insisted to cash in on it on account that they would take care of the orphans. She won the fight after knocking on nearly every office of any person in authority who would be kind enough to listen to her.

“I wanted the land kept as it was and

then we receive the exact size where we would be moved because the money would have been little and difficult to share among all the children. Also, I don’t think the relatives would have really cared to look after the children.”

Ms Tumwebaze asked the government to buy land next to her kibanja so she could easily take care of his son but they refused, she says.

“We have been told the government bought land but we have not been shown any proof that they actually

bought. I was not part of the group that went to inspect but once when I was passing by I went there on my own to see. The land appeared sandy when I saw it.”

In over the two years she has waited to be relocated, “I would have planted bananas and they would have ripened. Or I would have planted coffee and it would have flowered. As a single parent, I haven’t planned for the boy in all this time. Even if I had only rented the land I would have made some decent income,” said Tumwebaze.

³⁹ Ibid.

³⁸ Interview with Richard Orebi, chairperson of the committee representing resettlement PAPs

³⁹ Interview with MEMD officials, January 2015

⁴⁰ Interview with Richard Orebi, chairperson of PAPs awaiting relocation

⁴¹ Correspondence with MEMD official, March 2015

5. CONCLUSION AND RECOMMENDATIONS

The failure of the government to meet the deadlines it set for itself in the RAP Implementation Schedule and Monitoring and Evaluation Plan and the way in which it informs and communicates to the PAPs that opted for land for land compensation has bred anxiety and uncertainty over whether it can still be relied on to fulfil its original commitments. As one respondent noted,

“We are unsure now even more that the government, which we believed in the beginning, will do even half of its original commitments. That is why we are worried about our future since government is now turning.”

The government, to its credit, appears to be working on the future resettlement site of the PAPs in question. According to officials from the MEMD, topographical survey has been carried out on the land in Kyakaboga; physical planning teams have been to the area to conduct initial plans and sketches how the area might be laid out. Within a year, they hope construction of resettlement houses, schools, churches and other social infrastructure should be complete.

While this is progressive, the stumbling block remains the lack of openness over proof of purchase of land and given they have gradually failed to meet their set deadlines, where all these activities are purportedly taking place. What is more, whereas the MEMD says all these developments are being done in consultation with the PAPs, the latter dispute this.

One respondent said;

“All the involvement we see is when they come and hold meetings here and tell us what they have come to do or what they are going to do. Even if we raise issues or try to make suggestions, we are not sure that they are really taken because you see them trying to either give rea-

sons why they cannot work or you see an unwillingness to change.”⁴⁴

As the big ticket developments get underway, the hurdles in their way notwithstanding, the MEMD has been engaging with the PAPs on how best to tackle the most immediate challenges elaborated earlier: safety and security; access to water, food, educational services, and healthcare, bearing in mind that construction of houses and resettlement might take another 2- 3 years. There are two proposals that have been floated for consideration: to gather all PAPs awaiting relocation into one place, a camp of sorts, and be looked after there in the interim. Or, to divide up the land where they will eventually resettle and allow them to use it as developments on it take place. At the time of writing this report, the MEMD was still studying the pros and cons of each of these options.

5.1 Recommendations

Owing to the fact that the PAPs are struggling with day to day sustenance, the government ought to expedite their study into the interim intervention options.

- (i). If indeed the government has purchased land totalling 533.59 acres as it says it has, then it should, as a matter of urgency, move itself to display this proof of purchase to the beneficiaries of the land who are keen on it. If it is still transferring ownership in the title deed, it should, at least, share the sales agreement in regard to the transaction. This will go a long way to erase the anxiety and despair among the people and repair or improve their trust in what the government says it is doing. It cannot be emphasised enough that such trust is needed not only for this exercise but for others as well that lie in the future.
- (ii). The government ought to draw up realistic plans

⁴² Interview with a respondent in Hoima, December 2014

⁴³ Interview with a respondent in Hoima, December 2014

⁴⁴ Interview with a respondent in Hoima, December 2014

that take into consideration its inevitable constraints, assign realistic timelines under which it can execute them, and communicate all this to PAPs in a clear and timely manner. Its constraints, however, should not be used as an excuse to circumvent the requirements of the law or international best practise.

- (iii).** Site location, design and suitability of the physical area are of key concern to women due to familial responsibilities that entail care of children and the elderly. Women also engage in considerable home based activities that contribute to household income. The design of the resettlement location must be sensitive to functional requirements of the home and domestic needs. Safety and distance from income sources, water points, household energy points, schools and health centres are key concerns for women and should be addressed as they are relocated. The RAP already mentions that part of the assistance to vulnerable groups, including women, will be in the area of construction, i.e. providing materials, workforce or building houses – this assistance should be closely monitored to ensure that it actually happens.
- (iv).** Because displacements affect women uniquely and differently than men, the government ought to ensure that its resettlement processes do

not disadvantage them. It should, promote joint ownership and titling of land, ensure that women leaders and women's groups are involved in planning and implementing the income restoration programmes for better income generation.

As families move to new lands, women should be informed about the nature of title to the new land and housing. Both men and women need to be taught their land rights and other associated rights including marital rights and rights under succession and inheritance. Government should also make sure that for women headed households, ownership of land is in their names. In this regard, it is imperative that government provides titling services to the community as they resettle.

- (v).** Compliance to acceptable standards: Government should ensure a clear monitoring and evaluation (M&E) plan both at the level of the project authority (SFI) and at community level through the participation of project affected people, in partnership with NGOs. Indicators for M&E should include gender-specific.



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