

“Our Land is Our Bank”

Gender Issues in Uganda’s Resettlement Action Plan



MPs want to review oil land compensation

By Cynthia Musoke and Joyce Namutebi

A study commissioned by Parliament has recommended that the Government look and regularly review the ongoing compensation and resettlement of the people in the Albertine region who are to be displaced by the proposed construction of the oil refinery. The study, recently tabled in House after two of a petition to the Speaker on August 17 by women in the affected areas. The Speaker has recommended House Women Parliamentary Committee (HWCPC) Secretary (HWCPC) Sylvia Nyanzi MP.

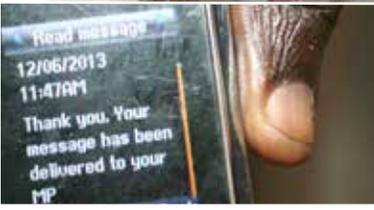


House Women MP Sylvia Nyanzi (HWCPC) also seeks to have the Prime Minister's office engage in consultation programmes on managing oil risks and revenues from the compensation.

They are women in affected areas in Karamoja, Mbale

Nyakusiro, Bulindi and Kibale in Busoga. “The communities class valuations were characterised by many errors. The resettlement action plan provides for willing buyer-willing seller, but this is a country in which it takes time,” the report says. “The women alleged ‘hand in land’ transactions by the valuers and compensation agencies and that some beneficiaries are forced to sign agreements indicating they have received compensation, and handed over their land to government,” before getting paid.

comprehensive statement. Musoke warned that future compensation and resettlement must be applications for the development of the oil sector and other applications. Jacqueline Anong (DPC) said the Government should have considered the interests of the people. Stephen Odoko (DCC) said the women were clear on what the issues were and what they suggested. The Government should have a long-term plan on acquiring and settlement of people in Albertine region.



“Our Land is Our Bank”

Gender Issues in Uganda’s Resettlement Action Plan

Report By Global Rights Alert
November 2013

Legal disclaimer:

This publication is based on information provided to Global Rights Alert and individuals acting on behalf of Global Rights Alert. The conclusions presented herein are based only on information so provided. Global Rights Alert and those acting on behalf of Global Rights Alert have strived towards acquiring full overview of all relevant information and data to prepare this publication. We do not accept liability whatsoever for any inadequacies of the information and that this publication is based on.

© Global Rights Alert. All rights reserved.

No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without full attribution. This work may be cited as “Our Land is Our Bank” Gender Issues in Uganda’s Resettlement Action Plan

CONTENTS

i) Acknowledgment	4
ii) Executive summary :.....	4
iii) Introduction:	5
CHAPTER ONE.....	6
i) An introduction to Gender	6
ii) Women in Uganda: A Brief Situation Analysis:	6
iii) Women’s Rights in Resettlement	8
iv) Why Gender Is Important in Resettlement	11
CHAPTER TWO	18
i) Gender in the Resettlement Action Plan (RAP)	18
ii) Challenges Arising During the RAP Process	20
iii) Conclusion and Recommendations	22

i) Acknowledgment

Global Rights Alert would like to appreciate the effort of our consultant who tirelessly worked on the compilation of this publication. We also appreciate the effort of Mr. Christopher Opio who assisted with setting up the focus group discussions in the field; the Ministry of Energy officials who took time off their busy schedule to answer our questions. Many thanks also go to the Democratic Governance Facility that provided the funding for the study.

Finally we want to thank all the women in Hoima who met the consultant team and shared their personal experiences. This report is dedicated to you.

ii) Executive summary:

This study was conducted as a result of Global Rights Alert's engagement in Hoima over the last two years. We noticed that women were absent in most discussions on oil and realized that unless the situation was resolved early, they (women) would lose out on the benefits of the oil industry.

When GRA interacted with the community in Kabaale, where Government plans to build an oil refinery, it was clear that the company contracted to develop and implement the Resettlement Action Plan (RAP), had not taken women's issues into consideration in a way that was satisfactory to them.

GRA listened to the women and raised their concerns to the local leaders in Hoima, Strategic Friends International (SFI) (the RAP implementing agency), the Ministry of Energy and Mineral Development (MEMD), and the Members of Parliament from the area. On two occasions, GRA held meetings bringing all stakeholders together to discuss the issues women were facing in the refinery area. GRA also commissioned a study titled "Sleepless Nights" that highlighted great fears and dilemmas arising from the conduct of the resettlement and compensation process in the proposed refinery region.

This report is an addition to all those efforts made to ensure that the voice of the women is heard early and often, and Government takes the issues on gender into consideration.

Despite the numerous developments Uganda has made, both in terms of laws and policies that seek to empower women, they remain in danger of losing out on the different development initiatives if no special attention is paid to their issues.

Women are traditionally responsible for nurturing of families, and the elderly, finding food and fuel but lack access to and control over productive resources. The construction of the refinery which requires acquisition of land means that women's marginality has only become the center of attention. Government must thus address this marginality, or risk discriminating against the women in the area.

This report highlights the issues that women in Kabaale face and makes proposals to enable Government do better at creating a more equitable society, where both men and women's needs are addressed, to the benefit of society as a whole.

iii) Introduction:

The discovery of oil in Uganda has been one most exciting landmarks over the last few years. As part of the preparation for exploration and production, the Government of Uganda resolved to build a refinery in Kaabale, Hoima. This is in line with the Regional Refineries Development Strategy (RRDS) that was developed and approved in 2008 by EAC partner states¹, as well as the Foster Wheeler Energy Limited (FWEL) Feasibility Study report on development of a green field refinery². According to information from the government, the feasibility study recommended a refinery as the best development option to exploit Uganda's oil.

Building a refinery in Uganda requires a number of resources including land. The government needs twenty nine (29) square kilometers of land in Kabaale, Hoima district for this purpose. This means that people who have been residing or using this land have to be displaced in order to make way for this development and according to the RAP report, 7118 persons are to be affected.

In order to acquire the 29 square kilometers of land needed for the refinery, the Government of Uganda through the Ministry of Energy and Mineral Development allocated funds to prepare a resettlement Action Plan (RAP) which was to form the basis of compensation and resettlement for the inhabitants of Kabale.

The overall objective of the RAP is to lay down the framework for managing the resettlement in the region. The RAP has been based on several Government policies and laws including the National Oil and Gas Policy, the National Land Use Policy, the Constitution of Uganda and various land laws. The RAP also took into consideration, regional and international human rights instruments such as the Universal Declaration on Human Rights and the African Charter on Human and People's Rights.

Out of the 7118 Refinery Affected Persons (RAPs), 49.4% are females, while 50.6% are males. Men and women will have different experiences with such developments. These will significantly impact their respective abilities to participate and contribute to development during and after resettlement. Better understanding of these gender aspects of the resettlement exercise could improve on the outcomes in the impacted community, as well as improving the economic and social functionality of the refinery affected persons. Indeed, the RAP report cites gender sensitivity among the guiding principles used. This is very crucial as both men and women will be affected differently by the resettlement. Because of the different roles men and women play in society, it follows that they will be affected differently by the resettlement and so it is important that the exercise be guided by gender sensitivity. Learning from large-scale resettlements the world over, it has been shown time and again, that resettlements are hard to conduct in a manner that upholds human rights and that often they result in extreme poverty and injustice for the affected people. More often than not, if not done with great care, women and children, who are the more vulnerable in society, disproportionately bear the brunt of the poverty and injustice occasioned by such large scale resettlements.

This report seeks to examine the extent to which in fact, gender sensitivity was applied and adhered to during the preparation and execution of the Resettlement Action Plan. The report makes recommendations that need to be taken into consideration during and after the resettlement happens.

¹ Hon. Peter Lokeris minister of state for mineral development, while presenting at a national dialogue on RAP, October 04, 2013 golf course hotel, kampala

² <http://www.petroleum.go.ug/page.php?k=curnews&id=10>

CHAPTER ONE

i) An introduction to Gender

Gender is defined as ‘the relations between men and women, both perceptual and material. Gender is not determined biologically, as a result of sexual characteristics of either women or men, but is constructed socially. It is a central organizing principle of societies, and often governs the processes of production and reproduction, consumption and distribution’. Gender issues focus on women and on the relationship between men and women, their roles, access to and control over resources, division of labor, interests and needs. Gender relations affect household security, family well-being, planning, production and many other aspects of life³.

The vulnerability that men and women face in relation to oil and gas, is determined by one’s socio-economic status in society and is influenced by access to and control over productive resources such as income, education, land credit and labor among others. It is also influenced by the ability (or lack thereof) of decision-making in the household and in society. These in turn are influenced by socio-cultural norms, expectations, and dos or don’ts, of a given community. While a holistic approach is required, there is need to put special emphasis on women because of the oil and gas industry’s characteristics of being male oriented, and the particular impacts on women.

ii) Women in Uganda: A Brief Situation Analysis:

In order to understand women’s particular vulnerability as relates to oil and gas, it is important to understand women’s general positioning in Ugandan society.

Over the past two decades, Uganda has made significant progress in the advancement of gender equality and empowerment of women in political, economic and social spheres. This is evidenced by among others:

- The recognition of the rights of women in the Uganda Constitution including the guarantee of equality. It outlaws discrimination and obliges the State to take affirmative action in favor of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom in order to redress the imbalances which exist against them.
- Various laws that have been passed which promote and protect the rights of women, among them the Land Act, the Domestic Violence Act, the Anti-Trafficking Act and the Employment Act.
- Affirmative action in politics, which has enabled women participate in governance and decision making both at national and local government levels. The share of women in Parliament increased from 18% in 2000 to 35% in 2012, rising well above the international average (20%). This progress was largely sustained by a quota system whereby each district elects one woman representative – 112 of the current 130 women MPs were elected in this manner. In 2011 a woman was elected Speaker of the Ugandan Parliament for the first time. In the current cabinet, women hold more than a third of senior ministerial portfolios, including finance, health and education.⁴

³ Food and Agricultural Organization Fact Sheet on Gender

⁴ Millennium Development Goals Report for Uganda, September 2013 by Ministry of Finance, Planning and Economic Development, pg 21

- The gap in enrollment in primary education between girls and boys has been closed largely on account of Government's introduction of Universal Primary Education in 1997. In 2010, for the first time, there were more Ugandan girls enrolled in primary schools than there were boys. In the early 2000s, Uganda appeared on course to achieve gender parity at all levels of education by 2015, boosted by affirmative action policies in the admission procedures of public universities. But more recently the positive trend at the secondary and tertiary levels has slowed, and as of 2012 there were still only 85 and 79 girls for every 100 boys enrolled in secondary and tertiary education respectively.⁵

Despite the progress in promoting gender equality, gender gaps still exist which need to be addressed. Women continue to face constraints related to access and control of resources such as land. In 2009, data from Ministry of Lands, Housing and Urban Development showed that women only own 20 per cent of registered land.⁶ Available evidence also shows that men control virtually all household resources and income obtained from the sale of agricultural produce (Ministry of Finance, Planning and Economic Development 2008)⁷. This means that majority of women who provide about 70- 80 percent of labor for agriculture lack access to the benefits accruing from their efforts.

Gender inequality in access, control and ownership of productive resources is of varying degrees in the different regions of the country. In addition to regional disparities, there is also disparity between rural and urban income levels. Gender disparities exist due to high poverty levels, low literacy rates, negative cultural practices and institutional weaknesses. Gender inequalities in resources, responsibilities and entitlements as well as social vulnerabilities have constrained the development process. Gender based inequality limits economic growth and exacerbates poverty.⁸

Regarding employment, women are concentrated in the lowest paying sectors, which is linked to their low levels of education. Fifty percent of the employed women work in the three of the lowest paying sectors compared to 33% of men (2002/03 and 2005/06 UNHS). The education sector is the largest employer of women. Seventeen percent (17%) of the estimated 523,000 women in paid employment are in the teaching profession. On the other hand women make 58% of the estimated 7.3 million workers in agriculture. Overall, there is limited employment of women in skill-based industries and this constrains further women's income potential. Studies have established that addressing gender inequalities and formal sector employment would increase the GDP growth rate by 1.2% annually (NDP 2010).

Gender based violence (GBV) is widespread in Uganda as revealed by various studies. The number of women who experience gender-based violence in comparison to men remains unacceptably high. In 2006, 68% of women reported violence compared to 20% of their male counterparts (UDHS 2006). The effects of GBV are enormous can lead to reduced economic productivity at all levels and increased risk of acquiring HIV and AIDS. The other effects include trauma and psychosocial problems, health and legal challenges.

Violation of women's rights continues despite the enabling legislations in place and ratification of regional and international instruments particularly the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). This limits women's enjoyment of their rights and effective participation. Women continue to be oppressed due to cultural practices such as bride

⁵Ibid, pg 20

⁶The Social Development Sector Investment Plan 2011/12 to 2015/16, pg 17

⁷ Ibid, pg 17

⁸ Ibid, pg 18

price and widow inheritance. Socio-cultural discrimination against women and girls regarding property inheritance, preference of boy to girl child education and unequal sharing of domestic responsibilities are still impediments to women's empowerment.

Despite the conducive legal and policy framework with a number of affirmative action measures, women in leadership positions especially lack knowledge and skills to effectively influence the decisions of these governance structures. Overall, women account for only 37% and 29% of the public and private sector employees respectively (*UBOS 2009–Gender and Productivity Survey Analytical Report*).⁹ The lower than average representation of women in these categories is partly explained by women's lower education attainment and to some extent, time demands attributed to reproductive activities as well biases in employment.

At household level, women's participation in decision-making is also minimal. About 51% of women reported participating in making major household purchases and overall, men believed that a husband should play the major role in making major household decisions (UDHS 2006).

Given the situation of women in Uganda, it is very important that in order not to further discriminate against them, projects such as resettlement in Kaabale, should take into account the disparities that women still face and work towards mitigating rather than exacerbating them.

iii) Women's Rights in Resettlement

There are various rights that accrue to women and which need special attention in resettlement. The Uganda Constitution clearly states in Article 21, that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and shall enjoy equal protection of the law. The Constitution further states that no person shall be discriminated on any basis including sex and it authorizes Parliament to enact laws that redress imbalances between men and women in order to bring about equality.

The Constitution protects the property rights of all persons, and where that right is limited by compulsory acquisition, such persons are entitled to prompt payment of fair and adequate compensation. The Constitution guarantees equality in marriage between men and women, and such equality comprises decision making in the home. The Constitution also protects the rights of widows to inherit the property of their deceased spouses and to enjoy parental rights over their children.

The Constitution recognizes specific rights of women including the right to full and equal dignity with men as well as equal treatment with men, including the right to equal opportunities in all spheres – political, economic and social.

Also important in the context of women and resettlement, the Constitution guarantees the right of access to information in the possession of the State or any of its agencies, as well as the right to justice, including the right to a fair, speedy and public hearing before an independent and impartial court or tribunal.

At regional and international level, Uganda is signatory to 2 key instruments that spell out the rights of women, including the Protocol to the African Charter on Human and People's Rights, on

⁹Ibid, pg 18

the Rights of Women (also known as the Maputo Protocol) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

The Maputo Protocol requires states to combat all forms of discrimination against women. It recognizes the rights of married women to acquire their own property and administer and manage it freely. It upholds women's right to equal benefit and protection before and under the law including effective access by women to judicial and legal services, including legal aid. The Protocol calls for special protection of widows, elderly women and women with disabilities. It also requires states to ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical, economic and social needs.

CEDAW defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

As a State party to the Convention, Uganda has committed itself to undertake a series of measures to end discrimination against women in all forms, including ensuring elimination of all acts of discrimination against women by persons, organizations or enterprises and to ensure effective protection of women against discrimination.

CEDAW specifically require protection of the rights of rural women. Article 14 demands that States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas. The article also requires States Parties to take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development.

Since the resettlement in Kaabale is mainly about land, it is important to examine the issues around women and land. In Uganda, women are generally unable to own or inherit land due to restrictive practices under customary land tenure or are not economically endowed to purchase land rights in the market. In general, customary practices in some areas of the country continue to override statutory law in recognition and enforcement of women's land rights, abating unnoticed land grabbing at family level.¹⁰ Molded by society's patriarchal norms, these laws and practices give ownership of land to men or male heads of extended families, while women enjoy "secondary" rights in the form of access to and use of land through their husbands, fathers, brothers, or other male relatives.¹¹

Attempts to redress this situation by outlawing discriminatory cultures, customs and practices in land ownership, occupation and use, and requiring spousal consent to transactions involving family land in the 1995 Constitution and the Land Act Cap 227 have not been effective due to failure in implementation and enforcement. While the Land Act (Cap 227) caters for a spouse to some extent, it does not tackle the land rights of widows, divorcees and children.¹²

¹⁰ The Uganda National Land Policy, February 2013, pg 23

¹¹ Gender, Land and Assets Survey in Uganda: Gender Differences in Asset rights in Central Uganda, 2011 (Published by ICRW), pg 3

¹² The Uganda National Land Policy, February 2013, pg 23

Strategic litigation in respect of the Divorce Act (Cap 249) and the Succession Act (Cap 162) nullified sections of the law charged with realization and ascertainment of land rights for vulnerable groups, especially women and children. This landmark court decision is yet to be translated into law. The National Land Policy further prescribes specific strategies to ensure that constitutional rights and obligations with regard to gender equality are upheld, particularly around reforming customary laws and practices.¹³

The implications for Ugandan women of the primacy of customary law is that their rights over land and housing depend significantly on the quality of their personal and social relationships, primarily with their intimate partners and to a lesser extent with other kinship groups. A number of factors, including the weakening of the institution of marriage and increased scarcity of land, have contributed to the deterioration of women's rights under the customary framework.¹⁴

Although Uganda's statutory laws grant men and women equal rights to land and other property regardless of their marital status, application of these laws has been mired by a number of factors. First, legal pluralism that stems from the recognition of both customary and statutory land tenure in the Constitution and the Land Act results in multiple conflicts between customary and statutory laws, which are often not mediated by statutory provisions as prescribed in the Constitution. The application of statutory laws is further complicated by a number of factors, including lack of knowledge of the laws and the high costs of legal action to administer an estate. The weak institutional capacity of the legal system, particularly in rural areas, also prevents effective enforcement and administration of the laws.¹⁵

Marriage is essential in proscribing women's property rights, but despite the fact, the Ugandan Parliament has failed to pass the Marriage and Divorce Bill, a law that attempted to clearly spell out men and women's property rights in marriage. The bill defined marital property and the rules applying to the ownership of property acquired during marriage, including the notion of spousal contribution – both monetary and non-monetary - towards improvement of matrimonial property. These provisions were aimed at entitling women to their fair share of property in marriage and upon divorce. The law also sought to provide some level of protection of property rights, to men and women in cohabitation. Without a clear law on women's property rights in marriage, many women are left vulnerable. However, through the National Land Policy, Government has committed itself to “ensure that both men and women enjoy equal rights to land before marriage, in marriage, after marriage and at succession without discrimination.”¹⁶

Widows are also a category of women that are among the vulnerable, and who suffer the clash between statutory and customary law, when it comes to protection of their land and property rights. Uganda is long overdue for an amendment to the Succession Act, in order to clearly spell out and protect widow's rights to inherit property. Here again, Government, through the 2013 National Land Policy, commits to “review and regulate customary law and practices in access to and ownership of land, thus ensuring that rules and procedures relating to succession do not impede transmission of land to women and children; as well as amending the Succession Act Cap 162 to provide for the right to succession and inheritance of family land by women and children.”¹⁷ Any resettlement planning and implementation must take cognizance of the rights of women as a key ingredient of gender sensitivity.

¹³ Ibid, pg 23

¹⁴ Gender, Land and Assets Survey in Uganda, at pg 3

¹⁵ Ibid, pg 3

¹⁶ The Uganda National Land Policy, February 2013, pg 24

¹⁷ Ibid, pg 24

iv) Why Gender Is Important in Resettlement

Development projects that change patterns of use of land, water, and other natural resources cause a range of resettlement effects. Resettlement losses arise due to land acquisition, through expropriation, and use of “eminent domain” or other regulatory measures to obtain land and assets. This may result in loss of livelihoods and resources and breakdown of community networks and social services. Loss of resources for subsistence and income may lead to hardship, social tensions, and impoverishment. The affected persons have no option but to rebuild their lives, incomes, and asset base.

This process of economic and social dislocation could, and often does, exacerbate existing gender disparities and inequalities. In many societies, women do not enjoy land and property rights, have lower levels of education than do men, work in the informal sector, experience restricted mobility, and carry responsibilities for meeting basic needs such as water, fuel, and fodder. Hence, economic and social disruption may result in greater hardships for women than for men. In all situations of change, affected persons—individually and as a community—are differentially impacted. Gender is an important factor in determining differential impact. Typically, the focus of re-settlement planning is at the household level. Failure to understand intra-household dynamics is more likely to adversely affect women than men. At the policy and institutional level, inherent societal biases may preclude women from benefiting from opportunities provided through the project.

Gender issues in resettlement cannot be adequately addressed unless rights and equity concerns are identified, confronted, and tackled. One must always be aware of the particular discrimination and vulnerability that women face, which could be aggravated during resettlement processes, if not addressed.

The Gender issues that arise in resettlement include:

- **Lack of landownership and property rights denies women equal access to compensation.** In most projects, compensation, resettlement, and rehabilitation are based on legal ownership of land and property. In many societies, women may not have legal rights to land and property, even though they may have enjoyed usufructory rights or been dependent on them. Hence, they are not eligible for compensation and other benefits that may be available.
- **Traditionally, in any patriarchal and patrilineal society, land and property are passed from male head to male heir.** In most parts of Uganda, women may have use rights over the land, but are rarely allowed to inherit the land they use. Payment of compensation to those with legal title is intrinsically gender biased. Because land and property are mainly registered in male names, women are usually excluded from receiving compensation.
- **Restoration of livelihood and income is equally important to women and men.** Women are largely engaged in the informal sector— working in the fields, or selling produce. Women’s economic activities can be an important source of income for households. Dislocation can result in loss of livelihood, adding to women’s economic hardships. Therefore, it is important to enumerate women’s economic activities in planning and executing resettlement programs.
- **Low levels of training and education among women limit the choice of alternatives.** Rehabilitation packages may include compensation opportunities for alternative occupations. Choices for exploring alternatives and livelihood options for women are limited because of their low levels of skills, education, and exposure. Planning for occupational and livelihood

COMMUNITY MEETINGS





options for women is crucial.

- **Existing intra-household gender disparities may become aggravated.** Gender disparities that already exist in society and within the family tend to become aggravated in situations of involuntary displacement, rendering women and children, especially female children, vulnerable. This may manifest itself in greater morbidity or violence or fall in nutritional status. Equity in intra-household distribution of resources should not be assumed.
- **Involuntary dislocation could increase the burden on women.** Generally, women are responsible for food, fuel, and water in the family. Often, fuel and food can become scarce as a result of negative environmental effects on natural resources like forest, water, and land. This can have direct impact on women, because they are responsible for gathering fuel. Unless this impact is addressed in resettlement planning and execution, it can result in women spending more time and resources accessing these basic needs. Also, loss of grazing areas could result in sale of livestock.

Studies across the world have shown increase in morbidity and even mortality rates due to involuntary dislocation. Age- specific death rates show higher mortality and morbidity rates for female children and of women up to 35 years, the most productive years. Given this, there is likelihood that if there is increase in morbidity induced by displacement, the first to be hit will be the females. Similarly, the nutritional and health status of women is lower than men even under normal circumstances. Some studies have indicated an overall decrease in health status, often due to a significant drop in the per capita calorie intake. (Ganguly Thukral 1996)

- **Restricted mobility and limited exposure affect women's ability to adjust.** Being less mobile than men, women's universe is more restricted. Hence, they have limited ability to cope with and adjust to new situations and environments
- **Social impact of dislocation tends to affect women more than men.** Breakdown of community and other social networks as a direct result of dislocation can affect women more than men because women rely and depend on community and other social networks for emotional and practical support, such as taking care of children. Dislocation can be traumatic if these networks break down.
- **Increase of social evils and violence against women could increase because of displacement.** Alcoholism, prostitution, and gambling resulting from displacement affect the lives and status of women. Women are sometimes forced to face new forms of violence, such as sexual abuse and prostitution. Gender disparities embedded in social practice and tradition render women vulnerable to sexual and physical violence. Any situation of economic and social distress creates more scope for violence against women, adding to their vulnerability.

The following stories, gathered from Kaabale, illustrate some of the issues that women are grappling with:

Farida came to Kabaale with her sister and her sister's husband. They settled there about 20 years ago. The sister and the husband both died and she raised the children by herself. Now that the boys, who are now aged 29 and 26 have heard of the compensation, and they are chasing their aunt from the land, despite the fact that she is the one who raised them. All she wanted was to have shelter and some food. She is afraid she will be destitute. She has nowhere to go, no one to turn to. She does not know what to do.

Molly bought her own piece of land near her husband's land. When her husband married another woman, he gave that woman her land. She asked her husband to give her another piece of land since he had given hers away, but to this day he has refused to honor her request. She too does not know what to do.

Brandina is a widow whose husband left a 7-acre piece of land. She and her husband, who were co-habiting, had one boy child together. Her husband had 2 other wives – one in Gulu and another in Mbale. The 7-acre piece of land was surveyed and registered in the name of her husband's uncle. She is trying to get this anomaly reversed, but following up the matter has become expensive for her. When her husband died, she took care of their child herself, without the support of her late husband's family. But now since the news of the resettlement, the boy's uncle is demanding that she give the boy to him. She thinks all that the uncle wants is to claim the land, which is her son's.

Christine bought a piece of land at 400,000/= Uganda shillings. After valuation, she was told that her land was only worth 270,000/=. She does not understand how this came to be. How can she get less for her land, than what she bought it? How will she get an equivalent piece of land at less the price of what she bought it? She is worried that she will be landless and destitute one the resettlement happens.

Medias, an old woman of about 70 years is worried. Her husband did not allow her to be present when their land was surveyed. She also knows that her husband opened up an account in his names alone. She has struggled to look after their children alone, using limited finances from the crops she cultivated on their family land. Her husband does not look after the family. Medias is worried that, given her husband's track record, he will not tell her when their money for compensation comes. She is not sure that her husband will even move with her. She is afraid that her husband will abandon her, with no land to cultivate on.

Maria bought land, which her in laws forcefully took away from her. She and her in laws do not get along well. She and her husband separated a while back, so he will not even come to her defense. Maria feels helpless against her in laws.

 Grace simply expressed her fears: the person responsible for a home is a woman. If a man opens up an account alone, what will happen? How can a woman restrain her husband from misusing the money? We work together with our husbands on the farmland but now you hear men saying women don't have a share.

 Jovia also echoed her fears: Even if we have a joint account for the resettlement package, how will we ever know that money has come on the account. The banks are far away in Hoima and as women, we can't just leave our homes, you have to ask permission of your husband before you leave home, so we will never access that money. Even if you are joint signatories, you will go with your husband to the bank, and he will withdraw the money. Will you fight him to get part of the money? He is the one who will determine if you get any money at all.

 Grace: "Our land is our bank. That is where we get money for fees, money for medical expenses and money to buy necessities in the home. When our land is valued at less than the price we bought it, then it will definitely affect our ability to look after our families as we have been doing."

 Kizza: "Our joy has turned into sorrow because of the refinery. They made us promises like, those in grass thatched houses will be moved to permanent houses. We fell into their trap of promises. The compensation rates are not fair and we are not able to challenge them. Government told us not to sell our land and we didn't, but now we are in tears. Do they treat us like this because we are uneducated? Fight for us. Fight for women. A home stands because of a woman. We need to enable women continue looking after their homes."

 Harriet: We were glad about the refinery. They told us we would be richer and better off than we are now. They did not survey our lands properly. They told us if we disputed their survey, we should survey our land ourselves. People were intimidated into signing. They were threatened that if they did not sign the compensation agreements, then they would not get anything at all. People signed out of fear, not because they wanted. People signed out of ignorance. The people outside the refinery think we have a lot of money, so they have hiked their land prices. An acre of land just outside Kaabale is now at 7 million shillings yet we are only getting 3.5 million shillings per acre that we own.

 Monica: When my land is valued at less than I think it is worth, then I think all my labor has been in vain. Why work so hard when I am going to get so little?

 Alice: If I knew where President Museveni stays, I would walk to his home to explain my problem and the problems of other women. We feel very pressed as women. We need an organization that will take us to the right leaders so that we can explain our problems.

 Esther: I don't have a business. My land is my welfare/ I use my energy to dig and pay fees for my children. As a woman, if you complain you are treated like rubbish, but people don't just complain. There is no smoke without fire. When you raise your voice to ask a question, you are told that Government is only dealing with people who have titles. If you complain, they say you are a Mutooro who came to cause trouble among the Banyoro.

In a meeting held between the Resident District Commissioner of Hoima and women at Kyapaloni trading center, women raised their issues about the RAP exercise. Unfortunately no solution has come from the RDC's office or responsible officers.

CHAPTER TWO

i) Gender in the Resettlement Action Plan (RAP)

The Government appointed an implementing agency – Strategic Friends International (SFI), who developed a policy framework – The Resettlement Action Plan (RAP), to guide the resettlement process. The RAP provides an overview of the socio-cultural setting of the community and the project and spells out the relevant regional and international standards for resettlement. It also makes a case for and spells out a mechanism for community involvement and sensitization and provides for avenues for redress, among other things.¹⁸

Right from the onset, the RAP expressly states that gender sensitivity is among the principles on which the resettlement action plan is based. The RAP has a separate section on support to vulnerable people, who include women and states that in the development of the RAP, issues around identification of vulnerable people, identification of the cause and impact of their vulnerability, identification of assistance required by vulnerable people in the various processes such as negotiation, compensation and moving, implementation of measures necessary to assist vulnerable persons and monitoring and continuous assistance after resettlement, would all be addressed. Even the grievance handling process includes mediation, which is often better suited to women, as they cannot afford the more formal processes such as contracting lawyers or accessing courts of law.

The RAP makes clear that compensation would be made to improve the position of those affected, wherever possible and that where occupants had no recognizable legal right of claim to the land occupied, they would still be entitled to resettlement assistance or compensation for their assets other than land. This is very helpful for rural women, who, more often than not, have little or no proof of ownership of land, for various reasons including low levels of education and literacy. The RAP is also clear that it aimed at safeguarding the rights of people who will lose ownership of their land, while at the same time ensuring that public interest is not jeopardized.

Among the requirements for the project design was consultation with and facilitation of informed participation of affected persons and communities, including host communities, in decision making processes related to the resettlement, as well as establishing a grievance mechanism that addresses grievances promptly, using a transparent consultative process.

Among the RAP processes was a socio-economic census, which helped to capture key demographics on households, health and education facilities, community and assets. The data for this census was disaggregated by gender, which in turn would help the RAP make provision for special interventions for vulnerable groups. Indeed, the data helps to show the gender gaps in many aspects, e.g. only 48.5% female heads of household had identification documents, as compared to 69.4% males. The literacy rate among male heads of households is 72.8% as compared to 30.5% among female heads of households. The literacy rate for male and female affected persons aged 10 years and above is 70.6% and 51.5% respectively and in fact the RAP report notes that illiterate women are likely to be vulnerable as a result of project occasioned displacement. Of the 14.2% of households that have bank accounts, 16.6% are male, while 6.1% are female.

¹⁸ Resettlement Action Plan for The Proposed Acquisition of Land for the Oil Refinery in Kabaale Parish, Buseruka Sub County, Hoima District, October 2012, by Strategic Friends International.

The RAP has a section on vulnerability analysis and women are included among vulnerable persons. Women were thought to be vulnerable because of their marital status because “Other community members are likely to take advantage of their marital status during the resettlement and compensation process.”¹⁹ Indeed, during a field visit to the project affected area, several women reported that their husbands told them they had no share in the property since they were not properly married. For women in polygamous unions, their greatest fears was how the proceeds from the compensation would be shared given there is no standard formula for such matters. Widows were afraid of being disposed by their in laws, thus losing out on any claim of land all together.

In terms of the compensation and resettlement strategy, the RAP again reiterates gender sensitivity as a key principle and states that consent of female spouses will be sought as provided for by Ugandan law and all efforts will be undertaken to ensure that cash compensations are not abused to the detriment of women, by male household heads. Married household heads will be encouraged to come along with their spouses as a measure for addressing vulnerabilities associated with lack of information on compensation amounts and the RAP will promote a family approach to decision making in choosing payment options.

The RAP further states that the project will make every effort to ensure that the negative effects of cash compensations are minimized for women and children, through giving households the opportunity to reconfirm the resettlement option at commencement of implementation of the RAP.²⁰ The RAP also proposes monitoring after the resettlement process to ensure that female spouses and elderly persons are not put at risk of being entirely deprived of project benefits, particularly when compensation is paid in installments over a long period of time. The RAP also recommends livelihood reinstatement support activities targeted at women, to enable them survive and thrive after resettlement.

The RAP details the nature of support it will provide vulnerable people, among them women. This support includes explaining compensation options and payment procedures; securing compensation money and reducing the risk of robbery or misuse after receiving payments; assistance in moving, identification of resettlement land; providing construction assistance, assisting to re-establish adequate networks that would provide the necessary safety nets for vulnerable people.²¹

On the face of it, the RAP seems to have dealt with the gender issues exhaustively and makes clear mention of them at every stage of the process.

A few of the challenges sited include access to information by women. Because of their low literacy levels, the RAP would be expected to detail how they would reach women, ensuring that the information is in a state that is user friendly to the women. It would mean holding meetings at a time that is sensitive to women’s productive roles. It would mean ensuring that the venue for such meetings is accessible to a majority of women and that care is taken to be disability inclusive.

The challenge will be to ensure that the Project Affected People (PAPs), and especially women, know what and how their rights will be protected before, during and after the resettlement process, it requires close monitoring to ensure that what is in the RAP is actually implemented as stated. It also requires that women have access to legal aid in case their grievances are not adequately addressed through the RAP grievance mechanism. It means educating women about

¹⁹ Resettlement Action Plan, pg 27

²⁰ RAP, pg 31 and 32

²¹ RAP, pg 41

their rights and providing local language interpretation of documents before they sign them, so that they are sure that they are protected.

ii) Challenges Arising During the RAP Process

Several Non Governmental Organizations and locals from Kaabale have raised various challenges they encountered during the RAP process²². The issues raised include:

- **Failure to put regulations for assessment and payment of compensation in place:** with sadness, the members noted that for the last 20 years, the minister for Lands has failed to make regulations for the assessment and payment of compensation as required by section 20 of the Compulsory Land Acquisition Act. This has left the affected people at the discretion of districts that are required to compile rates and the chief government valuer who endorses all payments. As a result, it remains difficult to for one to challenge the rates in cases of disagreement.
- **Short comings in the way Strategy Friends International Works:** NGOs report that SFI has failed to advise Hoima district to put in place the 2013 compensation rates and are instead using un-approved rates of 2011/2012. Further, they have failed to advise Government to put in place predictable grievance handling mechanisms that are accessible and affordable by the communities to get justice and avoid the possibility of people opting to take the law into their hands in future. Since the proposed refinery is the biggest project in the country's history, it requires careful and competent companies to deal with the resettlement of such communities in a manner to avoid possible extinction of whole communities and future conflicts between investors and communities like those happening in countries such as Nigeria and others that opted for quick fix.
- **Violation of access rights:** Further, the members were concerned about the lack of respect for the right to information, public participation and access to justice necessary to guarantee common benefits. The Hoima district for instance has ignored the need to involve the people in setting up and making decisions on compensation rates as required under the Land Act. The affected communities are being indirectly coerced to sign compensation forms without being given time to study them and make a decision whether or not to sign.
- **Violation for the Constitution:** Under Article 26 of the Ugandan Constitution, a person is entitled to adequate and prompt compensation for loss of any property rights but the affected communities have been denied a right to negotiate their compensation or decide where to be resettled. At the moment, they are being told by SFI to sign documents for compensation which most of them don't know how to read and understand. To make it worse, they are not told the specific dates when to expect their payments to enable them properly plan for their future. As a result, the communities feel a lot anxiety, which anxiety has fueled speculation about what could happen next.
- **Land Valuations for 2012 Not Sufficient for 2013:** The valuation of properties of communities in the project area was done in 2012. The effects that the money value in 2012 was sufficient then to acquire a similar size of land which it cannot at the close of 2013 because several factors including speculation and inflation have influenced the prices of land in the neighboring villages making it very expensive if not impossible to acquire land at the value of 3.5million or 4.5million shillings assessed for the various individual land owners. Respondents in a study carried out by

²² Communiqué Issued at the end of a Dialogue on the Rights of the Proposed Oil Refinery Affected Communities held in Buseruka-Hoima on the 17th day of July, 2013

GRA observed that an acre of land in neighboring villages like Kayera, Kataba and Nyamasoga ranged between 7 to 20million shillings which is thus impractical (for these communities) to be resettled and/or returned to positions they were in before the refinery project.²³

- **Consent Clause Ignored:** The implementing agency did not seem to adhere to the consent clause in practice. The documents including “Payment Receipt”, “Transfer Form” and “Hoima project Compensation Form” all do not have provision for spousal consent and participation. This failure in providing for spousal participation not only ignores the provisions of the law in as far as it provides for protection of interest in land where a family ordinarily derives sustenance, it also puts women and children at risk in as far as irrational and irresponsible husbands could misuse the compensation sums.
- **Little information regarding the resettlement:** Further, while the SFI is telling the affected people to sign for compensation in monetary terms, there is no information for those who want to be resettled by the Government in places of their choice. As a result, even those people who wanted land for land as opposed to money compensation are being indirectly forced to sign for money as they see no hope for the resettlement.
- **Lack of Grievance mechanism:** members discussed the failure by the ministry of energy to create local community mechanisms for handling people’s grievances. They observed that the local authorities right from LC1 to LC3 that would have helped the communities were all co-opted by SFI through the so-called RAP committees and are now being used to intimidate as they implement the RAP. In absence of LCs, people have nowhere to run to as the traditional courts remain out of their reach due to poverty.
- **Lack of public consultations on compiling rates:** the Land Act requires districts to consult the public while compiling compensation rates. However, there is no scintilla of evidence of public consultations by the Hoima district regarding both outdated rates of 2011 and 2012. Remember, the reason why the districts were given the mandate to determine the rates of crops and non-permanent buildings in their areas of jurisdiction were based on the assumption that they would consult their respective communities. The local communities also feel that the current rates for many of their crops, does not reflect their true value, and this has caused a lot of tension.
- **Limited of public awareness and education:** The local communities pointed out the limited public awareness and education on compensation rights, which in turn has resulted in high anxiety and suspicion among people especially in the households that lack capacity to read and right.

In response to the above issues raised, the Ministry of Energy asserts that communities were sensitized in accordance with the RAP process on issues including disclosure of valuation figures, grievance-handling mechanisms, financial management and livelihood restoration programmes ahead of compensation and resettlement. According to the Ministry, the value for land was determined by professional valuers after conducting a survey to establish the prevailing market price for land in a given locality using a comparative method. These rates are verified and approved by the Chief Government Valuer. The Ministry was also very clear that if locals were not satisfied with the valuation exercise and compensation rates, they had the option to challenge this either by hiring their own valuers, using the grievance mechanism established through the RAP exercise, or going to courts of law. The Ministry also committed that before paying any compensation, they

²³ “Sleepless Nights”: The Fears and Dilemma’s of Oil Refinery Project Communities in the Face of Government of Uganda Resettlement Plan. GRA report, 2011, pg 29

would conduct a display and verification exercise, in which locals would be given the opportunity to revalidate the information obtained during the RAP exercise. The Ministry also stated that during the RAP process, the RAP committees, on which both men and women were represented, had the opportunity to go and survey land in Buseruka, where Government would like to relocate the locals who wanted land for land compensation. The Ministry also stated that despite encouraging spouses to open joint accounts, there is no law that compels couples to do such a thing, so they had no way to enforce opening of joint accounts in order to protect women.²⁴

Despite the response from the Ministry, women still largely feel that they were not given adequate information about the whole process. They also feel that their voice was not adequately heard and that even after a meeting between women and the RDC of Hoima was called, they were not sure how the issues raised with her would be addressed. Women still felt vulnerable regarding the lack of voice and decision making power at home. They would have preferred that a neutral person handle their grievances, because in their perception, even through SFI provided a lawyer, they felt the lawyer was biased towards the men. Women expressed fears about how they would cope in a new place, they expressed many uncertainties about how they would rebuild their lives and continue to support their families especially with regard to growing food and educating their children. Some women, in trying to assert their right to property, had already experienced violence, while some felt their husbands silenced them.

iii) Conclusion and Recommendations

As has been shown in the report, the RAP did take into consideration many aspects of gender. The challenge often is translating what is on paper into reality. Testimonies from women on the ground show that not all went well during the first phase of the RAP exercise. As Government, which is mandated to promote and protect women's rights, embarks on resettlement, it needs to ensure better observance of these obligations and in particular:

- 1. Improve Access to information:** Government needs to do better to provide adequate and accurate information to women in a language and format that is user friendly to them. Government should ensure that women are able to access information and that there is enough staff available to answer any questions women may have. Women need information for planning and rebuilding their own and their family's lives during and after resettlement. Women need to feel confident that they are getting the right information that can help them plan ahead.
- 2. Access to Justice:** Government should rethink the grievance handling mechanism to ensure that women who wish to appeal decisions from the RAP process are able to do so. Government needs to establish legal aid or work with NGOs to provide legal aid to women who have grievances during this critical period both before and during the resettlement exercise. Government also needs to put in place and/or reinforce mechanisms to prevent and protect women from violence that may occur as women seek to claim their rights to land.
- 3. Safeguard women's interests in resettlement:** there is need to ensure that the process of land acquisition and resettlement does not disadvantage women. It should, promote joint ownership and titling, and ensure that women leaders and women's groups are involved in planning and implementing the income restoration programs 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

²⁴ Interview with Mr. Bashir, Communications Officer in the Ministry of Energy

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.

- 4. Address Women's special needs:** Special needs and requirements of women must be considered and addressed in the new site and housing design, access to services and payment of compensation. 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 centers 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.
- 5. 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 questions and indicators. Appropriate mechanisms should be developed for participatory monitoring and ensure that women are included.



Plot 128, Old Kira Road,
P.O Box 27977, Kampala-Uganda
Tel. +256 414 531 661
Email: info@globalrightsalert.org,
Website: www.globalrightsalert.org

With Support From



PRINTED BY

