

“Up Against Giants”

Oil-influenced land injustices in the Albertine Graben in Uganda



Case Study Research Findings presented by CRED in partnership with TIU and DGF

June 2015



Cover Photo:

A cross section of displaced households from the village of Rwamutonga, Bugambe Sub-county, Hoima district.

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List of Abbreviations

CRED	Civic Response on Environment and Development
DGF	Democratic Governance Facility
DLB	District Land Board
FAO	Food and Agriculture Organisation
GDP	Gross Domestic Product
IFC	International Financial Cooperation
IGG	Inspector General of Government
NEMA	National Environment Management Authority
RDC	Resident District Commissioner
TI-U	Transparency International Uganda
TUOP	Tullow Uganda Operations Pty Ltd.
UNRA	Uganda National Roads Authority

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Executive Summary

Based on extensive fieldwork and stakeholder interviews, this paper highlights four case studies of oil-based community disenfranchisement in different parts of the oil region. Summarily, these cases paint an unfortunate picture of the Graben as developing towards a lawless oil frontier where rules do not apply to those with power. As the elite continue to act with impunity, local communities with significantly less agency and power repeatedly bear the brunt of these activities and suffer the consequences.

While government is interested in attracting investors to the oil region, officials must not forget their foremost obligation to protect the rights and livelihoods of Ugandan citizens. Government can maintain an attractive environment for investment while at the same time, demanding high performance standards for community engagement and respect for rights of local citizens. In fact, it is impermissible for the above to be compromised in the name of investment.

Yet it is not simply the case of greedy foreign investors coming in and mistreating local Ugandans. All of these cases highlight that there is also a problem of Ugandans subordinating fellow Ugandans for personal gain. Land in the Albertine Graben has become a golden ticket for many wealthy Ugandans eager to benefit from the oil wealth. Land is being carved out for Uganda's wealthy elites with little to no regard for the people already inhabiting the land.

These cases are symptomatic of an overall pattern of oil-influenced land grabs occurring throughout the Albertine region. As oil is discovered within the Albertine Graben, the value of land in the surrounding region has exponentially increased. As investors and multinational companies show interest in land for high-value oil-based investment projects like the oil refinery and oil waste treatment plants, land suddenly becomes much more profitable. This raises the stakes for land ownership. In these circumstances, the rights of customary land owners are put at risk as wealthy and influential elite attempt to gain ownership over land in the Albertine Region to make a profit on its sale to interested investors.

Oil money should not entrench these preexisting wealth discrepancies and further impoverish the already marginalized sections of society. Rather, if property managed, oil money could help lift millions of Ugandans out of poverty and improve GDP per capita across the board to decrease wealth discrepancies.

As described in detail in the paper, the case studies reviewed lead to a number of key findings and conclusions.

1. The rule of law is rapidly eroding in the oil region. Instead, the effects

of oil sector development are contributing to a state of lawlessness and impunity.

2. Some officials from key regional and local institutions are enabling misconduct to occur and are also performing unlawful acts themselves and taking advantage of their offices for personal benefit.
3. The introduction and influence of oil-based investments and the associated benefits have inspired an unprecedented amount of land grabbing in the region.
4. The current legal regime guiding land rights and land acquisitions does not provide tenure security for customary landowners. Land titles, no matter how fraudulently acquired, easily supersede customary claims in practice. These factors allow for grand-scale land grabbing and violent evictions.
5. Formal justice systems are inaccessible and incompatible with the needs of the rural poor. Due to the cost prohibitive and exclusionary nature of the justice system, it is unlikely that crimes committed by wealthy members of society against relatively marginalized communities will ever be prosecuted.

Introduction

Rock fragment is blasted into the sky as people flee for safety from the flying debris. Local leaders and lifelong village residents find out that their land has been stolen from underneath them by a distant elite. An unsuspecting resident is thrown in jail for living on his family's own land. Families wake up to *kanyamas* forcing them from their homes with guns and tear gas. These stories from different localities in the Albertine Graben do not reflect the government narrative of a beneficial oil sector being developed for the advancement of Uganda and an improved quality of life for all Ugandans. Frankly, these stories illuminate that the opposite is true for citizens in the oil region.

Based on extensive fieldwork and stakeholder interviews, this paper highlights four case studies of oil-based community disenfranchisement in different parts of the oil region. Summarily, these cases paint a picture of the Graben as developing towards a lawless oil frontier where rules do not apply to those with power. As the elite continue to act with impunity, local communities with significantly less agency and power repeatedly bear the brunt of these activities and suffer the consequences.

The patterns highlighted in these case studies demonstrate that oil is not improving life for citizens in the oil region. Instead, the oil discoveries are exacerbating and further entrenching power asymmetries that already exist in the country and in the region as originally posited by Makerere Law don Rose Nakayi.¹ Instead of helping to develop and advance the country, oil seems only to be advancing power differentials and discrepancies in wealth between the richest and poorest in the oil region.² As described by the Uganda Land Alliance, "oil has pitted the elite and resource rich individuals, companies and government on the one hand against the poor uninformed citizens of the region on the other."³ According to Dr. Rose Nakayi, oil is further impoverishing already impoverished citizens and producing "new forms and dynamics of poverty" in the oil region.⁴ This paper seeks to illuminate this phenomenon through a series of case studies documenting events that have taken place in the oil region.

1 Rose Nakayi, "Is Uganda's oil region another northern Uganda in the making?," Posted June 26, 2013, African Arguments, Retrieved from: <http://africanarguments.org/2013/06/26/is-uganda%E2%80%99s-oil-region-another-northern-uganda-in-the-making-%E2%80%93-by-rose-nakayi/>

2 *Ibid.*

3 "Land grabbing and its effects on the communities in the oil rich Albertine region of Uganda," Uganda Land Alliance, September 2013, Retrieved from: <http://landgovernance.org/system/files/ULA%20Land%20Grabbing%20Study%202nd%20October%202011.pdf>

4 Nakayi, 2013.

Read in isolation, each case possesses important details that should be taken into account to understand all of the different ways oil is inspiring and catalyzing predatory behavior in the oil region that is negatively affecting local communities. Read together, the cases can be viewed jointly as symptoms of the same underlying problems rather than unrelated occurrences. The circumstances and context enabling these various occurrences must be understood so that the foundational problems can be corrected and future community disenfranchisement prevented.

Background

Since the announcement of commercially viable petroleum basins in the Graben in 2006, the region has undergone significant and continuous change. One of the most obvious and direct consequences of the oil discovery is exponential increase in land value in the region leading to a speculative “land rush” by parties that did not have prior interest in the land before exploration activities.⁵ Suddenly, land that had been customarily owned for years by various ethnic groups became highly attractive to parties including investors and land speculators that had not expressed interest in the region previously. This unprecedented new interest in Graben land and the relative ease with which a person with resources can obtain a title has led to what some have called an outright “scramble for land” in the region marked by rampant land grabbing.⁶

For the purposes of this paper, the term “land grabbing” is defined according to Mabikke (2011) as “the acquisition of land by a public, private enterprise, or individual in a manner that is illegal, fraudulent, or unfair, taking advantage of existing power differences, corruption, and breakdown of law and order in society.”⁷ According to this definition, land grabbing is therefore a symptom of greater ills in the surrounding context. Due to this land grabbing, the President even instructed a moratorium on issuing new land titles in the region to try to prevent increased tenure insecurity for customary landowners but this moratorium is presumed to be illegal as it is not based on the law. Thus, it is selectively applied to the poor while the rich find ways around it.

According to a 2011 study by the Uganda Land Alliance on tenure and livelihood issues in the Graben, land has been historically held customarily within community groups in the region.⁸ In a 2014 study, Civic Response on Environment and Development (CRED) found more specifically that 76.6% of land in the Albertine Graben was held in customary private land tenure systems while 21.1% was held in customary communal ownership.⁹ According

5 Patrick Byakagaba, “Land Rights Abuses in the Oil Rich Albertine Graben in Uganda, Civic Response on Environment and Development,” February 2014.

6 Francis Mugerwa, “Oil discovery changes land use in Bunyoro,” *The Daily Monitor*, September 12, 2013, Retrieved from: <http://www.monitor.co.ug/SpecialReports/Oil-discovery-changes-land-use-in-Bunyoro/-/688342/1988974/-/ar4iuf/-/index.html>.

7 S. B. Mabikke, “Escalating Land Grabbing in Post-conflict Regions of Northern Uganda: A Need for Strengthening Good Land Governance in Acholi Region,” München, Center of Land, Water and Environmental Risk Management, 2011.

8 “Land Grabbing,” 2013.

9 Byakagaba, 2014.

to the Land Act 1998, customary ownership is defined as a form of land ownership formed around self-organizing communities.¹⁰ As the Land Act reads, customary ownership is:

“Applicable to a specific area of land and a specific description or class of persons; applicable to any persons acquiring land in accordance with those rules...characterized by local customary regulation; applying local customary regulation and management to individual and household ownership, use and occupation of, and transactions in, land providing for communal ownership and use of land; in which parcels of land may be recognized as subdivisions belonging to a person, a family or a traditional institution; and which is owned in perpetuity.”¹¹

The Land Act further specifies that community groups owning and managing land customarily may register for certificates of customary ownership, though this is rarely carried out in practice. Few individuals in these systems hold land titles or engage in formal land transactions. CRED found that 79% of respondents in their regional study did not have any form of documentation of land ownership.¹² According to the Land Alliance study, only 11% of respondents had ever engaged in a formal land transaction. However, this was not previously a ‘problem’ considering that land acquisition in the region rarely involved money or sales. Land was often acquired through land donations. This is now changing as land has become a commercial commodity and investors are interested in using the formal land titling system to purchase land in the Graben. This means that land ownership in the region will become more monetized leaving weaker groups with less access to financial resources at a loss.

Due to the rarity of formal land transactions among customary communities, the tenure security of residents in the region is at risk. Despite recognition of the legality of customary land ownership in Uganda’s Constitution¹³ and Land Act,¹⁴ customary ownership is respected less in practice. This is because the formal land titling system offers codified land ownership which is treated as more legitimate than non-codified customary ownership. Therefore, those employing the formalized land titling system supersede those within the customary system, regardless of true land ownership. In this way, the land system in the Graben is effectively formalizing without incorporating the rights of weaker groups holding land customarily.

10 Government of Uganda, The Land Act Cap 1998, CAP 227.

11 *Ibid.*

12 Byakagaba, 2014.

13 Constitution of the Republic of Uganda, Art 237.

14 Land Act 1998, Cap 227, Art 3 and 4.

The 2011 Land Alliance study highlighted information from District Land Boards showing an increasing trend in conversions of land from customary tenure to formal tenures, either leasehold or freehold. If the residents themselves are not engaging in these types of transactions regarding their land, one might wonder who is, especially since landowners would have to be a willing party to any lawful land transfers. Any application for a title or land conversion that did not inform all relevant stakeholders in and around the piece of land under application would be deemed fraudulent and unlawful under both the Land Act Cap 227¹⁵ and the Registration of Titles Act Cap 230.¹⁶

Despite the legal tenets, in the 2011 study by Uganda Land Alliance, respondents cited that the most common land related problems in the region included land grabbing and encroachment (42%) and increased land disputes apparently due to oil discoveries (27%) with the leading cause of land related problems being corruption among the land administrators (21%), population growth (18%), and absence of clear boundaries (14%).¹⁷ The study concluded that, “The interest in land generated by the discovery of oil in the Albertine region has the potential of exacerbating land disputes and escalating evictions as people move to position themselves for potential benefits.”¹⁸

A 2013 study by International Alert also found an increased amount of conflicts in the region related to land ownership and land use.¹⁹ Similarly, respondents in the 2014 CRED survey “reported that they had lost their previous rights to graze, cultivate, and collect firewood in the areas that were formally communal land because they are currently owned as private property or have been ‘gazetted’ for oil and gas activities.”²⁰

By all accounts, the situation in the oil region falls short of government visions for oil sector development that benefits citizens in the oil region as espoused in the guiding principles of the Oil and Gas Policy 2008:

“The relationships between government, oil companies, and other stakeholders should be conducted and maintained in a spirit of mutual respect, co-operation and trust...the system of co-operation will be extended to communities in the oil and gas production regions and any pipeline corridors. The interests of local communities in areas where oil and gas production is undertaken shall be taken into account by, among other things, sharing of royalties in line with

15 Land Act 1998, Cap 227

16 Registration of Titles Act 1924, Cap 230, Section 159.

17 “Land Grabbing,” 2013.

18 *Ibid.*

19 “Governance and livelihoods in Uganda’s oil-rich Albertine Graben,” International Alert, March 2013, Retrieved from: http://www.international-alert.org/sites/default/files/publications/Uganda_2013_OilAndLivelihoods_EN.pdf.

20 Byakagaba, 2014.

the Constitution and any relevant laws passed by Parliament. All efforts shall be made to avoid occurrence of conflicts and emphasize peaceful resolution of disputes...”²¹

Unfortunately, these espoused values are not reflected in the oil region today. According to our research the oil region is not developing for the benefit of local citizens but rather, in spite of them.

21 Ministry of Energy and Mineral Development, The National Oil and Gas Policy. Government of Uganda, Kampala, 2008.

Case Study I

Residents become “collateral damage”: Hoima Kaiso-Tonya Road rock blasting in Howa/Kyenjojo villages

The President has finally endorsed the completion of the Hoima Kaiso-Tonya Road, officially demarcating the satisfactory completion of the project by contractors, Kolin Construction in conjunction with the Uganda National Roads Authority (UNRA). In just over three years, Kolin has finished the pavement upgrade for the entire 92km road connecting Hoima to the all-important oil fields in the western Graben. The project has been applauded by government and investors alike for improving the investment environment for oil companies by providing critical road infrastructure through the previously inaccessible region. Many residents in the region are also benefitting from the improved access that the road provides.²²

But not all stakeholders share this sense of satisfaction. Throughout the duration of the project, many local residents directly affected by the construction have lodged complaints and even law suits against various alleged malpractices. In the first five kilometers of construction out of Hoima town, project affected persons cried foul after receiving inadequate compensation offers that failed to reflect the true value of their properties.²³ While these claims are being heard before court, there is one case that has gone largely unnoticed.

Realignment leads to confusion

The road ‘realignment’ that occurred in the Kyenjojo and Howa villages was unplanned. The original road path for the section of the Kaiso-Tonya road supposed to pass through Howa and Kyenjojo villages was planned according to

22 Francis Mugerwa, “Oil opens new chapter for Hoima residents,” The Daily Monitor, July 2, 2013. Retrieved from: <http://www.monitor.co.ug/SpecialReports/Oil-opens-new-chapter-for-Hoima-residents/-/688342/1901520/-/c36gqtz/-/index.html>.

23 Edward Ssekika, “Oil: Hoima cries foul over compensation,” The Observer, September 4, 2012. Retrieved from: http://www.observer.ug/index.php?option=com_content&view=article&id=20765:-oil-hoima-cries-foul-over-compensation.

the original project design. The path was marked and workers started clearing the initial dirt road. However, after discovering that a portion of the land for the original road path was too marshy and soft, UNRA and the contractor decided to divert the road path to the right of the marshy ground. Although several peoples' land had already been acquired and cleared for the originally planned portion of the Kaiso-Tonya road and formal acknowledgment for compensation had been made, these compensation promises were forgotten along with the old dirt road that remains today. Instead, the Kaiso-Tonya Road at Kyenjojo and Howa was "realigned" to less than ½ km to the right of the abandoned path.

This proximity meant that some peoples' land in the villages was literally sandwiched between the old abandoned portion of the road and the finalized Kaiso-Tonya road. While residents were confused and concerned that they would not be compensated for the land they had lost during the clearing for the original road path, they followed the direction of UNRA and accepted compensation once again for the construction of the new realigned road, abandoning the old issues altogether. Residents like Mujirimani Samuel gave away valuable cultivable land for the clearing of the original road path that they have not cultivated since. But, according to Mujirimani, his claims for compensation for the first road path were forgotten once he was compensated for the new road that also passed through his land on the other side.²⁴



View of the two roads currently running through Howa and Kyenjojo villages- the original road path set in dirt to the right and the final Kaisa-Tonya Road diverted from the original road on the left.

24 Interview, December 11, 2014, Kyenjojo village, Hoima.

Rock blasting sends residents running

The newly established road path instead passed through an underground rock mass. This physical feature meant that Kolin would have to explode the rock in order to break through the solid mass and lay the road through the excavated rock. But, since the realignment necessitating this blasting was unforeseen in the first place, these activities were not accounted for in the initial project design.

This is certainly unfortunate considering the potential impacts of rock blasting and the need for due diligence and careful investigation into the possible effects of blasting. Nonetheless, UNRA and Kolin both insist that all safety and precautionary planning was undertaken to understand and mitigate the impacts that rock blasting would have on the surrounding communities.²⁵



A local resident of Howa stands next to one of the rock fragments that landed in his garden during the rock blasting that occurred as a part of the construction of the Kaiso-Tonya Road.

Local citizens who bore the brunt of these impacts argue otherwise. According to accounts from residents in Kyenjojo and Howa villages, the rock blasting process that started around September 2013 was hellish and frightening—completely disrupting normal life and putting residents in danger. According to locals, there was one poorly attended community meeting held to sensitize

25 Interview, December 5, 2014, Kolin Construction Head Offices, Kampala, Uganda.

residents about the forthcoming rock blasting before the process commenced.²⁶ For residents who did not know about the meeting and did not attend, the rock blasting began completely without notice.

As Kolin and UNRA describe, a warning system of sirens was put in place to notify the residents before a blast. Using this system, the contractor was to ring a bell approximately fifteen minutes before a blast. This signal was to notify residents to seek immediate shelter thereafter. Though, resident accounts suggest that the process did not follow this protocol. According to Kyenjojo resident Charles Karkar, there would not always be a full fifteen minutes between the bell blasting and the explosion. According to Karkar, the blast would sometimes immediately follow the bell with no time lapse in between.²⁷ Others say the bell could ring and they would wait inside for hours neglecting work in their gardens for a blast that never came.²⁸



A local resident of Howa in his home situated less than 1km from the Kaiso-Tonya Road, displaying the holes in his roof and walls due to the rock blasting

Upon hearing the bell, residents would stop what they were doing and run to their agreed upon meeting point in Kyenjojo town center. Although some residents admit that they could not always make it to the town center in time as some residents live a few kilometers away. In these cases, they would simply have to find the nearest form of shelter to cover them once blasting began.²⁹ There are multiple accounts of children and women fainting during the blasts due to the excessive noise and vibrations.³⁰

26 Interview, December 11, 2014, Kyenjojo village, Hoima.

27 Interview, December 11, 2014, Kyenjojo village, Hoima.

28 Interview, December 11, 2014, Kyenjojo village, Hoima.

29 Interview, December 11, 2014, Kyenjojo village, Hoima.

30 Report of a Field Study on the Effects of Rock Blasting on the Surrounding Communities in Kyenjojo and Hohwa Villages, Kaseta Parish, Kabwoya Subcounty, Hoima District. Prepared by CRED and NAVODA. August 2014.

Multiple elderly residents complained of heightened blood pressure and physical discomfort due to the stress brought on by the blasts.³¹

Homes damaged and residents displaced

According to many accounts, residents would return home after the dust settled from the blast to find significant damages incurred from the blast. Many homes were cracked and damaged from the flying stones and earthquake like vibrations. Reportedly, a number of livestock were killed by the flying debris.³² Entire gardens became littered with sizable rock and fruit trees were dislodged in plantations. Compensation has not yet been offered for any of these damages incurred during the rock blasting that occurred over a year ago. This is especially problematic in cases where people have simply taken matters into their own hands as time elapsed by repairing the damages themselves. In these cases there is no longer proof of damage so compensation claims will be hard to validate.

For Lydia Nyakuru, Kyenjojo village resident, the damage was even worse. The blasts destroyed Lydia's house entirely leaving her and her six family members displaced.³³ They now rent rooms from other residents for 15,000 UGX each per month or sleep on the floor of the community church.³⁴ She has been living this way for over a year. She does not know whether the remains from her dilapidated home are still there as she has not returned to the site for some time.³⁵

It is hard to believe that these effects as described by local residents were not preventable or could not have been mitigated using different mechanisms to control or confine the impacts of the blasts. According to one professional guidebook published by the Department of Mining Engineering at J.N.V. University, India, "In rock excavation for civil engineering projects and in quarry or surface mines blast vibrations must be limited to minimize environmental impact, damage to nearby structures, and damages to the rock walls of the perimeter."³⁶ No residents noticed the use of any sort of covering to control the flyrock, which is a standard practice used to mitigate damage to the surrounding area and danger to nearby residents. It is surprising that residents were not also evacuated as a standard precaution. "Very large areas

31 Interview, December 11, 2014, Kyenjojo village, Hoima.

32 Report of a Field Study on the Effects of Rock Blasting on the Surrounding Communities in Kyenjojo and Hohwa Villages, Kaseta Parish, Kabwoya Subcounty, Hoima District, Prepared by CRED and NAVODA, August 2014.

33 Interview, December 11, 2014, Kyenjojo village, Hoima.

34 *Ibid.*

35 *Ibid.*

36 Sushil Bhandari, *Engineering Rock Blasting Operations*, Rotterdam, A.A. Balkema Publishers, 1997, p. 7.

must be evacuated to avoid accidents. People must be protected, no matter at what cost. If necessary measures to counteract flyrock are taken, the risk of damage due to flyrock must be reduced to minimum.”³⁷



A local resident standing next to the edge of the Kaiso-Tonya road, now currently flushed on either side by piled rock debris that has spilled over and covered garden areas. Residents claim they were not compensated for land lost as a result of this excess rock piling.

When asked about the claims and these seemingly preventable consequences, UNRA expressed frustration and confusion that the communities had waited so long to air their grievances. The community members say they have tried to communicate with authorities but their pleas have fallen on deaf ears. The community even staged a protest in an attempt to demand attention to their grievances.³⁸ Following this protest, a lawyer from Kolin came to meet the people assuring them that they would be compensated. 85 individuals submitted claims to Kolin after this meeting.³⁹ But since then, the people have not heard from Kolin Construction.

The severity of the consequences leaves one wondering how the people could have been subjected to such dangerous conditions during the rock blasting process. There are safer protocols than telling people to run as fast as they

37 *Ibid*, p. 314.

38 Daily Monitor, Thursday July 31st 2014 on page 14

39 *Ibid*.

can when they hear the sound of a bell at a distance to avoid being hit by flying projectile rocks. The question is why such precautions were not employed to protect citizens in this context.

It would seem that the residents of Howa and Kyenjojo villages have been treated with little or no serious regard by UNRA and/or Kolin. First, they were dragged through the confusion of the road realignment without acknowledgement for their sacrifices made in the preparations for the old road. Then they were subjected to ill treatment during the rock blasting process which put them in a dangerous situation and left them to deal with lasting damages.

Both Kolin and UNRA seemed to think this was business as usual and that no wrongdoing occurred despite the community hardships incurred. When confronted with descriptions of the grievances in interviews, neither Kolin nor UNRA representatives raised an eyebrow. As Kolin Country Director Bruhan Nassur asserts, “collateral damages do happen.”⁴⁰

40 Interview, December 5, 2014. Kolin Construction Head Offices, Kampala Uganda.

Case Study 2

“Your village no longer belongs to you”: Oil-influenced land grabs in Kiryamboga village

First signs of a problem

Kiryamboga village is a scenic community nestled in the valley between the shores of Lake Albert and the escarpment in Buseruka subcounty, Hoima District. The valley that spans between the waters edge and the escarpment historically belongs to the residents of Kiryamboga under joint customary ownership.⁴¹ According to local residents, the community currently resides only on the land adjacent to the lake shore but has left the area behind closer to the foothills for “conservation” purposes including “the collection of firewood, soil for matting, grass for thatching houses, digging of latrines and as a reserve place for future community expansion.”⁴² The community of approximately 400 households has existed peacefully there under this system of joint customary ownership for more than 50 years.⁴³ At least that was the understanding of the residents until the LCI chairperson Geoffrey Nnsi unexpectedly received a letter from Tullow Uganda Operations Pty Ltd suggesting otherwise.

Tullow first came to Kiryamboga in late 2012 interested in undertaking oil exploration in part of Kiryamboga—an area labeled as the “Block 5-Waraga D site.” According to the local leadership, Tullow approached the community representatives informing them of their interest in carrying out exploration activities in the area and seeking consent for such activities. The topic was discussed in a series of community engagements until, in January 2013, Geoffrey Nnsi sent Tullow a letter of written consent on behalf of the community. This handwritten letter, signed by Nnsi reads as follows:

41 Interview, December 12, 2014, Kiryamboga village, Hoima.

42 Interview, December 12, 2014, Kiryamboga village, Hoima.

43 Interview, December 12, 2014, Kiryamboga village, Hoima.

“The area where you are planning to put your operations for the Waraga D site development, the said area is a community conservation area (sic) hence the land belongs to the community and nobody owns it (sic). We therefore give you permission to do your work in the area without any problem (sic).”⁴⁴



A view of Kiryamboga village, a community of approximately 400 households in Buseruka Sub County, Hoima district

With that consent, Tullow commenced activity. As mentioned in the letter, the particular site was an uninhabited portion of land close to the base of the escarpment that the community used as a “conservation area.”⁴⁵ As such, no one was physically displaced by the activities. Local leadership describes Tullow’s presence in the area as peaceful and without problem.

In early 2014 Nnsi received a letter from Tullow. The letter, to which Nnsi was copied, was addressed to the Managing Partner at Ntambirweki Kandebe & Company Advocates in response to a letter sent by the law firm on behalf of their client—M/S Gids Consult Limited. According to the letter, M/S Gids

44 Letter from Geoffrey Nnsi LCI Chairperson, Kiryamboga to The General Manger, Tullow Oil, August 1, 2013.

45 *Ibid.*

Consult Limited alleged that Tullow had unlawfully erected rigs and fences on Plot 93 Bugahya Block 5 at Kiryamboga Tonya Buseruka-Hoima.⁴⁶ M/S Gids Consult deemed these acts as unlawful as they alleged that they were the registered owners of this land. Hence, they informed Tullow that they were owed Shs 220,000,000/=(Two hundred twenty million Uganda shillings only) for Tullow's forceful use of their land.⁴⁷

Fraudulent land titles discovered

For Nnsi, a resident of Kiryamboga since 1978 and LCI chairperson since 1998, this came as a complete shock. Neither he, nor anyone else in the community had ever heard of or encountered anyone from M/S Gids Consult before.⁴⁸ This allegation by Gids certainly posed an unexpected and confusing problem for Tullow who, to their knowledge, had done all necessary due diligence to gain community consent for the land already. But for the residents of Kiryamboga, Gids' letter signaled a much more disturbing crisis.

After this notification from Tullow, Nnsi and Community Secretary Alfred Ongei convened a community meeting to alert the residents of the issue. From that meeting it was decided that Nnsi and Ongei would travel to Kampala to investigate this land claim at the Registry of the Ministry of Lands. They also applied to the Commissioner of Surveys and Mapping for an interpretation of ownership of the contested plot. Through these inquiries, Nnsi and Ongei uncovered that Six titles had been obtained for almost all of the land in Kiryamboga village to different high-powered individuals without knowledge of the Kiryamboga residents.⁴⁹ Other plots were also "hanging" meaning that they had been allocated but not registered under any certain name. The research uncovered that Kiryamboga land was owned by:

1. Asiimwe Edward, current Secretary District Land Board- Bugahya Block 5 Plot 29, FRV 836 Folio 21 (measuring 41.29 hec)
2. Kyamanya, former Assistant CAO Hoima - Bugahya Block 5 Plot 25, FRV 451 Folio 3 (measuring 20.4 hec)
3. Kiiza Keneth Alfred, former CAO Hoima- Bugahya Block 5 Plot 33 FRV 513 Folio 13 (measuring 27.95 hec)
4. Byaruhanga Ireneo, former Sub-County Chief Buseruke sub-county- Bugahya Block 5 Plot 31, FRB 554 Folio 19 (measuring 20.45 hec)

46 "Erection of rigs and fences on Plot 93 Bugahya Blocks 5 at Kiryamboga Tonya Buseruka Hoima," letter from Tullow Uganda Operations Pty Ltd to The Managing Partner, Ntambirweki Kandebe & Company Advocates, dated March 12, 2013.

47 *Ibid.*

48 Interview, December 12, 2014, Kiryamboga village, Hoima.

49 *Ibid.*

5. Agaba Edgar, former Executive Director of PPDA - Bugahya Block 5 Plot 33, FRV 551 Folio 25 (measuring 33.41 hec)
6. M/S Gids Consults Ltd owned by Ahimbisibwe Bernard and Kabasharira-Bugahya Block 5 Plot 93 FRV 1460 Folio 18 (measuring 49.885 hec).⁵⁰

Upon discovering this information Ongei recalled the rumors he had heard a few years prior that the community would have to vacate their land because it was going to be sold.⁵¹ At the time, the LCIII was sent to the District to investigate this claim but was informed by the District Land Board that no land had been grabbed. According to Ongei, the title applicants associated with the Land Board were simply withholding information at this time so that they would not expose that their own applications for Kiryamboga land were in the pipeline.⁵²

This evidence indicates that this group of prominent individuals, including past and current Hoima District personnel, have engaged in an explicit and egregious oil-influenced land grab in Kiryamboga.



Homes lined along a road in Kiryamboga village. The residents have held the land communally under a system of joint customary ownership for more than 50 years.

50 Shamim Namuyanja, Report on the Consultative Meeting in Kiryamboga Landing Site, Buseruka sub-county Hoima District, Civic Response on Environment and Development, September 2014.

51 Interview, December 12, 2014, Kiryamboga village, Hoima.

52 *Ibid.*

An oil-based land grab made possible by abuses of power

It is clear that the individuals identified, fraudulently acquired these land titles by neglecting to undertake the necessary procedures in line with the Registration of Titles Act Cap 230. In fact, the procedural infringements can be identified using a list of requirements entitled, “Steps followed when one is to acquire a certificate of title either for leasehold or freehold” on the door to the office of the current District Land Board Secretary who is himself implicated in this case. The Secretary declined to be interviewed on the record for this report. The very first activity on this list states, “One must have land available, free from disputes, clearly marked boundaries and well known to the neighbours and other people within that locality.” According to the Registration of Titles Act Cap 230, an applicant must advertise their application for title “to be posted in a conspicuous place on the land or at such place as the registrar directs and to be kept so posted for not less than three months prior to the granting of the application.”⁵³

STEP	PROCEDURE ACTIVITY	ESTIMATED TIME TAKEN
1.	One must have land available, free from disputes, clearly marked boundaries and well known to the neighbours and other people within that locality.	Initiated and determined by the applicant
2.	Get application land form 4, 23 and 10 from the District Land Office or Land Form 8 for leasehold applicants.	Initiated and determined by the applicant
3.	Fill part I of Form 4 or form 8 and then proceed to the District Land Office Cashier for advice as how to pay the application fee of Shs. 20,000 = 21,000 =	Initiated and determined by the applicant
4.	Take the application forms to the headquarters of the sub county or Division offices where your land falls for onward submission to the Area Land Committee to read through for correctness and setting a date for inspection after consultation with the applicant(s).	5 days
5.	The Area Land Committee posts Public Notices (Form 9 or 10 whichever is applicable) in prominent public places in the parish and on the land which is applied for calling on all people that include (applicant(s), neighbour(s), witnesses etc.) with an interest in the land applied for to attend the inspection and meeting activity to put forward their claims if any and the attendance list.	2 Days

A posting on the door to the office of the Secretary of the Hoima District Land Board expressly describing the procedural requirements to be followed when acquiring a certificate of title. Unfortunately, these steps were not followed by those claiming ownership over the Kiryamboga land.

53 Registration of Titles Act 1924, Cap 230, Section 159.

Even if the registered title holders dispute the legitimacy of the customary ownership claims of the residents of Kiryamboga, they would still be owed prior notification as “neighbours and other people within that locality,” according to the law and practice. Failure to notify the Kiryamboga residents of the land titling signals a failure to comply with the law that the Hoima District Land Board is mandated to uphold. Tullow reinforces this point in their response letter to M/S Gids lawyers:

“TUOP would like to challenge the procedure your client followed to obtain the certificate of title, as one of the initial steps that your client would have taken to apply for the title was to make an application to the district land board, which would then be presented to the parish committee to verify any adverse interests, boundary demarcations et al. If your client followed this procedure it would have established that TUOP had an interest or was in occupation of the same land. Furthermore, it is questionable how the local community and/or leadership would not have been aware of your client’s interests prior to consenting to TUOP’s use of the land.”⁵⁴

More importantly, this act demonstrates a distinct abuse of power, particularly in the office of the Hoima District Land Board. This abuse of office is especially troubling considering that the Land Board is the supreme governing body in the district responsible with implementing and enforcing land laws in the district.

With the introduction of oil exploration activities in the Graben, the value of the land greatly increased making it much more attractive to potential buyers. The demand for over two hundred million shillings compensation by Gids Consult demonstrates that fact. Similarly, the current schema of customary ownership under which the land was operating made the grab much easier as titles often supersede customary claims. The community was even more vulnerable due to the fact that most of the land grabbed was part of their “conservation” land so it was physically unencumbered and allegedly “vacant.”

This grab is especially egregious considering that the residents of Kiryamboga legal rights to the land have been respected and reinforced twice in the past by external actors—the central government and Tullow Oil. Like Tullow Oil’s engagement with the Kiryamboga community, the central government undertook similar community sensitization and consultation activities as Tullow in the process of constructing the Kabalega Hydro Power Dam in 2002.⁵⁵ Through a series of community engagements and negotiations, the community leaders consented to government requests by conceding a portion

54 “Erection of rigs and fences on Plot 93 Bugahya Blocks 5 at Kiryamboga Tonya Buseruka Hoima,” letter from Tullow Uganda Operations Pty Ltd.

55 Interview, December 12, 2014, Kiryamboga village, Hoima.

of their land to government for the construction of the dam. After consent was granted, a company called DOT Construction came and constructed the dam. Residents say there has been no problem or conflict related to the dam since its construction.⁵⁶

Upon the advice of officials in the Ministry of Land, the community has filed caveats on titles, and is now attempting to proceed with a legal case to challenge the legitimacy of the titles. Despite his dismay, Ongei asserts that this is the only way forward. “We looked at those giants—of course we call them giants, and we wondered how we could ever win if we are up against giants? They are financially so strong. But still we must try.”⁵⁷

56 *Ibid.*

57 Interview, December 12, 2014, Kiryamboga village, Hoima.

Case Study 3

Land grabbing from the inside out: Francis Kahwa becomes the owner of Bikongoro Village

With the discovery of oil, land value has also increased throughout Buliisa District, particularly in areas of oil exploration. Bikongoro village, Kisansya Parish, Kigwere subcounty, Buliisa District has been affected in exactly this way. With the discovery of potential oil wells in Bikongoro Village, Tullow Oil approached residents of the community in 2010 seeking to carry out further oil exploration activities in the area. Among the residents were twelve families of Bikongoro village who customarily owned approximately 472 acres of land in the village. Upon hearing of the oil exploration, the twelve families decided to seek a thirteenth shareholder in the land who could lead investment and development on the 472 acres that would help the families better benefit from the nearby oil activities.

The twelve families approached the area chairperson Gladys Kahero with this idea. Kahero introduced the families to Kahwa Francis, a wealthy local landowner. In early 2010, the twelve families met with Kahwa at his home and the parties agreed that Kahwa would join as the 13th family and undertake development on the land. According to the Compensation Agreement and the Development Agreement signed on March 27, 2010, Kahwa paid the families Shs 94,200,000/= (Shillings ninety four million two hundred thousand



Mzee Francis Kahwa, a prominent landowner in Buliisa

shillings only).⁵⁸ Although, both agreements were very poorly written as they do not clearly delineate the exact transaction and terms of agreement. While neither agreement legally transfers land ownership from the families to Kahwa, the handwritten compensation agreement states, “we the twelve families...have agreed to give our land measuring 472 acres in size.”⁵⁹ Similarly, the development agreement ambiguously states that the families “give him the land to develop.” Though, in neither agreement do the families state their intentions to transfer land ownership to Kahwa or provide vacant possession of the land. According to the families intentions, Kahwa was to enter as the “13th family” in shared ownership. According to Kahwa’s testimonial, the families asked him to “take over” the land for his sole development and investment.⁶⁰

As to be expected, this uncertainty has led to conflict. Balyesiima Biddo’s family is part of the twelve families who entered into the compensation and development agreements with Kahwa. Biddo was born on the land that was given to Kahwa although he had gone to live with his maternal relatives for some time. When he returned to his father’s land in 2010, he constructed a hut only to be told by Gladys Kahero- the Chairperson, that the land belongs to Kahwa. But, Biddo’s family argued that Kahwa had only joined the twelve families as the 13th family to help develop the land and was not the sole owner.

In March 2013, supposedly upon the request of Kahwa’s lawyers, the Court Clerk of Buliisa Magistrates Court approached Biddo with an admission of facts document as well as a consent judgment document. Although Biddo is illiterate and cannot speak English, the clerk asked him to thumbprint the documents without explaining the content.⁶¹ Biddo complied unknowingly signing documents that stated that Kahwa was the sole owner of the land and that Biddo had indeed unlawfully trespassed on Kahwa’s land.⁶²

The Clerk then informed Biddo that he would be expected in court the next day.⁶³ Upon arrival, Biddo was informed that he had admitted to facts of the plaint and had also entered into a consent judgment with Kahwa.⁶⁴ Biddo had no knowledge that he had signed documents to this effect even though the admission of facts document assures otherwise that “the admission of facts is made on the defendant’s own free will and without any duress.”⁶⁵ One wonders,

58 “Compensation Agreement,” signed 27 March 2010.

59 *Ibid.*

60 Balyesiima Biddo v Uganda [2014] CN 031 [2014] MSD-05-CO-97, testimony of Francis Kahwa.

61 Balyesiima Biddo v Kaahwa Francis [2014] UGHCCD 011, [2013] CVCS-018, Biddo Aff.

62 Kahwa Francis v Balyesiima Biddo [2013] 018, “Admission of Facts.”

63 Balyesiima Biddo v Kaahwa Francis [2014] HC 011, [2013] CVCS-018, Biddo Aff.

64 *Ibid.*

65 Kahwa Francis v Balyesiima Biddo [2013] MSD-05-CVCS-018, “Admission of Facts.”

though, how the Court Magistrate could allow such proceedings to take place wherein two unfamiliar parties who had never met could have entered into a consent agreement without the knowledge of one of the parties.



Balyesiima Biddo, convicted and sentenced to seven months in prison for trespassing on Francis Kaahwa's land.

In any case, Biddo was imprisoned for trespassing on Kahwa's land. He was sentenced to seven months imprisonment for criminal trespass. Although Biddo's lawyer filed an appeal to the High Court of Masindi against judgment and sentence, the appeal was only decided after the appellant had served full sentence. The Masindi Court re-affirmed the conviction on the ground that the Biddo Family had acquiesced to the development agreement with Kaahwa. Interestingly, the higher court reduced the sentence from seven to five months after all the seven months had been served. In a strange twist of events, Biddo's hut was burnt down in an arson attack while he served his prison sentence in December 2014. Biddo's wife was able to escape with the children unharmed.

There is now division amongst the twelve families as one representative testified on behalf of Kahwa as to the legality of Kahwa's true ownership in the court proceedings against Biddo.⁶⁶

This case represents only one individual claim against Francis Kahwa for land

⁶⁶ Balyesiima Biddo v Uganda [2014] HCT 12 [2014] CR-SC 031.

grabbing. In 2014, a group of elders from the Balima clan petitioned the president alleging that Kahwa grabbed ancestral land near Ngiri F4 oil well pad in Kasenyi Village Ngwedo sub-county. The land in question is part of the oil well site currently being explored and developed by Total. The oil company has even been brought into civil suit against Kahwa to challenge his ownership claims regarding three Ngiri oil well sites.⁶⁷



The site of Balyesiima Biddo's burnt home.

Kahwa owns huge tracts of land in Buliisa, very frequently in close proximity to oil activities; most often acquired after the initiation of oil related activities. According to a public notice issued by the Buliisa district local government in December 2014, Kahwa had 27 separate applications under review for land altogether totaling over 8,200 acres under application.⁶⁸

According to *Oil in Uganda*: “The locals freely talk about his ‘great’ wealth and power, as well as his seemingly unstoppable quest to own every single decimal of land in this oil-rich district. According to them, Mr. Kaahwa is either incredibly lucky or he has ‘connections’ to top government officials who inform his acquisitions.”⁶⁹

67 “Buliisa residents petition president over land grabbers,” NTV Uganda, November 2, 2014, Retrieved from: <http://www.ntv.co.ug/news/local/02/nov/2014/buliisa-residents-petition-president-over-land-grabbers#sthash.CXCFmq78.LlyxZlkC.dpbs>.

68 Office of the Secretary District Land Board, Public Notice, Buliisa District Local government, December 16, 2014.

69 B. Ongode & F. Nalubega, “Most oil wells are in my land-Kaahwa,” *Oil in Uganda*, March 10, 2014, Retrieved from: <http://www.oilinuganda.org/features/land/most-oil-wells-are-on-my-land-kaahwa.html>.

Indeed, Buliisa Municipality MP Hon. Stephen Mukitale who opposes Kahwa's alleged unscrupulous activity, has accused a number of MPs of wrongful dealings with Kahwa that has caused them to "take sides" on land grabbing issues in Buliisa.⁷⁰

Kasenyi Local Council Chairperson, Eriakimi Kaseegu has been battling Francis Kahwa on multiple land disputes for years including one conflict over Tullow Oil's Kasemene 3 land that resulted in violence against the local communities and arbitrary arrests.⁷¹ Kaseegu describes local sentiment: "The whole of Buliisa district is being tortured by this man."⁷²

70 Record of Parliament of the Republic of Uganda, December 2, 2010.

71 Chris Musiime, "Thugs attack villages who say their land was stolen," Oil in Uganda, June 27, 2012, Retrieved from: <http://www.oilinuganda.org/features/land/thugs-attack-buliisa-villagers-who-say-their-land-was-stolen.html#more-1366>.

72 B. Ongode & F. Nalubega, 2014. <http://www.oilinuganda.org/features/land/most-oil-wells-are-on-my-land-kaahwa.html>.

Case Study 4

Oil money spurs violent evictions: Violence and displacement in Rwamutonga Village

A history of land conflict

Rwamutonga village is located on the outskirts of Bugambe Tea Estate approximately 20 kilometers outside of Hoima town in Katanga Bugambe Sub County. It is not clear when the village was first settled, but available evidence suggests that settlements in the village occurred in the late 1960s and early 1970s.⁷³ Tibagwa Joshua is believed to have first come to the village in 1972 after having been given land by the Muluka chief.⁷⁴

As early as the 1970s, there are reported conflicts in this area in which Tibagwa was a factor. Tibagwa's cattle would stray onto peoples' gardens, which caused discontent in the community. This ongoing conflict even led some people to migrate from the village to settle in other areas.⁷⁵

As early as 1996, the office of the LCIII chairperson, Bugambe Sub County was entertaining land complaints between Tibagwa and the local people.⁷⁶ In 1998, the LCIII council decided to register the residents who were in conflict with Tibagwa. In this exercise 28 residents were registered.⁷⁷ According to the Area LC II councilor, Atich Nelson, there were more than 28 residents with whom Tibagwa was in conflict.⁷⁸ This may be because the LC III council registered only those who had graduated tax receipts. Those who did not have receipts were not registered.⁷⁹ This implies that there could at the time have been more genuine claimants against Tibagwa.

73 Interview, September 18, 2014.

74 Interview, September 18, 2014.

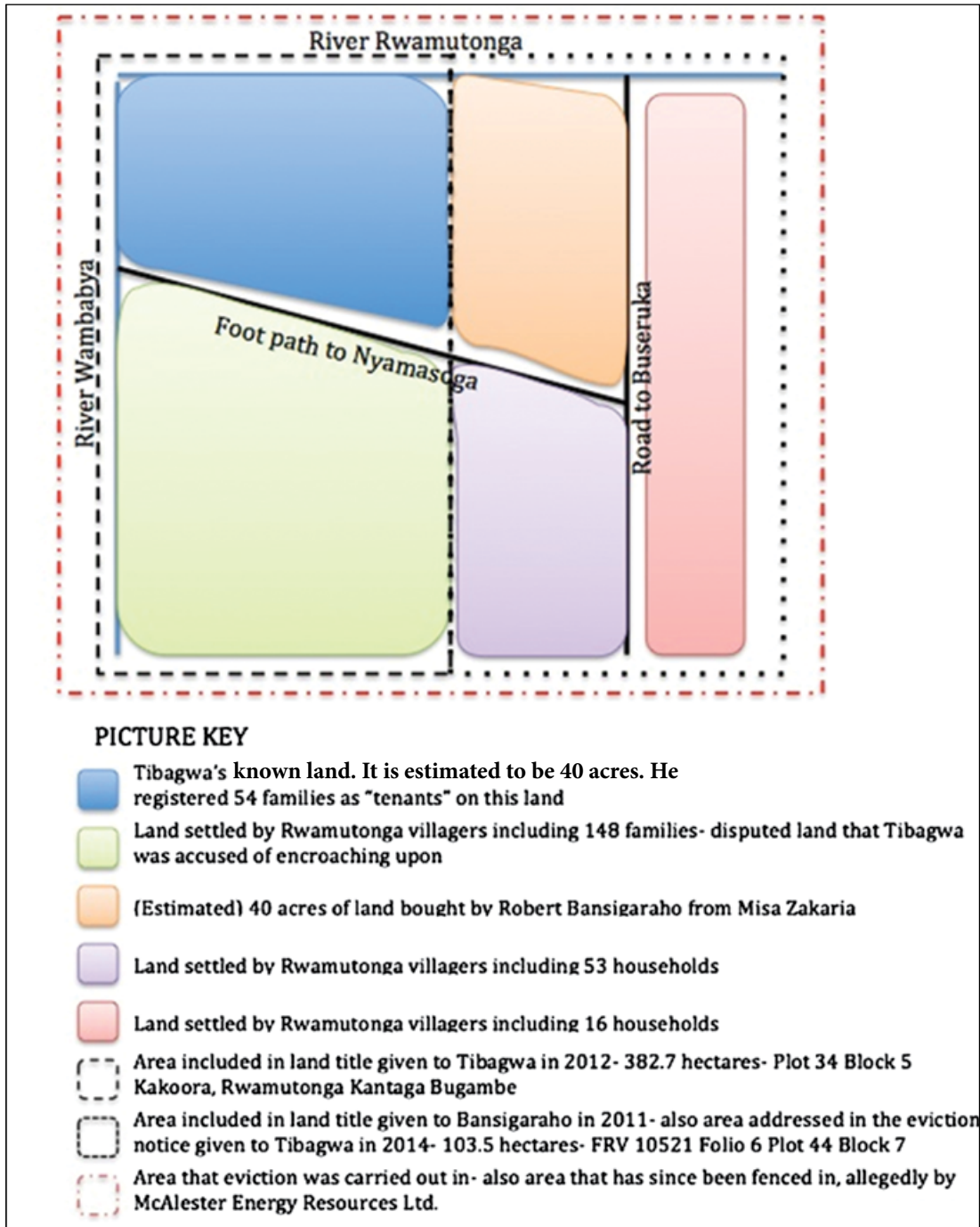
75 Interview, September 19 2014.

76 See letter dated 27th June 1996 by the LC 3 Chairman addressed to Tibagwa Joshua.

77 Interview, September 18, 2014.

78 Interview, September 19 2014.

79 *Ibid.*



Inexplicable negligence in the Hoima District Land Board

In 2007, one of the community residents, Misa Zakariya sold his land to a man named Robert Bansigaraho. The sale agreement neither states the acreage nor the adjoining neighbors to the interest sold. The consideration paid was

500,000/= (Five hundred thousand Uganda shillings). According to the area LC II councilor, the interest sold was approximately 40 acres. However, in 2011, without the knowledge of the adjoining land owners, Robert Bansigaraho used this sale to obtain a Certificate of Title vide Block 7 Plot 44 at Rwamutonga under which approximately 103 hectares of land was put in his names. Upon discovery, the adjoining landowners contested this fraudulently acquired title.

Then, in 2012, without warning, Tibagwa obtained a Freehold Certificate of Title vide Block 5 Plot 34 at Kakora- Rwamutonga under which 382 hectares of land was transferred to his name.⁸⁰ The residents contested this ownership too claiming that the acreage given encompassed their customary interests and was far outside of the land considered to be under his lawful possession. In both of these cases, it is unclear how the Area Land Committee and Hoima District Land Board were able to issue land titles for land that was clearly encumbered and under dispute without the knowledge of the settlers on the land.

An investor raises the stakes as oil money enters the game

Upon acquiring the contested Land Title 2012, Tibagwa entered into a lease agreement with McAlester Energy Resources Ltd, a Ugandan company owned by American company MANTLE Oil & Gas LLC.⁸¹ McAlester was interested in Rwamutonga as one of three potential sites to install a petroleum waste facility to service the companies extracting oil. The company has apparently been issued a license from NEMA as a viable petroleum waste contractor.

The evidence confirms that McAlester undertook an environmental impact assessment and entered into a lease agreement with the Tibagwa family in August 2013 in the interest of developing a petroleum waste treatment plant on Plot 34 & 44.⁸² According to Atich Nelson, this exacerbated the pre-existing land conflicts and intensified the situation.

“When Tibagwa got a deal to sell the land to an American investor McAlester Co. in 2010, he got a cash deposit from the company and fraudulently acquired a title in 2012. It is because of this heavy financial deal that Bansigaraho Robert sold his title to Tibagwa and he was fully compensated. They forgot us the land customary owners whom they found there and surveyed fraudulently.”⁸³

80 Tibagwa Joshua, Solomon Tibamwa, Robinah Kusiima, Harriet Kuninira & Lydia Kaawa, *Certificate of Title Freehold Register*, vol. 1228, no. 18, July 13, 2012.

81 Interview, September 18, 2014.

82 Letter from KATS Consult Ref: KC/McALBWDF/02 “Re: Environmental Impact Assessment for Proposed Development of McAlester Bugambe Waste Disposal Facility, Hoima District.” July 6, 2012.

83 Interview, September 19, 2014.

With this interest confirmed and the stakes of the game raised, the cases began to accelerate. Tibagwa sued the local residents in the High Court of Masindi vide Civil suit No. 01 of 2012 and Civil suit No. 33 of 2012 seeking declaration of his rightful ownership of the 382 hectares of land and that the residents should give him vacant possession.

At around the same time, Tibagwa sued Bansigaraho in the High Court of Masindi together with the Hoima District Land Board seeking orders of cancellation of Bansigaraho's title. But, shortly thereafter Tibagwa and Bansigaraho entered into a consent agreement which settled the case.⁸⁴ The consent judgment was endorsed by the Assistant Registrar, High Court of Masindi on 17th September 2013.⁸⁵ According to the consent judgment, Bansigaraho agreed to hand over the title for the 103 hectares to Tibagwa transferring his ownership to the Tibagwa family so that they were the registered owners of both 34 & 44.⁸⁶

Masindi High Court issues the fatal blow

Out of this consent judgment, the Assistant Registrar Masindi High Court issued a warrant addressed to Karatunga Tadeo (Masindi High Court Bailiff) directing him to evict Robert Bansigaraho, "his relatives, agents and or servants."⁸⁷ This eviction order ostensibly finalized the consent judgment by clearing the land so that Tibagwa could realize his ownership of both Plot 34 and 44 jointly encompassing approximately 487 hectares. The Assistant Registrar issued the warrant during court vacation reportedly due to a declaration of urgency brought by the Court Bailiff.⁸⁸ Although this case is still in court and it is impermissible discussing it in this paper, it is worth noting that the Assistant Registrar issued a warrant on a piece of land for which there were numerous open cases not yet resolved in the very same court. It is without question that the violence and displacement that followed and which has complicated this case and further disenfranchised hundreds of families was made possible from this questionable act by the Masindi High Court.

Due to concerns over the persisting land conflict and the potential enforcement of the eviction order with the potential for mass displacement, the RDC Hoima tried to intervene. When consulted by the RDC, senior presidential assistant Mohammed Mayanja Sadik concluded by proposing that the warrant be executed in respect of the 103 hectares which was the subject of the consent

84 *Tibagewa v Bansigaraho* [2013] UGHCCD 32, "Consent Order."

85 *Ibid.*

86 *Ibid.*

87 Warrant to the Bailiff to give vacant possession of land and demolition of any structures thereon," Ag. Assistant Registrar, High Court Masindi, August 16, 2014.

88 The High Court of Uganda Holden at Masindi, "Application for Execution of the order," Civil Suit No. 32 of 2012, July 14, 2014.

judgment between Mr. Tibagwa and Robert Bansigaraho.⁸⁹ But it was also suggested that, “as for the remaining 382 hectares, Tibagwa would need to sort it out with the Bibanja owners thereon some of whom are his known tenants.”⁹⁰ The RDC also consulted with the Directorate of Land Matters in the Office of the President on the imminent eviction but was warned not to meddle or try to prevent the eviction.⁹¹

It is quite evident that the directions from the different local and central government agencies were varied and inconsistent. It is interesting to note that whereas the Minister for Presidency was calling for a reconciliatory process, his colleagues in the Directorate of Land Matters in the Office of the President wanted an immediate execution of the warrant.



A view of the disputed land in Rwamutonga that is currently encompassed by a barbed wire fence that excludes former residents from entering back onto the land.

89 Letter from Mohammed Mayanja Sadik, Senior Presidential Assistant to RDC Hoima District, “RE: Warrant for vacant possession of land belonging to Mr. Tibagwa Joshua located at Rwamutonga in Bugambe sub-county,” August 19, 2014.

90 *Ibid.*

91 Interview, September 19, 2014.

Violence and mass displacement of customary residents follows

On 25th of August 2014 at around 8:30am, over 31 police officers led by the Deputy RDC Hoima, Ambrose Mwesigye, District Police Commander Bernard Ankankwasa and 120 Kanyamas evicted the residents of Rwamutonga village.⁹² According to the return of eviction filed by the court bailiff also in attendance, Robert Bansigaraho had already removed his properties from the affected land and the eviction was peaceful. This is in contrast to the narration of the area leaders and the affected persons. According to the area LCII councilor Atich Nelson, over 150 households were violently evicted including women, children, and elderly. Numerous individuals sustained injuries. One man was temporarily blinded by the tears gas used during the eviction.⁹³ Multiple women claim to have been raped in the process.⁹⁴ Three children and one elderly person went missing during the evictions and have still not been found.⁹⁵



A demolished home inside the boundaries of the disputed territory. Many homes were similarly burnt to the ground and destroyed during the evictions.

92 See Return of Vacant possession dated 26th August 2014 addressed by the Court Bailiff to the Assistant Registrar, Masindi Court.

93 Interview, September 19, 2014.

94 K. Brophy, I. Imaka & B. Twesigye, edited by Enock Nimpamy, "Rwamutonga eviction and its implications on rights and livelihoods of peasant communities in the oil-rich region of Uganda." Civil Society Coalition on Oil and Gas in Uganda-Oil justice, gender and local content thematic group, October 2014.

95 *Ibid.*

Shortly after the eviction a team of workers came in and set up a barbed wired fence around the entire land. Once the fence was erected, a team of guards came in to guard the entrances. It is still unclear who hired the guards or the team to raise the fence. For some time people tried to continue to access their gardens to harvest food. The guards would sometimes allow women and children entry if they paid a small fee. But that practice ceased on September 5 2014 when one woman entering for food was reportedly gang raped by a group of the guards.⁹⁶

The affected families have been offered about two acres of land in the neighbourhood by a good Samaritan where they are currently living in makeshift shelters with very limited access to shelter, health care and food.

The victims have filed applications challenging the legality of the eviction order but this process is both time consuming and costly. The residents have only been able to afford legal representation due to donations and NGOs offering pro bono legal assistance in-kind. They must scramble for the money to transport the small group of representatives back and forth from the Masindi High Court for court proceedings. Nearly one year after the evictions the people continue to huddle in temporary shelters, internally displaced by this conflict. Meanwhile the case has moved sluggishly with the ruling delayed until July 2015. For the hundreds of people displaced, barely sheltered from the monsoons of the rainy season, justice delayed certainly seems like just denied.

The Tibagwa family asserts that the land is rightfully theirs and that the people on the land are unlawful encroachers encouraged by local leaders although they had no comments for the record.

McAlester Energy Resources Ltd. seems to be very troubled by the events. The company initially expressed interest in finding a solution to the situation although it is unclear whether one will be reached and how McAlester will be involved since they are not a direct party to the case. They have not undertaken any explicit actions to help mitigate the problem and according to the people, have been relatively 'silent' since the fallout from the evictions. In the company's defense, they are not exactly responsible for "fixing" the problem caused by the Tibagwa family as they claim that they outlined the requirement for the compensation of any and all local residents in their lease agreement with

96 The cases of rape unfortunately do not have police record evidence because the women have been intimidated and their lives threatened. The woman gang raped by the guards on September 5 has been in hiding since she tried to report her case to police but was then threatened before she could get the medical examination necessary for the fulfillment of the police report. Government officials cite the lack of police records as evidence that the rapes did not occur ignoring the obvious environmental context of intimidation and fear that make the demands for police reports impossible.

Joshua Tibagwa. Therefore it would appear that they cannot be held liable for the behavior of Joshua Tibagwa as his pursuit of the eviction demonstrates a breach of contract with McAlester. Half a year after the evictions took place the company closed all operations in Uganda. They are now reported to be operating in Kenya.

Although McAlester may not be directly responsible for the eviction, the sum of money they introduced into the scenario influenced the behavior of the Tibagwa family and indirectly financed the evictions. While they may not be held responsible for the decisions of Joshua Tibagwa, they certainly cannot be exonerated either. Although McAlester may not take criminal responsibility, it would be best for McAlester to acknowledge the role their money played in these evictions and commit to working toward a just solution for the residents of Rwamutonga rather than abandoning the site.



Displaced citizens from Rwamutonga squat on a nearby piece of land, lent to them by a neighbor. The citizens have been displaced, living in these makeshift camps for nearly one year.

Key Findings and Conclusions

While government is interested in attracting investors to the oil region, officials must not forget their foremost obligation to protect the rights and livelihoods of Ugandan citizens. Government can maintain an attractive environment for investment while at the same time, demanding high performance standards for community engagement and respect for rights of local citizens. In fact, it is impermissible for the above to be compromised in the name of investment.

Yet it is not simply the case of greedy foreign investors coming in and mistreating local Ugandans. All of these cases highlight that there is also a problem of Ugandans subordinating fellow Ugandans for personal gain. Land in the Albertine Graben has become a golden ticket for many wealthy Ugandans eager to benefit from the oil wealth. Land is being carved out for Ugandan wealthy elites with little to no regard for the people already inhabiting the land.

Oil money should not entrench these preexisting wealth discrepancies and further impoverish the already marginalized sections of society. Rather, if properly managed, oil money could help lift millions of Ugandans out of poverty and improve GDP per capita across the board to decrease wealth discrepancies.

If not, as these cases show, the potential for conflict is imminent. Violent confrontations are already occurring on a regular basis in the oil region over land conflicts. Cases of oil-based land grabbing are very dangerous as they can exacerbate pre-existing social tensions and aggravate rifts between social groups. Relations between different ethnic groups in the Albertine region have become increasingly strained over the past few years due to expectations of variation in oil revenue allocation between the different ethnic groups.⁹⁷ Thus far, there have already been violent clashes along ethnic lines related to land rights near areas of oil activity.⁹⁸

Sound management and comprehensive oversight of oil sector development

97 G. Mutegeki & R. Atuhairwe, "Peace reconciliation vital for oil sector," *New Vision*, September 15, 2013, Retrieved from <http://www.newvision.co.ug/news/647251-peace-reconciliation-vital-for-oil-sector.html>.

98 Francis Mugerwa, "Hoima clashes: Bunyoro kingdom minister held," *The Daily Monitor*, December 7, 2014, <http://www.monitor.co.ug/News/National/Hoima-clashes--Bunyoro-Kingdom-minister-held/-/688334/2547484/-/rovi09/-/index.html>.

that takes into account all negative externalities and unintended consequences is critical to maintaining peace in the oil region. Leadership must preempt misconduct and conflict in the oil region by putting in place mechanisms to prevent oil-based malfeasance at the expense of local citizens. As demonstrated in these case studies, citizens in the region have already borne the consequences of not doing so.

These cases particularly illustrate the following.

1. Lawlessness and an eroding rule of law in the oil region

The nascent oil sector has created a state of lawlessness and impunity in the region. These stories clearly highlight an eroding rule of law in the oil region. In most of the cases, critical rights were sidelined as those in power broke the law for personal gain. Laws were not only broken on paper; in some cases criminal acts were committed. The presence of the Hoima District Police Commander and Deputy RDC at a violent and unlawful eviction resulting in injuries, missing persons and mass displacement, merits serious examination in itself. All of these cases show that the laws do not apply in the oil region for those with power and money. In multiple instances, individuals interested in cashing in on some form of oil benefits were able to completely circumvent necessary legal protocols and procedures in order to secure their oil-based profit with little inconvenience. The inconvenience is instead, borne by the local communities who feel the consequences of these activities.

The evidence that key institutions mandated to uphold and protect the rule of law including regional police offices, courts and government entities are allowing and even committing these offenses poses a significant threat to the maintenance of any semblance of a rule of law in the oil region. A strong rule of law regime must be restored in the oil region and enforced by credible, strong and impartial local leadership committed to protecting the rights of local citizens. There are a number of oil related projects still set to commence including the pipeline and future exploration block sites that could necessitate further land acquisitions. If things continue unchanged, local people in the oil region, and throughout the country, will remain in a very vulnerable position at risk of further disenfranchisement due to the impacts of oil.

2. Failure of key regional and local institutions enabling misconduct to occur

As evidenced in these cases, not only are regional institutions allowing actors to perform unlawful acts, representatives within these entities are performing the unlawful acts themselves and taking advantage of their offices for personal benefit. These individuals are outrightly neglecting preexisting institutional

protocols and mechanisms for accountability and transparency in order to do so. This demonstrates that the institutional capacity to prevent abuses and misuses of power are insufficient in these cases. These cases specifically evidence misuses of power in the Hoima District Land Board, the Hoima District Police Office, the Office of the Deputy RDC Hoima, and the Courts of Masindi and Buliisa.

It is critical that the oil region be guided by not only capable, but impeccable leadership during this particularly challenging time. The institutions in charge of such important tasks as maintaining law and allocating land in the region cannot become compromised during this time. The country cannot afford any more news of instances of mass displacement due to corrupted land officials. Acute acts of misconduct and malfeasance carried out in all of these cases however led to unlawful and threatening consequences for multiple communities in the oil region. In the case of the Kaiso-Tonya Road Howa/Kyenjojo village rock blasting process, it is clear that UNRA and Kolin failed to mitigate preventable damages and hardships that were expected by the local people. Though, it cannot be said that this falls in line with the malfeasance identified in the institutions above.

3. Potential oil money inspiring land grabs

From this study and from others previously undertaken, it is evident that oil-influenced money has inspired an unprecedented amount of land grabbing in the Albertine Graben. Wealthy individuals from around the country have suddenly become title holders in Hoima in the hopes of cashing in on oil related revenues. The cases in this study show that both potential and realized oil money is inspiring land grabs. Whether the land is adjacent to an exploration block, near the expected refinery location, a site of interest to an investor or simply higher in value due to oil related activities, it has become of high interest to outside investors. Multiple field informants stated the prevalence of the trend positing that there may not be much land left untitled in the entire oil region, which is worrisome considering the frequency and ease with which unlawful titles are processed. These cases conclusively demonstrate that oil money is fueling unrest in the region and has been the catalyst for multiple forms of misconduct and many instances of conflict. As the stakes raise and greater amounts of money are injected into the oil region, people are going to greater lengths to cash in and even disenfranchising their fellow citizen to do so.



A resident of Howa/Kyenjojo poses in front of his home with seven of his children. This family, living alongside the Hoima Kaiso-Tonya Road, was put in danger during the rock blasting process undertaken to develop the road. Their home and gardens remain damaged today.

4. General lack of respect for the rights of customary landowners

The prevalence of land grabbing in the oil region demonstrates a failure in the legal regime guiding land rights and land acquisition to provide tenure security for customary landowners. Although Uganda explicitly acknowledges the legitimacy of customary land systems, this does not easily carry over into reality. Land titles so easily supersede customary claims in practice. The way the land system currently operates provides insufficient means to respect and protect rights of non-title owners vis-à-vis land title holders. These land grabs are possible due to the ease with which one can usurp and superimpose codified land claims over a set of customary owners.

They are also made possible because of how simple it is for a title owner to accuse customary owners of being “squatters” or “encroachers.” Once a person has a title document in their hand they instantly have a great deal of power over the non-titled customary land owners who have to rely upon less codified evidence that is often treated as spurious when compared to the title. This is because in the current system in operation, land that is customarily owned is treated as “less formally” owned. This should not mean that the claim

is less legitimate but in practice this does occur so that the customary claims are treated as informal or arbitrary. The formal system of land acquisition and land titling does not currently provide for the protection of rights of non-titled owners as prescribed in the law. Therefore customary owned land is effectively treated as vacant and up for grabs.

5. Formal justice systems are inaccessible and incompatible with the needs of the rural poor

In many of these cases, egregious misconduct goes unacknowledged because of the discrepancies of power and wealth that exist between the offender and the victims of the crimes. It is far less likely that crimes committed by the powerful and wealthy sections of society against relatively marginalized communities with significantly less agency will ever be prosecuted. This is a simple fact. This is because of the exclusionary nature of the justice systems available to victims of a crime in this country. Committing a crime against a person that you know simply can't afford to bring you to trial means the crime may never be acknowledged at all. In so many cases, the cost prohibits aggrieved communities from pursuing justice. Basically, relatively marginalized communities who are then further disenfranchised by an act of misconduct cannot seek justice because of their inability to afford engagement in the judicial process.

In the cases highlighted here, communities are greatly struggling in their pursuit for justice. Sometimes the victims from Rwamutonga village in Bugambe sub-county spend their money to travel to the Masindi High Court only to be told that they must return again since one party to the case did not show up and the trial must be rescheduled. Citizens of Kiryamboga must collect donations to send representatives to the District Land Board, Ministry of Lands in Kampala and other places to obtain more information on their case. In many more cases, communities simply cannot afford to lodge a case in court so injustices go unnoticed and perpetrators continue on unobstructed. Asking those with little to no discretionary spending ability to rely on a formal system that is exclusionary, remote, and cost-prohibitive only helps to further serve the wealthy perpetrator. As of now, the formal justice system only serves to further disenfranchise marginalized victims. More diverse and realistic access to justice must be made available to these communities so that they are not at such a disadvantage when seeking justice.

Recommendations

In light of the above we specifically recommend that:

1. The Ministry of Lands, Housing and Urban Development and the Office of the Inspector General of Government (IGG) should look into the evidence of malfeasance undertaken by the Hoima District Land Board and associated Area Land Committees in the cases of both Kiryamboga and Rwamutonga. Necessary, action should be taken against the implicated officials.
2. The Inspectorate of Courts should investigate the actions of the Assistant Registrar, High Court of Uganda at Masindi in the case of Rwamutonga to determine the excesses by the Court officials with the view of taking punitive action. The Masindi High Court is the court in charge of critical parts of the oil region as a jurisdiction. No doubt, court officials will be presented the opportunity to engage in more oil related malfeasance. Because of this, it is critical that the powers of the Masindi High Court be in the hands of credible, responsible officers.
3. The resident Judge of Masindi should investigate the actions and conduct of the Buliisa Court Clerk in the case of Uganda v Balyesiima Biddo and the manner in which the Court Clerk manipulated information. This behavior is unjustifiable and surely represents misconduct on the part of the Clerk.
4. The government should consider options of protecting land interests of poor customary owners in the Albertine and strengthen tenure security for customary land owners across the country. The Ministry of Lands, as a matter of urgency, should promote a region-wide effort to register customary land in the oil region to safeguard the legal rights of unregistered yet lawful customary residents. This initiative could be carried out through a joint government-civil society partnership.
5. Parliament should introduce explicit legislation on protocols for involuntary resettlement procedures to be followed in the course of future extractive industry activity that can be used as guidance in future oil, gas and mining project development by both Government and project investors that follows international best practice on forced evictions and involuntary resettlement.

The government must clearly outline the requirements prescribed for both government and private actors in these cases in accordance with international standards including the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, FAO Guidelines on Compulsory Acquisition of Land and Compensation and IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement.

6. Bilateral donors and Financial Institutions financing extractive industry infrastructure projects in Uganda should also explicitly require that international best practice guidelines for involuntary resettlement and forced eviction be met as a term of contract and undertake all due diligence necessary to ensure that local citizens are treated fairly. Civil society organizations should implement initiatives aimed at monitoring the compliance of development projects to set international standards and provide feedback to the relevant stakeholders.
7. Civil society must assist the court system in improving access to justice for local communities in the oil region by providing legal advice, assistance and possibly pro bono representation to communities in need.

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About CRED

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