

PRESS STATEMENT ON KEY OIL GOVERNANCE ISSUES IN UGANDA THAT NEED URGENT ATTENTION OF PARLIAMENT

October 10, 2011

WE MEMBERS OF THE AFRICA INSTITUTE FOR ENERGY GOVERNANCE (AFIEGO), NATIONAL ASSOCIATION OF PROFESSIONAL ENVIRONMENTALISTS (NAPE), GLOBAL RIGHTS ALERT (GRA) AND OTHER MEMBERS

Under the Umbrella Coalitions of:

THE OIL WATCH NETWORK (OWN) AND PUBLISH WHAT YOU PAY (PWYP) that are promoting good governance, transparency and accountability in Uganda's oil sector hereby bring to the attention of parliament and all Ugandans the following concerns:

- 1. Secrecy in the Oil Sector:** Despite the existence of Article 41 of the 1995 Constitution and the Access to Information Act, 2005, that provide for the right of all Ugandans to access information in the hands of government, the government has to date continued to be secretive on all oil development processes including licensing, production sharing agreements (PSAs), environmental impact assessments (EIAs), signature bonuses, tax collection and revenue utilization. In this regard, the government's talk that the oil PSAs are in parliament but cannot be discussed because of confidentiality clauses or the Speaker's action of waving the PSAs before MPs and the public at press conferences is in itself unconstitutional and disrespectful of the institution of parliament and is against the principle of a free and democratic country. This secrecy has already resulted in speculations, overexpectations, conflicts, mistrust, suspicions and subsequent loss of revenues for the country.
- 2. The confidentiality clauses:** The existing Oil Production Sharing Agreements (PSAs) contain confidentiality clauses which deny Ugandans including parliament the right to access and debate the contents therein. Ugandans must know that all natural resources including oil belong to them and government only holds them in trust as provided for under the Constitution of Uganda. By putting the confidentiality clauses in the PSAs the government and oil companies have usurped the ownership of the oil resource. It must be noted that there are some countries

such as Liberia, where agreements don't have any confidentiality clauses, while countries like Norway have turned their PSAs into national laws that are accessible by the general public.

- 3. Capital Gains Tax (CGT):** We are also concerned that despite the existence of the Income Tax Act 1997 (as amended) that provides for the payment of CGT, the government has continuously failed to use such laws and its sovereign powers to collect CGT from the oil companies that have refused to pay the said taxes despite making billions of dollars in profits through sale of capital assets. As a result of this, Ugandans are already losing their oil money to the companies.
- 4. Signature Bonuses:** Our government has in the last 5 years received over US\$500,000 in signature bonuses from the exploration companies but all this money has never been accounted for. It is therefore necessary that the government accounts for this money to demonstrate that there is a commitment for transparency and accountability in the management of oil for the benefit of all Ugandans.
- 5. Foreign arbitration and Uganda's sovereignty:** Signing of oil agreements which commit our country to arbitration in London or any other foreign land clearly undermines our country's sovereignty. In our opinion, the companies that are engaged in oil business in Uganda are making profits and should therefore respect our institutions and laws and submit to the jurisdiction of our courts. This will save the Ugandan taxpayers exorbitant legal costs and expenses in foreign courts as can be seen with the Attorney General's demand for parliament to endorse UGX 11.9 billion for settling tax conflicts in London between the Government of Uganda and Tullow Oil. We know that both the foreign arbitrators and lawyers using foreign laws and customs may never understand the conditions under which our people live, and therefore may never make fair decisions for Uganda.
- 6. The stabilization clauses:** All Ugandans must be informed that the existing Ugandan production sharing agreements contain stabilization clauses which have negative impact on legislative powers of parliament. These clauses commit our government to costs every time the parliament makes laws

that affect the economic interests/benefits of companies as agreed in the agreements. This means that if such clauses are not removed from the current agreements and avoided in future PSAs, the powers of parliament to make laws have been indirectly reduced.

- 7. The failure to enact new petroleum laws in time:** Under the Oil and Gas policy 2008, the government clearly admits that the current oil legal framework is inadequate to ensure that oil is managed and utilized for the benefit of Ugandans. But since the passing of this policy in 2008, the government has failed to put in place the necessary oil laws to operationalize the policy. As a result, the companies are taking advantage of the existing weaknesses in our laws to evade paying taxes. The government is itself using these weaknesses to deny Ugandans information about their own resources.
- 8. Harassment of NGOs working in the Oil Region:** Non Governmental Organizations (NGOs) and Community Based Organisations (CBOs) working in the oil region have time and again been harassed and arrested by state security agents on the orders of the Permanent Secretary (PS) Ministry of Energy and Mineral Development. We believe this is a total violation of the rights of Ugandans to assemble and discuss oil issues. It is also wrong for the PS to attempt to deny communities access to vital information regarding Oil.

DEMANDS

In view of the above concerns therefore, we the undersigned NGOs and CBOs demand the following:

- That parliament addresses all issues that have been raised in this statement when it reconvenes on Monday, October 10, 2011
- That parliament uses its oversight role to cause renegotiation of all the current PSAs and partnership agreements to remove undemocratic clauses such as the clauses on foreign arbitration, stabilization, surplus profits and confidentiality.
- That parliament uses its oversight role to ensure that

government tables the petroleum bills and then enact them into law as a matter of urgency. Notwithstanding our call for urgency in the enactment of the laws, the process should allow effective consultations with all stakeholders.

- That parliament uses its oversight role and ensures that government adopts and implements the Extractive Industries Transparency Initiatives (EITI) which require all companies to publish what they pay to the government and the government to publish the payments it receives from companies. This is critical to enabling the citizens and institutions such as parliament to demand for transparency from both the government and companies.
- That Parliament should stop government officials such as the PS Ministry of Energy and Mineral Development, RDCs and DISOs from harassing and arresting personnel of NGOs and CBOs that are sensitizing communities on oil issues
- That Parliament reviews the laws and policies on compensation to enable affected communities/people in the oil region get adequate compensations.

FOR GOD AND MY COUNTRY

Signed by:

Africa Institute for Energy Governance (AFIEGO),
National Association for Professional Environmentalists (NAPE)
Global Rights Alert (GRA)
Ecological Christian Organisation (ECO)
Pro-biodiversity Conservationists in Uganda (PROBICOU)
Navigators of Development Association (NAVODA)
Lake Albert Children and Women Advocacy and Development Association (LACWADO)
BIRUDA
BUCAWA
Butimba group
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