

The background of the cover is a photograph of a rural village. In the foreground, a group of children are sitting on the ground. To their left is a large pile of belongings, including several large, light-colored sacks, a yellow plastic jerrycan, and a green plastic tub. In the background, there are several traditional huts with thatched roofs. The overall scene suggests a community in a post-conflict or displacement setting.

**Advisory Consortium on Conflict Sensitivity
(ACCS)**

THE BRUNT OF FORCEFUL EVICTIONS IN POST CONFLICT SOCIETIES

CASE DOCUMENTATION OF APAA VILLAGE – AMURU DISTRICT

March 2013

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Written by; Denis Barnabas Otim

Electronic design by; Shaffic Opiny

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List of Figures

Figure 1: Summary of forceful eviction related deaths and arrests in Apaa from 2011 to 2012.....	6
Figure 2: Torture and other assaults committed during the eviction in Apaa 2011 – 2012	7
Figure 3: Comparison of torture cases and other assaults by year in Apaa village.....	8
Figure 4: Houses/huts destroyed and households affected during evictions in Apaa – 2011	9
Figure 5: Houses/huts destroyed and households affected during eviction in Apaa – 2012.....	10
Figure 6: Bags of food stuff by category destroyed/looted in Apaa during eviction in 2011/12.....	10

The Brunt of Forceful Evictions in Post Conflict Societies

“Everybody feels pain when the spear stabs”. Barabaig, saying in Tanzania

Introduction

Continued observation and interaction with the locals of Apaa afforded Refugee Law Project (RLP) to understand the magnitude of destruction, torture and losses incurred during the various phases of eviction in Apaa village of Amuru. This report could arouse questions and reactions in a number of readers and stakeholders, human rights institutions and the government of Uganda; it might largely raise legal concerns about human rights violation. The report discusses the implications and dynamics that the eviction exercises had within the lenses of conflict, governance, recovery and transition in post-conflict society.

Some readers may regard this report as purely idealistic. Rather what is entailed in this report is a presentation of the voice of the voiceless and those who cannot be heard in search of justice and resolution of the problems that beset recovery and development in the area of Apaa. Admittedly, this report is for advocacy and a call to attention for each stakeholder to critically intervene in seeking for a sustainable resolution of the dispute in Apaa.

Characterised by radicalization and sectarianism, the dispute in Apaa still remains largely unresolved. As one elder said, “Though the area is largely calm, the situation is that the conflict still exists in the minds and the hearts of the locals who are never at peace without seeing a lasting solution to the dispute in the area that has been changing faces”¹. This demands for concrete involvement from the government of Uganda to resolve this dispute in the most transparent and satisfactory manner possible.

Demanding and protecting their rights and recognition, the locals of Apaa have not remained passive in the face of what they call the “oppressor’s violence” and from government agents like the Uganda Wildlife Authority (UWA), whose presence and a military detach in the area still threatens the peace of the locals. Similarly, concrete realities about disputes in Apaa remain unrevealed and this remains a subject of analysis and intervention.

The Apaa question remains an inescapable concern, though RLP was not always present at the time when some of the evictions were being carried out by the UWA, the Uganda People’s Defense Forces (UPDF) and the Uganda Police Force does not negate the possibility of reflecting on the

¹ Discussion with an elder in Apaa. 2012. Amuru District.

conflict legacy in Apaa. This report is a representation of materials and data accumulated from various resourceful persons from Apaa. This report point out key conflict issues, errors, early warnings and misunderstandings to deepen affirmations of the historical legacy of land disputes that have for some good time been neglected in Apaa.

Policies and Conflict Causal Factors

Uganda is praised for having some of the best policies, constitutional and legal frameworks relating to the protection of human and property rights including land². However, the implementation and enforcement mechanisms are still lacking. Evictions in Apaa have allegedly come as a result of getting rid of encroachers in forest and game reserves. The fact and the truth of the matter are unclear to date. Based on principles and policies, the 2001 Forestry Policy recognizes that encroachment of forest reserves is one of the direct factors resulting in loss of forest cover. The policy also acknowledges that the encroachment phenomenon is exacerbated by the failure to clearly demarcate the boundaries of many protected areas.

The policy recommends that one of the strategies of implementing policy statement No: 1. “on protection and management of permanent forest estates under government trusteeship”, is to re-survey all forest reserves with a view of resolving encroachment problems. The problem is that the policy is silent on the eviction of alleged encroachers. In the case of the Apaa land dispute, the alleged encroachers claim to be owners of the disputed land. Their claim may not easily be protected, as stated in the draft of the National Land Policy.

The protection gap in the legal framework has resulted in increased land disputes. Evictions, especially on alleged government owned forests and game reserves are on the rise in Uganda. Consequently, the efforts by government agents to conserve the environment, wildlife and ecosystems have resulted in vital conflicts throughout the country, including with the locals of Apaa. On the other hand, “the capacity of the local and central government legal systems to manage and resolve land related dispute is stretched due to limited finances and human resource”³.

Uncertainties about the correlation between legal legislation and practice are pronounced. There is no clear distinction between government and public land in any legislation. The regulations and guidelines to control the management and use, including disposal, and sales of land are not presented in the constitution or laws of Uganda. Within the legal measures that do exist, many Ugandans are not able to afford the cost of formally securing land rights under any tenure regime required by law. It is recommended to put in place a framework that will ensure that land rights held by all Ugandans are fully and effectively enjoyed⁴.

² For details look at the Constitution of the Republic of Uganda, the Land Act of 1998 and the 2010 Amended version and the Uganda National Land Policy.

³ Interview with a member of CSO.2012.Amuru District.

⁴ Uganda National Land Policy. 2011. 5th Draft.

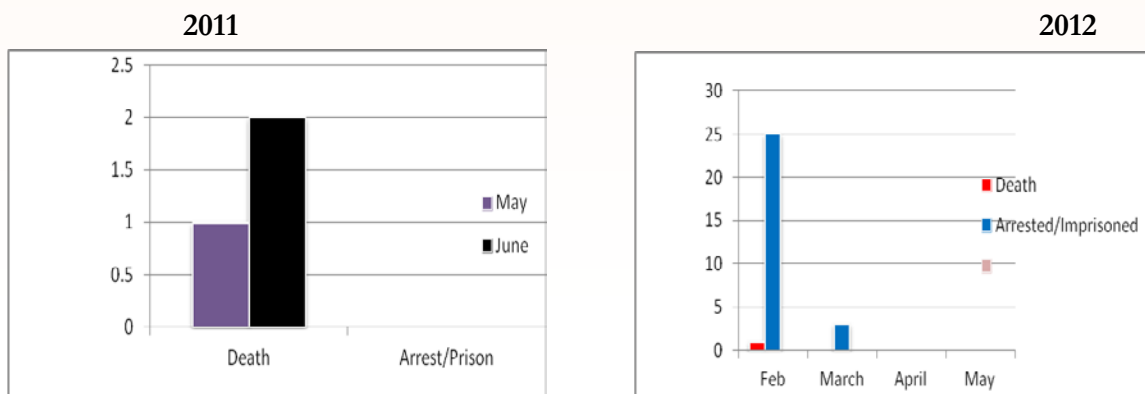
Eviction Related Cases and Incidences in Apaa Village, Amuru District

It is apparent that land eviction not only occurs in Apaa, but also in other districts of Uganda. The only dissimilarity might be the circumstance under which the evictions were undertaken and for what purposes. Records indicated that a number of individuals were forcefully evicted by the UWA in Lorengecora sub-county in Napak district. In Kasese district, farmers threatened to sue the government for wrongful eviction in Itswamba sub-county, whereas in Rakai District about 800 pastoralists were displaced as the government launched forceful eviction.

The case of Apaa is of interest because the locals of the area are in the phase of finalizing their return and resettlement from Internally Displaced People (IDP) camps, the land tenure, ownership and boundaries was disrupted by a two decade long civil war; and lastly the timing and the manner under which the eviction took place has largely been condemned by various stakeholders for interfering with peace and recovery. In total sum, the eviction in Apaa has resulted in deaths, arrest and torture of civilians, destruction of property and food items.

Though the destruction can easily be documented, the intricate effects to recognize are the mental implications associated with the eviction and how the victims perceive the relevance of the state in governing the citizenry in post-conflict societies. “It is of no doubt that we have suffered in the hands of this government, they do not like us,”⁵ said one resident of Apaa. Such rhetoric puts the autonomy of the state to test and has a potential of impacting negatively on the relationship between the state and some sections of the citizens.

Figure 1: Summary of forceful eviction related deaths and arrests in Apaa from 2011 to 2012



Source: Residents of Apaa Village 2012.

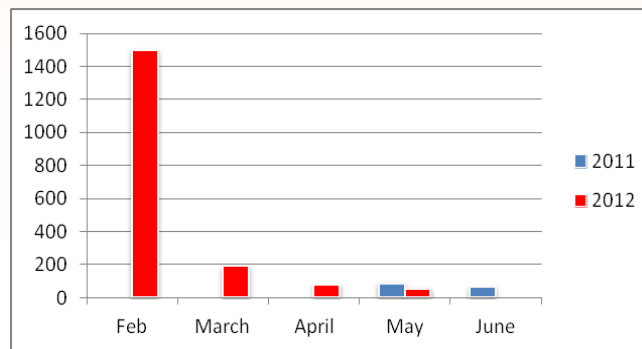
⁵ Interview with a male youth. 2012. Apaa.

In May 2011, one person was reported to have been killed during the eviction exercise in Apaa. Two people were killed the next month. The killings are said to always come when the evictions turn violent due to resistance by the locals, and the security forces use fire arms in response to the resistance from the locals. At the peak of the February 2012 eviction in Apaa by the UWA, the police and the UPDF were accused of shooting and killing one male resident. A total of four land-related deaths have been committed by state agents in the area of Apaa.

In the course of the eviction, 25 male youth were also arrested, detained and imprisoned by the police and sent for trial in Adjumani district⁶. The arrested youth were charged with being armed in public and threatening violence, something seen as threat to the security in the area. The arrest of the 25 youth raised a lot of discussion as to whether being armed and carrying spears could be considered a security threat to a community. To some people, this claim and count of arrest was seen as contradictory to the traditional customs and practice of the locals carrying sticks and spears in case of a wild animal attack, something which is also common amongst the Ankole and Banyankole herdsmen. The distinction is that the youth were alleged to have carried spears and sticks during the course of the eviction, something which has not been a common practice.

Controversy also arose as to whether it was right for the suspects arrested in Apaa in Amuru to be charged in Adjumani a district that is involved with Amuru in the same land dispute. This was a question of jurisdiction and institutional functionality. To a number of the locals in Apaa they looked at this as “trickery and attempt to torture, punish and victimize their residents”⁷. Given their poor status, many did not expect a fair hearing or access to justice. Though justice was delayed, the Director of Public Prosecution decided on 5 June 2012 to discontinue proceedings against the youth.

Figure 2: Torture and other assaults committed during the eviction in Apaa 2011 – 2012



Source: Residents of Apaa Village 2012

⁶ Refer to Graph of 2012 on page.5.

⁷ Interview with male adult. 2012. Amuru.

Residents of Apaa stated that forceful evictions are characterised by beatings, looting, and destruction by UWA guards, the UPDF and the police employed in Apaa. Residents describe the UWA guards as cruel and inhumane, without the professional quality of handling civilian communities. A sizeable number of individuals have been subjected to torture in 2011 in Apaa. In the months of May and June, 87 and 65 people were allegedly tortured, respectively. The reason behind the decline in the number of people tortured could not be clearly established. Some believe that torture was a subject of command and orders given by UWA, UPDF and police commanders during times of evictions.

Figure 3: Comparison of torture cases and other assaults by year in Apaa village

A number of individuals have been tortured during evictions in Apaa. In 2011, at least 152 individuals were reported to have been tortured, and 1,827 people are alleged to have been tortured in 2012.



Source: Residents of Apaa village, 2012

A number of locals in Apaa stated that they have experienced pain inflicted on them by UWA, the police and the UPDF. There is belief amongst the locals that torture is being used as a means to punish, deter and coerce them to evacuate their ancestral land, which is being demanded by the government of Uganda for a game reserve. Historically, torture was sanctioned by some states, but this was rejected and prohibited by the international law in the 21st century. Some of these laws include the United Nations Convention against Torture, of which Uganda is a member state and signatory.

Article 1 (United Nations Convention against Torture) states that the term "torture" means any act by which severe pain or suffering, whether physical

or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. What remains perturbing is that the officers executing the eviction are well trained professionals who understand what is tantamount to torture. Confessions and narratives from the locals indicate that the evictions were a result of command and control, something that many

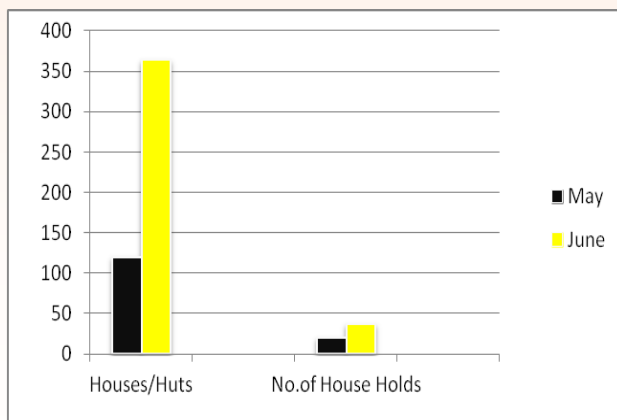
referred to as “order from above” without distinctively stating who was ordering them. This contravenes and violates Article 2 of the United Nations Convention against Torture which states that: *Article 2 Clause (1)* Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

Clause (2) states that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

Clause (3) an order from a superior officer or a public authority may not be invoked as a justification of torture.

Developments in Uganda indicates that Clause 3 of the convention against torture is a subject of abuse and many state agency accused of committing torture always refer to their actions on grounds of order from superior officers. To address this gap and challenge, the 9th Parliament of Uganda passed into law on April 26, 2012, the Prevention and Prohibition of Torture Bill 2010. The passing of the bill affirmed the absolute prohibition of torture under the Ugandan Constitution and domesticates Uganda’s states party obligation under international human rights conventions. In particular, this reflects the commitment that the nation made to the United Nations Convention Against Torture other degrading treatment or punishment.

Figure 4: Houses/huts destroyed and households affected during evictions in Apaa – 2011

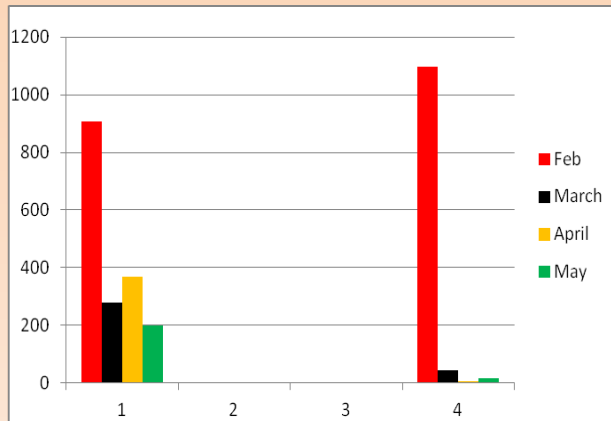


Source: Residents of Apaa Village

One of the destroyed huts during eviction

In 2011, a total of 484 huts/houses were destroyed during the eviction in Apaa. Out of this, 120 huts were destroyed in the month of May, and 364 in June. The destruction affected a total of 57 households, who were rendered homeless. The form of destruction included burning and demolition of huts by UWA guards. The challenge that the locals faced as a result included difficulties in reconstructing the damaged huts, and challenges of storage. Many had to take shelter under tree sheds.

Figure 5: Houses/huts destroyed and households affected during eviction in Apaa – 2012

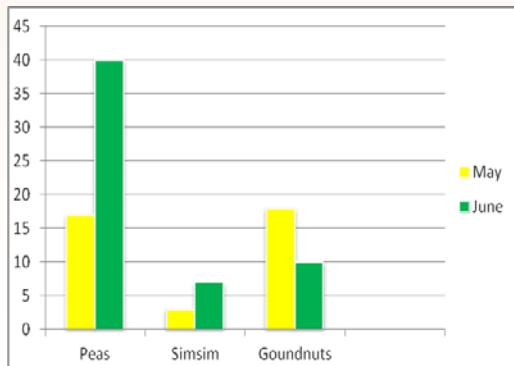


Source: Residents of Apaa Village

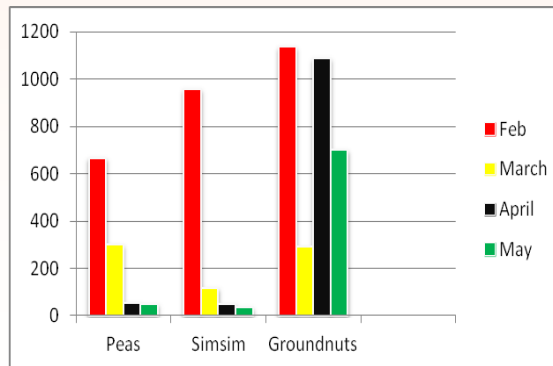
In 2012, a total of 1,756 huts were destroyed, either burnt or demolished. Consequently 1,163 households were affected. The number of huts destroyed in the month of February 2012 was high because the UWA, police and the UPDF launched a wide scale eviction of the locals in Apaa on grounds that the area they occupied is a game reserve. The locals dispute this claim and questioned the UWA claim on grounds that they do not have a proof of ownership over the disputed land.

Figure 6: Bags of food stuff by category destroyed/looted in Apaa during eviction in 2011/12

2011



2012



Source: Residents of Apaa Village, 2012

In 2011, a total of 57 bags of peas, 10 bags of simsim (*simsimea indica*) and 28 bags of groundnuts were recorded to have been looted or destroyed during the eviction that took place in Apaa village in the months of May and June.

In 2012, the damage and destruction was huge, causing severe loss to the locals in terms of food security, threatened livelihood and income generation. From February to May 2012, a total of 1,072 bags of peas, 1,160 bags of simsim, and 3,212 bags of groundnuts were looted and destroyed.

Conclusion

It is of no doubt that the eviction affected the status of food security negatively, denying the locals access to food, with a consequential decline in food production, resulting in hunger and famine. The people of Apaa face high risks because their incomes are low and very unreliable. Given the difficulties they face, recovery from the shocks of the war in northern Uganda, eviction and development might be slow going.

Within the human security lens, the distinction between those who were affected by the evictions and those who were not is clear, and what needs to be addressed is the level of vulnerability. The issues and concerns raised in this report may not be adequate, but hopefully relatively sufficient to prove the extent of volatility and human suffering in the course of the eviction were high and inhumane.

The insecurity resulting from eviction by state agents is better expressed by the victims themselves and their confessions. The challenge that remains is whether it is possible for these victims to receive justice from the state. The destruction of properties and assets did not only have a short term effect but also a long term effect on the perception of the locals toward the state and governance principles – especially in regards to respect for human rights and treatment with dignity. To some the state is seen as the great violator of individual rights and freedom. In essence, the peace dividends, freedom from fear and want, and better standard of living were all negatively affected by the evictions. The peace and recovery of the affected victims is in balance and needs a number of targeted interventions.

About Refugee Law Project (RLP)

The Refugee Law Project (RLP) seeks to ensure fundamental human rights for all, including asylum seekers, refugees, and internally displaced persons within Uganda. RLP envisions a country that treats all people within its borders with the same standards of respect and social justice.

About Advisory Consortium on Conflict Sensitivity (ACCS)

The Advisory Consortium on Conflict Sensitivity (ACCS) is a three member consortium that brings together Refugee Law Project, International Alert and Saferworld. The overall aim of ACCS is assisting DFID and partners in strengthening the potential of the Post Conflict Development Programme (PCDP) and recovery process to address the causes of conflict and contribute to sustainable peace and stability. Under the ACCS, RLP is leading on contextual analysis of the overall recovery process (focusing on conflict indicators, issues and dynamics), and early warning as and when necessary.

Acknowledgement

This report is authored for strategic advocacy purposes and early warning in regards to the dangers that is associated to forceful evictions in post conflict societies. The report was written by Denis Barnabas Otim (Project Officer), with valuable input from Jackson Odong (Research and Advocacy Officer), Stephen Oola (Programme Manger) and Dr. Chris Dolan (Director). The report was made possible by UK-DFID financial support.

For comments contact: research@refugeelawproject.org.

Advisory Consortium on Conflict Sensitivity (ACCS)

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REFUGEE LAW PROJECT
"A Centre for Justice and Forced Migrants"
School of Law, Makerere University



Plot 5, 7 & 9 Perryman Gardens, Old kampala, (Opp. Old Kampala Primary School)

P.O. Box 33903, Tel: +256 414 343 556, Email: info@refugeelawproject.org

www.refugeelawproject.org