

# **Human Rights violations in the context of Kaweri Coffee Plantation/Neumann Kaffee Gruppe in Mubende/Uganda**

**Long-term impacts of a forced eviction without compensation**



## IMPRINT

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## ACRONYMS

<b>ACHPR</b>	African Charter on Human and Peoples' Rights
<b>CEDAW</b>	Convention/Committee on the Elimination of All Forms of Discrimination against Women
<b>CESCR</b>	United Nations Committee on Economic, Cultural and Social Rights
<b>CRC</b>	Convention on the Rights of the Child
<b>ESCR</b>	Economic, Social and Cultural Rights
<b>ETO</b>	Extra-territorial Obligation
<b>GC</b>	General Comment
<b>GII</b>	Gender Inequality Index
<b>HVT</b>	Health Village Team
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>LC</b>	Local Council
<b>NKG</b>	Neumann Kaffee Gruppe
<b>NCP</b>	National Contact Point
<b>UGX</b>	Uganda Shilling
<b>UPDF</b>	Uganda People's Defence Force (Army of the State of Uganda)
<b>UIA</b>	Uganda Investment Authority
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>VHT</b>	Village Health Team
<b>WHO</b>	World Health Organization



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## 1. Introduction

This report provides a description and analysis of human rights violations (State of Uganda), extra-territorial obligations (State of Germany) and abuses (Kaweri Coffee Plantation Ltd./Neumann Kaffee Gruppe (NKG)) involved in the forced eviction of the inhabitants of four Ugandan villages for the benefit of Kaweri Coffee Plantation Ltd. by the Ugandan army in August 2001. The report reflects the findings of FIAN's five research missions investigating this so-called Kaweri case from 2014 to 2019, during which FIAN's team conducted interviews with women, men and children of the evicted communities. In addition, team members collected data at four health centres in the region of Kaweri Coffee Plantation, interviewed the headmistress and her successor at New Kitemba Primary School<sup>1</sup> and also interviewed a chairman of Local Council I<sup>2</sup> (LC I) in one of the affected villages. The research focused on the impact of the forced eviction on the livelihoods of the evictees and on the related human rights violations.

## 2. Background about the Kaweri case

In August 2001, the inhabitants of the four villages in the Mubende district in Uganda - Kitemba, Luwunga, Kijunga and Kiryamakobe (approximately 4,000 people, out of which 2,041 have sued the Government of Uganda and Kaweri Coffee Plantation Ltd. to get legal redress) - were violently expelled from the 2,524 hectares - located on Block 99 and Block 103 Buwekula - they had been living on for years. The Uganda People's Defence Force (UPDF, army of the State of Uganda) forced them to leave the premises because the semi-statal Uganda Investment Authority (UIA)<sup>3</sup> wanted to lease it to the Kaweri Coffee Plantation Ltd., a 100% subsidiary of the Neumann Kaf-

fee Gruppe (NKG) based in Hamburg, Germany. According to FIAN's analysis the eviction was illegal. The eviction and its consequences have been thoroughly documented since 2002<sup>4</sup> by FIAN and others.<sup>5</sup> The event was described by the evictees as particularly cruel. During FIAN's visit in August 2016, various women testified about what happened: "When we were evicted from the land we ran with my husband and life was too hard for both of us and my husband died leaving me with five children. After his burial, my elder daughter also followed due to severe sickness that resulted from the miserable conditions we lived in. During that time, I lost three children and those that had remained also ran away from the village and left me with grandchildren...".



**SIGNPOST AT THE ENTRANCE OF KAWERI COFFEE PLANTATION (AUGUST 2016)**

Another woman said: "They evicted us when I was eleven years old, my grandmother was eighty years old, and my mother was fifty years old and my grandmother had two acres of land full of coffee that supported us. So, during the eviction we lost all of this and we weren't paid for it. We used to sleep under trees. We lost our grandmother because her health was affected by the heavy rain. We didn't have anywhere we could get a shelter." In addition, another woman reported "...we lived in the centre where they started the eviction and all our property was destroyed. I was seven months pregnant. While my mother was in the bush where we had hid. She was bitten by a snake and she died.

My young sister was also pregnant and she was heavily beaten on the back. Luckily enough she delivered while in the bush." Other testimonies from women highlighted the scale of horror caused by the forced eviction: "We suffered a lot and I can't explain it enough. Our food was destroyed. My children went out of school. At that time I was pregnant and because of so much running, my child died in the process! It was a very stressful period and we

<sup>1</sup> The "old" Kitemba Primary School has been taken over by Kaweri Coffee Plantation Lt. and is used as their headquarter.

<sup>2</sup> There are six levels of Local Councils in Uganda. The lowest level is the Local Council I (LC I), and is responsible for a village or, in the case of towns or cities, a neighborhood. ([https://en.wikipedia.org/wiki/Local\\_Council\\_\(Uganda\)](https://en.wikipedia.org/wiki/Local_Council_(Uganda)) ; accessed 08/08/2018)

<sup>3</sup> UIA is registered on a land title to be the proprietor of that land (Block 99 Buwekula) after having it bought from its former owner. However, the genuineness of that land title is questioned by the evictees due the existence of an older land title on the same Block 99 to which the title to of UIA does not refer.

<sup>4</sup> See for instance, FIAN International, The Mubende case [https://www.fian.org/fileadmin/media/publications\\_2015/The-case-Mubende-2004.pdf](https://www.fian.org/fileadmin/media/publications_2015/The-case-Mubende-2004.pdf) ; accessed 08/08/2018

<sup>5</sup> See for instance: Business and human rights resource center, <http://business-humanrights.org/en/kaweri-coffee-part-of-neumann-gruppe-lawsuit-re-forced-eviction-in-uganda#c86308>, International Commission of Jurists <http://icj2.wpengine.com/wp-content/uploads/2014/01/CRC-germany-submission-FINAL-10-Jan-2014.pdf> para 24-36; Deutsch Welle, Land grabbing victims in Uganda seek compensation, <http://www.dw.de/land-grabbing-victims-in-uganda-see-compensation/a-15748743>; accessed 18/11/2019.



did not have food to eat or anywhere to go for treatment.”

“I had a one-week old baby. I suffered a lot with the baby; sometimes I slept in the bush with that baby, without any piece of cloth to cover ourselves. Sometimes I would remove my dress in the night when I was sure no one was watching me, and I used it to cover the baby from the cold! I had never seen that kind of suffering before!”

“My son who had married a young wife, both died during that time. The wife was pregnant. They starved and had nothing to eat, and were running day and night!” Another evictee reported about the death of the 14-year-old girl, called Nannyanzi, who died after a snake-bite in the forest.

The inhabitants were threatened and forced to leave at gunpoint and several of those being evicted were beaten in the process. The soldiers set houses on fire and demolished them, including the fully equipped private clinic



**FAMILY IN FRONT OF THEIR DESTROYED HOUSE IN AUGUST 2001;**  
**©ACTIONAID**

of the community and six churches. Portable properties were looted and crops were cut down and uprooted. The Kitemba Primary School (a formal school of the villages) has since then been used as the headquarters of Kaweri/ NKG Coffee Plantation and this situation has created negative consequences for the education of children at primary and secondary levels of education.<sup>6</sup>

Following the eviction there was an increase in illnesses and deaths, as most of the evictees were prevented from accessing sufficient food, shelter, clean water and health care.<sup>7</sup> During FIAN's research in 2016 one woman highlighted the difficult conditions after the eviction: “At the time when people were staying in makeshift shelters at the school, there were many disease outbreaks. There

was a lot of pneumonia, malaria, diarrhoea, and so many other illnesses, especially for the children. Children died because of malnutrition. Pregnant women had miscarriages.”

Moreover, a member of the Health Village Team (HVT)<sup>8</sup> said: “Many of the women had very young children of less than two years. You would find a woman with over four children all under five years and she cannot walk with them to the health centre with no means of transportation. So we had to find a way of organising outreach to such places. We had to go and treat them in their makeshift shelters. Surely during that time we lost many children due to malaria and diarrhoea. But of course, no one was registering the numbers of those that died.”

In August 2002, evictees sued the Government of Uganda and Kaweri Coffee Plantation Ltd. (Civil Suit No. 179 of 2002) at Nakawa High Court (Kampala). The case was delayed at the High Court for eleven years. After this drawn-out period the judge ruled in favour of the evictees on 28 March 2013. In August 2015 the Court of Appeals set aside the High Court ruling and in 2016 the Kampala High Court gave the case a new number (2563/2016). However, since then only two hearings had taken place in court at the time this report was published in November 2019.

At the hearing on 1 July 2019, the judge ordered a mediation between all parties involved in the court case. While the Government of Uganda has offered 1,907,285,000 Ugandan Shillings (UGX) as compensation for all plaintiffs (401 families), the plaintiffs demand to be compensated by 3,814,570,050 UGX for special damages plus by 30 million UGX per family to enable them to buy ten acres of land. By making that demand, the evictees of Block 99 have abandoned their previous hopes of getting their land back and have given up their claims to the land.<sup>9</sup> Those who have been evicted from Block 103 have chosen to continue trying to get their land back.<sup>10</sup>

<sup>6</sup> Nuwagaba, Augustus/Banga, Margaret 2002: The impact of foreign direct investment on the local economy: The case of Kaweri Coffee and Kalangala Palm Oil Investments, Action Aid Uganda, November 2002,

<sup>7</sup> Gertrud Falk and Wolfgang Sterk, The Mubende case, <http://www.fian.org/fileadmin/media/publications/The-case-Mubende-2004.pdf>, page 10

<sup>8</sup> “The Ministry of Health is implementing the Village Health Team (VHT) strategy to ensure that every village in Uganda has capacity to mobilize individuals and households for better health. VHT members are community volunteers who are selected by communities to provide correct health information, mobilize communities and provide linkage to health services.” Ministry of Health: VHT – Village Health Team, Guide for Training the Trainers of Village Health Teams, [library.health.go.ug/download/file/fid/2024](http://library.health.go.ug/download/file/fid/2024); accessed 11/9/2016.

<sup>9</sup> Interview with Peter Baleke Kayiira, May 2013, <http://www.fian.org/en/library/multimedia/uganda-mubende-peter-kayiira-interview/>

<sup>10</sup> Information provided to FIAN by Peter Baleke Kayiira in October 2019

### 3. Methodology

To maintain gender balance, the research team consisted of two men, two women and two female Ugandan interpreters. One male and one female researcher are Ugandans and did not need interpretation. The other two researchers needed interpretation but are very familiar with the case and had visited the evicted community several times before. Hence, they were known by many of the evictees.

Between 13-20 October 2014 the research team, comprised of a German female staff member of FIAN Germany and a female Ugandan interpreter, interviewed nine individuals (two men and seven women), two couples (husband/wife) and one woman and her adult daughter. Except for one interview with a local representative, LC I, all interviews followed the attached questionnaire.<sup>11</sup> Additionally, one focus group interview was conducted with ten women. All interviewed persons were evicted for the benefit of Kaweri Coffee Plantation Ltd. in August 2001.

On 23 to 24 August 2016 the research team mentioned above individually interviewed eight children (four girls and four boys), five women and one man and conducted a focus group discussion with 28 women.

On 30 January 2017 statements of the interviewees which referred to Kaweri Coffee Plantation Ltd. were sent to the headquarters of the Neumann Kaffee Gruppe (NKG) in Hamburg for comment. NKG answered on 22 February 2017 and denied all statements and accusations against them. To verify the information provided by the evictees, two researchers investigated some of the issues in question again, interviewing 27 women and a police officer in Kyengeza on 2 August 2017. On 24 to 25 August 2017 another researcher assisted by an interpreter and accompanied by a journalist interviewed the headmistress of the



**WOMEN SHOW ON A MAP WHERE THEIR COMPOUNDS HAD BEEN LOCATED BEFORE THE EVICTION. (OCTOBER 2014)**



**EVICTED WOMAN HOLDS GERMAN NEWSPAPER WHICH HAD REPORTED HER STORY.**

New Kitemba Primary School and checked five of the seven boreholes and two of the three water pipes with several taps around the plantation. Furthermore, five men and four women were interviewed. From 28 June to 5 July 2019, the same researcher assisted by an interpreter went again to Kyengeza and interviewed the (at that time) new headmaster of the New Kitemba Primary School as well as two of the evicted families, the LC I and the spokesperson for the evictees.

The selection of the persons interviewed was done by snowball method: The researchers started with those evictees who they already knew. These individuals were then asked to propose other evictees to be interviewed. This was important to create the necessary trust among those who did not yet know the researchers. Furthermore, the researchers started the interviews with elders of the community to comply with the cultural practice that older people should receive more respect than younger ones and should be consulted first.

The focus group discussions were organised in a similar way: The chair of a women's group of the community was asked to organise women for those discussions.

The headmistress of New Kitemba Primary School was asked for permission to interview the pupils of her school on site.

Before each interview started, the researcher informed the interviewees about its purpose and let them know that the findings will be published. Each interview participant was asked if his/her name could be published and if a photo could be taken. All interview participants agreed to these terms. However, to avoid possible harm, especially to those who work at Kaweri Coffee Plantation, their names are not mentioned in this report. Only the year of the interview is indicated.

In 2016, three health centres and one hospital in the area, namely Kanseera Health Centre, Madudu Health Centre



III, St. Joseph's Health Centre III, and Mubende Regional Referral Hospital, were asked for data to cross check reports of the evictees on how the forced eviction had negative impacts on their lives. Even if the data do not allow any conclusions to be drawn to which extent these negative consequences can be attributed to Kaweri, they confirm that the reported diseases and early pregnancies are common in that area.

At the end of the four field excursions from 2014-2017 the researchers presented and discussed their findings with the community during public meetings.

#### 4. Involvement of Germany in the Kaweri case

The German Government has supported the investment of NKG/Kaweri Coffee Plantation Ltd. in several ways:

1. On 24 August 2001, three days after the forced eviction, the German Ambassador, Klaus Holderbaum, attended the opening ceremony of NKG/Kaweri Coffee Plantation, which was conducted by the President of Uganda, Yoweri Kaguta Museveni, and the then-owner of NKG, Michael R. Neumann.<sup>12</sup>

2. In 2002, the African Development Bank granted 2.5 million US Dollars for a period of 4 years to Kaweri Coffee Plantation Ltd. Germany is a member of the Executive Council of the Bank.<sup>13</sup> However, according to the German Ministry for Economic Cooperation and Development, NKG did not take that grant.<sup>14</sup>

3. In 2009, the evictees, together with FIAN, submitted a complaint to the German National Contact Point (NCP) for violations of the OECD Guidelines on Multinational Companies against Neumann Kaffee Gruppe (NKG). The German NCP is integrated into the Department of External Economic Promotion of the Ministry of Economy and Technology. On 30 March 2011, the German NCP closed the case. In its final declaration, it twisted the situation and demanded mainly from the evictees more efforts to solve the conflict.<sup>15</sup>

4. On 25 June 2013, Dirk Niebel, the former German Minister for Economic Cooperation and Development, intervened and demanded that FIAN Germany reconsider its presentation of the case.<sup>16</sup> He wrote: "The Kaweri plantation is the largest German investment in Uganda and it receives attention and good-will from the German government." FIAN has not received any information that the current minister or the German government have dissociated themselves from that statement.

5. Since 2004, through letters or during personal meetings, the evictees have asked the German government several times for support, but the government has not responded.<sup>17</sup>



**KAWERI COFFEE PLANTATION IS SUPPORTED BY THE UGANDAN STATE**

12 New Vision, 25.08.2001; [http://www.newvision.co.ug/print\\_article/new\\_vision/news/1027730/museveni-launches-giant-coffee-farm?print=true](http://www.newvision.co.ug/print_article/new_vision/news/1027730/museveni-launches-giant-coffee-farm?print=true); accessed 15/11/2019

13 African Development Bank. Press Release No. SEGL3/B/45/02, 26/06/2002

14 Letter of the German Ministry of Economic Cooperation and Development to the Member of Parliament Uwe Kekeritz, 26/05/2017

15 Federal Ministry on Economy and Technology: Final Declaration on the complaint in accordance to the OECD-Guidelines for Multinational Companies, 30 March 2011. <http://www.bmwi.de/Redaktion/EN/Downloads/oecd-ac-final-statement-neumann-wakeup.html>; accessed 15/11/2019

16 Letter of former German Minister for Economic Cooperation and Development to FIAN Germany, 25/06/2013

17 Meetings of evictees with German Ministry for Foreign Affairs and Ministry for Economic Affairs: May 2004, December 2008, December 2010, December 2011, March 2017. Letters of the evictees to the German Ministry for Foreign Affairs: June 2004, August 2004, May 2005, March 2017. Additionally, FIAN has kept the Government of Germany informed through meetings with the German Embassy in Uganda and by letters.





IN AUGUST 2003, TWO YEARS AFTER THE EVICTION, FAMILIES STILL LIVED IN MAKESHIFT SHELTERS.

## 5. Human Rights violations resulting from the eviction

Uganda<sup>18</sup> ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 21 January 1987, the International Covenant on Civil and Political Rights (ICCPR) on 21 June 1995, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 22 July 1985<sup>19</sup>, the Convention on the Rights of the Child (CRC) on 17 August 1990, the African Charter on Human and Peoples' Rights on 10 May 1986, the African Charter on the Rights and Welfare of the Child on 17 August 1994, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa on 22 July 2010. Hence, Uganda has the obligation to guarantee the rights under the aforementioned human rights instruments in line with national legislation (for instance: the Constitution, Land Act and Investment Code Act). Uganda has also adopted the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of national food security,

the Guiding Principles on Business and Human Rights, and the United Nations Declaration on Rights of Peasants and other People working in rural areas (UNDROP).

Germany<sup>20</sup> has also ratified UN-Human Rights treaties relevant to this case: ICESCR (17 December 1973), ICCPR (17 December 1973), CEDAW (10 July 1985), and CRC (6 March 1992). Either those treaties or the respective UN-Committees acknowledge extraterritorial state obligations:

- ICESCR: article 2(1) obliges State Parties "... to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant ..."<sup>21</sup>
- ICCPR: Despite extra-territorial obligations not being explicitly mentioned in the Covenant the Committee on Civil and Political Rights (CCPR) has several times interpreted Article 2, paragraph 2 of the Covenant in this regard<sup>22</sup>: "Where not already provided for by existing le-

18 UN Human Rights High Commissioner, Ratification Status for Uganda, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=66&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=66&Lang=EN); accessed 15/11/2019. See also, African Commission on Human and Peoples' Rights, Legal instruments – ratification by Uganda, <https://www.achpr.org/states>, accessed 15/11/2019

19 CEDAW General Comment no. 34 on rights of rural women is especially relevant.

20 UN Human Rights High Commissioner, Ratification Status for Germany, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=66&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=66&Lang=EN), accessed 15/11/2019

21 OHCHR, International Covenant on Economic, Social and Cultural Rights, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>, accessed 15/11/2019

22 For example in the concluding observations of the CCPR to Germa-



gislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”

CEDAW: in its General Recommendation No. 28 (2010), para 36, the CEDAW Committee recognises extra-territorial obligations: “...The obligations incumbent upon States parties that require them to establish legal protection of the rights of women on an equal basis with men, ...and take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise also extend to acts of national corporations operating extraterritorially.”<sup>23</sup>

- CRC: Article 4 of the Convention highlights extra-territorial obligations regarding economic social and cultural rights: “...With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.”<sup>24</sup>

## 5.1 Germany's extra-territorial state obligations

Since the Kaveri case involves NKG, a transnational corporation based in Germany, the regulation of the activities of this company by the German State is crucial, taking into consideration the human rights of the affected communities. Germany has the obligations to respect, protect and fulfil human rights, including economic, social, and cultural rights (ESCR) extra-territorially. Those extra-territorial obligations (ETOs) are anchored mainly in the ICESCR and have been interpreted by experts in international law in the Maastricht principles<sup>25</sup> as well as by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment No. 24 on “State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities”.<sup>26</sup>

Several Maastricht principles apply to this case. The reasoning for this is based on principle 9, as the situation in

the Kaveri case over which Germany's acts (directly via the statement of the National Contact Point and the letter to FIAN, and indirectly through the credit granted by the African Development Bank) and omissions (the lack of follow-up on what is happening on the ground in terms of human rights violations) have led to foreseeable negative impacts on the enjoyment of the economic, social and cultural rights (ESCR) outside its territory: “Principle 9: Scope of Jurisdiction: A State has obligations to respect, protect and fulfil economic, social and cultural rights in any of the following: a) situations over which it exercises authority... in accordance with international law .... b) situations over which State acts or omissions bring about foreseeable effects on the enjoyment of economic, social and cultural rights, whether within or outside its territory;...”. Principle 9 should be interpreted together with principle 21-b regarding indirect interference: “States must refrain from any conduct which: aids, directs, controls or coerces another State or international organisation to breach that State's or that international organisation's obligations as regards economic, social and cultural rights, where the former States do so with knowledge of the circumstances of the act.” The mere fact that the German government turned a blind eye to the eviction means it has in fact aided or assisted the Government of Uganda in breaching its international human rights obligations.

Therefore, according to Maastricht principle 11, the state responsibility of Germany has breached its international human rights obligations extra-territorially: “State responsibility is engaged as a result of conduct attributable to a State, acting separately or jointly with other States or entities, that constitutes a breach of its international human rights obligations whether within its territory or extra-territorially.” In this regard, Germany has the obligation to regulate NKG (principle 24<sup>27</sup>) because it is domiciled in Germany (principle 25<sup>28</sup> -c) and because there is a reasonable link between the State of Germany and NKG (principle 25-d).

ny, 2012; see chapter 5.10.2

23 CEDAW Committee 16 December 2010: General recommendation no. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/28&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/28&Lang=en), accessed 15/11/2019

24 Convention on the Right of the Child: <https://ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>, accessed 15/11/2019

25 Maastricht principles, [https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx\\_drblob\\_pi1%5BdownloadUid%5D=23](https://www.etoconsortium.org/nc/en/main-navigation/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23), accessed 15/11/2019

26 UN-Dokument E/C.12/GC/24, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11), accessed 15/11/2019

27 “Obligation to regulate: All States must take necessary measures to ensure that non-State actors which they are in a position to regulate, as set out in Principle 25, such as private individuals and organizations, and transnational corporations and other business enterprises, do not nullify or impair the enjoyment of economic, social and cultural rights. These include administrative, legislative, investigative, adjudicatory and other measures. All other States have a duty to refrain from nullifying or impairing the discharge of this obligation to protect.”

28 “Bases for protection: States must adopt and enforce measures to protect economic, social and cultural rights through legal and other means, including diplomatic means, in each of the following circumstances:

c) as regards business enterprises, where the corporation, or its parent or controlling company, has its centre of activity, is registered or domiciled, or has its main place of business or substantial business activities, in the State concerned;

d) where there is a reasonable link between the State concerned and the conduct it seeks to regulate, including where relevant aspects of a non-State actor's activities are carried out in that State's territory;”

Once decided by a competent judicial or quasi-judicial body, Germany has the responsibility to provide effective remedies and reparation to the affected communities in the Kweri case due to its direct and indirect involvement regarding NKG activities in Uganda (Maastricht principle 38): “Effective remedies and reparation: Remedies, to be effective, must be capable of leading to a prompt, thorough and impartial investigation; cessation of the violation if it is ongoing; and adequate reparation, including, as necessary, restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition. To avoid irreparable harm, interim measures must be available and States must respect the indication of interim measures by a competent judicial or quasi-judicial body. Victims have the right to truth about the facts and circumstances surrounding the violations, which should also be disclosed to the public, provided that it causes no further harm to the victim.”

Considering the linkages between the State of Germany and NKG, the General Comment No. 24 of the CESCR demands that states protect people in other countries against human rights violations linked to foreign investments by companies which are based in their territory: “... a State party would be in breach of its obligations under the Covenant where the violation reveals a failure by the State to take reasonable measures that could have prevented the occurrence of the event. The responsibility of the State can be engaged in such circumstances even if other causes have also contributed to the occurrence of the violation, and even if the State had not foreseen that a violation would occur, provided such a violation was reasonably foreseeable.” (para 32) This obligation also refers to sub-companies as in the Kweri case: “In discharging their duty to protect, States parties should also require corporations to deploy their best efforts to ensure that entities whose conduct those corporations may influence, such as subsidiaries...respect Covenant rights.” (para 33)

General Comment 24 also obliges states to provide access to remedies: “...effective monitoring, investigation and accountability mechanisms must be put in place to ensure accountability and access to remedies, preferably judicial remedies, for those whose Covenant rights have been violated in the context of business activities.” (para 38) “This requires States parties to remove substantive, procedural and practical barriers to remedies, including by establishing parent company or group liability regimes, providing legal aid and other funding schemes to claimants, ...”. (para 44) The General Comment further obliges states to sanction companies: “States parties should also consider the use of administrative sanctions to discourage conduct by business entities that leads, or may lead, to violations of the rights under the Covenant.” (para 50)

Consequently, the CESCR, having been informed about the case by FIAN and the evictees, has stated and recommended to Uganda<sup>29</sup>: “The Committee is particularly concerned about the case of Mubende District, whose inhabitants were evicted from their homes in 2001 because of the Kweri Coffee Plantation, and about the fact that so far the legal redress that the district’s inhabitants were able to obtain did not include restitution of land rights. (...) (b) Immediately take measures to ensure that the rights of the Mubende community, ..., are restored;”

To Germany the CESCR has recommended<sup>30</sup>, “...that the State party adopt a regulatory framework that ensures that all companies domiciled in the State party or under its jurisdiction identify, prevent and address human rights abuses in their operations not only in Germany but also abroad and that such companies can be held liable for violations.”

And:

“The Committee recommends that the State party take measures, including the provision of enhanced legal assistance for victims and the introduction of collective redress mechanisms in civil proceedings, criminal liability of corporations and disclosure procedures, to guarantee that the victims of human rights abuses by companies domiciled in Germany or under the country’s jurisdiction have access to effective remedies and compensation in Germany.” (para 10)

Also, in its concluding observations, the CEDAW has expressed its concern to Germany<sup>31</sup> about:

“15 (b) The inadequate legal framework to hold companies and corporations registered or domiciled in the State party accountable for violations of women’s human rights abroad:

(c) The absence of an effective independent mechanism with the power to investigate complaints alleging violations by such corporations, such as allegations of forced evictions by German companies based abroad, and the limited access to judicial remedies of women who are victims of such violations;

(d) The lack of impact assessments explicitly taking into account women’s human rights before the negotiation of international trade and investment agreements.”

29 CESCR 2015: Concluding observations on the initial report of Uganda, E/C.12/UGA/CO/1, paragraph 30; [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=967&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=967&Lang=en), accessed 09/6/2019

30 ICESCR 2018: Concluding observations on the sixth periodic report of Germany, E/C.12/DEU/CO/6, paragraph 8; [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1200&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1200&Lang=en), accessed 09/6/2019

31 CEDAW 2017: Concluding observations on the combined seventh and eighth periodic reports of Germany, CEDAW/C/DEU/CO/7-8, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1071&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1071&Lang=en), accessed 15/11/2019



Furthermore, CEDAW has recommended:

“16 (a) Strengthen its legislation governing the conduct of corporations registered or domiciled in the State party in relation to their activities abroad, including by requiring those corporations to conduct human rights and gender impact assessments before making investment decisions;



**A STARVING OLD MAN, TOO WEAK TO WALK. (OCTOBER 2014)**

(b) Introduce effective mechanisms to investigate complaints filed against those corporations, with a mandate to, among other things, receive complaints and conduct independent investigations, and incorporate a gender perspective into the national action plan;

(c) Adopt specific measures, including a mechanism for redress to facilitate access to justice on behalf of women who are victims of human rights violations, and ensure that judicial and administrative mechanisms in place take a gender perspective into account;”

At the time of the publication of this study neither Uganda nor Germany has implemented these recommendations.

## 5.2. Right to adequate food

During FIAN’s visits the researchers realised that there was a severe situation of hunger and malnutrition. After the eviction, many evictees received temporary permission to settle in part of the neighbouring Block number 103, where they have built the new settlement Kyengeza.

However, this permission does not include free access to land for cultivation. Others have migrated within Uganda or have left the country. Evictees who have stayed in the area engage in small-scale farming or work as informal labourers at Kaweri/NKG coffee plantation. Since the eviction, the small plots of land obtained by evictees are insufficient to provide adequate food for their needs and the needs of their family members<sup>32</sup>. The evictees see insufficient access to land after the eviction as the main cause of hunger, malnutrition and poverty among them. Furthermore, women see the poverty and lack of food as a main cause of family conflicts and domestic violence.

### 5.2.1. Hunger and malnutrition as impacts of lack of access to land

Some of the evictees manage to rent land. But in the area concerned, land can be rented only for a period of six months. This does not allow peasants to grow more nutritious crops like cassava and sweet potatoes, which need more time to generate a yield. Many evictees have had to limit their variety of staple foods to maize. Posho (maize floor cooked with water and formed into a pastry/dough) has become the staple food and is replacing the more nutrient-rich matooke<sup>33</sup> (banana), cassava and sweet potatoes that were previously the staple foods. During research in 2014, a chairman of a Local Council I (LCI) said: “When you rent land you get it for six months only. Therefore, you can’t plant crops which need longer before you can harvest them: no matoke, no cassava, no sweet potato, no yams, no fruits; just maize.” Furthermore, renting land is costly and people can only afford it if they were able to harvest enough during the previous season. According to the evictees, in 2014, renting ½ acre for six months cost 50,000 Uganda Shillings (UGX), while renting 1 acre for six months cost 130,000-150,000 UGX.

The Government of Uganda has neither supported the evictees with humanitarian aid nor provided support via other means, such as through the National Agricultural Advisory Service (NAADS), for instance. In 2014, an LC I said: “I don’t know how to change government’s behav-

<sup>32</sup> ActionAid Uganda 2008: Effects of Multinational Companies on Food Security. FIAN’s interview with Elina and Jovann Sebahinzi, 29/03/2014. Michael Enger 2012: Documentary “Coffee to Go – with the taste of eviction”, <http://www.fian.org/en/press-release/article/new-film-recalls-forced-eviction-benefitting-german-coffee-plantation-in-uganda-146/>, accessed 15/11/2019

<sup>33</sup> Matoke is Luganda for plantain, a staple food in Uganda.

our. NAADS brings seeds late when we can't plant anymore. If you want to be on time you have to fight on your own to get seeds."

Due to insufficient land the evictees cannot practise crop rotation, which leads to the loss of soil fertility after some time. During research in 2014, a woman said: "We would have enough but since the land is old and there are insects and since it is dry the food is not enough. We have to harvest potatoes when they are still small. The problem appeared this year." During a focus group discussion another woman said: "The soil has become infertile since we have to plant every season. And you don't have money to buy fertilizer."

The lack of land makes food production even more vulnerable to harsh weather conditions. In 2014, a woman said: "Recently, we were affected by a hailstorm: the cassava went sour, the sweet potatoes rotted. Right now, due to the hailstorm, we face hunger because we don't have enough food." In 2019, the families interviewed also complained of hunger due to lack of rain and a hailstorm. The headmaster of New Kitemba Primary School listed lack of land as one reason why parents are not able to cover costs of schooling for their children.



**OUTDOOR-KITCHENS ARE COMMON IN KYENGEZA. SOMETIMES, HUNGRY PEOPLE STEAL FOOD OUT OF THE COOKING POTS.**

### **5.2.2 Hunger and malnutrition among the evictees**

As a consequence of the previously mentioned issues, evictees eat insufficient and unbalanced diets. In 2014, seven of the individually interviewed heads of household

said that their families eat only one meal a day, three of them said that they eat twice a day and only one, who still has at least a very small portion of their former land ( $\frac{1}{2}$  acre), eats three times a day, but still not in sufficient quantities. Some of those who eat one meal a day replace a second meal with porridge, normally served for breakfast. An elderly woman described the situation as follows: "We eat once a day. If we are hungry, we take tea. If you eat twice a day, will you manage to eat the next day?"

In 2016, interviewed women reported that they can neither feed their children nor themselves sufficiently. A woman mentioned: "We reached a time when we had to just steal food from our own gardens<sup>34</sup>, since we were chased from the land, we were not allowed to go to the gardens. So, whenever we went for food to some gardens that were still there, they would chase us like thieves..." In an interview, one of the men said that due to poverty and lack of food people have even started to steal food out of pots still cooking on the fire to be able to find something to eat.

As families cook their food outside, they constantly have to watch their pots on the fire for fear of thieves.

In 2016, one of the reasons highlighted by interviewees for the increasing hunger and malnutrition among evictees was the influx of those who are working at the Kaweri/NKG coffee plantation and coming from outside Kyengeza or from other surrounding villages.

This jeopardises the small plots of land given or borrowed to the evictees, as some of their owners have taken them back and sold or rented them to the newcomers. Accordingly, statistics from the department of Mubende Regional Referral Hospital have recorded high numbers of patients with nutrition related diseases from Madudu sub-country<sup>35</sup>:

In 2019, the interviewed families said that they face severe hunger because, on top of the continuous lack of land, it did not rain during the planting season and crops like cassava turned sour due to a hailstorm. An elderly woman said: "We are dying slowly. We do not have food, not even peas."

### **5.2.3. Hunger and malnutrition among children**

Children are worst affected by the constant lack of food and nutrition. The researchers saw many youths with swollen stomachs, which is one of the symptoms of malnourishment. In 2014, during a focus group discussion, the women said: "Many children have become sick. Even

<sup>34</sup> With "own gardens" she refers to her land from which she has been evicted and which has been occupied by Kawer Coffee Plantation Ltd.

<sup>35</sup> The statistics do not indicate the name of the village of the patients. Therefore, they cannot directly be related to the evictees. However, they prove that malnutrition is widespread in Madudu sub-county taking into account that many poor malnourished people do not reach Mubende Regional Referral Hospital due to lack of money for transport.



the children of workers because they leave them alone at home without food. You find them with swollen stomachs.” According to them, especially children of Kaweri Coffee Plantation workers are affected by malnourishment: “There are many children with swollen stomachs.

did this because they couldn’t sustain themselves either, so they were forced to leave their children and went to look for some work to do in other places. Children go a long time without eating food. For example, we have children who go almost a day without eating. The experience of hunger is the same for boys and girls. So, due to starvation, children move around the community looking for things to eat and this has led many to join peers that have greatly affected them. They have learned how to use marijuana, and most of the youth now in Kyengeza are drug addicts.”



**THE WOMAN LOST TWO SIBLINGS DUE TO THE EVICTION.**

You cannot count. It depends on the work you do. If you work on the plantation the child will not have enough to eat.” Malnourishment affects the physical and mental development of children negatively. One man highlighted that impact: “No child can go to school without eating anything.”

In 2016, interviewed children said that they have spent days without eating because their parents could not provide food and that they get stomach problems because of hunger. Many children have shared their experience vis-à-vis the eviction during the interviews. One child stated: “We are not eating well. We eat cassava continuously because it is the only food my parents can get after working for it. The land where we would have grown our favourite food was taken; I would at least wish to eat some matooke and rice.”

Two orphan brothers reported: “Sometimes we fail to get something to eat, and I can say we don’t eat every day. We have friends who go days without eating and they get ulcers. Others, when they eat they get complications since they have gone so long without eating. When we are sick they (relatives they stay with) give us tabs (medicine).” Another child mentioned: “We heard that some parents abandoned their children and this led to starvation since no one would provide food to the children. The parents

did this because they couldn’t sustain themselves either, so they were forced to leave their children and went to look for some work to do in other places. Children go a long time without eating food. For example, we have children who go almost a day without eating. The experience of hunger is the same for boys and girls. So, due to starvation, children move around the community looking for things to eat and this has led many to join peers that have greatly affected them. They have learned how to use marijuana, and most of the youth now in Kyengeza are drug addicts.”

In 2019, the headmaster of New Kitemba Primary School said that many parents could not afford to contribute the demanded 5 kg of maize per term for school-lunch. Some children queue twice at lunch to put their second portion of porridge into small bottles to carry home because there is not enough food at home. The FIAN researcher observed this during her visit to the school. Some of the children who had been sent back home because their parents did not pay school fees would come at lunch time because there is no food at home.

According to the headmaster, the school can only offer porridge without sugar as lunch. The non-governmental organisation Chance for Children donates 50kg of porridge every week, but the school would need 120kg per week to feed all pupils and teachers well.

#### **5.2.4 Broken families because of lack of food and land**

Lack of land means also lack of sufficient space to build houses. Therefore, extended families could not stay together after the eviction. In particular, young adults left the area to look for work somewhere else. They left their older relatives, children and people with disabilities behind. In 2014, a 90 year old man<sup>36</sup> who lived together with three grandchildren said: “When they evicted us we could not stay with many people. The others had to go elsewhere.” Of the three elderly women who were interviewed in 2014, one lives together with two sons, one of whom is mentally ill, and with five grandchildren. Another one lives together with one daughter, a granddaughter and a handicapped great-granddaughter and cares for four grandchildren who are at boarding schools. The third woman lives with a mentally ill son, a son who is mute

36

He has passed away in December 2014.

and a daughter. Together with the daughter, she cares for three grandchildren who are at boarding school. One of the elderly women said: “We separated as a family. Some children went to Kampala, others died. Before the eviction we were many people.” Another one explained: “Because of the eviction, everyone went his/her own way. We could not join together again. Before the eviction twelve people lived in my house.”

The lack of food also leads to conflict between couples. In 2014, a woman said: “We cannot stay together because we don’t have enough food. Before the eviction my husband used to live with me. I don’t know where he lives now. I think that he left because I don’t have enough money.” Another woman explained: “At times, when we don’t have food, I tell my husband we should go together and dig in someone’s garden. Then my husband tells me that if I want I can go and dig alone, but that he has something for himself to eat. Then conflict begins.” Another woman expressed it more generally: “We used to stay as a family. Misunderstandings came after the eviction.”

Due to the eviction, men have been forced to migrate and leave the area in hope of finding a job. This situation constitutes one of the main causes of broken families, which has impacts on diverse areas of life, including access to food and nutrition. In 2016, two women highlighted that more and more women are becoming heads of households and have sole responsibility for feeding their children. In 2019, the headmaster of New Kitemba Primary School shared his observation that many men leave their homes to look for jobs elsewhere. Therefore, in most families fathers are not present<sup>37</sup>. Women interviewed also see female prostitution, excess use of locally produced alcohol by men and depression as consequences of hunger and malnutrition. Women and young girls enter into prostitution to get money and feed themselves due to the lack of lands for cultivation. In addition, due to the lack of prospects, some of the male evictees hang around and drink strong alco-

hol/spirits, and depression leads some evictees to lose hope and motivation.

### 5.2.5 Violation of the right to adequate food by Uganda

Uganda violated the right to adequate food enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and developed in the General Comment (GC) No. 12<sup>38</sup>. Hence, the State of Uganda violated the obligation to respect, which requires States to not interfere with existing access to and availability of adequate food or resources to produce it. In this regard, the Ugandan Government also violated its own Constitu-

tion<sup>39</sup> (Article 26, 29 (2-a) and 237 (1, 3-a, 8) which highlights that no person shall be compulsorily deprived of property unless it is necessary for public use or in the interest of defence, public safety, public order, public morality or public health and which requires that, prior to the repossession or acquisition of property, prompt payment of fair and adequate compensation has to be made. In addition, many of the evictees were lawful customary tenants who are guaranteed security of oc-



**WOMAN AND CHILDREN ARE ESPECIALLY AFFECTED BY THE IMPACT OF THE EVICTION (FEBRUARY 2014)**

cupancy under the 1998 Land Act of Uganda<sup>40</sup>. According to this Act, specifically Article 29 (2-a), the evictees were bona fide occupants of the land. This means that they had occupied and utilized or developed the land unchallenged by the registered owner or agent of the registered owner for twelve years or more. In the Kaweri case, the evictees had lived on the land for more than twelve years, unchal-

38 CESCR, General comment 12, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11), accessed 15/11/2019

39 CESCR, General comment 12, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11), accessed 15/11/2019

40 ULII, Land Act 1998, <https://ulii.org/ug/legislation/consolidated-act/227>, accessed 15/11/2019





**THE WATER PIPE IN KYENGEZA DID RARELY OPERATE. (AUGUST 2008)**

lenged. They grew crops and were able to feed themselves in a sustainable way. Moreover, being bona fide occupants of the land should enable perpetual future occupancy of the land (Article 3(2) Land Act<sup>41</sup>). Any conflict that involves a bona fide tenant, unless solved amicably, should be brought before a court of law.

Kaweri/NKG Coffee Plantation has always claimed that the company only took the land of Block 99 Buwekula. However, some of the evictees claim that they have been evicted even though their land is located in neighbouring Block 103. These evictees tried to organize an independent survey on behalf of one female evictee whose land was registered on Block 103 to clarify this issue. But the local authorities, with the support of the company, did not allow this survey to take place<sup>42</sup>. Hence, the State of Uganda also violates the obligation to protect, which requires States to adopt measures to ensure that private enterprises or individuals do not deprive individuals of their access to available and adequate food.

According to the Ugandan Constitution, Article 237 (1), land in Uganda belongs to the citizens of Uganda. Therefore, according to the Investment Code Act, no foreign investor shall carry out the business of crop production or animal production, or acquire, granted or lease land for the purpose of crop production or animal production in Uganda (Investment Code Act<sup>43</sup>: Section 10 (2): Regulation of foreign investment) unless the Minister provides an exemption to the business (Investment Code Act: Section

10(4): Regulation of foreign investment), which was not done in the case of Kaweri. Since NKG, based in Hamburg, Germany, operates in Uganda under Kaweri Coffee Plantation Ltd. – a foreign company and its 100% Ugandan subsidiary – it is considered a foreign investor. The Investment Code Act: Section 9 (1-b) defines a foreign investor as a company in which more than 50% of the shares are held by a person who is not a citizen of Uganda. NKG Farms Ltd. holds 99,999 shares while Riz Rohkaffe-Import Zentral Ltd., another NGK sub-company at that time, holds one share according to the Memorandum and Article of Association of Kaweri Coffee Plantation Limited (15 February 2001). This means that Kaweri Coffee Plantation Ltd. is a German company which engages in cultivation of coffee illegally in Uganda and the State of Uganda has not impeded the operation.

Moreover, Uganda violated the obligation to fulfil, which requires States to pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. In the Kaweri case, Uganda has not adopted any measures to facilitate community members' access to other resources which would allow them to feed themselves and has not provided them with food. The evictees were also not adequately consulted to be able to provide their free consent to leave their land and be resettled.

Furthermore, Uganda has not guaranteed that the eviction was carried out in a manner warranted by a law that is compatible with the ICESCR, nor did it provide legal recourse or remedies to those who have been affected. The African Charter on Human and Peoples' Rights (ACHPR) has a very progressive stance on food sovereignty in consideration of right to food issues. In this regard, specifi-

41 Ibid

42 As a reaction, Kaweri, supported by the local authorities, organized a survey but due to time constraints those evictees who speak English could not participate. According to the report of that survey, Kaweri occupies only the land on Block 99. However, the evictees disagree with that result.

43 ULII, The Investment Code Act, <https://ulii.org/ug/legislation/consolidated-act/92>, accessed 15/11/2019



cally Article 21 in the Charter<sup>44</sup> explicitly provides protection from the exploitation of natural resources, especially by international monopolies. Moreover, the African Charter on the Rights and Welfare of the Child of 1990<sup>45</sup> binds State parties to provide adequate nutrition and safe drinking water in partial fulfilment of the duties engendered by the right to health. In addition, the ACHPR, in a landmark decision of the Social and Economic Rights Action Centre and the Centre for Economic and Social Rights vs. Nigeria<sup>46</sup>, concluded that “the right to food is implicit in the African Charter, in such provisions as the right to life (Article 4), the right to health (Article 16) and the right to economic, social and cultural development (Article 22). By its violation of these rights, the Nigerian Government trampled upon not only the explicitly protected rights but also upon the right to food implicitly guaranteed.”<sup>47</sup> Based on the provisions and jurisprudence above, the State of Uganda failed to comply with its human rights obligations within the African human rights system.

### 5.2.6 Violation of extra-territorial obligations (ETOs) by Germany

Germany has failed to regulate NKG (Maastricht principles 24, 25) by neither conducting proper assessments nor demanding such assessments from the African Development Bank (principle 14)<sup>48</sup> of the legal basis for foreign direct investments in agriculture in Uganda. Moreover, no adequate human rights impact assessment was conducted before supporting NKG/Kaweri Coffee Plantation, which would have indicated the risk of breaching Ugandan laws and depriving the inhabitants of the four villages mentioned above from access to land and food.

### 5.3. Right to water

Due to the eviction, 69% of the evictees lost access to clean water because the only clean water source they used previously is now located on the Kaweri Coffee Plantation<sup>49</sup>.

44 African Union: <https://au.int/en/treaties/african-charter-human-and-peoples-rights>, accessed 15/11/2019

45 African Union: African Charter on the Rights and Welfare of the Child of 1990, <https://au.int/en/treaties/african-charter-rights-and-welfare-child>, accessed 15/11/2019

46 ACHPR, SERAC case, <https://www.escri-net.org/caselaw/2006/social-and-economic-rights-action-center-center-economic-and-social-rights-v-nigeria>, accessed 15/11/2019

47 Ibid

48 Impact assessment and prevention: States must conduct prior assessment, with public participation, of the risks and potential extraterritorial impacts of their laws, policies and practices on the enjoyment of economic, social and cultural rights. The results of the assessment must be made public. The assessment must also be undertaken to inform the measures that States must adopt to prevent violations or ensure their cessation as well as to ensure effective remedies.

49 Nuwagaba, Augustus/Banga, Margaret 2002: The impact of foreign direct investment on the local economy: The case of Kaweri Coffee and Kalangala Palm Oil Investments, Action Aid Uganda, November 2002, page 62.



**WATER WITH DARK PARTICLES COMING OUT OF THE BOREHOLE IN LUWUNGA. (AUGUST 2017)**

In 2004, after FIAN's intervention, Kaweri/NKG built a pipeline going from the plantation to Kyengeza. However, for many years the water only ran sporadically and was not supplying enough water for the evictees. In 2019, the pipeline was closed completely. Women now have to walk long distances to collect potable water.<sup>50</sup> Elderly women reported that they cannot carry water for this long a distance. They either have to pay someone to carry water for them or they have to use unsafe water sources<sup>51</sup>.

#### 5.3.1 Observations

Most of the evictees still do not have continuous access to clean water, despite the fact that Kaweri Coffee Plantation Ltd. has drilled seven boreholes for water pumps and has installed two water pipes in Luwunga and Kyengeza, the latter one being served by a pipeline from a borehole at the plantation. The pipeline ends at the main road in Kyengeza and is split into four taps at that location. However, during the first four research missions, the water only ran sporadically. According to the people interviewed it ran twice a week, and often even less frequently<sup>52</sup>. During the research mission in July 2019 the water pipe was completely out of service. In 2014, an old woman said: “I get water from the tap in Kyengeza, but it is not available every day. Then I have to collect water from the well. The water is brown. We use it for cooking. Some people get stomach problems from it.” Another woman said: “Usually I get it from the tap or the well. Sometimes, once a week, sometimes every second week, I can get water from the tap. Water from the well is not clean, it usually

50 Testimonies of several women during FIAN's research mission in October 2014

51 FIAN Germany, 2013: Coffee to Go - Die Vertreibung zugunsten der Kaweri Coffee Plantation in Mubende/Uganda und ihre Folgen, p 14, (in German only).

52 Water of the tap has been available only twice during the research missions.

contains insects.” According to Kaweri Coffee Plantation Ltd. the interruption of water supply was caused by power cuts<sup>53</sup>. One woman confirmed that statement: “I get water from the tap at the centre. It is enough. When the tap doesn’t have water I fetch from the pond but that water is bad. Sometimes the tap doesn’t have water for one week. But if electricity is on the water comes.”

In the few hours during which the taps in Kyengeza have water, so many families line up to collect water. Those families who do not live close to the taps are discouraged from going there because they either do not expect that water will still be running when it’s their turn or because waiting in the queue takes up too much of the time that they need for other tasks. In 2014, a woman said: “The white<sup>54</sup> has given us water but it is there only twice a week. The line in front of the tap is long. Therefore, we just go to the pond to get water.” Another woman explained: “You can go to the tap to find a long line. You have to do your work first.” A woman added: “Sometimes there is no water at the tap for two weeks. Sometimes the line in front of the tap is too long. I waste time there during which I could work at a bast mat.”

Furthermore, people have to contribute money to maintain the taps. Otherwise, they are not allowed to get water there: “They also collect 1,000 UGX per house to repair the tap. If you don’t have it you don’t collect water there again.” People who struggle to eat one meal a day may have to think twice before they pay 1,000 UGX to get drinking water from time to time.

Only one evictee who lives in Kyota, another settlement close to the boarder of Kaweri Coffee Plantation, said that they have sufficient access to clean water: “The borehole is close.” During a focus group interview of women in 2017, one woman said that while the borehole in Kyota was drilled by Kaweri Coffee Plantation, the community has to take care of it and raise funds if it needs to be repaired, which was the case at the time of the interview. But for other evictees who live near the border of the plantation but outside Kyengeza, it is difficult to get drinking water. “To get drinking water you need to walk one mile. I go to collect drinking water every Saturday. The water is free but it is very far and the jerrycan is heavy. If it is not enough I go again on Wednesday. If it rains we drink rainwater.” For some evictees rainwater is the cleanest water they get. “If it rains I get it from the iron roof. Otherwise I get it from the pond, but the water is not clean.”

As an alternative to the taps in Kyengeza, there is a borehole below New Kitemba Primary School, which is located at the edge of Kyengeza. Some evictees use it to get water for drinking. A woman said: “Yesterday, the water from

the tap stopped at 5 pm. So yesterday I went to the borehole at the school.” Asked why she does not tell her children to collect drinking water from there after school, one woman said: “Sometimes the children go with jerrycans to school to fetch water from there. But sometimes others steal the jerrycans.”

All interviewed families get most of their water from unprotected ponds. “We just go to the pond to get water. We use the pond water for cooking and even drinking.” The dirty water affects their health, especially that of the children. In 2014, an elderly man said: “The children and even the grown-ups often suffer from diarrhoea. Most people in this Local Council suffer from those diseases. I think that people get diarrhoea from the water.” One family who lives far from Kaweri Coffee Plantation has no access to drinking water: “We fetch water from the valley. It is not clean. We drink water together with mud fish.”

According to the interviewees this situation has not changed, even though they have two new boreholes; according to them, these boreholes provide dirty water. Diarrhoea is widespread because of the lack of access to clean drinking water and sanitation. Furthermore, women and children have to walk long distances to fetch water.



#### **DRIED BOREHOLE IN KIFUFU. (AUGUST 2017)**

During the research mission in 2017, the researcher, together with a journalist, visited five of the seven boreholes and the water pipe in Luwunga. The borehole in Kifuufu did not supply much water. People had to pump for a few minutes before a little bit of water started to run. The borehole in Luwunga only yielded water containing red and black sediments<sup>55</sup>. The water borehole in Kyota village yielded a constant water supply. The borehole in Kyriamakobe was dry, reportedly for the last three to four

53 Letter of Neumann Gruppe to FIAN Germany, 02.04.2008

54 The term “the white” is used by many of the evictees as a synonym for the owner of Kaweri Coffee Plantation.

55 The research team has left samples with the Water Section of district authority in Mubende



months. According to the community, they have informed Kaweri Coffee Plantation about it, but the company has not worked on the issue. The headmistress of New Kitemba Primary School reported that the first borehole at the school had been closed in 2003 but that the one drilled by ActionAid was still operating. The water pipe in Luwunga rarely provided water. Its fence had not even been locked. One woman reported: “Water can come one day and then it remains dry for one week. We don’t know when water will flow.” The evictees complained that Kaweri Coffee Plantation did not react to their report about the unsatisfying performance of the tap. Fittingly, in 2017, the statistics of the four Health Centres/Hospitals contacted listed many cases of diarrhoea and other water borne dis-



**ABANDONNED BOREHOLE. (JULY 2019)**

eases<sup>56</sup>. In 2017, during a focus group interview, a woman said: “When we try to access the water sources in the plantation we are chased away by security and sometimes they beat us, so it is like we just steal the water from the plantation. Even getting water for drinking while at work it is very hard.”

In 2019, guided by the LC I, the researcher visited two taps and two boreholes. As already mentioned above, the tap in Kyengeza was out of operation. Also one borehole in Kyengeza was non-operational, and had been that way for at least one year, according to the LC I. A new borehole in Kyengeza was fully operational. Kaweri Coffee Plantation had drilled a new borehole in Luwunga, but the water showed the same abnormalities as that provided by the former one. People said that the water has a strange taste and is not potable. Furthermore, the researcher was informed by a male evictee that the borehole in Kifufu did not work properly. Additionally, one of the interviewed families complained that they would have to pay 2,000 UGX per month for maintenance of the borehole at New Kitemba Primary School and that: “Additionally, we need

to pay someone 1,000 Shilling to carry the water from the borehole to our homes since the borehole is far. The nearby open pond has dried up, therefore we depend on that borehole.”

### 5.3.2 Lack of Access to Firewood

Another impact of the lack of access to land also resulted in the lack of access to firewood, which is the main source of energy for people around the Kaweri Coffee Plantation. Firewood is especially needed to cook and to boil water. People try to collect it in the valleys of the plantation where trees have not been cut down, but during the first visits from 2014 to 2017, Kaweri did not allow it. In 2014, a woman said: “If we have enough firewood, we boil the water but Kaweri security chases us away.” As a consequence, the evictees hardly boiled their drinking water even if they got it from unsafe ponds.

In 2019, the situation was different. Interviewed evictees stated that Kaweri Coffee Plantation now allows them to collect firewood on the plantation. In 2017 and 2019, New Kitemba Primary School got firewood from Kaweri Coffee Plantation free of charge.

### 5.3.3 Violation of the Right to Water by Uganda

According to General Comment 15 in paragraphs 11-12 of the CESCR<sup>57</sup>, the right to water must be adequate for human dignity, life, and health and should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. In this regard, the water supply for each person must be sufficient and continuous for personal and domestic uses, and must be safe, reachable, and affordable without any discrimination. In addition, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa in provision 15<sup>58</sup> requests States to provide women with access to clean drinking water. By having destroyed the access to water of the evictees and by not securing their access to safe water since the eviction the state of Uganda has violated the right to water of the communities in the Kaweri case.

### 5.3.4 Violation of Extra-territorial Obligations (ETOs) by Germany

Germany has violated its extra-territorial obligations by not regulating NKG/Kaweri Coffee Plantation Ltd. (Maas-

57 CESCR, General Comment 15, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2002%2f11&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2002%2f11&Lang=en), accessed 15/11/2019

58 ACHPR, African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>, accessed 15/11/2019





**SINCE THE EVICTION, MANY FAMILIES LIVE IN HOUSES OF POOR QUALITY. (NOVEMBER 2013)**

tricht principles: 24) to ensure that the right to water of the evictees is not abused by the actions/omissions of NKG. The Maastricht principle 24 should be interpreted together with principle 25 (c) and these go hand in hand with principle 32 (a) which states: “In fulfilling economic, social and cultural rights extraterritorially, States must: a) prioritize the realization of the rights of disadvantaged, marginalized and vulnerable groups”.

#### **5.4. Right to adequate housing**

As described above, during the eviction, the evictees lost their properties and houses, which were destroyed by the soldiers. Until today, no new houses have been provided for them. They had to build houses themselves.

##### **5.4.1 Observations**

In 2016, during the research mission, one of the interviewees said: “I now live with my oldest son, but I would prefer to live in my own home. His house is so small and he has eight children and a wife too. We are so many in the house and I am not happy. We sleep on mats, on the floor.”

Some other interviewees informed the research team that the housing conditions have changed. In the first period after the eviction they used to sleep outside in makeshift homes. Now, people have mud houses although they are small and not in good condition. The people interviewed reported issues with poor housing facilities and high rent due to the influx of workers in the Kaweri plantation. In 2016, a child informed the research team that his whole family of ten people sleeps in a one-room house made

out of mud. He reported: “This is different from before the eviction, as our parents had a house of 4 bedrooms made by cement.” One of the families interviewed in 2019 mentioned that their house was damaged but that they did not have means to repair it.

#### **5.4.2 Violation of the Right to adequate Housing by Uganda**

According to CESCR General Comment No. 4<sup>59</sup>, the right to adequate housing should be seen as the right to live somewhere in security, peace and dignity. In this regard, the State of Uganda should have put in place the legal mechanisms for appealing and seeking compensation for those facing eviction. Instead, it violated this human right, carrying out the eviction through its own military personnel.

#### **5.4.3 Violation of Extra-territorial Obligations (ETOs) by Germany**

Germany has violated its extra-territorial obligations by not taking precautionary measures (proper assessment of the extra-territorial impacts of the NKG project: Maastricht principle 14) and not regulating the NKG/Kaweri Coffee Plantation Ltd. (Maastricht principles: 24 – 25, c) to assure that those evicted will get alternative housing that complies with human rights standards.

59 OHCHR, General Comment 4, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4759&Lang=en), accessed 15/11/2019

## 5.5. Right to health

Following the eviction, there have been an increasing number of illnesses and deaths amongst the evictees. A pregnant woman lost her unborn child due to the distress, while a man died following injuries he obtained during the eviction, for example<sup>60</sup>. The eviction has led to starvation, malnourishment of children and undernourishment of adults. According to the affected communities in contact with FIAN, five children have died after the eviction because of malnourishment and diseases (malaria and diarrhoea for instance). Furthermore, people report an increase in teenage pregnancies since the eviction, which



**ASSEMBLY OF THE EVICTEES TO DISCUSS NEXT STEPS OF THEIR STRUGGLE FOR REDRESS (APRIL 2017)**

can cause health risks to the young mothers and their children.

### 5.5.1 Observations

During FIAN's visit in 2016, a woman clearly identified lack of food as a cause of diseases of child evictees: "Our children got sick, they suffered a lot, they stopped eating the food they liked most and now diseases like ulcers and stomach complications are common in our children." Another interviewee said: "The health conditions are improving after the construction of some health centres although they cannot be compared to the ones that were there before. Madudu health centre immunises children every last Wednesday<sup>61</sup> of the month and this has helped

<sup>60</sup> <http://www.fian.org/en/press-release/article/new-film-recalls-forced-eviction-benefitting-german-coffee-plantation-in-uganda-146/>, accessed 15/11/2019

<sup>61</sup> The mentioned immunisation of children is a general measure of

to improve the health of the children because most parents used to find it hard to take the children to hospital. Hence, this outreach has greatly helped the people since it is free and it is brought closer to the people. Most health facilities have no medicine so most adults have resorted to St. Joseph health facility since its fees are low. Some people have resorted to self-medication from store bought drugs, which are gotten without prescription. Others use traditional herbal medicine. Curable diseases have become chronic since people take low doses of medication and sometimes take the wrong medicine."

A member of the Village Health Team (VHT) raised the issue of HIV-infections: "The conditions in the community have led to an increase in the HIV rates among people since the plantation was put in place. It has attracted a number of people to come whom we don't know about, and since we don't have enough health centres people don't bother to test the HIV. The last time we tested people the reports indicated that 90% of the people in this village are HIV positive."

Also in 2019, two interviewed evictees raised the same concern: "AIDS is on the increase; most young kids are infected; Kaweri Coffee Plantation gets workers from other parts of Uganda and they bring this disease." According to one of these evictees, the health organisation Mildmay<sup>62</sup> has tested people in the area of Kaweri Coffee Plantation at least three times.

During FIANs field visit in October 2014, several women reported that there is a high rate of early pregnancies among their daughters. According to the mothers, workers from Kaweri can easily attract girls by offering them sweets since many girls are hungry.<sup>63</sup> The women estimated that seven out of ten girls get pregnant as juveniles between the ages of 13 and 15. During a focus group interview in 2017, the women also stated that many girls are impregnated by workers of Kaweri Coffee Plantation. Some testified that this had happened to their daughters. All were aware about one case of a teenager who was pregnant at that time, while the father of the unborn child, a former worker of Kaweri, had gone back to Mbale, a town in the east of Uganda. The research team visited the girl, her mother and her grandfather at home. In 2019, the headmaster of New Kitemba Primary School reported that rape of girls at Kaweri Coffee Plantation is happening and that he advises girls to go in groups when they have to pass the plantation.

the Government of Uganda, and not an action to mitigate the impact of the forced eviction.

<sup>62</sup> <https://mildmay.or.ug/>, accessed 13/11/2019

<sup>63</sup> See chapter 5.8 of this report



During the visit in August 2016, the FIAN team tried to verify these reports by consulting available statistics. These statistics indicate that early pregnancies are common in Uganda. According to the State of Uganda Population Report 2017<sup>64</sup>, in 2016/2017 24% of women have their first pregnancy as teenagers. Respective data could also be found at the above-mentioned health centres and hospitals, although the percentage of teen pregnancies could not be determined due to insufficient data. From January to July 2016, Kanseera Health Centre tended to 140 pregnant teenagers. From July 2015 to June 2016, St. Josephs Health Centre III<sup>65</sup> tended to 41 pregnant teenagers and Madudu Health Centre III tended to 572 pregnant teenagers. During the same time period, in Mubende Regional Referral Hospital, 42 teenage mothers out of 1,517 teenage-deliveries came from Madudu sub-county<sup>66</sup>. According to the World Health Organization (WHO), there are high risks that early pregnancies affect both the health of the mother and of the baby negatively<sup>67</sup>, especially when it comes to the competition for nutrients that occurs between the mother (an adolescent who is still growing) and the foetus. However, due to insufficient data, the accessed statistics did not verify that the establishment of the Kaweri Coffee Plantation has led to an increase of early pregnancies.

It is difficult for the evictees to access health facilities since they are far away and as it is difficult for them to pay transportation costs. In 2019, men who were interviewed informed the researcher about a new private clinic in Kyengeza run by a nursing aid. For advanced and specialised treatment however, people would still need to travel to Madudu or Mubende. Considering their lack of financial means to pay for transport, the evictees do not have se-

cure access to health services.

### 5.5.2 Violation of the Right to Health by Uganda

According to General Comment 14<sup>68</sup> of the CESCR, the right to health includes the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health. In this regard, the State of Uganda has breached the right to health of its citizens. The African Charter on Human and Peoples' Rights (Art. 16)<sup>69</sup> requires States to take necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick. In this regard, the state of Uganda failed as well.



**MANY PUPILS OF NEW KITEMBA PRIMARY SCHOOL CANNOT AFFORD SCHOOL UNIFORMS. (AUGUST 2017)**

### 5.5.3 Violation of Extra-territorial Obligations (ETOs) by Germany

Germany has violated its extra-territorial obligation to protect the health of the evictees by not conducting proper human rights impact assessments before supporting the investment of NKG (Maastricht principle 14) and by not insisting on the execution of proper human rights impact assessments by the African Development Bank (ADB) before deciding on the credit for

Kaweri Coffee Plantation Ltd. Maastricht principle 14 goes hand in hand with principle 13, which highlights the "Obligation to avoid causing harm: States must desist from acts and omissions that create a real risk of nullifying or impairing the enjoyment of economic, social and cultural rights extraterritorially. The responsibility of States is engaged where such nullification or impairment is a foreseeable result of their conduct. Uncertainty about potential impacts does not constitute justification for such conduct."

64 The Republic of Uganda: State of Uganda Population Report 2017, <http://library.health.go.ug/publications/leadership-and-governance-monitoring-and-evaluation/population/state-uganda-population-9>, accessed 15/11/2019

65 Among the visited health centres/hospitals, Madudu Health Centre III is located nearest to Kawer Coffee Plantation.

66 Uganda's health system records teenage pregnancies only since July 2015.

67 <http://www.who.int/mediacentre/factsheets/fs364/en/>, accessed 15/11/2019

68 CESCR, General Comment 14, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2000%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2000%2f4&Lang=en), accessed 15/11/2019

69 African Union: African Charter on Peoples and Human Rights: <https://au.int/en/treaties/african-charter-human-and-peoples-rights>, accessed 15/11/2019

## 5.6. Right to education

Since the eviction, Kitemba Primary School has served as the headquarters of Kaweri/NKG Coffee Plantation Ltd. A new school was constructed an entire year after the eviction, which led to an increased rate of dropout. 260 pupils stopped schooling for a whole year, and more than 30% of these pupils dropped out of school completely.<sup>70</sup> Furthermore, evictees have reported that the number of students in secondary school decreased after the eviction because parents could not cover school fees any more.<sup>71</sup>

### 5.6.1 Observations

FIAN's team observed that pupils in primary and secondary school continue to drop out due to the poverty of their parents. The reasons for this vary between girls and boys. According to a focus group discussion with women during the research in 2014, boys drop out early to earn money instead of continuing with school because of the severe poverty of their families. "When you take them to the plantation to get school fees and they earn money they decide to leave school and work to have money."

Girls drop out of school because they either get pregnant or because their parents fear for their security on their way to school. Due to their poverty, most parents cannot afford to take their children to boarding schools as is otherwise common in Uganda. One woman said: "The P6<sup>72</sup>-daughter would be in boarding school if they could afford it. She gets scared because it is risky for a girl to walk from the main road home. The parents fear for her safety." Another added: "The road is long. If someone wants a girl there a man can easily rape a girl. But even if she is not raped it is difficult for her to defend herself."

In 2016, an 11-year-old girl reported: "Some dropped out of school due to their parents' failure to raise school fees

and requirements. They resort to becoming labourers at peoples' farms (child labour), get money and sometimes go and work in the coffee plantation. We hear that the children who are still going to school are not allowed to work at the plantation. However, due to the need for money, they have to go and deny that they are studying so that they can work. There are many who work in the coffee plantation. Most children leave school at the age of fourteen years and the majority drop out when they are in primary four class due to lack of money for school fees."

One interviewee highlighted the gravity of the negative impacts caused by the eviction in the following testimony: "There is a problem of poor education since the



**MANY PUPILS DO NOT EVEN HAVE SHOES. (MARCH 2006)**

school was taken by the plantation. But people have done a lot with the help of Action Aid<sup>73</sup> to improve the education by constructing a school. The school was in the area that was taken by the plantation and another school was reconstructed after a year but most people (pupils) did not return to school since they had no money and the school was ending at P5 so it was a mid-cycle school since it had no P7. Action Aid came in

2010 to construct P6 and P7. Most of the children stopped at P5 and started working at the Kaweri plantation though it claims not to employ children. Very few parents could afford taking children to boarding schools or to relatives because the nearby schools are ten to fifteen kilometres away from Kyengeza. The consequences of finishing the school in P5 for the first nine years after the eviction is that a lot of children did not have a chance to go to secondary school and ended up working in the Kaweri coffee plantation. There are many children working in the plantation - more so in the coffee picking season, though it's hard to see them during the ordinary work times since there are no collection centres for picked coffee cherries during this time. The children are paid according to the kilograms of coffee that they pick. Formally, every kid was paid 3,200 shillings, but this amount was raised a little bit to about 4,000 shillings, depending on the day's work. They (Kaweri/NKG) measure the area you have to work on. If you do not finish the work in a day, the money is

70 Nuwagaba, Augustus/Banga, Margaret 2002: The Impact of Foreign Direct Investment on the Local Economy: The case of Kaweri coffee and Kalangala palm oil investments, Action Aid Uganda, November 2002.

71 Report of Nshimiye Joram interviewed by FIAN on 14 January 2008.

72 P6 is the common abbreviation for class 6 at primary school in Uganda.

73 Action Aid is an international civil society organization focussing on development and human rights. Action Aid has a section in Uganda. (<https://actionaid.org/>, accessed 15/11/2019)



withheld until the work is finished.” Moreover, one boy interviewed mentioned: “It (the eviction) didn’t affect me as an individual because I didn’t live on that land, but we are neighbours. Some of my friends whose parents were chased out of the land, they don’t go to school and when you ask them why they don’t go to school, they say their parents don’t have money to supply them with school requirements like books, pens, and school uniforms, among other requirements.” Another woman confirmed this, saying: “My own children dropped out of school to go and look for money because we had failed to get school fees...”

During an interview in 2017, the headmistress of New Kitemba Primary School confirmed a high drop out rate from primary school classes 4 to 7 (P4-P7), mainly due to the poverty of the parents. According to her, many parents think that learning how to do agriculture is more useful for their children’s future than studying because of the lack of jobs. Especially during rainy seasons, parents demand that their children help with planting instead of going to school. The headmistress described the high rate of absences during planting season as a country-wide situation.

Formally, based on the Uganda Free Primary Education Programme, public primary schools in Uganda do not demand school fees. However, in 2017, the headmistress of New Kitemba Primary School explained to the research team that until 2017 the school was understaffed and lacked teachers. The parents had complained about it and now pay 3,000 UGX per term to employ three teachers. Furthermore, parents have to pay for physical materials like toilet paper and brooms, and for maize if they do not bring 10 cups per term and child. All this amounts to 10,000 UGX per term and child. Classes are big and it is difficult to integrate children of seasonal migrant workers, many of whom come from Rwanda and speak neither English nor Luganda according to the headmistress. Therefore, the school now has a teacher who speaks Kinyarwanda. The three teachers paid by the parents will also continue to be employed, though the school has two additional teachers paid by the state.

In 2019, the headmaster of New Kitemba Primary School confirmed that the school demands 13,000 UGX per child and term from the parents. “The money is used for renovating the school, maintenance, the garden and the private teachers; this term not even thirty percent have paid yet.” He added: “Children have to buy their uniforms, the school provides only badges; but many parents can afford neither uniforms nor sweaters nor shoes; only about ten percent of the pupils have shoes.” He highlighted the dropout rate of girls due to early pregnancies and marriages. Furthermore, only very few pupils continue at secondary school after P7. According to his knowledge, after

the last term only two out of twenty-nine students continued with secondary school after P7 because parents could not afford the continued cost.

### 5.6.2 Violation of the Right to Education by Uganda

According to General Comment 13 (Article 13, paragraph 2, a-b) to the ICESCR, education has to be accessible within attainable distance and should be affordable<sup>74</sup>. These elements go along with the requirement for the state to develop a system of schools at all educational levels and specifically to prioritize primary education. In the African Charter on the Rights and Welfare of the Child, Article 11 mentions that, States shall “take all appropriate measures with a view to achieving the full realization of this right and shall in particular: provide free and compulsory basic education, encourage the development of secondary education in its different forms and progressively make it free and accessible to all, make higher education accessible to all on the basis of capacity and ability by every appropriate



**VALENTIN HATEGEKIMANA FROM FIAN INTERNATIONAL  
INTERVIEWING CHILDREN OF THE EVICTEES (AUGUST 2016)**

means, take measures to encourage regular attendance at schools and the reduction of drop-out rates, take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.”<sup>75</sup> Based on the facts of the eviction, the State of Uganda violated the right to education in the Kaweri case.

<sup>74</sup> CESCR, General Comment 13 to the ICESCR, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1999%2f10&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1999%2f10&Lang=en), accessed 15/11/2019; see also art. 29 of the Convention on the Rights of the Child

<sup>75</sup> African Union: African Charter on the Rights and Welfare of the Child, <https://au.int/en/treaties/african-charter-rights-and-welfare-child>, accessed 15/11/2019

### 5.6.3 Violation of Extra-territorial Obligations (ETOs) by Germany

Germany has violated its extra-territorial obligation by not conducting proper human rights impact assessments and by not insisting on the execution of proper human rights impact assessments by the ADB before deciding on the credit for Kaweri Coffee Plantation Ltd. It is irresponsibly that Germany supported the grant of credit by ADB without considering the human rights impact of the plan to occupy the Kitemba Primary School and use it as the headquarter of Kaweri Coffee Plantation Ltd.

### 5.7. Right to work

One of the arguments given in support of the investment of Kaweri/NKG Coffee Plantation Ltd. is the creation of jobs it promised to bring. According to the African Development Bank and NKG, Kaweri Coffee Plantation Ltd. would create 3,250 direct jobs in Uganda<sup>76</sup>. However, mere numbers of anticipated jobs indicate nothing either about the quality of those jobs, about whether they are sufficient to help employees overcome poverty, or about whether they comply with human rights standards.

#### 5.7.1 Observations

The constant lack of sufficient food and nutrition weakens people physically. In 2014, when asked if they work for Kaweri Coffee Plantation, some of the interviewees said that they don't feel strong enough to work there. Others complain that they cannot fulfil the daily tasks demanded by the plantation. Since Kaweri Coffee Plantation Ltd. pays unskilled workers according to piece-rate<sup>77</sup> and performance, they are only able to earn very little. In particular, people older than fifty years often feel too weak to work at all. One woman said: "I cannot manage to work. I feel my body is heavy, even when I'm breathing." Another interviewee, this time a man, said: "I cannot manage to dig

because of lack of energy."

In 2016, one woman complained about lack of occupational health and safety on Kaweri Coffee Plantation: "Many of our friends have died from snake bites in the plantation. There are many snakes in the plantation and the families of those that died at work were not compensated." Furthermore, evictees complained about bad working conditions. One woman said: "We all work in the plantation to get some income but some of us left the job because of the poor working conditions in the plantation." For instance, "when it comes to getting money for picked coffee beans, women often feel cheated by supervisors who do not correctly weigh the harvest." Moreover, even "when we take our own harvested coffee to them, it is the same story; the supervisors would tell you when you bring fifty kilogrammes of coffee for instance, that it is thirty ki-

logrammes, even if you have seen yourself the correct number of kilogrammes on the scale. The problem is that if you complain you lose the job or the market for your harvest".

In addition, women mentioned the difficulties they experience trying to finish the daily tasks required from them by Kaweri Coffee Plantation in order to receive their daily wage. The testimonies that follow were collected during our visit and demonstrate how difficult working conditions in the plantation



**PETER BALEKE KAYIIRA, SPOKESPERSON OF THE EVICTEES, AND FIAN REPRESENTATIVE GERTRUD FALK AFTER A DISAPPOINTING MEETING WITH THE GERMAN MINISTRY FOR FOREIGN AFFAIRS (MARCH 2017)**

are: "it is like slavery coming back to our region, we work hard and we get a smaller, delayed payment on this little salary..."

"Some people, when they hear that in the plantation there are jobs, come without knowing the working conditions there. Many have left; others stay because they don't have anywhere to go. They don't allow us to express ourselves."

"We work for long hours without eating anything; time used to dig holes to put the coffee seedlings at the time of planting. Each hole was paid ten Shillings<sup>78</sup> and it is hard for us women to dig more than two holes. To earn one hundred Shillings, which cannot even buy salt at home, you have to have dug ten holes. Now they have put it at

<sup>76</sup> African Development Bank. Press Release No. SEGL3/B/45/02, 26/06/2002 and letter of Neumann Gruppe to Dirk Eckert dated 17/07/2003

<sup>77</sup> Kilogrammes of picked coffee cherries or number of digged holes.

<sup>78</sup> Uganda Shilling (UGX)



one hundred Shilling per hole, but still to dig ten holes to make one thousand Shilling is hard. Sometimes, it is the men who dig ten per day; these holes are big and wide. We are suffering much on our own land. At the plantation they have a hospital but it only serves those people who work on the plantation and only when they get sick on the plantation. When you get sick while you are at your home you won't be able to get medication; that sickness has to come when you are on the plantation. When rain comes, you are not supposed to run away from it. The moment you do you have worked under task" ("under task" means that you have not completed your work or not performed as expected).

"We eat once a day. Those of us who work inside stay and eat on the plantation. The food is of poor quality; we eat *kyakyu*" (a Lugandan word meaning poor quality maize flour that sometimes is used to feed chickens).

"I suffered when they chased us from that land. We worked in the plantation after some time, but the situation there is so difficult. We were required to dig those pits for planting the coffee. The men (their husbands) prohibited us from taking their hoes to the plantation. So we had to take our own hoes, but we did not have any sometimes. So, when you don't have a hoe, you go to the firm and they give it to you on credit. When it breaks, you go and pick another one....and at the end of the month, they would deduct the money for all the hoes that you broke (making the workers buy the tools they are using). The hoes would break so often because the nature of work is so hard. Our men have gotten so many young girls from the plantation. It makes us worried about HIV/AIDS and we do not know if we are sick or not!"

One woman explained the situation figuratively: "I worked on that plantation because I have nothing to do. If someone beats you hard, he can still call you to give you food and you go to him because you are hungry. Even if you are angry but need to eat, you will still go to him. We are just working for the stomach as we cannot get back our land."

In 2014, an LC I summarized the low salaries paid by Kaweri Coffee Plantation: "Workers of Kaweri just work to eat."

In their e-mail to FIAN Germany from 19 August 2016, NKG writes that they pay the daily workers 4,065 UGX per task and that a task can normally be finished within four to five hours. However, they do not indicate the amount of work that one task comprises.

In 2017, an interviewed worker of Kaweri Coffee Plantation, who had been working for three years in the department on plant diseases said that he gets lunch at the plantation and that he earns 4,200 UGX per working day.

He had to work from 7 am to 1 pm but he did not have a working contract. While his tools were provided by the plantation, he did not get protection gear. He was not aware of a complaint procedure at the plantation and addressed complaints only to his supervisor. He complained about the low salary paid by the plantation, which was not enough to sustain his family. He needed to spend 6,000 UGX per day for food and 15,000 UGX per month for renting a one-room house. When asked what he would request for a salary, he answered 8,000 – 10,000 UGX per day (equivalent to 2,00 - 2,50 €).



**THE FAMILY DOES NOT HAVE MEANS TO REPAIR THE BROKEN HOUSE (JULY 2019)**

Also in 2017, during a focus group discussion with evicted women, participants complained that Kaweri did not provide working tools and gloves. Only coffee pickers were provided with bast mats.

During all researcher visits, evictees who were employed as casual workers at Kaweri Coffee Plantation complained about low salaries that did not allow them a decent living. In July 2019, a female worker said that she would pick coffee and be paid 150 UGX per one kilogrammes of coffee cherries. But since it was not main harvesting season she would only be able to pick approximately ten kilogramme per day, equivalent to a daily salary of 1,500 UGX. At the same time, one kilogramme of cassava would cost 3,000 UGX. An interviewed evictee who had stopped working at the plantation due to job scarcity said that - while still working there - he had earned 4,800 UGX per day.

Although the signpost at the entrance of the plantation says that Kaweri does not employ children, during FIAN's visits from 2014 to 2017 several interviewees highlighted the issue of child labour in the Kaweri/NKG coffee plantation. According to the headmistress of New Kitemba Primary School, Kaweri Coffee Plantation allowed children





**WOMEN REGISTER BEFORE A FOCUS GROUP DISCUSSION. (AUGUST 2017)**

to work on the plantation only during school holidays<sup>79</sup>, during which time they would pick coffee. She said that almost 80% of the pupils of P3 to P7 who are 12/13 years old would work on the plantation during school holidays.

In 2019, all people interviewed stated that Kaweri/NKG Coffee Plantation no longer employs children.

### **5.7.2 Violations of the Right to Work by Uganda**

Insufficient income is also one of the main reasons for poverty, hunger and child labor among the evictees. By not having an adequate fixed legal minimum wage, Uganda violates the right of everyone to the enjoyment of just and favourable conditions of work as enshrined in Article 7 of the ICESCR. Moreover, the right of children to be protected from economic exploitation and from performing any work that is likely to interfere with their education is enshrined in article 32 of the CRC. The State of Uganda must ensure that there is no child labour at Kaweri/NKG Coffee Plantation.

### **5.7.3 Violation of Extra-territorial Obligations (ETOs) by Germany**

Germany has violated its extra-territorial obligation by insufficient regulation of NKG/Kaweri Coffee Plantation securing that working conditions on the plantation comply with international human and workers' rights standards as Maastricht Guideline 24 provides. Furthermore, since FIAN has evidence that coffee from Kaweri Coffee Planta-

tion is imported to Germany<sup>80</sup>, the Government of Germany should investigate the previously mentioned allegations, hold those responsible accountable and create the necessary laws for that.

### **5.8. Women's rights**

As in 2017, Uganda was ranked 126 out of 160<sup>81</sup> in Gender Inequality by the United Nations Development Programme (UNDP), it could be expected that due to widespread discrimination, specific women's rights violations would have taken place during and after the eviction. Such issues therefore, were one of the special foci of FIAN's researchers.

#### **5.8.1 Observations**

In the communities that FIAN's research focussed on, women are seen as being responsible for taking care of the family, which entails the cultivation and preparation of food, the fetching of water and firewood, hygiene, health care, taking care of the children, elderly and family members with disabilities, and sometimes even the payment of school fees. Many women are completely left alone with those tasks, as polygamy is widespread

<sup>79</sup> Interview conducted on 23/08/2017 at New Kitemba Primary School.

<sup>80</sup> FIAN hold coffee bags from Kaweri Coffee Plantation and its labels which indicate that the coffee bags have been imported from Uganda to Germany. Furthermore, FIAN has several times figured out that coffee from Kaweri Coffee Plantation has been offered to consumers in Germany.

<sup>81</sup> UNDP 2018: Human Development Reports; The Gender Inequality Index (GII) combines indicators of health, education, labour, and political participation. Values can vary between 0 (100% equality) and 1 (complete inequality). Uganda's value is 0.523, <http://hdr.undp.org/en/composite/GII>, accessed 15/11/2019



and men often prefer to live with the women who do not demand assistance from them. Considering that fetching water and firewood has become more difficult and more time consuming since the eviction, women are now even more bound to their homes and their mobility has become more reduced. Elderly women especially are left alone with the responsibility of caring for children and family members with disabilities.

Due to these prevailing gender roles, many women, especially elderly women and women from polygamous families (where the man has several wives), are left alone with the entire responsibility for other family members who are not able to take care of themselves. In 2014, one woman reported: "My husband can't think of me because he has many women." Another woman complained: "We have been affected. When I was evicted, instead of the man caring for me he looked for other wives."

All women interviewed reported that family care was not a problem for them before the eviction. Since the eviction however, this responsibility has become a burden to them due to insufficient access to resources to cope with the tasks of family care. During one focus group discussion, a woman explained: "We (women) had more money before the eviction. We used to be self-sufficient."


According to the women interviewed, the domestic conflicts about taking responsibilities for the family sometimes lead to domestic violence, including beatings by the husbands. Women are frustrated when they look for help by local authorities like the chairmen of Local Councils (LC). In 2014, during a focus group discussion, one woman said: "Most men, when they are called by the LCs, they humble themselves so much that the LC believes the husband. Afterwards, the husband will beat you because you have blamed him and people will believe him and call you mad."

Some husbands do not want their wives to go to work on the plantation because they fear that their wives engage in extra-marital relations. In 2016, one woman said: "We all suffered as women and men but we, the women, suffered a lot because whenever the time came that we could go to work on the plantation, our men beat us." Another woman added: "...before the plantation came, we women were fine and okay, but when it came it brought chaos in our families because men in the plantation would date married women; they spoiled a number of families."

In the interviews, women highlighted a concerning issue of sexual harassment and rape on the plantation. They mentioned that the company and police are aware of this but that nothing has been done to bring justice to the victims and hold those responsible accountable. The following testimonies, which were collected during the researchers visit, highlighted the suffering of women due to rape on the plantation: "Security officers on the planta-

tions rape people; children who go to look for firewood on the plantation are always raped; and a recent incident happened in February this year - one woman was raped by more than one man...."

One woman shared her own rape experience: "It was one evening that the Kaweri plantation organised a party for their managers. I had worked until late and was walking back home after work, and it was about eight pm in the evening. I met a group of men; they were Ugandans. They called me, "woman", and I kept quiet and stayed walking. One of them came near me and I tried to run. He grabbed me by the breast! The other one tried to bite my mouth and I tried to fight. But the breast that one was holding was hurting so and I couldn't run away or fight much. They threw me on the ground and started having



**KAWERI COFFEE PLANTATION LTD**

DATE 20-11-01.

**TO WHOM IT MAY CONCERN**

Following the vacation of the land leased by Kaweri Coffee Plantation Ltd. it has come to our notice that some burial places/sites exist on this land. It is therefore likely that some of the former occupants would like to transfer these important places elsewhere.

The purpose of this letter is to request you to pass the following information to whoever is concerned:

- ♦ Whoever wants to remove burial sites should do that as soon as possible, he/she will contact us through our security department that will grant permission to that effect.
- ♦ This arrangement is in place up to 22/12/01 only. After 22/12/01 we treat the land as free of burial places/sites.

Thank you for your assistance.

Yours truly

**KAWERI COFFEE PLANTATION LTD.**

Thomas Plattner  
General Manager

Cc Chairman Lc 111  
Cc Chairman Lc 11  
Cc Chairman Lc 1

Luwunga  
Kitemba  
Kijunga  
Kiryamakobe  
Naluwondwa  
Nakasozzi

7<sup>th</sup> Street Industrial Area, P.O. Box 23139, Kampala. Tel 041 342629, Fax 041 342 646, Mobile 077 200 460

**REQUEST OF KAWERI COFFEE PLANTATION THAT EVICTEES SHOULD TRANSFER BURIAL SITES. (NOVEMBER 2001)**

sex with me by force. The first one who raped me also bit my mouth and I started bleeding from my lips. The second one raped me too until the eighth man. There were eight of them. I lost my consciousness after trying to shout for help in vain. I woke up at around 4 am. I tried to walk

slowly and got home. I slept and told my children what had happened. I got up and went to report to the police. I went to Mubende police station...but it was very difficult for me because I was in too much pain. The police asked me if I knew or could identify the men that raped me. I said I couldn't. They didn't do anything for me so I left the police and came back home. My children tried to take care of me and treat me, but they didn't have money either. My husband had abandoned me earlier with ten children, so I had no one to support me. I was not able to follow up with the case at the police because I did not even have transportation to keep going there for follow up. My health was also very bad and deteriorating all the time. I was bleeding everywhere: from my mouth, my nose and from my private parts. The administration of the plantation was informed but they did not do anything about it. My neighbours try to help me. I am now very sick and cannot work much. They give me some food sometimes. But everyone has enormous needs here, no one can help me that much." During the visit in 2017, FIAN's researcher went to the police station with the woman who was raped. The policemen remembered the case and the woman but could not find the file. Therefore, the woman was not able to provide the additional statement required for the police to work on the case.<sup>82</sup>

The women who reported the case to the police revealed that, while at the police station, officers said: "there is nothing we can do against the big man [company]."

As poverty has increased in the wake of the eviction, so has the number of early pregnancies among the daughters of the evictees. This may be due, at least in part, to the fact that men may more easily attract young girls by giving them small amounts of money or food. In 2014, during a Focus Group Discussion, a mother reported: "In this area the girl child has very many problems: If your child asks you for 1,000 Shillings you don't have it. She moves onto the plantation, the man gives it to her, and it won't take long until she is pregnant." Another one added: "The problem with girls: They leave home without food and they have to pass the plantation where there are

many men. They buy for them a donut and the next day you hear they are pregnant." The women estimated that seven out of ten girls get pregnant as juveniles between the ages of thirteen and fifteen. Even worse, women reported an increase of HIV infections among those girls.

The fathers of these migrant workers' babies often do not take responsibility. Taking care of the children consequently becomes an additional responsibility for the girls' mothers. In 2014, during a focus group discussion, one woman said: "Those men are mostly not from here. They run away from the responsibility. So you also have to care for that child. Caring for those children is the women's task."

In 2016, one woman said: "The majority of our girls have gotten married at the ages of fourteen, fifteen or sixteen; the average is sixteen years because they were idle and didn't attend school."



**THE FIVE EVICTEES WHO HAVE SUED THE GOVERNMENT OF UGANDA AND KAWERI COFFEE PLANTATION LTD., REPRESENTING 401 FAMILIES. (JULY 2019)**

### 5.8.2 Violations of Women's Rights by Uganda

Uganda has ratified CEDAW and is therefore obliged to protect and fulfil the human rights of women. Article 14 of the Convention obliges the state to ensure the rights of women in rural areas to "...enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply...". In its General recommendation

no. 34, interpreting the rights of women in rural areas, the CEDAW committee clarifies these state's obligations: "State parties should ensure that ...investment policies ... are responsive to the needs of rural women and strengthen the productive and investing capacities of small-scale women producers. They should address the negative and differential impacts of economic policies, including ... privatisation and commodification of land, water and natural resources, on the lives of rural women and fulfilment of their rights."<sup>83</sup> Furthermore, CEDAW states on violence against women: "States parties should prevent and eliminate all forms of violence against rural women and girls,

<sup>83</sup> CEDAW: General Recommendation No. 34 on the rights of rural women; 4 March 2016, CEDAW/C/GC/24, paragraph 11; [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_GEC\\_7933\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_7933_E.pdf).





**FOR MANY EVICTEES, CELEBRATING CHURCH SERVICES IS IMPORTANT. (OCTOBER 2010)**

and...: b) Take effective measures aimed at preventing, investigating, prosecuting and punishing acts of violence against rural women and girls, ..., whether perpetrated by the State, non-State actors or private persons; c) Ensure that victims living in rural areas have effective access to justice, ... and that authorities at all levels in rural areas,..., have the resources needed and a political will to respond to violence against rural women and girls,...”<sup>84</sup>

On violence against women, CEDAW General Recommendation no. 28 on state obligations states: “States parties have a due diligence obligation to prevent, investigate, prosecute and punish such acts of gender-based violence.”<sup>85</sup>

By destroying livelihoods and access to productive resources of the evicted women, by denying justice through delaying court proceedings and by refusing to investigate reports on violence against evicted women and female workers of Kaweri Coffee Plantation, Uganda has violated the human right of the affected women. There is an urgent need for Uganda to investigate these alleged rights violations at Kaweri Coffee Plantation and to hold those responsible accountable.

### **5.8.3 Violations of Extra-territorial Obligations (ETOs) by Germany**

Germany has ratified CEDAW and is therefore obliged to protect women’s rights against the interests of third parties. CEDAW General Recommendation no. 28 on state

obligations defines the obligation to protect as follows: “The obligation to protect requires that States parties protect women from discrimination by private actors and take steps directly aimed at eliminating customary and all other practices that prejudice and perpetuate the notion of inferiority or superiority of either of the sexes, and of stereotyped roles for men and women.”<sup>86</sup> This obligation to protect exists beyond states’ own national borders: “States parties are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory.”<sup>87</sup> This also applies to the obligation to regulate the private sector: “Article 2 [of the CEDAW convention] also imposes a due diligence obligation on States parties to prevent discrimination by private actors. (...) States parties are thus obliged to ensure that private actors do not engage in discrimination against women as defined in the Convention. The appropriate measures that States parties are obliged to take include the regulation of the activities of private actors with regard to education, employment and health policies and practices, working conditions and work standards, and other areas in which private actors provide services or facilities, such as banking and housing.”<sup>88</sup>

“State parties also have an obligation to ensure that women are protected against discrimination committed by public authorities, the judiciary, organizations, enterprises or private individuals, in the public and private spheres. This protection shall be provided by competent tribunals and other public institutions and enforced by sanctions and remedies, where appropriate.”<sup>89</sup>

<sup>84</sup> Ibid, para 25

<sup>85</sup> CEDAW: General Recommendation no.28 on the core obligations of States parties under article 2 of the Convention, 16 December 2010, CEDAW/C/GC/28/, paragraph 19, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement>.

<sup>86</sup> Ibid, paragraph 9

<sup>87</sup> Ibid, paragraph 12

<sup>88</sup> Ibid, paragraph 13

<sup>89</sup> Ibid, paragraph 17





**THE FORMER KITEMBA PRIMARY SCHOOL HAS BEEN TRANSFORMED INTO THE HEADQUARTER OF KAWERI COFFEE PLANTATION (MARCH 2013), ©SILVAIN AUBRY**

Consequently, in 2017, in its concluding observations, the CEDAW committee has recommended that Germany:

- “a) Strengthen its legislation governing the conduct of corporations registered or domiciled in the State party in relation to their activities abroad, including by requiring those corporations to conduct human rights and gender impact assessments prior to making investment decisions;
- b) Introduce effective mechanisms to investigate complaints filed against those corporations, with a mandate to, inter alia, receive complaints and conduct independent investigations and incorporate a gender perspective into the 2016 NAP;
- c) Adopt concrete measures, including a redress mechanism to facilitate access to justice for women victims of human rights violations and ensure that judicial and administrative mechanisms in place take into account a gender perspective.”<sup>90</sup>

### 5.9. Right to enjoy cultural life

The eviction has severely affected the enjoyment of cultural life for evictees. To find at the very least shelter, family members either had to split up to find accommodation in the homes of their relatives, or parents had to share beds

with their adult children, which is taboo in the Baganda tradition. Furthermore, the evictees lost the graveyards of their ancestors. Through the announcement of 20 November 2001, Kaweri Coffee Plantation demanded the removal of all graves from the plantation<sup>91</sup>. Since the evictees did not have alternative family land, they had to burn them in breach of their cultural tradition. Due to the loss of the graveyards of their ancestors, the evictees feel uprooted<sup>92</sup>. Since most of them do not own land anymore, they are also worried about where to find graveyards for themselves and for the future generation.

#### 5.9.1 Observations

During FIANs researches, the evictees highlighted the same issues. In addition, one woman raised the issue that due to lack of land and a secure place to stay, the evictees don't know where to bury their dead relatives: “My child died and I had nowhere to bury them.” Furthermore, when it comes to enjoying time together, one child mentioned in an interview: “What is very sad is that we no longer eat together with our parents because they go to work all the time at the Kaweri Plantation.”

90 CEDAW/C/DEU/CO/7-8, 3 March 2017, paragraph 16. <https://www.bmfsfj.de/blob/119746/ac0b7d7c5f2618797fd43c440cc604cf/20170926-2017-cedaw-concluding-observations-germany-eng-data.pdf>

91 FIAN has a scan of that announcement. s. page 29.

92 Nuwagaba, Augustus/Banga, Margaret 2002: The Impact of Foreign Direct Investment on the Local Economy: The case of Kaweri coffee and Kalangala palm oil investments, Action Aid Uganda, November 2002. Information orally provided to FIAN by evictees.



### 5.9.2 Violation of the Right to Enjoy Cultural Life by Uganda

Uganda has breached Article 11 of the ICESCR, which is further developed by General Comment no.12 concerning the cultural habit of eating and sharing food within a family or community. Referring to the definition of the term “culture” in paragraph 13 of General Comment No. 21<sup>93</sup>, the State of Uganda has violated the right of its citizens to take part in cultural life in the Kaweri case. The evictees have been forced to breach a cultural taboo and, consequently, their cultural identity has been severely harmed.

### 5.9.3 Violation of Extra-territorial Obligations (ETOs) by Germany

Germany has violated its extra-territorial obligation by not conducting proper human rights impact assessments before supporting the investment of NKG by a Public-Private Partnership (PPP) and by not insisting on the execution of proper human rights impact assessments by the ADB before deciding on the credit for Kaweri Coffee Plantation Ltd. Had these measures been taken, the problem of how to ensure that the affected people’s enjoyment of cultural life, especially regarding the removal of graveyards, remained protected would have been raised.

### 5.10. Access to justice and legal remedy

It is uncertain whether the evictees will receive proper justice with an adequate remedy. After eleven years of prolonged legal procedures, the court ruling was issued on 28 March 2013 in favour of the evictees. The judgment allowed evictees to reclaim their land and to be compensated for the damage (37,085,574,606.3 UGX - about 11 million Euros at that time) caused by the eviction. Moreover, the judge allowed the evictees to immediately reclaim the 20 Million UGX (about 5.000€ at that time) that they had to deposit at the beginning of court proceedings for security of costs at the demand of Kaweri Coffee Plantation Ltd. In July 2015 the Court of Appeal has set aside this ruling.

In 2015, the CESCR recommended that Uganda take immediate measures to restore the rights of the evictees<sup>94</sup>.

In January 2016, the Government of Uganda offered cash

compensation to those evictees who would pre-emptively withdraw from the court proceedings. The evictees answered that they would be ready for an amicable solution only within court proceedings as provided by Ugandan law.

On 1 July 2019, the High Court did order a mediation between the plaintiffs (evictees) and the defendants, which are the Government of Uganda and Kaweri Coffee Plantation Ltd. At the time of publishing this report the mediation was still ongoing. Despite these positive developments, as of November 2019 (when this report was published), 17 years after the evictees have suited the file against the Ugandan government and Kaweri Coffee Plantation Ltd., the evictees are still waiting for justice.

### 5.10.1 Violation of the Right to Access to Justice and Legal Remedy by Uganda

According to Article 14 paragraph 1 of the UN Covenant



THE FENCE OF THE WATER TAPS IN KYENGEZA IS LOCKED. (MARCH 2014)

on Civil and Political Rights “(...) everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”.<sup>95</sup> Further delay of the Kaweri case is a continued breach of article 14 paragraph 1 of the ICCPR by the State of Uganda.

93 CESCR, General Comment 21, [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f21&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f21&Lang=en), accessed 18/11/2019.

94 CESCR 2015: Concluding Observations on the initial report of Uganda, 24 June 2015, UN Doc. no. E/C.12/UGA/CO/1, para 30, [https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/UGA/INT\\_CESCR\\_CSS\\_UGA\\_20460\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/UGA/INT_CESCR_CSS_UGA_20460_E.pdf).

95 OHCHR, International Covenant on Political and Civil Rights, (UN-Doc. No. CCPR/C/DEU/CO/6), Article 14 paragraph 1, available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, accessed 13/11/2019

### 5.10.2 Violation of Extra-territorial Obligations (ETOs) by Germany

Germany violates its extra-territorial obligations to fulfil the ESCR by not providing legal opportunity for the evictees to demand remedy in Germany (Maastricht principle 37 – d).

Furthermore, in its concluding observations in 2012, the ICCPR has recommended Germany: “While welcoming measures taken by the State party to provide remedies against German companies acting abroad allegedly in contravention of relevant human rights standards, the Committee is concerned that such remedies may not be sufficient in all cases (Article 2, para. 2).”<sup>1</sup> on Civil and Political Rights “(...) everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”.<sup>2</sup>

## 6. Conclusion

Living conditions and the human rights situation of evictees in the Kaweri case – especially the rights to food and nutrition - continue to worsen. Eighteen years after the forced eviction in favour of Kaweri/NKG Coffee Plantation, evictees still require strong support from a human rights perspective to get their rights re-installed. The continued impunity of those responsible for the forced eviction and its impacts allows for further perpetuation of human rights violations - in particular, violations of the rights to food, water, housing, health, education, cultural life, and justice, and specifically the rights of women.

FIAN will continue to support the evictees in their human rights-related demands as they struggle against Uganda and Germany for the breaches of human rights obligations these states have committed, and against Kaweri/NKG Coffee Plantation for their human rights abuses.



**ELDERLY EVICTED WOMAN DEMANDING COMPENSATION. (NOVEMBER 2013)**

96 Human Rights Committee 12 November 2012: Concluding Observations to Germany: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fDEU%2fCO%2f6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fDEU%2fCO%2f6&Lang=en), accessed 13/11/2019

97 OHCHR, International Covenant on Political and Civil Rights, (UN-Doc. No. CCPR/C/DEU/CO/6), Article 14 paragraph 1, available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, accessed 13/11/2019.



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## Annex A: Data from health centres and hospitals

### Nutrition related diseases

The statistics from the department of Mubende Regional Referral Hospital has recorded the following numbers of patients with nutrition related diseases from Madudu sub-country<sup>96</sup> :

Year 7/2014-6/2015

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
Sex	male	female	male	female	male	female	male	female	total
Nutrition related diseases	19	14	0	29	102	75	0	15	254
Anemia	16	28	0	54	176	170	0	195	639

Year 7/2013-/2014

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
Sex	male	female	male	female	male	female	male	female	total
Nutrition related diseases	27	34	0	4	10	9	0	2	86
Anemia	13	11	0	125	263	232	0	301	945

Year 7/2012-6/2013

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
Sex	male	female	male	female	male	female	male	female	total
Nutrition related diseases	19	22	0	4	101	65	0	6	217
Anemia	54	57	0	174	342	273	0	281	1181

<sup>98</sup> The statistics do not indicate the name of the village of the patients. Therefore, they cannot directly be related to the evictees. Due to lack of access to data they cannot be compared with same data of whole Uganda. However, they proof that malnutrition is widespread in Madudu sub-county. One should also take into account that many poor malnourished people do not reach Mubende Regional Referral Hospital due to lack of money for transport.

Year 7/2011-6/2012

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
Sex	male	female	male	female	male	female	male	female	total
Nutrition related diseases	30	35	0	0	0	0	0	0	65
Anemia	59	54	0	115	240	262	0	213	943

Year 7/2010-6/2011

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
Sex	male	female	male	female	male	female	male	female	total
Nutrition related diseases	22	21	0	4	54	41	0	6	148
Anemia	35	29	0	7	219	123	0	188	601

Year 7/2009-6/2010

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
Sex	male	female	male	female	male	female	male	female	total
Nutrition related diseases	0	0	0	0	93	74	0	9	176
Anemia	73	70	0	71	584	829	0	385	2012



Year 7/2008-6/2009

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
Nutrition related diseases	20	21	0	4	51	43	0	5	144
Anemia	49	48	0	41	375	308	0	116	937

### Water related diseases

From January to July 2016, Kanseera Health Centre has recorded 187 cases of acute diarrhoea:

Age	0-28 days		29 days – 4 years		5-59 years		60 years <		
sex	male	female	male	female	male	female	male	female	total
Diarrhoea acute	0	0	31	22	62	67	0	5	192

St. Joseph Madudu Health Centre III has recorded the following cases of water related diseases:

Age	0-28 days		29 days – 4 years		5-59 years		60 years <		
sex	male	female	male	female	male	female	male	female	total
desentery (bloody Diarrhoea)	18	11	0	0	12	12	0	0	53
Diarrhoea acute	0	7	45	53	60	76	0	0	241
Typhoid Fever	5	10	0	0	115	252	5	4	391

Year 7/2014-6/2015

Age	0-4 years		5 years <		
sex	male	female	male	female	total
desentery (bloody Diarrhoea)	6	7	6	8	27
Diarrhoea acute	63	60	7	10	140
Typhoid Fever	18	19	161	289	487

Year 7/2013-6/2014

Age	0-4 years		5 years <		
sex	male	female	male	female	total
desentery (bloody Diarrhoea)	8	2	6	8	24
Diarrhoea acute	32	22	7	11	72
Typhoid Fever	21	22	71	101	215

Year 7/2012-6/2013

Age	0-4 years		5 years <		
sex	male	female	male	female	total
desentery (bloody Diarrhoea)	0	1	2	2	5
Diarrhoea acute	4	4	5	3	16
Typhoid Fever	8	9	71	92	180



Mubende Regional Referral Hospital has recorded the following numbers of patients with water-related diseases from Madudu sub-county:

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
water related diseases	208	215	0	512	256	247	0	124	1562

Year7/2013- /2014	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
water related diseases	225	215	0	346	311	267	0	301	1665

Year 7/2012-6/2013

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
water related diseases	222	233	0	298	154	131	0	95	1133

Year 7/2011-6/2012

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
water related diseases	425	381	0	309	125	127	0	56	1423

Year 7/2010-6/2011

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
water related diseases	66	69	0	56	55	50	0	37	333

Year 7/2009-6/2010

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
water related diseases	38	27	0	80	32	36	0	15	228

Year 7/2008-6/2009

	Out-patient				In-patient				
Age	0-4 years		5 years <		0-4 years		5 years <		
sex	male	female	male	female	male	female	male	female	total
water related diseases	40	48	0	41	18	21	0	20	188



## Annex B: Questionnaire

Name, age, place of living, name of the place where you lived before the eviction

number of household members, sex and age

Please describe your daily life.

a) Do you have problems in cultivating land? Do you have access to arable land? Which crops do you cultivate? Are these crops adequate to feed you and your family? Do you or other family members sell crops?

Did you experience these problems already before the eviction?

b) Do you have problems finding work or earning income? What do you and other family members do for work and to earn income?

Did you experience these problems already before the eviction?

c) Do you have livestock? If yes, how many?

How many animals did you have before the eviction?

d) Do you have problems accessing water? Describe these problems (eg. For irrigation, drinking, cooking, bathing, washing clothes, etc.) and the causes (eg. Distance, pollution, badly functioning of pipeline, etc. )

Did you experience these problems also before the eviction?

e) Do you have problems accessing health care facilities? If yes, which?

Did you experience those problems also before the eviction?

Describe the daily lives of your children

Do you have difficulties/problems in your daily consumption of food? Please describe those problems (types of food, numbers of meals per day, firewood, etc)

Are family members affected differently?

What do you understand by hunger?

Did you experience any of these problems before the eviction?

How do these problems affect intra-household relationships?

Strategies put forward to overcome problems identified

What are your strategies to overcome the mentioned problemmes?

How do your actions to overcome the problems compare to what you did to overcome similar problemmes before the eviction?

What do other family members do to overcome the problemmes?

What do community representatives do to overcome the problemmes which you are facing?

Decision making

1) How are you involved in decision making

a) about yourself (expenses, family planning, work, etc.)

b) about your family (crop cultivation, household income, education of children, use of loans, etc.)

c) about your clan (elderlies, land distribution, etc.)

d) about the local community (LC I)

f) about others



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