

the case
Mubende

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Mubende Case - Update, August 2007

The development of the case since the publication of our dossier in February 2004 was until late 2006 characterised by continued inaction of the Ugandan courts and continued harassment of the evictees and the workers on the plantation. All efforts by the evictees, FIAN and others to achieve a settlement or at least an improvement of the evictee's situation were to little or no avail. In November 2006, however, the first hearings in the court case finally took place – more than four years after the evictees had filed the suit. Moreover, the judge seems to agree that the eviction did take place and has proposed to have the next hearing in Mubende, which would save the evictees a lot of travelling. The case therefore seems to finally be taking a positive turn. However, in the past there have already been several similar causes for hope, which was in each case subsequently dashed. Continued advocacy is therefore as necessary as ever.

Continuing Bad Situation of the Evictees and on the Plantation

On 1 March 2004 the workers on the Kaweri Coffee Plantation went on strike in protest against the bad labour conditions on the plantation. The plantation's management called in riot police who used massive violence to break up the strike. Up till today, the management has also prevented the National Union of Plantation and Agricultural Workers (NUPAW) from unionising the workers.

In May 2004, two representatives of the evictees did a two-week tour of Germany in order to mobilise public support and talk to German decision-makers. They met members of the Bundestag, the Foreign Office, journalists and representatives of the Neumann Kaffee Gruppe (NKG), the parent company of the Kaweri Coffee Plantation. The NKG representatives apologised for their earlier accusations that the evictees were prepared to use violence and promised to establish a tripartite dialogue between themselves, the evictees and the Ugandan government. However, apart from one letter to the Ugandan government, these promises have to our knowledge not been fulfilled. In fact, the letter stated that the case was a matter between the government and the evictees and not a matter for the NKG to be involved in. Phone calls made by the evictees to the NKG headquarters in Hamburg were not returned.

In June 2004, FIAN paid another visit to the evictees. Almost one year after FIAN established that the water from the pump at the new school was contaminated, the problem had still not been solved. People were also afraid that the water might get polluted by the pesticides and other chemicals used on the plantation. They are using Mamba and Furadan 5 D (chemical name Carbofuran), the latter of which is listed in group 1b (highly hazardous) on the World Health Organisation's

list of pesticides. There had also been an increase in the number of malaria cases since many of the evictees had had to build their houses on wet territory.

After FIAN had written several letters to the NKG on the water issue as well as other issues, the NKG finally fixed the water problem by laying a pipeline from the plantation to the village of the evictees. On another visit in October 2004, FIAN established that the pipeline was indeed working, but the provision of water was irregular.

In October 2005, the Resident District Commissioner in Mubende announced that he wanted to establish a roundtable to achieve an amicable solution to the land conflict. Such an initiative would be very much in line with the evictees' wishes since they have always stressed that they do not want a confrontation with the Ugandan state if they have another satisfactory option. Moreover, in December 2005, the evictees got a visit from a delegation from the Ugandan State House. The delegation remarked that the handling of the eviction and the lack of compensation were not in order. FIAN wrote letters to the RDC and to President Museveni stating that we would highly welcome a credible roundtable.

The evictees were immediately sceptical about these initiatives, though, since there were going to be national elections in Uganda in February 2006. They therefore suspected that these initiatives might be nothing more than electioneering. In fact, after the elections were over nothing more was heard from either the RDC or the State House.

In August 2006, FIAN paid another visit to the evictees. It emerged that the water pipeline laid by Kaweri/Neumann was still not working regularly. FIAN therefore wrote to Neumann, asking them to fix the pipeline and also reminding them of their promises to work towards an amicable settlement of the case in

general. In reaction to our letter, Neumann inquired with the Uganda Investment Authority if they had investigated the “rumours” that the evictees were not compensated. However, nothing further was heard from either side. But the evictees reported that the company worked on the pipeline and the availability of water increased.

FIAN also wrote to the newly elected Ugandan Members of Parliament from the Mubende district, asking them to become active on behalf of their constituents. FIAN received a reply from one of the MPs, Ms Faridah Najjuma Kasasa. She wrote that she had visited the evictees and was now determined to intercede on their behalf. However, nothing further was heard from her.

Continuing Denial of Justice – Finally Coming to an End?

The evictees had launched the court case in summer 2002 but the start of the hearings was postponed again and again. In each case, the evictees were informed of the adjournment only after they had already made the 140 km trek to the court Kampala. In our view, this practice amounts to a perversion of the judiciary system.

In September 2004, FIAN launched an international urgent action calling on the Ugandan government to return the lost land to the evictees and provide compensation. In contrast to the first two urgent actions, which had not gotten any reply, FIAN this time received a reply from the Ugandan Inspectorate of Government, which asked for more information and promised to investigate the matter. After further correspondence, however, the Inspectorate stated that all they could do was to request the Chief Registrar, Courts of Judicature, to expedite the court case. This was in April 2005, almost three years after the evictees had filed the suit, and the hearings continued to be postponed.

In fact, the abuse of the judiciary system was even further amplified when on 21 January 2005 Peter Kayiira, the spokesperson of the evictees, was imprisoned on charges of having embezzled funds he had received for his school. Here as well the hearing were rescheduled several times, in some cases because the prosecution failed to bring forward its witnesses, in others because the judge did not appear. An independent legal expert opinion requested by Action Aid Uganda and prepared by Balikuddembe & Co. Advocates established that the legal procedure for

prosecuting such cases was not followed properly. For instance, usually suspects in embezzlement cases do not get immediately imprisoned but are first asked to make a reply to the accusation. The obvious conclusion therefore is that Peter Kayiira was imprisoned for political reasons, i.e. to silence the evictees. On 28 June, after almost half a year, the court decided to end the charade and acquitted him of all charges. However, he was posted to a new school which is very far away from the evictees’ settlement so that he can now visit them only during the weekends.

In November 2005, FIAN wrote letters to the Ugandan Judicial Service Commission and to President Museveni to complain about the unjustified delay of the court case. Since there was no reaction to this letter and the hearings continued to be postponed, in September 2006 FIAN wrote to the Principal Judge of Uganda, again asking that the court case be expedited.

Finally, the first and second hearings took place in November and December 2006. Peter Kayiira is of the opinion that this is largely due to the letter FIAN sent to the Principal Judge. Moreover, the judge tasked with the case agrees that the eviction did take place; however, the lawyers of Kaweri/Neumann denied any involvement in and responsibility for the eviction. Meanwhile, the judge has asked whether it would be possible to settle the lawsuit amicably.

The most recent hearing took place on 27 June 2007. It was the first time that all actors sat together to discuss content issues related to the case. However, the attorney general has not taken any position on the situation yet. The lawyers of Kaweri argued that the case should not be further pursued because several formal requirements had not been met. Inter alia, they claimed that the plaintiffs were not authorised to sue on behalf of the community. The evictees’ lawyer has in the meantime submitted a response to these objections to the court.

The judge asked the parties to the case whether they would agree to have the next hearing in Mubende. This would help the evictees enormously since travelling 140 km to the court in Kampala is very burdensome for them. It would also allow the judge to fully weigh the magnitude of the catastrophe.

Following you will find the detailed dossier of the FIAN local group Cologne, published in February, 2004.

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FIAN: The international Human Rights Organisation working internationally for the realisation of the right to feed oneself

FIAN: Independent of governments, political parties, ideologies and without religious affiliation.

FIAN: Has consultative status with the United Nations, the Council of Europe, the African Commission of Human Rights

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Summary

In August 2001 the Ugandan army violently expelled more than 2,000 small farmers from their land to lease it to Kaweri Coffee Plantation Ltd., a subsidiary of the *German Neumann Kaffee Gruppe*. Kaweri has since established the first Ugandan large scale coffee plantation on this land. Those affected had deemed themselves safe from such displacement since the Ugandan constitution and Ugandan law allow dispossession only under very strict regulations. Moreover, per their knowledge this land belonged to a proprietor other than the one who had sold it to the Ugandan government.

Following the displacement there was an increase of illnesses and deaths since these internally displaced people (IDPs) lost much of their access to clean water and health care. In addition, the new owners expropriated the local school building to serve as their headquarters, leaving the IDP children without a school for one year. To date, only about 2 per cent of the IDPs have been compensated, and even those not adequately. Currently, many of the IDPs are living on the border of the plantation and have constructed makeshift homes there. But they have no land for farming. Their right to feed themselves is therefore still being violated.

To gain redress of their grievances, the IDPs first attempted to work within the political system, but when that failed, they decided in the summer of 2002 to sue the government as well as as Kaweri. While to date there has been no activity in hearing the case, the court has ruled in favour of an application by Kaweri's attorneys demanding a cautionary deposit of the equivalent of 9,000 Euros from the IDPs. The sum was raised by the organisation ActionAid so that the case can be further pursued.

The IDPs demand an independent land survey to determine the land's real ownership, the restitution of their land, or at the very least adequate compensation. They also demand the construction of new homes, adequate school and health care facilities and access to clean water.

FIAN has investigated the case on site and supports the displaced people in their struggle.

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Introduction

On 17 August 2001 the Ugandan army entered the villages of Kitemba, Luwunga, Kijunga and Kiryamakobe and evicted the more than 2,000 inhabitants with brutal force. The inhabitants were mistreated, their homes destroyed and most of their movable property looted.

Unfortunately, land evictions of this kind occur frequently, especially in countries like Uganda where rule of law is lacking. Marginalised populations and their human right to feed themselves are thus regularly sacrificed on the altar of profit or in the service of “superior interests” like the “development” of the country.

In this case the reason behind the displacement was the plan of the German *Neumann Kaffee Gruppe*, acting through its subsidiary Kaweri Coffee Plantation Ltd., to establish a coffee plantation on the land in question. This project was supposed to promote development in this underdeveloped region by means of a sustainable production of coffee. The government – as lessor of the land – has now implemented this plan by the use of force. As a result, what sounded promising on paper has in reality turned into an ongoing nightmare for the former inhabitants of the plantation’s land.

As of today, about 98 per cent of these internally displaced people (IDPs) have been compensated neither for the violence they suffered nor for the loss of their lands. Their various attempts to gain redress of their grievances by political means have been met with disinterest by those in charge. Their court case has been delayed since the summer of 2002.

This documentation shall contribute towards ensuring that those in charge cannot let the case “resolve” itself by doing nothing. The violations of human rights that were committed must be punished and the victims adequately compensated. In order to enforce these demands it is necessary to mobilise the public so as to put political pressure on the relevant actors in Germany and Uganda. The fundamental question is, what is more important: private profit interests and a states’ development strategies, or the basic rights of the local populations affected by these plans? And for whom is development, the poor and marginalized or the empowered?

The Kaweri Plantation and the Economic Strategy of the Ugandan Government

The Kaweri Plantation is the first large scale coffee plantation ever established in Uganda. So far, coffee has exclusively been produced by small farmers. Thus, the project has a high symbolic value, expressing itself for example in the fact that president Museveni personally commissioned the plantation on 24 August 2001, together with Michael Neumann, the head of the *Neumann Kaffee Gruppe*. In 2002, the plantation won the Uganda Investment Authority's (UIA) "Silver Investor Award".¹ The plantation does in fact fit perfectly into the government's strategy to promote export oriented economic growth with the help of foreign investors.

The coffee sector is the mainstay of the formal Ugandan economy, accounting for about 70 per cent of its export earnings. In 2003, the country was the seventh largest coffee exporter in the world and the biggest in Africa. Other important export products are fish, tea, cotton and tobacco. The whole agricultural sector has a share of about 46 per cent of the gross national product (GNP) and feeds about 90 per cent of the population, most of them through subsistence farming²

Box 1: The Political Situation in Uganda

After decades of political instability, dictatorial regimes and civil wars, since 1986 the National Resistance Movement (NRM) under the leadership of Yoweri Museveni has governed Uganda. The victory of the NRM brought a relative stabilisation to the country, but even today the army is still involved in ongoing armed confrontations with different rebel groups in the north of the country, which involve grave human rights violations committed by all sides. The army is also involved in military confrontations beyond Ugandan borders in the Democratic Republic of the Congo and in Sudan.³

After its victory the NRM installed a so-called "no party system" permitting the existence of political parties but banning their participation in elections or public rallies. International observers have judged the elections and referenda which have taken place since the new constitution entered into force in 1995 to have been mostly free and fair. They have, however, been overshadowed by irregularities and violence.⁴

Especially in recent times there has been a discernible trend towards a more authoritarian regime. For example, the constitution limits the presidency to two terms. Museveni is, however, currently (January 2004) attempting to lift this limitation. Moreover, after 9/11 a new anti-terrorism package was passed which significantly circumscribes political liberties.⁵

The Ugandan judiciary suffers from corruption and a lack of resources and is regularly put under political pressure by the government. There have repeatedly been cases of politically motivated malfeasance of justice.⁶

Since the beginning of the 1990s the Ugandan government has pursued a strategy of neoliberal economic restructuring and privatisation according to the tenets of the “Washington Consensus”⁷ and in close co-operation with the International Monetary Fund (IMF) and the World Bank. In 1991, the Investment Code was passed and the UIA was founded in order to attract foreign direct investors to the country. The government especially hopes to attract manufacturing industries, thus creating badly needed jobs as well as ending the dependence on the export of raw materials, which is extremely dependent on fluctuating and often falling world market prices.

In order not to sell out the country to foreign interests the Land Act prohibits the sale of land to non-Ugandan enterprises. If foreign investors do need land, the government buys it via the UIA from private owners or village communities and then leases it to the investors. During this process the interministerial “Government committee on Land Acquisitions for Investments”, which is headed by the Prime Minister, has to be consulted.

Direct investment in Uganda can be attractive for foreign corporations as there is no legal minimum wage and hardly any labour law protection. According to the law, collective wage bargaining has to be permitted if at least 51 per cent of a firm’s employees are unionised. But plantation owners frequently circumvent this regulation by sacking union members once this quota is reached. Due to the widespread poverty and unemployment, new employees are not hard to find.

Box 2: Population and Social Situation

Uganda has about 25 million inhabitants who belong to more than 40 different ethnic groups. The main part of the population lives in the South of the country, in the area of Lake Victoria. The country ranks among the 20 poorest countries in the world⁸, is on place 147 of 175 in the “Human Development Index“ published annually by the United Nations Development Programme (UNDP) and is ranked among the countries with low human development. If adjusted for purchasing power parity, the annual per capita Gross National Product is \$1,490. According to the UNDP, in 2001 82.2 per cent of the population were living in absolute poverty, i.e. on less than \$1 per day. Population growth was 3.7 per cent, the average life expectancy 44.7 years, and child mortality was 7.9 per cent. In 2000, 21 per cent of the population were malnourished, and 53 per cent of the rural and 19 per cent of the urban population - 48 per cent of the total population - did not have access to clean drinking water.⁹

In 2000, the “Plan for Modernisation of Agriculture” (PMA) was established as sectoral strategy of the “Poverty Eradication Action Plan” (PEAP), forming the basis of the state’s agricultural policy. The aim of the PMA is “poverty eradication through a profitable, competitive, sustainable and dynamic agricultural and agro-industrial sector”, which is to be achieved primarily through the conversion of subsistence into commercial agriculture. The government considers the Kaweri plantation to be a key project in this plan.

For the project to be realised, among other things the government had to ensure that,

1. The land was vacant.
2. All rightful inhabitants were compensated.¹⁰

To comply with the legal provision that foreign investors may not acquire land directly, the government bought the land from the former proprietor and then leased it to Kaweri. To fulfil Kaweri’s condition number 1, they forcibly evicted the majority of the inhabitants.

Box 3: The Coffee Crisis and Uganda’s Coffee Sector

The world market for coffee has been in a crisis since the end of the 1990s. Rising production has led to dramatically falling producer prices, as a result of which the coffee farmers can no longer recoup their production costs. Small farming families have become impoverished and day labourers lose significant amounts of their income. The coffee traders, however, are still making profits.

Until the establishment of the Kaweri Plantation, Ugandan coffee was produced exclusively by small farmers. Small farmers receive about two per cent of the consumer price. In 2002 their production costs were about 500,000 Ugandan Shillings (about 250 Euros) per hectare. Average gross income was about 710,000 Shillings per hectare (about 350 Euros).

Due to the low prices on the international coffee market, the supply of high quality coffee (with the attendant high production costs) is diminishing. Roasters are therefore increasingly switching to black, unripe coffee beans. But the export of these beans did not meet Uganda’s quality criteria. The Uganda Coffee Development Authority therefore had to push for a change in the relevant regulations so that the coffee farmers would be allowed to export these beans. Against the background of the roasters’ complaints that the quality of coffee beans is deteriorating due to the coffee crisis, this is rather paradoxical.¹¹

The Eviction

According to the reports by the (IDPs) on 17 August 2001 soldiers of the Ugandan army led by the then Resident District Commissioner (the local representative of the president) and Major Ssebagala arrived on the disputed land and started to brutally drive off the inhabitants.

The eviction lasted till 21 August 2001. During this time, 2,041 people belonging to 392 families in the villages of Kitemba, Luwunga, Kijunga and Kiryamakobe were affected. The IDPs report that they were forced to leave at gunpoint and that some of them were beaten. "They came without advance warning, fired rifles in the air and hit us", according to 70-year-old Ms. Sidona, who had lived on the land with her family for 30 years. Joseph Balikuddembe says: "The displacement was very brutal. They did not even allow us to return to fetch food left behind."

Several people who were old and/or ill died as a consequence of this treatment and one pregnant woman lost her child. Houses were demolished or burnt. Movable property was looted or destroyed, especially food stores.



Ms Sidona and Mr Balikuddembe

The IDPs report that before the displacement, they had been pursuing the following economic activities:

- Agriculture: Cultivation of cassava, potatoes, bananas, coffee, maize, passion fruits, avocado, pineapples
- Livestock and poultry farming
- Charcoal burning and brick laying
- Beer brewing and alcohol distilling
- Carpentry
- Local trading

The IDPs were also deprived of two schools: the Madudu Kawadisa Primary School was destroyed, and the Kitemba Primary School was taken to serve as Kaweri's headquarters. Six churches were also destroyed: two Catholic, two Pentecostal, one Anglican and one of the Seventh Day Adventists. The loss of their burial grounds was especially hard for those affected.¹²

Box 4: Kaweri and Neumann

The Kaweri Coffee Plantation Ltd. with its headquarters in Kampala is an enterprise of the NKG Tropical Farm Management GmbH, in short Tropical, with headquarters in Zug in Switzerland. Tropical in its turn is a subsidiary of the NKG Farms GmbH, which itself is an enterprise of the Neumann Kaffee Gruppe (NKG) with headquarters in Hamburg. The holding company of the NKG is the Neumann Gruppe GmbH. It is the private property of the Neumann family.

The NKG is one of the leading raw coffee specialists in the world. According to their own data they have a share of 7 per cent of worldwide raw coffee exports and 14 per cent of worldwide coffee imports. In total 46 enterprises in 28 countries are working under the umbrella of the NKG. Each single enterprise functions as independent profit center within the strategic planning of the Neumann Gruppe GmbH.¹³

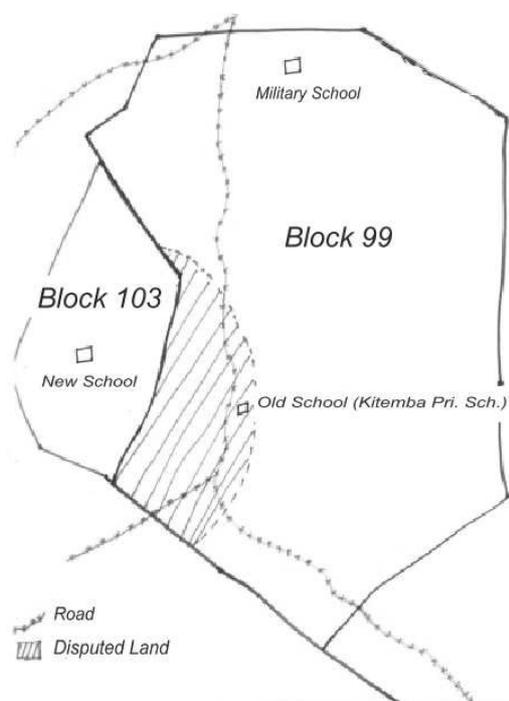
Tropical presents itself as frontrunner with respect to sustainability. On its farm in La Puebla in Mexico it has developed farming sustainability standards in co-operation with the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), the German agency for development co-operation. Due to this sustainability strategy Tropical considers itself to be a frontrunner not only of the coffee sector but also of farming as a whole. "By acting responsible towards the natural and social environment, we want to be seen as a model for other farming businesses. In every activity location we shall be recognised as good business people, offering fair employment and showing respect for the local law and culture."¹⁴

Evicted – But from Whose Land?

The Ugandan government’s adherence to its commitments to Kaweri left nothing to be desired as far as clarity is concerned. In contrast, however, the property ownership question with respect to the area of the Kaweri Plantation is far from clear.

The land in question is Block 99 Buwekula. According to the available documents the first registered proprietor was Michael Kawalya Kaggwa, who purchased the land on 22 June 1964. In 1968 he founded the Kirawula Farm by brutally evicting the resident small farmers. Most of the inhabitants fled to the neighbouring Block 103 (see Map 1 below), which has been registered as the property of one Daudi Ssebbowa since 1912. Apparently, Michael Kawalya Kaggwa took up a mortgage in order to cover the investment costs. But he was murdered in 1972 and thus the land title fell to the bank. After his death numerous people settled on his land.¹⁵

In June 2001, the attorneys Tibamanya Urban Advocates sent a letter to the inhabitants telling them that their client, Emmanuel Kayiwa Bukko, had purchased this land on 29 June 1977 and now sold it to the Ugandan government via the UIA, which had in turn leased it to the NKG, and that the land must now be vacated. At this same time, the land in question was newly surveyed, and a part of the land that had so far been considered to belong to Block 103 was then included in Block 99.¹⁶ Map 1 depicts the area in question.



The area of the plantation and the disputed land
 Source: Banga / Nuwagaba 2002, p. 33.

The inhabitants did not feel immediately threatened by this demand. A large part of them was living on this disputed area and some of them had even bought their land from Daudi Ssebowa. They also felt protected by the constitution and the Land Act of 1998, according to which dispossessions can

1. only be carried out in exchange for compensation, and
2. even illegal occupants may not be displaced against their will after a period of twelve years if within this time the proprietor has not told them to leave the land (“bonafide occupants”).

The attorney’s letter stated that the land must be vacated by 31 August, but during a public meeting on 7 August, the RDC advanced the vacation date to 15 August without giving any explanation. He also stated that bulldozers would be sent to clear the land, an action he effected. As to the question why the land of Daudi Ssebowa was included with Block 99, he replied that the inhabitants should provide evidence that the land in question did indeed belong to him. Hence Peter Kayiira, the headmaster of the local school, went to the land office in Entebbe and found and photocopied a map documenting the land purchase by Daudi Ssebowa. But on his return the photocopy was immediately confiscated by the RDC and there were no further negotiations.¹⁷

Box 5: Uganda – A State Depending on the International Donors

The Western donor countries as well as the IMF and the World Bank praise Uganda as an exemplary African country. They point for example to their policy of economic openness, strong economic growth, and successful fight against HIV/AIDS. The United States in particular sees Uganda as an important regional ally. Accordingly, Uganda is a main target of numerous donor countries’ development policies; Germany is one among them. Uganda receives nearly \$800 million USD in international development assistance each year. This assistance accounts for for 13 per cent of the country’s GNP, half of the state’s budget, and no less than 80 per cent of social spending.¹⁸

Humanitarian Situation and Developments Since the Eviction

The displacement threw those affected into a very dire situation, as a result of which several people died. Even today the right of the IDPs to feed themselves has not been secured.

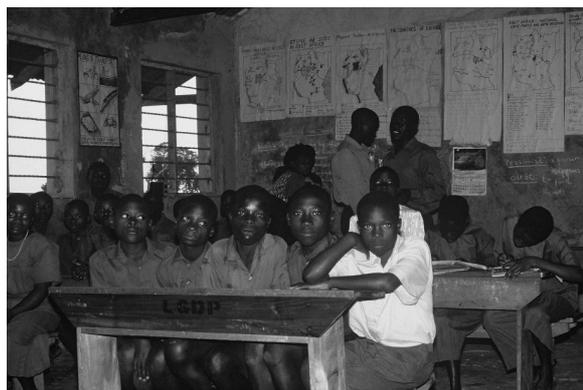
At first, most of the IDPs sought shelter in the neighbouring forest of Kyengeza, where they lived illegally in makeshift homes that did not provide adequate protection from the weather, and where they did not have access to clean water, sanitary facilities, or medical care. The Kiyinda-Mityana Diocese spontaneously provided humanitarian emergency relief, but according to the organisation ActionAid Uganda, which is also supporting the IDPs, still five children died in the immediate aftermath of the displacement.¹⁹

Today most of the IDPs are still living on the borders of the plantation, and it is not certain whether they will be allowed to stay there. They have only small plots of land for farming which are insufficient to provide their families with food for the whole year. "Having no land for us means to have no food", Edith Kobusinge points out. What's more, due to a lack of feed resulting from the displacement, part of their livestock has been destroyed. Therefore some families still live in hunger even today. The whole extent of the damage can best be gauged if one compares today's situation with the one before the displacement. Two researchers from Makerere University at Kampala have conducted a comprehensive study on this issue on behalf of ActionAid Uganda.

For example, before the displacement nearly two thirds of the people were able to get their water from boreholes. Nowadays this is the case for only a fifth of the people, whereas half of them have to rely on unprotected wells. The result has been a high increase in the rate of diarrhoea and similar diseases²⁰

The situation has been compounded by the lack of a health care infrastructure. According to the study, prior to the displacement the IDPs had access to relatively well-stocked private pharmacies, whereas now most of them depend on the public dispensary, which is ten miles away. Consequently, many have turned to self-medication. As a result of the hygienic situation and the lack of health care, death rates have increased significantly.²¹

Schooling has been massively disturbed as well. The children were deprived of a school for one year because it took this long to construct a new building, and during this time, about one third of them decided to quit school altogether. Moreover, the new building's quality is vastly inferior to that of the old one, and due to its smaller size, the school is only able to accommodate five grade levels instead of the previous seven, so that the children are no longer able to graduate there.²²



The new school: A lost year. No graduation.

The traumatising of many people has been significant. The destruction of the village communities has forced many families to break up and spread themselves out amongst relatives outside of the disputed territory. As a result many homes are severely overcrowded and in some instances parents have had to sleep in beds with their adult children, a great taboo in Uganda.²³ Many have turned to alcohol to cope with their upheaval.

Up to today there has been no adequate compensation of the IDPs. Due to the unclear property situation the former landowner Kayiwa maintains that most of them had settled illegally on the land and therefore do not have to be compensated. Yet the land laws are very clear on this issue and recognises both the bonafide and the lawful occupants. But even for the two per cent of the IDPs that were compensated with new land it emerged that this compensation was totally insufficient. They were allocated less land than they had previously possessed and in some instances particular plots were allocated twice. There was no access to clean water or local infrastructure of any kind. Much of the land allocated lies in a forest, but people were prohibited to cut trees.

They also reported that Kayiwa was making continued efforts to repossess the land. Evidently, the IDPs did not get full property rights as compensation but only temporary rights of usage. Due to the extremely bad conditions most of the "compensated" families have therefore left the allocated land.²⁴

In November 2001 Kaweri supported the humanitarian aid by the Kayinda-Mityana Diocese with a donation of the equivalent of 2,000 Euros. They also financed the construction of the new school with 16,000 Euros to compensate for the school they took over and are now using as headquarters. Moreover, they turned to the organisation Habitat International to cooperate with them on improving the IDPs living situation. But the planned training programme has not begun



**Too many people for too few houses:
makeshift shelters.**

yet, as it is still unclear whether the IDPs will be allowed to remain on the land they now occupy. Kaweri has also installed a water pump at the new school, but when FIAN visited the area in late August 2003 we found that the water was contaminated with potentially dangerous concentrations of iron. Kaweri promised to take care of the situation and after a renewed protest by FIAN two months later some engineers visited the site, but the matter still has not been resolved.

While these efforts by Kaweri are positive, in the end they are nothing more than a drop in a bucket. The situation of the IDPs is significantly worse than before the displacement, and the promised socio-economic benefits that the investment was supposed to have created have not yet materialised, either. In fact, it seems as if the right to feed oneself is being violated not only by the displacement but also by the plantation as such.

For instance, many of the workers on the plantation complain about exploitative labour conditions. Only about 10 per cent of the employees are technical staff whereas the vast majority are day labourers. They receive 2,000 Shillings, about 1 USD, per day for a fixed amount of work. If they do not complete it they have to finish it on the next day and thus receive 1 USD for the work of two days. Moreover, many of them have to bring their own tools. Some report that in several instances they had to wait weeks for their wages to be paid.²⁵

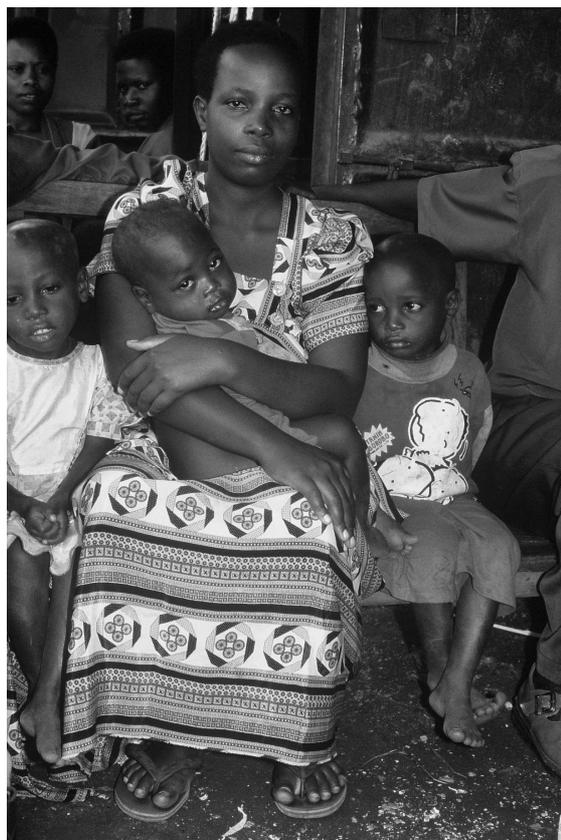
The management claims that these are workers of subcontractors whereas they themselves are always paying the wages on time. They also maintain that the wages are adequate and point to the tea and

sugar sectors where they are even lower. Wages are indeed a general problem in Uganda since due to the political situation the trade unions are very weak and there is no legal minimum wage, either. But the National Union for Plantation and Agricultural Workers (NUPAW) points out that while wages on tea and sugar plantations may be lower, workers there usually receive significantly better social benefits.

Furthermore, it was the Kaweri Plantation itself that made these people dependent on wages in the first place. Prior to the eviction they were able to work independently and had earnings that were significantly higher than the wages they receive now. The study commissioned by Action Aid has determined that there has been a significant reduction of most people's monthly income.²⁶ "The plantation is claimed to have brought development.

I don't see anything of this", Proscovia Kiyingi Nalongo, a mother of seven children, says. "Previously we had everything, today my children are crying because of hunger."

If one considers the world wide coffee crisis, one also has to ask more generally as to how far an investment in the coffee sector can make a contribution to the development of a country and to the realisation of the right to feed oneself. The result will probably rather be that many coffee-producing small farmers will be pushed off the market. Considering that it is the leading exporter in Africa and seventh in the world, one also wonders whether the problems facing Uganda's coffee sector were inadequate volumes of production or rather issues of value addition and marketing.



**"Previously we had everything,
today my children are crying."**

The Struggle of the IDPs

The IDPs have been fighting for their rights with all the political and judicial means at their disposal. They want not only to secure their rights but also to prevent future displacements of this kind. However, all their efforts so far have been in vain.

At first they tried to gain compensation by political means. They turned to parliament, to the Minister for Water, Land and the Environment, to the Minister of Presidency and to the Uganda Human Rights Commission. But instead of receiving support, in January 2003 the headmaster of the school, Peter Kayiira, was threatened on the phone by the Minister of State for Lands. The then Minister of Presidency and today's vice president, Prof. Gilbert Mukenya, promised the establishment of a 10-person committee to resolve the case, which according to the IDPs has yet to be constituted. The Uganda Human Rights Commission has refused to take up the case on the grounds that they are not responsible for land issues.

Finally, the IDPs decided to go to court. However, they first had to find a new attorney since their old one, Mwesigwa Rukutana, had been made a state minister in the finance ministry – possibly a deliberate move to silence an inconvenient troublemaker.²⁷

The plaint was submitted to the court in August 2002 and directed against the Attorney General of Uganda in his capacity as representative of the Ugandan government on the one hand and against Kaweri on the other. The first hearing was supposed to take place on 22 December 2002, but before this date the attorneys for Kaweri, M/s Nangwala, Rezida Company, filed an application demanding that the case should not be pursued until the plaintiffs had furnished securities for the costs of the proceedings since there was reason to believe that they would not be able to cover these costs if they should lose the case. The attorneys also argued that it was in fact likely that the plaintiffs would lose because Kaweri was in a comfortable position: They had become the lessee of the land on 9 November 2001 and registered proprietor on 13 December only, so that evidently the land had already been cleared when it was handed over and Kaweri could not be held responsible for what had happened before.²⁸

But as a matter of fact Museveni commissioned the plantation on 24 August already, so that Kaweri must have been in possession of the land at this point at the latest. If not even earlier, since a letter by Tibamanya Urban Advocates, the attorneys of the former landowner Kayiwa, of 11 June describes the lease as having already taken place.²⁹

Several times the hearing and the decision about the application were postponed on short notice so that the IDPs had to leave empty-handed. This frustration was compounded by the fact that the court is in Kampala and travelling there is very burdensome for the IDPs. In July 2003, the court finally ruled in favour of the application and decided that the plaintiffs had to deposit 20 million Shillings, about 9,000 Euros, within one month. ActionAid raised the sum when the IDPs approached them for support in their search for justice.

When one considers this decision, the silencing of the IDPs' first attorney and the constant rescheduling of the hearings, one has to conclude that this is a deliberate strategy of attrition designed to make the IDPs give up the case.



Demands

The events connected with the Kaweri Plantation can be reconciled with neither the human rights obligations Uganda has committed to in binding international treaties, nor with the high standards proclaimed by the NKG. Therefore, both sides should immediately take steps to remedy the damage and compensate the victims.

Uganda has signed the International Covenants on Civil and Political and on Economic, Social and Cultural Rights. Human Rights do furthermore form part of the Ugandan constitution. Article V and the whole Chapter 4 have the title "Other Human Rights and Freedoms". Article 45 also includes all human rights not explicitly mentioned elsewhere.

With the displacement the Ugandan government has massively violated its human rights obligation to respect, protect and guarantee the right to feed oneself as laid down in Article 11 of the International Covenant on Economic, Social and Cultural Rights. According to the General Comments by the United Nations Committee on Economic, Social and Cultural Rights, "The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement." (UNCES 1999) In the case of the IDPs the Ugandan government has clearly violated this right to access.

Moreover, in its resolution no. 77/1993 the United Nations Human Rights Commission has defined forcible evictions as a serious violation of human rights. It calls on all governments to provide immediate compensation as well as adequate and sufficient shelter or land meeting the wishes of the displaced people. Displacements are especially a violation of the right to habitation laid down in the International Covenant on Economic, Social and Cultural Rights.

The *Neumann Kaffee Gruppe* does also share if not the legal then at least the moral blame for the displacement. Violations of human rights in the course of foreign direct investments are widespread. Therefore, you could expect that such a project will be undertaken with the necessary sensitivity for the potential occurrence of such problems. Moreover, the existence of the previous inhabitants was known to those involved with the project, since during the planning phase the Ugandan consulting company

Gissat Techno Consults Ltd. undertook an environmental and social impact assessment as required by Ugandan law. Among other things, this study found that the land was already inhabited and emphasised the necessity of an orderly resettlement and compensation of these inhabitants.³⁰

In the light of their proclaimed high standards the *Neumann Kaffee Gruppe* would therefore have been obliged to influence the Ugandan government in this direction. Evidently, the Ugandan authorities were so keen on the completion of this deal that they stopped at nothing to literally prepare the field for the coveted investor. But on the other hand this leads to the conclusion that a determined insistence by the *Neumann Kaffee Gruppe* on an orderly procedure would hardly have failed to have the desired effect. And since according to them the leasing agreement was only signed much later, they would also have had the necessary means to put pressure on the Ugandan government, i.e. the threat to withdraw from the investment.

The IDPs have raised a number of demands. Among other things, they insist that the land borders be reopened by an independent entity in order to determine if Block 99 was illegally enlarged with parts from Block 103. If this is the case, which the IDPs are convinced of, they demand the return of this land. At least they want to be adequately compensated for the brutal eviction and to be allocated alternative land. They also demand the construction of new houses and adequate school and health care facilities as well as access to clean water.

The *Neumann Kaffee Gruppe* should practice the high standards they are preaching. They should use their influence to ensure that the claims of the IDPs will be assessed in an orderly and fair procedure. Tactics like demanding financial securities, which are obviously designed to break the resolve of the IDPs, are not compatible with the enterprise's human rights obligations, either. In any case the *Neumann Kaffee Gruppe* is fully responsible for the labour conditions on its plantation. The allegations concerning irregularities and exploitative conditions have to be investigated and immediately rectified if found to be true.

The institutions of German development assistance should also impress on the Ugandan government that the IDPs have to be compensated and that also in general the rule of law must be upheld.

The Work of FIAN

FIAN has occupied itself with this violation of the right to feed oneself from the very beginning. Already towards the end of 2001 it carried out an international emergency action calling on the Ugandan government to provide immediate humanitarian aid, resolve the judicial land dispute, guarantee the return of the IDPs and compensate them. A further emergency action in the summer of 2002 called on the Ugandan government to tackle the exploitative labour conditions on the plantation. But neither the Ugandan government nor the *Neumann Kaffee Gruppe* reacted to these emergency actions. FIAN Germany also addressed several letters directly to the *Neumann Kaffee Gruppe*, but these remained without any reply as well.

In February 2003 the local group in Cologne took up the work on this case. After the background to the case had been researched in more detail, co-author Gertrud Falk travelled to Uganda in August to get a clearer picture of the situation on the ground. This voyage confirmed among other things that the IDPs continue to live in very bad conditions as described in the study commissioned by ActionAid Uganda. The results of this voyage have been included in this dossier.



FIAN Local Group Cologne

Endnotes

¹ Kayuma 2002.

² AA 2003.

³ Foreign & Commonwealth Office 2003, AA 2003, ÖFSE 2002, S. 10f.

⁴ Foreign & Commonwealth Office 2003; AA 2003; Hofer 2002, S. 15; ÖFSE 2002, S. 10f.

⁵ Hofer 2002, S. 16f.

⁶ Hofer 2002, S. 17.

⁷ The term „Washington Consensus“ describes ten policy instruments the international financial institutions and the US government have been imposing on highly indebted countries which wanted to receive financial assistance since the 1980s. They contain an austere fiscal policy, channeling public spending into promising economic sectors, tax reforms to lower the marginal tax rate, liberalising the financial sector, currency exchange rates set at market conditions, liberalising trade, removing barriers to foreign direct investments, deregulating the economy as well as securing property rights (Williamson 1990).

⁸ ÖFSE 2002, S.8.

⁹ UNDP 2003; ÖFSE 2002, S. 13f.

¹⁰ Banga/Nuwagabe 2002, S. 35.

¹¹ Oxfam International 2002, S. 28.

¹² Businge 2001, S. 2, 4f, Kayiira 2001, S. 9f.

¹³ Naumann Kaffee Gruppe 2003.

¹⁴ NKG Tropical Farm Management GmbH 2003.

¹⁵ Kayiira 2001, S. 2f, Businge 2002a, S. 1, Bunga/Nuwagaba 2002, S. 31f, Mwesigwa - Rukutana & Co. Advocates 2001.

¹⁶ Kayiira 2001, S. 5.

¹⁷ Kayiira 2001, S. 5-8.

¹⁸ Foreign & Commonwealth Office 2003; Hofer 2002, S. 7-10.

¹⁹ Businge 2001, S. 1, 5f; Bunga/Nuwagabe 2002, S. 60f.

²⁰ Banga/Nuwagabe 2002, S. 61-64.

²¹ Banga/Nuwagabe 2002, S. 64f.

²² Banga/Nuwagabe 2002, S. 53-56.

²³ Banga/Nuwagabe 2002, S. 57-59, 64.

²⁴ Banga/Nuwagabe 2002, S. 39f.

²⁵ Businge 2002b, S.2, Bunga/Nuwagabe 2002, S. 42f.

²⁶ Banga/Nuwagabe 2002, S. 46f.

²⁷ Businge 2002b, S. 2.

²⁸ Businge 2003a, S.1, Businge 2003b, S. 1.

²⁹ Tibamanya Urban Advocates 2001.

³⁰ Kugonza et al. 2001, S. 39f.

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