

**TERMS OF REFERENCE FOR A HUMAN RIGHTS BASED ANALYSIS
OF THE CONSTITUTIONAL (AMENDMENT) BILL, 2017**

1.1 Introduction

Article 26 of the 1995 Constitution provides that whereas Government enjoys the right to compulsorily acquire property in public interest, no person shall be compulsorily deprived of property without prompt payment of fair and adequate compensation prior to taking possession of the property. The Article further provides for a right of access to a court of law by any person who feels aggrieved by the compulsorily acquisition or the amount offered as compensation.

The Constitutional Amendment Bill 2017, which seeks to amend Article 26, among others, purposes to change this. The proposal aims to grant central and local government power to compulsorily take over any property in public interest without prompt, fair and prior compensation. Essentially, this amendment, if enacted will grant both the central and local government the power to immediately take possession of your property upon depositing the determined amount with the court as they wait for the court process. This will then grant the government permission to go on to do whatsoever and whichever they want while the aggrieved, battles it out in court.

The government has justified this proposal as necessary to mitigate the current problem of delayed implementation of government infrastructure projects due to disputes arising out of the current land acquisition processes. However in a country where about 60 percent of Uganda's population is engaged in agriculture, forestry and fishing¹, the proposed amendment is a threat to the livelihoods of many and a blow to a critical pillar of the 1995 Constitution – the right to own property.

While the proposed amendment has mostly garnered wide criticisms from citizens, the government remains determined to see it and has now resorted to a nationwide campaign aimed at popularizing this proposal. With government officials, currently marred by allegations of less than credible conduct by different land probes and a poor track record of compensation, it is imperative to ask whether this proposed amendment is really in the public interest.

It is upon this background that Chapter Four Uganda seeks to analyze the proposed Constitutional Amendment to Article 26 and the likely impact of the Bill on enjoyment of the right to property and other rights generally.

¹ Report by Government of Uganda found at <http://www.gou.go.ug/content/agriculture>

1.2 Objectives of the study

The key objective of this study will be to assess the possible impact of the proposed Constitutional Amendment to Article 26 and its likely impact on human rights in Uganda. More specifically, the analysis will;

- a. Highlight the contentious issues raised in the Bill and their impact on land rights and other human rights in Uganda
- b. Provide a comparative study with different land laws and how they have worked in neighboring countries.
- c. Assess the current legal regimen regarding compulsory acquisition and compensation and its practical application as well as shortfalls if any.
- d. Give recommendations for improving the current gaps in the law and other land problems in Uganda including but not limited to more efficient compensation and other redress mechanisms among others.

1.3 Methodology

The Consultant will develop a methodology, which covers the key issues of the analysis. A document review including review of the history of the land tenure system in Uganda, different laws pertaining land rights in Uganda, with a comparative study of different land laws in neighboring countries and how they have worked and affected human rights.

The consultant will work hand in hand with staff at Chapter Four who will review and discuss the paper as it progresses.

1.4 Deliverables

The consultant will deliver the following:

- a. A first draft of the analysis which will be subject to feedback from Chapter Four Uganda staff.
- b. A final copy of the analysis addressing feedback.

1.5 Timeline

The Consultant will deliver the final copy of the analysis within one month from signing the contract.

1.6 Administration information

Chapter Four Uganda withholds a 6% withholding tax on the consultant's payable amount.

1.7 Required skills

The Consultant should have a degree in law or any related course. Experience in enforcement of human rights in Uganda, knowledge of international and national laws on land rights and previous work related to land rights issues in Uganda is preferred.

1.8 Address and application

Interested applicants should send a response to the TORs, Budget and CV to the Program Officer on ptwasiima@chapterfouruganda.com and copy to the Finance and Administration Officer on smugisha@chapterfouruganda.com and not later than October 20, 2017.