

**A REPORT OF ACTIVITIES TRANSPARENCY AND
ACCOUNTABILITY ON BUJAGALI DAM
CONSTRUCTION PROJECT**



August 2005

***Prepared by:
National Association of Professional Environmentalists (NAPE)***

***Funded by:
Global Transparency Initiative (GTI)***

1.0. Introduction:

1.1 NAPE and its Work on Bujagali:

NAPE is a fully registered Non-Governmental Organisation (NGO) in Uganda. It was formed in 1997 to lobby and advocate for sustainable use of natural resources in the country. Since its inception, NAPE has been actively involved in environmental lobby activities, with specific emphasis on advocating for sustainable development of the country's energy resources through open and transparent processes. In 1998, NAPE got involved in the Bujagali Dam Project; a project that was marred with a number of unethical behaviours, both from Government of Uganda and Applied Energy Services (AES) - Nile Power (AES-NP). AES a US based energy company was forced to abandon the project in 2003 as a result of our pressure for transparency and demands for them to address key environmental, social and economic concerns. The bad practices in the project among others included corruption, lack of information disclosure and the lack of competitive bidding for the project. Government and the World Bank this year have initiated a process of reviving the project.

NAPE in its advocacy has in the past employed a number of strategies; including litigation and participating in a number of forums; where it has always demanded for good practices in the project and for the project developers to address outstanding social and environmental problems. In 2001, NAPE lodged a claim with the Compliancy Advisor Ombudsman (CAO) of IFC who carried out an investigation on the project. In the same year, NAPE also lodged a separate claim with the Inspection Panel of the World Bank, which carried out investigations and found the Bank to have violated a number of its own policies in pursuance of the project. In addition to these investigations, corruption scandals in the project led to a series of investigations that among others included investigations done by the US Department of Justice (DoJ). Today NAPE continues to play a key role in demanding for transparency in the revived project from Government of Uganda, International Financial Institutions (IFI's) and the project developers.

1.2 The transparency and accountability project.

As a continuation of advocacy and lobbying process, NAPE approached the Global Transparency International, for supporting part of its activities. This report shows the activities nape carried out in the months of July and August 2005 which included analyzing and discussion of the Bujagali project document and dialogue with the project developers and government. Following is the proceedings and outcomes of the workshop both stakeholders and meeting with the developers and government.

2.0. Objectives of the project

- (i) To scrutinize further the contents of the new Bujagali Dam Project technical design and other related documents so as to identify and discuss the likely social, cultural, financial and environmental impacts with stakeholders.
- (ii) To discuss the identified concerns with government and other stakeholders
- (iii) To urge government, IFI's and the project developers to handle the dam development process in an open and transparent manner

3.0 Presentation of the analysis outcomes

3.1 Highlights of the outcomes of the analysis of the project documents

Following the observations from the meeting held by government to discuss the new project design, NAPE hired a consultant to scrutinize and analyse the project design and Environmental Impact Assessment. The findings and other emerging issues were discussed in a multi-stakeholders workshop composed of NGOs, academia and the media.

Mr. Muramuzi Frank
Executive Director, NAPE



The Executive Director of NAPE, Mr. Muramuzi Frank welcomed participants to the meeting and informed them that the meeting was to discuss the outcomes of the analysis of the Bujagali dam documents i.e the project design and Environmental Impact Assessment (EIA) and update the public on the new Bujagali dam saga. He said that the government was reviving the Bujagali dam project and construction is planned to begin in June 2006. He noted that while the Bujagali dam process was in full gear, its proponents had miserably failed to address the outstanding problems and concerns in the project process.

He told participants that NAPE had learnt that calls for bids were made and one hitherto unknown actor in large dam construction industry, the Industrial promoters Service Kenya Limited (IPS) of Aga Khan Foundation was announced by government as the successful bidder to develop the Bujagali dam. The firm is said to be the lending firm in a consortium of six firms. The Executive Director thereafter highlighted the outcomes of the analysis of the Bujagali Dam documents (see annex). Reading an abridged report of the finding, he revealed to the participants that the following issues were specifically analyzed.

1. Tourism issue
2. Resettlement related issues
3. Cultural and spiritual issues
4. The Electricity affordability issue
5. Actual cost of the dam
6. Cumulative impacts of having three dams along the Nile.
7. Cumulative impacts of building a cascade of six dams along the Nile
8. Comprehensive assessment of energy alternatives
9. Hydrology issues
10. The issue of electricity generated
11. The falling water level of Lake Victoria
12. Dam safety
13. Design of the spillways
14. Submerging Bujagali falls
15. Consultations during Bujagali project redesign and update of EIS
16. The presentation of the highlights were followed by discussion of the report which had been distributed to participants days before the meeting.

4.0 Discussion of the analysis findings of the project documents:

Mr. Oweyegha-Afunaduula
Makerere University Lecturer
Deputy coordinator Save Bujagali Crusade



The discussions of the outcomes were led by Mr. Oweyegha-Afunaduula who noted that corruption in energy development projects in Uganda had manifested itself into a fully flagged project of its own. He said that the project process was not right to continue before the project documents were made public.

On electricity consumption, he noted that the Owen Falls Dam (Nalubaale) has been in existence for the last 50 years but surprisingly (98%) of Ugandans do not have access to electricity. He informed participants that Kiira Dam has been around for the last three (3) years, but unfortunately, it had not added any efficiency in electricity supply.

On the issue of energy availability for improved life style, he said that the quality of life of the people is going far away from what is expected. He noted that living conditions had deteriorated due to inefficient supply of power.

4.1 Issues arising from the discussions:

1. Impacts of the Resort Hotel to the community. The participants observed that the resort hotel would have minimal or no impact as compared to the dam.
2. Participants suggested a comparative report of impacts of Karuma and Bujagali dams to the community and natural environment near the project area.

3. Financial support for the dam project. Participants wanted to know whether the World Bank or other IFCs were ready to support the project whose processes was not transparent.
4. Policy on Information Disclosure and Power Purchase Agreement. Participants observed that government was violating its' own constitution that provides for freedom to access of information.
5. Involvement of Ugandan Parliament in the dam issues. Participants wanted to know to what extent the Uganda Parliament is involved in the dam issues.

4.2 Way forward:

The meetings come up with the following resolutions as a way forward and specifically requested NAPE to:

- Disseminate the outcomes and recommendations of the analysis widely including posting it on the web.
- secure the reports on the study done by government and critic them
- conduct a parallel study on the dam safety to ascertain the true problems there is with the dam
- engage the Parliament to raise these issues
- mobilize tax payers to reject government plan to use their money for the development of Bujagali dam project
- hold a dialogue with the potential funding agencies for Bujagali dam project to request them not to support the project since the process was not transparent

5.0 Consultative Meetings with Government and the developer

Meeting between NAPE and Aga Khan Industrial Promotions Services (IPS) over Bujagali, Kampala on 8th September 2005

On 8th September 2005, NAPE had a call from Dr. Kevin K. Kariuki head of Infrastructure, at IPS, Kenya and Dr. Luka Agwe, the Chief Executive of EMA consult in Uganda inviting NAPE for a meeting over Bujagali Dam Project.

EMA Consult is the company who did the EIA for Nyagaka Hydropower Dam in Northern Uganda which is being developed by Aga Khan's IPS.

At short notice NAPE agreed to meet them at Grand Imperial Hotel in Kampala.

The following transpired:

Submission from Dr. Kariuki of IPS in response to NAPE questions.

- (i) That PPA is in an advanced stage of being signed but that it would go to Parliament for approval. It would be to government to decide whether public would be involved or not.
- (ii) That procurement for dam contractors was also in advanced stage. So far 37 applications from leading contractors around the world had been received by IPS. They are from China (those who are building the Gorges Dam), Italy, USA, India, etc.
- (iii) That a new EIA would be done by IPS after signing the PPA and that the new EIA would have to comply with NEMA and World Bank guidelines. (This idea of doing a new EIA contradicts government's official position that EIA is already done.)
- (iv) That IPS has no experience in dam construction but has the money and would work in partnership with Sithe of USA who have technical expertise in dam construction.
- (v) That for IPS, it is different from AES because for them (IPS) they underwent a competitive bidding exercise in which they emerged best bidder. AES never went through a competitive bidding.
- (vi) That IPS can't state the final tariff unlike AES because for IPS everything would be determined after signing the PPA and how soon the project takes off. He further said that the longer time the project takes to take off, the higher the tariffs would become.
- (vii) That IPS would approach World Bank, IFC and European Investment Bank
- (viii) In European Investment Bank, Aga Khan has a 100% concession and it has agreed to contribute the larger component of the loan.
- (ix) That they are rushing to reach the financial closure by the end of this year (2005) and that the project should begin by August 2006.
- (x) That NAPE should not be confrontational in the Bujagali engagement.
- (xi) That the Bujagali project is a purely private undertaking in which government would put no money. (NAPE reminded them that government in this year's budget had allocated money for Bujagali) and observed that this contradicts the government position that this is a public-private undertaking.

Some of the issues/concerns NAPE raised

- i. How different is Aga Khan from AES in the Bujagali project process.
- ii. What partnership does IPS have with government in developing the project? Is it a public-private undertaking or it is purely private?
- iii. Is IPS going to carry out a new EIA or they are to use AES's EIA.
- iv. Is IPS going to make the PPA public since the Uganda High Court ruled that the PPA is a public document over which we can sue in case it is not made public.
- v. Is IPS aware of the outstanding issues in the Bujagali dam process and do they have the plans to resolve them? Which are those plans?
- vi. Whether they had or are going to carry out the cost benefit analysis of the project to determine the viability of the project in relation to alternatives.
- vii. Asked them whether they are aware of the Prayas analysis of the PPA for Bujagali.
- viii. Asked IPS to let NAPE know to what extent they are going to incorporate the WCD guidelines/recommendations into the development of the project

NAPE's observations and the implications of the meeting

- NAPE's intervention seems to be re-directing the project process.
- The project still has a long way before it can start.
- In view of the new revelations, NAPE thinks it has a big role to play which it needed to start strategizing for.

5.1 Meeting with The Parliamentary Committee on National Economy (PCNE), Parliament Of Uganda On 18th August At

Members present;

- | | |
|--|---------------------------|
| 1. Mr. Muramuzi Frank | NAPE (Executive Director) |
| 2. Mr. Kamese Geoffrey | NAPE |
| 3. Mr. Tabaro Denis | NAPE |
| 4. Prof. Oweyegha-Afunaduula | NAPE |
| 5. Ms Ainembabazi Annie | NAPE |
| 6. Hon. Nandala Mafabi Nathan. | MP - Chairperson PCNE |
| 7. Hon Geoffrey Ekanya | MP |
| 8. Hon Kabakumba Masiko | MP |
| 9. Hon Banyenzaki Henry | MP |
| 10. Hon Salaam Musumba | MP |
| 11. Hon Rev Mukasa Bakuba | PCNE |
| 12. Mr. J B Kagoro (secretary) to the PCNE | |

Agenda:

- Welcome and opening remarks by the Chairperson PCNE.
- Presentation by the Executive Director NAPE.

The chairman.

- Welcomed all the members present and requested each one to introduce themselves.
- Informed members that he had received a letter from NAPE that they had some important issues to address the committee, He said that since such issues fall under the parliamentary committee, it was necessary for the committee to meet NAPE.
- He asked the Executive Director NAPE to address the meeting regarding the Bujagali dam construction.

Communication from the Executive Director NAPE.

- The Director welcomed members present.
- He thanked the chairman of the committee for giving them the chance to meet the committee despite their tight schedule
- He said that the Bujagali issue was up again and a new developer had been selected and therefore there was need to brief the committee on some important issues related to new plans to revive the dam construction

Referring to a document prepared by NAPE, the Executive Director raised the following issues to be addressed by government.

Issues to address:

- The power purchase agreement (PPA) being signed with out parliamentary scrutiny and approval
- The proposed use of National Social Security Fund (NSSF) money to fund the Bujagali dam.
- The dam safety issues.
- Failure to carry out an Environmental Impact Assessment (EIA) by the new developer.
- The opportunity cost at Bujagali
- The issue of Power affordability by consumers which is very critical to the survival of the Bujagali hydropower facility..
- The inconsistent costs of the Bujagali dam project

5.2 Matters arising from the presentation from NAPE

Remarks by Hon Ekanya Geoffrey (MP)

- Thanked NAPE for the good presentation
- Said that NSSF is free to invest in any adventure as long as it is profitable, and suggested that the committee contacts the management of NSSF to see their plan on this matter.
- On the safety of the dam, he said that the government had employed the committee to study the gravity of the problem and need to contact the Ministry of Energy for the report.

- He agreed that the PPA has to be presented to the government before it is signed. He assured NAPE that as a committee they will ensure that a proper E.I.A is carried out.

Remarks by Hon Banyenzaki Henry (MP)

- He said that there was need to know the results of the study done on Owen falls dam, regarding the cracking and the water level fall.
- He appreciated the recommendations made by NAPE but requested them to state them clearly.

Remarks by Hon Kabakumba Masiko (MP)

- Thanked the team from NAPE for the concern on National issues and, suggested that the committee meets with the Parliamentary National Resource Committee to see how to handle the situation.

Remarks by Hon Salaamu Musumba (MP)

- Thanked NAPE for the good work.
- Agreed that there were open cracks on the old dam which is a major concern to the parliament, the public and the government.
- Emphasized that the parliament should immediately request for the PPA
- Insisted the need for the new E.I.A for the new project.
- Warned that any investor should know that any thing done outside the normal procedure provided by the government would be null and void
- Reminded NAPE to address the press on its meeting with the committee.

Out comes of the meeting

The meeting agreed on the following:

- The National Committee on Economy to meet with the Natural Resource Committee to see how to handle the situation.
- The National Committee on Economy to propose a day to visit the old dam and see the gravity of the matter regarding the reported problems.
- Need to have a press briefing on the issues that have been discussed in the meeting.
- Need for further investigation on the issue of NSSF money.
- The government to release the report on the study of Nalubale dam
- The committee to demand the parliament for the PPA before it is signed.

6.3 Consultative meeting held with Members of Parliament on Bujagali concerns at Sheraton Hotel, Kampala on 12th Aug 2005.

Agenda:

- Communication from NAPE.
- Reaction and comments by members of parliament.

Members Present.

1. Mr. Muramuzi Frank - NAPE
2. Hon Ken Lukyamuzi - NAPE
3. Hon Salaamu Musumba - NAPE
4. Mr. Mwandha Moses - NAPE
5. Miss Ainembabazi Annie - NAPE

1. Communication from the chair.

The Chairman welcomed members of parliament present for honouring the meeting. He thanked the Honourables for the support on the Bujagali matter. He said that there were urgent issues that had come up which he felt he should share with them and went on to elaborate as follows;

- Bujagali had got a new developer by the names of Aga Khan.
- The PPA document was in its last stages of being signed before even the parliament looked at it.
- The public had been kept behind in all these issues.
- He also said that he had learnt that the government had contracted divers from UK to come and study the water levels of the old Owen Falls Dam and the results showed that the dam was cracking and this would affect Bujagali dam if it was not first dealt with. Instead of the government first addressing the issue of Owen Falls Dam, it wants to go to Bujagali dam straight away. He asked the Honorable their views and the way forward.

2. Communication from Hon Ken Lukyamuzi

He thanked NAPE for the work it was doing and for the spirit of not giving up especially in these difficult times. He said that he was going to mobilize other MPs to join the struggle to save Bujagali.

3. Communication from Hon Salaamu Musumba.

She thanked NAPE for the work it was doing and asked NAPE to get the following if it was to do things very first and in a systematic way.

- NAPE needs to get relevant documents on the issues to assist in mobilizing other members of parliament

- The Executive Director, Mr. Frank Muramuzi, to get a day after securing the documents to address the Parliamentary Committee on National Economy of 15 members and the issues to present to members should be the procedure of the dam building, why is the PPA in secrecy and the reason as to why it had not been to parliament for a discussion.
- There was need to go to the Registrar of Companies to find out who Aga khan is, the location of its offices, what it registered to do in this country and what its range of activities were, and also;
- Look at the code of conduct especially in countries like Malaysia and also an industrial promotion services in Kenya and who the promoters were.
- Read its leadership code and promoters and find out if it was incorporated here and who are the promoters.
- Make a petition in a more professional and concise way.
- There was need to link up with the ACODE to see how NAPE can work with them and get literature from them.
- Need to improvise means of getting the PPA copy.
- Need to get out side contacts for example commonwealth countries that would support NAPE in this issue.

4. **Resolution of the meeting:**

The meeting agreed that Mr. Muramuzi Frank should organize a meeting with the Parliamentary Committee on National Economy and brief them on the issues at hand by first getting all the relevant documents.