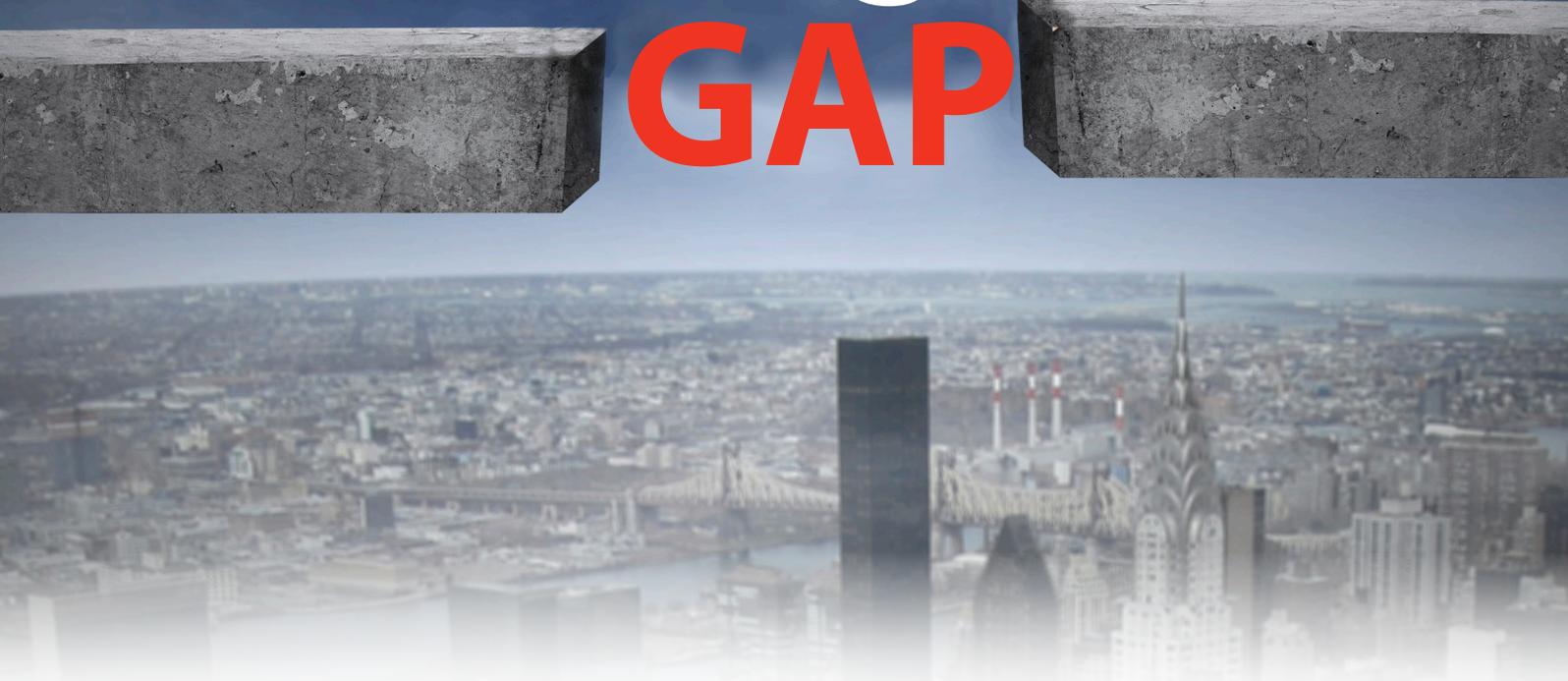




Closing the GAP



Addressing the conflicting goals facing infrastructure development in Uganda

BY RICHARD MUNGATI

For any emerging economy, transportation and energy infrastructure is a major driver of economic development. Uganda, a small country in eastern Africa, has seen a robust increase in infrastructure development in the last decade, as evidenced in road improvements, power extension to rural areas, and the standard gauge railway. New power plants, energy infrastructure and railways are planned, and the oil and gas industry is already set for production in 2017. For the right of way professional, this is very good news! However, not all is smooth sailing.

Conflicting Policies and Guidelines

At the heart of infrastructure development is the need for land, which makes land acquisition inevitable. Our legal framework governing land acquisition is enshrined in the 1995 Constitution of the Republic of Uganda and The Land Act of 1998. However, international best practice has punched holes in this framework, which begs closure. For example, when a road project traverses a residential property, the local framework simply provides payment to replace the building. Conversely, the international best practice on involuntary resettlement—as stated in the World Bank policy guidelines and the International Finance Corporation performance standards—suggests that compensation be in the form of a resettlement house rather than a cash payment. It also recommends additional assistance be provided, such as a moving allowance, or if income was generated from the land, that the occupant’s livelihood is restored.

Although not provided for in any legislation, the Chief Government Valuer must approve all valuation reports for land acquisition. So while efforts are being made to close the gaps in our guidelines, the approving entity is a civil servant who is also responsible for saving money for the government. Clearly, these two tasks are in direct conflict!

We also face contradictory legislation on land acquisition. For example, the provisions of the Constitution on Land Acquisition provides for a person’s right to own property. This contradicts the 1998 Land Act, which gives the government the power to use compulsory acquisition when negotiations fail. And the mother of all challenges is speculation by the general public.

Furthermore, for economies like Uganda, it is not possible to discuss challenges without having corruption rear its ugly head. I was recently appointed to a committee to investigate allegations of corruption and abuse by the Uganda National Roads Authority. And the alleged events will leave you wondering how a poor country like ours actually manages to make any headway in infrastructure development with all the monies lost in shoddy work, misappropriation and, mostly, a lack of punishment for those breaking the law. Unfortunately, the right of way professional seems to get stuck right in the middle.

Making Progress

There was once a time when the Uganda government did not negotiate with property owners. Rather, it just moved in and built whatever infrastructure it needed to build. In fact, some legislation like the Water Act still states that the land needed for the water pipes will not be paid for. A familiar situation comes to mind where a potentially affected person without any developments on the

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land makes claim to the developments he has planned for the site, and thus alleges business losses. And then there is the unprecedented case in the oil region of the Albertine Graben where one man has titled off an entire village—very strategic speculation, as most of the well pads were located in this village.

Like other emerging economies, our right of way professionals are not as diverse as in other countries. The practice is mostly embodied in the valuer/appraiser, sociologist, lawyer and environmentalist who are faced with a litany of challenges. And we still have aspects of right of way that are being developed. Only recently, I had to develop a methodology detailing the assessment parameters for road drainage channels and culverts. It turns out that previously, roads had been constructed and drained without any location specifications.

A Future Vision

So you may be wondering whether the right of way of profession has made progress in Uganda. The answer is yes! We have come a long way, especially in the approval process. At one time, it required six months or more to obtain approval from the Chief Government Valuer so that we could pay affected stakeholders. Today, we are able to obtain approval within a week.

In the face of our persistent and emerging challenges, we want to be able to look back and say, “We have come a long way.” So what is our plan moving forward?

For one, we need a concerted effort on this front from all stakeholders, particularly the government and other key players. We are confident that legislative reforms will go a long way in addressing the gaps, and we are already seeing some progress on this front. It was an important milestone when the Supreme Court recently ruled against the government’s possession of project-affected property before paying for it, and citing that the powers to compulsorily acquire land contradict a person’s constitutional right to own property.

We also see a need to advance the right of way profession in our country, and the most effective way to do that is to create an IRWA Chapter in Uganda. Having had the opportunity to attend IRWA’s 2015 International Education Conference in San Diego, I am convinced that our local profession would benefit much from what IRWA has to offer. 🌟



Once completed, Uganda will receive 50 percent of its power from the Karuma hydropower project, a mega-project estimated at \$65 million.



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