

Investigation Report

Alleged Gender-Based Violence and Harassment Cases and an Analysis of Safeguarding Mechanism Related to Rwenzori Hydro Nyamagasani I (15MW) and Nyamagasani II (6MW) Hydro-Power Projects

Executive Summary

Submitted to
Rwenzori Hydro (PVT) Limited and
Nyamagasani 2 HPP Limited

By Consortium of Consultants

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EXECUTIVE SUMMARY

ES1: Background

Between 2017 and 2021, Rwenzori Hydro (Private) Limited and Nyamagasani 2 HPP Limited (the Project Companies) developed the 15MW and 6MW hydropower projects in Kyarumba and Kyondo sub-counties, Kasese District Western Uganda. The projects were developed with funding from Frontier Energy, a Danish private equity fund based on IFC Performance Standards and World Bank EHS Guidelines, and constructed by the EPC contractor, VS Hydro Uganda Limited (VS Hydro).

At the peak of the projects, VS Hydro had about 800 employees, 95% of whom were Ugandans (mostly from the local area) and 5% were foreigners, mainly from Sri Lanka. Rwenzori Hydro (Private) Limited had 29 employees, and Nyamagasani 2 HPP Limited had 25 employees, all based in the project area.

In May 2023 the Project Companies through their Social Safeguards Manager, became aware of a group of women claiming that they bore children whose fathers were employees of the contractor and that the fathers had abandoned their parental obligations. It later emerged that a local leader had submitted a list of 26 names of single mothers in 2021 to the then Community Liaison Officer of the Project Companies who did not submit the list to the management of the project companies for further action. Local and international media also published the incidents, during various times in 2023 giving various numbers of pregnancies between 31 to 34. The Reverend Father of the Kyarumba Catholic church also submitted request for support in November 2023 to the project lender and Project Company representatives, which contained multiple requests including support for young mothers who had allegedly become pregnant through interaction with VS Hydro workers.

Upon learning about the issue in 2023, representatives of the Project Companies initiated a series of engagements with local leaders as well as the then-identified affected women. After the first engagements, it was concluded that the complexity and scope of the investigation necessitated external expert advice. In early 2024, a team of gender and GBV experts was therefore engaged by the project companies to investigate and make recommendations in respect of the identified cases as well as in respect of policies and procedures. This report is the outcome of that work.

ES2: Objectives and scope of the investigation

- a) To understand/validate the nature of relationships between the alleged survivors and the Subjects of Complaint (SOCs) as the basis of the allegations, and analyze whether there was any breach of the local laws, company policies and guidelines, and international guidelines
- b) To establish the impact of the relationships on the alleged survivors, and their families,
- c) To propose actionable recommendations on the management of the allegation.
- d) To examine SEAH/GBVH and support mechanisms (protection and safeguarding practices) by the Project companies,

- e) To evaluate the Project companies' compliance with the legal and policy framework on SEAH/GBVH, and
- f) To suggest recommendations to address the gaps in the project companies' SEAH/GBVH Mechanisms.

ES3: Investigation methodology and approach

The Investigations team considered the complaint letter (dated 7 July 2021), the Catholic church request letter dated 29 November 2023, the media reports, and information provided by the Project Companies and VS Hydro as the basis for the investigations.

The investigation adopted a survivor-centered approach, by keeping the alleged survivors at the forefront of all actions, providing a supportive environment, and empowering the alleged survivors to have a say. The Investigation team was cognizant of the potential effect of the investigation process on the alleged survivors and thus established safety measures, including providing the contact details of the area community development officer for immediate support in case of need.

The investigation was conducted on two fronts. Firstly, to verify the allegations of GBV, SEAH, and child neglect through personal interactions with each of the alleged survivors (women/girls) and their witnesses if any. Secondly, to assess the Project Companies' policies, guidelines, and contractual documents such as the Environmental and Social Impact Assessment (ESIA) Reports, Environmental and Social Monitoring Reports done by NEMA accredited consultants, and supervisory reports done by the environment and social technical advisors by the projects lenders, Community Development Action Plans (CDAP), Grievance Response Mechanism, and internal Human Resource Policy against international and national legal and policy standards on GBV and SEAH. The two fronts were complemented by interactions with selected community leaders and the project companies' staff to understand the efficiency of the gender-based violence (GBV) and sexual exploitation, abuse, and harassment (SEAH) response mechanisms.

ES4: Document Review

A literature review was conducted to identify project companies GBV/SEAH safeguarding frameworks and position on GBV/SEAH safeguarding as the yardstick for the investigation, and to evaluate project companies GBV/SEAH safeguarding frameworks against legal requirements and best practices, to identify areas of strength and opportunities for improvement. The review included an analysis of existing documents, including the legal and policy frameworks related to GBV, children's rights, and sexual exploitation, abuse, and harassment (SEAH) in the workplace and the project companies' internal policies and guidelines.

Overall, the literature review provided a foundation and insights into standards and procedures that were put in place by both the Project Companies and VS Hydro.

The following Project Company safeguard documents were reviewed amongst others:

- a) Code of conduct for both Rwenzori Hydro Limited and Nyamagasani 2 Hydropower Limited.
- b) Environment and Social Assessment Reports for the projects
- c) Environmental and Social Audits for the projects

- d) Labour Management Plan for the projects
- e) Grievance Redress Mechanism procedures for the two projects
- f) Environmental and Social Monitoring Plan during the construction phase
- g) Supervisory reports by the Lender Environmental and Social Technical advisors
- h) Sample monthly and environmental social reports during construction phase
- i) Sample Community sensitization meeting minutes, including HIV sensitization, and Health and Safety sensitization in schools
- j) Sample Hospital disease surveillance reports,
- k) EPC Contracts between Project Companies and VS Hydro
- l) Records of provision of contraceptives
- m) VS Hydro Employees Handbook,
- n) VS Hydro management plans, list of workers and monthly reports
- o) Employment Records N1 N2
- p) Workers Grievance Log N1&2 SHPP June 2021
- q) Nyamasgani Incident report 2024

ES5: Field visits and tracing of the Survivors

The Investigation team visited the project area in Kasese District thrice, in March, April, and May 2024. Field visits involved the following:

Tracing of the Survivors and Witnesses

The investigations team was discretely led to some alleged survivors, who had identified themselves as group leaders. The group leaders guided the team to the other members or their parents/guardians' residences, and their particulars were validated against those contained in the letter of complaint and the list shared by the Project Companies. One person would lead to another, until all on the list, except those not known in the community, was exhausted.

The investigation team worked with the alleged survivor's parents/guardians to establish the whereabouts and contacts of their children who had moved out of the Kyarumba and Kyondo communities. A minimum of 2 -3 visits were made before the team could reach the intended alleged survivors.

Interviews with the Stakeholders, survivors, and witnesses

These were mainly face-to-face semi-structured individual interviews, mostly held in Kyarumba, and Kyondo Sub counties, Kasese town, Bwera, Kilembe, and Kampala. In a limited number of cases, the Investigation team conducted phone interviews with survivors in instances where personal interviews could not be achieved.

Key informant interviews with selected Stakeholders and Project Companies' Staff

Key informant interviews were conducted with both legal and moral duty bearers and other stakeholders. These included Police officers, religious leaders, community leaders, members of the Community and District Grievance Management Committees, VS Hydro employees, and the project companies' staff.

ES6: Limitations of the investigations

Loss of evidence

The loss of evidence when a local leader submitted a list of 26 names of single mothers in July 2021 to the then project community liaison officer of the project companies and March 2024 the time of the expert investigation led to the loss of critical and relevant evidence. Most survivors have since lost their phones, thus losing the SOCs' contacts and evidence of their communications, including mobile money transactions. This significant delay represents a missed opportunity for prompt action.

Difficulties in tracing alleged survivors and witnesses.

Some alleged survivors relocated from Kyarumba and Kyondo sub-counties to various places across the country, and in one case, out of the country in search of employment opportunities. This made it difficult or impossible to trace and locate them. To manage this challenge, the Investigation team explored the use of digital interviews.

Inability to trace some alleged survivors or witnesses.

While some alleged survivors could be reached via telephone calls, others lacked direct contact information, making it challenging to trace their whereabouts for interviews. On the other hand, some survivors were completely unknown within the communities and could not be traced. Consequently, the investigation team was unable to locate five alleged survivors.

Non interaction with the SOCs

The investigations team did not interact with the subjects of the complaint (SOCs), and thus, the allegations have not been put to them for their response. This is because the mandate to provide conclusive legal remedies lies with the state and interaction with the SOCs at this stage could have compromised the safety of Survivors or lead to interference with the evidence. On the other hand, however, since the responsibility to remedy SEAH cases lies with the Project Companies and VS Hydro, and it would have been prudent for the Investigations team to interact with the SOCs and verify the allegations, this was not achievable

VS Hydro reviewed the names of alleged SOC's and only 19 names matched the employee names. The Employee files (including those of the SOCs) are reported as destroyed since the construction phase ended, and therefore the VS Hydro could not find the contacts, and or next of kins of the employees whose names matched the employee list. This notwithstanding, the information contained in the Survivors' and witnesses' narratives provides a sufficient basis¹ for the conclusions and the implementation of the recommendations made.

Generally, the investigation team established that with the construction phase's end, most SOCs no longer had contractual obligations with VS Hydro. It should also be noted that some SOCs' details as provided by the alleged survivors did not match the VS Hydro and Project Companies staff lists.

¹ On the standard of balance of probabilities in such an administrative investigation.

ES7: Context of the GBV and SEAH situation in the Project area

Key gender equality issues in Uganda include disparities in access to education and employment opportunities, unequal participation in decision-making processes, gender-based violence including child marriage, child sexual abuse and domestic abuse, limited access to healthcare and reproductive rights, and cultural norms that perpetuate gender stereotypes and discrimination. Despite legislative efforts to promote gender equality, progress remains slow at the community and household level, leading to gender disparities in various aspects of life.

Kyarumba and Kyondo sub-counties, like many communities in Uganda, are characterized by severe gender discrimination practices and pervasive poverty. These conditions create varying levels of vulnerability among marginalized/discriminated individuals, and groups and hence significantly increase the risk of Gender-Based Violence, Sexual Exploitation and abuse, poor access to social services, and negatively impacting general development outcomes. The prevalence of GBV is particularly pronounced in Kasese, Kyarumba, and Kyondo sub-counties characterized by visible gender disparities across life domains, governance and participation, access, and control to resources, and division of labour among others.

Demography

Kyarumba and Kyondo sub-counties in Bukonzo East Constituency, Kasese District, Western Uganda, have populations of 42,195 and 27,400, respectively, according to the 2014 Census. The gender distribution is 48.2% male and 51.8% female. Over 56% of the population is under 18 years old, with the Bakonjo as the main ethnic group, alongside Bakiga, Basongora, Banyankole, Banyoro, Banyabindi, and Batooro.

Health and Gender

The number of deliveries as extracted from Integrated Maternity Register BWER A H/C IV, for mothers between ages 15 -19 years over the years indicates a growing trend in teenage pregnancies, 66 in 2020, 187 in 2021, 193 in 2022, 183 in 2023. From this data there is no apparent correlation between teenage pregnancies recorded and the project construction activities which ended in 2021. This is just one of the facilities out of the 3-4 health facilities that serve the area. Data on HIV/AIDS and STDs could not be accessed.

Kasese district is noted to register high cases of GBV. Kasese is one of the three districts in Uganda with the highest GBV prevalence. The Uganda Demographic Health Survey (UDHS) 2022 indicates that 20% of married women and girls aged 15-59 in Kasese district experience physical, sexual, or psychological violence, with the highest prevalence among ever-married women and girls aged 15-19 at 26%.

Teenage Pregnancy

In Uganda approximately 25% of teenage girls become pregnant (UDHS 2022), a proportion that ranks Uganda higher than the other East African countries. Child marriages are a critical concern in Kasese district.

Teenage pregnancies and Gender Based violence cases worsened in the years 2020 – 2023 due to the COVID-19 pandemic. (UNFPA, 2021). All economic and social activities were closed in to prevent further infections. Schools in Uganda remained closed from early 2020 for a year, while

other activities opened gradually. Approximately 355,000 teenage pregnancies were reported in 2020, and 196,500 were reported during the first six months of 2021 (UNFPA, 2021). Secondary data from media and police reports indicate that the COVID-19 pandemic increased the involvement of teenagers in unprotected sexual intercourse, giving rise to teenage pregnancies.

ES 8: Findings of the Investigation

ES 8.1 Cases successfully traced

Case Tracing. Out of 51 cases that were identified, the investigation team traced 41 cases directly and 5 through parents/guardians totalling to 46 traced cases. In 5 of the 46 cases,

- 2 did not present any form of abuse, and
- 1 case is not related to the project.
- 2 alleged survivors were not found.

In the remaining 41 cases some level of GBV/SEAH may have occurred.

5 of the 51 alleged survivors or their families could not be found/traced. The untraced alleged survivors were not known in the community, and efforts to locate them through community members and some complainants were not productive.

ES 8.2: Relationships of Subjects of Complaints (SOCs) to the Project

The investigation found that 28 out of 46 subjects of complaint (SOCs) names match employees' records of VS Hydro, its sub-contractors, or its security personnel at the sites as follows:

- 19 cases with names and work details confirmed to be former EPC contractor VS Hydro staff.
- 9 cases with names and work details confirmed to be employees of the security company G4S hired by VS Hydro.
- 27 SOC's were identified as Uganda Citizens, and 1 SOC was Sri Lankan Citizen.

The other cases are as described below:

- 15 cases names could not be matched to any of the companies that worked at the project. It is reported that the survivors or their parents/guardians mentioned these individuals as project employees referred to as 'Ba-sirilanka' or Nyam workers, and in some cases the said SOC's full names were not known to the survivors, making it difficult to confirm whether the said SOC's were employees of any of the companies.
- 2 cases are Uganda Peoples Defense Force personnel that were deployed near the sites.
- 1 case allegedly arose in 2023, involving a member of the electricity transmission line construction team in Kitabu sub-county, unrelated to the Nyam projects.

Project companies' (Rwenzori and Nyamagasani 2) staff list from the project areas was provided and analysed, and none of the names of the staff matched the SOC's mentioned by the survivors. In conclusion, none of the 46 cases involves anybody directly employed by the Project Companies.

ES 8.3 Nature of abuse from the investigation

Child sexual exploitation and abuse (Defilement)

The findings indicate that it is more likely that 10 of the survivors were below the age of consent at the time they engaged with the SOC's and birthed children, amounting to child sexual exploitation and abuse. Such incidences of sexual relations with a minor could also amount to the criminal offense of defilement under Ugandan law.

Psychological and economic neglect (GBV)

It is a finding of the investigation that in 24 cases, survivors likely experienced general GBV in the form of psychosocial, emotional, and economic neglect. Generally, the relationships started as consensual relationships. However, upon discovery or knowledge that the Survivors were pregnant, some of the SOC's abandoned their jobs with the project, the relationships, cut off communication, and even switched off the phones. The survivors remained psychosocial, emotional, and economically affected and unable to support the children.

Sexual exploitation and abuse and harassment (SEAH)

The investigation reveals that in two (2) cases, survivors experienced SEAH in the context of work. One case identified manifest as superior junior relationship, and the other case transaction sex for employment, while three (3) cases identified the SOC's exploited the survivors lack of knowledge on the recruitment process and vulnerability and were therefore duped into sexual relationships with the promise of employment, which was never fulfilled.

Child Neglect

All **41 cases** depict element of child neglect, of which:

- 2 children are neglected by both the fathers and mothers,
- And in 1, the SOC family denied paternity – they rejected the survivor on grounds that the child did not belong to the family.
- Most of the children are in the custody of the grandparents (either alone or jointly with the mother) who are bearing the economic and social burden of care and parenting.

ES9: Reporting of the incidence

The investigation found that whereas defilement is a crime in Uganda, only one of the survivor's parents reported to the Police, the state agency responsible for investigating the crime. Indeed, none of the survivors expressed interest in pursuing criminal investigations against the SOC's as part of the remedies sought. Instead, they are more concerned about their economic well-being and that of their children born out of the relationships.

It is a finding of the investigation that a good number of survivors or their guardians alleged to may have reported their predicament in relation to the allegation either to the mayor, local council leadership, Project offices, and a few to sub-county leadership, and not to the police. None of the cases investigated indicated to have reported to the grievance redress management committee (GRMC).

ES10: Remedies sought by the survivors and their families

In 25 cases, survivors or their parents/guardians sought support to trace the fathers of children born from these relationships. The survivors sought support in tracing the alleged fathers for paternal belonging. Connection to the father's family is entrenched in patriarchy; communities in Uganda (and perhaps the world over) tag identity, including child naming through the father. Second, was the desire for the fathers to provide child support – child maintenance. Some expressed the need for the fathers to provide school fees and medical care for their children. On the other hand, some survivors expressed their pledge to care for their children (meet all costs of parenting) so long as these children knew their fathers, and their places of origin. Such expressions are an indication that paternal belonging for the children born to the SOCs was the priority need.

Livelihood restoration remedies sought included requests for support with

- a. Income-generating activities (to provide for the children, especially the boys who are culturally expected to own land),
- b. Skilling opportunities, and
- c. Support to continue with education.

ES 11: Challenges faced in reporting GBV/SEAH Cases

Social Complexity

GBV occurs not only in intimate relationships but also within families, communities, and workplaces. Social structures and processes reinforce its occurrence. Fear of shame and backlash is the fact known worldwide to undermine GBV reporting. The society and as cultural practice have generally accepted early marriages, and teenage pregnancies as norm.

Ignorance of the law

The lack of knowledge of the GBV-related laws is equally exhibited by most stakeholders who received individual complaints in the community. According to the Parent Survivors' narratives, some community leaders and politicians instead blamed them for not safeguarding their daughters and advised them to care-take of their daughters.

Inefficiency of some GBV Actors

Despite the existence of government structures and offices for GBV services, they are characterized by inefficiencies caused by inadequate capacity - understaffing, heavy workload, and lack of proper facilitation, skills, and tools of work, or GBV is not an area of interest. Police and CDO offices who are supposed to be the main government actor's offices were characterized by lack of resources to manage GBV cases. They even in most cases will ask the person who has reported to meet the costs of investigation, arrest, or keeping the alleged perpetrator in police cells during court processes. This is difficult as the victim becomes the hunted.

Both the District and Community-based GRMCs did not understand issues to do with GBV and SEAH issues, as there was no training that covered these issues, apart from training to do with review of grievances related to land and compensation.

ES 12: Recommendations

A. General Recommendations

1. The Project Companies should undertake the following, given that the early marriages, teenage pregnancies are rampant within the project area of influence:
 - a. Collaborating with Kasese district local government and an identified CSO GBV actor to execute a 2 to 3-year GBV response initiative aimed at addressing the community challenge of GBV, child marriages, and teenage pregnancies, and the related social and economic empowerment needs of Kyarumba and Kyondo communities, targeting the alleged survivors as priority beneficiaries., this could fit the project companies CSR actions (address this specific case issue as well broader community challenge of GBV and Child marriages, pregnancies) (CSOs like Reach a hand, UGANET, ACCORD are strong CSO GBV actors that are present in Kasese district could be targeted for this collaboration).
 - b. Collaborating with state and non-state actors (e.g. police, the probation office, local councils, community development officers, civil society organizations, and faith-based organizations), to conduct community awareness on GBVH prevention and response procedures, and related risks. This could be done through community meetings, churches, schools, radio talk shows, and other information, education, and communication (IEC) materials.
 - c. Should review and update internal policies, such as those relating to human resource-management to enhance the prevention and management of GBVH.
 - d. Should review agreements with contractors and subcontractors to clarify obligation on preventing and management of GBVH within the agreement timelines. The agreements should provide for clear provisions on the implications, evaluation criteria, and monitoring processes, among others.

B. Recommendations on economic and psychological abuse (GBV) – survivor well-being and child maintenance cases

1. The Project Companies should
 - a. If requested by the survivors, refer the cases to the Police - Child and Family Protection Unit or District Probation Office for management through alternative dispute resolution mechanisms- (preferably mediation).
 - b. Financially and logistically support tracing of the SOCs, especially those said to be from the Kasese district and other neighboring districts, to aid in further management of the cases.
 - c. Support the Survivors to follow-up referred cases. This support should be technical, financial, and emotional.
2. Work collaboratively with a local community-based civil society actor such as community-based organization, faith-based organization like a church, or a non-governmental organization with expertise in GBV management to manage each case. The actor should
 - a. In collaboration with the state actors, connect/link the children with their fathers (in cases where paternal belonging is an issue).
 - b. Assist the Survivors to seek child support from the fathers.
 - c. Provide survivors with psychosocial support.

- d. In collaboration with the state, conduct assessments and implement economic empowerment interventions, targeting the survivors as beneficiaries.

C. Recommendations on child sexual exploitation and abuse (defilement) cases

The Project companies should

1. As per the survivors wish refer the cases (including the one with both SEAH and defilement) to the Police for management, including the issue of child maintenance. The exception is the case where the SOC died since the defilement case lapsed with the death of the SOC.
2. Directly or collaboratively with a local community-based civil society actor such as a community-based organization, a faith-based organization like a church, or a non-governmental organization with expertise in GBV management, follow up the police referrals and meet the survivors' emotional, physical, economic, and development needs. The interventions should empower the survivors to manage the childcare issues and provide for the children as parents.
3. Just like in GBV cases under (B) above, the project companies, could work with a CSO, which should collaboratively work with the state, conduct assessments, and implement economic empowerment interventions (Income generating activities, and or skilling opportunities), targeting the survivors as beneficiaries

D. Recommendation on SEAH cases

1. The Project Companies should inform each SOC of the investigation findings, and where possible initiate fair hearing processes from the implied SOCs.
2. Hold the SOCS accountable per the internal and external policy standards. In cases where the SOCs have left the Project companies' employment,
 - a. Blacklist the SOC from future employment.
 - b. Deny recommendation or certificate of good conduct.
3. Work collaboratively with a CSO actor per the recommendations (B) above.

E. Recommendations for school dropout cases

1. The Project companies should support the education of all the cases of young girls who dropped out of school and are willing to continue with their education.

F. Recommendations regarding review all relevant policies/guidelines

1. Review all existing policies and guidelines integrate gender equality and the prevention of GBVH. This includes code of conduct, project contracts, social responsibility frameworks, and health & safety guidelines, among others by undertaking the following.
 - a. Checking for explicit inclusion of gender considerations and GBVH prevention mechanisms.
 - b. Assessing whether the policies support gender equality at all stages of the projects—planning, execution, monitoring, and evaluation.
 - c. Ensuring that the policies align with international standards, such as the International Labour Organization (ILO) conventions, UN Women guidelines, or the UN Declaration on the Elimination of Violence against Women.
2. Engaging with gender experts, employees, and community stakeholders to understand the ground-level needs and existing gaps.

3. Revising the policies to address any identified gaps to include strengthening reporting mechanisms, implementing preventative measures, or improving training and awareness programs for employees.
4. Developing and implement training programs to ensure that all staff, contractors, and partners understand the importance of mainstreaming gender and preventing GBVH.
5. Setting up monitoring systems to track gender equality and GBVH indicators across projects. Implement an evaluation framework to measure the success of the mainstreaming efforts.
6. Establishing accountability structures within the organization to ensure that gender equality and GBVH prevention efforts are consistently followed.

ES 13: Conclusion

The project Companies and VS Hydro have demonstrated commitment to addressing SEAH/GBVH concerns in their development undertakings. However, the assessment of their safeguarding mechanisms exhibits capacity gaps in policy and practices.

It is assessed that the recommendations of this report when implemented, will address the identified gaps within 2 to 3 years. In addition, the survivors will be provided with targeted support and services and the survivor's livelihood will also be restored through sound programs implemented through expert CBO as per the GBV/ SEAH action plan in the report.