

**ANALYZING THE EFFECTS OF LAND ACQUISITION FOR OIL AND GAS
DEVELOPMENT PROJECTS ON THE LAND RIGHTS OF THE WOMEN IN HOIMA
DISTRICT.**

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AFFLIATION TO UCU.**

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DECLARATION.

I, **ATUKWATSE PAMELA**, declare that this is my original research report under the topic **“Analyzing the Effects of Land Acquisition for Oil and Gas development projects on the Land rights of the Women in Hoima district”** and it has never been submitted to any university or institution of higher learning for the honor of any academic qualification. This report is as a result of my independent research effort and investigations. Where work of other people has been consulted, due affirmation has been made.

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APPROVAL

This is to certify that the following research report has been carried out under my supervision and is now ready for submission for the evaluation of the award of the degree of Master of Oil and Gas Law of Uganda Christian University.

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Date.....

DEDICATION.

I dedicate this research to my Dad, Mr. Kangaho Edward, for always believing in me even when I find it impossible to believe in myself.

ACKNOWLEDGEMENT

First and foremost, glory to the Almighty God for the life that He has given me throughout my journey of academics, glory back to Him indeed.

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CHAPTER I: INTRODUCTION

1.0 Background

The discovery of commercially viable oil deposits in Uganda in 2006 birthed great optimism in the people of Bunyoro sub-region with regards to how this new discovery would contribute to the development of their region and also to the country at large¹. Since this discovery, a lot of plans have been put in place by the government to exploit the newly discovered resource. Today, Uganda's oil and gas sector has transitioned from the exploration phase to the development phase in preparations for oil production. A number of projects like the Kingfisher project and the East African Crude Oil Pipeline project² are being developed in Hoima district; not forgetting the construction of the oil refinery, a new airport and hospital which are still underway³. As the government plans to develop these projects, it expects the oil and gas industry to accelerate economic growth by first of all empowering the local communities in the bunyoro sub-region through creating more jobs, developing infrastructure, improving access to electricity and enhancing their social status while also improving the general prosperity of Uganda at large⁴.

However, much as anticipations for positive changes are aloof, developing these projects is likely to spark negative effects for most of the people living in the project areas more so the less privileged individuals like the women if unchecked. This is because with the great deal of infrastructure required to develop these projects, demands to acquire considerable chunks of

¹ 'NAPE, 2016. Women-Led Action Oriented Research on the Negative Impacts of Oil on Women's Rights, Land and Food Sovereignty in Uganda's Oil Region 2015/2016'. National Association of Professional Environmentalists, Kampala. http://oilwatchafrica.org/static/media/uploads/attachments/women_led_action_oriented_report.pdf

² 'Social Impacts of Land Acquisition for Oil and Gas Development in Uganda by Tom Ogwang * and Frank Vanclay; Received: 24 May 2019; Accepted: 4 July 2019; Published: 8 July 2019'

³ Robert Atuhairwe, Benedict Okethwengu (15 November 2014). "Refinery land: shs 30b compensation paid". New vision. Kampala. Retrieved 2 February 2016

⁴ Hong, P.Y.; Singh, S.; Ramic, J. Development induced impoverishment among involuntarily displaced populations. J. Comp. Soc. Welf. 2009, 25, 221–238

land by the government were made to the different communities surrounding the project sites given that the law vests control of such lands in the government to hold on behalf of its people⁵. Much as this is a necessary evil, the demand for land in these areas is negatively impacting on all people but is felt much more by the women since for most of them, their livelihood and survival largely depend on land⁶; which means that compulsorily acquiring their lands; means denying them the means to survive for them and their families. And women are not only suffering because the government has compulsorily acquired their land but also because of the customary land tenure system found in the oil-rich region of Hoima⁷. This is because with this kind of tenure system, control and distribution of land are vested in the hands of local council chiefs and elders of the area⁸. This has encouraged the continuity of patriarchal societies where women's rights especially the land related ones are largely limited to access while the other rights such as control, as well as disposal and use, are held by men⁹. Their limited access to these lands as per these societies worsened the situation even when it came to compensation; the men dominated these compensation based transactions by heading the negotiations thereby being the ultimate beneficiaries of these monies in exclusion of the women. Also most of the bank accounts opened for the compensation process were largely registered in the men's names¹⁰.

⁵ Article 244(1) of the 1995 Constitution of the Republic of Uganda

⁶ Land Grabbing in the Albertine Graben: Implications for Women's Land Rights and the Oil Industry in Uganda. By Roberts K. Muriisa and SpeciozaTwinamasiko

⁷ Government of Uganda (2001), Land Sector Strategic Plan: Utilizing Uganda's Land Resources for Sustainable Development. Kampala: Government of Uganda at page 34

⁸Byakagaba, P., and B. Twesigye (2015), Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts. Kampala: CRED. Retrieved from: <http://creduganda.org/wp-content/uploads/2019/05/Securing-communal-tenure-andresource-rights-in-the-Albertine-graben-of-Uganda.pdf>

⁹ Ibid note 6

¹⁰ Ongode, B. (2015, 27 May), 'Oil Compensation Exposes Abuse of Women in Hoima', the Observer. Retrieved from: <https://observer.ug/business/38-business/38035-oil-compensation-exposesabuse-of-women-in-hoima>

As a result a number of women were abandoned by their husbands as most of the men decided to take on second wives while others left their families completely¹¹. These acts not only affected their marital statutes but also affected family unity given that most of them were abandoned with their children and without any child support whatsoever; this left them with nowhere to go, no food to eat as they could no longer tend their gardens since the place has been taken over by strangers. Also a number of institutions like schools were broken down as some parents withdrew their children from school while others forced them into early marriages¹².

Despite the fact that there is no accurate formula for achieving oil extraction for shared flourishing and widespread development, there is need to push forward deliberately and reasonably. Women must be allowed the access information, take an interest in dynamic legal and policy reviews and formulations. Organizations that ensure and address the expectations of the women's fears, desires, results, and misuses identified with their gender and payments or compensations accruing from discoveries of resources should also be set up. Above all, while men are completely coordinated into land issues at different levels, explicit projects should be acquainted to sharpen both the men and women on their individual rights. On the longevity perspective, this will lessen the gender imbalance over the long run.

¹¹ AFIEGO (2014), Annual Report 2014. Kampala: Africa Institute for Energy Governance (AFIEGO). Retrieve from: <https://www.afiego.org>

¹² Uganda Human Rights Commission (UHRC) (2013), Oil in Uganda: Emerging Human Rights Issues Special Focus on Selected Districts in the Albertine Graben. Kampala: Human Rights Commission

1.1 Statement of the problem

With more than 30,000 people evicted from their lands to pave way for the oil projects in Hoima district¹³, the underlying expectation and confidence of getting work and a decent life from the oil business has immediately disseminated among the local communities. In addition to land being lost to oil improvement ventures, there are reports that speculate that violence against the women with regards to compensation monies in these areas increased simply because they have been the most affected with these displacements and most of them have been abandoned and left destitute. Much as the laws in place seem to look out for the interests of the women¹⁴ when it comes to land, the institutions and structures¹⁵ put in place to effectively reach out to these women are weak and as a result there is limited open space for women to practice and enjoy their rights as they are seemingly left out in the decision-making processes. Interestingly, it additionally appears to be that customary practices may continue superseding statutory law in recognition and enforcement of women's land rights, abating unnoticed land grabbing at the family level.

These issues have not been adequately resolved and have led and will continue to lead to the disempowerment and its associated consequences on the lives and livelihoods of the women in local and surrounding communities of Hoima district and beyond. Unfortunately, instances of women benefitting and developing from such developments are not existent or, if they are, they are not appropriately captured similarly the mechanisms or structures that address or

¹³ Ministry of Energy and Mineral Development (2013). "Government embarks on a Resettlement Action Plan for the oil refinery area in Hoima district". <http://www.petroleum.go.ug/page.php?k=curnews&id=31>

¹⁴ See Section 39 of the Land Act Cap 227 that gives all spouses the right to security of occupancy of family land and requires the consent of the spouse for transactions in family land.

¹⁵ While undertaking the compensation process, the implementing agency did not observe the constituted laws on equal rights and ownership, which would have facilitated more women participating in the process.

provide remedy for these traumatizing issues and abuses that women are subjected to as aims this study.

1.2 Purpose of study

The purpose of this study is to analyze the effects that acquiring land for oil and gas development projects has on the land rights of the women in Hoima district.

1.2.1 Specific objectives

- a) To identify the legal/non-legal procedures used in land acquisition and their effects on the women in Hoima district.
- b) To establish the legal challenges faced by the women whose land has been acquired for oil and gas development projects in Hoima district.
- c) To make comparative analysis on how land acquisition for oil and gas development projects is done in other countries.
- d) To provide a well-researched recommendation on how land acquisition for oil and gas development projects can be done without obstructing the women's land rights in Uganda.

1.3 Significance of the study

The aspect of land acquisition is widely discussed on a general and case oriented ground where almost all studies discuss the benefits that will be reaped from the resource or the resource curse concept. However there is an increased number of women that have been victims of violence due to the land acquisition processes going on in Hoima district. Much as a few organisations that cater for the women's rights have come up to voice and fight for the women's rights in these areas, the numbers of women affected remain high.

There is therefore need to engage in research that clearly sign posts the impacts that land acquisition for oil and gas development projects has on the rights of the women. This study makes a contribution by raising awareness of the hurdles and difficulties that women in Hoima district are facing after their lands have been acquired for oil and gas development projects and in particular;

- The study contributes in making argument that there is need for the government to put into consideration the vulnerable groups like the women and children before land acquisition for such projects is undertaken.
- The study is to also put forward a new frontier of knowledge for further research in the area of challenges faced in enforcing the laws in regards to women's rights.
- The study identifies appropriate means of ameliorating the responses on violence of women's rights in regards to land.

1.4 Aims and objectives

- a) To identify the legal/non-legal procedures used in land acquisition and their effects on the women in Hoima district.
- b) To establish the legal challenges faced by the women whose land has been acquired for oil and gas development projects in Hoima district.
- c) To make comparative analysis on how land acquisition for oil and gas development projects is done in other countries.
- d) To provide a well-researched recommendation on how land acquisition for oil and gas development projects can be done without obstructing the women's land rights in Uganda.

1.5 Research questions

- a) What are the legal/non-legal procedures used in land exploration and how do they affect the women in Hoima district?
- b) What are the legal challenges faced by the women whose land has been acquired for oil and gas development projects in Hoima district?
- c) What comparisons can be made in regards to how land acquisition for oil and gas development projects is done in other countries?
- d) What recommendations can be made to ensure that women's land rights are secured when it comes to acquiring land for oil and gas development projects in Uganda?

1.6 Scope of the study

This study will be conducted in Hoima district especially in areas with oil fields and along the Kaiso-Tonya area that is strategic for the construction of the proposed refinery. The main focus of this study will be on the impacts that acquiring land for oil and gas development projects has on women and their rights to land in these areas. However to get a clear picture, this study will explore the different hurdles that these women have gone through that are not necessarily land related.

1.7 Theoretical/legal framework

As earlier on stated, the purpose of this study is to investigate the impact that acquiring land for oil and gas development projects has on land rights and livelihood of women in Hoima region. Livelihood in this context shall be stretched to encompass wealth and assets. The conceptual framework for this study is as enshrined in the World Development report 2004 that states that a human face ought to be put onto development in a way that ensures that the

communities near to these resource discovered places benefit from the resources found in their regions. It is however contended that globalization is one of the reasons as to why a lot of tensions are exerted on natural resources since after these discoveries, foreigners are usually quick to move in with their capital to extricate the resources. The extractive industries set up generally seem to have both direct (also immediate) and indirect (likewise contrasted) impacts on the livelihoods of communities found around these resources. Direct impacts like eviction from land or limitation of admittance to areas relied on for livelihoods and the related disenfranchisement may negatively impact on livelihoods. Indirect impacts like destruction of the environment also further lessen the efficiency of agribusiness. And by implication, speculation over land prompts increment in land costs, land grabbing and strain over land with the capability of erupting into conflicts as has been in Buliisa district.

This study as drawn from Anthony Bebbington's suggestions on “a framework examining peasant viability, rural livelihoods and destitution (1999) with the target of expanding benefits” sets least requirements that the system needs to address including; whether people are able to access the five types of capital assets which are produced, human, natural, social and cultural capital¹⁶, whether they can combine and transform those assets into something that can build their livelihoods in as far as possible so that they can ably meet their material and experimental needs ; whether the ways in which these people are able to expand their asset bases through engaging with other actors through relationships governed by the logics of the state, market and civil society and the ways in which they are able to deploy and enhance their capabilities can assist them to make living more meaningful and change the dominant rules and relationships governing the ways in which resources are controlled, distributed and

¹⁶ Land can have both natural and produced capital aspects

transformed in society. Particular attention should therefore be paid to the importance of social capital as an asset through which people are able to widen their access to resources and other actors.

The centrality of land as a resource for both livelihood and public endeavors for change in Uganda is clear. Land is viewed as the created capital-obtained whose efficiency is enormously subject to characteristic capital. The discovery of oil presents new entertainers and connections that can possibly affect on the capacity of family units/ households to change land as a resource into livelihood and prosperity improving strategies happening at different levels. From the view point of expanding benefits at individual/family unit level, openings and how they can be stopped for the advancement of the individual is significant (Opt Cit).

With oil discovery, the extent of advantages in relation to land incorporates in addition to other things¹⁷ increment in the value of land which is likewise the motivator for speculators and portion of royalties accruable to land proprietors. The qualification of a land proprietor for royalties emanate from the acknowledgment of the right of ownership. The transfer of land ownership beneath the genuine worth or by utilization of unlawful methods dampens the advantages accumulating to the household. Limitation of access without reparations has similar effect on advantages accumulating to individuals/households.

1.6 Hypothesis

Initially when the new land legislation was enacted, it was to decrease the occurrence, span, and outcomes of land-related conflict. However with the restricted degree of implementation (Mijumbi and Sebina-Zziwa 2001) the number of conflicts kept increasing other than

¹⁷ Including improvement in infrastructure, creation of market for produce, bringing services closer to the community which is not the primary focus of this study.

decreasing as had been anticipated. But all things considered, there was anticipation that, following the entry of the 1998 Act, the degree of land related conflict would diminish.

Second, various investigations that have been conducted have shown that there a requirement for comparatively high payments (regardless of whether formal or informal) to determine conflicts and implement existing legislation, and the fact that women faced a precise disadvantage (Khadiagala 2001). Customary legacy designs also infer that it is more difficult for females to maintain access to land in the event of either divorce or the demise of the life partner than it is for men (Ntozi and Ahimbisibwe 1999, Makerere Institute of Social Research 2002). Given extraordinarily expanded adult mortality with regards to HIV/AIDS, the disadvantaged position of women when contrasted with men is beginning to show, because it is likely for the frequency of conflict concerning widow' terrains to have expanded. Such conflicts will effect economic outcomes as settling disputes is exorbitant and because it is typically impractical to utilize the land, e.g. by renting it out, while a conflict is forthcoming. Contextual investigations uphold this hypothesis; truth be told, in a study conducted in two districts (Luwero and Tororo), 29% out of a sum of 204 widows demonstrated that property was taken from them following the demise of their husband, making them multiple times more vulnerable to land grabbing than male widowers (Gilborn et al. 2000). All of this leads us to expect that land grabbing will impact women and the poor disproportionately, thus negatively affecting equity¹⁸.

¹⁸ The provision providing for automatic spousal co-ownership of land which, as discussed above, was eventually not included, could possibly have helped to strengthen the position of women even in an environment where titling was largely ineffective because, in order to be covered by this provision, no administrative action such as issuance of a title or updating of registry records is needed.

Third, regardless of whether in the end, someone associated with a land conflict will be permitted to keep the land, the contention will negatively affect welfare and productivity through various channels. All parties included are probably going to have to exhaust huge measures of time which in any case might have been utilized in beneficial activities in attempts to determine land conflicts (Berry 1997). Insecurity about the capacity to utilize land in future diminishes incentives to make land-related investments not only by local farmers but also by outside investors and the government (Binswanger et al. 1995), Kasanga and Kotey 2001). Forthcoming conflicts may forestall one or two of the parties from getting to the land, thus leaving plots somewhat or absolutely uncultivated. It might even be related with actions to incur crop damage, for example, evacuating of perennials. Indeed, even the danger of such actions will influence incentives for effort supply and consequently further decrease productivity. Besides, conflict and the related dread of losing land will sabotage the working of land markets, implying that producers who need more information or resources (e.g. labor) for self-development will be kept from renting it out, and conceivably have to leave the plot fallow. These will compel those with deficient resources, for example widow who lacks family labor or producers with low capacity who might be better off in non-agricultural endeavors, to utilize their land thereby denying them of rental income and prompting socially imperfect land use. These lead us to expect that land-related conflict will be related with huge economic misfortunes. Notwithstanding calling attention to the frequency of land grabbing, a vital contribution of this paper is the attempt to give econometric assessment that can assist with evaluating the misfortunes acquired because of conflicts on plots that are as of now developed¹⁹.

¹⁹ Given that some of the plots affected by conflict are likely to have been taken out of cultivation something that will

1.7 Chapter Synopsis

This dissertation consists of seven chapters.

Chapter one lays out the background of the research, statement of the problem, study objectives, hypothesis, significance of the study, methodology, definition of terms and problems encountered. It also outlines the overall structure of the research.

Chapter two lays out the literature review.

Chapter three discusses the methodology

Chapter four discusses the legal/non-legal procedures used in land exploration and their effects on the women in Hoima district.

Chapter five discusses the legal challenges faced by the women whose land has been acquired for oil and gas development projects in Hoima district.

Chapter six discusses the comparative analysis on how land acquisition for oil and gas development projects is done in other countries.

Chapter seven sums up the arguments advanced in the dissertation and provides the recommendations and steps to be taken to prevent the obstruction of women's land rights when it comes to acquiring land for oil and gas development projects.

CHAPTER II: LITERATURE REVIEW

2.0 Introduction

Although much has been written about land acquisition for oil and gas development projects over the past years, a close study of the existing literature reveals that little has been written about the impact that acquiring land for oil and gas development projects has had on the women and their land rights. As a result, this area remains ripe for more exhaustive study since a gender analysis put in an international, national and local context is needed to be able to make a fair analysis on gendered impacts of land acquisitions whether made by local actors or international corporations.

2.1 Summary of the literature

Even if women generally are more vulnerable for land changes and over all have less access and rights to land there is no universal package for all women. The sources that have therefore been considered seem to talk about women's land rights and women's access, which may be a bit misleading since it does not apply for all women. The following extracts therefore have to be read with that in mind.

Gray, Kevane et al (1999) in their article "Diminished Access, Diverted Exclusion: Women and Land Tenure in Sub-Saharan Africa" African Studies Review, Vol. 42, No 2:15-39, discuss women and land ownership rights where they note that many women in African societies have access to land mainly through their husbands, fathers or brothers, making them more vulnerable in instances where their husbands, fathers or brothers decide to sell off these lands. And since they are not considered owners of land but owners of crops, they often have control over cultivation rather than land, which often comes with

responsibilities to take care of the family which makes them vulnerable for land changes. The authors however do not clearly lay out the legal implications that could arise from this kind of ownership and how it could affect the women's land rights.

Ongode, B. (2015, 27 May) in his article 'Oil Compensation Exposes Abuse of Women in Hoima', notes that men as a rule utilize their situation of predominance to "seize" women's privileges to land given that these privileges are restricted to rights to cultivate the land as are guaranteed by conjugal or marital status, and losing these rights would mean lessening their admittance to land which underlies and rein-powers a more noteworthy economic and social insecurity. The author does not assume that there could be an answer that can assist women to aspire their status and gain an equal standing with men with regards to land rights.

Gladys Mutangadura 2004 in her article "women and land tenure in southern Africa: a human rights-based approach" discusses land ownership as human right issue that needs to be highly prioritized through laws and legislation, including land titling in the name of the woman. Much as this could be a solution to the unending unfair land practices on the women, the author does not consider the difficulty that is associated with issue of land titling and whether the women are better off acquiring joint titles (in the name of both man and woman) or individual titles given that both are associated with quite a number of challenges.

Muriisa K.Robert, P. Mbabazi and M. Twinamatsiko (2014), in their article 'Land Deals in Uganda: An Invisible Hand into Land Grabbing and Rural Development' investigated the process of land acquisition, how land is acquired, who is involved in the land acquisition and whether the law is followed when acquiring land in districts of Ssembabule, Mubende and Buliisa and from their research, they discovered that a number of land acquisitions were done

in a manner way that disregarded people's rights given that some of the compensations given were deficient and could not restore the land owners to their original state as it ought to be. The authors however considered most of these violations as forms of land grabbing which I don't think is true given that some of the lands acquired have always been public lands that do not attract compensation as these people cannot be considered as the actual owners.

Cousins, B. (2002), in his article 'Legislating Negotiability: Tenure Reform in Post-apartheid South Africa', in K. Juul+ and C. Lund (eds.) published in Heinemann Educational Books discusses customary land tenure and its contribution and inadequacies when it comes to protecting the rights of the land owners. He further discusses other constraints like illiteracy, lack of capital, training and advice as some of the factors that aided the elite group to maneuver through the weaknesses this tenure has and have as a result acquired legal ownership over these lands without knowledge of the land owners.

Gary, K.L. Terry et al (2003) in their book, Bottom of the Barrel: Africa's Oil Boom and the Poor. Baltimore, Maryland: Catholic Relief Service give a detailed analysis on how institutionalization of land acquisition procedures by the government through using state institutions like police, military and judiciary to brutalise the local land owners affects their land rights and interests and how the governments can work through this so that oil revenues benefit ordinary Africans. Much as the government is meant to protect human rights, it can of course never provide women with capabilities to satisfy their rights and needs but through legislation and strong laws they can create the right conditions where she herself can develop that.

Muriisa K. Robert and Specioza Twinamatsiko (2020) in their article Land Grabbing in the Albertine Graben: Implications for Women's Land Rights and the Oil Industry in Uganda discuss the nature of land grabbing taking place in the Albertine region, how it is being done, and the different drivers of oil related land grabbing, and its impact on the women's land rights in Buliisa and Hoima. They further discuss issues of compensation and its effects on the women and their land rights. Much as this article tries to discuss the impact that land grabbing has on the women's land rights, the authors do not in any way discuss any legal implications that can be associated with land acquisitions in the region.

Ministry of Energy and Mineral Development (2017) in their Annual report of 2017 recorded the different forms of compensation as where presented to the people of Hoima and Buliisa who occupied the project areas and how most of them responded to the different forms of compensation. The report also noted that most of them preferred cash compensation as compared to the other forms which was more advantageous to the men than the women.

Africa Institute for Energy Governance AFIEGO (2014), in their Annual Report of 2014(AFIEGO) record that a few people who were not compensated sought recourse from court through them and indeed a case was stopped in the High Court of Uganda for individuals who were hanging tight for their pay. Be that as it may, even with a legal dispute forthcoming the Government was not moved and AFFIEGO needed to step in and help the individuals who acknowledged the pitiful pay to procure land and build up themselves in respectable lodging. This shows that a part actually stays unanswered as to the data individuals have, the size of the pay, the cycle of pay, the estimation of the land and property on it, and the degree of inclusion in arranging the pay.

According to the statistics done by **Resettlement Affected People (RAP) 1. 2018. Tilenga project–resettlement action plan 1 report**, land acquisition, compensation, dispossession and resettlement involved with the development of oil and gas projects directly affected the women given that approximately 400 households and 1,276 people were displaced from the land for oil exploitation activities and also about 8,000 people were affected by oil in Hoima district, a significant number of about 3,707 who were women.

Ellis, Manuel &Blackden, (2006) in their article, gender and economic growth in Uganda: Unleashing the power of women. Washington D. C: The World Bank suggest that although less than 10% of women own land, most of them depend on land as a source of their livelihood. For instance, 80% of women participate in crop production and related activities for household livelihoods but only 8% of women own land as compared to 92% of men which means that losing the land therefore made many affected women helpless as their future of livelihood became uncertain and yet the conditions of compensation and resettlement could not allow them to go back to their status quo.

Khadiagala (2001) in her article ‘The Failure of Popular Justice in Uganda: Local Councils and Women’s Property Rights.’ Development and Change 32 (1): 55-76.) Additionally examines the standard land residency and notes that various laws set up like the constitution and the land act have arrangements that explicitly preclude laws, societies, customs, or customs that abuse the respect, government assistance, or interest of ladies with regards to land rights, these laws likewise perceive standard specialists that may sabotage these rights.

Specioza Twinamasiko, Frank Ahimbisibwe et al in their article Oil-Induced Land Compensation Dispossession and Women's Experiences in Albertine Graben in Uganda discuss the compensation mechanisms that were utilized and how unfavorable they were to the women because if the head of the family who was polygamous (if a man) and/or staying with members of the extended family on the same compound would be entitled to register only one wife and members of the extended family even if married, were not considered in the resettlement process. Also the resettlement benefits such as transport, seeds, food aid, and equipment for gardening such as pangas, slashers, hoes and livestock distribution were registered under the head of the family as well as the land titles were expected to be written in the names of the person resettled as a head of the family.

Macdonald, C. 2017 in his article the role of gender in the extractives industries. United Nations University World Institute for Development Economics Research, 1-22 notes that women still suffered even after the compensation process since most of them were never involved in spending the compensation monies and spending or wasting money on goods or services that are considered unproductive is well documented in the literature. For example it was revealed that many men married new wives, bought motor vehicles, started businesses and other unintended expenses other than using the money to secure lost property (land and houses).

2.2 Conclusion

These findings, however, have limited scholarly works that directly talk to women in particular simply because of the nature of large land acquisition and compensation practices which are new in its kind to be looked at in the lens of gender perspective.

CHAPTER III: METHODOLOGY

3.0 Introduction

The research involves black letter method of research which embodied close analysis of text books, newspapers, reports obtained in conferences and seminars, magazines, case law, and statutes relevant to women and their land rights. Field research was also carried out which involved use of questionnaires, interviews, observations and informal conversations.

3.1 Study Design

This phenomenological study will utilize a multi-method and case centered design with both qualitative and quantitative data collection techniques that will involve in-depth interviews, focus group discussions, covert observation and documentary evidence as necessary for this study.

3.2 Area of study

This study will be conducted in Hoima district, found along the Albertine Graben region in western Uganda. The district harbours some of the largest oil fields in the country especially along the Kaiso-Tonya area and is strategic for the construction of the proposed refinery that is meant to meet the petroleum products needs of Uganda and its regional neighbors, with any remaining to be exported²⁰. In addition to the refinery, other infrastructural developments like a new airport and a hospital are also in plan. This area is therefore a rich area within which this research can be conducted.

²⁰Ouga, Samuel (14 August 2013). "Uganda's Oil Refinery – An Opportunity for transformation". New Vision. Kampala. Retrieved 9 May 2014

3.3 Population

The study is focused on women who were affected by land displacement and resettlement who will be grouped into 6 groups namely women who were displaced but cash compensated, displaced and not compensated women, those awaiting compensation, those awaiting resettlement, those who have been resettled, and the women whose land was monthly hired for oil extraction activities. Within the above mentioned categories, women who were widows, single mothers, those who were separated from their husbands during and after compensation process, and those who were still living with their husbands will also be considered.

3.4 Sample Size and sampling technique

3.4.1 Sample size

To determine the sample size of this research, Published Table1 by Glenn D will be used²¹.

Sample Size for $\pm 5\%$ and $\pm 10\%$ Precision Levels where Confidence Level is 95% and $p=0.5$.

Size of Population	Sample Size (n) for $\pm 5\%$	Precision (e) of $\pm 10\%$
100	81	51
125	96	56
150	110	61
200	134	67
250	154	72
300	172	76

²¹ Israel, Glenn D.1992, Sampling the Evidence of Extension Program Impact. Program Evaluation and Organizational Development. IFAS, University Of Florida. PEOD-5. October.

350	187	78
400	201	81
450	212	82

3.4.2 Sampling technique

Purposive sampling and snowball sampling will be used to select and trace women who have been displaced but cash compensated, displaced and not compensated, those awaiting compensation, those awaiting resettlement, those who have been resettled, and the women whose land was monthly hired for oil extraction activities.

3.5 Data Collection strategy

Data will be collected on a day to day basis from Monday to Friday for approximately 10 hours per day for a period of one month. The women will be divided into groups basing on how they have been affected by either the displacement or resettlement. From that point, the researcher and assistant will introduce themselves to the participants, explain the purpose of the study and solicit their informed consent. Data will be collected through interviews as well as reviewing documents as explained below.

3.5.1 Interview

Individual respondents will be asked questions in relationship to the research topic and their answers will be recorded and coded for future reference. Informal conversations will also be helpful because it will allow the respondents to give answers freely.

3.5.2 Documentary review

This paper builds on previous studies to provide a more in-depth evaluation of the protection of women's rights to property under international human rights law and the compliance of Uganda's laws, policies and institutions with regards to women's rights, so a number of books, journals , articles and laws will be critically examined.

3.6 Data Analysis Plan

The questionnaires and interview results will be checked for accuracy, edited, cleaned and coded daily. To obtain accurate results, STATA software package will be used for analysis. This software will be used to manage data, statistically analyze it, graphics, simulations, regression, and custom programming where from descriptive statistics like means, frequencies, percentages, median and standard deviations for demographic and socio-economic characteristics will be generated.

3.7 Limitations of study

Given that this research contains sensitive matters that relate to women's rights, there is a high likelihood that some respondents are likely to withhold or be reluctant to give out information which act will be detrimental to this research. Field visits are also likely to be quite costly given the week required to write this research not forgetting that this research was also given limited time to collect all the relevant information for the study.

CHAPTER IV: THE LEGAL/NON-LEGAL PROCEDURES GOVERNING LAND ACQUISITION.

4.0 Introduction

Compulsory land acquisition (expropriation) in Uganda is done by government and its agencies²² through legal and non- legal procedures; where the legal procedures are embodied in different legislations at both national and international levels like **the 1995 Constitution of the Republic of Uganda, the Land Acquisition Act, Cap 226, the Land Act, Cap 227 and the Registration of Titles act cap 230** which are the main legal instruments that govern land acquisition and compensation in Uganda; the Oil and Gas laws like **the Petroleum (Exploration, Development and Production) Act, No 3 of 2013**, given that this research is centered on land acquisition for oil and gas development projects in the upstream industry. Also this oil and gas law has been enacted containing skeletal provisions touching on land acquisition and compensation as regards to the upstream sector. As for the international laws we have conventions like the **Protocol to the African Charter on the Rights of Women in Africa in 2005, Universal Declaration of human rights (UDHR), International Covenant on Civil and Political Rights (ICCPR) and the International Covenant On Economic, Social And Cultural Rights (ICESCR), Convention on Elimination of All Forms of Discrimination against Women (CEDAW)** to mention but a few. There is, however, no legislation in place that carters for resettlement and rehabilitation after involuntary land acquisition.

²² John T. Mugambwa, 2002, Source Book of Uganda's Land Law – Kampala, Fountain Publishers ISBN: 9789970022878.

As for the non-legal procedures used, these are embodied in a number of policies and regulatory frameworks like the **National Oil and Gas Policy (NOGP)**, **National Land Policy (NLP)**, **National Gender Policy**, **National Action Plan On Women**, **Resettlement Action Plans (RAPs)** and **Resettlement Policy Frameworks (RPFs)**, as well as reports from both **governmental and Non-governmental Organizations (NGOs)** put in place to protect both human and women's rights like **Uganda Human Rights Commission**, **Equal Opportunities Commission**, **Africa Institute for Energy Governance (AFIEGO)**, **Global Rights Alert (GRA)**, **Democratic Governance Facility (DGF)** to mention but a few.

4.1 Legal Procedures Used in Land Expropriation as expounded in the different legislations.

4.1.1 National legislations

a) The Constitution of the Republic of Uganda, 1995.

The Constitution of the Republic of Uganda introduces the right to property under **Article 26** of which land is one of such properties. Land in Uganda is vested in the citizens of Uganda in accordance with the four land tenure systems as provided for in **Article 237** that include Customary, Freehold, Mailo and Leasehold much as a large amount of land in Uganda falls under the customary tenure systems especially lands located in the rural areas which is quite absurd as customary tenure is an inadequate tenure to protect land interest²³. This is one of the reasons as to why the people of hoima are suffering.

The right to own property is also affected by the discovery of minerals as **Article 244** of the constitution grants the government control of all minerals and petroleum in, on or under, any

²³ Land tenure practices and land acquisitions in oil region; the case of Hoima, Western Uganda by Ingrid Gildseth. Master Thesis of Geography; Department of Geography, Norwegian University of Science and Technology, Trondheim, May 2013

land or waters in Uganda to hold on behalf of the people of Uganda²⁴. This specific arrangement removes property from a private proprietor or land holder and moves all rights identified with that property to the state or, sometimes, to an alternate private substance. This means that where land is discovered to have minerals or petroleum, it ceases to belong to the land owner; ownership moves to the people of Uganda and is held and controlled by the Government which is detrimental to the land owners as majority of them depend on these lands for their livelihood and survival. But rather than addressing these issues, the government decides to prioritize economic growth through privatization and consolidation of land for big oil projects.

The Constitution also under **Article 26(2) (a)** provides that a person may be deprived of their right to property on grounds of public interest. Instances where public interest may arise according to the constitution include; where acquisition is necessary for public use, acquisition is in the interest of defence, acquisition for public safety, acquisition for public order, acquisition for public morality and acquisition for public health²⁵. The Constitution is, however, not clear on what constitutes “public use” and “public interest which means that the government thus has a margin of discretion in determining what “public use” and “public interest” are which is detrimental to the land owners as their lands can be declared as required for public interest whereas not. This specific arrangement removes property from a private proprietor or land holder and moves all rights identified with that property to the state or, at times, to an alternate private element. Much as the courts have come up to specify what the law means by public interest in **B.P. Bhatt and Another vs. Habib Rajani (1958) EA 536** where the learned justices defined public interest as the purpose or objective in which the

²⁴ Article 244(1) of the 1995 Constitution of Uganda

²⁵ ‘Article 26(2) (a) of the 1995 Constitution of Uganda’

general interest of the community is considered as opposed to the general interest of individuals as is directly and virtually concerned²⁶, in practice, the supposed “public interest” often ends up benefiting the already wealthy individuals.

For example, a case in point is the land that housed Shimoni primary school, a school that served a low-income community and training teachers that was given to a private investor to build a hotel but the investor instead built a shopping mall with office space²⁷; and the school was relocated to the outskirts of the city, far from the community whose children it was set up to serve. So if the government can give up land that houses a public school that provides a service to the community, how about land whose occupants do not even provide a single noticeable service to the government? This is a clear indication that lots of people are going to lose their lands without adequate or even fair compensation for their lands as government retains the discretion in determining “public use” and “public interest”.

The constitution has also dealt with matters of compensation in a way that it takes acquiescence of the fact that before the government takes possession of private land it intends to acquire, it must pay timely, fair and adequate compensation to all persons with an interest in the land as stipulated in **Article 26 (2) (b) (i) of the 1995 Constitution of Uganda**. The compensation must be assessed at the actual market value of the land at the time of acquisition where market value of the land means the price which a willing seller might be expected to obtain from a willing purchaser at the particular time²⁸. However there have been incidences where the government agents have taken over these lands without paying compensation first and the aggrieved persons have had to run to court for justice for example in the case of

²⁶ B.P. Bhatt and Another Vs. Habib Rajani (1958) EA 536

²⁷ Wafula (2010). Daily Monitor. New Shimoni land owner revealed. <https://www.monitor.co.ug/News/National/688334-1070252-b66dghz/index.html>

²⁸ Puran Chand Vs. Collector under the Land Acquisition Act of 1894 (1957) EA 125

Uganda Electricity Board (UEB) v Launde Stephen Sanya; Court of Appeal Civil Appeal No.1 of 2000, where the Court held that UEB contravened Article 26(1) (2) and Article 237 of the Constitution by entering and taking possession of private land without acquiring it and paying compensation to the affected parties. It also went ahead to note that UEB should have first notified the owners of the land before taking over the land which they did not do. This is an indicator that nationals who cannot afford litigation will have their lands taken away from them without redress and given the quality of living of the people found in the project areas, a number of them are going to lose their lands without any redress. Not forgetting that a few of the people who may be able to afford litigation can decide not to file a suit as a number of them don't trust in dispute resolution mechanisms given the countless interventions of the Office of the President in cases that are already in court hence the frustration by these poor communities.

For example **the case of the Ugandan Government, Madhvani and Ors Versus The Community of Lakang, Amuru district High Court Case of 2008**, community members sued the Amuru District Land Board for transferring about 40,000 hectares to Madhvani Group for growing sugar cane. The community argued this was customary land and the DLB had no authority to give it away. The DLB did not, in fact, have any records showing that the land was public land. Nonetheless, in 2012 the High Court ruled against the community, on the basis that they could not prove it was not public land.

As regards women and land, first and foremost the constitution under **Article 21** confirms the need for equality of all Ugandan citizens and prohibits discrimination on a number of grounds, including sex which implies that for every person, including women, have the right to own

property under **Article 26(1)**. Also **Article 31(1)** guarantees women's equal rights upon, during and after marriage and provides for the protection of the rights of widows and widowers to inherit the property of their deceased spouses. **Article 32(1)** compels the State to take affirmative action in favour of groups marginalized on the basis of gender while **Article 33** specifically describes the status and rights of women and enshrines women's right to equal treatment with men not forgetting that laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status are prohibited. While the constitution is protective of women's rights to property and outlaws any discrimination against women concerning property acquisition and ownership, its implementation is hindered by customary law practices, socialization, and the generally weak economic capacity of many women in the country²⁹. It is therefore important that all property laws are reformed to integrate women in land decision making, promote women's inheritance of land, among others, as some of the ways to guarantee women's full and equal access, use and ownership of land.

b) The Land Acquisition Act, Cap 226

This act is the central law applicable to land acquisition in Uganda and with this particular legislation, there is a procedure that the government is required to follow for compulsory land acquisition for a public purpose which is specified by **sections 3 – 7 of the Land Acquisition Act Cap 226**.

And briefly the procedure is that when the Minister is satisfied that any land is required by a local government for a public purpose, he is required to make a declaration to that effect by

²⁹ Gender and Land Rights Database; Food and Agriculture Organization chart; http://www.fao.org/gender-landrights-database/country-profiles/countries-list/national-legal-framework/en/?country_iso3=UGA

statutory instrument. The Minister should then cause a copy of the declaration to be served on the registered proprietor of the land specified in the declaration or the occupier or controlling authority. The land should then be marked out by an assessment officer and measured and a plan of the land made, if it has not already been made. Persons having an interest in the land should then be given notice. The Assessment Officer should then publish the notice in the Gazette and exhibit it at convenient places on or near the land stating that the Government intends to take possession of the land and that claims to compensation for all interest in the land be made to him or her. Upon publication of the notice, the Assessment Officer should then proceed to hold an inquiry into claims and rejections made in respect of the land and then make an award specifying the true area of the land and compensation to be allowed for the land. The Assessment Officer should then serve a copy of the award on the Minister and on those persons having an interest in the land and the Government then pays and compensates them in accordance with the award. Finally, the Assessment Officer should then take possession as soon as he has made the award.

Albeit the Land Acquisition Act (Cap 226) gives the above direction on the system of land securing, the demonstration is obsolete and not completely adjusted to the sacred prerequisites. For instance, it doesn't need installment preceding claiming the land. Section 7 permits the evaluation official to claim the land "as soon as he or she has made his or her award under **Section 6**, except that he or she may take possession at any time after the publication of the declaration if the Minister certifies that it is in the public interest for him or her to do so". This was however cleared in 2014 when the Supreme Court in the case of '**Uganda National Roads Authority vs Irumba Asumani and Peter Magelah**', **Supreme Court Constitutional Appeal No. 2 of 2014** declared that Section 7(1) the Land Acquisition Act Cap

226 which permitted the government to take possession of private land before compensation is inconsistent with Article 26 (2) (b) of the Constitution as compensation is key and must be paid to persons with an interest in the land before the government takes possession, both physical and legal. Also in **Muhindo & 3 Ors Vs Attorney General (High Court Miscellaneous Cause No.127 of 2016, Justice Musa Ssekaana**, found that the Ugandan Government's failure to enact a comprehensive legal framework and procedure protecting those facing eviction to be a breach of the rights to life, dignity, and property under **Articles 22, 24, 26, 27, and 45 of the 1995 Constitution of Uganda**. The Court ordered the government to formulate eviction guidelines on an expedited basis, noting that even when evictions are inevitable, it is necessary to ensure that they are human rights compliant. This decision has been of help to Ugandans as for decades, many Ugandans have faced insecure tenure or forced eviction often despite customary claims, as government agencies, transnational corporations and other powerful actors have engaged in land grabbing and dispossession. Protections against forced evictions are vital to curtailing such forces of marginalization, making the High Court's decision an important step in that direction. The ruling in the matter is therefore notable for the structural nature of the remedies sought and ordered. Applicants successfully sought to declare a lack of adequate government procedural regulation of evictions as violation of the rights of those affected. In so doing, they opened the door for the Court to order the state to address the legal framework governing evictions/ land acquisitions comprehensively.

Additionally the land securing Act leaves expansive expert in the possession of the Minister of Lands (and people approved by the Minister) as Section 3 gives that "whenever the Minister is satisfied that any land is required by the Government for a public purpose, he or she may, by

statutory instrument, make a declaration to that effect”. This is an indication that there is expropriation or power imbalances that have resulted into an uneven negotiation positions given that power over acquisitions is held and controlled by the Minister.

This law does not also define what constitutes a “public purpose” just like the constitution. This has aided the declaration of land as one needed for “public use” and “public interest” whereas not.

This Act doesn't likewise characterize the premise of pay evaluation nor the valuation technique to be utilized to show up at the pay figure'; much as 'Segment 20 of the Act engages the Minister, by legal instrument to make guidelines for the appraisal and installment of pay but then no such guidelines have been composed since the establishment of the law in 1965.

c) The Land Act Cap 227

This specific Act controls the residency, proprietorship and the executives of land in Uganda. It likewise sets up various land organization foundations, strikingly District Land Boards, District Land Office, Land Tribunals and Land Committees. The Land Act under **Section 42** makes further arrangement for government or neighborhood government to gain land necessarily as per **Articles 26 and 237 (2)** of the Constitution, for example however long this is done after the influenced people have been sufficiently redressed. Likewise the standards of calculation of remuneration as set out in **Section 77** just give direction to District Land Tribunals on surveying pay in the event of a debate identifying with the measure of pay to be paid. The segment isn't informative to the valuer and the arrangement doesn't fulfill the guideline of reasonable and sufficient pay given that it offers that the benefit of the structures will be taken at deteriorated trade cost for the rustic zones.

Additionally grant of unsettling influence remittance by the District Land Tribunal on an effective case is a legal necessity alluded to in the Land Act in **Sections 41 and 77**; as Section 41 arrangements with the Land Fund and considers a 15 percent aggravation stipend in occasions where 'occupants by in habitance' are to be resettled through government intercession though **Section 77** arrangements with Land Tribunals in their particular job to decide pay where there is a contest. The legal aggravation remittance is determined on the all out remuneration for all property and payable to the proprietor of the property dependent on the length of the notification to empty the property obtained. There is no legal meaning of the unsettling influence stipend or its motivation. One could contend that the aggravation recompense imagined in the Act is payable in extraordinary conditions.

Concerning ladies and land rights, **the Land Act under Section 27** perceives standard residency besides in, "a choice which denies ladies or kids or people with an inability admittance to proprietorship, occupation or utilization of any land.' This arrangements is dependent upon analysis as ladies' privileges are ensured in light of the fact that they are a weak gathering, instead of their privileges being advanced as the privileges of residents, just like the case for men'. The language of weakness infantilises ladies, consigning them to the outskirts of land rights talk.

Also **Section 39(1) (i) of the Land Act** requires spousal consent for many land transactions although it does not include an enforcement mechanism which is the reason as to why many women are losing their rights over their lands as their husbands see no need of their consent. The Land Act under **Section 8** also allows for the issuance of certificates of customary ownership, as a form of protection for customary rights, but requires that the certificate be

issued in the name of the family head, typically a male, rather than the family as a whole which is quite discriminative in nature. As a result, women confront a male-dominated power structure that upholds and entrenches male authority in the home given the patriarchal nature of the various ethnic communities in Uganda.

Also, the Land Act partly incorporates the affirmative action provisions that are laid down in the Constitution. The Uganda Land Commission, which holds and manages land in Uganda vested in or acquired by the Government, must have a female member among the four provided for by the Land Act. The District Land Board, established in each district to hold and allocate land in the district, must have one-third of its members be women. For each parish, division or town, a Land Committee is established with a chairperson and three other members. Land Committees assist the District Land Boards in an advisory and facilitating capacity. In addition, they safeguard the rights in land of women, children and persons with disabilities. At least one of the members of a Land Committee must be a woman.

While affirmative action for women's representation in Parliament and local government is in place and is included in the Land Act with regard to most of the land bodies, no such provision has been included for the District Land Tribunals.

d) Registration of Titles Act Cap 230

Uganda uses the Torrens system of titles registration, which was introduced through the Registration of Titles Act Cap 230 under **sections 54 and 59** that allude to ownership by registration not by title. This therefore means that customary tenure is not recognized by this act except instances where one has registered their customary interest and is lawfully registered in his or her names. Also much as the act does not specifically disclaim any

intentions to limit the application of laws providing for the property of married women, the Act only explicitly lists fraud as a means for rebutting the strong evidentiary weight of the certificate, it is unclear how a married woman's rights to marital property would be protected if her name is not on a certificate. In some instances where the certificate of title is in the names of the husband and wife, it is not clear how at the dissolution of marriage the property is shared. This often leaves the wife vulnerable to dispossession in the face of strong societal pressures and presumptions that men are the true owners of property. Many Ugandan women face significant challenges accessing justice when their rights are violated. The high costs of pursuing claims in the formal legal system, combined with institutional discrimination and a high level of inefficiency in the court system, create additional barriers to women's ability to exercise their property rights.

e) 'The Petroleum (Exploration, Development and Production) Act, No 3 of 2013'

Since this research also deals with oil and gas development projects as one of the reasons for compulsory land acquisition, **the Petroleum (Exploration, Development and Production) Act, No 3 of 2013** will also be considered. 'Section 138 of the same Act gives that subject to any law identifying with procurement of land a holder of a petrol creation permit may acquire a rent of the land or different rights to utilize it upon such terms concerning the lease to be paid for the land... as might be settled upon between the holder of a permit and the land proprietor. The demonstration further gives **under Section 139** that a licensee should pay to the land proprietor a reasonable and sensible pay for any unsettling influence of their privilege and for any harm never really surface of the land, any yields, tree, building or works. The premise whereupon remuneration is payable for harm to the outside of any land is the degree to which

the market esteem has been diminished by reason of the harm, however without considering any improved an incentive because of the presence of petrol.

The section (**Section 139**) goes ahead and provides that payment of rent or compensation to a land owner for termination of his or her lawful occupancy is deemed to be adequate compensation for deprivation of the use of the land to which the rent or compensation relates. Land owners who are dissatisfied with any compensation offered by a licensee should have the dispute determined by the Chief Government Valuer.

It ought to anyway be noticed that it was not imagined that oil investigation would produce related land clashes and land snatching and basic freedoms challenges, and accordingly there could have been no legitimate groundwork for tending to these difficulties. This is confirmed by **Sections 136 and 137** of this specific demonstration that specifies that individuals will keep utilizing the land surface for brushing and development just as proceed with their sub surface exercises. How might this be if oil is abused under and oil foundation must be created without meddling with misuse? It has additionally been noticed that this enactment concerning oil investigation was more worried about oil-petrol 'burglary' instead of common freedoms, and subsequently the enactment did not have a human face. The fixation was on the security of oil as a public asset instead of the impacts that the oil would have.

4.1.2 International legislations

Uganda being a dualist State means that international law only forms part of the recognized sources of law if it has been domesticated by legislation or enacted by an Act of the Ugandan Parliament³⁰. therefore, under **Article 8(A)** of the 1995 constitution of the Republic of

³⁰ 'See for example the Arbitration and Conciliation Act (Chapter 4), The Foreign Judgments Reciprocal Enforcement Act (Cap 9), Atomic Energy Act (Chapter 143)'.

Uganda, it provides that Uganda shall be governed on principles of national interest and common good enshrined in the national objectives and Directive Principles of State Policy (DPSP); of which ‘**Objective XXVIII (b)** of the principles of national objectives and the (DPSP) provides that one of the foreign policy objectives is respect for international law and objectives’. Which provision can be interpreted to mean that international law is recognized and enforceable in Uganda.

Uganda is therefore a signatory to a number of UN conventions although there is currently no explicit reference to a general human right to land under international human rights law, several international human rights instruments link land issues to the enjoyment of specific substantive human rights like the right to food, equality between women and men, and the protection and assistance of internally displaced persons, as well as the rights of indigenous peoples and their relationship with their ancestral lands or territories³¹.

These international laws include;

a) Universal Declaration on Human Rights (UDHR) 1948.

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights that was drafted by representatives with different legal and cultural backgrounds from all regions of the world. The Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations.

It sets out, fundamental human rights to be universally protected including the right to own property that is established under **Article 17(2) of the UDHR**. As it declares that no one shall

³¹ Land and human rights; standards and applications; report by Office of the United Nations High Commissioner for Human Rights (OHCHR), https://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf

be arbitrarily deprived of his or her property. Anyway it is additionally imperative to take note of that UDHR is certainly not a lawfully restricting statement however it has powerful power when being alluded to in our courts as Section 15 of the Judicature Act gives that “nothing in this Act shall deprive the High Court of the right to observe or enforce the observance of, or shall deprive any person of the benefit of, any existing custom, which is not repugnant to natural justice, equity and good conscience and not incompatible either directly or by necessary implication with any written law”. This infers that any law which isn't contrary to standards of characteristic equity and value is material in our official courtrooms including this revelation.

Besides, it is likewise critical to observe the way that once an individual is expelled from land, there are rights that are additionally influenced among which incorporate'; the privilege to property, the privilege to sufficient lodging, the option to live some place in security, harmony and pride which means that the right to land is a strategic human right that protects other rights. UDHR also allows human rights to be recognised and avoids discrimination in general although it does not have the power to be legally enforced and is not followed everywhere, it is impossible – even unconscionable – to imagine a world without a strong commitment to basic principles of humanity. Like similar problems in the application and enforcement of International Humanitarian Law, it is not the Declaration itself that is at fault, or the various legal instruments flowing from it, but the refusal of abusers to abide by its principles, and the failure of the international community to hold them to account. While the Declaration is not a treaty in the formal sense and did not create legally binding obligations, its repeated violation is nevertheless a moral and political failure that will continue to undermine global commitments to reduce poverty and avert conflict.

b) ‘International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights’

‘Uganda is a State party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR)’ on 21st January 1987 and 21st June 1995 respectively³². The ICESCR does not have a provision dealing with land eviction however, **Article 11(1) of the ICESCR** provides for the right to adequate housing. It states that “the State party to the present Covenant shall recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. It is important to note that much as this arrangement doesn't allude to land expulsions, when an individual is ousted from land; their entitlement to satisfactory lodging is influenced'. 'This ought not be deciphered in the restricted sense yet rather this privilege ought to be seen a privilege framing a piece of the option to leave in harmony and dignity³³and these rights are violated when it comes to land evictions’. ‘Also under **General Comment 4** on the right to adequate housing which was adopted on 12 December 1991, different factors must be taken into consideration in determining whether the shelter can be considered as ‘adequate housing’ for the purpose of **Paragraph 8 of the General Comment 4 of the ICESCR**, one of the elements is lawful security of residency which envelops assurance against unlawful removal.

The Committee on Economic, Social and Cultural Rights (CESCR) calls upon State gatherings to thusly take prompt measures pointed toward managing the cost of assurance to those

³² ‘Uganda ratified the ICESCR on 21 January 1987 and ICCPR on 21 June 1995, www.ohchr.org’

³³ Article 287(a) of the Ugandan Constitution

individuals lacking it³⁴. It goes further to give that the privilege not to be exposed to discretionary or unlawful impedance with one's protection, family, home or correspondence establishes a vital measurement in characterizing the privilege of satisfactory lodging. Albeit the examination doesn't take a gander at the privilege to sufficient lodging essentially, with regards to land expulsions, an individual's or his family's entitlement to lodging or sanctuary is influenced once an individual is removed from a real estate parcel.

Accordingly, there is need to secure a group against illicit or unlawful removal completed either by the State or private people. 'Notwithstanding the abovementioned, **the General Comment 7**, which was received on the 16 May 1997, manages constrained expulsions'. 'It gives in more detail what the public authority, landowners and establishments ought to do to forestall constrained expulsions. **Article 2(1) of the ICESCR** calls upon state gatherings to utilize "every suitable signify" including the variation of authoritative measures to advance all the rights secured under the Covenant. What's more, such measures as expressed in **General Comment 7 paragraph 9** ought to incorporate estimates which (a) give the best conceivable security of residency to occupier of a house or land, (b) adjust to the contract and (c) are intended to control carefully the conditions under which removals might be completed. Moreover, the Comment gives that the State parties should guarantee that administrative and different measures are sufficient to forestall and, if proper, rebuff constrained removals completed, without suitable protections, by private individuals or bodies.

Moreover, the **General Comment under paragraph 15** accommodates the fitting procedural security to be applied according to constrained removals which incorporates (a) a chance for certified conference with those affected; (b) sufficient and sensible notification for all

³⁴ Article 287(a) Para 8(a) of the Ugandan Constitution.

influenced people before the set date of expulsion; (c) data on the proposed removals, and, where relevant, on the elective reason for which the land or lodging is to be utilized, to be made accessible in sensible opportunity to each one of those affected; (d) government authorities or their agent to be available during an ousting particularly where an enormous gathering of individuals are included; (e) all individuals completing the ousting ought to be appropriately distinguished; (f) removals ought not occur in especially awful climate or around evening time except if the influenced people give assent; (g) there ought to be lawful cures; and ultimately arrangement, where conceivable, of lawful guide to people who are needing it to look for review from the courts.

Notwithstanding the abovementioned, **Article 17(1) and (2) of the ICCPR** gives that nobody will be exposed to subjective or unlawful impedance with his protection, family or correspondence, nor to unlawful assaults honest and notoriety. It further gives that everybody has a privilege of insurance of the law against such impedance or assaults'. 'This arrangement implies that one ought to be secured against obstruction with one's home or haven. At the end of the day, there ought to be security of residency against unlawful removals from land which are completed by either the state or the private person.

‘Basic Principles and Guidelines on Development-Based Evictions and Displacement (2007)’

‘The Basic Principles and Guidelines are contained in the report presented by the Special Rapporteur on the right to adequate housing to the Human Rights Council in 2007’³⁵. They are based on international human rights law and are consistent with General Comment 4 (1991)

³⁵ ‘UN Doc. A/HRC/4/18, 5 February 2007, Annex 1’.

and General Comment 7 (1997) of the UN Committee on Economic, Social and Cultural Rights, the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2). The rules apply to acts or oversight including the pressured or compulsory removal of people, gatherings and networks from homes or grounds which influence the capacity of the individual, or gathering to keep living or chipping away at that specific dwelling without the arrangement of and admittance to legitimate or other security'. Notwithstanding the abovementioned, these rules are not laws that must be followed carefully but rather, they do have a powerful power in the courts and this likewise applies in the comparative manner in Uganda. Land expulsions establish net infringement of various universally perceived basic liberties, which incorporate among others; satisfactory lodging, food, water, wellbeing, training, work, security of individual, security of home, independence from savage and opportunity of of movement³⁶..

For land ousting to happen, they should be completed legally, just in remarkable conditions and as per applicable arrangements of international human rights and humanitarian law³⁷. Be that as it may, as indicated by **paragraph 74**, these rules will not be deciphered as restricting, modifying or in any case prejudicing the rights perceived under global basic liberties law or philanthropic law and related norms, or rights reliable with the laws and guidelines perceived under any public law'. The Basic Principles and Guidelines sets out the means that must be trailed by states before removals (paragraph 37), during (paragraphs 45 and 46) and after expulsions (paragraph 52 and 53).

Notwithstanding the abovementioned, the Basic Principles on Development–Based Evictions and Displacement gives solutions for expulsions as accommodated under **paragraph 59**.

³⁶ See UN Doc.E/1998/22/ Annex IV para 6

³⁷ Ibid note 36

'These cures incorporate among others: reasonable hearing, admittance to lawful guidance, lawful guide, return, compensation, resettlement, restoration and remuneration. Where expulsions is unavoidable and important for the advancement and the overall government assistance, there ought to be only pay for any misfortunes of individual, genuine or other property, remembering rights and interests for property.

Nonetheless, money remuneration ought to under no condition supplant genuine pay as land and basic property assets. 'For the situation where land has been taken, the removed ought to be repaid with land similar in quality, size and esteem or better. All the expelled individuals regardless of whether they hold title to their property ought to be qualifies for pay for the misfortune, rescue and transport of their properties influenced and land lost or harmed simultaneously.

c) The African Chapter on Human and People's Rights (ACHPR)

The African Charter on Human and Peoples' Rights (also known as the Banjul Charter) is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent. The ACHPR contains four norms namely the Civil and Political Rights which recognizes most of what are regarded universally accepted civil and political rights like the right to freedom from discrimination, equality, life and personal integrity, dignity, freedom from slavery , freedom from cruel, inhuman or degrading treatment or punishment to mention but a few. The second norm included in the charter is the Economic, Social and Cultural Rights like right to work, the right to health, and the right to education and lastly Peoples' Rights and Group Rights like have the right to equality, the

right to self-determination, to freely dispose of their wealth and natural resources, the right to development, the right to peace and security and "a generally satisfactory environment".

The ACHPR also provides that the right to property under **Article 14** which shall be guaranteed and may only be encroached upon in the interest of public needs or in the general interest of the community. Much as the ACHPR provides for a limitation to the right to property, this limitation should be exercised within the agreeable degree and should not be used to the detriment of the rights holder. This is the very position that is currently contained in Uganda's Constitution, i.e. the call for government to exercise some form of balancing between the individual's private right and decision to displace the person in the public interest. If the amendment proceeds as is, the scale will have tilted to the detriment of the rights of an individual.

d) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2005.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, was adopted by the African Union in 2003 and became legally binding for countries that had signed and ratified the protocol on 25 November 2005 with Uganda inclusive. This protocol corrects the weaknesses in the African Charter on Human and People's Rights (African Charter)³⁸ with respect to women's rights. This is so because much as the African Charter provides for an important human rights framework, including

³⁸ Organisation of African Unity (1981) African Charter on Human and Peoples' Rights. Addis Ababa: Organisation of African Unity.

reinforcing the right to life, liberty, security and freedom from discrimination, it is silent about women's rights in general and reproductive rights specifically³⁹.

This protocol therefore contains specific protections for older women, disabled women, and women in distress, promotes women's rights and equality broadly, including in marriage and divorce, land tenure, inheritance rights, and in relation to “traditional” practices. The African Women's Protocol is also particularly strong on women's reproductive rights, and is a tool for ensuring universal access to reproductive health and the creation of an enabling environment. It goes beyond other binding treaties, such as CEDAW, in outlining reproductive rights⁴⁰. Unfortunately, the protocol fails to include similar provisions for girls and young women not forgetting that the vision offered by the African Women's Protocol is still to be realized across Africa. Only 29 out of 52 of the African Union countries have currently signed and ratified the protocol⁴¹. While ratification is a significant step, it is, however, only the first step in utilizing the African Women's Protocol to realize women's reproductive rights. Countries must domesticate the protocol—that is, translate the protocol into national (domestic) legislation. This would require a comprehensive legal review of the provisions of the protocol in relation to current legislation. Countries' failures to sign, ratify, and domesticate the protocol are major barriers in utilizing this legislation. Countries frequently raise concerns about the cost of reviewing legislation and implementing reproductive rights. A further barrier is continued tension between human rights and customary laws.

³⁹ Centre for Reproductive Rights (2006) *The Protocol on the Rights of Women in Africa: an instrument for advancing reproductive and sexual rights*. New York: Centre for Reproductive Rights.

⁴⁰ <https://www.achpr.org/legalinstrument/detail?id=49>

⁴¹ Ibid note 41

**e) Convention on Elimination of All Forms of Discrimination against Women
(CEDAW) 1979**

Uganda ratified to this Convention on July 22, 1985, as an international bill of rights for women. **Articles 1 to 16** of this convention, focuses on the different rights of women from the right to non-discrimination, free of sex stereotypes, and sex trafficking, women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality, economic and social rights of women, particularly focusing on education, employment, and health, special protections for rural women and the problems they face, women's right to equality in marriage and family life along with the right to equality before the law. This means that the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) mandates that signatories abolish discrimination against women and implement policies that further women's equal rights⁴². As an internationally legally binding tool, the CEDAW can be employed to rearrange power, and respond to injustices such as discrimination and exclusion which women suffer from, given their social status in society. Moreover, every woman is entitled to enjoy these internationally agreed-upon human rights, including the right to land. To understand the different rights that women have to land, it is conceptually useful to think beyond ownership, access, and control, and consider the benefits that women derive from land. Therefore as a way to realize their objectives, **Article 18 of CEDAW** mandates all countries that chose to ratify CEDAW to submit a formal report to the Convention within one year and are also required to file one every four years after the first report⁴³. The Ugandan government, however, submitted its formal CEDAW report five years

⁴² Convention on the Elimination of All Forms of Discrimination against Women". www.un.org. Retrieved 2020-10-30.

⁴³ Okumu Wengi, Jennifer. Weeding the millet field: women's law and grassroots justice in Uganda. Nairobi, Kenya. ISBN 978-9966-031-86-0. OCLC 908071832

after ratification, in 1990 and as of 2017, Uganda had not reported its CEDAW implementation status since 2010 which is a sign that the women in Uganda are still unempowered to claim for their rights⁴⁴.

In many countries, CEDAW has helped strengthen provisions in constitutions guaranteeing equality between women and men, and providing a constitutional basis for the protection of women's human rights. In Uganda for example a number of organizations like FIDA-U and the organization of Law and Advocacy for Women in Uganda have initiated several cases before the Constitutional Court, successfully challenging discriminatory provisions of the Succession Act, the Divorce Act and the Penal Code Act, that discriminated the female gender. Legislation prohibiting discrimination in general, and in regard to specific areas such as employment, has become a standard component of legal frameworks. Uganda has repealed discriminatory provisions in civil, penal and family laws to bring them into conformity with CEDAW. Because of CEDAW, women and girls around the world have been empowered to claim their human rights since it has been a key tool for advancing women's rights and gender equality around the world, providing the basis for judicial decisions, and constitutional, legal and policy reforms at the country level.

⁴⁴ "Implementing CEDAW in Uganda". Inter-Parliamentary Union. Retrieved 2020-10-30.

4.2 Non-Legal Procedures used in land expropriation as expounded in the different policies and institutional mechanisms as well as reports from non- governmental organizations.

4.2.1 Policies/Institutional mechanisms

a) Production Sharing Agreements (PSAs)

Since Uganda uses PSAs to establish their legal obligations with International Oil Companies (IOCs) where exploration, appraisal, development and production activities of the IOCs are regulated by the Production Sharing Agreements (PSAs); a number of terms and conditions for the petroleum development, including terms of cost recovery and revenue sharing are included in the PSAs. With regard to land acquisition, Article 3 of Model PSA of 2016 states that all land shall become the property of the Government as soon as it is acquired by the Licensee, subject to its continued use rent-free by the Licensee until the date upon which the Agreement is terminated. The responsibility for the land acquisition process thus lies with the IOCs while ownership of the acquired land will be vested in Uganda Land Commission on behalf of the Government of Uganda.

b) National Land Policy 2013

Uganda's National Land Policy was adopted by Parliament in 2013, as an attempt to provide a comprehensive framework to direct needed legal, regulatory, and administrative changes in the land governance system⁴⁵. The National Land Policy provides for the protection by government of natural land and water resources, which are held in trust for the people and are "reserved for

⁴⁵ Uganda Ministry of Lands, Housing and Urban Development, National Land Policy, Approved Draft February 2013.

ecological and touristic purposes for the common good of all citizens.” These resources may not be leased out or alienated except by concession, license, or permit.

The policy expressly acknowledges the failure of Uganda’s formal law to overcome discriminatory practices concerning women’s land and inheritance, particularly in **section 4.10**, titled “Land Rights of Women and Children.” In **section 4.9**, the Ministry calls on the Ugandan government to overhaul the statutory regime in place in order to confront discrimination in land and inheritance. It is therefore important to note that the policy recognizes the gap between women’s land rights in law and in practice and directs the government to pass legislation to “protect the right to inheritance and ownership of land for women and children,” and to ensure equal land rights for men and women in marriage. It calls for an overhaul of the Succession Act and revisions to the Land Act, and for the restoration of powers of land administration to traditional leaders, provided they are sensitive to the rights of vulnerable groups.

The policy does not, however, advocate for concrete legal changes, but instead provides a basis upon which government can take steps to redress discrimination and disparate impact and makes a case for law reform and practice change at the policy implementation level. Inheritance rights of women are among the issues the policy addresses, with a view to ensuring that there is a framework to guide the needed reforms. This policy is in the early stages of implementation planning by the Ministry of Lands, Housing, and Urban Development. It remains to be seen whether this National Land Policy will have a significant impact on women’s land rights in Uganda.

c) ‘The National Land Policy, 2011:’

The objectives of this new land policy is enhancing the contribution of the land sector to overall socio- economic development, wealth creation and poverty reduction in Uganda; harmonizing and streamline the complex tenure regimes in Uganda for equitable access to land and security of tenure; clarifying the complex and ambiguous constitutional and legal framework for sustainable management and stewardship of land resources; to redress historical injustice to protect land rights of groups and communities marginalized by history or on the basis of gender, religion, ethnicity and other forms of vulnerability to achieve balanced growth and social equity; reforming and streamline land rights administration to ensure efficient, effective and equitable delivery of land services; ensuring sustainable utilization, protection and management of environmental, natural and cultural resources on land for national socioeconomic development; ensuring planned, environmentally-friendly, affordable and orderly development of human settlements for both rural and urban areas, including infrastructure development; and harmonizing all land-related policies and laws, and strengthen institutional capacity at all levels of Government and cultural institutions for sustainable management of land resources.

d) The National Oil and Gas Policy

This Policy supersedes the Energy Policy for Uganda published in 2002, and creates a conducive environment for petroleum exploration and the anticipated development, production and utilisation of discovered resources. It further provides a framework for the efficient management of oil and gas resources as well as revenues accruing from it. **Section 6.1.1 of the Policy** envisages the need to acquire land for the different aspects of the petroleum value chain like provision of transportation corridors, i.e. pipelines and roads, together

with infrastructure such as wellheads, oil and gas processing facilities and refineries. It anticipates that agreements will have to be entered into with landowners to cover aspects like compensation for their land surface interests. As such, government shall, where necessary and in accordance with the Constitution, acquire land in the public interest to support the implementation of oil and gas activities. In pre-empting the development of urban centers during the development of oil and gas activities, the Policy further endeavours to ensure organised urbanisation in and around the Albertine Graben. In order to achieve this objective, consideration will be given to declare the areas where oil and gas activities will be concentrated special planning areas to pave the way for their physical planning, including the identification of potential urban and growth centers around the Graben, and the proactive planning for these centers with the oil and gas activities in mind. It identifies the need to support efforts to design and implement physical planning in pace with, or preferably prior to, the development phases of oil and gas activities. Finally, it stipulates the need for community participation in both planning and implementation and the balance of physical planning in other parts of the country to avoid any undesirable population migration

e) ‘The National Action Plan on Women of 1999’:

The obligation of this plan was to eliminate discrimination against women set out under **Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** is reinforced under the Beijing Platform for Action and the African Regional Platform for Action. On these bases, the Government designed and adopted a National Action Plan on Women in December 1999 whose goal was to achieve equal

opportunities for women by empowering them to participate in and benefit from social, economic and political development which the plan managed to accomplish half way⁴⁶.

f) ‘ The National Gender Policy of 1997, revised in 2007’:

‘This policy was launched by the government in 1997, which introduced gender mainstreaming into national development policy. Within this policy, the Land Sector Strategic Plan (LSSP) recognized women’s unequal status throughout the country regarding land rights and reinforced NGP policy direction’. While the 2007 policy aims to reduce gender inequalities, to increase knowledge and understanding of human rights among men and women, to improve women’s participation in decision-making in administrative and political processes, not so much has been achieved.

g) ‘Land Sector Strategic Plan 2001–2011, final draft issued in November 2001’:

‘This was developed by a task force comprising the Ministry of Water, Land and Environment, the Ministry of Finance, the Law Reform Commission, the Uganda Land Alliance and the Makerere University, in consultation with national, district and sub county stakeholders’. ‘It recognizes the role of women in agriculture since Uganda primarily relies on agricultural production and women form a core labour force in agriculture and one action area, among the Priority Action Areas is Women and Vulnerable Groups’.

Also as to common ownership and inheritance, it states that “further legal amendment is desired to provide for joint/common ownership of family land by spouses, as has been recommended through domestic relations legislation and amendment of the Land Act. There is also need to amend the law on inheritance to eliminate discrimination. The land sector

⁴⁶ http://www.fao.org/gender-landrights-database/country-profiles/countries-list/national-legal-framework/en/?country_iso3=UGA

recognizes that strengthening women's land rights in law and in practice is a key strategy for achieving the objectives and purpose of the LSSP, and will work to mainstream gender in its activities as well as making targeted interventions to improve women's land rights".

h) 'Land Acquisition and Resettlement Framework'

This strategy articulation diagrams the wording, destinations, approaches, standards and authoritative courses of action that will administer land access, obtaining and resettlement exercises identified with the Project. This is to address the issues of individuals who might be influenced by Project exercises bringing about land access and obtaining, loss of sanctuary, loss of resources or jobs, and additionally loss of admittance to monetary assets.

4.2.2 Reports from Governmental and Non- Governmental Organizations.

4.2.2.1 Governmental Organizations

a) Human Rights Commission

Provided for under the Constitution, the Ugandan Human Rights Commission (UHRC) was established under the UHRC Act of 1997. It has wide ranging powers, including quasi-judicial and investigative powers and a record of independence from executive power. The UHRC contributed to the government submission to the CEDAW committee in 2010 and is now involved in the dissemination and implementation of the concluding observations. It played an advisory role in a scheduled mid-term review of CEDAW implementation in January 2012. The vast majority of cases brought by women to the UHRC relate to child maintenance. Only a very limited number of complaints deal with violations of women's rights, such as domestic violence and land tenure cases. The Commission refers the majority of these cases to the NGO FIDA-U, to the police or to the Children's Court. The Commission is constrained in its action

in favour of women's rights, as a result of several factors: a very broad mandate; limited funding; staffing constraints; as well as the prevalence of discriminatory traditions and customs, which require long-term human rights education and awareness-raising to reform.

b) Equal Opportunities Commission

The Equal Opportunities Commission (EOC), provided for under **Article 32** of the Ugandan Constitution, was established by the Equal Opportunities Act in 2007 and has only been operational since mid-2010. It is composed of five members representing different constituencies (youth, elderly, and persons with disabilities, women). The commission has a wide mandate and range of powers, including: conducting investigations, on its own initiative or on receipt of a complaint; educational campaigns; research; issuing recommendations; contributing to legislative processes; preparing and publishing guidelines for implementation of equal opportunities; monitoring compliance with international instruments; settling disputes; and hearing and determining complaints.

The EOC has set itself a number of priorities, such as the translation of its mandate in simple terms for dissemination; a mapping of the Ugandan legal framework in terms of equal opportunities and non-discrimination; research and data collection and the setting up of a complaint mechanism (for which it was in the process of writing rules of procedure). This mechanism would have the power to settle issues through mediation or settlement, order fines or even sentences of imprisonment in instances within the mandate of the Commission.

However, at the end of 2011, it lacked staff, with only the five commissioners and a couple of support staff. In order to develop the complaint mechanism, the EOC intends to rely on existing government staff at regional level, including in particular, community service officers

and it will share office space with the UHRC. In the meantime the EOC has sent the first complaints that it has received to the UHRC.

In the short-term, the EOC needs to pursue a realistic set of concrete objectives, leaving other areas of its mandate for medium and longer term. In this regard, the June 2009 Action plan is obsolete and requires updating. The overlapping mandates of the UHRC (in existence for over 13 years) and the EOC, call for very close cooperation, coordination, as well as shared resources (including office space outside Kampala).

4.2.2.2 Non- Governmental Organizations

a) National Association of Professional Environmentalists (NAPE)

In their report titled “Women-led action oriented research on the negative impacts of oil on women’s rights, land and food sovereignty in Uganda’s oil region, ” published in 2016⁴⁷, ‘it indicated that the key impact of oil on women included accelerated land grabbing, food insecurity through community displacements, animal human conflicts, increased population that has in turn increased pressure and carrying capacity of key ecosystems, increased prostitution, increased degradation of life supporting ecosystems, accelerated rights abuse, abuse of community access rights to ecosystem resources, introduction of inappropriate food technology to meet the increasing food needs, reduced opportunities for barter trade, water pollution among many others’.

b) Advocates Coalition for Development and Environment (ACODE)

ACODE is a non-governmental organisation whose framework contributes to policy alignment, implementation and outcomes. In their report titled “Balancing Development and

⁴⁷ <http://www.nape.or.ug/publications/gender/51-women-led-action-oriented-booklet/file>, page IV’

Community Livelihoods: A Framework for Land Acquisition and Resettlement in Uganda”⁴⁸. They offer a deep and clear analysis of the existing relevant international and national policy and legal frameworks that strive to achieve best practices in regulating land acquisition for development and resettlement of affected persons. ‘Their findings show an uneven application of resettlement protocols across projects and land acquisition schemes, as well as vulnerability in the security of land and restoration of livelihoods’. They also argue that a national resettlement policy would strengthen the position of customary land relative to titled private property through the stated procedures of land acquisition and resettlement.

c) African Institute for Energy Governance (AFIEGO)

AFIEGO is a Ugandan registered public policy research and advocacy NGO whose main objective is to promote good energy governance for the common good and national development. AFIEGO has for the past two years facilitated the affected communities in the districts of Hoima and Buliisa to petition and appeal to every relevant authority in Uganda including the Speaker of Parliament, Bunyoro MPs, the minister for lands, the minister for energy, the minister for Bunyoro Affairs, the Inspectorate of Government, the Uganda Human Rights Commission, the Chairperson Hoima District and the Katikiro of Bunyoro Kingdom for help. While some affected people have been compensated, others are still suffering from the injustice and as such this NGO is helping the affected communities institute claims against the Government and its agents for contravening article 26(2) that provides for adequate

⁴⁸ Policy Research Series No.75, 2016 Policy Research Series No.75, 2016

compensation that they haven't received ever since their lands were compulsorily acquired by the government⁴⁹.

4.3 Conclusion;

Much as land obtaining and resettlement should be led as per public laws, it is apparent, that there are a great deal of holes, inconsistencies and ambiguities in the current lawful system overseeing land securing and resettlement. It is clear that the legitimate system is unpredictable, inadequate in specific zones, and not completely in accordance with global norms, for example, worldwide basic liberties instruments to which Uganda is a signatory and this should be explained and united. The current standards and rules ashore securing which are scattered in different administrative structures ought to be united into one and refreshed to address the current difficulties and holes ashore procurement. Likewise the current laws and strategies are applied unevenly and are lacking to defend the privileges of venture influenced people (PAPs).nThe public authority has likewise neglected to make an unmistakable arrangement structure to direct Land Acquisition and Resettlement measures, except for the Land Acquisition and Resettlement Frameworks (LARF) in a couple of areas, for example, the LARF for the Petroleum Development and Production in the Albertine Graben, has prompted genuine consequences.

Lastly, given that the government of Uganda, like many other governments in developing countries has continued to grapple with the challenge of land acquisition for infrastructure development. The issue of compensation of persons affected and/or displaced to pave way for government's infrastructure and investment projects is said to be making the cost of these

⁴⁹ AFIEGO sues government over oil compensation and resettlement; <https://www.afiego.org/afiego-sues-government-over-oil-compensation-and-resettlement/>

projects prohibitively high. This results in project delays in cases where an affected person rejects compensation and resorts to court.⁵⁰ In government's argument, those who resort to court are always in pursuit of their inherent and inalienable right granted under article 26 of the 1995 Constitution of the Republic of Uganda. The right is to the effect that fair and adequate compensation ought to be paid to any person whose private property or land has been acquired, demolished or affected by a public project⁵¹.

⁵⁰ Johnson Thembo, 2017, Minister Amongi says Compulsory Land Acquisition Law Helps Ugandans. Available at <http://theinsider.ug/index.php/2017/07/18/minister-amongi-says-compulsory-land-acquisition-law-helps-ugandans/>

⁵¹ See Article 26(2)(b)(i) of the 1995 Constitution of Uganda

CHAPTER FIVE: THE LEGAL CHALLENGES FACED BY THE WOMEN IN HOIMA DISTRICT WHOSE LAND HAS BEEN ACQUIRED FOR OIL AND GAS DEVELOPMENT PROJECTS.

5.0 Introduction

It is expected that the land acquisition for the oil and gas development projects will have major impacts on the lives and livelihoods of the people of Hoima simply because land is necessary for all production, no matter what kind or form; land is the standing-place, the workshop, the storehouse of labour and it is to human beings the only means by which they can obtain access to basic needs from food to clothing and shelter⁵². As a result, acquiring these lands for oil and gas development projects will spring a number of challenges that will affect the human (social, cultural and economic) rights of the people of Hoima especially for the women as explained below;

5.1 Legal challenges affecting the women in Hoima district;

First and foremost, it is important to note that much as Section 39 of the Land Act of Uganda gives all spouses the right to security of occupancy of family land through the consent requirement for transactions in family land, a number of women are denied the right to exercise ownership of land as women's land rights in most communities spread around the country are largely limited to access, while other rights such as control, as well as disposal and use, are held by men even when the land is jointly owned by both of them. The case in Hoima has been that women in similar situations have not been given the opportunity to consent to selling their land to have the oil companies carryout different oil projects. Whereas some have

⁵² The Land Question: What It Involves, and How Alone It Can Be Settled by Henry George, First published in 1881 as "The Irish Land Question"

given consent, it is evident in some situations that it was given under duress given the fact that the men were permitted to challenge a woman's refusal to consent if they considered her reasons for withholding to be weak. For example an interview with a one Bulandina from Hoima who worked to make enough money to buy some land before the oil refinery arrived, but was undermined by her husband's authority at the time of compensation. She explained, "It was mine; my ex-husband decided it was his and sold my land without my consent to the oil company. I never got any of the compensation from the company."

And just like her, a number of women in Hoima were never fully involved in the process of negotiating the land deals and compensations for their land since they were not considered owners of the land⁵³. It is also important to note that the compensation was either in the form of cash or to buy and relocate people to the new places. This means that if compensation money was handed out then it was given to the men because during interviews with a few of the women; they also intimated that the men were the ones involved and that they were never consulted and that even the compensation money was deposited in men's accounts and they could do anything with it, including taking on second families (marrying new wives, often abandoning the old one) without involving them (women)⁵⁴. As a result some women have been abandoned by their husbands in this process and have remained behind. Although some of them have relocated on their own, for the women who were abandoned by their husbands and who have not yet relocated, the challenges are many, ranging from failure to tend their

⁵³ Ongode, B. (2015, 27 May), 'Oil Compensation Exposes Abuse of Women in Hoima', The Observer. Retrieved from: <https://observer.ug/business/38-business/38035-oil-compensation-exposesabuse-of-women-in-hoima>

⁵⁴ Revealed during an interview with a one Roseline aged 36 years and a resident of Bukona B- Hoima District.

gardens as they are not allowed to plant to fear of being raped by strangers since the place they live is almost abandoned, many people having left⁵⁵.

The above is supported by information from a key informant who is also a woman village leader in Kabaale Kitengwa, who revealed that:

“When the exercise was just starting they promised to care for the vulnerable like women, children and disabled. They also promised to train women with hands on skills to help them use the money from compensation very well, none of these came as promised. Men have since married other women and have left us with children alone. We are not progressing in any way, as nobody cares about us. We are being raped by strangers because the area is empty and bushy. Girls and other children no longer go to school because of fear to let them move alone. Our children have no future because they are not being educated”⁵⁶.

Therefore, all the above shows that the welfare of many women was affected by the oil discovery and exploration most especially after the compensation was received. This is the case because from the interviews conducted, the respondents seemed to point out the fact that in the first instance, there was family unity with strong relationships between men and women before compensation was paid as men and women used to work together, even on the farm. But when the compensation was paid out to men, it was followed by social disunity in many households as many men either left their wives or married others and became polygamous. This affected many women in a way that they were never compensated or even given the opportunities to be part of the agreement when the men received the compensation money which means most of them were left destitute and hopeless without food or shelter.

⁵⁵ Behrman, J., R. Meinzen-Dick and R.A. Quisumbing (2011), 'The Gender Implications of Large Scale Land Deals', *The Journal of Peasant Studies*, 39(1), 49–79. Retrieved from: <https://doi.org/10.1080/03066150.2011.652621> .

⁵⁶ Interview with a Woman Village Leader, Kitengwa village, Personal communication, January 2021.

Also since the rural economy is largely agrarian and land is the main factor of production, women being the food providers in such communities, loss of these lands to oil companies means that women can no longer grow food to meet their family needs and cash that they obtained from selling some of the food crops grown. As a result food security has been compromised as the quality of food among the evicted households has shrunk and majority of these households have suffered from malnutrition or have been undernourished, especially the women as they “often eat less, or skip meals altogether” when faced with food shortages and this results in women being most affected by malnutrition, which contributes to a host of problems, such as complications during childbirth⁵⁷.

The other issue is the fact that land in the district is held under customary tenure and communal ownership of land is not necessarily inclusive, in that not all members of a community are always regarded as having a stake, especially the women⁵⁸. This is because individual relationships with land in such communities are shaped by customary laws and practices that are influenced by traditional societal norms and patriarchal conditions. As such, women tend only to have secondary access to land, which they gain through males (e.g., fathers, husbands, and brothers) while formal land ownership is generally only passed on to males⁵⁹. Although with hope that the process of registration of customary land will provide an avenue to formalize women’s right to land under that kind of tenure, the reality has been that the men have really manipulated the whole process given their trusteeship roles due to commercial pressures on these lands. As a result there have been conflicts in different

⁵⁷ The Effects of Large-scale Land Acquisitions on Women by; Jemima Opare-Henaku, Civic Response Communications Officer, and Luke Allen, RRI Communications Associate 02 .06. 2017

⁵⁸ Doss, C.; Truong, M.; Nabanoga, G.; Namaalwa, J. Women, marriage and asset inheritance in Uganda. *Dev. Policy Rev.* 2012, 30, 597–616.

⁵⁹ AECOM. Tilenga Project: Environmental and Social Impact Assessment; National Environment Management Authority: Nairobi, Kenya, 2018; Volume IV–V, Available online:

https://www.eia.nl/docs/mer/diversen/tilenga_esia_volume_iv_13-09-18.pdf

households due to differences in ideology as the men are looking to make money while the women prefer to keep family values and assets for the wellbeing of the families. The other reason as to why most of the women have failed to have their interests in these lands recognized is the fact that the majority of adult women are living in undocumented, cohabiting unions, in lieu of formal marriage⁶⁰ which is making it hard to legalize their interests in such lands. All in all, the issue of customary land ownership has not helped in advocating for women's rights in as far as land is concerned as it is still heavily patriarchal in nature despite the Constitution and the Land Act being clear in refuting any discriminatory customs, the law is silent on how such customs might be eradicated and what options rural women have to access redress outside courts of law, which remain inaccessible for the majority. "We are not aware of any law that governs land because we are not educated and so there is no way we can access knowledge on land ownership," says Louise from Hoima district. "In addition to that, we are too poor to even own a radio which could provide us with information on land matters."

Also for the few women able to own land in the district, they have been denied access to tender their gardens and graze their animals on the lands that they formerly owned as they are considered trespassers now. Even though they were only compensated for what was on the land and not the land, they hoped that the companies were only "renting their lands and not buying them" which was not the case. According to a one Evelyn an informant aged 46 years in Hoima district, 'I was given assurance by government officials that I would have the rights to cultivate my garden since what they needed was only underneath the land I owned and not the land, so I was promised that my garden would not be destroyed but to date when I visit the

⁶⁰ Lyn Ossome, "Can the Law Secure Women's Rights to Land in Africa? Revisiting Tensions Between Culture and Land Commercialisation," *Feminist Economics* 20, no. 1 (2014), doi:10.1080/13545701.2013.876506

land, I can hardly recognize the place as everything was tilted away and gazetted and we have been warned not to step there again as we risk being imprisoned.” This is evidence that much as sections 136 and 137 of the petroleum act of Uganda provides that the land owner retains the right to carry out surface activities and sub-surface activities respectively, it is practicable impossible for the land owners to still own these lands as exploration and development goes ahead and even after decommissioning, it is impossible to get these lands back to their original state. Therefore the women in such circumstances lost their right to own property, to enjoy quiet possession of their property and also freedom of movement as they cannot get to some parts of their lands.

There have also been incidents where the powerful elites including government officials, the Government and large investment farms have illegally taken over land which formerly belonged to people in some parts of the Bunyoro and Buliisa districts where most oilfields are found, leaving people who formerly occupied these lands without land⁶¹. And yet the lands taken over are not well compensated for because of the lack of land titles and their location. The cancellation of 14 land titles acquired illegally in the Albertine Graben is testament to this assertion⁶². This has created negative impact on all people, but for the vulnerable groups such as women, who largely depend on land for their livelihood, the situation is worse because land being a source of women’s livelihoods and survival; no access to land, means that their families will end up homeless and in towns, impoverished and hungry⁶³. Although some women have no rights of control and disposal over these lands, they at least have rights to access the land from which they can produce food and get vegetables. Therefore taking rights

⁶¹ According to Kwesiga, 2016, a reporter; one of the 14 land titles which had been acquired illegally belonged to a former First Deputy Prime Minister in the NRM government.

⁶² Kwesiga, P. (2016), ‘Government Cancels Oil Field Land Titles Illegally Acquired’, *New Vision*, 31(97), 3–10.

⁶³ Cernea, M. *The Risks and Reconstruction Model for resettling displaced populations*. *World Dev.* 1997, 25,

to land away from women denies them the ability to be efficient in decision making and the right to welfare given that in the African tradition, the woman should provide food for the family, which means that them having rights over land increases their economic strength and ability to bargain, both in and outside the household in addition, to their ability to access services such as financial, maternal and family planning and maternal health care services⁶⁴ as land rights are important for women's equity, welfare and efficiency.

There have also been incidents of forced evictions that took place despite assertions from women that they had landownership certificates. Women research participants reported that homes were burned, bullets were fired and tear gas used, with reports of adults and children missing or presumed dead. Margaret was one of the women forcefully evicted from her home to make way for the opening of the Hoima oil explorations. Most of these women are still living in makeshift camps and have received no compensation. Margaret explained, "What hurts me the most is that I am a Ugandan, living on Ugandan land but I am now a squatter and I and my children are left here. My children aren't going to school as I can't afford to pay for the fees. I have to walk for at least three miles in the hot sun to get to some paid work just so I can feed my family. I have not been able to feed them well – we eat one meal a day and what I cook has to last us for two days." This is evidence that quite a number of women are homeless and have nothing to eat. Even for women who had not faced eviction, livelihood and incomes deteriorated as the districts that border game reserves and National Parks, had wild animals destroying crops and properties as some of the animals were also moving beyond the boundaries of the reserve to escape the noise and pollution of the oil exploration activities. The

⁶⁴ Jacobs, S. (2009), 'Land reforms, Land Titling and Gender Dilemmas in Africa: An Exploration of Issues', in M. Ndulo and M. Grieco (eds.), *Power, Gender and Social Change in Africa*. Newcastle-upon-Tyne: Cambridge Scholars Publishing.

displacement of wild animals searching for food and shelter and encroaching on human settlements was a common theme across a number of areas researched.

There have also been reports that the development of extractive projects in the Albertine region was accompanied by killings, physical violence and harassment conducted by security forces either working for the companies or belonging to the state⁶⁵. This violence is particularly acute for women and girls, who have faced increased harassment, rape and sexual exploitation, including of minors⁶⁶. This atmosphere of violence and threats contributes to the infringements of the right to participation and access to information, highlighted by several studies, which show that the affected population is often barred from learning about the projects in detail and how they can impact their rights. This is usually because the laws themselves are not properly designed to defend women's rights, and the right to access justice is impaired by the unwillingness or weakness of the local authorities and by corruption.

Environmental degradation as a result of extractive activities and agribusiness directly affected a range of women's rights, including the right to an adequate standard of living and the right to health. This is because the pollution of water sources affects women's ability to collect clean water, and as a result they spend a larger proportion of their time having to find other sources of water. Loss of livelihood due to displacement increases poverty among women as well as their risk of experiencing violence, both within the household and in public spaces. Women interviewed reported the destruction of natural resources, such as water sources, swamps and forests, which had previously provided grass for thatching houses, clean water from wells and soil for making pots. For many years women had made pots from clay to sell and make a

⁶⁵ Lizabeth Paulat 'Land Evictions Breeds Violence in Oil-Rich Hoima, Uganda' Voa News (September 24th, 2014) <https://www.voanews.com/africa/land-eviction-breeds-violence-oil-rich-hoima-uganda>

⁶⁶ Uganda Human Rights Commission, Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region (2013);

living, but this is no longer an option due to this pollution from the exploration activities going on in the region as a result of paving way for the oil development projects proposed in the district.

5.2 Conclusion

Findings from the field study conducted in five different sub-counties in Hoima districts highlighted that women's formal legal rights are realised only if women are aware of their rights and are able to access and enforce them. For many women however, this is not the case which means that discriminatory social norms will continue to deny women access to decision making, systematic exclusion from household and community decision making on land matters, as well as control of compensation when land is sold or acquired. Women's right to land is suppressed by the convergence of patriarchal social norms and commercial pressures on land and natural resources, while neither customary nor statutory law appears to fully protect their rights. Therefore improving women's land rights may require a mix of measures, such as reforming existing law, increasing women's access to justice under statutory law and working within the structures of customary law to support women's rights. In the meantime, without corresponding changes in the discriminatory social norms around women's access to decision making and land, inequality especially with land ownership and control will persist.

CHAPTER SIX: COMPARATIVE ANALYSIS ON HOW LAND ACQUISITION FOR OIL AND GAS DEVELOPMENT PROJECTS IS DONE IN OTHER COUNTRIES.

6.0 Introduction

In a bid to attempt a balanced comparison and analysis following the discussions in the previous chapters, this section of the paper shall be divided into countries where land acquisitions for oil and gas developments have been a success and those where it has been a failure.

6.1 land acquisition for oil and gas development success stories.

a) Canada

When it comes to natural resources, Canada is a powerhouse. The country is a major net exporter of natural gas and coal⁶⁷. And if one includes the Alberta oil sands (which were pre-shale considered cost prohibitive to develop), the country holds what is estimated to be the world's second largest oil reserves (Saudi Arabia being number one)⁶⁸.

But what is intriguing about the oil in Canada is the fact that ownership of oil resources in the country is split between: the provincial crown, the federal crown, private freehold ownership and the first nations much as the extent of private ownership largely depends on the time that the land was settled ⁶⁹ which is quite different from Uganda whose government owns all mineral resources. A clear example is Alberta, where the province owns approximately 81% of the mineral rights, the federal government owns 9% of the mineral rights, which includes most Indian reserves and national parks. The final 10% is held privately under freehold ownership.

⁶⁷ Four Countries that beat the resource curse; by Sean Durns, April 22, 2014. <https://globalriskinsights.com/2014/04/four-countries-that-beat-the-resource-curse/>

⁶⁸ Ibid note 69

⁶⁹ Oil and gas regulation in Canada: overview by Lewis Manning and Bernadita Tamura-O'Connor*, Lawson Lundell LLP

In areas which were settled earlier, such as southern Manitoba, up to 80% of mine and mineral rights are privately owned.

Also Canada's mineral rights are also quite severable from other land rights given that in many cases, surface rights owners do not also own the mines and minerals below the surface since their oil and gas rights are subject to the law of capture, which means that the first person to "capture" the resource owns the resource. While the law of capture is the starting point, each province controls the ability of producers to extract hydrocarbons in a responsible manner that ensures conservation and prevents waste of oil and gas resources. Much as oil and gas rights in Canada are leased (Freehold and Crown leases)⁷⁰ rather than sold, there are also instances where the government will acquire land for public uses⁷¹ like it is in Uganda.

And in such instances the government of Canada is required to follow a clear step-by-step process as provided for in their Expropriations Act (R.S.C., 1985, c. E-21). This is to encourage transparency in a way that the public is informed about the purposes for which an authority exercises its power to expropriate and assists in maintaining accountability through the political process. To ensure that this is achieved, the legislation provides numerous procedural safeguards that favour the owner in the expropriation process given the fact that there is an obvious imbalance in power between landowner and government. These include the right to be notified of the expropriation; right to be notified of all steps being taken by the government in the process; right to challenge the expropriation; and the right to representation

⁷⁰ Freehold leases are privately negotiated contracts while Crown leases are acquired by public auction in which either the province designates the lands to be auctioned or an individual requests that certain parcels be put up for auction.

⁷¹ Expropriating Land: A Balancing Act by Peter Bowal and Rohan Somers. Created on July 1, 2013;

<https://www.lawnow.org/expropriating-land/>

by a lawyer in that process as reasonable legal fees are usually reimbursed to the landowner⁷². And if the landowners are not content with the expropriator's initial proposals, they have the right to a formal offer of compensation; a record of appraisal; negotiate the compensation; and ultimately a public hearing or inquiry procedure before an independent administrative tribunal⁷³. This further proves that if an expropriating authority does not fulfil the procedural requirements set out in the expropriation legislation, it is found to have acted without authority and the expropriation can be invalidated and the property owner will be able to bring an action for damages or an injunction against the authority.

As for the compensations, once a threshold has been met, much of the process turns to the determination of fair compensation for the landowner. The method to assess compensation varies across provinces but generally a "value to the owner" approach is applied in Prince Edward Island, Quebec and Saskatchewan while the "market value" approach is also used in some form in the other provinces and territories⁷⁴. However, the two approaches yield similar results, as the objective is to restore the owners to the same position as they were in before the expropriation.

Also most of the expropriation legislations in Canada now include a "home for home" provision to allow forfeited land to be swapped for equivalent replacement property which is quite a good idea as cash compensation as done in Uganda does not usually leave people in a better or similar situation than they were, it only worsens. In the end, Canadian landowners enjoy an array of safeguards to challenge an expropriation and ultimately receive fair

⁷² **Dell Holdings Limited v. Toronto Area Transit Operating Authority, 1997 SCC 400**; the S.C.C. reconfirmed that "the power of an expropriating authority should be strictly construed in favour of those whose rights have been affected". The statute as a whole ought to be given a broad and liberal interpretation, consistent with its purpose.

⁷³ Expropriations Act (R.S.C., 1985, c. E-21)

⁷⁴ Eric C.E. Todd, *The Law of Expropriation and Compensation in Canada* (Ontario: Carswell, 1992)

compensation under their ordinary expropriation legislation which make them by far one of the countries that has ably secured happy, or at least satisfactory, expropriation resolutions due to the way regulations and oversight are implemented and applied.

6.2 land acquisition for oil and gas development failed stories.

a) Kenya

Land is not only the most important factor of production but also a very emotive issue in Kenya. As a matter of fact, 80% of her population relies on agriculture, yet only 20% of the land mass comprises arable land⁷⁵. Those in the political class and in business regard land as a source of personal wealth and power while those in the rural areas, regard land as not only their sole livelihood but also the subject of great emotional attachment⁷⁶. Therefore, discontentment over land ownership is the most notable source of frequent conflicts and tribal clashes between Kenyan communities⁷⁷. As a result compulsorily acquiring such lands for other activities like oil and gas by the government is a complex issue given that this is the era where the government has increasing pressure to deliver public services in the face of the ever increasing demand for land in the country⁷⁸. Therefore with the oil in the Turkana region, Kenya registered quite a number incidences where the government made irregular allocations while practising compulsory acquisition. This was attributed to the abuse and non-adherence to the Land Acquisition Act which governed the acquisition process and as a result compulsory acquisition was not exercised effectively and accountably⁷⁹. This seems to be a trend in most

⁷⁵ Republic of Kenya, Report of the Commission of inquiry into the land law system of Kenya on principles of a national land policy framework constitutional position of land and new institutional framework for land administration, 2002, 19.

⁷⁶ National Land Commission of Kenya; Frequently Asked Questions; <https://www.landcommission.go.ke/article/faqs>

⁷⁷ Ibid note 78

⁷⁸ Food and Agriculture Organization of the United Nations (FAO), 'Compulsory acquisition of land and compensation' Land Tenure Studies (2009), 1.

⁷⁹ Section 42, National Land Policy (2009)

developing countries that has been highly attributed to their corruption levels in all sectors of their economies.

Kenya also has not resolved the issue of ambiguities in their new laws dealing with compulsory acquisition, in particular, the Constitution and the Land Act⁸⁰. These laws do not provide a criteria for the calculation of compensation to be made to victims of the acquisition. The law only provides for “just” compensation which is very ambiguous⁸¹. This has therefore left courts with the powers to interpret what the laws mean by “just and fair” compensation which they have interpreted to mean the market value of the property⁸². However, the market value fails to compensate non-monetary aspects such as the spiritual connections communities have to their ancestral lands⁸³.

Also for the Constitution to provide for prompt payment of just compensation to the owner of land that has compulsorily been acquired and fail to provide a well-defined timeline for compensation regardless of the use of the word “prompt” has in itself delayed payments to the affected persons which is a contradiction to the principle of just and fair compensation⁸⁴.

To date, the country still has unresolved cases on non-adherence by the State to the laws governing compulsory acquisition for example till 2018, the government was still forcefully evicting the Sengwer community from the Embobut forest contrary to the law⁸⁵. Not forgetting that their National Land Commission (NLC) has still not created guidelines for compulsory acquisition which gives room for such irregular acquisition practices to go on and in the end

⁸⁰ Constitution of Kenya (2010) and Land Act(No. 6 of 2012)

⁸¹ Article 40(3)(b)(i), Constitution of Kenya(2010)

⁸² Kanini Farm Limited v Commissioner of Lands (1996) eKLR

⁸³ FAO, ‘Compulsory acquisition of land and compensation’, Land Tenure Studies(2009), 23

⁸⁴ Mathatani Limited v Commissioner of Lands(2013) eKLR

⁸⁵ <https://reliefweb.int/report/kenya/kenya-defies-its-own-courts-torching-homes-and-forcefully-evicting-sengwer-their> reported on 15 January 2018

disregard for the right to property as enshrined in the Constitution through the arbitrary deprivation of property.

b) Nigeria

As a mainstay of Nigerian economy, crude oil commonly referred to as black gold, is a blessing to Nigeria although to the communities where this resource is extracted, it is perceived as a curse⁸⁶. This is mainly because of the arrogation and monopoly of access to the oil-bearing land by the state via the instrumentality of their Land Use Act of 1978, and denial of courts' jurisdiction over any matter relating to compensation on land⁸⁷. This means that land acquisition for oil and gas projects in Nigeria is still yielding more negative results than positive ones simply because a number of local communities in the country are conflict areas as they (the local communities) have been denied ownership and access to their lands.

These acts that have cause great mishap in the communities are aided by the Nigerian laws do not also seem to help that much given that most of them do not accord the local communities legal rights to oil and gas reserves in their territory which has been perceived by the nationals as an alliance between government and oil companies to the detriment of the people who bear the loss if their lands⁸⁸. And usually with such land grabbing, issues of unfair, inadequate or no compensation at all are also always present. Therefore for issues to do with compensation, a number of incidences especially in Rivers State, Nigeria, indicate that the oil companies have not been and are not willing to pay adequate compensation, incidences of oil and gas

⁸⁶ S. Omotola, and, J.M. Patrick, "State response to the Niger Delta question: The OMPADEC and NDDC compared. Placebo as Medicine": The Poverty of Development Intervention and Conflict Resolution Strategies in the Niger Delta Region of Nigeria. Port Harcourt: Kemuela, pp.116-140. 2010.

⁸⁷ Amnesty International "Bad Information Oil Spill Investigations in the Niger Delta". Available at www.amnesty.org/en/documents/afr44/028/2013/en/, 2013.

⁸⁸K. Omeje "Oil conflict in Nigeria: Contending issues and perspectives of the local Niger Delta people". New Political Economy, vol. 10(3), 321 –334. 2005

prospecting firms exhibiting a carefree attitude, issues of protracted litigation, selfishness of some community representatives, and lack of basic infrastructures in oil producing communities have all resulted into abject poverty, conflicts and wars and environmental degradation to which the region has been subjected to over the years⁸⁹. Although oil companies have sought to remedy the above issues through instituting or intensifying corporate social responsibility (CSR); violent conflicts in the region have not reduced⁹⁰.

Just like Uganda, Nigeria's policies and regulations are also inadequate and they greatly contribute to the inadequate compensation valuations in the country since the laws that govern compensation in the country are silent on issues to do with compensation for injurious affection and disturbance of land owners, exclusion of certain classes of crops and trees, and also the adoption of compensation methods that undervalue the claimants' interests⁹¹.

All these issues have made land acquisition for oil in the country impossible since even when the government compulsorily acquires these lands to facilitate the oil projects, both the government and the oil companies do not get to benefit as they should because the local communities from which land for such activities is obtained, retaliate either through conflicts or wars, oil theft and pipeline attacks since they are not benefitting from such projects and as a result oil projects in the country become even harder to develop.

⁸⁹ Osimiri C.J. "Arbitration as a conflict resolution approach to oil spill compensation payment in oil producing communities of Rivers State, Nigeria". *International Journal of Advanced Legal Studies and Governance*. Vol. 2(1), pp.17-32. 2011

⁹⁰ U. Idemudia and U. E. Ite "Corporate-community relations in Nigeria's Oil industry: Challenges and imperatives". *Environmental Management*. vol. 13, pp.194-206, 2006.

⁹¹ M. B. Nuhu. "Compulsory purchase and payment of compensation in Nigeria: A case study of Federal Capital Territory (FCT) Abuja". *Nordic journal of surveying and real estate research*, 3. 2009.

6.3 Conclusion

From the above case studies, it is evident that land acquisitions for oil and gas projects among most of the African countries is not a success mainly because of the different tenure systems that do not provide a secure tenure for the land owners because of registration, complex interrelated legal and political frameworks governing land acquisition that are difficult to comprehend, not transparent and uncertain, high levels of corruption, and the illusory access to justice for the local people.

CHAPTER SEVEN: CONCLUSION AND RECOMMENDATIONS

7.1 Conclusion

The discovery of oil in Uganda brought a lot of optimism that Oil will bring development yet ironically the initial stages of oil exploration and preparation for the extraction and processing has led to desperation and despair of the highly optimistic and expectant Ugandans.

In particular the discovery has led to land takeovers and displacement of people especially the vulnerable groups like the children and women bringing the phenomenon into the discourse of land acquisitions. This paper has examined how Uganda's oil discovery has led to un fair land acquisitions with particular interest on the legal frameworks and policies that govern land acquisitions, their effects on the land acquisitions and land rights of the women in Uganda. Based on the analysis presented in the paper, it is clear that land acquisitions in the Albertine Graben have manifested into land grabbing covered in the need for land to provide a service that will benefit the public. This manifests itself through a number of different ways, including through government takeovers, granting of concessions of public lands to investors, and through forceful evictions and dubious land deals. The drivers of land grabbing in the Albertine Graben are therefore related to institutional failures, ranging from poor institutions and laws, to failure of institutions to protect people. Uganda's move to amend Article 26 b (i) of the Constitution will do nothing but will aggravate the situation and this is likely to be seen more in the Albertine Graben. With regard to the impact on women, I conclude that unfair land acquisitions have often affected women more negatively because they are more dependent on land for their livelihood. It is further crucial to note that if the problem is not dealt with in an effective, constructive and transparent manner, the accumulation of grievances and discontent among the local population may ultimately escalate into widespread protest, demonstrations

and possibly violence directed against those seen to have unfairly grabbed land from local people.

7.2 Recommendations

There is a clear link between unjust land systems and rising inequality. But this points to an opportunity: better laws, policies and practices could turn land from a driver of inequality to a vehicle out of poverty.

Drastic measures are necessary to address the growing tensions and mistrust between ordinary Ugandans and their government, which is seen as wanting to legalize land grabbing to benefit corporations without due compensation for poor citizens. The government needs to revisit its ability and willingness to protect citizens and their land, and enable them to fully contribute to and benefit from development.

Reforms need to focus on the most vulnerable – the women and children. This requires a willingness to challenge negative cultural norms and practices and also do the following;

a) Review and reform unfair land laws and policies

Existing land laws and policies must be brought into line with the Constitution, and with regional and international standards. More commissions of inquiry will not be enough. Relevant bills already put before parliament should be enacted urgently, notably the Succession Amendment Bill and the Marriage and Divorce Bill, which both address the continuing practice of discrimination against women⁹². Gaps in land acquisition policies and laws should be filled to ensure they protect the right to prompt, fair and adequate

⁹² Law Advocacy for Women in Uganda v Attorney General ((Constitutional Petitions Nos. 13 /05 /& 05 /06)) [2007] UGCC 1 (5 April 2007)

compensation⁹³. Bodies such as the Human Rights Commission should invest in sensitizing people about land laws, translating them into local languages in easily understandable terms to be disseminated at local level. This would help to correct erroneous assumptions, such as that registered land interests always trump unregistered interests, and encourage change in cultural norms to accept more land rights for women and young people.

b) Put ordinary people before wealthy investors

The government should see ordinary Ugandans as drivers of growth, not passive beneficiaries of large-scale projects headed by foreign investors. In particular, emphasis should shift from commercial agriculture⁹⁴ to equipping small-scale farmers with the skills, knowledge and technology they need to improve the productivity of their land. Less than 4 percent of the national budget is allocated to agriculture. The government should honour its Maputo Protocol commitment to allocate at least 10 percent to Agriculture.

c) Improve dispute resolution mechanisms

Land tribunals should be revived and properly funded. LCs should also be better funded. Government should reform the Land Fund to be more transparent and inclusive. The Bamugemereire Commission's recommendation that judges should always visit land before issuing eviction orders should be implemented. The judiciary should invest in technology to expedite processing the backlog of land cases and improve access to justice. Listening to cases via teleconference, for example, will reduce costs of litigation and enable access to justice from any location. Technology can also improve coordination among the various mechanisms that handle land disputes, avoiding duplication of efforts.

⁹³ As laid down under Art 26. The Constitution of Uganda 1995

⁹⁴ Oxfam (2016). Op. Cit UN Women. Turning Promises into Action: Gender Equality in the 2030 Agenda for Sustainable Development (New York, 2018).

d) Train judicial officers on gender, social norms and inequality

Even the most well-meaning judicial officers might have their decisions influenced by social norms. Judicial officers should be trained on issues such as how social norms affect women's property rights, so their decisions uphold women's rights and contribute to the gradual replacement of harmful social norms with more progressive ones.

e) Improve land valuation processes

The government should build the capacity of institutions involved in valuation of land to ensure fair and timely compensation for displaced people. New procedures should be developed and reference values frequently updated annually. Compensation should also account for social capital and cultural attachments to historical lands, and the impacts of relocation on psychological health and wellbeing. The government should consider the need for medium-term arrangements to enable displaced households to transition to a new form of livelihood, such as business and financial management counselling. A comprehensive social impact assessment should be carried out before land is assigned for large-scale projects, considering the long-term costs for local communities and the environment.

REFERENCES

Books

Gary, I., and K.L. Terry (2003), *Bottom of the Barrel: Africa's Oil Boom and the Poor*. Baltimore, Maryland: Catholic Relief Service. Retrieved from: <https://www.internationalbudget.org/wp-content/uploads/Bottom-of-the-Barrel-Africas-Oil-Boom-and-the-Poor.pdf>

AFIEGO (2014), *Annual Report 2014*. Kampala: Africa Institute for Energy Governance (AFIEGO). Retrieve from: <https://www.afiego.org>

Cousins, B. (2002), 'Legislating Negotiability: Tenure Reform in Post-apartheid South Africa', in K. Juul and C. Lund (eds.), *Negotiating Property in Africa*. Portsmouth, New Hampshire: Heinemann Educational Books.

Ellis, A., Manuel, C. & Blackden, C. M. 2006. *Gender and economic growth in Uganda: Unleashing the power of women*. Washington D. C: The World Bank.

Government of Uganda (2001), *Land Sector Strategic Plan: Utilizing Uganda's Land Resources for Sustainable Development*. Kampala: Government of Uganda at page 34

Ministry of Energy and Mineral Development (2013). "Government embarks on a Resettlement Action Plan for the oil refinery area in Hoima district". <http://www.petroleum.go.ug/page.php?k=curnews&id=31>

Ministry of Energy and Mineral Development. 2017. *Annual report*. Kampala: The Republic of Uganda

Uganda Human Rights Commission (UHRC) (2013), Oil in Uganda: Emerging Human Rights Issues Special Focus on Selected Districts in the Albertine Graben. Kampala: Human Rights Commission

Alden-Wily, L2002,“Comments on the Legal Basis for Land Administration in an African Context”. *World Bank Regional Land Policy Workshop in Kampala, Uganda*.

Andre, C. and J.P. Platteau, 1998. “Land relations under Unbearable Stress: Rwanda Caught in the Malthusian Trap”. *Journal of Economic Behavior and Organization* 34 (1): 1-47.

Atwood, D. A. 1990. “Land Registration in Africa: The Impact on Agricultural Production.” *World development* 18 (5): 659-71. Barzel, Y.2000. “Dispute and its resolution: Delineating the Economic Role of the Common Law”. *American law and Economics review* 2 (2): 238-58.

Benjamin, D. 1995. “Can Unobserved Land Quality Explain the Inverse Productivity relationship?” *Journal of development Economics* 46 (1): 51-84.

Berry, S. 1997. “Tomatoes, Land and Hearsay: Property and History in Asante in the Time of Structural Adjustment”. *World Development* 25 (8): 1225-41.

Bhalla, S.S. and P. Roy, 1988. “Misspecification in Farm Productivity Analysis: the Role of Land Quality”. *Oxford Economic papers* 40 55-73.

Binswanger, H.P., K. Deininger and G. feder 1995. “Power, Disortions, Revolt and Reform in Agricultural Land Relations”. *Handbook of development economics Volume 3B* (1995): 2659-772.

Chauveau, J.P. 2000. “Question Fonciere et Construction Nationale en Cote d’Ivoire.” *Politique Africaine* 78 94-125.

- Daudelin, J. 2002. "Land as a Source of Conflict and in Post-Conflict Settlement". *World Bank. Regional Workshop on Land Issues in Africa and the middle East, April 29-May 2, 2002, Kampala, Uganda.*
- Deininger, K. and J. Okidi, 2001. "Rural Households: incomes, Productivity, and Non-farm Enterprises". In Collier, P. and R. Reinikka, eds., *Uganda's recovery: The role of farms, firms, and government*: Oxford University Press.
- Deininger, K. 2003 *Land Policies for Growth and Poverty Reduction*. A World Bank Policy research Report. Oxford and New York: World Bank and Oxford University Press.
- Deininger, K. and G. Feder, 2001. "Land institutions and Land Markets" *Handbook of Agricultural Economics* (B. Gardner and G. Rausser, Eds) 288-331.
- Fan, J. 1992. "Design-adaptive Non parametric Regression". *Journal of American Statistical Association* 87 (420): 998-1004. Fan, J. and I. Gijbels. 1996. *Local Polynomial Modeling and Its Applications* Chapman and Hall.
- Eric C.E. Todd, the Law of Expropriation and Compensation in Canada (Ontario: Carswell, 1992)
- Firmin-Sellers, K. 2000. "Custom, Capitalism, and the State: The Origins of Insecure Land Tenure in West Africa". *Journal of Institutional and Theoretical Economics* 156 (3): 513-30.
- Fred-Mensah, B.K 1999. "Capturing Ambiguities: Communal Conflict Management Alternative in Ghana." *World Development* 27 (6): 951-65.
- Government of Uganda, 1999. "Report of the Land Act Implementation Study". Kampala. Ministry of Land, Water, and Environment.

Government of Uganda. 2003. "Uganda: Issues and Challenges for National Land Policy". Kampala: Governance Resource Center.

Grossman, H.I. and J. Mendoza, 1998. "Scarcity, Abundance, and Appropriative Conflict". Brown University, Department of Economics Working Paper: 98/12.

Hoxby, C.M. 1996. "How Teachers' Unions Affect Education Production". *Quarterly Journal of Economic III* (3): 671-718.

Kasanga, K. and N. Kotey 2001. *Land Management in Ghana: Building on Tradition and Modernity*. London: IIED.

Kevane, M. and L.C. Gray. 1999. "A Woman's Field is made at Night: Gendered Land Rights and Norms in Burkina Faso." *Feminist Economics* 5 (3): 1-26.

Khadiagala, L.S. 2001. "The Failure of Popular Justice in Uganda: Local councils and Women's Property Rights." *Development and Change* 32 (1): 55-76.

Kuran, T. 1993. "Sparks and Prairie Fires: A Theory of Unanticipated Political Revolution" 273-306 Witt, Ulrich.

Lavigne-Delville, P. 2002. "Customary To Modern Transition. "World Bank regional Land Workshop in Kampala, Uganda, Makerere Institute of social Research, 2002. "The Justification for co-ownership of Land by Spouses: A Qualitative Perspective".

In Rugadya, M. and H. Busingye, eds., *Gender perspective in the Land Reform Process in Uganda*. Kampala Uganda: Uganda Land Alliance.

Mijumbi, P. and A. Sebina-Zziwa, 2001. "Case studies on Land Conflict". Kampala Economic Policy Research Center.

- Moore, B. 1996. *Social origins of Dictatorship and Democracy: land and Peasant in the making of the Modern World*. Boston: Beacon Press.
- Mugisha, O.R. 1998. *Uganda Districts Information Handbook*, Kampala: Fountain Publishers.
- Ngaido, T. and N. McCathy, 2002. "Pastoral Land Rights". *World Bank regional Land Workshop in Kampala, Uganda*.
- Ntozi, J. P. Mand F. E. Ahimbisibwe, 1999. "Some Factors in the Decline of AIDS in Uganda." In Caldwell, J.C., I.O. Orubuloye and J.O. M. Ntozi, eds., *The continuing African HIV/AIDS Epidemic*. Canberra: health Transition Centre, National centre for Epidemiology and Population Health, Australian National University.
- Oosterberg, T. 2002. "Designing viable Land Administration Systems." *World Bank regional Land Workshop in Kampala, Uganda*. Perali, F. 2003. "The Behavioral and Welfare Analysis of Consumption. Evidence from Colombia." Kluwer Academic Publisher Dordrecht.
- Pierret, C.R. 2001. "Event History Data and Survey recall: An Analysis of the National Longitudinal Survey of Youth 1979 Recall Experiment". *Journal of Human Resources* 36: 439-66.
- Pinckney, T.C. and P. K. Kimuyu. 1994. "Land tenure Reform in east Africa: Good, Bad or unimportant?" *Journal of African Economies* 3 (1): 1-28.
- Patteau, J.P. 2000 *Institutions, Social Norms, and Economics Development Fundamentals of Development Economics*, vol 1. Reading, U.K: Harwood Academic.
- Schultz, T.P. 1999, "Women's Role in the Agricultural Household: Bargaining and Human Capital." *Economic Growth Center, Yale University Discussion Paper 803*.

Sjastad, E. and D.W. Bromley. 2000. "Indigenous Land Rights in Sub-Saharan Africa: Appropriation, Security and Investment Demand." *World Development* 25 (4): 549-62.

Van den Brink, R., D.W. Bromley and J.P. Chavas, 1995. "The Economics of Cain and Abel: Agro-pastoral Property Rights in the Sahel". *Journal of Development Studies* 31 (3): 373-99.

Van Donge, J.K, 1999. "Law and Order as a Development Issue: Land Conflicts and the Creation of Social Order in Southern Malawi". *Journal of Development Studies* 36 (2): 48-70.

Wickham-Crowley, T. 1991. *Exploring revolution: Essays on Latin American insurgency and Revolutionary Theory*. Armonk, NY: M.E. Sharpe.

World Bank 2002. *World Development indicators 2002*. Washington, DC: World Bank.

Yatchew, A. 1999. "An Elementary Non-parametric Differencing Test of Equality of Regression Functions". *Economics Letters* 62 (3): 271-8.

Zongo, M.2002. "Land Conflict". World Bank regional Land Workshop in Kampala, Uganda.

Deininger Klaus and Castagnini Raffaella, March 2004, *Incidence and Impact of land conflicts and their impact on refugee women's livelihoods in south western Uganda*.

Kigula John, 1999. *Overview of types of disputes and dispute settlement for a*, Makerere institute of Social research and Land Tenure Centre, College of agricultural and life sciences, University of Wisconsin; research and policy development project, research paper 3, 1999.

Lastarria- Cornhiel, 2003, *Property Rights and Land Market: Uganda Country brief*, Land tenure center, University of Wisconsin-Madison, Under Subcontract to Development Alternatives, Inc. Financed by U.S Agency for International Development.

Ministry of Justice and Constitutional Affairs (MOJ), May 2008, Integrated Study on Land AND Family Justice in 20 Districts by Margaret Rugadya, Eddie Nsamba-Gayiiya, Regina Lule Mutyaba, Herbert Kamusiime, J.B. Asimwe and Valentine Namakula on behalf of the Ministry of Justice and Constitutional Affairs. Coverage: 3574 households, 209 Focus Group Respondents and 816 key informant interviews.

Nabeta Nkote, Dr. (2009) Common Pool Resource Conflicts: Conventional Perspectives to the Bagungu/Balalo-Basongora Conflict in Uganda.

Refugee Law Project (2006), Only Peace can restore the Confidence of the Displaced, Kampala Refugee Law Project.

Rugadya Margaret, 2008: LAND, Sustainable Livelihoods and Vulnerability in post conflict Northern Uganda, Trocaire programme Document.

Rugadya Margaret and Kamusiime Herbert, 2009 Countering Regional, National and local Conflict Impacts of Oil Discoveries in the Albertine Rift Uganda: a report of a qualitative Field Survey in 5 Districts (Hoima, Bundibugyo, Kanungu, Arua and Amuru) under contract for International Alert-Uganda.

Rugadya, M., Nsamba-Gayiiya, E., Kamusiime H. (2008), Northern Uganda Land Study; Analysis of post Conflict Land Policy and Land administration. A Survey of IDP Return and Resettlement, Issues and Lessons: Acholi and Lango regions, for the World Bank to input into the PRDP and the Draft National Land Policy.

Rugadya, M., Nsamba-Gayiiya, E., Kamusiime H. (2007); Analysis of Post Conflict Land Policy and Land Administration: A Survey of IDP Return and Resettlement, issues and

Lessons in Teso region, for the World Bank to input into the PRDP and the Draft National Land Policy.

Rune Hjarar (2005) the “Lost Counties”: Politics of Land Rights and Belonging in Uganda.

Espeland University of Bergen and Chr. Michelsen Institute, Norway.

Sanginga, P.C., R.N. Kamugisha, and A.m. Martin (2007) the dynamics of social capital and conflict management in multiple resource regimes: a case of the south western highlands of Uganda. *Ecology and Society* 12(1): 6. (Online) URL:

<http://www.ecologyandsociety.org/vol12/iss1/art6/>

Journal articles

Amnesty International “Bad Information Oil Spill Investigations in the Niger Delta”.

Available at www.amnesty.org/en/documents/afr44/028/2013/en/, 2013.

Byakagaba, P., and B. Twesigye (2015), *Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts*. Kampala: CRED.

Retrieved from: <http://creduganda.org/wp-content/uploads/2019/05/Securing-communal-tenure-andresource-rights-in-the-Albertine-graben-of-Uganda.pdf>

Communities Affected by Oil Refinery Project in Uganda Secure Alternative Land and an End to Intimidation by John Mwebe IAP Dec 20, 2019;

<https://medium.com/@accountability/communities-affected-by-oil-refinery-project-in-uganda-secure-alternative-land-and-an-end-to-22dada953c81>

Food and Agriculture Organization of the United Nations (FAO), ‘Compulsory acquisition of land and compensation’ *Land Tenure Studies* (2009), 1.

Hong, P.Y.; Singh, S.; Ramic, J. Development induced impoverishment among involuntarily displaced populations. *J. Comp. Soc. Welf.* 2009, 25, 221–238

Israel, Glenn D. 1992, Sampling the Evidence of Extension Program Impact. Program Evaluation and Organizational Development. IFAS, University Of Florida. PEOD-5. October.

K. Omeje “Oil conflict in Nigeria: Contending issues and perspectives of the local Niger Delta people”. *New Political Economy*, vol. 10(3), 321 –334. 2005

Land Grabbing in the Albertine Graben: Implications for Women’s Land Rights and the Oil Industry in Uganda. By Roberts K. Muriisa and SpeciozaTwinamasiko

M. B. Nuhu. “Compulsory purchase and payment of compensation in Nigeria: A case study of Federal Capital Territory (FCT) Abuja”. *Nordic journal of surveying and real estate research*, 3. 2009.

Macdonald, C. 2017. The role of gender in the extractives industries. United Nations University World Institute for Development Economics Research, 1-22.

Muriisa, K.R., P. Mbabazi and M. Twinamatsiko (2014), ‘Land Deals in Uganda: An Invisible Hand into Land Grabbing and Rural Development’, in P. Mihyo (ed.), *International Land Deals in Eastern and Southern Africa*, Addis Ababa: Organization for Social Science Research in Eastern and Southern Africa (OSSREA).

Muriisa, K.R., P. Mbabazi and M. Twinamatsiko (2020), *Land Grabbing in the Albertine Graben: Implications for Women’s Land Rights and the Oil Industry in Uganda; Oil Wealth and Development in Uganda and Beyond*; Published in 2020 by Leuven University Press

NAPE, 2016. Women-Led Action Oriented Research on the Negative Impacts of Oil on Women's Rights, Land and Food Sovereignty in Uganda's Oil Region 2015/2016. National Association of Professional Environmentalists, Kampala.
http://oilwatchafrica.org/static/media/uploads/attachments/women_led_action_oriented_report.pdf

National Land Commission of Kenya; Frequently Asked Questions;
<https://www.landcommission.go.ke/article/faqs>

Oil-Induced Land Compensation Dispossession and Women's Experiences in Albertine Graben, Uganda; by SpeciozaTwinamasiko, Frank Ahimbisibwe, and Charles Muchunguzi; East African Journal of Social Sciences and Humanities (2018) Volume 3 (2) 1-20

Ongode, B. (2015, 27 May), 'Oil Compensation Exposes Abuse of Women in Hoima', the Observer. Retrieved from: <https://observer.ug/business/38-business/38035-oil-compensation-exposesabuse-of-women-in-hoima>

Osimiri C.J. "Arbitration as a conflict resolution approach to oil spill compensation payment in oil producing communities of Rivers State, Nigeria". International Journal of Advanced Legal Studies and Governance. Vol. 2(1), pp.17-32. 2011

Ouga, Samuel (14 August 2013). "Uganda's Oil Refinery – An Opportunity for transformation". New Vision. Kampala. Retrieved 9 May 2014

Republic of Kenya, Report of the Commission of inquiry into the land law system of Kenya on principles of a national land policy framework constitutional position of land and new institutional framework for land administration, 2002, 19.

Resettlement Affected People (RAP) 1. 2018. Tilenga project–resettlement action plan 1. Atacama /Synergy/Nomad. Kampala

Robert Atuhairwe, Benedict Okethwengu (15 November 2014). “Refinery land: shs 30b compensation paid”. New vision. Kampala. Retrieved 2 February 2016

S. Omotola, and, J.M. Patrick, “State response to the Niger Delta question: The OMPADEC and NDDC compared. Placebo as Medicine”: *The Poverty of Development Intervention and Conflict Resolution Strategies in the Niger Delta Region of Nigeria*. Port Harcourt: Kemuela, pp.116-140. 2010.

Social Impacts of Land Acquisition for Oil and Gas Development in Uganda by Tom Ogwang and Frank Vanclay; Received: 24 May 2019; Accepted: 4 July 2019; Published: 8 July 2019

U. Idemudia and U. E. Ite “Corporate-community relations in Nigeria’s Oil industry: Challenges and imperatives”. *Environmental Management*. vol. 13, pp.194–206, 2006.

Statutes

Constitution of Kenya (2010)

Expropriations Act (R.S.C., 1985, c. E-21)

Land Act of Kenya (No. 6 of 2012)

‘The Constitution of the Republic of Uganda 1995’

‘The land acquisition act Cap 226’

‘The Land Act Cap 227’

The Land Use Act of Nigeria

The Petroleum (Exploration and Development) Act of 2013

The Registration of Titles Act Cap 230

Case law:

B.P. Bhatt and Another Vs. Habib Rajani (1958) EA 536

Dell Holdings Limited v. Toronto Area Transit Operating Authority, 1997 SCC 400;

Kanini Farm Limited v Commissioner of Lands (1996) eKLR

Law Advocacy for Women in Uganda v Attorney General ((Constitutional Petitions Nos. 13 /05 /& 05 /06)) [2007] UGCC 1 (5 April 2007)

Mathatani Limited v Commissioner of Lands (2013) eKLR

Muhindo& 3 Ors Vs Attorney General (High Court Miscellaneous Cause No.127 of 2016

Puran Chand vs. Collector under the Land Acquisition Act of 1894 (1957) EA 125

Uganda Electricity Board (UEB) v Launde Stephen Sanya; Court of Appeal Civil Appeal No.1 of 2000

Uganda National Roads Authority vs Irumba Asumani and Peter Magelah, Supreme Court Constitutional Appeal No. 2 of 2014

Ugandan Government, Madhvani and Ors Versus the Community of Lakang, Amuru district High Court Case of 2008

Appendices

Annex 1: Key informants

No.	District/Name	Gender	Designation	Contact
	Hoima			
1.	Kasangaki Ofungi	Male	LCI Kyehoro	
2.	Sefatiya Mboneraho	Male	Chairperson District Land	
3.	Margret Atwoki	Female	Sub-county chief-Bueruka	
4.	Amayire Nicholas	Male	Chairperson Area Land	
5.	Elizabeth Abwooli	Female	Member Area Land	
6.	Stella Atwikirize	Female	Member Area Land	
7.	Isingoma Jotham	Male	LCI Chairperson-Toony A	
8.	Musinguzi Moses	Male	Sub county chief Kabwooya	