

**AN INVESTIGATION INTO THE COMPLIANCE OF THE LEGAL AND  
OPERATIONAL FRAMEWORK WITH INTERNATIONAL PRINCIPLES AND BEST  
PRACTICES ON COMPULSORY LAND ACQUISITION FOR PETROLEUM  
ACTIVITIES**

**AKANKWASA DEMMIANO BATUREINE**

**J16M23/003**

**A DISSERTATION**

**SUBMITTED TO THE FACULTY OF LAW IN PARTIAL FULFILMENT OF THE  
REQUIREMENTS FOR THE AWARD OF A MASTER OF LAWS OF OIL AND GAS**

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**JULY 2020**

## DECLARATION

I, Akankwasa Demmiano Batureine, hereby declare that this dissertation is my work and it has not been submitted before to any other institution of higher learning for fulfilment of any academic award.

Signed .....

Date.....

## **APPROVAL**

This is to certify that this dissertation entitled “An Investigation into the Compliance of the Legal and Operational Framework with International Principles and Best Practices on Compulsory Land Acquisition for Petroleum Activities” has been done under my supervision and now it is ready for submission.

Signature.....

Dr Anthony C.K. Kakooza

(Academic Supervisor).

Date.....

## **DEDICATION**

To my two little angels, Divine and Denise!

## **ACKNOWLEDGEMENT**

I am most grateful to the Almighty God for the life and protection he gave me before and during this study. I also thank Prophet Samuel Kakande for praying for me when I was sick and for the healing and deliverance I received. May the glory and honor be back to Jesus Christ!

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# TABLE OF CONTENTS

INNER TITLE PAGE .....	ii
DECLARATION .....	iii
APPROVAL .....	iv
TABLE OF CONTENTS.....	vii
LIST OF TABLES.....	x
ACRONYMS .....	xi
LIST OF LEGISLATION AND CASES .....	xiv
ABSTRACT.....	<del>xiv</del> <sup>xvi</sup>
CHAPTER ONE .....	1
INTRODUCTION.....	1
1.1 Background.....	2
1.2 The Statement of the Problem.....	6
1.3 The general objective of the study .....	7
1.4 Specific objectives of the study .....	7
1.5 Research Questions.....	8
1.6 Conceptual Framework.....	8
Principles:.....	9
<i>(Property rights, public purpose, assessment, valuation, equivalence)</i> .....	9
Compulsory land acquisition; and adequate compensation (equivalency).....	9
1.7 Significance of the study.....	10
1.8 Scope of the study.....	10
1.9 Report synopsis.....	11
CHAPTER TWO .....	13
LITERATURE REVIEW .....	13
2.1 Introduction.....	13
2.2 The principles of compulsory land acquisition.....	13
2.2.1 Property rights.....	15
2.2.2 Public purpose.....	16
2.2.3 Compensation .....	17
2.2.4 Procedures and process .....	19
2.2.5 General Principles .....	19

2.2.6 Comparative Analysis with Nigerian Compulsory Land Acquisition	22
2.3 Uganda’s compliance with principles and best practices of compulsory land acquisition.....	25
2.3.1 Property rights.....	26
2.3.2 Public purpose.....	28
2.3.3 Valuation Process and Compensation.....	29
2.3.4 National Principles.....	30
2.4 How Uganda can better its compulsory land acquisition.....	31
2.5 Conclusion and emerging issues.....	35
CHAPTER THREE: .....	37
RESEARCH METHODOLOGY .....	37
3.1 Research Design.....	37
3.2 Study area.....	38
3.3 Target Population, Sample Size, and Design.....	39
3.4 Data Collection Methods .....	41
3.5 Data analysis .....	43
3.6 Limitations of the study .....	44
CHAPTER FOUR .....	45
DATA PRESENTATION, ANALYSIS AND DISCUSSION OF FINDINGS .....	45
4.0. Introduction.....	45
4.1. Demographic Characteristics .....	46
4.1.1 Response Rate.....	47
Table 4.1.1 Response rate .....	47
4.1.2 Gender of respondents .....	47
Table 4.1.2: Gender of respondents .....	47
4.1.3 Age of respondent .....	48
Table 4.1.3: age of respondents .....	48
Table 4.1.4a: Level of Education of land owners .....	49
Table 4.1.4b: Level of Education of government officials, oil companies, development partners, NGOs and professionals .....	49
Table 4.1.5a: Duration of the land owner in the land .....	50
Table 4.1.5b: Duration of non-land owner respondents working with project/organization.....	50
4.2 Descriptive statistics on identifying the principles of compulsory land acquisition in the petroleum industry .....	51



4.2.1 Property rights.....	52
Table 4.2.1: Property Rights .....	52
4.2.2 Public purpose.....	55
Table 4.2.2: Public Purpose .....	55
4.2.3 Compensation .....	58
Table 4.2.3: compensation of land owners .....	58
4.2.4 Procedures and process .....	61
Table 4.2.4: procedures and process of land acquisition .....	61
4.3 Descriptive statistics on compliance with principles and best practices of compulsory land acquisition .....	64
Table 4.3: Compliance with international principles and best practices of land acquisition.....	64
4.4 Descriptive statistics on recommendations for better compulsory land acquisition.....	68
CHAPTER FIVE .....	72
SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS .....	72
5.0 Introduction.....	72
5.1 Summary of findings.....	72
5.2 Conclusions.....	76
5.5. Recommendations.....	77
REFERENCES.....	80
Books .....	80
Journal Articles .....	81
Published reports.....	82
Unpublished Reports.....	84
Conference/Workshop papers.....	85
Online and newspaper documents .....	85
APPENDICES .....	87
Appendix i&ii: Questionnaire&Interview Guides .....	87
Appendix iii: Introductory letters.....	100

## LIST OF TABLES

Table 4.1. Response Rate .....	47
Table 4.2.1: Gender of respondents .....	47
Table 4.2.2: Age of respondents .....	48
Table 4.2.3: Level of education of respondents .....	49
Table 4.2.4: Duration of the respondent in the area or work with the organization .....	50
Table 4.3.1: Property Rights .....	52
Table 4.3: Public Purpose .....	55
Table 4.3.3: Compensation of land owners .....	58
Table 4.3.3: Procedures And Process Of Land Acquisition .....	61
Table 4.4: Compliance with principles and best practices of compulsory land acquisition .....	64
<a href="#">Table 4.5: Recommendations for better compulsory land acquisition .....</a>	<a href="#">69</a>

## ACRONYMS

ACHPR	African Charter on Human and People’s Rights
ACODE	Advocates Coalition for Development and Environment
AFIEGO	Africa Institute for Energy Governance
CSCO	Civil Society Coalition on Oil and Gas
CSO	Civil Society Organization
CNOOC	Chinese National Offshore Oil Company
DLB	District Land Board
IPPED	Implement Polluter Pays for Environmental Damage
FAO	Food and Agricultural <del>Organisation</del> <u>Organization</u>
FR	Forest Reserve
GoU	Government of Uganda
IAB	Inter-American Bank
IFC	International Finance Corporation
IOC	International Oil Company
LARF	Land Acquisition and Resettlement Framework
MEMD	Ministry of Energy and Mineral Development
MLHUD	Ministry of Lands Housing and Urban Development

MWLE	Ministry of Water Lands and Environment
NGO	Non-Governmental Organization
NOC	National Oil Company
NR	Natural Resources
O&G	Oil and Gas
PA	Protected Area
PAP	Project Affected Persons
PAU	Petroleum Authority of Uganda
PEDPA	Petroleum Exploration, Development and Production Act
PRCTMSA	Petroleum Refining, Conversion, Transmission and Midstream Storage Act
PSA	Production Sharing Agreement
RAP	Resettlement Action Plan
SFI	Strategic Friends International
UCU	Uganda Christian University
ULA	Uganda Land Alliance
ULC	Uganda Land Commission
UN	United Nations
UDHR	Universal Declaration of Human Rights

WB	The World Bank
WA	Wildlife Area
WR	Wildlife Reserve

## **LIST OF LEGISLATION AND CASES**

### **International Conventions**

The African Charter on Human and Peoples Rights 1986

The American Convention on Human Rights 1969

The United Nations, Universal Declaration of Human Rights 1948

### **National Legislation**

The Constitution of the Republic of Uganda 1995

The Land Act Cap. 227 (as amended)

The Land Acquisition Act, Cap. 226

The National Forestry and Tree Planting Act 2003

The National Environment Act cap 153, (as amended 2019)

The Petroleum Exploration, Development and Production Act 2013

The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013

The Registration of Titles Act, cap.230

The Physical Planning Act, 2010

The Uganda Wildlife Act, cap 200 (as amended 2019)

## Case Reports

Cooper v Wandsworth Board of Works (1863)143ER414 (England Reports)

Dantsoho v.Mohammed (2003) 6 NWLR (Pt.817)457 2 (2003) 2 S.C 42 3

Foreign Finance v. L.S.D.P.C<sup>1</sup> [1991] 4N.WL.R. (Pt. 184) p. 157

Horn v Sunderland IPCorporation (1941) 2 KB 26 (Kings Bench of England)

In re the Health (Amendment)(No 2)Bill2004(2005)1 IR 105 (Supreme Court of Ireland)

Social and Economic Rights Action Centre and the Centre for Social and Economic Rights v  
Nigeria ACHR13-27-2001(High Court of Nigeria)

Uganda National Roads Authority v Irumba Asumani & Anor, SC Constitutional Appeal No.2 of  
2014 (Supreme Court of Uganda)

## ABSTRACT

The discovery of oil in Uganda's Albertine region came with increased demand for land, required for oil infrastructure such as industrial park, oil refinery, international airport, waste management plant, pipelines, central processing plants, storage tanks and a network of roads, among others. This necessitated government to compulsorily acquire large chunks of land from the traditional land owners who were disposed and displaced. This study aimed to establish if the process of compulsory land acquisition used complied with international principles and best practices. The study used a purposive but stratified method in which a sample of 150 respondents were selected and interviews conducted or questionnaires administered on the affected landowners, government officials, oil companies, local government leaders, NGOs, and professionals in the oil sector. The data was analyzed using SPSS and presented using frequency tables and standard deviation.

The study revealed that a majority of people consider rights to own land as one of the most important human rights they have; that the oil projects are of public purpose because they benefit the public, but want parliament to legislate the specific projects to be considered public purpose; that the land owners did not participate in the process of land acquisition, and as such compensation was not transparent nor was it in good faith. The majority also say compensation for their land was not timely nor adequate, and do not agree that government should have a right to take over land before fully compensating land owners. Generally, a majority believe that Uganda does not comply with international principles and best practices in compulsory land acquisition. The study recommends that the compulsory land acquisition policies, laws and practices be reformed to comply with international principles and best practices in acquiring land for oil activities.





## CHAPTER ONE

### INTRODUCTION

#### 1.0 Introduction to the Research

In 2006, Uganda announced the discovery of commercial oil in the Albertine Region, in mid-western Uganda along Lake Albert.<sup>1</sup> Soon after, land speculators converged on the formerly remote and sparsely populated area and started buying land cheaply with the intention of getting higher prices from other developers who will want to invest in the area, or to get higher rates of compensation from government when it compulsorily displaces the landowners to create space for oil activities.<sup>2</sup> Indeed as more discoveries and developments were made, the demand for land to accommodate the various projects was inevitable. Government and oil companies and other developers started to identify different sites where major oil developments would be placed.

Some of the sites fell on individual private lands while other sites fell on existing protected areas like National Parks. Those lands that belonged to private owners required valuation, compensation, and resettling the project affected persons in alternative areas. Those that fell on protected areas required that the original activities were to be foregone and replaced with the oil activities. This also required change in laws, plans and activities and finding alternative places for such replaced activities like shifting tourism circuits to other areas.<sup>3</sup> Because of the rush, some of the required

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<sup>1</sup> The National Oil and Gas Policy, 2008

<sup>2</sup> Global Rights Alert fn11 infra

<sup>3</sup> ACODE fn12 infra

procedures and processes were not followed. For instance the valuation and compensation of private landowners was not satisfactory and could not comply with international principles and practices of compulsory land acquisition.<sup>4</sup> Similarly, the changes of user for protected areas from conservation to oil exploitation was not done as per the Public Trust Doctrine and international principles and best practices.<sup>5</sup> There has been public outcry on the way the project affected persons displaced by oil activities were handled, as well as the likely effect on the oil activities on the wildlife in the protected areas, especially the endemic species, and other natural resources like lakes, rivers, wetlands and more.

## **1.1 Background**

The rights to own property, including land, are fundamental human rights recognized by both international and national legal instruments, such as the Universal Declaration of Human Rights (UDHR) (Article 17), the African Charter on Human and People's Rights (ACHPR) (Article 14) (Uganda is a signatory to both), and the Constitution of the Republic of Uganda itself (Article 26). The Constitution provides that Government shall hold and protect natural resources (NRs) (land, oil, national parks, wildlife reserves, forest reserves, water and wetlands) in trust for and on behalf of the people of Uganda for the common good of all citizens.<sup>6</sup> National objective 13 lists land, wildlife areas and forest reserves among the important land under this protection.

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<sup>4</sup> FAO fn29 infra

<sup>5</sup> Kasimbazi fn70 infra

<sup>6</sup> The Constitution of the Republic of Uganda 1995, Article 237(2)b, 8A; objective 13

Further, land in Uganda belongs to the citizens and shall vest in them in accordance with the land tenure systems provided for.<sup>7</sup> Uganda's Constitution provides that government can only acquire/own land in public interest, under conditions prescribed by parliament.<sup>8</sup> It further provides that no person shall be compulsorily deprived of property or any interest, except for public use, defense, public safety, public order, public morality or public health.<sup>9</sup> And such acquisition must be made under a law which makes provision for prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property.<sup>10</sup> But reports indicate that most people have been dispossessed of their land by government before compensating them or relocating them, contrary to the law, principles, and best practice.<sup>11</sup>

Similarly, lands under protected areas (PA) constitutionally belong to the citizens but are only held by government in trust for the people. Hence, unlike titled land directly owned by it, government is a mere trustee for land under Protected Areas, and cannot purport to own it. Thus if government wants to use any of these lands for a different purpose from the one for which the PA was gazzeted and entrusted, then it must follow the procedure of compulsory acquisition, or degazzetment in case of gazzeted protected areas like national parks and forest reserves. This has not been done for Kabwoya and Kaiso-Tonya Wildlife Reserves the first areas in Hoima where oil wells were

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<sup>7</sup>Article 237(1) (herein after, Article shall be of the Constitution of Uganda).

<sup>8</sup>Article 237(2)a.

<sup>9</sup> Article 26.

<sup>10</sup> *ibid*

<sup>11</sup> Global Rights Alert, 'Acquisition of Land for the Refinery: Tracking progress in resettling Project Affected Persons who opted for land for land compensation, 2015.'

discovered and are due for drilling, plus Murchison Falls National Park, now under exploration.<sup>12</sup> So, given the international recognition of rights to own property like land, can Uganda be said to have complied with international principles of compulsory acquisition when it does not compensate owners of lands before possessing their lands?

Apart from the 1995 Constitution, other relevant laws include the Land Acquisition Act,<sup>13</sup> the Land Act,<sup>14</sup> the Petroleum (Exploration, Development and Production) Act,<sup>15</sup> and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act.<sup>16</sup> Apparently, there are no detailed regulations dealing with surface access rights disputes between international oil companies (IOCs) and local communities, nor are there regulations for compensation and resettlement of the displaced communities.<sup>17</sup> Likewise despite the constitutional provision that petroleum exploitation shall take into account the interests of land owners, and the requirement for laws regulating sharing of royalties,<sup>18</sup> none of these is in sight. This has increased conflicts between and among government agencies, IOCs, and local communities in the Albertine oil graben culminating into many disputes.

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<sup>12</sup> ACODE (2008) Comments on the Environmental Impact Assessment (EIA) for the proposed Early Production System (EPS-EIA)-Kaiso-Tonya- Area, Block 2, Lake Albert, Uganda, ACODE, Kampala.

<sup>13</sup> 1965

<sup>14</sup> 1998

<sup>15</sup> 2013

<sup>16</sup> 2013

<sup>17</sup> Avocats Sans Frontiers (ASF), Business, Human Rights and Uganda's Oil and Gas Industry. A Briefing of Existing Gaps in the legal and Policy Framework (2015)14.

<sup>18</sup> Article 244(2)b;(3).

Contrary to the Constitution, the Land Acquisition Act<sup>19</sup> allows government to take possession of acquired land prior to compensation. This provision was recently found to be unconstitutional in the case of Uganda National Roads Authority v Irumba Asuman & Anor,<sup>20</sup> in a case where government commissioned the upgrading of Hoima-Kaiso-Tonya road and proceeded to compulsorily acquire the land before agreeing to pay compensation. Unfortunately, government seems to be determined to acquire and possess private lands and protected areas (PAs) from owners before compensation, as depicted in the new bill to amend article 26 of the constitution which would make the constitutional decision nugatory.<sup>21</sup>

Meanwhile many more activities that require land acquisition have started or are being planned, such as construction of a refinery, a waste treatment plant, giant oil holding tanks, an oil pipeline, an international airport, and roads among others. This has exacerbated conflicts between and among government, IOCs and local communities where these activities take place. Indeed 14 villages with about 20,000 residents are said to have been displaced, most of them uncompensated, to pave way for the construction of the oil refinery in Hoima district. Some of the people displaced are not sure whether and when they will be resettled or compensated as government has not been meeting its set deadlines,<sup>22</sup> while some complain of undervaluation of their properties, and or delays to pay them.<sup>23</sup>

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<sup>19</sup> 1965, s.7

<sup>20</sup>Supreme Court Constitutional Appeal No.2 of 2014.

<sup>21</sup> Bills supplement No 7, Bill No 13, and The Constitution (Amendment) Bill 2017.

<sup>22</sup> Global Rights Alert, 'Acquisition of land for the refinery: Tracking progress in resettling project affected persons who opted for land for land compensation, 2015.'

<sup>23</sup>Edward Ssekika, 'Delays dominate debate at Oil and Gas Convention' *The Observer* (Kampala, 1 May 2015:30).

## 1.2 The Statement of the Problem

In Uganda, land belongs to the citizens while NRs are held in trust by government for the people.<sup>24</sup> While land belongs to the people, the entire property in oil under that land is vested in the government.<sup>25</sup> This is despite the common law concept that the landowner is entitled to everything below the surface.<sup>26</sup> Similarly land under protected areas (PAs) is not owned by government but held in trust for the people, who are the owners. Hence, these citizens too ought to be compensated should government wish to compulsorily acquire the PA for a different but equally public purpose.

Before any activity commences or infrastructure to exploit this oil is fixed on or beneath private land or PAs, government or the oil company would have to buy the land through willing buyer-willing seller, lease it or otherwise legally acquire it. But Government also has eminent power to compulsorily acquire any private land or degazette a protected area (PA) if it is for public purpose, as long as fair and adequate compensation is paid prior to possession<sup>27</sup> or the right procedure is followed such as gazetting equivalent land to replace the degazetted one.

However the status on the ground is that many landowners have been compulsorily forced out of their land without being adequately compensated.<sup>28</sup> Likewise, land under PAs like Kabwoya and Kairo-Tonya Wildlife Areas has been taken over and infrastructure and equipment constructed or

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<sup>24</sup> Article 237

<sup>25</sup> Article 244

<sup>26</sup> John T. Mugambwa, 2002:50-51 Principles of Land Law in Uganda. Fountain Publishers. Kamapala.

<sup>27</sup> Article 26

<sup>28</sup> Sekika fn23 supra

fixed for petroleum extraction without following the legal acquisition procedure like degazettement.

Equally, the constitution does not define the extent of a public purpose. As such some of the oil and associated activities for which private land or protected area land are being acquired, as if for public purpose, could actually be private investments that don't qualify. The issue therefore is whether international principles and best practices of compulsory land acquisition such as public purpose, adequate compensation and resettlement before possession, have been complied with.<sup>29</sup>

### **1.3 The general objective of the study**

To investigate whether Uganda's regulatory and operational framework adequately complies with international principles and best practices on compulsory land acquisition for petroleum activities.

### **1.4 Specific objectives of the study**

- 1) Identify the principles and best practices of compulsory land acquisition in the petroleum industry;
- 2) Establish whether Uganda's petroleum industry complies with the principles and best practices of compulsory land acquisition;
- 3) Determine how Uganda can better its compulsory land acquisition.

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<sup>29</sup> Food and Agricultural Organisation, 'Compulsory acquisition of land and compensation, Rome 2008' FAO land tenure studies 10.



## **1.5 Research Questions**

- 1) What are the principles and best practices of compulsory land acquisition in the petroleum industry?
- 2) Does Uganda's petroleum industry comply with the principles and international best practices of compulsory land acquisition?
- 3) How can Uganda better its compulsory land acquisition for petroleum activities?

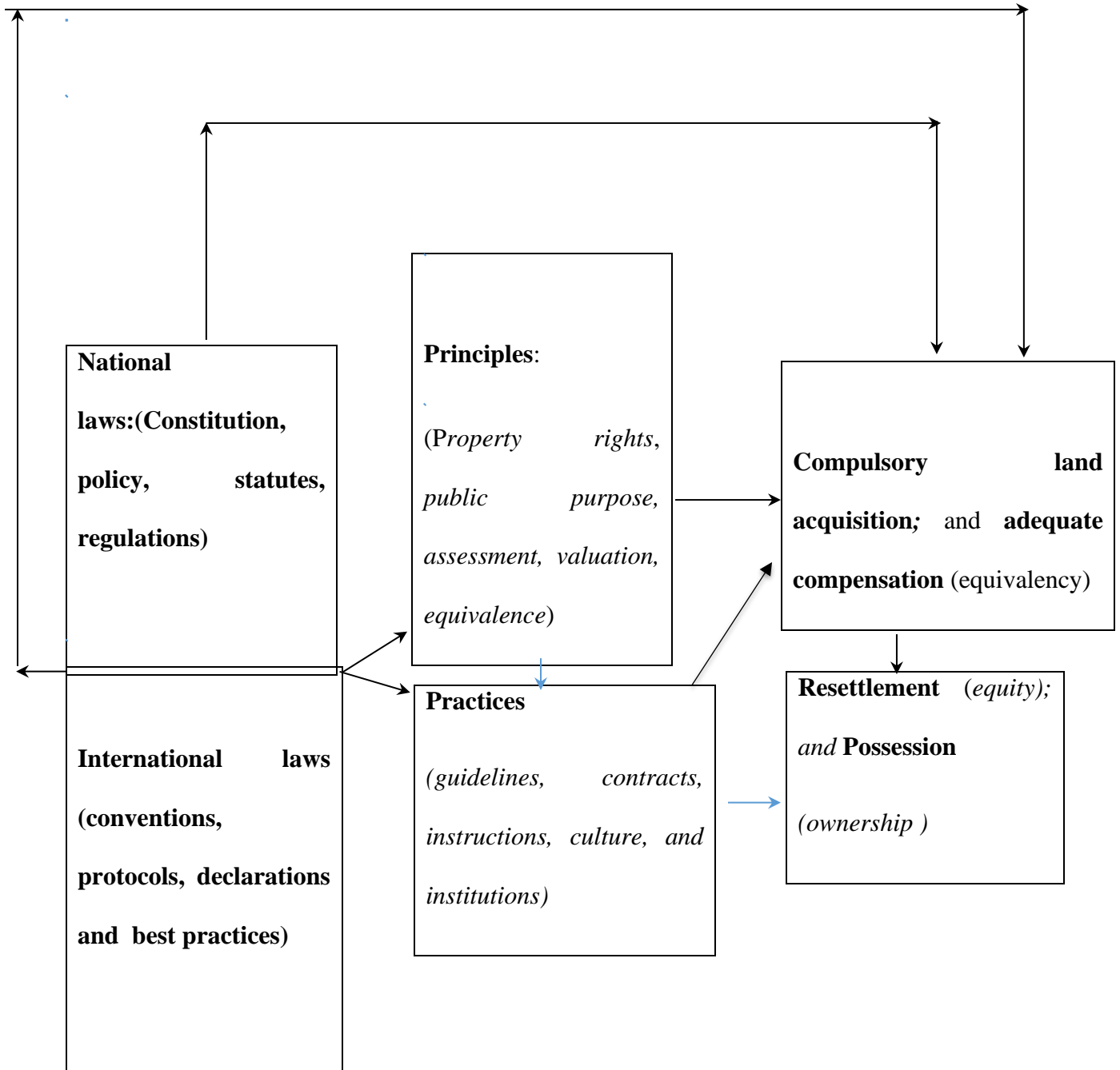
## **1.6 Conceptual Framework**

The different concepts of the legal framework relate to each other in the way they interact, complement and influence each other, thus,<sup>30</sup> the international laws and practices influence the national laws as these borrow from best international principles, while the latter are similarly influenced by the former through the process of domestication and ratification. Both international and national laws influence the principles and practices including institutions of the industry as these also influence each other. Finally each of the international and national laws, as well as the principles and practices influence the process of compulsory land acquisition which includes compensation, before they all influence the final outcome which is resettlement and possession.<sup>31</sup> The best principles and practices come from both international and national legislation and implementation practices. When specific land is acquired following best principles and practices, and the affected persons are properly resettled, then it has complied with international standards.

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<sup>30</sup> C. Fisher, *Researching and writing a dissertation: A guidebook for business students 2007*. Pearson Education, London

<sup>31</sup> Figure 1



**Figure 1: Conceptual Legal Framework** (source: primary, 2018)

## **1.7 Significance of the study**

The study makes a contribution to knowledge in the new area of petroleum exploration and development in Uganda, and in particular in compulsory acquisition and compensation for land.

It identifies the problem areas and suggests solutions in land acquisition and compensation processes that helps government, IOC and land owners in resolving the numerous land acquisition conflicts between and among the trio. It also guides in assessing and valuing land for adequate compensation which government can apply in acquiring land for its other projects.

The study has identified the best practices and principles that will in future be followed to achieve quick acquisitions and possession of land, and at the same time achieving prior compensation or assurance for the land owners.

Given that most regulations for the petroleum activities are not yet written on land acquisition and compensation, this study will contribute to identifying areas that such regulations should cover.

There are tendencies that regulatory concerns are meant to help the local people or government against shroud businesses, and many times IOCs are not thought to be equally affected by actions of other parties like government or the local people. This study has identified burdens against IOCs like sabotage, hostage taking, and violence against oil companies by local people, in addition to delays, sudden increases in taxes, corruption in government, and more, which will improve work.

## **1.8 Scope of the study**

The study covers the period since 1995 when the constitution was promulgated to 2018, although reference has been made to periods prior to 1995, and from 2018 to July 2020. The study was

undertaken in the Mid-Western districts of Hoima, Kikuube, Buliisa along Lake Albert and Kampala and Wakiso districts, where petroleum activities are taking place. Specific attention was put on the acquisition, compensation and resettlement of the land recently acquired for an oil refinery in Kabaale parish, Hoima district, acquisition of Kaiso-Tonya and Kabwoya wildlife areas also in Hoima district, and the oil pipeline being planned from Hoima through Kampala to Tanga port at the Indian Ocean coast of Tanzania.

The study covers the principles, laws and practices used in acquisition and ownership of land. It appraises principles, laws and practices in compulsory land acquisition and compensation for petroleum activities in Uganda as per the 1995 Constitution and international best practice. It also covers the Land Acquisition Act 1965, the Land Act 1998, the Registration of Titles Act, cap 230, the Uganda Wildlife Act cap 200 as amended by the Uganda Wildlife Act 2019, the National Forestry and Tree Planting Act, 2003, the National Environment Act, cap 153, as amended by NEA 2019, the Physical Planning Act 2010, and the Petroleum (Exploration, Development and Production) Act 2013, among others. It covers the methods, procedures and processes of assessment, valuation and compensation, and particularly comes up with recommendations for best practices in compulsory land acquisition in Uganda.

## **1.9 Report synopsis**

Chapter one introduces the background to the study and formulates the statement of the problem, the purpose and objectives of the study, leading to the questions this study answers. It also highlights the conceptual framework, the significance, and the scope of the study. Chapter two is

the literature review, which evaluates scholarly work done by other researchers on this area of study, identifying and noting down any similarities and differences, and analyses gaps in other peoples work, showing how this particular study addresses these gaps, as shown in the next chapter. Chapter three is the research methodology which outlines, explains and justifies particular methods used and why they were selected. It covers the research design, study area, study population, sampling, data collection, data analysis, limitations of the study and ways to mitigate them. Reference follows OSCOLA, the LLM Dissertation Guidelines, and the Academic Research Manual of Uganda Christian University.<sup>32</sup> Chapter four is the Data Presentation, Analysis and Discussion of Findings. It presents data in frequency tables, means and standard deviation, and the results are interpreted and discussed alongside other studies. Chapter five presents the Summary of Findings, Conclusions and Recommendations.

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<sup>32</sup>Citation style is found in the LLM Dissertation Guidelines 2017, UCU Research Manual 2012, and OSCOLA (Oxford University Standard for the Citation of Legal Authorities) 4<sup>th</sup> ed. Faculty of Law, University of Oxford. [www.law.ox.uk/oscola](http://www.law.ox.uk/oscola). Visited January 2016

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter critically evaluates the literature of scholarly work done by others that relates to the objectives of this study. The review identifies the major issues raised by different scholars and authors, highlighting emerging issues, and pointing out any existing gaps and how this study fills them up.

The review was guided by each objective of the study vis, the principles of compulsory land acquisition; extent of Uganda's compliance with these principles and best practices; and how Uganda can do better. The review highlights major principles and best practices as limiting the power of compulsory acquisition, compliance with recognized property rights, public purpose for which acquired lands are used, adequacy of compensation, procedures in compulsory acquisition process among others.

#### **2.2 The principles of compulsory land acquisition**

Leading researchers have increasingly adopted a new research agenda on land endowments. Mehlum et al,<sup>33</sup> have for example asked why oil resource abundance delivers positive development

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<sup>33</sup> H. Mehlum, M. Karl, and T. Ragnar, (2006) Institutions and the Resource-Curse, (116)*Economic Journal* 57-69

outcomes in some countries but economic failure in others. Their answer lies in cross-national differences in the quality of domestic laws, policies and institutions. Having identified poor laws, policies and institutions as one of the causes of oil resource curse, Mehlum et al note that malfunctioning bureaucracy and poor laws and policies in the oil and gas sector tend to attain lower growth outcomes and more violent conflicts. Whereas both Mehlum et al's research and this study identify low growth and high conflicts as outcomes of mismanagement of petroleum resources, the former deals with general sector laws, policies and institutions while this study specifically analyses compulsory land acquisition principles and best practices.

Compulsory land acquisition has been defined by FAO as the power of government to acquire private rights in land for the benefit of society but without the consent of the individual landowner or occupant.<sup>34</sup> FAO notes that compulsory action is undesirable as it interferes with a fundamental human right to property enshrined in international conventions and national constitutions, and should therefore be a last resort. Where inevitable to apply compulsory power however, FAO argues that adequate compensation be made before taking possession of the land. Thus, whereas FAO principles are that government must first try open market means of buying property in good faith, and adequately compensate if it must apply compulsory power, Uganda's practice is that not only do majority projects involving government straight away go for compulsory acquisition; government also takes possession before, instead of after, adequate compensation.<sup>35</sup> Hence this study identifies Uganda's level of compliance on this.

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<sup>34</sup> FAO fn29:5

<sup>35</sup> Land Acquisition Act 1965, s.7, which is contrary to article 26 of the constitution

On the need to find a balance between the public need for property and the protection of private property rights, most international instruments restrict use of such acquired property to the benefit of society by specifying what projects are for public use, public purpose, or in public interest.<sup>36</sup> However Uganda's situation is different as the public purpose projects are not specifically listed, leaving it open to government to decide. This study establishes the adequacy of Uganda's legal status on what public use/purpose is and what it is not. The study ascertains the extent compulsory acquisition can be justified as compliant with international principles using concepts of property rights, public use requirements, compensation handling, and acquisition process.<sup>37</sup>

### **2.2.1 Property rights**

Although the right to own land is constitutional, it is not absolute, and is subject to agreed exceptions, regulated by principles of social justice. The State may delimit this right and reconcile it with exigencies of the common good, as long as there is no legislation or practice that leads to an unjust attack to individual or group property rights.<sup>38</sup> Applying these property rights vary from one country to another. Although the Law Reform Commission of Ireland proposes workable judicial methodology of the following 4-part test,<sup>39</sup> Uganda doesn't have such a test to qualify property rights that should be protected or could be interfered with.

First, the *principle of common good and social justice*, determines that the acquiring authority must acknowledge that common good interests outweigh the individual ones and the purpose for

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<sup>36</sup> *ibid*

<sup>37</sup> Law Reform Commission of Ireland, 'Issues paper, Compulsory Acquisition of Land, 2017'(LRC IP 13-2017)20

<sup>38</sup> *ibid*

<sup>39</sup> *ibid*



the land acquisition should not solely benefit private parties; Second, the *proportionality test*, that any action purporting to take away property rights must be of sufficient importance to warrant overriding a constitutionally protected right, in a free and democratic society; Thirdly, the court must ask whether this *delimitation and the restriction on rights of enjoyment* of private property, is in accordance with the principles of social justice and reconcile the exercise of the individual property rights with the exigencies of the common good; and fourth, the *right to compensation*, whether or not expressly stated as a constitutional right, would still be an implied right in order to balance the interests involved, unless exceptions are constitutionally specified. This study evaluates a similar workable judicial methodology for Uganda, to qualify properties that should be or should not be compulsorily acquired.

### **2.2.2 Public purpose**

The terms public purpose, public use and public interest are commonly used interchangeably and are in most cases not specifically defined in legislation, which can cause confusion or be manipulated, even if some think this is good for flexibility.<sup>40</sup> According to FAO, whereas countries legislation should provide itemized lists of such purposes, as transportation, public buildings, public utilities, public parks, and defense purposes,<sup>41</sup> here Uganda has a generalized description, vis public use, or interest of defense, public safety, public order, public morality or public health.<sup>42</sup> Thus, while FAO argues that public purpose projects be specified in legislation to avoid

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<sup>40</sup> Jonathan Mills Lindsay, 'Compulsory Acquisition of Land and Compensation in Infrastructure Projects, 'PPP INSIGHTS, 2012

<sup>41</sup> FAO fn29:11supra

<sup>42</sup> Uganda Land Alliance(2016) A Simple Guidebook on Legal and Policy Framework Regarding Land, Oil, and Gas in the Albertine Graben, ULA, Kampala

misapplication, Lindsay prefers that they should be left general to enable flexibility, thereby supporting Uganda's current position.

What emerges is that there is need to limit the powers of government to decide which projects to consider as public purpose, but also ensure flexibility in case a new project which had not been pre-specified arises. This study bridges the gap between both arguments of FAO and Lindsay, with a mechanism to prequalify public purpose, but also leave some power with a neutral body such as Compulsory Land Acquisition Tribunal to verify and amend the schedule to include a new project should it qualify after passing a public purpose test.<sup>43</sup>

Whereas it is generally assumed that public purpose excludes private benefit, Lindsay argues that sometimes the need for compulsory acquisition can come from a private investor who requests land from government that compulsorily acquires it on the basis that it will eventually benefit the public, such as a large scale agricultural development project.<sup>44</sup> This study differs from Lindsay's line of argument, as the issue is whether or not the project is for a public purpose (and not benefit) whether or not it is proposed by a private investor or a public body.

### **2.2.3 Compensation**

“Compensation is one of the means employed to enforce or redress an injury. It is founded on the legal maxim “*restitutio in integrum*” which means to restore the injured party to the position he was in prior to the incident. Compensation can be paid in various forms as rent, damages,

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<sup>43</sup> FAO fn29; Lindsay fn40; Ireland Law Reform Commission fn37 supra

<sup>44</sup> Lindsay fn40:3 supra

reparation, restitution, rehabilitation or restoration provided it serves as an adequate recompense for the victims and the damaged areas of their environment.”<sup>45</sup> Thus while the World Bank policy on involuntary resettlement provides that compensation should aim beyond equivalence to improving the livelihoods of those affected,<sup>46</sup> Uganda’s guidelines provide for the principle of equivalence and equity requiring that adequacy of compensation be measured against the concept of non-impooverishing nor enriching the affected persons. Hence this study evaluates these opposing positions.

The application of adequate compensation differs in different regions of the world. The World Bank notes that in developed countries, identifying the right interest and right amount compensable is normally easy given the developed market system and proper records,<sup>47</sup> but because of underdevelopment, developing countries find it difficult and it tends to undermine tenure security when little or no compensation is paid, affecting equity and transparency. This position is endorsed by Akujuru and Ruddock,<sup>48</sup> who conclude that in developed countries, land rights are standardized and well defined, their land markets function, and land records are reliable, which differ even among developed countries and those in developing countries. Ajukuru and Ruddock assert that USA adopts market value, UK bases it on the value of the owner which covers market value plus any losses, while Tanzania considers market value plus disturbance and other losses. In Nigeria,

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<sup>45</sup>J.Nwanzi, ‘Compensation for damage arising from Seismic operations in Nigeria. Constraints and Remedies. [www.nigerianlawguru.com](http://www.nigerianlawguru.com). Visited 15<sup>th</sup> October 2017)

<sup>46</sup> World Bank Operational Policy 4.12 on Involuntary Resettlement, 2001. World Bank, Washington.

<sup>47</sup> *ibid*

<sup>48</sup>Victor A. Akujuru and Les Ruddock, ‘Compulsory acquisition practices and determination of compensation payable in Niger Delta,’ *JLAEA* Vol1/1issue July 2013.Anthi University

such differences in valuation have resulted in controversies, lapses and disputes,<sup>49</sup> and that experience could benefit Uganda. Thus this study identifies the right principles on which Uganda could base its adequate compensation practices.

#### **2.2.4 Procedures and process**

Compulsory acquisition is a power of government but also the process by which that power is exercised. Attention to procedures is important if the exercise of power is to be efficient, fair and legitimate. According to FAO; and Lindsey,<sup>50</sup> the procedural principles that guide process include participation and consultation, speedy and accurate information delivery, appropriate and accessible grievance mechanisms, timely compensation, subsidiary assistance to the affected persons, and taking possession timely. Further, FAO argues that a well-designed compulsory acquisition process should include the following steps: planning, assessment, notice, publicity, valuation, negotiation, payment, possession, appeals, and restitution if at all.<sup>51</sup> These were mainly identified from developed countries which differ from developing countries like Uganda, hence this study establishes if these apply to Uganda or if it requires its own unique ones.

#### **2.2.5 General Principles**

According to FAO, the principles for legislation on compulsory acquisition should include: keep at a minimum any acquisitions; protect due process and fair procedure; good governance; equivalent compensation; ensure participation and consultation of all stakeholders; define due process in law with specified time limits; ensure transparent and flexible procedures undertaken in

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<sup>49</sup>Iyenemi Ibimina Kakulu, (2008) The assessment of compensation in compulsory acquisition of oil and gas bearing lands: The Niger Delta Experience, *Researchgate*, 57-65

<sup>50</sup> FAO fn29:17; Lindsay fn40:9

<sup>51</sup> FAO fn29:16

good faith; clear notice and publicity and be translated in local languages; supervise and monitor the process; take possession only after full payment is done or when prior agreed balances have been guaranteed, or resettlement completed.<sup>52</sup> Further, guiding principles for ensuring equity and equivalence include people receiving no more or no less than lost property(equivalence), process that safeguards the rights of people who loose ownership of use rights (balance of interests), specific but flexible, address both de facto and de jure rights equitably, and fairness and transparency.<sup>53</sup> These principles however represent a general world view and no study had established whether or not they apply to Uganda, which this study does.

The World Bank Policy<sup>54</sup> has also selected features of compulsory acquisition which include involuntary resettlement avoided or minimized; affected persons sharing in project benefits; restoring or improving livelihoods; consultation; compensating impacts caused by relocation or loss of shelter, assets or income, paying attention to vulnerable groups including indigenous peoples; timing of payment before possession; preference for land based settlement options, preference to financial compensation where there are active markets; and eligibility priority for those with formal legal rights as opposed to non-recognizable rights entitled to resettlement assistance. These features were developed elsewhere but have not yet been tested in Uganda which this study does.

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<sup>52</sup> FAO fn29:17

<sup>53</sup> *ibid*

<sup>54</sup>World Bank fn46 *supra*

Similarly, the Inter-American Development Bank Policy<sup>55</sup> also promotes physical displacement avoidance or minimization, fair and adequate compensation, and fair replacement value for assets lost. It also compensates intangible assets lost; requires houses and services to meet minimum standards; minorities and indigenous peoples to get direct benefits from the resettlements; and fully recognizes customary rights. These policies are not fully provided for nor applied in Uganda and this study has identified and recommended them for inclusion in regulations.

Both FAO; and Kakulu,<sup>56</sup> argue that factors that lead to unjust compensation must be corrected and include poorly drafted laws, lack of clear legal rights, lack of negotiation skills, lack of standards and good governance practices, costly and time consuming valuation, rapid changes of market value, and expensive and difficult appeals process which may force poor claimants to simply accept any offer. They further argue that where compulsory acquisition is not done well, problems arise, including: reduced tenure security; reduced investment in the economy; weakened land markets; opportunities created for corruption and the abuse of power; delayed projects, inadequate compensation paid to owners and occupants; bad relationship between communities and project and possible sabotage, and in extreme situations, hostility, youth restiveness and civil unrest. The extent to which some of these factors and problems exist in Uganda has not been studied before, but this study has identified them, especially the bad relationships, as causing hostility between communities and the projects leading to sabotage by disgruntled displaced landowners.

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<sup>55</sup> The Inter-American Development Bank Policy on Involuntary Resettlement

<sup>56</sup> FAO fn29:6 supra; Kakulu fn49:62

## 2.2.6 Comparative Analysis with Nigerian Compulsory Land Acquisition

From such principles, practices and experiences applied in other countries like Nigeria, Uganda has a lot to learn from. Kingston and Oke-Chida evaluated the Nigerian Land Use Act 1978 in relation to land ownership rights and revocation and compulsory land acquisition and argued that the Act is not in conformity with the individual rights to property enshrined in the 1999 Nigeria Constitution.<sup>57</sup> This argument is similar to the one arrived at in Uganda where the Land Acquisition Act 1965 was found to contradict the constitution on the need for prior compensation before land possession.<sup>58</sup> Similar to Uganda's Article 26 of the Constitution, section 28(1) of the Nigerian Land Use Act provides that "It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest." However, revocation can only be valid in the face of *overriding public interest* including but not limited to the purpose of exclusive government use; development for public good; and on the grounds of preservation of public safety.

Unlike Uganda's constitution which does not define public interest, section 28(2) of the Nigerian Land Use Act defines overriding public interest as:

(a) the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made thereunder; (b) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation; (c) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith." This type of

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<sup>57</sup> Kato Cargo Kingston and Mercey Oke-Chida (2016) The Nigerian Land Use Act: A curse or a Blessing to the Anglican Church and the Ikwerre Ethnic People of Rivers State. AJLC Volume 6 Number 1(2016) 147-158. Sacha & Diamond, England. [www.sachajournals.com](http://www.sachajournals.com). Visited 1 July 2020

<sup>58</sup> UNRA v Irumba fn20 supra

categorization which is lacking but necessary in the case of Uganda, is equally recommended by FAO and Lindsay.<sup>59</sup>

Where the revocation is contrary to the provisions of section 28 of the above Nigerian Act and where the Government fails to compensate the statutory rights holder for compulsory revocation, the holder of the rights of occupancy may seek lawful redress. One of the very few protections which private individuals can invoke is section 43 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which states inter alia: "... every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria," which is equivalent to Article 26 of the Uganda Constitution. However, the Nigerian federal constitutional safeguard lacks width, as it fails to protect private land owners against the revocation powers conferred in the governors. Also, section 44 (1) provides that:

"No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things - (a) requires the prompt payment of compensation therefore and (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria."

In any case where compulsory acquisition affects the statutory rights holder, he is entitled to fair hearing under section 36(1) of the Constitution of the Federal Republic of Nigeria, just as it is provided for under Articles 26 and 28 of the Constitution of Uganda. In Nigeria where revocation

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<sup>59</sup> FAO fn29 supra; and Lindsay fn40 supra



is enforced, no state governor is permitted to revoke statutory right of occupancy of one individual or group for the purpose of granting it to another private individual or group, as illustrated in Dantsoho v Mohammed,<sup>60</sup> and in Foreign Finance v. L.S.D.P.C.<sup>61</sup> In any event, where revocation is contemplated, the governor must notify the statutory or customary right holder in advance, giving reasons for revocation, which must fall within those approved by section 28(6) of the Act.

According to Kingston and Oke-Chida,<sup>62</sup> even when the Act recognizes the rights of the statutory right holder to assert his rights in court where there is *prima facie* evidence of violation of those rights, section 47 explicitly bars courts from questioning any provision of the Land Use Act. For example, section 47(1) provides that “The Act shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federation or of a State and, without prejudice to the generality of the foregoing, *no court shall have jurisdiction* to inquire into:

- a) any question concerning or pertaining to the vesting of all land in the Governor in accordance with the provisions of this Act: or
- b) any question concerning or pertaining to the right of the Military Governor to grant a statutory right of occupancy in accordance with the provisions of this Act; or
- c) any question concerning or pertaining to the right of a Local Government to grant a customary right of occupancy under this Act.

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<sup>60</sup> (2003) 6 NWLR (Pt.817)457 2 (2003) 2 S.C 42 3

<sup>61</sup> [1991] 4N.WL.R. (Pt. 184) p. 157

<sup>62</sup> Kingston and Oke-Chida fn57 supra

Likewise, section 47(2) states: “No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act.” However, section 29(2) provides that, where the reason for the revocation of statutory right of occupancy is for the exploration and extraction of minerals resources, the right holder is entitled to compensation under the suitable provisions of the “Minerals Act or the Mineral Oils Act or any legislation replacing the same.” Kingston and Oke-Chida argues that despite the hardship which may be caused to the holders of the statutory right of occupancy whose lands become subject of revocation, it is also possible that, the government could recklessly use such power of revocation to intimate and punish individuals and communities that they consider as their political enemies. The Land Use Act fails to speculate on such possibilities hence, did not provide any safeguards. Such is the case with Uganda’s law which, by not defining terms like public purpose, fails to anticipate difficulties in deciding which projects are or are not for public purpose, hence applying the compulsory power to acquire land for friends that have otherwise non-qualifying projects. There are similar compliance examples in other countries’ (like Nigeria’s) land acquisition system for Uganda to learn from when acquiring land for its oil activities.

### **2.3 Uganda’s compliance with principles and best practices of compulsory land acquisition**

Uganda is a signatory to the Universal declaration of human rights, and the African charter on people’s rights.<sup>63</sup> It is also a member of the International Finance Corporation (IFC),<sup>64</sup> the World

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<sup>63</sup> Strategic Friends International(SFI), (2012) ‘Resettlement Action Plan(RAP) for an Oil Refinery, Kabaale Parish, Buseruka Sub-county, Hoima District, Uganda’

<sup>64</sup>International Finance Corporation Standards on Environment and Social Sustainability, 2012

Bank, and FAO,<sup>65</sup> all of which have provisions for rights to own property and to compensation in case of compulsory acquisition, hence bind Uganda. According to Uganda Land Alliance, Uganda's Constitution and Land Act also clearly provide for rights to own property and to fair and prompt payment for adequate compensation before possession of compulsorily acquired land.<sup>66</sup> However, Uganda has not developed regulations, but only recently drafted new guidelines,<sup>67</sup> which however lack force of law and sanction. No study has been undertaken to evaluate how Uganda is compulsorily acquiring land for petroleum activities, and resettling affected people, without regulations. This study evaluates the principles and practices being applied and how. Some of the principles and practices under which there are variations between international and Ugandan norms are discussed below under property rights, public purpose, assessment and valuation process, and compensation.<sup>68</sup>

### **2.3.1 Property rights**

According to FAO, international principles on property rights deal with acquisition of private land.<sup>69</sup> However, in addition, Uganda recognizes other different ownership rights, such as public ownership (in which government can own property in its own right, managed by Uganda Land Commission), private and public partnership (joint ownership between government and private), and trusteeship (government holds land under protected areas like forest reserves, and wildlife

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<sup>65</sup>World Bank fn46 supra; FAO fn29 supra

<sup>66</sup> Uganda Land Alliance(fn42)

<sup>67</sup> Ministry of Lands, Housing, and Urban Development(MLHUD) (2017) 'Guidelines for Compulsory Assessment Under Land Acquisition'

<sup>68</sup> Global Rights Alert fn11

<sup>69</sup> FAO fn29 supra

areas in trust for the people of Uganda).<sup>70</sup> This study evaluates government acquisition of privately owned land and land it holds in trust such as national parks.

Kasimbazi argues that, private ownership of land is clear, but divergence views exist on the ownership of protected areas (land under national parks, wildlife reserves and forest reserves) held in trust. Is it owned by government, or the citizens of Uganda and if so how should it be acquired for petroleum activities?<sup>71</sup> According to Kato,<sup>72</sup> protected areas (PAs) are “owned by government” and thus don’t need any further acquisition. But Professor Joseph Lax<sup>73</sup> as quoted in Kasimbazi,<sup>74</sup> disagrees and stresses that property held in trust must not be used for a different purpose from that for which the trusteeship was created, because fiduciary duty under a trustee-beneficiary relationship is to the effect that the fiduciary cannot unilaterally exercise the power to affect the beneficiary’s legal and practical interest in a property.

Accordingly, Kasimbazi<sup>75</sup> concludes that PAs are owned by the citizens and government only holds them as a fiduciary in trust for the beneficiary citizens. AFIEGO<sup>76</sup> on its part observes that government as a trustee must preserve the trust property and follow acquisition procedures.

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<sup>70</sup> Emmanuel Kasimbazi (undated) *The Public Trust Doctrine and Forestry Resources Management in Uganda: Prospects and Challenges*, School of law, Makerere University

<sup>71</sup> *ibid*

<sup>72</sup> Kato Tonny, ‘RAP Implementation and Land Acquisition for Development in the Albertine Graben: A case study of Buseruka sub-county, Kabaale parish Hoima District.’ Presented at a CSCO Stakeholders Dialogue, Kampala Uganda, on 24<sup>th</sup> February 2014 by the Government Valuer

<sup>73</sup> Joseph L. Sax, (1970) *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Interventions*, (68) *Michigan Law Review* 471-

<sup>74</sup> Kasimbazi fn70 *supra*

<sup>75</sup> *Ibid*

<sup>76</sup> Africa Institute for Energy Governance (AFIEGO): Memorandum of proposals by civil society for the 2016 draft land acquisition and resettlement framework for the oil sector, 22<sup>nd</sup> November 2016:3

Therefore government must seek permission from owners before changing the purpose of protected areas (PA). Although the process for compulsory acquisition of private land is provided for in the Land Acquisition Act, that of PAs is not, hence this study evaluates the law governing gazzettelement and degazettelement of PAs to establish their ownership and acquisition.

### **2.3.2 Public purpose**

The purpose for which private land is compulsorily acquired must be of a public nature. FAO provides that such purpose should be clearly defined not to confuse it with other purposes which don't qualify for compulsory power. Internationally, public purposes are specified to include transportation, public building, public utilities, public parks, among other specific ones, but exclude petroleum exploitation.<sup>77</sup> Uganda does not specify what falls under each of the public uses, but it also considers petroleum exploitation to be a public purpose even when it does not appear both in international or national legislation as such. This study evaluates the ownership and beneficiaries of the petroleum investments to establish if it is a public or private investment, and if it qualifies for compulsory acquisitions.

In any case, according to the World Bank, compulsory acquisition is a power of government to acquire private property where private owners may not wish to sell.<sup>78</sup> However, in Uganda it is not clear, between government and International Oil Companies (IOC), who is actually acquiring the land since IOCs are on the forefront of land acquisition instead of government, as can be seen from the Land Acquisition and Resettlement Framework (LARF).<sup>79</sup> The confusing roles between IOCs

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<sup>77</sup> FAO fn29:11

<sup>78</sup> World Bank fn46 supra

<sup>79</sup> CNOOC Uganda Ltd, Total E&P Uganda and Tullow Uganda Operations Pty Ltd, 'Albertine Graben Land Acquisition and Resettlement Framework 2016

and government can also be traced to the Production Sharing Agreements (PSAs), for instance for Kanywataaba,<sup>80</sup> where the annual surface rentals are paid by licensees to government, but are later deducted as part of cost oil.

A similar observation was raised by IPPED,<sup>81</sup> on who between the government and IOC is responsible for paying for pollution if costs incurred in cleaning oil spills are later deducted as oil cost? Civil society has therefrom criticized the framework for merging of roles of government and IOCs in this framework.<sup>82</sup> Further, IPPED<sup>83</sup> wonders how government power can be extended to a private company, arguing that, if another investment establishing a sugar manufacturing factory can purchase its land directly from the market, why shouldn't a company which wishes to establish an oil refinery? This study analyses any differences or similarities between land acquisition for investment in petroleum projects and other projects.

### **2.3.3 Valuation Process and Compensation**

Uganda's constitution provides for adequate compensation and prompt payment before taking up possession of the compulsorily acquired land.<sup>84</sup> Although the prompt payment implies cash payment (which excludes land for land compensation in case of Uganda,<sup>85</sup>) international principles

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<sup>80</sup> The Production Sharing Agreement for the Petroleum Exploration and production in the Republic of Uganda between government and Tullow (Uganda) limited in the Kanywataba Area, Hoima District 2012

<sup>81</sup> Implement Polluter Pays for Environmental Damage (IPPED) (2018). Who pays for environmental pollution? IPPED, Kampala

<sup>82</sup> CSCO, Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben. Comments on the Draft Report (2016)2

<sup>83</sup> IPPED fn81 supra

<sup>84</sup> Uganda Land Alliance fn42 supra

<sup>85</sup> FAO fn29 supra, WB fn46 supra, IFC, IADB fn55 supra

and practices also recommend resettlement by giving land for land compensation. Thus whereas Uganda has used land for land in compensating some of the people displaced by the oil refinery in Hoima,<sup>86</sup> that rule is not in Uganda's laws but is from international best practice, and was preferred in the Resettlement Action Plan (RAP).<sup>87</sup> This study reveals the popularity of and the legal applicability of land for land compensation in Uganda

The RAP for the Oil Refinery to be built in Hoima<sup>88</sup> outlines the key guiding principles for ensuring equity and equivalence to include fairness and transparency; flexibility; balance of interests; and addressing de-facto and de jure rights. This RAP was made basing on international principles and best practices before local regulations or guidelines could be made. This study establishes whether such practice complies with international practice.

According to SFI, there are variations between national and international principles, and the latter have been preferred despite some not being supported by national laws.<sup>89</sup> These variations indicate that Uganda does not fully comply with international principles. There was apparent lack of evaluation of both international and scattered national principles to come up with unified national principles aligned with the rest of the laws, a task met in this study.

#### **2.3.4 National Principles**

Uganda has been relying on principles scattered in national and international instruments until recently when it compiled a list of ten key principles for compensation assessment under

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<sup>86</sup> Global Rights Alert fn11 supra

<sup>87</sup> SFI fn63 supra

<sup>88</sup> Ibid

<sup>89</sup> Ibid:8

compulsory land acquisition.<sup>90</sup> It also outlines five conventional standard valuation methods used to determine market values.<sup>91</sup> The guidelines also cover method of valuation for land, minerals on land, structures, crops and trees, graves and cultural heritage, business and loss of income, severance and injurious affection, salvage of minerals, and managing speculative developments. The guidelines attempt to define some terms<sup>92</sup> used therein, but do not define the critical terms like public purpose, public use, public interest and others. The extent to which Uganda complies with international principles and practices had not been evaluated, a task this study undertakes.

#### **2.4 How Uganda can better its compulsory land acquisition**

Land owners demand restoration to original or better status to anyone who loses his property to compulsory acquisition. According to Dafinone,<sup>93</sup> the clamor for resource control is a clamor for adequate compensation, a cry for redistribution of the revenue allocation formula, and nothing more. Whoever owns land expects some form of compensation from those hiring this very important factor of production.” This study establishes that land owners value land beyond the financial price to cover the social capital to be lost once they leave for new areas.

According to SFI,<sup>94</sup> there are circumstances where international and national standards are opposed to each other or are even not expressly defined altogether. As such, Uganda’s MLHUD<sup>95</sup> attempted

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<sup>90</sup> MLHUD fn67:10 supra

<sup>91</sup> MLHUD fn67:11 supra

<sup>92</sup> MLHUD fn67:21 supra

<sup>93</sup>D. Dafinone, ‘Resource Control: The Economic and Political Dimensions, *UrhoboHistorical Society*, Niger Delta, Nigeria (2001).

<sup>94</sup> SFI fn:63, FAO fn29 and Lindsay fn40 supra

<sup>95</sup> MLHUD fn67



to define some terms in the compensation guidelines. Unfortunately, it has not defined critical terms used in the constitution<sup>96</sup> such as public purpose, public use, public interest, public health, morality and defense, as applied in compulsory land acquisition. Also phrases like “ownership vested in the republic of Uganda,” or “held in trust for the people of Uganda,” or “in the interest of landowners,” need to be clearly defined. This study identifies these terms and highlights the need to be defined in the regulations.

Both international<sup>97</sup> and national<sup>98</sup> legal frameworks recognize property rights, and recommend compensation for any compulsorily acquired land. Likewise some scholars, Government officials, NGOs and other stakeholders<sup>99</sup> have written some articles, papers and reports on the land administration and reforms in Uganda in general and in particular on private land acquisition and resettlements. However none of them cover rights to and how protected areas, as public property are compulsorily acquired by government and/or converted to petroleum activities without compensating owners. Even where some rules exist like on degazetement, they tend to be bypassed. This study evaluates these rights and procedures to apply them.

Furthermore, even if both international<sup>100</sup> and national<sup>101</sup> principles refer to multiple rights, they don't elaborate on how to compensate the unique rights of vulnerable persons affected by

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<sup>96</sup> Uganda Land Alliance fn42 supra

<sup>97</sup> FAO fn29 supra

<sup>98</sup> Uganda Land Alliance fn42 supra

<sup>99</sup> Global Rights Alert, ACODE, CSCO, AFIEGO, Uganda Land Alliance, and IOCs themselves among others

<sup>100</sup> World Bank fn46, para. 8

<sup>101</sup> MLHUD fn67 supra

petroleum projects, which is identified in this study, such as women who are failing to grow food for their children, and school children who are said to be missing school, because of the delays in resettlement.<sup>102</sup> Likewise special project impacts like separating families, abandoning unique resources like water and firewood, and exposure to noise or dust pollution, have not been integrated as requiring special consideration for cash or in-kind compensation, which this study interrogates and finds them worthy of compensation due to their effects on the project affected persons.

Uganda's legal framework provides for prompt payment which therefore envisages cash payment. But international policy recognizes land for land compensation.<sup>103</sup> Uganda has in practice applied this during the resettlement of persons affected by the Oil Refinery in Hoima.<sup>104</sup> Whereas this practice is popular, it lacks the force of law and it could in future be challenged, so this study evaluates how to amend the laws or include it in the regulations.

Meanwhile, the international principles emphasize that compensation should restore livelihoods or even better.<sup>105</sup> The national principles emphasize maintaining same status and avoid enrichment.<sup>106</sup> This study evaluates the level of suitable compensation to harmonize both.

The international financial institutions like IFC and WB have resettlement standards which are useful but are only binding to their members only in projects where they are also funders.<sup>107</sup> They don't bind members in projects funded from different sources, for instance they don't bind

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<sup>102</sup>Catherine Twongeirwe, 'Oil activities affecting school children,' *Sunday Vision*, Kampala. 25<sup>th</sup> February 2018

<sup>103</sup> FAO fn29 supra, WB fn46 supra

<sup>104</sup> SFI fn63 supra

<sup>105</sup> World Bank fn46 supra

<sup>106</sup> MLHUD fn67 supra

<sup>107</sup> World Bank fn46,para 18

Uganda's petroleum activities where IOCs are self-funding, or source from elsewhere other than World Bank/IFC. This distinguishes them from this study that instead evaluates possibilities of making the standards binding even for projects not funded by these institutions.

Uganda's MLHUD recently drafted compensation guidelines<sup>108</sup> recommending some methods of assessment and valuation. However a study in Nigeria by Kakulu, et al<sup>109</sup> severely criticized some of the methods and rates singling out the crop enumeration method as being crude, outdated, and unjust and recommended a complete review. No study has evaluated these recommended methods to avoid what has been found in Nigeria, thus this study appraises and evaluates them for possible reform.

Meanwhile, a paper by Kakooza recommends the need to reform the land sector, and harmonize the different land laws, including having a separate property law statute.<sup>110</sup> It addresses the statutory compensation made by government to persons who lose land or interests in land through the workings of the registration system such as fraud. It however does not address compensation for compulsorily acquired land, which this study does.

Meanwhile there have been many disputes between government and landowners over delayed or inadequate compensation, and in some cases, land taken before compensation,<sup>111</sup> relying on an

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<sup>108</sup>MLHUD fn67 supra

<sup>109</sup>Iyenemi Ibrahim Kakulu, Peter Byrne, and Kauko Viitanen (2009) Phenomenological Research in Compulsory Land Acquisition and Compensation, UNEP-GPA Capacity Building Project in ACP countries (2008-2011)14-16

<sup>110</sup> Anthony C.K. Kakooza (2008) Land Law Reform in Uganda: Exploring the loose ends, *Uganda Christian University Research Bulletin* Vol. II, 2008. Electronic version available on <http://ssrn.com/abstract=1658661>. Visited 12<sup>th</sup> November 2017

<sup>111</sup>Uganda Land Alliance (n42)

older provision that clearly contravenes the constitution.<sup>112</sup> Due to delays in taking possession of acquired land, caused by unresolved disputes in courts, government has proposed to amend the constitution<sup>113</sup> to enable more eminent power to take possession before compensation. This may only solve one problem for government to acquire land quickly but it will create a bigger one for landowners with thousands of claims, many of which will delay in courts of law, further hampering the right to own property.<sup>114</sup> This study reviews alternative strategies to enable government projects proceed timely but at the same time allow the land owner to receive adequate compensation equally timely.

Relatedly, government has put a commission of inquiry on land matters on which many complaints have been raised on land grabbing by different people including government or its officials acquiring land from people cheaply or some forging titles leading to massive evictions. A draft report<sup>115</sup> recommends changes in land acquisition and ownership, which this study also evaluates.

## **2.5 Conclusion and emerging issues**

The review of the literature stresses the need to respect private property rights, before, during, or after considering compulsory land acquisition, but as much as possible avoiding it altogether by adopting alternative options. If unavoidable, the literature stresses the need to limit compulsory acquisition strictly to public purposes. The review also stresses the need for terms like public

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<sup>112</sup> Land Acquisition Act cap 226, s.7

<sup>113</sup> The Constitution (Amendment) Bill 2017

<sup>114</sup> AFIEGO fn76 supra

<sup>115</sup> The Commission of Inquiry into the Effectiveness of Law, Policies, and Processes of Land Acquisition, Land Administration, Land Management and Land Registration in Uganda. Draft Report 15<sup>th</sup> February 2018

purpose/use to be pre-defined and specified in legislation with a proportionality test, to avoid misapplication by government. Should private property pass the test to be compulsorily acquired, it must then be properly assessed, evaluated and adequately compensated. And then, the affected persons or wildlife must be properly resettled before taking timely possession of the land.

It has emerged that the compulsory acquisition process is recognized and provided for in international and national legislation, principles and best practices, with some showing similarities, while others contradict, and others not provided for at all by either. Uganda, being an emerging petroleum producer, needs to identify and evaluate those international principles and best practices that fit its circumstances. This review has outlined areas covered in the existing literature and gaps not covered, which this study has tried to fill. Identifying and evaluating different principles, best practices and suitable strategies requires well laid out research methods, as the next chapter details.

## **CHAPTER THREE:**

### **RESEARCH METHODOLOGY**

This chapter is a brief description of the selected methods used in the study on the principles of compulsory land acquisition for petroleum activities. The methods comprise of research design, description of the geographical study area, study population and samples, sampling techniques, data collection methods, reliability and validity, data analysis, and limitations of the study.

#### **3.1 Research Design**

To achieve the objectives of the study, the research used mixed method approach combining both qualitative and quantitative methods, because some issues require textual while others require numerical description or both. Saunders, Lewis, and Thornhill define quantitative as a synonym for any data collection technique or data analysis procedure that generates or uses numerical data. In contrast, qualitative is used as a synonym for any data collection technique or data analysis procedure that generates or uses non-numerical data such as words, pictures, or video clips.<sup>116</sup> Mixed or multiple method is when both quantitative and qualitative methods are combined in any proportion. Data collection was through document content analysis, interviews of critical respondents, and administration of questionnaires for other respondents. Interviews were conducted with senior managers/officials in IOCs and government because they are few, and also have a lot of important complex issues to clarify. On the other hand, questionnaires were administered with lower cadre staff because they are many, and also because the issues they deal

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<sup>116</sup> Mark Saunders, Phillip Lewis, and Adrian Thornhill (2007:145)4ed Research Methods for Business Students. FT Prentice Hall. London

with are not as complex as for senior managers. Document content analysis was chosen to enable evaluation of relevant documents to identify specific characteristics and principles of compulsory acquisition. The content analysis study used a comparative approach where international principles, standards and best practices are compared and contrasted with national ones to be able to identify best principles for Uganda. Reports of studies on other petroleum producing countries like Nigeria, Tanzania, UK and USA were used to represent developing and developed country principles and practices. Similarly United Nations, its agents like FAO and World Bank instruments represent international principles and practices while the Uganda Constitution and national laws and practices represent the national principles.

The study focuses on issues of adequacy and compliance of principles and practices: first, to identify the important industry principles and best practices, and secondly, to evaluate the extent to which Uganda complies with international principles and best practices, and thirdly to identify the weaknesses and gaps and how Uganda can strengthen its compulsory acquisition processes. The study thus analyses the coverage, the form, and substance of international and national policies, laws, regulations, guidelines, standards, plans, contracts, licenses, power sharing agreements and all other practices and processes as they apply to Uganda's compulsory land acquisition to facilitate petroleum activities.

### **3.2 Study area**

The research survey was done in the mid-western districts of Hoima, Kikube, and Buliisa, plus Kampala/Wakiso which is where major petroleum activities are taking place including the major oil wells in Kabwoya-Kaiso-Tonya wildlife area, and the land acquisition and displacement of

people in Kabaale parish, Kizirafumbi subcounty, Kikuube district where an oil refinery is to be constructed. Other infrastructure being developed in these districts include roads, airport, and pipeline. They also hosts the local government councils, and they part of the traditional institution of Bunyoro Kingdom, and several NGOs and companies doing business in or associated with petroleum exploitation.

Kampala/Wakiso host the headquarters of relevant government ministries and agencies handling different aspects of petroleum activities, as well as hosting the headquarters of the IOCs exploiting petroleum resources and local companies and NGOs involved with petroleum activities. It also stores most inputs to the petroleum activities, and is to host giant oil tanks before distribution. Respondents filled questionnaires or were interviewed alongside analysis of relevant documents.

### **3.3 Target Population, Sample Size, and Design**

Population can be defined as the entire group of elements regarding which researchers look for inference about, while target population refers to the whole group of persons who comprise of common observable uniqueness.<sup>117</sup> The study targeted various stakeholders involved in land acquisition in the oil and gas sector in Uganda. These included land owners and local community leaders in the areas where people were displaced, oil company officials, businesses, Ministries responsible for Land, and for Energy, the Petroleum Authority of Uganda (PAU), sector NGOs, professionals involved in the oil and gas sector and other stakeholders. These enabled the researcher to undertake a detailed study on the legal principles and practices in land acquisition in the oil and gas sector in Uganda.

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<sup>117</sup> D.R Cooper & P.S Schindler, Business Research Methods, McGraw-Hill, 2006



A sample size of 150 respondents were drawn from a population frame of 260 people using purposive and stratified random sampling. Sampling enabled the researcher to select elements from the population in such a way that elements selected represent the entire study population. The determination of sample size was guided by the table of Krejcie and Morgan (1970)<sup>118</sup> on determining sample size from a given population. The researcher applied stratified random, and purposive sampling. According to Denscombe, stratified random sample is when every member of the population has an equal probability of being picked in relation to their proportion within the total population.<sup>119</sup> Stratified random sampling technique was applied since the population of concern is not homogeneous and can be subdivided into groups or strata of land owners, civil society organizations, oil companies, and government officials.

Purposive sampling method was used to select respondents especially the land owners who were directly affected by land acquisition for oil and gas activities because they are the ones with the inside information on the subject under investigation. This study is specific to compulsory land acquisition, so it purposively targeted those persons affected by or affecting or working with those affected at different levels. Secondly, some displaced people have migrated to different places and their locations was got from the other respondents who happen to know them. This favored the purposive method that allows interviewing the next respondents found if they fall under the specified stratified categories on the population frame.

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<sup>118</sup> R.V Krejcie, & D.W Morgan (1970) Determining Sample Size for Research Activities. Educational and Psychological Measurements 30 607 610

<sup>119</sup> Denscombe M, *The Good Research Guide: for small-scale social research projects* (3rd edition) Maidenhead: Open University Press, 2007.

### **3.4 Data Collection Methods**

Primary data was collected through: structured open- and close-ended questionnaires (appendix i), suited for capturing both quantitative and qualitative data; interviews guides (appendix ii) used to structure and control the interview; focused group discussions, suitable to collect data on a topical issue as a group of people discussed it; physical observations, suitable for some activities that were observed in progress; photography and videography to keep record of some activities in action; survey plans and land titles and other relevant documents to capture land and related data.

Secondary data was collected from published and unpublished reports of intergovernmental organizations, developed and developing countries, Uganda government, oil companies, subcontractors, suppliers, scholars, NGOs and other relevant sources. The data collection was done in 3 months from April to June 2018 (as per appendix i). Data was collected by 3 research assistants, one for Kampala and two for the field under the direct supervision of the researcher who was also personally involved in data collection indoor or outdoor in both operation sites.

Some respondents in Hoima/Kikuube and Kampala/Wakiso were interviewed and their responses recorded there and then for each respondent, while others filled administered questionnaires that were collected at a pre-agreed time soon after. A short interview schedule and a questionnaire were designed to extract data relevant to answer the research questions. Most respondents who were busy preferred short interviews or questionnaires, which led to high participation. The interviewees were mainly top managers and some middle managers who because of their mastery of the subject were requested to explain certain situations. Because we had promised confidentiality, their responses are attributed to the office they hold or company they work for but not their individual

names, and in the discussion chapter, they are referred to as: a respondent in such and such office said this or that. An interview schedule intended to guide the extent of interview and limit digressing, outlined the different principles and practices on which respondents were asked to explain if they agree or not with a given statement. Questionnaires contained short close-ended Likert scale questions/statements with objective choices ranging from highly disagree to highly agree and scoring 1 to 5 from which respondents selected their preferred response. Many respondents preferred to fill these, and these include professionals, NGOs, and landowners.

Other questions/statements were open-ended allowing the respondents to say or write down their views in their own words. Each of the major stakeholders had a category of specific set of questions about them, some of which were not responded to by other categories (appendix i). The questions included identifying any strengths observed or known in the compulsory acquisition, or weaknesses in the laws and/or practices and methods. Respondents were asked to recommend legal and practical strategies to fill any identified gaps, including how government institutions, oil companies and other stakeholders should deal with compliance issues of land acquisition and compensation rights from international principles, the constitution, policies, laws, and governance structures and processes.

The respondents were asked to show how different players, if at all, have planned and implemented the compensations and shaped their activities in the oil industry in order to avoid dreadful conditions that affect private land owners, protected areas and other inhabitants and the environment, on the one hand, and the oil companies and government on the other. In the open-

ended questions, probing was done to ascertain opportunities and threats in institutions, public participation, communication, labor skills, crucial policies and laws, organizational structures and governance systems.

On document content data collection, this was a systematic examination of the contents of documents published or otherwise on the subject of study, that is compulsory land acquisition. Here data was collected from books, articles, contracts, reports, newspapers, and other documents to identify common patterns, themes, or biases on the characteristic principles. This data collection was done alongside literature review when the main concepts or themes identified and evaluated. Those themes or concepts are then compared and triangulated with the outcomes of the primary data during discussion of results.

### **3.5 Data analysis**

Data analysis included both quantitative and qualitative analysis. Data was first edited, coded, and tabulated from the questionnaires and/ or interview schedules, or short hand notes, or from documents. Primary data and secondary data were analyzed separately but were compared or contrasted. Demographic data combined both interviewees and questionnaire respondents. Qualitative data and document data were grouped under themes and evaluated and analyzed qualitatively. It was grouped and compared for similarities, and differences and then packaged together to form general conclusions. The observations obtained from data analysis were compared with existing information to identify similar or different situations so as to draw conclusions as to the level of adequacy and compliance of Uganda's Oil Industry with the international legal framework and best practices on compulsory land acquisition and compensation rights.

For quantitative analysis, data was tabulated into frequency tables. Then the data was analyzed and interpreted using SPSS statistical computer programmes to determine the important descriptive statistics like means, and standard deviations, intended to test the reliability of the study. SPSS is a statistical programme for social sciences and is suitable for the kind of issues being studied, most of which have social elements. The interpreted quantitative data was triangulated with the qualitative themes and an overall summary of findings outlined, followed by conclusions and recommendations for each research objective/question/result.

### **3.6 Limitations of the study**

Various limitations were encountered during the study including unknown population frame, data secrecy/unavailability, and any other challenges.

The population frame was inexistent so it was developed after consulting the major stakeholders. For example the frame for land owners was developed with the local council leaders, CAO and NGOs. As for the other stakeholders, the frame was developed with consultation with ministries responsible for Energy and Lands, Chamber of Mines and Petroleum, and PAU.

On data secrecy, introduction letters were obtained from the Institute of Petroleum Studies Kampala addressed individually to major stakeholders and respondents explaining the academic purpose of the study. The relevant government ministries and agencies, CAO, oil companies, NGOs and other major stakeholders each received an introductory letter specifically addressed to each of them (see appendix i). The researcher and research assistants also introduced themselves and explained the purpose of the study to the respondents. All these introduction measures made the data collection and analysis easier and reliable as the next chapter shows.

## CHAPTER FOUR

### DATA PRESENTATION, ANALYSIS AND DISCUSSION OF FINDINGS

#### 4.0. Introduction

The aim of the current study was to determine whether Uganda's legal framework adequately complies with international principles and best practices in compulsory land acquisition for petroleum activities. Compulsory land acquisition is premised on the *principle of common good and social justice, proportionality, delimitation, and right to compensation* which determine that the acquiring authority must acknowledge that common good interests outweigh the individual ones and the purpose for the land acquisition should not solely benefit private parties.<sup>120</sup> The *principle* requires that any action purporting to take away property rights must warrant overriding a constitutionally protected right, in a free and democratic society.

The United Nations' FAO emphasizes that compulsory land acquisition is undesirable as it interferes with a fundamental human right to property as enshrined in international conventions and national constitutions, and should therefore be a last resort, and where absolutely inevitable adequate compensation must be made before taking possession of the land.<sup>121</sup> The World Bank policy on involuntary resettlement adds that compensation should not only be mandatory but

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<sup>120</sup> Law Reform Commission of Ireland, 'Issues paper, Compulsory Acquisition of Land, 2017'(LRC IP 13-2017)20

<sup>121</sup> Food and Agricultural Organization (FAO), 'Compulsory acquisition of land and compensation, Rome 2008' FAO land tenure studies 10.

should also aim beyond equivalence to improving the livelihoods of those affected.<sup>122</sup> While Uganda's constitution also provides for adequate compensation before compulsory land acquisition,<sup>123</sup> the Ministry of Lands guidelines provide for the principle of equivalence and equity, which requires that adequacy of compensation be measured against the concept of non-impoverishing nor enriching the affected persons<sup>124</sup> thus differing from and not complying with the World Bank. The primary and secondary data collected and analyzed tends to prefer the international to the national principles and practices.

This chapter presents data, its analysis, and interpretation and discussion of findings, presented along each research objective, using frequency tables, means and standard deviation. The study objectives were to; identify the principles of compulsory land acquisition in the petroleum industry; establish whether Uganda's petroleum industry complies with the principles and best practices of compulsory land acquisition; and determine how Uganda can better its compulsory land acquisition. To understand the respondents, their demographic characteristics were first analyzed.

#### **4.1. Demographic Characteristics**

The background information of respondents was deemed necessary because the ability of the respondents to give satisfactory information on the study variables greatly depended on their characteristics, that is, their gender, age, level of education and duration in the area.

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<sup>122</sup> World Bank Operational Policy 4.12 on Involuntary Resettlement, 2001. World Bank, Washington.

<sup>123</sup> Article 26

<sup>124</sup> Ministry of Lands, Housing, and Urban Development(MLHUD) (2017) 'Guidelines for Compulsory Assessment Under Land Acquisition'

#### 4.1.1 Response Rate

**Table 4.1.1 Response rate**

Category	Number administered	Those who responded	Response rate
Land owners	60	57	.95
Government officials	15	12	.8
District leaders	15	11	.73
Oil Companies	10	8	.8
NGOs	15	13	.86
Professionals	15	8	.53
Others	20	11	.55
Total	150	120	.8
<b>% response</b>	<b>100</b>	<b>80%</b>	<b>.8</b>

**Source: Primary Data, 2018**

The study contacted a total of 150 respondents broken down as per table 4.1.1 above, but only 120 respondents completed the questionnaire or interview. This is a response rate of 80% which is high enough to draw reliable conclusions. This was achieved due to the personalized introduction letters, and the cooperation with local leaders and NGOs, as well as the purposive method applied where all the targeted respondents were those affected or those working within the sector.

#### 4.1.2 Gender of respondents

**Table 4.1.2: Gender of respondents**

Gender	Frequency	Percentage (%)
Male	74	61.7
Female	46	38.3
<b>Total</b>	<b>120</b>	<b>100.0</b>

**Source: Primary Data, 2018**



The study examined the gender of respondents as presented in table 4.1.2 above. Out of the 120 respondents who participated in the study, 74(61.7%) were male while 46(38.3%) were female. This finding implies that majority of the respondents were male while the minority but relatively high number of female respondents is due to women emancipation campaigns by civil society and gender activists. The almost equal number of males and female respondents is important to this study as it makes results unbiased to one gender as the views, ownership, and use of land especially by females is important but most always understated.

#### 4.1.3 Age of respondent

**Table 4.1.3: age of respondents**

<b>Age Bracket</b>	<b>Frequency(F)</b>	<b>Percentage (%)</b>
20-29	30	25.0
30-39	32	26.7
40-49	20	16.7
50-59	20	16.7
60 years and above	18	15.0
<b>Total</b>	<b>120</b>	<b>100.0</b>

**Source: Primary Data, 2018**

The study examined the age of respondents, and findings are presented in table 4.1.3 above. The largest number of respondents 32(26.7%) were in the age bracket 30-39, closely followed by 20-29 age bracket (25%), and the lowest was over 60 years and above (15%). This implies that majority of the respondents (51.7%) were young people (20-39). However an almost equal number of respondents were adults 40 years and above (48.3%) and therefore the information they provided was fairly balanced between young and old respondents, thus not biased to one group against the other hence drawing reliable conclusions. This avoids a situation where views,

ownership and use of land for one age group would not be brought out if one age group had dominated the other among the respondents.

#### 4.1.4 Level of education

**Table 4.1.4a: Level of Education of land owners**

<b>Level of education</b>	<b>Frequency(F)</b>	<b>Percentage (%)</b>
No formal education	26	45.6%
Primary	18	31.6%
Secondary	11	19.3%
Tertiary	2	3.5%
Total	57	100.0%

**Source: Primary Data, 2018**

The study examined the level of education of respondents from the land owners' category and findings are presented in table 4.1.4b above. The majority 26(45.6%) of respondents have not attained any formal education, followed by 18(31.6%) who had attained primary education, with the lowest 2(3.5%) who had attained tertiary education. This implies that the majority of the land owners were uneducated hence unable to read or interpret documents in English language. They therefore relied on someone else translating for them in their local language as was done by the research assistants. This could mean that unless documents are translated for them, the land owners could not understand the documents from government, or oil companies concerning their land, hence were likely to sign things they didn't understand.

**Table 4.1.4b: Level of Education of government officials, oil companies, development partners, NGOs and professionals**

<b>Level of Education</b>	<b>Frequency(F)</b>	<b>Percentage (%)</b>
Certificates	5	7.9%
Diploma	11	17.5%
Bachelors	29	46.0%
Masters	18	28.6%
<b>Total</b>	<b>63</b>	<b>100.0</b>

**Source: Primary Data, 2018**

The table 4.1.4b above shows that nearly half 29(46.0%) of respondents hold Bachelor’s degrees followed by master’s degree holders 18(28.6%) while the least were certificate holders 5(7.9 %). This implies that the other respondent categories, other than the land owners, were adequately qualified persons academically and thus their responses were reliable enough to enable the study to draw reliable conclusions. These respondents are able to analyze and understand issues, and ably make informed suggestions. On the other hand the educated could easily overshadow the uneducated land owners who are unable to analyze issues, hence the need to ensure thorough interpretation and translation for the uneducated land owners.

#### **4.1.5 Time spent in the area**

**Table 4.1.5a: Duration of the land owner in the land**

<b>Duration in the area</b>	<b>Frequency(F)</b>	<b>Percentage (%)</b>
Less than 2 years	5	8.7%
2-5 years	11	19.3%
6-10 years	14	24.6%
Above 10 years	27	47.4%
<b>Total</b>	<b>57</b>	<b>100.0</b>

**Source: Primary Data, 2018**

**Table 4.1.5b: Duration of non-land owner respondents working with project/organization**

<b>Duration in the organization</b>	<b>Frequency(F)</b>	<b>Percentage (%)</b>
Less than 2 years	9	14.3%
2-5years	13	20.6%
6-10 years	29	46.0%
Above 10 years	12	19.1%
<b>Total</b>	<b>63</b>	<b>100.0</b>

**Source: Primary Data, 2018**

The study examined the duration of the land owner in the area or non-land owner working with the organization and findings are presented in table 4.1.5a &b above

Results in table 4.1.5a show that the majority of landowners 27(47.4%) had lived on their land for more than 10 years, and only 5 people(8.7%) had lived on their land for less than 2 years. This implies that the land owners had been settled down and any displacement will affect their survival techniques. The few new comers could have been land speculators who wanted to profit from the higher compensation rates offered by government. Generally majority respondents understand the subject under study because they had been in the affected areas for more than 5 years.

Results in table 4.1.5b show that 29(46%) of working respondents had worked with their respective organizations for 6-10 years, and 41(65%) for more than 5 years. This implies that the respondents understand the subject under study and their responses can be relied on to draw reliable conclusions.

**4.2 Descriptive statistics on identifying the principles of compulsory land acquisition in the petroleum industry**

Objective one of the study was to identify the principles of compulsory land acquisition in the petroleum industry. The findings derived from the Likert scale scores on the different principles identified are presented in the descriptive statistics shown by the values of the respective means

and standard deviations of the key empirical inferences in the subsections and respective tables below.

The sample mean of opinion score indicates the level of agreement while the standard deviation indicates the deviation from the central value (Median = 2.5). The maximum Likert score is 5 so where the mean value is nearer to 5, it indicates a high level of approval of the statement as a principle of land acquisition in the study. There is no statistical relationship between values in the same column, and if any resemblance exists like increasing order then it is purely accidental.

#### 4.2.1 Property rights

**Table 4.2.1: Property Rights**

<b>Property Rights</b>	<b>Mean</b>	<b>Std. Deviation</b>
Land owners have a right to compensation	4.88	.332
People have a right to own land	4.83	.374
Landowners lost their land for oil and gas activities	4.59	.893
There are laws that protect people's land	3.81	1.176
Government grabbed land for oil and gas activities	3.32	1.573
Priority was given to people with formal legal rights as opposed to non-recognizable rights entitled to resettlement assistance	3.17	1.404

**Source: Primary Data, 2018**

The study investigated the property rights as a principle of compulsory land acquisition under different key statements. The results presented indicate mean values closer to the maximum rank of 5 and above the meridian value of 2.5 therefore justifying this principle.

Results show that respondents agreed that land owners in the areas affected by petroleum activities have a right to compensation. This had the highest mean score of 4.88 of respondents. This reveals that land owners in the areas affected by petroleum activities have a right to compensation. The respondents argued that before land is taken for petroleum activities, the land owners should be

adequately compensated to be able to start a new life. This is in line with the Law Reform Commission of Ireland<sup>125</sup> which emphasizes that whether or not expressly stated as a constitutional right, the right to compensation would still be an implied property right in order to balance the interests involved, unless exceptions are constitutionally specified.

With a mean of 4.83, respondents agreed that people have a right to own land. Most of the respondents said that in Ugandan cultures, people have a right to own land bought or inherited from generations before them. According to Uganda Land Alliance,<sup>126</sup> a civil society organization that promotes equality in land matters in the areas affected by petroleum activities, “the constitution of Uganda clearly states that people have a right to own land.” This is in line with article 26 of the constitution. This position is also well established in the international laws and principles such as the Universal Declaration of Human Rights (UDHR) (Article 17), and the African Charter on Human and People’s Rights (ACHPR) (Article 14).

The findings further show that landowners unwillingly lost their land for oil and gas activities. This had a mean value of 4.59 of respondents. The refinery alone displaced over 11 villages in Buseruka sub county Kikuube District. This is despite a mean of 3.81 which agrees that there exists laws that protect people’s land. The respondents said that Uganda has laws in place that are meant to protect people’s land. And according to Uganda Land Alliance: “Uganda’s Constitution

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<sup>125</sup> Law Reform Commission of Ireland fn37 supra

<sup>126</sup> ULA fn42 supra

and Land Act provide for rights to own property and to fair and prompt payment for adequate compensation before possession of compulsorily acquired land.’’

However, the challenge according to the respondents has been weak implementation and enforcement of such laws or intent by government to circumvent the long and costly process of land acquisition. That is why government is bent on acquiring land to proceed with its projects even before agreeing on the compensation rates leave alone completing payment for the land in question. This is what happened in the case of Uganda National Roads Authority v Irumba Asuman & Anor<sup>127</sup> where the Supreme Court struck section 7 of the Land Acquisition Act as unconstitutional for purporting to allow government to use private land to construct an oil road before full compensation.

The results further show that respondents agreed that Government grabbed land for oil and gas activities, as represented by a mean of 3.32. The respondents said that some of the government officials forcefully pushed them out of their land without prior agreement. However, this statement also had the highest standard deviation of 1.573 which shows that government did not actually grab land, instead land owners were compensated and relocated somewhere else. This deviation could represent some people who got paid but were not satisfied and are still claiming an increase, or those who agreed to get land for land compensation and are yet to be relocated.

The respondents also agreed that priority was given to people with formal legal rights as opposed to non-recognizable rights entitled to resettlement assistance. This was represented by a mean of 3.17 respondents who said that the land owners in the villages were considered the beneficiaries

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<sup>127</sup> UNRA fn20 supra

of compensation for land affected by petroleum activities. The standard deviation of 1.404 represents respondents who deviated from the general view. The understanding of compensation in Uganda is that it is the people who are legal owners or users of land that are entitled to compensation. However there are several others who benefit from someone else’s land say grazers, or herbs or firewood collectors who will lose these services but are not compensated for them,<sup>128</sup> hence the high deviation.

#### 4.2.2 Public purpose

**Table 4.2.2: Public Purpose**

	<b>Mean</b>	<b>Std. Deviation</b>
Oil and gas activities are meant to benefit the general public	4.50	.917
Government is acquiring the land for construction of roads, refineries, hospitals among others	4.43	.941
Local communities are sharing benefits of oil and gas activities	3.54	1.377
The land used for oil and gas activities were initially forest reserves and game parks	3.02	1.390

The study investigated the principles of public purpose in compulsory land acquisition in terms under different key statements. The results presented indicate mean values closer to the maximum rank of 5 indicating and therefore justifying objective one. Results show that respondents with a mean score of 4.50 agreed that Oil and gas activities are public purpose activities because they are meant to benefit the general public. The respondents said that oil and gas activities will provide employment opportunities to communities in the Albertine region, which will lead to the

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<sup>128</sup> FAO fn29 supra



development of infrastructure and proceeds will boost the national economy. An interviewee from The World Bank Uganda noted that:

If production goes ahead without hitches, Uganda's budget will increase, potentially doubling Uganda's revenue base within six to ten years. This boost to national income offers Uganda a unique and exciting chance to alleviate poverty and create broad-based development and improved standards of living across the country.

Further with a mean of 4.43, respondents agreed that government is acquiring the land for construction of roads, refineries, hospitals among others which will benefit them. The respondents further agreed that local communities are sharing benefits of oil and gas activities. This had the third highest mean value of 3.54 of respondents. According to a respondent in the office of the Chief Administrative Officer, Hoima district, a lot of people are employed by petroleum activities like those involved in construction.

From the above, it is apparent that there is a misunderstanding of the meanings of and distinction between public purpose and public benefit. The respondents seem to assume that whatever is of public benefit is of public purpose, as used in the constitution. Article 26(2) requires that compulsory deprivation of property is not allowed *except* where the following conditions are satisfied- *(a) the taking of possession or acquisition is necessary for public use or in interest of defense, public safety, public order, and public morality or public health.* Nowhere is it inferred that public benefit is part of the exceptions. Not anything that is for public benefit becomes of public purpose. Indeed many private projects are of benefit to the public, for example a telecommunication company is a private undertaking which benefits the public through the communication service used and enjoyed by the public. But that does not make it a public purpose undertaking. Hence the fact that an oil company is employing many people and earning government revenue does not

make it a public purpose project. Likewise, a private project can be a public purpose project even when it is not benefiting the individual public directly. So a public purpose is not about benefit to the public, but one of public use.<sup>129</sup>

On the other hand, table 4.2.2 shows that some of the lands used for oil and gas activities were initially forest reserves and game parks. The majority of respondents said some of the affected areas were parts of forest reserves and national parks. This was supported by a Uganda Wildlife Authority interviewee who confirmed that “petroleum exploration is currently taking place in several national parks including Murchison Falls, Queens Elizabeth, Toro-semiliki valley, and Kaiso Tonya and Kabwoyo wildlife reserves.” It should be noted that protected areas like national parks and forest reserves are not private land nor do they belong to government but it holds them in trust for the citizens of Uganda.<sup>130</sup> They are of public purpose as they belong to all. They are owned by all citizens who would have to be compensated should government want to acquire the land for a public purpose. The citizens have not been compensated, nor have the protected areas been degazetted as required by the Uganda Wildlife Act.<sup>131</sup>

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<sup>129</sup> Lyndsey fn40 supra

<sup>130</sup> Article 237 of the constitution of Uganda, 1995.

<sup>131</sup> Cap 200, as amended 2019.

### 4.2.3 Compensation

**Table 4.2.3: compensation of land owners**

<b>Compensation</b>	<b>Mean</b>	<b>Std. Deviation</b>
Local communities affected by oil and gas activities were relocated and resettled elsewhere	3.62	1.551
Government grabbed land without adequately compensating and resettling land owners	2.13	1.241
The people were compensated in time	1.93	1.214
Cash compensation for land was adequate	1.92	1.247
Local communities affected by oil and gas activities were fully compensated for their land and properties	1.72	.909
The land was taken after full payment was made	1.58	.885

**Source: Primary Data**

The study investigated compensation as a principle of compulsory land acquisition under different key statements. The results presented indicate mean values closer to the minimum value and below the median value of 2.5 which implies more respondents disagree with the statements.

Findings indicate that local communities affected by oil and gas activities were relocated and resettled elsewhere, as shown by the highest mean score of 3.62 reflecting the level of agreement of respondents. However, the standard deviation value of 1.551 reflects respondents who deviated from the statement saying that while some people were relocated, others are still leaving in congested camps, for example some of the residents are living in Kyangwali refugee camp.

With a mean of 2.13, most respondents disagreed that government grabbed land without adequately compensating and resettling land owners. Again there are some people who still claim that government took land before compensating the owners. Such sentiments are still being raised,

for example a recent article in the new vision newspaper,<sup>132</sup> depicts many families who were evicted from their lands as now languishing around refugee camps. A respondent from Global Rights Alert, a civil society organization working in the sector, noted that there are isolated incidences where politicians have connived to evict people from the land.

Results in table 4.2.3 also show that a mean of 1.93 of respondents agreed that people were compensated in time. This value is lower than the 2.5 median mark indicating that the compensation of land owners was not promptly done. One respondent in the affected Kitegwa village said the government did not give them adequate time to prepare to relocate to other areas:

“They gave us the money and gave us only three months to relocate which was not enough to get land elsewhere and also build a house, that is why we are still here ”

Furthermore, a mean score of 1.92 (below median of 2.5) of respondents agreed that cash compensation for land was adequate. With some respondents saying that the compensation given to them did not enable them to start a new life, it implies that most of the respondents did not agree that the compensation was adequate. This was represented by a standard deviation of 1.247. However, an interviewee from Petroleum Authority of Uganda disagrees, saying that: “People were properly compensated before land was acquired for petroleum activities. The problem is that most of the people squandered the money paid to them.”

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<sup>132</sup> Nicholas Wassajja, Compensation, Oil Refinery: Shattered lives inside the resettlement. The New Vision September 25 2018. Oil and Gas Journal. Kampala.

This position is apparently supported by the newspaper article above which blames lack of financial literacy for the many recipients who invested their money into non-profitable projects like marrying more wives.

Furthermore findings in table 4.2.3 show that a mean of 1.72 of the respondents agreed that local communities affected by oil and gas activities were fully compensated for their land and properties. This implies that majority of the respondents disagreed with the statement saying that the people lost property which was not accounted for in the compensation. One resident who lost his land in Nyamasoga said: “I still had my crops like beans and maize which were 3 months from harvest when I was forced out. Am not sure if this was taken into consideration when giving me compensation.”

Further, the respondents of only a mean of 1.58 agreed that land was taken after full payment was made. This implies that most of the respondents disagreed with the statement. This was supported by NAVODA, a local NGO in Hoima district which confirmed that there are cases where some of the land owners were not fully paid their compensation.

There are mixed feelings about compensation for land with some landowners and some NGOs claiming that some people were not fully compensated while government officials say compensation was fully done. What is however emerging is that compensation was done but late and/or inadequately and did not put the people to equal or better status in life than the situation they were in before the takeover, which is as good as not being compensated. This is contrary to the World Bank’s policy on resettlement that requires that compensation should aim beyond equivalence to improving the livelihoods of those affected.

#### 4.2.4 Procedures and process

**Table 4.2.4: procedures and process of land acquisition**

<b>Procedures and process of land acquisition</b>	<b>Mean</b>	<b>Std. Deviation</b>
Land owners were consulted before land was taken	3.84	1.167
Local communities were notified before their land was taken	3.41	1.417
There are mechanisms for affected landowners to seek redress for their land once it has been acquired by government	3.40	1.423
Notices were translated in local languages and publicized	3.26	1.417
Land owners were involved in the evaluation and negotiation for their land	2.70	1.382
The process of acquiring land was transparent and in good faith	2.03	1.256

**Source: Primary Data**

The study investigated the process and procedures as part of the principles of compulsory land acquisition under different key statements. The results indicate more mean values closer to the maximum value, hence agreeing with the statements.

Results show that land owners were consulted before land was taken over. This was revealed by a mean of 3.84 of respondents. They argued that local people in the affected areas were consulted and engaged before they were relocated. This was confirmed by respondents in the office of the CAO, Hoima district who said: “The government through the district leadership consulted and sensitized the locals on the issue of land before they were compensated and relocated”

Results also show that a mean of 3.41 respondents agreed that local communities were notified before their land was taken. Some respondents said that the government sensitized the local communities and engaged them through the local leadership on the way forward. A respondent from CNOOC, an oil company in the petroleum sector confirmed that the different stakeholders including oil companies, community leaders and the government engaged the community:

“The local leaders notified the land owners on the petroleum activities, there were consultations with stakeholders at all levels.” However, the 1.417 value of standard deviation reflects the respondents who deviated from the statement, indicating that some respondents disagree that they were consulted. Some said that what is called consultation was instructions or passing on information after decisions have been taken. One respondent asked whether “if you would have consulted me when you tell me of your decision on how much to pay me without hearing my offer”? The answer can be found in FAO and Lyndsey,<sup>133</sup> that the procedural principles that guide process include participation and consultation, speedy and accurate information delivery, appropriate and accessible grievance mechanisms, timely compensation, subsidiary assistance to the affected persons, and taking possession timely. Therefore what lacked in these consultations was participation.

On the other hand, with a mean of 3.40, the respondents agreed that there are mechanisms for affected landowners to seek redress for their land once it has been acquired by government. The respondents said the only mechanism is through the courts of law. This was refuted by Uganda Land Alliance who said that most locals do not know the procedures and avenues to follow in order to get assistance regarding their land or the compensation. A respondent said: “There are courts of law where the affected land owners can take the case, however most people are either not aware, do not know the procedures or cannot afford a lawyer.” So if the people are not aware of where to run to and nobody has told them of available avenues, then it cannot be said that there

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<sup>133</sup> FAO fn29:17 supra; Lyndsay fn35:9 supra

are any mechanisms for such. What is expected is that there should be an established and well publicized desk to handle such grievances.

Results also show that notices were translated in local languages and publicized. This had a mean of 3.26 of respondents who said that information was disseminated through local radio stations in the local Runyoro dialect. This was confirmed by respondents in Hoima who said there were radio talk shows, engagement by the local leaders and the communities on the discovery of oil, compensation and resettlement of locals in the affected areas.

Furthermore, a mean of 2.70 of respondents agreed that land owners were involved in the valuation and negotiation for their land. This was refuted by several locals who were interviewed who said the valuation of the land was done by the government valuers and they were only involved in the negotiation of the compensation. One respondent is quoted to have said, “I wasn’t informed of the procedures used for the valuation of my land and I don’t think I got the right compensation for my land. I was only told my land was 10 acres and that was it.” Such sentiments were also raised in the new vision article when one of the affected persons is quoted to have said that, “government valuers represent government how then can they be fair to me who is not represented and being compensated by the same government”?

The above findings seem to agree with those which reveal that a low mean of 2.03 respondents who agreed that the process of acquiring land was transparent and in good faith. This mean is below the median mark of 2.5 hence it’s the minority who agree while the majority disagree. Several land owners said they needed more time to relocate to other areas but the time frame given



to them was not adequate. This explains why some of the locals are now leaving in camps. A respondent from PAU admitted the rush when he said that “because these lands are also needed quickly to meet agreed deadlines and given the delays in obtaining money and process of negotiations, some including long court litigation, there is always limited time hence the rush.”

#### **4.3 Descriptive statistics on compliance with principles and best practices of compulsory land acquisition**

Objective two of the study was to establish whether Uganda’s petroleum industry complies with international principles and best practices of compulsory land acquisition. Results are presented in the descriptive statistics shown by the values of the respective means and standard deviations of the key empirical inferences in Table 4.3 below.

**Table 4.3: Compliance with international principles and best practices of land acquisition**

<b>Compliance with principles and best practices of compulsory land acquisition</b>	Mean	Standard. Deviation
The land was taken for public purpose	4.21	1.084
The community will generally benefit from oil and gas activities	3.89	1.340
Land acquisition exercise met required public purpose specifications	3.31	1.419
Land owners were involved in the land acquisition process	3.23	1.482
There are laws and procedures for compulsory land acquisition	2.71	1.404
The government followed the right procedures to acquire land for oil and gas activities	2.67	1.497
Land owners received compensation for their land promptly	2.58	1.510
Government can take land as long as it’s for public interest/purpose	2.45	1.483
The compensation of land owners complied with the principles, laws and best practices	2.35	1.351
Land owners were fairly, adequately compensated for their land	2.18	1.394

**Source: Primary Data, 2018**

The study investigated whether Uganda's petroleum industry complies with the principles and best practices of compulsory land acquisition under different key statements. The results presented indicate mean values both close to the maximum and minimum value thus justifying objective two

Findings in table 4.3 indicate that respondents agreed that the land was taken for public purpose. This had the highest mean value of 4.21 reflecting level of agreement of respondents. Those who agreed said that oil and gas activities are public purpose activities that are meant to benefit the general public. A respondent from PAU noted that petroleum has led to development of infrastructure and created employment opportunities to the locals in Hoima. This further confirms the assertion by the World Bank respondent who said that:

Petroleum activities will increase the budget and revenue base within six to ten years. This boost to national income offers Uganda a unique and exciting chance to alleviate poverty and create broad-based development and improved standards of living across the country.

With a mean of 3.89, respondents agreed that the community will generally benefit from oil and gas activities. The respondents agreed that the locals will get employment opportunities in the infrastructural development in the area and lead to their improved way of life. This was echoed by a respondent in the office of the CAO Hoima who said that "The government is now constructing a number of roads and even the airport to enable access to the refineries"

Results further show that respondents say there are laws and procedures for compulsory land acquisition that are meant to protect people's land. This was confirmed by Uganda Land Alliance respondent, who said, "Uganda's Constitution and Land Act provide for rights to own property and to fair and prompt payment for adequate compensation before possession of compulsorily acquired land."

It is true that article 26 of the constitution protects land owners from compulsory deprivation of their property unless there is a law providing for prompt payment of fair and adequate compensation prior to taking possession. Unfortunately such a law has never been enacted. The Land Acquisition Act,<sup>134</sup> which would be applicable, has some provisions that allowed government to take over land before compensating the landowner, which contradict the constitution, until it was struck out by Supreme Court.<sup>135</sup> When this failed, government introduced a bill to amend the constitution to allow government take land before compensation, which has also been rejected by parliament.

On the other hand, a mean of 2.58 of respondents agreed that land owners were involved in the land acquisition process, of the evaluation and negotiation for their land. However, this claim was refuted by several locals who were interviewed and said, “the valuation of the land was done by the government valuers and we were only involved in the negotiation of the compensation.” One of the land owners originally from Kijumba village said: “I wasn’t informed of the procedures used for the valuation of my land and I don’t think I got the right compensation for my land. I was only told my land was 10 acres and that was it.”

Furthermore findings show that a mean of 2.67 of the respondents agreed that the government followed the right procedures to acquire land for oil and gas activities. According to a respondent in PAU, the government followed all the necessary procedures laid out in the law to acquire land from the land owners: “The government worked hand in hand with the local leaders and the land

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<sup>134</sup> 1965, s.7

<sup>135</sup> UNRA fn20 supra

owners to acquire land where petroleum was found.” But with a small margin above the median of 2.5, and a large standard deviation of 1.497, many other people disagree. In any case the PAU respondent earlier agreed that the process of acquiring the funding and negotiating for the land makes delays inevitable, he can now not say that the government followed all the procedures, one of which is timely payment.

Further, the respondents with a mean of 2.58 agreed that land owners received compensation for their land promptly. This to a great extent confirms an earlier finding where respondents said that people were not compensated in time. One respondent in Kyangwali refugee camp said the government did not give them adequate time to prepare to relocate to other areas: “They gave us the money and gave us only three months to relocate which was not enough to get land elsewhere and also build a house, that is why we are still here.”

The findings further reveal that respondents disagreed when asked if the Government can take land as long as it’s for public interest. The land owners said that the land belongs to them and if the government wants to use the land, it must adequately compensate the land owners and relocate them to alternative places. Global Rights Alert a local NGO affirms that the government had even suggested amending the constitution to allow it to compulsorily acquire land by force as long as it’s for public interest.

With a low mean of 2.35, the respondents agreed that the acquisition of land from owners complied with the principles, laws and best practices. This mean which is less than the median value implies that the acquisition and compensation of the land owners did not comply with principles, laws and

country's best practices. This further confirms earlier findings on compensation where respondents said the cash compensation was not adequate and land was taken before full payment was made.

These findings agree with the literature review which found that Uganda has many relevant laws but always faults on implementation. For example the fact that the constitution requires a law to implement article 26, one wonders why such a law is not in place. In fact at least regulations should have been developed to code the best practices and help implement them. As of now, there are no such regulations, and the compensation guidelines recently developed by MHLUD<sup>136</sup> are not backed by any law. Indeed the Resettlement Action Plan (RAP) and exercise<sup>137</sup> being applied are based on international instruments and not on Ugandan laws, such as the land for land compensation, which is not envisaged by the constitution that instead refers to cash payment.

#### **4.4 Descriptive statistics on recommendations for better compulsory land acquisition**

Objective three of the study was to evaluate how Uganda could make better its compulsory land acquisition complying with international principles and best practices. Results are presented by the descriptive statistics shown by the values of the respective means and standard deviations of the key empirical inferences in Table 4.4 below.

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<sup>136</sup> MLHUD fn67 supra

<sup>137</sup> SFI fn63 supra

**Table 4.5: Recommendations for better compulsory land acquisition**

<b>Principles for better compulsory land acquisition</b>	<b>Mean</b>	<b>Std. Deviation</b>
Land owners should be given shares in the oil and gas companies	4.28	.769
Compensation should be adequate and timely to encourage land owners to voluntarily give up their land for public interest	4.19	1.154
Land owners should be given first priority in the oil and gas sector	4.19	1.271
UN and World bank should sanction government when they violate international principles and practices of land acquisition	3.78	1.366
A land tribunal should be set up to make decisions on compulsory acquisition of land for public purpose	3.57	1.407
Parliament should make a list of activities that fall under public purposes	3.45	1.437
Laws should be amended to allow government to take private land before compensation	1.68	.852
Government should have the power to take land anytime	1.55	1.028

**Primary data, 2018**

The study suggested principles for better compulsory land acquisition under different key statements. The results presented indicate mean values both close to the maximum and minimum value thus justifying objective three.

With a mean of 4.28, respondents agreed with the statement that land owners should be given shares in the oil and gas companies to motivate them to voluntarily give up land where petroleum activities are needed. This was confirmed by Global rights alert and Uganda Land Alliance who said that they have been pushing the government and oil companies to consider this possibility. This suggestion could however be amended to refer to shares in the oil profits but not shares in the company. The land owners are only interested in the oil and not in what else the company is doing, for instance the landowners don't need to be involved in the management of the company nor in its losses. In fact the shares of oil profits should be negotiated with government and not the oil companies as the land is taken by government and not oil companies directly.

Similarly, with a mean of 4.19, respondents agreed that compensation should be adequate and timely to encourage land owners to voluntarily give up their land for public use. Those who agreed said most locals were hesitant to give up their land because the compensation that was paid for the land was not enough to enable them conveniently relocate to other places. According to Uganda Land Alliance the valuation of the land should be transparent so that the land owners are satisfied with the compensation being given to them.

The study findings further show that land owners should be given first priority in the oil and gas sector. With a mean value of 4.19 close to the highest mark, respondents said that, the locals should be the first to be considered when employing the workers in the sector and other development projects like infrastructure. These conditions are already taken care of in the local content provisions in the law and regulations which give priority to locals and nationals to do certain jobs exclusively from foreigners. However there are still given standards which have to be met to qualify to be employed or do other business with the oil companies. Unfortunately most of the locals may not meet those conditions.

Furthermore, respondents with a mean 3.78 agreed that UN and World Bank should sanction government when it violates international principles and practices of land acquisition. The respondents said that government officials are in most cases involved in corruption cases where politicians have been bribed to forcefully evict locals from their land without following proper channels. Being the funders of most government projects, World Bank is in position to regulate the process of land acquisition for projects it funds and those it does not, by putting proper land acquisition procedures as a condition to get World Bank funding.

Furthermore, respondents agreed with a mean of 3.57 that a land acquisition tribunal should be set up to make decisions on compulsory acquisition of land for public purpose. The respondents argued that the tribunal would help to address the challenges that arise with acquisition of land for petroleum activities. The tribunal would first pretest the proposed project to pass the test of being a public purpose before considering it for compulsory land acquisition. According to Uganda Land Alliance, land owners can also seek readdress from the tribunal on compensation, resettlement and valuation disputes.

The findings also reveal that respondents with a mean of 3.45 agreed that Parliament should schedule a list of activities that fall under public purposes. The respondents said that there are manipulations on which particular activity should be considered under public purpose because politicians are exploiting this to grab people's land for their friends in the name of public purpose.

Regarding whether laws should be amended to allow government to take private land before compensation, the respondents disagreed with the suggestion. Only a mean of 1.68 of respondents agreed which is far lower than the median value of 2.5. Uganda Land Alliance reechoed this that the government of Uganda tried to bring this up for debate in parliament but it was rejected. This was further rejected by majority respondents who with a low mean value of 1.55 disagreed that Government should have the power to take land. This position is supported by international principles like the World Bank, and FAO.<sup>138</sup>

By and large, most of the respondents assert that the land acquisition process did not comply with international principles and best practices on rights to property ownership, public use, valuation, procedures, compensation, and resettlement, as the next chapter elaborates.

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<sup>138</sup> WB fn41 supra; FAO fn24 supra



## **CHAPTER FIVE**

### **SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

#### **5.0 Introduction**

This chapter summarizes the discussions and findings in chapter four in relation to research objectives and the review of the related literature. It then draws conclusions from the study and makes recommendations.

#### **5.1 Summary of findings**

The problem of forceful land acquisition, illegal evictions, inadequate or delayed compensation is serious in Uganda generally but in the petroleum-rich Albertine region in particular, as it interferes with the human rights to own property and not to be deprived of it without prompt and adequate compensation. Several factors are at play but this study dealt with the adequacy of the legal framework on compulsory land acquisition and its compliance with international principles and best practices in the oil and gas industry.

In the study, a total of 150 respondents were contacted out of which 120(80%) responded, who comprised land owners, government officials, local leaders, oil company staff, sector NGOs, professionals, and others. The gender of respondents were almost balanced with males slightly more than females, just like the age groups of less than 40 years and those above were almost equal. On education, more than three quarters of the landowners had no formal education or had attained primary level education with less than a quarter having attained secondary education and above. On the contrary three quarters of the other non-land owner respondents working in the oil

sector were University degree holders with the other quarter having attained diploma and certificates. For both land owners and non-land owner respondents, a majority had stayed on the land or worked in the oil sector for more than five years.

On compliance of legal framework, the study revealed that property rights is one of the major principles of compulsory land acquisition. On the basis of a maximum score of 5, and a median value of 2.5, the statements that land owners have a right to own land, and to compensation scored the highest mean values and lowest standard deviations. The majority agreed that the land owners have a right to own land, and to be compensated. The majority also agreed that there are laws that protect peoples land, although many others disagree. Similarly, majority said they lost their land to government, while many also disagreed that government grabbed any ones land. Overall, all the seven statements used to test the right to own property, scored mean values above 2.5, implying that more than 50% think that the right to own property is guaranteed by the law.

On public purpose, many respondents agree that petroleum activities are for a public use and should be considered for compulsory land acquisition. Majority said that oil and gas activities are meant to benefit the general public. And while majority said local communities are sharing benefits of oil activities, there was a large deviation showing that many also strongly objected. What seems to emerge is that most people think that any project that benefits the people is a public purpose project that qualifies for compulsory land acquisition, but secondary data disagrees, arguing that a

project can be a public purpose but not benefit the people directly, and vice versa - a private project can benefit the public but doesn't qualify as public purpose.<sup>139</sup>

On compensation, the indicators used to test this principle scored low mean values, indicating that respondents were not happy with the compensation exercise. Whereas the statement that people were relocated and resettled elsewhere scored a mean value above 2.5, it had a large standard deviation which weakens it by many who hadn't been resettled. In fact some respondents claim that they got the money and were given only three months to leave, which was not enough to locate another land and build a house, while others still had crops to harvest before they leave. The other five statements (including government didn't compensate adequately; people were compensated in time; the land was taken after full payment) scored mean values of less than 2.5 which implies more respondents were dissatisfied with the compensation.

On procedures and processes of land acquisition, results show that a majority were notified and consulted before their land was taken over. This was confirmed by the Chief Administrative Officer's (CAOs) office. However there was a high standard deviation which implies that many others disagree, and indeed some said they were only given information but did not participate in decision making. FAO supports and indeed emphasizes participation as a major principle of land acquisition procedures.<sup>140</sup> Similarly although high means were scored for existence of mechanisms for redressing conflicts (referring to courts), the large standard deviation indicates that conflicts

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<sup>139</sup> Lindsey fn40 supra; WB fn46 supra

<sup>140</sup> FAO fn29 supra

were never resolved as there was no easier mechanism where most land owners are illiterate and poor thus could not resort to courts. With a value less than the median 2.5, the respondents disagree that the entire process was transparent and in good faith.

On the second objective of compliance with principles and best practices of land acquisition, respondents agree that public purpose test was passed when acquiring land for petroleum activities, although their definition of public purpose is ‘that which gives benefits to the public,’ which is not the international definition.<sup>141</sup> The public purpose principle had the highest mean value, which was supported by another high mean value showing that communities will generally benefit from employment and businesses.

On existence of, and following of right laws and procedures, this scored low mean values and large standard deviations which indicate that government did not comply with international principles and best practices. Equally, low values were scored on whether compensation was prompt, or if government complied with best practices, or if compensation was fair and adequate, which show that the government failed to comply with procedures like those applied by FAO, and World Bank policies on land acquisition.<sup>142</sup>

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<sup>141</sup> *ibid*

<sup>142</sup> FAO fn29; WB fn46 *supra*

Finally on the third objective of how to better Uganda's compulsory land acquisition, majority respondents scored in support of acquiring shares in the oil company, although this position is amended by the researcher suggesting that landowners are better off targeting a share of oil profits than looking at the complicated shares of the company. Again timely and adequate compensation was considered the best way to handle land acquisition, arguing that this would make it easy for landowners to give up their lands.

Majority respondents also suggest that UN and World Bank should sanction government whenever it fails to meet the international principles and best practices. It is also suggested that Uganda is better off setting up a Land Tribunal on land acquisitions, and making a schedule of accepted projects in the law so that government does not unilaterally decide. Also the proposition that laws be amended to allow government take private land before compensation, and to have power to take peoples' land anytime, were vehemently rejected with the lowest mean values. This rejection was also made when parliament recently threw out the constitutional amendment bill.<sup>143</sup>

## **5.2 Conclusions**

The study reveals that Uganda's legal framework on compulsory land acquisition in the petroleum industry is inadequate. The constitution being the principle law of the land states that people have a right to own land and are protected by the law and if the government or any other entity wants to acquire such land, the land owner must be adequately compensated. The legal frameworks in their current form do not clearly define activities that must be considered to be public purpose

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<sup>143</sup> Constitution Amendment fn21 supra.

activity. The laws only state that for an activity to be considered for public interest, it should be for use of the general public.<sup>144</sup>

In the case of oil and gas activities, it is true that some local communities get some benefits of oil activities for which the government is acquiring the land, such as construction of roads, refineries, hospitals among others. But the legal frameworks do not clearly mention whether petroleum activities are public purpose. Besides, benefits to the public alone does not make such projects public purpose, as some private projects can also offer even more benefits. Having identified that poor laws, policies and institutions are one of the causes of oil resource curse<sup>145</sup> in other petroleum producing nations like Nigeria, the government of Uganda through Parliament should revise the existing laws to strengthen the legal framework on compulsory land acquisition, clearly listing activities for public purpose, laying out the procedures for compensation of affected land owners and redress mechanisms.

## **5.5. Recommendations**

Basing on the findings of the study, the following recommendations were made so as to improve compulsory land acquisition;

The respondents recommend that the oil companies should give land owners shares in their companies to motivate them to voluntarily give up land where petroleum has been discovered.

This was confirmed by Global Rights Alert and Uganda Land Alliance who said that they have

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<sup>144</sup> Article 26 of the constitution.

<sup>145</sup> Mehlum fn33 supra.

been pushing the government and oil companies. This research has however made an amendment to target oil profits and not shares of a company.

The study also recommends that compensation of land owners should be adequate and timely to encourage land owners to voluntarily give up their land for public interest. The field findings found most people to be reluctant to give up their land because the compensation that is paid is sometimes not enough to enable them conveniently relocate to other places.

There is need to give land owners first priority in the oil and gas sector. This should be through giving educational scholarships to their children, employment opportunities in the sector and other development projects like infrastructure and service delivery. This will motivate the land owners to voluntarily give up their land. The research adds that some of these are taken care of in the Local Content provisions and regulations.

There is further need for international organizations like the UN and World Bank to sanction government when it violates international principles and practices of land acquisition. This is because in most times, corruption cases have arisen where politicians have been bribed and they forcefully evict locals from their land without following proper channels. Being the funders of many government projects, World Bank is in position to regulate and sanction the process of land acquisition.

The study also recommends that a land tribunal should be set up to make decisions on compulsory acquisition of land for public purpose and also help address the challenges that arise with acquisition of land for petroleum activities, like solving grievances, some of which can be handled by the land tribunal.

There is also need for Parliament to name a list of activities that fall under public purpose as there are disputes on which particular activity should be considered under public purpose because politicians are exploiting this to grab people's land in the name of public use. By and large, the legal framework is inadequate and does not comply with international principles and best practices in compulsory land acquisition. It should thus be reformed immediately.

Lastly, several research areas have been identified and should be undertaken, including on inadequacies in other land laws and practices, environmental damage challenges and more. One area that has particularly attracted this researcher is the legal and operational preparedness to prevent oil spills and mitigate oil pollution. An LLD research study is being considered on this!



## REFERENCES

### Books

Cooper D. R. & Schindler P.S. (2006) *Business Research Methods*, McGraw-Hill

Denscombe M, (2007) *The Good Research Guide: for small-scale social research projects* (3rd edition) Maidenhead: Open University Press.

Fisher, C. (2007) Researching and writing a dissertation: A guidebook for business students. 2<sup>nd</sup> edition, Pearson Education, London.

Garner, B. A. (2009) Black's Law Dictionary. 9<sup>th</sup> edition, Thomson Reuters, New York

Gray, K. (1993) Elements of Land Law. 2<sup>nd</sup> edition, Butterworths, London.

Kalibro, T. Sjodin, E. Norell, L. Paulsson, J. (2011) Compulsory Acquisition and Compensation, 2<sup>nd</sup> Edition, KTH Vetenskap och Konst.

Krejcie, R.V, and Morgan D.W. (1970) Determining Sample Size for Research Activities.  
Educational and Psychological Measurements 30 607 610

Lowe, J. S. (2014) Oil and Gas Law in a Nutshell. 6<sup>th</sup> edition, West Academic Publishing. New York.

Mugambwa, J. T (2002) Principles of Land Law in Uganda, Fountain Publishers, Kampala.

Saunders, M. Lewis, P. and Thornhill, A. (2007:145). Research Methods for Business Students. 4<sup>th</sup> Edition, FT Prentice Hall. London.

## Journal Articles

Akujuru, V. A. and Ruddock, L. (2013) “Compulsory acquisition practices and determination of compensation payable in Niger Delta,” 1(1) *Journal of Land Administration in Eastern Africa*, 1-10.

Akujuru, V. A. and Ruddock, L. (2013) “Dichotomizing Compulsory Land Acquisition and Land Contamination Valuations,” 6(3) *International Journal of Disaster Resilience in the Built Environment* 268-288.

Dafinone, D. (2001) “Resource Control: The Economic and Political Dimensions,” *Urhobo Historical Society* 13-27.

Kakulu, I. I. (2008) ‘Issues in valuation for compulsory acquisition of land in the Niger region of Nigeria,’ *The Nigerian Journal of Environmental Sciences* 12-25

Kakulu, I. I. (2008) “The assessment of compensation in compulsory acquisition of oil and gas bearing lands: The Niger Delta Experience,” *ResearchGate*, 57-65.

Kingston, K. C and Oke-Chida, M. (2016) The Nigerian Land Use Act: A curse or a Blessing to the Anglican Church and the Ikwerre Ethnic People of Rivers State. *AJLC* Volume 6 Number 1(2016) 147-158. Sacha & Diamond, England. [www.sachajournals.com](http://www.sachajournals.com). Visited 1 July 2020

Mehlum H. Karl M. and Rgnar T. (2006) “Institutions and the Resource-Curse,” (116) *Economic Journal* 45-59.

Raji, O.A.Y. and Abedije, T.S (2014) “Compliance with oil and gas regulations in the Niger Delta region, Nigeria C. 1960-2000: An assessment,” 3(8) *Arabian Journal of Business and Management Review (Oman Chapter)*, 35-47.

Sax J. L. (1970) “The Public Trust Doctrine in Natural Resource Law: Effective Judicial Interventions,” (68) *Michigan Law Review* 471-489.

Viitanen, K. and Kakulu, I. (2009) “Global Concerns in Compulsory Purchase and Compensation Process,” *International Federation of Surveyors* 1-16.

### **Published reports**

ACODE (2008) Comments on the Environmental Impact Assessment (EIA) for the proposed Early Production System (EPS-EIA)-Kaiso-Tonya- Area, Block 2, Lake Albert, Uganda, ACODE, Kampala.

Avocats Sans Frontiers (2015) Business, Human Rights and Uganda’s Oil and Gas Industry. A Briefing of Existing Gaps in the legal and Policy Framework. ASF. Kampala.

European Economic Commission (1950) European Convention on Human Rights and Fundamental Freedoms, <http://www.ECHR.org/> visited 18<sup>th</sup> December 2017.

Food and Agricultural Organisation (2008) Compulsory acquisition of land and compensation, Land Tenure studies 10, FAO, Rome.

Global Rights Alert (2015) Acquisition of Land for Oil Refinery: Tracking Progress in Resettling Project Affected Persons who opted for land-for-land compensation, Global Rights Alert, Kampala.

Inter-American Development Bank, Policy on Involuntary Resettlement.  
<https://www.iadb.org/en/about-us/involuntary-reSETtlement%2C6660.html/> visited 13<sup>th</sup> January 2018.

International Finance Corporation (2012) Standards on Environment and Social Sustainability  
[https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC\\_Performance\\_Standards.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afdf998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES). Visited 14<sup>th</sup> January 2018.

Kakooza A. C.K. (2008) Land Law Reform in Uganda: Exploring the loose ends, *Uganda Christian University Research Bulletin* Vol. II, 2008. Electronic version available on  
<http://ssrn.com/abstract=1658661>. Visited 12<sup>th</sup> November 2017.

Kakulu I. Byrne P. and Kauko V. (2009) Phenomenological Research in Compulsory Land Acquisition and Compensation, Lagos: <https://www.researchgate.net/publication/237469342>  
visited 12th January 2018

Kakulu, I. I. and Wakoma, T. (2014) New Compensation Systems and Mechanisms in the Oil and Gas Industry in Nigeria. Technical Report DOI: 10.13140/ NOSDRA:  
<https://www.researchgate.net/278783432>. Visited 10 February 2018.

Kasimbazi K. (undated) The Public Trust Doctrine and Forestry Resources Management in Uganda: Prospects and Challenges, School of law, Makerere University.

Law Reform Commission of Ireland (2017) Issues paper, Compulsory Acquisition of Land, (LRC IP 13-2017), Law Reform Commission, Ireland.

Lindsay, J.M. (2012) Compulsory Acquisition of Land and Compensation in Infrastructure Projects, PPP INSIGHTS, World Bank, Washington.

United Nations (1948) Universal Declaration of Human Rights, [www.un.org/en/udhrbook/pdf/udhr\\_booklet\\_en\\_web.pdf](http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf), visited 25<sup>th</sup> January 2018

World Bank (2001) Operational Manual: Involuntary Resettlement, OP 4.12, World Bank, Washington.

### **Unpublished Reports**

Adequate Compensation Research and Advisare (2017) Who Owns Uganda's Oil and Protected Areas: The contradictions between Articles 26, 237 and 244 of the Constitution of Uganda, ACRA, Kampala

Africa Institute for Energy Governance (2016) Memorandum of proposals by civil society for the 2016 draft land acquisition and resettlement framework for the oil sector, AFIEGO, Kampala.

CNOOC Uganda Ltd, Total E&P Uganda, and Tullow Uganda Operations Pty Ltd, (2016) Albertine Graben Land Acquisition and Resettlement Framework. CNOOC/Total/Tallow, Kampala.

Civil Society Coalition on Oil and Gas (CSCO) (2016) Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben. Comments on the Draft Report', CSCO, Kampala.

Enforce Paying for Environmental Damage (2018) Who Pays for Environmental Pollution? EPED, Kampala

Ministry of Lands, Housing, and Urban Development (2017) Guidelines for Compulsory Assessment under Land Acquisition, MLHUD, Kampala

Ministry of Water, Lands & Environment (2001) Forest Sector Review, UFSCS, Kampala.

Strategic Friends International (2012) Resettlement Action Plan for Oil Refinery at Kabaale Parish, Buseruka Sub county Hoima District, SFI, Kampala.

Uganda and Tullow (2012) Production Sharing Agreement for the Petroleum Exploration and Production in the Republic of Uganda between government and Tullow (Uganda) limited in the Kanywataba Area, Hoima District, Uganda-Tullow, Kampala.

Uganda Land Alliance (2016) A Simple Guidebook on Legal and Policy Framework Regarding Land, Oil, and Gas in the Albertine Graben, ULA, Kampala.

### **Conference/Workshop papers**

Kato, T. RAP implementation and Land Acquisition for Development in the Albertine Graben: A case study of Kabaale Parish, Buseruka Sub-county, Hoima District. Paper presented at CSCO stakeholders Dialogue by a Government Valuer, at Kampala, on 4<sup>th</sup> February 2014.

### **Online and newspaper documents**

Nwanzi, J. Compensation for damage arising from Seismic operations in Nigeria. Constraints and Remedies (Available at: [www.nigerianlawguru.com](http://www.nigerianlawguru.com), accessed on 15<sup>th</sup> October 2017).

Oxford University, Oxford University Standard for the Citation of Legal Authorities (OSCOLA) 4th ed. Faculty of Law, University of Oxford. [www.law.ox.uk/oscola](http://www.law.ox.uk/oscola). Visited 20 January 2017

Ssekika E. Delays dominate debate at Oil and Gas Convention, 1<sup>st</sup> May 2015, *The Observer*, Kampala

Twongeirwe C. Oil activities affecting school children, 25<sup>th</sup> February 2018, *Sunday Vision*, Kampala.

Wassajja, N. Compensation, Oil Refinery: Shattered lives inside the resettlement, September 25 2018. *Oil and Gas Journal*. The New Vision, Kampala.

## APPENDICES

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### Appendix i: Questionnaire

#### Introduction

My name is Batureine-Akankwasa, Damian a research student of Master of Laws (Oil and Gas) of Uganda Christian University (UCU), at the Institute of Petroleum Studies Kampala. As partial fulfillment of the requirements for this award, a research is conducted and a dissertation written on a topic and research proposal approved by the University. This particular research is entitled: *“An Investigation of the Compliance of the Legal and Operational Framework with the International Principles and Best Practices on Compulsory Land Acquisition for Petroleum Activities.”* Some of the data for this research is collected using interview guide or questionnaire.

This interview guide/questionnaire has been designed to identify the international and constitutional legal principles and best practices for compulsory land acquisition in Uganda’s oil and gas industry. It also evaluates whether Uganda’s laws and practices comply with international and constitutional principles and best practices. It then identifies recommendations to enable Uganda improve its compulsory land acquisition practices.

You have been identified as a very key and important player in the oil and gas sector, with immense knowledge and information on this topic. You are kindly requested to contribute to this study by responding to the general information and filling the questionnaire or answering a few questions along the interview guide. The questionnaire will be administered by the researcher or his research assistant, on the respondent, who will fill the questionnaire by choosing from alternative possible responses, or write down his/her response in the blank spaces. The interview guide will be used in the short face to face interview with each respondent. This will be conducted by the researcher either alone or with a research assistant.

The different categories of respondents have different parts to respond to. The headings indicate which parts are suitable for you, in which case you need not respond to parts of different categories, unless you fall in more. Your personal information will be kept confidential, and it is actually optional for you to disclose your names. Please feel free to discuss with the researcher if you have any concerns on the study, on tel 0757243072 or email: elandtours@gmail.com

Thank you for accepting to respond and share your knowledge and experience on this topic.



**SECTION A**

**BACKGROUND INFORMATION OF RESPONDENT**

Date of interview/filling questionnaire.....

Village/zone of residence .....

**Age group:**

less than 20years  20-29  30-39  40-49  50-59  60 years and above

**Gender**

Male  Female

**Level of education**

No formal education  primary  secondary  tertiary

**Marital status:**

Single  Married  Divorced  Widowed  Others, Specify .....

**Status in your home**

Husband  Wife  Single Mother  Single Father  Dependent

**Family size:**

Less than 3  4-6  7-10  11-15  16 and above

**Employment Status**

Civil Servant  Self-Employed  Unemployed  Others, Specify .....

Occupation, title, organization and address of respondent.....

.....

## SECTION B: OBJECTIVE ONE

### THE PRINCIPLES OF COMPULSORY LAND ACQUISITION

The following statements are about the principles of compulsory land acquisition in Uganda. Please read each statement carefully and rate them using the scale below

1=Strongly Disagree (SD), 2=Disagree (D), 3= Not Sure (N), 4=Agree (A), 5= Strongly Agree (SA)

	<b>Property rights</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1	The constitution and other laws guarantee the right to own land					
2	Landowners were deprived of their land for oil and gas activities					
3	Priority was given to those with formal legal rights as opposed to non-recognizable rights entitled to resettlement assistance					
4	People have a right to own property and to compensation in case of compulsory acquisition of land					
5	Government violated land owners right to own land when acquiring land for oil and gas activities					
	<b>Public purpose</b>					
1	Owners of Land acquired by government are sharing in benefits of oil and gas activities					
2	Land acquired by government for oil and gas activities were protected areas like forest reserves, public parks					
3	Oil and gas activities are meant to benefit the general public					
4	Government is acquiring the land for construction of public facilities like roads, refineries, hospitals among others					
	<b>Compensation</b>					
1	Cash compensation for land acquired was adequate					
2	People whose land was acquired for oil and gas activities were relocated and adequately resettled elsewhere					
4	The resettlement and compensation of affected land owners was done in time					
5	Government took possession of land only after full payment was done or when prior agreed balances were guaranteed					

	Land owners received the Total amount for the size of land and properties acquired by government					
6	Government grabbed land without adequately compensating and resettling land owners					
	<b>Procedures and process</b>					
1	Land owners and all stakeholders were consulted before land was taken for oil and gas activities					
2	The process of land acquisition were transparent, flexible and undertaken in good faith					
3	Land owners were participated in the evaluation and negotiation of their land before it was acquired by government					
4	There are mechanisms for affected landowners to seek redress for their land once it has been acquired by government					
5	clear notice was given to land owners, translated in local languages and publicized before land was acquired					

**SECTION C: OBJECTIVE TWO**

**UGANDA’S COMPLIANCE WITH PRINCIPLES AND BEST PRACTICES OF  
COMPULSORY LAND ACQUISITION**

The following statements are about the principles of compulsory land acquisition in Uganda. Please read each statement carefully and rate them using the scale below

1=Strongly Disagree (SD), 2=Disagree (D), 3= Not Sure(N), 4=Agree(A), 5= Strongly Agree (SA)

	<b>Compliance with principles and best practices of compulsory land acquisition</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
<b>1</b>	Uganda has in place laws and procedures for compulsory land acquisition					
<b>2</b>	The oil and gas sector falls in the sector category for compulsory land acquisition					
<b>3</b>	The government followed the legal principles and best practices in the Uganda’s Constitution and Land Act in acquiring land for oil and gas activities					
<b>4</b>	The oil and gas activities for which land was acquired met the required public purpose specification					
<b>5</b>	Land acquisition exercise met the required public specifications					
<b>6</b>	The compensation of land owners complied with the principles, laws and best practices					
<b>7</b>	Land owners were fairly, adequately and promptly compensated by the government before possession of land in compliance with Uganda’s Constitution and Land Act					
<b>8</b>	International Oil Companies were on the forefront of land acquisition instead of government in violation of international principles and standards					

## SECTION D: OBJECTIVE THREE

### RECOMMENDATIONS FOR BETTER COMPULSORY LAND ACQUISITION

The following statements are about the principles of compulsory land acquisition in Uganda. Please read each statement carefully and rate them using the scale below

1=Strongly Disagree (SD), 2=Disagree (D), 3= Not Sure (N), 4=Agree(A), 5= Strongly Agree (SA)

	<b>Recommendations for better compulsory land acquisition</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
<b>1</b>	Parliament should legislate on and decide a list of activities that are for public purpose that qualify for compulsory land acquisition					
<b>2</b>	Government should have the power to compulsorily acquire land					
<b>3</b>	A land tribunal should be set up to make decisions on compulsory acquisition of land for public interest					
<b>4</b>	Land owners should be given shares in the oil and gas companies as part of the compensation for land acquisition					
<b>5</b>	Land owners whose land has to be compulsorily acquired should be given first priority like employment in the oil and gas sector					
<b>6</b>	There should be a constitutional amendment to allow government to compulsorily acquire private land before compensation					
<b>7</b>	Compensation should be adequate and timely to encourage land owners to voluntarily give up their land for public interest					
<b>8</b>	UN and World bank should enforce sanctions on Uganda government when they violate international principles and practices of land acquisition					
<b>9</b>	The government should formulate laws and practices that comply with international laws and best practices on compulsory land acquisition					
<b>10</b>	A special court should be set up to hear cases of compulsory land acquisition					

**Appendix ii:**

**INTERVIEW GUIDE**

**A) LAND OWNER)**

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- i) Location of your land (village, parish, s/county, district) .....
- ii) Acreage of the land.....
- iii) Other developments and acreage covered.....
- iv) Year when land was owned (or for how long have you occupied it) .....
- v) Mode of ownership (customary, lease, freehold, mailo, squatter, trespasser, other specify.....
- ix) which entity took over your land a) government b) oil company, name.....
- c) other company, d) individual, name, tittle, and contact.....
- viii) Were you consulted before land was taken away?  
.....
- ix) Any objections made, and when and to whom was it made.....
- x) Whether you got any assistance and from who.....
- xi) Whether some other affected landowners tried to seek redress and what form  
.....
- xii) Do you have a good understanding of how compulsory land acquisition process is conducted  
.....
- xiii) What is your view on whether the land acquisition process was well conducted:  
.....
- xiv) Did you receive prior information before your land was acquired by the government?  
.....
- xvi) was the compensation for your land adequate and timely?  
.....
- xvii) Apart from cash, what other form of compensation was given to you for your land?  
.....

xx) Were you as a land owner properly relocated and resettled after your land was acquired by government?

.....

xxi) Did the government follow the proper procedures in acquiring land from you?

.....

xxii) Did the government involve you in the negotiation for the acquisition of your land?

.....

xxiii) Have you benefited from the oil and gas sector

.....

xxiv) Do you think the oil and gas sector will benefit the general public?

.....

Xxv) In case you are not satisfied with the way your land was acquired, what mechanism is there through which you can seek redress

.....

xxvi) what are the mechanisms through which you can be helped

.....

xxvii) What do you think should be done, and by who, to improve compulsory land acquisition, valuation, compensation, and resettlement? .....

xxii) What are your other recommendations to improve compulsory land acquisition in Uganda?

.....

.....

**Interview guide:**

**B) CIVIL SOCIETY OFFICIALS**

- i) Name of Organisation.....
- ii) Major objectives/activities of the organization .....  
.....
- iii) Year you started doing work in the study area.....
- iv) Title/position of respondent in the organisation.....
- vi) What is your level of understanding of how compulsory land acquisition process is conducted  
a) very good b) good c) average d) not sure;  
Explain.....
- vii) Who is involved in land acquisition in the area?  
.....
- viii) are there cases of people who are affected by compulsory land acquisition  
.....
- ix) Were landowners consulted before land was taken away?  
a) Yes b) no c) I don't remember
- x) Were the land owners given prior notice, and allowed to participate in the land acquisition  
process for the oil and gas activities?  
.....
- xi) Were CSOs consulted before land was taken away a) yes b) no c) I don't remember?
- xii) Any objections made by landowners/SCOs, and when and to whom was it made?  
.....
- xiii) Did the affected persons get any assistance and from who.....
- xiv) Are there some other affected landowners tried to seek redress and what form  
.....
- xv) List some of the things you are happy with in the whole process of land  
acquisition/resettlement.....



xvi) List those things you don't like in the whole process of land acquisition/resettlement  
.....

xvii) Were the land owners compensated adequately and in time?  
.....

xviii) What mode of compensation was used to compensate land owners?  
.....

xvii) What do you think should be done, and by who, to improve compulsory land acquisition, valuation, compensation, or resettlement? .....

xxii) What are the main principles that underlie a successful compulsory land acquisition process?  
.....

xxiii) What is your comment if any on the application of the following concepts in compulsory land acquisition in Uganda vis-à-vis internationally?

a) property/land rights.....

b) public purpose/use .....

c) assessment.....

d) valuation.....

e) compensation.....

f) resettlement.....

g) others, specify.....

xxiv) Your general comments on the oil and gas sector or Uganda generally.....

**Interview guide:**

**C) Government/Local government/ Company officials**

*1) PRINCIPLES, LAWS AND BEST PRACTICES IN COMPULSORY LAND ACQUISITION*

1) What in your view is meant by compulsory land acquisition from private landowner; and public land owner?

.....

2) In your view, who acquires the land taken away from land owners? a) central government b) local government c) cultural institution d) licensee oil company e) other, specify.....

4) Do you agree that protected areas like national parks or forest reserves should be taken over for petroleum activities without compensation, and why?

.....

.....

5) What reasons do you have if you a) agree or b) disagree that the right to own property was properly respected with acquisition of land from i) private land owners .....

.....

ii) Protected wildlife Areas (Kabwoya and Kaiso Tonya, Murchison falls) .....

.....

.....

6) Do you agree that the land being taken away is for a public purpose or will benefit the private investor?

.....

Do you think the oil and gas sector falls under the public interest activity? Why

.....

.....

7) Which one of the following principles do you think was not well done to the landowners in the process of land acquisition? a) Participation b) information delivery c) accessible grievance mechanism d) timely payment e) timely resettlement f) others specify.....

9) What is your comment if any on the application of the following concepts in compulsory land acquisition in Uganda vis avis internationally?

a) property/land rights.....

b) public purpose/use .....

c) assessment.....

---

d) valuation.....

e) compensation.....

f) resettlement.....

g) others, specify.....

10) In which ways is the petroleum sector treated differently from other sectors in compulsory land acquisition.....

11) What is the difference between compulsory acquisition of private land and that of acquiring protected area land (e.g National Parks) for oil and gas activities?

12) Do you think the project affected persons (PAPs) have benefited from the existence of oil and gas activities? a) strongly agree b) agree c) not sure d)disagree e)strongly disagree

13) If PAPs benefited, how/why, and if not why not?.....

14) What do you consider to be wrong about Uganda's laws, or practices in compulsory land acquisition? .....

15) What do you think should be done about Uganda's laws or practices in compulsory land acquisition? .....

16) What is it that institutions in the oil and gas sector need to do?.....

17) Do you agree that Uganda's laws and practices are adequate to handle the compulsory land acquisition? a) strongly agree b) agree c) not sure d) disagree e) strongly disagree  
Reasons?.....

18) Do Uganda's laws and practices comply with international laws and best practices on compulsory land acquisition? a) strongly agree b) agree c) I don't know d) disagree e) strongly disagree. Reasons for your response.....

19) What else should be done to make Uganda's laws and practices i) adequate to the Oil and Gas sector.....  
ii) comply with international standards.....

20) What other recommendations do you have that could enable Uganda to improve its laws and practices on compulsory land acquisition?.....

21) Any general comment on the oil and gas sector or Uganda generally.....

**Interview guide:**

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**D) DEVELOPMENT PARTNERS AND INTERNATIONAL COMMUNITY**

- 
- i) Representative's name and title, Organization's name and address  
.....  
.....
  - ii) What is the policy of your organization/country on compulsory land acquisition?  
.....  
.....
  - iii) How different or similar is your above policy to that of Uganda?  
.....  
.....
- 
- iv) What do you consider to be the best practices on the following concepts in the compulsory land acquisition?
    - a) property rights.....
    - b) public purpose.....
    - c) adequacy, equivalency and equity.....
    - d) timely and prior compensation.....
    - e) cash or land compensation and resettlement .....
  - v) In what ways do you think Uganda's laws and practices resemble or do not resemble international principles and best practices of compulsory land acquisition, and why?.....  
.....
  - vi) What advice would you give to Uganda to change on its legal framework and practices to meet international best practice? .....
  - vii) Any other comments you would wish to make about Uganda's compulsory land acquisition in particular or oil and gas sector in Uganda in general  
.....  
.....

**Thank you for accepting to favor us with your valuable time and views!!**

## Appendix iii: Introductory letters

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