

**A LEGAL ANALYSIS OF THE LAND ACQUISITION AND RESETTLEMENT FRAME
WORK IN THE ALBERTINE AREA (AMURU, HOIMA AND BULISA) UGANDA**

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DECLARATION

I, **KULUSUM MARIAM** declare that I am the author of this dissertation and that any assistance I received in its preparation is fully acknowledged and disclosed. I have also cited sources from which I used information, ideas or words, either quoted directly or paraphrased. I certify that this dissertation was prepared by me specifically for the partial fulfillment for the degree of master of Laws in oil and Gas.

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APPROVAL

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ABBREVIATIONS/ACRONYMS

ACME	Africa Centre for Media Excellence
ACODE	Advocates Coalition for Development and Environment
ALC	Area Land Committee
BAT	Best Available Techniques
BBL	Barrels
BEP	Best Environmental Practices
CDO	Community Development Officer
CISCO	Civil Society Coalition Oil
CNOOC	Chinese National Overseas Oil Corporation
CSO	Civil Society Organization
DLB	District Land Board
EAC	East African Community
ECT	Energy Charter Treaty
EEC	European Economic Community
EHS	Environmental Health and safety
EIA	Environmental Impact Assessment
EIS	Environmental Impact statement
ESAI	Environmental Social Impact Assessment
GOU	Government of Uganda
HIV/AIDS	Human Immuno Deficiency Virus/Acquired Immuno Deficiency Syndrome
ILO	International Labour Organization
IOCs	International Oil Companies
KI	Key Informant
LC	Local Council
LRA	Lord's Resistance Army

MFNP	Murchison Falls National Park
MGLSD	Ministry of Gender, Labour and Social Development
MODU	Mobile Offshore Drilling Units
NEA	National Environmental Authority
NEA	National Environmental Act
NEMA	National Environment Management Authority
NEMC	National Environmental Management Council
NEP	National Environmental Policy
NGO	Non-Government Organization
NOGP	National Oil and Gas Policy
OECD	Organization for Economic Co-operation and Development
OPRC	Oil Pollution Preparedness Response and Cooperation
OSH	Occupational Safety and Health
PAU	Petroleum Authority of Uganda
PEPD	Petroleum Exploration and Production Department
PIL	Public Interest Litigation
PSA	Production Sharing Agreements
ULA	Uganda Land Alliance
ULC	Uganda Land Commission
UNCED	United Nations Conference on Environment and Development
UNFCCC	United Nations Framework Convention on Climate Change
UNOC	Uganda National Oil Company

LIST OF LAWS, POLICIES, INSTRUMENTS AND CASE LAW

National Laws

The 1995 Constitution of the Republic of Uganda

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

The Occupational Health and Safety Act No 9, 2006.

National Environment Act (NEA), cap 153.

Policies

National Oil and Gas policy 2008

Statutory Instruments

The Petroleum (Refining, Conversion, Transmission and Midstream Storage) (Health, Safety and Environment) Regulations, 2016

Petroleum (exploration, development and production) (Health, Safety and Environment) Regulations, 2016

The Fundamental Rights and Freedoms (Enforcement procedure) Rules, SI No. 26 of 1992

International Legal Instruments

The Energy Charter treaty 1994

The international Convention on Oil Pollution Preparedness, Response and Cooperation 1990

Convention on Biological Diversity 1992

The United Nations Framework Convention on Climate Change 1992 (UNFCCC)

Labour Inspection Convention, 1947 (No.81) (Excluding Part II)

Regional Legal Instruments

East African Community Treaty 1999

Protocol on Environment and Natural Resources 2006

Case Law

Orissa Mining Corporation v. Ministry of Environment & Forest & others, Supreme Court of India, WP (Civil) No. 180 of 2011.

The case of Environmental Action Network v. British American Tobacco, Application No. 444 of 2001 (Unreported).

High Court Civil Suit No. 27 of 2003 (Arising from Miscellaneous Application No. 70 of 2002).

Godfrey Nyakana vs. National Environment Management Authority (NEMA) and others (Constitutional Appeal No. 5 of 2011).

ABSTRACT

This dissertation is a study on the Land Tenure and Livelihood Issues in the Albertine Graben Region. This was carried out in three districts of Amuru, Bulisa and Hoima. The study specifically focused on tenurial arrangements and land transactions in the region. The ultimate outcome of this study will be enriching of literature for policy engagement and dialogue towards a comprehensive policy direction to land governance in the Albertine Graben.

The study was guided by three key questions namely; how oil exploration has impacted on the land tenure and livelihoods in the Hoima and Bulisa Albertine Graben, what are the characteristics of the new land acquisitions in the Albertine Graben, and what are the legal implications of the oil exploration and the Government? and how they relate with communities?

The study utilized three main methods of data collection including household surveys, key informant interviews, records review and Narratives. The household survey covered a total of 300 households in five sub-counties in the three study districts. Key informant interviews following a semi structured questionnaire were conducted for LC1 officials, Sub County Chiefs, Chairperson Area Land committee, Chairperson District Land Board and Resident District Commissioner.

CHAPTER ONE

1.0 Introduction

This thesis is in relation to a study on the legal effects on the tenure and livelihood issues in the Albertine Graben Region¹. The study was carried out in three districts of Amuru, Buliisa and Hoima. In the 1930s the Albertine Graben region was considered an attractive oil prospecting region given the natural oil seepage in the area. British Petroleum Companies explored the area and in 1938 the first well was drilled. Later, production was suspended as a result of World War II. The current estimates of the region's oil (around 1 to 1.5 billion barrels of recoverable reserves) put Uganda among potential leading African oil producer and among the world's top 50²

Article 244 of the Constitution of Republic of Uganda 1995 puts oil and other minerals under the protection of the Government and provides for benefit sharing between the community, the local government and the individual owner of such land. The study was premised on the notion that oil discovery in the region has brought about unprecedented interest in land in the region as people rush to position themselves for potential benefits from the oil either directly or indirectly. There have been reports of increase in land titling in the region as well as land conflicts particularly in Buliisa³. The oil has pitted the elite and resource rich individuals, companies and government on the one hand against the poor uninformed citizens of the region on the other.

The Production Sharing Agreements (PSAs) signed between the government of Uganda and the prospecting companies (Tullow oil, Dominion Oil, Heritage Oil) have remained a closely guarded secret by both the Ugandan Government and the oil companies. The Civil Society for Oil in Uganda⁴ obtained draft copies which on further enquiry were likely to be the same as the signed

¹ The Albertines Graben in the Western part of Uganda consists of the nine districts of Hoima, Masindi, Buliisa, Fort portal, Kaseses, Bundibujjo, Kanungu, Nebbi and Amuru.

² International Alert: 2009

³ Bagungu- Balaalo Clashes

⁴ The civil society coalition on oil (CSCO) is a network of twenty civil society entities both at national and district level hosted by the Advocates coalition on environment and Development (ACODE) a national NGO working on Environmental governance in Uganda. ULA is part this network. The CSCO is making significant contribution in improving petroleum accountability, good governance, awareness, policy advocacy and knowledge on best practices of promoting maximum benefits to the people of Uganda from the development of its petroleum resources.

PSAs. None of these contracts have to date been made public by either the government or the oil companies. This has created a lot of suspicion and mistrust from various segments of society.

1.1 Background of the study

Land has a multi-dimensional character of economics, social, political, cultural, and environmental meaning and importance. It is my view that the multi-dimensional significance of land for people can only be taken seriously through the lens of a “human rights approach⁵”- it starts from the recognition of especially the most vulnerable humans-that is, the woman, peasants, family farmers, indigenous peoples, communities of artisanal fisher folk, pastoralists, and landless peoples who are “rights- holders” with respect to land.

The discovery of oil in most countries has led to involuntary resettlement and displacement of locals for example in Nigeria, Burma, Sudan inter alia. The Implementation of displacement of people created threats and massive violation of the fundamental human rights, civil wars, acts of terror and ethnic conflicts. Crude oil production in the Niger Delta left the communities with limited chance to defend their rights and interests on the land.

In Burma UNOCAL and TOTAL premier joint companies abused several human rights which included displacement of people, forced and illegal labour, torture and murder.⁶

Oil exploration in Southern Sudan began in 1975 and CHEVRON was granted a concession in the south and south east part of Sudan. The World Food Program and operation life line in Sudan

⁵ In a human rights-based approach, human rights determine the relationship between individuals and groups with valid claims (rights holders) and state and non-state actors with correlative obligations (duty-bearers). It identifies rights-holders and their entitlements and corresponding duty-bearers and their obligations, and works towards strengthening the capacities of rights-holders to make their claims, and of duty-bearers to meet their obligations (UNDP 2004)

⁶ P. Simons, Corporate Voluntarism and Human Rights: The Adequacy and Effectiveness of Voluntary Self Regulation Regimes in Cragg W(ed.) Ethics Code, Corporations and the Challenges of Globalization, Edward Elgar Publishing Company, 2005, pp 75-112.

released information that over 174,000 people were displaced following the development of oil in Sudan in 2002.

CASE STUDIES

NIGERIA

According to Barbra P Thomas Slayter, the Royal Dutch Shell and Chevron corporation joined forces in Oil production in Nigeria. This oil was discovered in Ogoniland in 1957. Oil production in Nigeria is associated with problems of their ethnic back grounds and political violence. The Ogoni People did not receive compensation despite the increasing environmental devastations in the Niger Delta, death of over 2000 people due to the raid of over 27 villages, displacement of 100,000 people and most of whom were forced to leave their land to move to the neighbouring states. The indigenous Ogoni people are still affected by this ongoing conflict on their home land comprising 404 square miles which is referred to as Ogoniland. The Ogoni home land has been turned into a waste land with oil spillages, blow outs poisoning the atmosphere with hydrocarbons, vapors, methane, carbondioxide, and soot which causes acid rains.⁷

SUDAN

In 1998 huge deposits of oil were discovered in Southern Sudan. The Sudanese government launched oil exploration in 1999 in cooperation with foreign companies such as the Canada's Talisman Energy, Malaysia Petronas, Sweden's Lundin Oil and China's National Petroleum Corporation.

In 1999 to 2003 so many people were displaced due to the construction of the 2000 KMs long pipeline. The government of Sudan allowed the eviction of over 174,000 local communities to protect areas with oil deposits.

According to Robinson exploration of oil in the Eastern upper Nile region and the construction of the pipe line led to the burning of 48 villages and displacement of over 55,000 people in the Bentiu and Rubkona regions in southern Sudan. Oil production in Sudan is still the subject of this bloody

⁷ International Development and the Global south in the 21st Century, Kumarian press, Bloomfield,2003,pp,238

conflict where people are still being killed over violent clashes over land despite the emergence of South Sudan in 2011.⁸

ECUADOR

The problem of oil related resettlement has also a long history in the Latin American countries. In 1960, TEXACO began constructing a pipe line and drilling oil in south Colombia and thousands of the indigenous people were also displaced in mid-eighties by the British Petroleum Oil Operations. In 1964, the American company TEXACO began the same oil drillings which led to the ongoing processes of oil environmental devastation for over 25 years in Oriente region in Ecuador.⁹The operations of TEXACO bought by CHEVRON in 2001 also led to contamination of large areas of the Amazon Forest in the Ecuador. This is still known as the greatest environmental disaster in the world with a massive displacement of the Cofan people in Ecuador, the native people of Ecuador and southern Colombia.¹⁰

COLOMBIA

According to Roberts and Thomas (2003), Colombia's conflicts started way back in the 20th century. The activities of the oil companies TEXACO and ECOPETROL started constructing of the 800KMs long pipelines and roads for transportation of the drilled oil in south Colombia. These activities led to the displacement of the Siona, Awa, Kofan, Inga, Huitoto and Coreguaje indigenous communities of Putumayo, Aguazul, Tauramena, Monterrey, and Yopal. Among the worst consequences of oil were diseases like parasite infections, air and water pollution, loss of

⁸ A.El Jack , Displacement in Sudan, P. Vandergeest, P. Bose, P. Idahosa , Development of Displacements, Economies, Ecologies and Cultures at Risk, University of British Columbia Press, 2007, pp,68, Sudan, Oil and Human Rights, Human Rights Watch, Brussels- London, New York Washington D.C, 2003.

⁹ J.Timmon Roberts,N. Demetria Thanos, Trouble in Paradise: Globalization and Environmental Crisis in Latin America, Routledge London, 2003 .pp 169

¹⁰ P. Ladicola, Violence, inequality and Human freedom Rowman and Littlefield Publishers Ltd , Oxford, 2003,pp, 243; L. Dematteis, K. Szymaczak, Crude reflection:oil, ruin and resistance in the Amazon rain forest, city lights Books,2008; J. Kimerling, indigenous peoples and oil frontier in Amazonia; the case of Ecuador, CHEVRON TEXACO and Anginda vs Texaco, New York University Journal of international law and politics vol 26.

land and malnutrition.¹¹ Oil exploration was an important source of income for the National Liberation Army (ELN).¹²

BURMA

Large reserves of oil were discovered in Burma in 1982 in the Yadana field. The American Consortium and French company Total started building a pipe line in 1994 and completed it in 1998. The people living in the pipeline region live miserable, are oppressed and in a precarious existence since the CHEVRON, UNOCAL, TOTAL and PREMIER entered an agreement with the brutal Burmese regime to construct the Yetagun and Yadan pipelines and later claimed ownership of the entire land. The entire village was relocated on gun point, women were raped and children killed by the Burmese Military Units in order to provide security for the gas pipelines which cut directly through the Tenasserin Rain forest, one of the largest rain forest in South East Asia.¹³

In all the mentioned case studies mass displacement of people is associated with different stages of oil production, investment, drilling and transportation. Displaced people were those living in the immediate vicinity of the oil projects and the pipelines.

Their resettlement was to be done in accordance to the resettlement plans and the population receiving the appropriate compensation however when this failed and people protested, they ended up clashing with government which murdered them, displaced them by force, denied them access to their land and abused their property rights. People were forced to migrate to other locations because of the continuous suffering with polluted water and health problems.

With the lack of knowledge in the public domain on the oil exploration in Uganda, the focus of the Civil society Coalition on oil Uganda has mainly been geared towards raising awareness on

¹¹ J. Timmons Roberts, N. Demetria Thanos, *Trouble in Paradise; Globalization and Environmental Crisis in Latin America*, Routledge, London, 2003, pp. 169.

¹² K. Ballentine, J. Sherman, *Economy of Armed Conflict. Beyond Greed & Grievance*, Lynne Rienner Publishers Inc., London, 2003, PP, 83.

¹³ M. pilisuk, *Who benefits from global violence and war; uncovering a destructive system*, Greenwood Publishing Group inc, 2008, pp, 91, p. simons, *corporate voluntarism and Human Rights; the Adequacy and Effectiveness of self Regulation Regimes in Cragg W., Ethics codes, Corporations and the challenge of Globalization*, Edward Elgar publishing company, 2005, pp. 75-112.

the existence of the PSAs and to foster transparency in the oil deals. Underlying these deals is a population that is facing enormous pressure from the elite and wealthy to relinquish their rights to land. Although this has been reported in various meetings and workshops, no evidences have accrued as to the volume of these acquisitions, who is buying out, what are the terms of the land sales and whether the people understood and are getting fair compensation for their land value.

Furthermore, to date, it is uncertain whether the PSA's contain benefit sharing agreements with the land owners as a benefit which would not only accrue to the land owner but to the community. The human face to oil in Uganda seems to have disappeared and simply remained on paper under the constitutional provision.

Whereas small holder farmers utilize small pieces of land to meet their basic needs including food, shelter, health and clothing, commercial farmers and land speculators utilize large acreages of land with the sole aim of accumulating wealth for the individuals or corporate entities owing the investment. As a result, commercial farming initiatives and land speculating for the case of the Albertine Graben always addresses profit maximizing opportunities irrespective of the cost to either the environment or to the communities in which the oil exploration is taking place.

1.2 General Objective

This study is set out to investigate land grabbing in the Albertine Graben region this will include tenure and livelihood issues and whether these issues fall in line with sound and prudent jurisprudence.

1.3 Objectives of the study

1. To find out how has oil exploration has impacted on land tenure and livelihoods in the Albertine Graben?
2. To find out the characteristics of the new land acquisitions in the Albertine Graben?
3. To find out the Legal consequences of the oil exploration on Government and how they relate with communities?

1.4 Research Questions

The study was guided by three key questions indicated below¹⁴:

1. How has oil exploration impacted on land tenure and livelihoods in the Albertine Graben?
2. What are the characteristics of the new land acquisitions in the Albertine Graben?
3. What are the Legal consequences of the oil exploration on Government and how they relate with communities?

1.5 Theoretical Framework

As already indicated, the gist of this study was investigating the impact of oil discovery on land tenure and livelihood issues in the region. Livelihood in this context is stretched to encompass wealth and assets. The conceptual framework for this study is rooted in World Development report 2004 where a case for putting a human face to development by ensuring that part of the benefits from the resources accrue to the communities near to these resources. It is argued that globalization exerts pressure on natural resources as foreigners move in with their capital to extract the resources. The extractive industries established usually have both direct (also immediate) and indirect (also differed) impacts on the livelihoods of communities around the resources. Directly, eviction from land or restriction of access to areas depended upon for livelihoods and the related disenfranchisement may negatively impact on livelihoods. Indirect effects may include destruction of the environment which further reduces the productivity of agriculture. Indirectly, also speculation over land leads to increase in land prices, land grabbing and tension over land with the potential of flaring into conflicts as has been in Buliisa district.

This study draws from Anthony Bebbington's propositions on a framework for analyzing peasant viability, rural livelihoods and poverty (1999) with the objective of maximizing benefits. He sets minimum needs that the framework needs to address including; the diverse assets that the rural people draw on in building livelihoods; the way in which people are able to access, defend and sustain these assets; and the abilities of people to transform those assets into income, dignity, power and sustainability-or otherwise; higher consumption levels, better living conditions, ability to defend assets effectively and build as asset base that continually allows transformations. He

¹⁴ See annex I for the sub-questions for each of the key questions

further suggests two levels at which livelihoods and human well-being can be conceived; first is at the household level at which four forms of capital-natural, produced¹⁵, human, social and cultural-that make livelihood strategies possible and give people capability and the outputs that make livelihood meaningful. The second level is on the engagement of the household with the market, state and civil society and the implications of these engagements for the distribution and transformation of assets. The later requires that there is information to enable the individual/household evaluate and choose the benefit maximizing option.

The centrality of land as an asset to both livelihoods and national efforts for transformation in Uganda is clear. Land is viewed as the both produced capital-acquired- whose productivity is greatly dependent on natural capital. The discovery of oil introduces new actors and relationships that can potentially impact on the capacity of households to transform land as an asset into livelihoods and wellbeing improving strategies occurring at different levels. From the view point of maximizing benefits at individual/household level, opportunities and how they can be ceased for the betterment of the individual is very important (Opt Cit).

With oil discovery, the scope of benefits in relation to land includes among other things¹⁶increase in the value of land which is also the incentive for speculators and share of royalties accruable to land owners. The eligibility of a land owner for royalties emanate from the recognition of the right of ownership. The transfer of ownership of land below the real value or by use of unlawful means dampens the benefits accruing to the household. Restriction of access without reparations has the same impact on benefits accruing to individuals/households.

1.6 Hypothesis

First a key purpose of the new land legislation was to reduce the incidence, duration, and consequences of land-related conflict. The limited extent of implementation (Mijumbi and Sebina-Zziwa 2001) would imply that the reduction in conflicts may have been lower that one would expect otherwise. Still, we expect that, following the passage of the 1998 Act, the level of land related conflict decreased.

¹⁵ Land can have both natural and produced capital aspects

¹⁶ Including improvement in infrastructure, creation of market for produce, bringing services closer to the community which is not the primary focus of this study.

Second, a number of studies have documented the need for comparatively high payments (whether formal or informal) to resolve conflicts and enforce existing legislation, and the fact that women may face a systematic disadvantage (Khadiagala 2001). Traditional inheritance patterns also imply that it is more difficult for females to maintain access to land in case of either divorce or the death of the spouse than it is for men (Ntozi and Ahimbisibwe 1999, Makerere Institute of Social Research 2002). Given greatly increased adult mortality in the context of HIV/AIDS and the disadvantaged position of women as compared to men, it is likely for the incidence of conflict with respect to widow' lands to have increased. Such conflicts will effect economic outcomes as settling disputes is costly and because it is normally not possible to make full productive use of the land, e.g by renting it out, while a conflict is pending. Case studies support this hypothesis; in fact, in a study conducted in two districts (Luwero and Tororo), 29% out of a total of 204 widows indicated that property was taken from them following the death of their husband, making them four times more susceptible to land grabbing than male widowers (*Gilborn et al. 2000*). All of this leads us to expect that land grabbing will effect women and the poor disproportionately, thus having a negative impact on equity¹⁷.

Third, even if eventually, somebody involved in a land conflict will be allowed to keep the land, the conflict will have a negative impact on welfare and productivity through a number of channels. All parties involved are likely to have expend significant amounts of time which otherwise could have been used in productive activities in attempts to resolve land conflicts (Berry 1997). Insecurity about the ability to use land in the future reduces incentives to make land-related investments not only by local farmers but also by outside investors and the government (Binswanger et al. 1995), Kasanga an Kotey 2001). Pending conflict may prevent one or two of the parties from accessing the land, thus leaving plots partly or totally uncultivated. It may even be associated with actions to inflict crop damage such as uprooting of perennials. Even the threat of such action will affect incentives for effort supply and thus further reduce productivity. Moreover, conflict and the associated fear of losing land will undermine the functioning of land markets, implying that producers who lack knowledge or resources (e.g labour) for self-cultivation

¹⁷ The provision providing for automatic spousal co-ownership of land which, as discussed above, was eventually not included, could possibly have helped to strengthen the position of women even in an environment where titling was largely ineffective because, in order to be covered by this provision, no administrative action such as issuance of a title or updating of registry records is needed.

will be prevented from renting out, and possibly have to leave the plot fallow. These will force those with insufficient resources, e.g. widow who lack family labor or producers with low ability who would be better off in non-agricultural enterprises, to make sub-optimal use of their land thereby depriving them of rental income and leading to socially sub-optimal land use. All of these lead us to expect that land-related conflict will be associated with significant economic losses. In addition to pointing out the incidence of land grabbing, a key contribution of this paper is the attempt to provide econometric estimation that can help to quantify the losses incurred due to conflicts on plots that are currently cultivated.¹⁸

1.7 Structure of the thesis

This thesis comprises five chapters including the introduction which addresses the issue of potential effects of oil discovery in land tenure and livelihoods in the Albertine Graben, the objectives, research questions, as well as the theoretical framework. The chapter two addresses all the available literature on the subject particularly under this study and chapter three is the methodology, Chapter four presents the challenges, while in chapter five addresses findings and recommendations and conclusions.

1.8 Justification

Since the study specifically focused on tenurial arrangements and land transactions in the region the ultimate outcome of this study is drawing of policy issues for policy engagement and dialogue towards a comprehensive policy direction to land governance in the Albertine Graben.

To justify action by policy makers, it is necessary to go beyond descriptive evidence and try to quantify the impact of this phenomenon. Surprisingly, even though many studies deal with causes and consequences of land conflict at descriptive level, we know of no aiming to quantitatively explore this issue or to explicitly explore whether policy interventions have reduced or increased the level of conflict. Doing so on the case of Uganda is the purpose of this study.

¹⁸ Given that some of the plots affected by conflict are likely to have been taken out of cultivation something that will constitute lower bound of the total losses.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

Sjaastad et al¹⁹ argues that property rights to land are not static but constitute a social construct that responds to broader needs and evolves over time. Given its spatial extension, defining property rights to land or to write contracts regarding their exchange is costly. Therefore, boundaries may, due to low levels of population density, be defined only loosely, transfers will normally involve only usufruct and not ownership and often be confined to community members, thereby allowing much of the content of land rights and associated transactions to be defined informally by unwritten “custom”.

It is a fact that property rights are not static and change according to people’s needs. Where there are major social and economic benefits in a region, these changes will not only occur among the locals alone but these rights will attract people from the rest of the country and the world at large to invest and benefit from these social economic benefits in any region. Where there is oil discovery in a particular region or area Oil companies, the elite, the wealthy will come in to acquire property rights from the locals and transform these rights into permanent ownership rights with definite boundaries to their land.

Property rights can not only change and be confined to community members as argued by Sjaastad but will evolve so many people and such transactions will be defined formerly against the customs of the local communities.

Barzel²⁰ noted that changing economic and social conditions that make land more valuable and increase the benefits to be obtained from land transfers imply that the value of attributes which have previously been left under linedated may increase sufficiently to offset the transaction costs associated with more precise delineation of land rights.

A key variable that underlies the need for better definition of property rights to land is population growth. Rapid population growth, combined with either limited opportunities for non-agricultural

¹⁹ Sjaastad and Bromley 2000

²⁰ Barzel 2000

employment or, in other areas, increasing non-agricultural demand for land, a key factor that causes land values to appreciate, resulting in higher competition for a limited or decreasing amount of land available.

Zongo²¹ on the other hand noted that this often leads to conflict across generations or ethnic groups, especially in environments where risk is high and land is a key asset and a source of livelihood. Exogenous factors such as improvements in technology, greater opportunities for integration into the global economy, and better agricultural terms of trade not only reinforce this trend but also imply a greater potential for productivity-enhancing exchange of land through rental and/or sales markets.

Boserup²² notes that all of these factors create an opportunity to establish institutions to better define and enforce property rights that can then form the basis for a virtuous cycle of more secure land rights, higher levels of land-related investments, more productivity-enhancing land transfers, and greater overall productivity.

In addition to Boserup's suggestions of creation of Land Institutions to define and enforce property rights, these institutions should constitute persons of high integrity to enforce these property rights and have standardised valuation rules that make these land rights affordable to all people and not only for the wealthy.

In fact, Deininger²³ makes the realization that better defined land rights that can be exchanged at lower cost are a critical element of economic development provided the justification for interventions to title land in many parts of the world.

Such interventions had a very positive impact in situations where (i) there was a latent demand for more formal and individualized forms of ownership tenure and greater transferability of land as a way to reduce conflict; (ii) the technical and administrative capacity of state institutions matched the requirements of the improved land tenure system; and (iii) the shift provided gains for all or most of the population and political leaders did not lose.

²¹ Zongo 2002

²² Boserup 1965

²³ Deininger 2003

On the other hand Grossman et al²⁴ argue that if institutions which are to define and enforce property rights to land in a way that provides security needed for higher levels of investment and exchange do not emerge, there is considerable scope for increased levels of conflict that will not only undermine private investment but can also lead to dispensation of rents, destruction of assets, and social instability.

Two factors that are likely to be critical in determining whether higher levels of land scarcity will lead to increased investment or conflict are the nature of pre-existing institutions governing land relations and the ability to cast the need for development of land institutions in terms of broad consensus on land policy rather than a zero-sum game. In both respects, Africa is at a relative disadvantage.

On the other hand, its land institutions that are often inadequate for the task at hand because of the fact that they were established along lines of traditional systems that often define land access along lines of ethnicity or gender. This implies that it is easy to portray land policy as a zero-sum game that is part of a broader political and ethnic struggle.

Oosterberg²⁵ noted that in much of Africa, formal institutions for land administration were often super imposed on traditional structures without clear delineation of responsibilities and competencies, implying that they tend to lack both outreach and social legitimacy. In fact, in a significant number of African countries, formal tenure covers significantly less than 10% of the area, implying that more than 90% of land is held under forms of customary tenure without full legal recognition hence defacto outside the realm of the law.

Furthermore Firmin et al²⁶ argues that this has led to a situation where, instead of complementing each other, “traditional” and “modern” systems compete, giving those who are affected by conflicts an opportunity to resort to “institutional shopping” and pursue conflicts in parallel through a variety of channels. Not surprisingly, this greatly increases the number and duration, and often also the impact of land-related conflicts.

²⁴ Grossman and Mendoza 1998

²⁵ Oosterberg 2002

²⁶ Firmin-Sellers 2000

Kevane et al.²⁷ shows that the limited outreach of formal institutions is particularly detrimental for marginal populations who generally do not have the resources that would be needed to secure their property rights through alternative means, in fact, well-intentioned interventions to improve land tenure may unintentionally have increased conflict and social polarization instead of providing the basis for sustained growth.²⁸

Lavigne Delville et al.²⁹. notes that even though many African land tenure systems are characterized by very egalitarian land access within any given group, the relative endowments of different groups, as defined on the basis of ethnicity or gender, can differ sharply from each other. If land values increase in an environment where access to land across groups is highly unequal or governed by the factors such as ethnicity, it can give rise to conflicts that run along ethnic lines and spread to areas completely unrelated to land. For example, if, as in much of West Africa, the descendants of migrants can be easily identified as “outsiders”, increased land values provide a strong incentive for “locals” to renege on earlier sales contracts, in the case of Cote d’Ivoire, land access is interlinked with questions of nationality and the ability of only nationals to own land, which can give rise to conflicts that extend far beyond the area of land

Andre et al.³⁰ notes that In Rwanda, for example where extreme land scarcity coincided with accumulation of land by individuals with access to non-agricultural incomes, this has led to land conflict being one of the principal reasons that finally fed into the outbreak of civil war in 1994.

Van den Brink et al., Ngaido and McCarthy³¹ are quick to point out that although the consequences may be less noticed by the outside world, similar tensions and clan-or ethnically-based conflicts with devastating consequences for those involved, who are often the poorest of the poor, tend to arise at the boundary between herders and sedentary agriculturalists.

Many if not most traditional African land tenure systems put women at a strong disadvantage as far as access to and control of land as well as secure land tenure are concerned. In view of this, the gender –dimension of inequality in land access is increasingly emerging as a key issue in many

²⁷ Kevane and Gray 1999

²⁸ See also Atwood 1990, Pinckney and Kimuyu 1994, Platteau 2000.

²⁹ Lavigne Delville et al. 2002

³⁰ Andre and Platteau 1998

³¹ van den Brink et al. 1995, Ngaido and McCarthy 2002

countries. It is of particular importance in view of evidence suggesting that independent asset ownership can considerably improve women's bargaining power³². A second area of concern relates to widows and in view of the fact that, under customary law, women have no land rights on their own but are instead to be taken care of by the deceased's kin, something that could imply considerable insecurity of land ownership by this group.

Interesting to note is that land policies reinforce the tendency of greater land scarcity to amplify pre-existing gender, ethnic, or wealth inequalities with respect to land access. They can contribute to a downward spiral of conflict, resource degradation, and social strife, with potentially far-reaching implications for natural resources conservation and agricultural productivity. Conflict over land is particularly likely if speculative land acquisition is fuelled by non-agricultural incomes or jeopardizes the function of land as a social safety net and provision for old-age³³.

Van Donge³⁴ was able to note that the socially corrosive and economically deleterious impact of land grabbing on governance at the local level has been described from Malawi as well as Cote d'Ivoire and Ghana³⁵

So far the literature also demonstrates that even apparently trivial land conflicts can be kept alive for generations and may suddenly erupt in seemingly unmotivated acts of possibly ethnically motivated violence³⁶

Margaret Rugadya et al notes that findings of an initial exploration study on oil discovery in the Albertine Graben³⁷, there is a clear dual linkage (cause of new conflicts and exacerbating existing conflict) between oil discovery and land conflicts in the study districts, and that although all conflicts are still in incubation stage and are manifested as tensions, discontent and unrest. There is a trend of extensive sporadic individualization of the customary land creating large chunks of registered land in form of leaseholds, across the districts surveyed in this study. This rapid and extra-ordinary transition is driven by individual scramble to strategically reap from the expected demand for land anticipated in the region due to oil discovery within the Albertine Graben,

³² Schultz 1999

³³ Lavigne Delville 2000

³⁴ Van Donge 1999

³⁵ See also Amanor and Diderutuah 2001, Kasanga and Kotey 2001.

³⁶ Kuran 1993, Fred-Mensah 1999.

³⁷ Margaret Rugadya and Herbert Kamusiime, 2009

degazettement has been characteristic to transforming land tenure relations, however communities that were supposed to benefit from such a situation were either unaware or not in position to take over, manage and direct tenure relations in lands officially reverted to them. A situation fraudulently harnessed by local council officials for personal gain who have sold land to new settlers or migrants at exorbitant prices, rather than the degazettement being of advantage to the communities in question. This trend has taken with it all communal lands and resources which have been privatized to the exclusion of communities who ought to be the rightful holders of such land. Even in situations where tenure was already transforming and land tenure relations are fragile for example in Amuru district due to IDP displacement and return, the discovery of oil is heightening community fears related to land grabbing, a fact that has been willfully manipulated for political gain by opposition politician and is not helped by the visible government and executive interests as witnessed by the extensive deployment of army and presidential guard brigade in areas where oil prospecting is taking place.

In areas where successful prospecting has taken place such as Hoima district, land conflicts are beginning to fester, but are yet to translate into a full blown conflict though the indicative signals are very strong. Privatization and individualization of customary land to individuals external to these communities through fraudulent sale and approval land transactions, has restricted and limited their access to resources mainly for grazing and fishing communities. Speculative amassing of large chunks by investors or local elites positioning themselves to reap from the expected boom in the land market and the influx of immigrants into localities where oil prospecting is taking place has driven up the price of land.

The rise in value of land has not gone unnoticed by the local communities, those whose land has been taken over by oil companies for prospecting they have received compensation, but are beginning to see it as not commensurate in lieu of the gains that the companies will make in the long run, thus discontent, it is not clear to the community, which mechanisms are used in determination of compensation, not is there an option for the community to seek better information. In areas where oil prospecting took place but was not successful such as Kanungu and Bundibugyo districts, there is no effect on land grabbing due to discovery of oil, except for the rise in land prices for those purchasing and renting land for use as communities realize its resources value.

Non-intransparency of oil companies over operation is creating fear over possible landlessness among the local community as oil companies take over land for oil mining and production. This situation is pushing communities to the extreme imaginations of landlessness. The communities are threatened by the high likelihood of losing land to the rich and remaining landless. Privatization and individualization of customary land to individuals external to these communities through fraudulent sale and approval land transactions, has restricted and limited their access to key water points, firewood etc. speculative amassing of large chunks by investors or local elites positioning themselves to reap from the expected boom in the land market and influx of immigrants into localities where oil prospecting is taking place has driven up the price of land.

This section focuses on the context of oil exploration in the study areas. The context of oil exploration in these three districts like all the other oil exploration areas in the country has been shaped by the historical perspectives of land tenure from the colonial era and the internal conditions of the districts economy and social fabric. The superimposition of sharing benefits from oil on this context is dependent on the legal frame work in which rights to land and resources are defined. The proceeding sub-sections expound on these notions.

2.1 Historical Perspective of Tenure in Bunyoro (Amuru, Hoima and Buliisa) a case study

The three districts covered under the study fall in two historical socio-political regions of Bunyoro (Hoima and Buliisa). Colonial legacy and other random events have greatly shaped land tenure in these two regions and Uganda alike. Bunyoro Kitara under the rule of Omukama Kabalega went to war with the British and her arch rival Buganda. At the end of the war in which the British emerged victorious, large chunks of Bunyoro land were given to Buganda, and smaller chunks to the Tororo Kingdom, leaving Bunyoro greatly impoverished. The annexations of land were entrenched in the 1900 Buganda agreement in where indigenous Banyoro become squatters on their own land, an event that up to today makes land matters especially sensitive in the region. Later, the Bunyoro agreement of 1933 put all land in Bunyoro under the Governor (Section 25) but recognized the right of natives to use land and were required to have a certificate of occupancy over the land (Section 27). Forests and minerals were also put under the jurisdiction of the Governor although the natives were granted rights to access salt deposits at Kigoro bya (Section 2831). The governor reserved the right to alienate any land in the territories of Bunyoro for forests, roads, townships or any other public purpose (Section 26). There was also a declaration that there would

be no further proclamation of forests in Bunyoro (Section 32) which was in response to the wide spread view that most of the viable land had been gazetted leaving less productive land for the natives. As a comparison all land in northern Uganda and Acholi under which Amuru district falls was since the 1900 Uganda Agreement crown land except for freeholds issued to individuals by colonial government under the Crown Land Ordinance (1903). Customary user and occupiers were tenants at will of the state and were entitled to compensation in event of alienation of land to freehold or leasehold.

At independence, the Uganda Land Commission was established to hold the residual interest and manage land formerly held by the crown. The 1969 public lands act for the first time recognized customary occupiers of land and their right to compensation and consent alienation. The land reforms decree (1975) that followed the 1972 degazettement by Amin³⁸ government put all land under the ULC except land in urban areas and that which had already been alienated. The protection accorded to customary occupiers by proceeding legislations was scrapped³⁹. The 1995 constitution recognizes customary tenure as one of the four tenures⁴⁰ under which land is held in Uganda and accords the right to timely and fair compensation in the event of land expropriation for public use. The Land Act (1998) as amended provides for the conversion of customary tenure to freehold.

2.2 Profile of the study Districts

2.2.0 AMURU

This history appears to have created variations of land rights across geographic areas of Uganda. However, in the case of Acholi and Bunyoro, three issues stand out. One is the wide spread of customary tenure and communal claim and access to territorial domains including resources. Second is the pre-dominance of leasehold as compared to Buganda, Ankole and Tooro. Third is the sparse population that leaves large track on land un-inhabited which creates the opportunity for intruders and other opportunists⁴¹ to grab land. In Acholi region, this situation has been

³⁸ Idi Amin- The President of the Republic of Uganda (1971- 1979)

³⁹ Wildlife Society Uganda 2010

⁴⁰ Others include Mailo, Freehold and Leasehold.

⁴¹ Some of these are members of the community that use their privileged status to alienate portions of land to the detriment of others

exacerbated by the protracted 20 year LRA rebellion that resulted in displacement of about 1.8 million people who only started returning home after the Juba Peace process (2006-2008).

2.2.1Buliisa

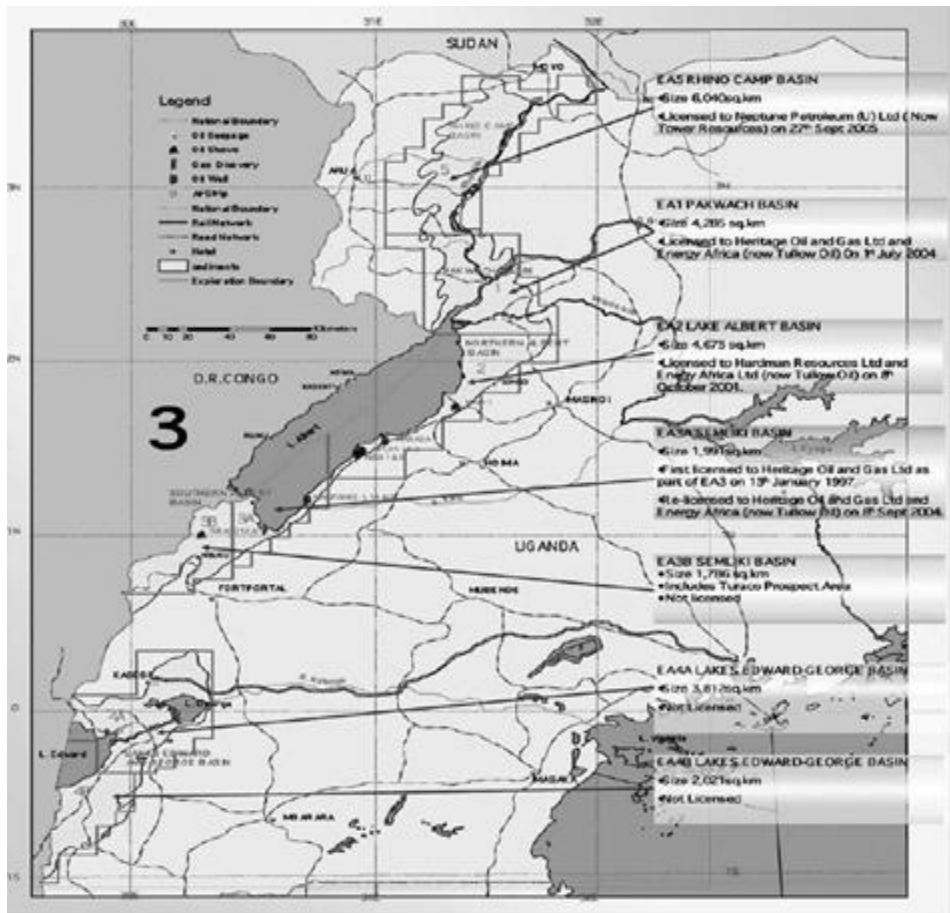
Buliisa district formerly a county was carved out of Masindi district in 2006 and borders Lake Albert an area that has been found to be rich in oil deposits. The district comprises six sub-counties and a town council which is the main urban center. Agriculture and livestock production are the main economic activities. Fishing is another major economic activity, particularly in the areas bordering Lake Albert. Buliisa falls within exploration block two that was licensed to Hardman Resource and Energy Africa (now Tullow Oil) in 2002⁴². The figures below shows the parceling out of exploration blocks in the Albertine Graben region.

2.2.2 Hoima

Hoima district comprises 24 sub counties with Hoima town as the main urban center. According to the 2002 projections, the population of Hoima is 349,204 persons (50.4% males and 49.6% females), with an annual population growth rate of 4.87%. Agriculture is the main economic activity, with 80.2% of the households being actively engaged and cultivating about 119_{sq} km of land. Livestock production is second in economic importance to crop production. Fishing is also an important economic activity, particularly on Lake Albert where fishing has greatly influenced the social and economic development of the sub counties of Kigorobyia, Buserula, Kabwoya, and Kyangwali. Exploration in Hoima district largely falls under bloc two as well.

⁴²International Alert: 2009

Figure 1: Map showing allocation of exploration blocks in the Albertine Graben



Source: *International Alert* (2009)

2.3 Legal and Policy Framework for benefit sharing

The focus of this section is on the legal provisions for oil revenue sharing in Uganda. Emphasis here is mainly on private benefits as opposed to community benefits which has attracted relatively greater attention of civil society and academicians.

2.3.1 The National Constitution

The constitution largely provided for the formulation of laws by parliament to regulate the exploitation, sharing of royalties arising from mineral exploitation, payment of indemnities arising out of mineral exploitation, and restoration of mining area lands. The interests of landowners, local

and central government should be taken into account as protection and preservation of the environment (Article 245).

2.3.2 The Land Act cap 227

The Land Act 227 provides for the tenure, ownership and management of land and amends and consolidates the law relating the tenure, ownership and management of land and other related or incidental matters. In pursuance of the constitution, the law vests all land in Uganda in the citizens of Uganda and recognizes four land tenure systems under which land is held in Uganda including; customary tenure, freehold, mailo and leasehold tenure. . The Act defines the rights and powers of lawful occupants and bonafide occupants⁴³. It also places natural lakes, rivers, ground water, natural ponds, natural streams, wetlands, forest reserves, national parks and any other land reserved for ecological or touristic purposes for the common good of the citizens of Uganda under trust of the Government or a local government. In relation to prospecting or ascertaining suitability of land for public works, the act provides a mechanism for entering on land- which may follow mutual agreement the undertaker or following an order by the minster where no agreement is reached.

2.3.3 The Local Government Act, Cap 287

The government act provides for the creation of sub national governments and devolution of some services, functions and powers from the central government to local government. The sub-national governments are charged with the management of some natural resources such as local forest reserves and wetlands. The local government Act also provides for sharing of government revenue but does not explicitly address the issue of sharing of revenue from natural resources.

2.3.4 The Mining Act, 2003

The mining Act regulates mineral exploration and extraction and vests all ownership of minerals in the country to the Government of Uganda. The Act provides for mineral agreements and prospecting licenses (Part II). The holders of a mineral dealer's license are, under Section 71, liable for payment of royalties due on any minerals bought, received or exported. The Act under section 98(2) provide for the sharing of royalties between central government, local governments and

⁴³ The act provides for the creation of communal land associations in relation to communal and/or customary lands.

owners or lawful occupiers of land subject to mineral rights in the manner specified in the Second Schedule of the Act.

Under the Second Schedule, the distribution of the 3 percent royalty is as follows: central government receives 80 percent; local governments receive 17 percent and the owners or lawful occupiers of land subject to mineral rights are entitled to 3 percent. The mining Act has been singled out as the strongest precedent to the proposed derivation formula for the oil and gas sector in Uganda and indeed share of the land owners.

2.3.5 The National Oil and Gas Policy, 2008

The National Oil and Gas Policy (NOGP) recommends the upgrading of existing regulatory framework by putting in place a new law for the administration and management of oil revenues in accordance to the constitution. The NOGP in section 5 emphasizes openness and access to information as fundamental rights given the potential impacts of oil discovery on individuals and communities. The NOGP commits to promote high standards of transparency and accountability in licensing, procurement, exploratory development production operations as well as management of revenues. It promises agreements between land owners and the prospecting/drilling firms to cover compensation for land surface interests as the main means of accessing land for related activities. In recognition of the potential of oil discovery and associated industries including distribution on land, the policy proposes acquisition of land by oil companies and or government. Furthermore, the policy pledges to take into account the communities where oil and gas production is undertaken in sharing of royalties.

2.4 Comparative analysis of revenue sharing: Lessons from other countries

There is dearth information about the details of the production Sharing Agreements between Uganda and the prospecting companies. This has become part and parcel of the civil society discourse on oil and benefit sharing but has not brought government to bear. In this sub-section, we expound on the petroleum fiscal system⁴⁴ component and classification used in some countries. The idea here is that experiences from elsewhere would provide insights to the nature of benefits accruing under the different systems and stages of exploration for purposes of informing

⁴⁴ Of which royalties are part

recommendations as well as policy in general. In most countries the resources are held by government on behalf of the citizens and the government charges royalties as is the case in Uganda. In the United States, the resources are owned directly by individuals and it is them that charge royalties.

The combination of royalties and tax for each country reflect the resource characteristics, policy objectives and culture. For instance in countries that are net exporters (with attractive resource base and market) tend to have higher royalties while the reverse is true for net importers which have lower royalties to encourage production. Uganda being a net importer suggests that the royalties and taxes will have to be set low to attract investors. Some fiscal policies apply before discovery of oil or gas including bonuses, and land rental fees- it is these that are largely applicable in the case of Uganda as of now. The majority of fiscal levies including royalties largely apply after production begins⁴⁵. Countries such as China, Mexico, Saudi Arabia and Venezuela have national corporations through which the state participates in the industry⁴⁶. This appears to be the model on which the proposed National Oil and Gas Corporation is based (NOGP: 2008).

⁴⁵ Alberta Royalty Review 2007

⁴⁶ In this case the state obtains a share of the corporate profits in addition to royalties and taxes.

CHAPTER THREE

METHODOLOGY

3.0 Introduction

The study was conducted in five sub-counties in three districts of Bulisa, and Hoima (Table 3-1). This section presents the approaches to the study:- the sampling criteria, methods of data collection and analysis and the limitations.

3.1 Data Collection Methods

The study utilized three main methods of data collection including household surveys, key informant interviews, records review and Narratives which are discussed in detail in the following sections.

3.1.1 Household survey

The household interviews were carried out using a predesigned questionnaire and largely targeted the head of household or their spouse. Households covered in the study were selected following mixed criteria at different levels. A part from the districts, two sub-counties per district and two villages per sub-county where and around oil had been found or prospecting was going on were selected purposively with the guidance of the local leaders⁴⁷.

Twenty five households were selected by way of systematic random sampling from a sampling frame for each village drawn by the study team under the guidance of Local Council chair persons. The table below presents a summary of the geographic dispersion of the sample realized.

⁴⁷ District and sub-county officials

Table 1: Scope of coverage for Household Survey

District	Sub-county	Number of villages	Households covered
Buliisa	Butiaba	2	51
	Kigwera	2	48
Hoima	Buseruka	2	51
	Kabwoya	2	50
Amuru	Amuru	4	100
Total		12	300

3.1.2 Key Informant Interviews

Key Informant Interviews following a semi structured questionnaire were conducted for LC1 officials, Sub County chiefs, chairperson Area land committee, chairperson District Land Boards⁴⁸.

3.1.3 Records Review

Records of the land office and the district land board for five years (2005 to date) were reviewed using a standard data extraction form. The extraction of the information was carried out by the district land officers. This was deliberately done to overcome the sensitivity with which land related records are regarded (See annex III).

3.1.4 Narratives

Narratives of individuals who owned or at one time used land where oil exploration has been done in the districts of Amuru and Hoima were carried out⁴⁹. The discussion during the narrative interview focused on;

- Ownership history of the land

⁴⁸ Initially the Resident District Commissioners were supposed to be among the Key Informants but this was abandoned after noting that they were using this interaction to impeding data collection in their precincts.

⁴⁹ Collection of narratives in Buliisa was hindered by the intervention of the RDC who halted the data collection exercise.

- General uses of the land
- Initial contact with the exploration firms and subsequent interaction.
- Detail on land transaction with Exploration Company (nature of arrangement i.e sale, lease, rent or any other, duration of the lease and amount received.)
- Arrangements to share revenue from oil between the respondent and exploration companies
- Level of knowledge of the respondent of the provisions for oil benefit sharing in the constitution or any other policy.

3.2 Data Analysis

Analysis of data from the household surveys was done using the Statistical Package for Social Sciences (SPSS) while the pattern and trend analysis used qualitative data (Narrative and KIs) on addition desk top research was also used.

3.3 Data and descriptive evidence

Descriptive evidence highlights the incidence and consequences of land conflict of the households in the sample, about one third lost plots due to land conflict since 1994, more than double the share (15%) who had engaged in land sales market transactions in the same period. There is weak evidence that land conflict is more frequent on freehold land and less prevalent under customary tenure. Although a much higher share of plots under conflict (31% as compared to 13%) is cultivated with perennials, the fact that output per acre is less than half of what is obtained on plots without conflict, points to significant contemporaneous losses, something that is confirmed by direct testimony from the households affected by conflict.

3.4 Sample and methodological considerations

The scope for standard household surveys to provide information on land conflicts is limited for a number of reasons. First, in view of the fact that land is a key element in households' asset portfolio (about 60% in Uganda), information on land-related conflicts is very sensitive and therefore unlikely to be divulged immediately to enumerators unfamiliar with the community. In fact, it is widely believed that the incidence of land conflict that is obtained in traditional surveys suffers from serious under-reporting precisely because of the fact that households fear that doing so may

negatively affect the outcome. Second, to that extent that land grabbing conflict is a comparatively rare event, over-sampling will be required to increase the effective sample size.

Third, as plots that have been lost or abandoned due to land grabbing conflict will not be mentioned unless specifically asked for, both the survey instrument and sample will need to be adapted for this. At the same time, because households remember conflicts for a long time, obtaining retrospective information and probing for institutional issues related to occurrence and resolution of land grabbing, will be possible.

3.4 Limitations of the study

The limitations of the study were largely in relation to data collection at two primary levels. Most importantly was the inability to extract information from the national land registry which would have given an indication of the pattern and trend of land titling and land transactions in the districts. This was due to the fact that clearance to extract this information was not given in time. The timing of the study coincided with COVID 19 Epidemic lockdown period which makes many officials jittery with fear of getting the disease hence reluctant to meet in person or even give away information that may damage the government and may be used against the president.

The other limitation related to data collection was interference by the Resident District Commissioners who made it difficult to get accounts of the people who previously used the land where oil related installations have been put. Even where these people were traced, some people declined to be interviewed for fear of reprisal by government agents.

CHAPTER FOUR

CHALLENGES

4.1 Structural drivers of Land conflicts

Despite peculiar land conflicts, courtesy of a colonial legacy, there are structural drivers of land conflict in Uganda, inherent in the functioning of the institutional structures, within which individuals and groups secure access to land and associated resources that have exacerbated the situation.

4.2 Deficit in Dispute Resolution

A governance deficit manifests itself in variety of ways such as absence or weak central authority to enforce law and order, control by interest groups and biased policy, absence of transparent rules of law and enforcement, inadequate institutional and legal framework, and deficiency in capacity (i.e., manpower, finance and broad-based political support), where there is potential or actual conflict, there is governance deficit. There are two parallel legal and judicial systems in place for dealing with land issues, that of customary tenure and that of the state administration. Although the latter recognizes the former, there are unresolved contradictions in the way in which it has co-opted it, which could be a potential source of conflict over land in the future and are likely to give the more powerful an advantage in land disputes. The nature of mediation and dispute resolution mechanisms are important factors in determining whether parties involved in a conflict will resort to violence: if they are seen as partial or ineffective, violence is likely.

Formal tenure covers significantly less than 20% of the area, implying that more than 80% of land is held under forms of customer tenure which de facto falls outside the realm of the law statutory law⁵⁰. This has led to a situation where, instead of complementing each other, “traditional” and “modern” systems compete, giving those who are affected by conflicts in parallel through a variety of channels. There is a multiplicity of land dispute resolution institutions⁵¹ working in parallel,

⁵⁰Rugadya, 2008

⁵¹ According to the LCCs/Legal Aid Baseline Survey (2006), the mechanisms for access to justice in Uganda include the formal justice system, the informal system with the LCCs operate in 953 sub-counties, 5225 parishes and 44,402 villages

which many times leads to “forum shopping” by aggrieved parties, without a clear hierarchy-this has created overlaps and conflicts in land disputes processing.

It is also common for dispute resolution to be undertaken by the President’s Officer (Director for Land Affairs), and the offices of resident District Commissioners. This situation has left the justice-seeking public confused, delays in settlement of disputes and creates a backlog as disputes escalate. It should be noted that the multiplicity can only be positive if it is creating variety rather than confusion amongst users to the extent that they are viewed as complementary (both formal and informal). However the duplicity in roles, hierarchy and jurisdiction needs systematization, which recognizing the values and incorporating the roles of traditional institutions in defining the functions of statutory institutions.

In the absence of formal government structures, access to the justice system is difficult and at the lower ends is poorly equipped to deliver and enforce justice. Experience has shown that many types of land disputes are best managed outside the courts. Limited court capacity to process land claims efficiently and transparently is a serious constraint in many places. Thus, alternative dispute resolution processes, especially mediation and arbitration, can be useful, while customary and community-based mechanisms for conflict resolution may be relevant in some cases, given the fact that dispute resolution in customary tenure is based more on mediation than upon passing judgment in favour of one party or another.⁵²

The framework of laws for administration of land justice exists however, the efficacy of the institutions is well below the expected standards, so in practice one can hardly speak of meaningful access in the area of land justice, since there is little motion in terms of cases moving to final resolution, with that the public is losing confidence in the justice system, extra judicial means to resolve disputes are now being pursued leading to loss of lives or under hand eviction orders from the Registrars’, because the systems moves too slowly, in part due to the staffing (a few Judges for example in the Land Division in High Court who have other responsibilities as well such as criminal cases).

Local Council Courts (LCCs) are the institutions that mainly deal with land conflicts but are often going beyond their legal mandates when dealing with land conflicts. LCC2 and LCC3 are the

⁵² Rugadya.. et al, 2008

courts that are supposed to deal with land conflict but due to a lack of effective mechanisms it is the LCC1 that deals with land conflicts but LCCI does not have the legal authority to do so, The surveys have found that people trust the LCCs as they are seen as accessible, fair, and uncomplicated. However, LCCs are far from perfect institutions and have problems with exploitation and nepotism. Vulnerable groups such as women and children are particularly prone to exploitation by the LCCs. They need gender sensitization as well as education campaigns on human rights.

4.3 Deficit in Land Administration

It is important at this level that land administration is distinctively addressed from conflict resolution, rather than rely heavily on either of the two, since they are complimentary in nature and the smooth functioning of one determines the efficiency of the other. The Land Rights administration is beset by a number of malfunctions-these are a source of land disputes and conflicts-until recently, land sector institutions were designed to serve the interests of a narrow minority of relatively wealthy registered land owners. Land conflicts and disputes are on the increase and yet there is lack or no capacity at all in the institutions charged with the adjudication and settlement of land disputes both statutory and traditional. The increasing and continuing proliferation of administrative and statutory land governance institutions existing in parallel with traditional institutions is creating a complex land governance infrastructure; this is made worse by the fact that some of these institutions are not fully operational in certain areas; such as northern Uganda and yet they are defacto legal institutions.

For example, the Surveyors Registration Board⁵³ has been blamed on the increased number of unqualified land surveyors who have deliberately failed to adhere to professional standards, “mistakes are done during boundary openings and the problem is serious due to increased number of ‘undercover’ surveyors”. “If we are to curb land conflicts, there should be no short cuts to quality”.⁵⁴ Out of the 650 surveyors so trained in the country, only 56 are registered members of the Institution of Surveyors of Uganda, a professional body for surveyors in the country. Within the traditional institutions on the other hand, custodians of customary law are modifying customary or informal systems to address changing socio-economic conditions often times skewed to

⁵³ A government regulatory body charged with the professional registration of surveyors

⁵⁴ John Musungu, Chairman Surveyors Registration Board.

guaranteeing greater and more secure rights for male custodians at the expense of weaker and marginalized groups thus more disputes.

Many of the land administration institutions are weak or not functioning. Land Committees that are to be responsible for recording land boundaries on customary and recording transactions of in certificates in occupancy at the local level have largely not been formed due to financial constraints. There is also a lack of knowledge on the part of the sub county chiefs that are supposed to perform the role of recorder to the level that they are not even aware of this particular responsibility. District Land Boards are also rare and District Land Offices that are supposed to support them are weak. The land register in Uganda, which operates on the Torrens System of land registration, embodied in the Registration of Titles Act (Cap. 230), was established over 100 years ago. It is estimated that 60% of the records in the register is currently out of date; this therefore means that the available information is no longer reliable and therefore impinges on the integrity of land register since it does not depict the true situation with regard to the current ownership and other interests on registered land.

According to the Baseline Evaluation Report (2007), the land registry's main problems revolve around; (1) fraudulent and back-door practices which lead to the losses of the property by rightful owners, undermine public confidence to the state registration system, affect the land tenure security, makes the transactions of the property uncertain and has tragic consequences for many families that suffer from such practices (2) counterfeit and titles circulating in the market, which create additional uncertainty in the market (3) the existing registration system and procedures are too disorganized and practically ineffective to prevent such cases and properly resolve the issues (4) the degraded registry environment and damaged and outdated land records leave a little chance to the genuine owners and clients to protect themselves or get reliable information about the property (5) a great majority of the title records in registry strong rooms are in very dilapidated and sorry state, and they continue to deteriorate, with consequent loss of information and strategic data sets (6) inappropriate systems are still predominantly used in the land records management and archiving systems; the manual system results in wear and tear, loss of documents and consequent loss of information.

4.4 Corruption and Ignorance of the Law

Corruption and illegitimate demand for money both in land administration and dispute resolution is at the extreme. Despite Government of Uganda's (GoU) array of policy formulations and technical achievements, several studies including the 2003 National Integrity Survey reports indicate that the perception of corruption and real level of corruption in public offices in Uganda is still high. The Land Registry processes about 15,000 to 20,000 transactions annually.⁵⁵ MOJ carried out a survey in 2004 and found out that the registry was making an average of 100 filings per day. The filing involved transfers, lodging and release of caveats, withdraws and release of mortgages, extension of leases, surrender of leases, fresh registration of leases and free holds. The report of survey indicates also that 92% of the lawyers perceive an increase in corruption in the Land Registry.

Corruption and illegitimate demand for money slow the justice delivery process. A 2008 survey⁵⁶ for Ministry of Justice found that 88% of respondents were asked to make un-receipted payments in dispute resolution institutions. 52.3% of the respondents in the survey reported that they had made payment to District Land Tribunals (official and unofficial payments for the services they received). Bribery was highest (33.0%) in the central police; 16% in the High Court; 16% in the Magistrate's Court; 11% in the District Land Tribunals; 7.3% in the LCI Courts. Bribery was least common in the customary courts where only 2.7% of the households paid a bribe.

It is also a fact that knowledge on law and rights especially land law is limited amongst communities. A survey⁵⁷ for Ministry of Justice showed that an aggregate of 90% of respondents had no knowledge of what is contained in the Land Act. Not even a single district amongst those surveyed had more than 15% of their population with any knowledge of the contents of the Land Act. In another survey⁵⁸, six years after the passage of the Land Act, it was found that such knowledge remained low; only little or more than a quarter of the population indicated that they were informed about the law.

⁵⁵ MOJ Survey, 2004

⁵⁶ Rugadya...et al, 2008

⁵⁷ Rugadya...et al, 2008

⁵⁸ Gender Baseline Survey, 2004 for Ministry of Lands

4.5 Population Growth

By 2050, Uganda's population is expected to reach 120 million, three-fold the current population. Uganda's population is growing at a high rate of 3.2 per cent and is projected to shoot up to 39.3 million in the year 2015 and 54.9 million in 2025 due to high fertility rate (6.7) this relatively high level of population growth has led to increased land scarcity and it is also characterized by considerable regional diversity⁵⁹. Population densities vary from 12 per km² in the north to 282 per km² in the West (Mugisha 1998)⁶⁰. The average Ugandan woman gives birth to seven children in her lifetime. Rapid population growth, combined with either limited opportunities for non-agricultural employment or, in other area, increasing non-agricultural employment or, in other areas, increasing non-agricultural demand for land, is a key factor that causes land values to appreciate, resulting in higher competition for a limited or decreasing amount of land available. This is the major driver for conflicts across generations or ethnic groups as most of the land conflicts are in highly populated areas, a population policy might also be a key element in averting an escalation of land wars in Uganda, especially those related to inheritance. Population growth can be contained through family planning, cultural and legal measures. Legal measures include abolishing of early marriage by setting a higher marriage age of first marriage for all kinds of marriages and legalization of abortion for unwanted pregnancies in the words of chief Administrative Officer (CAO), Mukom sums it all: '... every funeral results in more land conflicts because of especially polygamous marriages and belief that making a will is tantamount to signing your own death warrant...'

This section presents findings from the different sources of information employed by the study including; the household survey, interviews with key informants, extraction from the district land board and summary of narratives. The social and economic profiles of the respondents during the survey are presented first. Analysis of the information collected during the study revealed stark

⁵⁹ As cited in status of urbanization in Uganda, 2007

⁶⁰ Uganda's GDP grew an average of 6.2 percent per year between 1987 and 2004 (IMF 2005a). However, when the country's high annual population growth rate is taken into account the per capita growth rate becomes relatively modest.

differences for Amuru compared to the other two study districts of Hoima and Buliisa. This can be largely attributed to the fact that oil exploration was at a relatively early stage in Amuru District.

4.6 Social profile

A total of 300 respondents participated in the household survey of which 93% (273) were heads of household. Women accounted for 25% (76) of all respondents. On the whole the respondents were of varied ethnic backgrounds with 63% indicating to have migrated into the study areas while 37 were born in the same locales. The mean number of children below 18 years was 5 while that of a person above 60 years was only one.

This investigation found 90 (62%) of the respondents were aware of the existence of community clubs/groups within their area but 56 (38%) of them were members of at least one such group with a mean membership duration of 4 years. The main activities of these clubs were related to farming, drama imparting knowledge about HIV/AIDS and support for orphans and widows.

4.7 Economic Profile

Economic aspects in the context of this study, focused on land owned by the households, land use and major sources of income. The 300 households covered use 486 parcels bringing the average number of land holdings to two for each household. The average size of the land holdings was 1.35 for the two districts of Buliisa and Hoima. The average land holding by households increased to 10.23 acres when Amuru with an average land holding of 29.91 acres is included. Hoima district recorded the highest land utilization rates with an average of 93% of the main parcel which may be related to the relatively smaller holdings in the area.

The research carried out depicts the differences across the oil prospecting areas in three districts; In Butiaba and Kigwera (Buliisa district) and, Buseruka and Kabwoya (Hoima district), oil prospecting and drilling is mainly along the shores of Lake Albert and therefore fishing and trade in fish is a very important economic activity which partly explains the low prevalence of land based land uses. Agriculture/farming is an important source of income for the communities in Buliisa compared to Hoima where over 80% of the respondents' views trade in fish as the main source of income.

4.8 Settlement patterns and Tenure Arrangements

Information collected during the survey on settlement patterns of the respondents revealed that 53% of the respondents had actually been born in the area. For the 140 migrants, 55 (39%) indicated to have moved into the area over the last five years while 45 (32%) indicated to have moved in between six and ten years.

The respondents were also asked to indicate when they had first used the land on which they were found at the time of the interview. The responses varied across the three districts with 40% of the respondents in Buliisa indicating to have started using the land before 1985, 32% and 63% of the respondents in Hoima and Amuru districts respectively indicated to have started using the land within the last ten years. The migrants were largely from elsewhere in the sub-county (59%) and other districts with in the respective regions (23%). The reasons for migration are forced wars, evictions, joining relatives, marriage commitments, and looking for land.

4.9 Land holding and Acquisition

There is often confusion over tenure among the population and therefore the survey applied the term land holding. Land holding refers to how people relate to the land particularly the nature of their claim to the land. The responses from Buliisa and Hoima vary greatly from those from Amuru highlighting the historical differences between the two respective regions. Most of the respondents indicated to be in possession of sales agreements in Buliisa (35%) and Hoima (44%). A number of respondents indicated to be Kibanja holders as indicated in the figure below. On the whole customary land holding pervades all the three districts although most prominent in Amuru district.

Figure 2: Types of land holding (See Annexure at the Back) Source: ULA Study 2010

The means of acquisition expectedly showed a related pattern with inheriting land being the commonest means of land acquisition at 41% followed by buying land at 35%. This scenario makes

many land holders invisible especially in areas where formal tenure exist alongside informal tenure. Benefits may end up being given to a registered land lord at the expense of holders of secondary rights-Kibanja. The absence of any kind of documentation makes it difficult for the land holders to prove or indicate their ownership when compensation happens.

4.10 Patterns and Trends of Land transactions

The level of land transactions in the study areas was very low with a prevalence of land sales among respondents of only 2% in the preceding two years. The prevalence of buying land was higher at but remains abysmal at 11%. None of the respondents from Amuru district reported to have bought or sold land over this period.

Information was extracted from the records of the district land board to give insights on conversion of tenure particularly to formal tenure namely leasehold and freehold. Research shows an increasing trend in conversion of land to formal tenures-leasehold and more recently freehold-over the years particularly in Hoima. It is important to note that Hoima district is the oldest of the districts and its land administration and management structures have been in place for longer which may explain the difference in level of titling compared to other study districts. There is also show a shift from leasehold to freehold starting in 2007 this follows amendment of (2004) to allow for conversion of customary land into freehold as opposed to leasehold. The number of applications for sub-divisions and transfers of suggests low level transactions over registered land compared to other transactions. The local leaders were of the view that land transactions over had increased as well as prices in all the three districts. This coupled with the level of application for conversions and applications suggest that most transactions are on unregistered land which is increasingly being converted to freehold.

4.11 Land Related Problems and their Causes

The interest in land generated by the discovery of oil in the Albertine region has the potential of exacerbating land disputes and escalating evictions as people move to position themselves for potential benefits. This sub section focuses on the most common problems related to land and their causes with specific focus on land disputes. The most common land related problems mentioned include among others, land grabbing and encroachment (42%), increased land disputes apparently due to oil discovery (27%), and land fragmentation (21%). The leading causes of land related

problems include corruption among the land administrators (21%), population growth (18%) and absence of clear boundaries (14%).

The overall prevalence of land disputes among the survey households is 42% with Hoima registering lower levels (19%) compared to over 50% for the other two districts. In 56% of cases neighbors were mentioned as the other disputant.

4.12 Interactions between Oil Exploration Companies and Communities

Interaction between oil companies and on the one hand and the community on the other can be viewed from two perspectives; one is communication defined by the frequency of communication, the channels of communication, the object of communication. The other is from transactions which two pronged-accrual of benefits and obligation/roles. The issue of interaction between the oil companies and the community in this study were put to local leaders who have a wider perspective compared to the community members. Responses from the local leaders in Buliisa and Hoima districts indicate that the community relates with the companies through a liaison officer (community development officer) for Tullow-directly as well as through local leaders. Some leaders viewed the relationship as being unclear and largely adhoc without clear communication channels. Leaders in Amuru district indicated absence of a relationship direct or otherwise between the prospecting companies and the communities.

See Figure 3: Rating of relationship between oil prospecting companies and the communities

(See Annexure at the Back)

On the quality of the relationship, most leaders in Hoima were of the view that there was a good relationship between Tullow and the community largely due to the projects implemented by the company under what appears to be part of social corporate responsibility. Some leaders however felt that the relationship was marked by unfairness.

4.13 Level of Knowledge of laws/policy related to land and oil

It is clear from the discourse that voluntary disclosure of information by government on oil transactions is the exception-actually in most cases it has been compelled. While there is a lot of information at the national level on the country's potential, the policies and laws regulating the sector, very little of this information trickles down to the host communities.

The respondents exhibited very little knowledge of laws on both land and oil with 40% and 67% attesting to knowing nothing about the respective laws. Even where they claimed to know some aspects, there were great misconceptions deliberate or otherwise- that attests to low levels of knowledge. The local leader's responses also conform to this scenario with all judging the level of knowledge of laws among community members as low. A closer look at this response shows that in many cases the laws are misconstrued. The level of knowledge among the local leaders on the same also appears to be low.

There are also indications that very little are known about related activities among the community in all the three districts as indicated by some of the accounts of some respondents. This goes for areas where Tullow oil is prospecting despite the company having a fully-fledged community development office for the region.

'No one has ever come to inform us about oil related activities in our area. All we see are helicopters flying over this area which is peculiar. There are rumors that it is the prospectors trying to find oil'. Respondent in Hoima

4.15 Effects of oil exploration

4.15.1 Benefits

This thesis focused on benefits from oil exploration that occur at two levels; first is the micro level where benefits accrue to private individuals/households. There are indications that some individuals had been paid by Tullow oil to lease land where installations are erected including base camps in Kaiso Tonya area Hoima district. This could not be verified during the study as the team could not identify people who had leased land to the companies. Efforts to get their details from Tullow were futile.

At the community level, the benefits were restricted to Buliisa and Hoima districts which may be due to the fact that the process of oil exploration in Amuru district is behind the two districts. There has been remarkable improvement in public infrastructure and social services undertaken by central and local government, as well as by the oil companies themselves, in support of oil-prospecting activities or as part of their social corporate responsibility strategies. Improved public infrastructure and utilities has spurred an increase in inward migration as already mentioned. In spite of this their seems to be improved welfare of people, improved infrastructure enabling

increased movement goods and people which has in turn increased local economic activity and increase in incomes.

4.15.2 Adverse effects of Oil exploration

While the effects can also be viewed at micro and macro levels, the most of the effects cited largely permeate communities as they are mainly to do with social aspects as well as access to resources. On the social front, oil discovery has been associated with increase in land disputes in all the three districts. Furthermore, in ward migration into the area particularly in Buliisa and Hoima has led to increase in prostitution and crime, prostitution, unexpected unrealistic increase in land prices, physical displacement, disruption of economic livelihood, increased land grabbing.

There were reports of restriction of access to prospecting areas including resources in the three districts as a result of oil exploration. The restriction covers access to fishing waters, grazing lands, watering points for animals, and cultural sites among others.

‘For a very long time we used to fetch firewood from the nearby game reserve. However when the Wild Life Authority learnt about the existence of oil, they stopped us from going into the reserves. The boundary of the reserve was extended further into our land.’ Respondent in Hoima

‘The site at Ngasa is where we used to perform rituals which we were not allowed to perform upon the discovery of oil. The spirits were annoyed and the fish catch reduced which forced some people to migrate to other areas.’ Respondent in Hoima

There is no clear indication of a mechanism for compensating for restricted access to the communities that depend on the resources in the area whose importance has already been explained. This in many cases is a trigger for social unrest in oil rich area and should be guarded against in Uganda’s case.

CHAPTER FIVE

FINDINGS AND RECOMMENDATIONS

5.1 Settlement Patterns and Land Tenure

Information collected during the survey on settlement patterns of the respondents suggests that there is a substantial rate of inward migration (47%). On the whole customary land holding pervades all the two districts. The means of acquisition expectedly showed a related pattern within heritage of land being the commonest means of land acquisition at 41% followed by land purchase at 35%.

5.1.2 Land Transactions

The level of land transactions among respondents was very low with up to 11% of the mat testing to having been involved in a land transaction in the preceding two years. Information extracted from the District Land Boards shows an increasing trend in conversion of land from customary tenure to formal tenures-leasehold and more recently freehold.

5.1.3 Land Related Problems

The most common land related problems mentioned include among others; land grabbing and encroachment (42%), increased land disputes apparently due to oil discovery (27%), and land fragmentation (21%). The leading causes of land related problems include corruption among the land administrators (21%), population growth (18%) and absence of clear boundaries (14%).

5.1.4 Relationship between Communities and Oil Exploration Companies/Government

Responses from the local leaders in Bulissa and Hoima districts indicate that the community relates with the companies through alia is on officer (Community Development Officer) for Tullow Oil directly as well as through local leaders. Some leaders viewed the relationship as being unclear and largely adhoc without clear communication channels. Leaders in Amuru district indicated absence of a relationship (direct or otherwise) between the prospecting companies and the communities.

5.1.5 Level of Knowledge about Land and Oil Related Laws.

The respondent exhibited very little knowledge of laws on both land and oil with 40% and 67% at testing to knowing nothing about the respective laws. The level of knowledge among the local leaders on the same also appears to be low.

5.1.6 Impact of oil Exploration on the communities

It is clear that the impact of oil exploration in the study areas is dependent on stage. Oil exploration process in areas of Bunyoro (Buliisa and Hoima) is more advanced nearing oil production. In Buliisa and Hoima districts, there has been remarkable improvement in public infrastructure and social services undertaken by central and local government, as well as by the oil companies themselves, in support of oil-prospecting activities or as part of their district where oil exploration is still at infant stage.

On the social front, oil discovery has been associated with increase in land disputes in all the three districts. Furthermore, inward migration into the area particularly in Buliisa and Hoima has led to increase in prostitution and crime.

5.1.7 Conclusions and Recommendations

In general terms the level of transparency is demonstrated particularly by government suggests that the sector is on a different course from that suggested by the National Oil and Gas Policy. The extent to which government goes to protect information concerning oil activities is alarming even at district level.

Furthermore, the leaked PSAs suggest that there will be no maximization of benefits for Uganda as a country. While there are many forces advocating for greater share from oil revenue accruing to local governments, the share of land owners appears to be disappearing from the discourse.

Pressure on government to increase transparency and later on accountability should be sustained. Also, the issue of sharing royalties- including share accruable to landowners- and the mode of land acquisition should not be lost in the discourse over oil. The debate ought to be stretched to include the importance aspects of terms of use of land for oil related activities, disruption of livelihoods such as access to natural resources.

Information on land transactions including transfers, conversions and dealings over unregistered land at the district and sub-county (Area Land Committee) ought to be accessible to the general public for scrutiny.

The government and the companies are largely organized yet the community members on the other side are not. It is therefore important that community members in the oil exploration are organized in a group in order to pool resources for common voice and ultimately negotiation.

This section presents deductions from the finding on the objectives and guiding questions of the study. It is clear that the impact of oil exploration in the study areas depends on the stage of Oil exploration process in areas of Bunyoro (Buliisa and Hoima) nearing oil production.

5.1.8 Impact of oil Exploration on land Tenure and Livelihoods

Oil exploration has resulted into restriction of access to resources from which livelihoods are derived. During prospecting, access to tracks of land previously used for cultivation, grazing and other forms of resource extraction for communities and sectors of Lake Albert was restricted. There are also allegations of expansion of the gazetted land around prospecting areas to restrict access to such area. Without reparations or compensations to those dependent on the affected resources, the livelihoods of the people have been strained by reduction in incomes and production especially in agriculture and fishing.

There is also a lot of anxiety among surrounding communities over the future due to uncertainty over the course exploration will take as well as the conduct of both the exploration companies and the government.

On the bright side, there has been tremendous improvement in infrastructure and social services such as health and education around the oil exploration areas in Buliisa and Hoima districts. This has led to increase in in-ward migration to the townships close to these areas as people move in to take advantage of the economic opportunities that may be created. Already a number of businesses are coming up in the centers which provide alternative employment and income to the people besides agriculture. The increased population provides market for agricultural produce thereby improving the incomes of surrounding farmers.

There is unprecedented interest in land in all the areas where oil prospecting is being done. This appears to have increased land disputes and tenure insecurity fuelled by corruption and suspicion due to lack of information on land ownership and transactions. Meanwhile, land transactions have increased in the areas while land holdings appear to have reduced as a result of subdivision Buliisa and Hoima. The rate of increase of land transactions in Amuru district is still below that in the other two study districts.

5.1.9 Characteristics of the New Land Acquisition in the Albertine Graben

Owing to failure to extract information from the central land registry on land registration, we rely on information from the district land offices and the local leaders to deduce the characteristics of the new land acquisitions. Most of the new land acquisitions involve people from outside the areas acquiring land from holders or local leaders. The transactions also involve conversion of customary land to registered land-freehold tenure. For applications the district land boards, agriculture is the main activity for which the land is required. There are also reports of leasing of land by companies to erect essential infrastructure from both holders and the district land board. The terms of the leases are not clear.

5.1.10 Business Practice of the OIL Exploration Companies and the Government

This section focuses on the business practices of the companies and government while dealing individuals and communities in the host communities. There is no specific framework to regulate the transactions between the oil companies and government on the one hand and the communities on the other. Such a framework is important for the maximization of benefits accruing to those who deal with the powerful and more knowledgeable companies.

There is also no clear communication channel among the actors-government, oil companies and the community. In some instances the companies deal directly with land owners or leaders through their liaison office as is the case with Tullow or other agents while in others they go through government. The relationship is characterized by information asymmetry un-favorable to community members. The compensation paid has been viewed as being unfair.

Lack of information about oil exploration, policies, benefits and their accrual is costly to the communities in two primary ways; first is that in case of grievances on compensation or any other issue related to oil exploration activities, there is no clear avenue of raising these issues as well as

guarantees that they would be given due attention. This may sow seeds of discord on which resources based violence feeds. Second is that decisions over land taken without adequate information are below optimal. Such decision is the decision to sell land and the price at which it is sold in light of potential streams of income in the form of royalties and/or future gains in land value. The information asymmetry between the ignorant land seller and knowledgeable buyer dampens the former's benefits due to oil discovery. Parties to a transaction should have access to information for decision making.

Also, the infrastructural improvements so far undertaken by the oil exploration companies have been misconstrued as being share of oil revenue accruing to the community even when they are part of social corporate responsibility programs. This makes it difficult to raise the critical constituency to advocate for benefit sharing- there is a false sense of having a share of oil revenues.

5.2 Recommendations

Pressure on government should increase transparency and later on accountability should be sustained. This will increase discussions on the resource which is associated with parsimonious utilization of resources, improvement of the terms of the PSAs as well as revenue sharing among central and local governments and, land owners. More so the pressure should involve groups from the oil producing area so that the campaign is seen to involve communities around the oil resources.

Also, the issue of sharing royalties and the mode of land acquisition should not be lost in the discourse over oil. Receiving royalties and leasing of land may confer greater benefits to land owners compared to one time land sale or compensation. Thus the debate ought to be stretched to include the important aspects of terms of use of land for oil related activities, disruption of livelihoods such as access to natural resources or simply access.

Information on land transactions including transfers, conversions and dealings over unregistered land at the district and sub-county (Area and Committee) ought to be accessible to the general public for scrutiny. This will reduce the space for land administrators to extract rents through sanctioning fraudulent land transactions. This level of openness could also go a long way in allaying fears among community members of behind the curtain deals.

The government and the companies are largely organized yet the community members on other side of the divide are not. This presents a number of challenges for negotiation between the two groups. It is therefore important for the community members in the oil exploration areas to be organized under some form of group in order to pull resources, for a common voice and ultimately negotiation. This could be spearheaded by the civil society. The Civil society also has a duty to ensure that it reaches people.

The anti- corruption government institutions should step up to prevent corruption in government justice institutions and land institutions responsible for land registration and prevent all back door transactions on land especially around areas of oil production. The government will prevent issuing of fake titles, violence on land, illegal eviction of people and forceful displacement of communities in areas of oil production.

The government should ensure to have an adequate Judicial institution by appointing Justices of high integrity and training to avoid clogging the system with un resolved land cases especially land conflicts a raising from oil exploration. Justice should be made accessible irrespective of the parties status. The government should hire trained attorneys in matters of land acquisition and resettlement in the oil and gas industry to expeditiously handle such cases without any delays.

The parliament should make laws providing for the time frame with in which land disputes should be determined to reduce land conflicts and violence.

The courts should uphold mediation and dispute resolution mechanisms by giving parties in dispute opportunities to resolve issues out of court.

The government should professionalise the body of land surveyors. The government should appoint fully trained and qualified surveyors affordable by all people to ease land surveying throughout the country to a void fraudulate surveys that have boosted land conflicts in Uganda.

The government should create fully operationalised land committees responsible for recording transfers, conversions and other transactions of certificates of occupancy under the customary land tenure and bibanja land holders.

There is need for public lectures sponsored by government about oil and gas activities, land policies, family planning to control population in oil areas inter alia to reduce land grabbing.

In conclusion the government should prioritize consultations to ensure that all land transactions and challenges are resolved to safeguard people's rights to also enable government-run oil and gas projects in a timely manner.

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Annexes

Annex 1: Key informants

No.	District/Name	Gender	Designation	Contact
	Hioma			
1	Robert	Male	LCI Vice chairperson	
2	Juma	Male	Ag. Sub county Chief	
3	Martin	Male	Chairperson Area Land	
4	Johnson	Male	Vice Chairperson	
	Buliisa			
5	Makayanga Livingstone	Male	Sub county Chief- Kigwera	
6	Richard	Male	Chairperson District Land	
7	Busiinge Godfrey	Male	Sub county Chief- Butiaba	
8	Babyetiza Herasmos	Male	LCI Chairperson-Piida A	
9	Ntakimanya Deo	Male	Chairperson Area Land	
10	Tugume Bernard	Male	Chairperson Area Land	
11	Mugasa Musuku Stanley	Male	LCI Chairperson-Nyamitete	
12	Abok Matyasi	Male	LCI Chairperson-Nyamasoga	
	Hoima			
13	Kasangaki Gustav Ofungi	Male	LCI Kyehoro	
14	Sefatiya Kato Mboneraho	Male	Chairperson District Land	
15	Bigirwa Wilson Atwoki	Male	Sub-county chief-Bueruka	
16	Amayire Nicholas	Male	Chairperson Area Land	
17	Manuel Birengo	Male	Member Area Land	
18	Ocama Gilbert	Male	LCI Chirperson Sebagoro	
19	Isingoma Jotham	Male	LCI Chairperson-Toony A	
20	Musinguzi Moses	Male	Sub county chief Kabwooya	