

**ASSESSING THE EFFICACY OF LAND LAWS AND THEIR IMPACT ON THE
GROWING LAND MARKETS IN THE ALBERTINE REGION**

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Declaration

I, Obbo Gerald hereby declare that this dissertation is my work and it has not been submitted before to any other Institution of higher learning for fulfillment of any academic award.

Signed.....

Date.....

Approval

This is to certify that, this dissertation entitled “**Assessing the Efficacy of Land Laws and their Impact on the Growing Land Markets in the Albertine Region,**” has been done under my supervision and now it is ready for submission.

Signature.....

Mr. Ivan Mugabi

Date.....

Dedication

I wish to dedicate this work to my family, my lovely wife as well as my daughter who have always given me support morally, financially and spiritually through their prayers. I would like to thank them for all the unconditional and unquestionable love, care and support they have always given me.

May God bless those individuals!

Acknowledgement

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Abstract

This research sought to assess the how well land Laws in Uganda are set up regulate the impact of oil discovery on land markets. To do so, the research set up questions upon which the research objectives were based. The objectives of the research were (a) to examine the legislative and regulatory framework governing land ownership and use in Uganda, (b) to examine how commercial oil discovery has impacted on the population growth, land use patterns and the value of land in the Albertine region, and (c) to examine the ability of the Land legal framework in regulating the growing land market in the Albertine Region. These were preceded by the methodology of the study that put forth the research design, population and ethics to be considered. The research adopted a qualitative research design where a few members of the targeted areas were interviewed. The concluded that there are inflated population densities in the districts where oil development is occurring within the most recent census period, and a trajectory of population density that differs from the national average of Uganda and non-oil impacted districts. Additionally, oil-impacted districts had increased fragmentation and conversion of natural lands compared to non-oil impacted districts. It was also concluded that the discovery of oil resource led to the increase in values of the land in the Albertine region. This in turn has been the leading cause of land grabbing and other land related injustices. Based on the findings, the researcher made recommendations to all involved parties on how best to regulate land issues in the Albertine region.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction

The study was designed to examine how oil discovery has impacted Uganda's land markets. In this regard, Uganda's land markets referred to the value of Uganda's land, arising from the discovery of oil in the nation. The various activities involved in the life cycle of the oil and gas industry are associated with vast environmental and social impacts. For this reason, this study encompassed a critical investigation of how the oil and gas industry is correlating with trends in population growth, changes in market prices in the land values of land tenure systems, and the varied patterns of land use conversion within the municipalities of Fort Portal and Hoima districts.

1.2 Background of the Study

The oil industry plays a vital role in the economic development of many countries, mainly through the provision of revenues to fund the national development agendas. In developing countries, oil discoveries are occasionally seen as one of the easiest ways of escaping poverty.

Generally, oil as a commodity has been characterized as a common natural heritage of a country and the motor for global industrialization. The price volatility and consequent boom-bust cycles of oil make it a high capital-intensive resource whose extraction is often dependent on sophisticated technological equipment; consequently, this makes it exceptionally attractive to the public, and private actors have given its potential for profit generation. The combination of all these factors tends to produce what has been called the "paradox of plenty".¹

Despite the oil and gas sector being one of the lucrative industries with positive social impacts on the communities, many studies also document enormous negative impacts of oil activities

¹ Basedau, M. (2005). Context Matters – Rethinking the Resource Curse in Sub-Saharan Africa. Retrieved from <https://core.ac.uk/download/pdf/71729493.pdf>

on communities.^{2 3 4} Oil has on one hand been considered as a blessing but on the other hand, also portrayed as a curse.⁵ Thus, with these risks and benefits associated with the oil industry, several mitigation measures must be put in place by the governments, regulators, and operators of the oil and gas sector.⁶

In 2008, the government of Uganda approved the National Oil and Gas Policy (NOGP). The NOGP provides a guiding framework for the development of the country's oil and gas sector. The goal of NOGP is also useful in ensuring that the country's oil and gas resources are contributing to poverty eradication and create lasting value to society.⁷

As of 2016, Uganda's oil and gas sector had three partners namely; CNOOC, which is one of China's largest oil companies founded in 1982, Total; a French-based multinational integrated company founded in 1924, dealing in oil and gas; and Tullow Oil, which is a multinational company also dealing in the exploration of oil and gas. Tullow is headquartered in Tullow-Ireland, and it was founded in 1985. The three partners formulated a Land Acquisition and Resettlement Framework (LARF). The LARF provided a framework for addressing the land acquisition and resettlement processes in the project affected areas and their respective residents. The overall goal of the LARF was to "develop and implement resettlement plans in a manner that gives physically and economically displaced persons an opportunity of at least having their livelihoods and standards of living restored by way of mitigation measures."⁸

It is against such a background that this research has been carried out with the principal objective of examining the effect of oil discovery on land markets. It stems from the fact that both the government and the private property developers continue to commit themselves towards the provision of affordable housing with the key drive of eliminating poverty among the population.

². Nanok, J. K., & Onyango, C. O. (2017). A socioeconomic and environmental analysis of the effects of oil exploration on the local community in Lokichar, Turkana County, Kenya, *International Journal of Management, Economics and Social Sciences (IJMESS)*. ISSN 2304-1366, *IJMESS International Publishers, Jersey City, NJ*, Vol. 6, Iss. 3, 144-15.

³. Akakpo, G. S. (2015). Social Impact Assessment Of Oil And Gas Exploration In The Western Region Of Ghana: A Case Study Of Sekondi/Takoradi Metropolis. Research Gate.

⁴. Barclays. (2015). Environmental and Social Risk Briefing : Oil & Gas.

⁵. Sejjal, S., Wagacha, N., & Baru , E. (nd). Situation Analysis: The State of Oil and Gas in East Africa. East African Law Society.

⁶. Clers, S. D. (2007). Mitigating the Impacts Of Oil Exploration And Production On Coastal And Wetlands Livelihoods In West / Central Africa.

⁷. Ministry of Energy and Mineral Development. (2017). *Progress of Implementation of The National Oil and Gas Policy for Uganda*. Kampala: Republic of Uganda.

⁸. CNOOC, Total and Tullow. (2016). *Land Acquisition and Resettlement Framework, 'Petroleum Development and Production in the Albertine Graben'*. Kampala.

1.3 Problem Statement

The oil industry in the African context has been broadly considered as a curse rather than a blessing due to its failure in eliminating poverty in most oil-producing African countries.⁹ The successful running of the oil and gas industry in Uganda will therefore require a well laid out plan by the host government in order to ensure the effective management of risks and benefits associated with the industry.¹⁰

In Uganda, the commercial discovery of oil and gas in the Albertine region has not only impacted both positively and negatively on people but also on land in the region.¹¹ On one hand, the region is already witnessing the development of several infrastructures like roads, refinery, airport, and the proposed oil pipeline whose construction is yet to commence.¹² On the other hand, there is a remarkable increase in the area's population growth due to immigration. Besides, a significant number of land-related cases have surfaced ever since commercial oil reserves were discovered in this region.¹³

Notably, these land grabbing cases which have been rising gradually, are due to the desire by residents to benefit more from the perceived increased value of land in this area.¹⁴ In line with this perception, many residents have not only been displaced or evicted from their pieces of land by government and independent rich individuals but also have been restricted to use the land for other activities like agriculture.¹⁵

It is important to note that before the discovery of commercial oil reserves in the Albertine region, land was owned communally. Residents did not need any rules governing the use of land in their region.¹⁶

The issue of absentee land lords and the discovery of oil in 2006 as the main reasons that explain the occurrence of the land grabbing. Something that is different from the many

⁹. Robert G. M. Nyemah. (2011, February). Economics Of Oil Discovery In West Africa: The Nigerian Experience. Regional Maritime University.

¹⁰. Bainomugisha, A., Kivengyere, H., & Tusasirwe, B. (2006). A Review of the Oil and Gas Policy and Legal Framework for Uganda.

¹¹ Bategeka, Lawrence, Julius Kiiza, and Sarah Ssewanyana. "Oil discovery in Uganda: Managing expectations." Economic Policy Research Center, Makerere University (2009): 1-27.

¹² Ogwang, T., Vanclay, F., & Assem, V. D. (2018). Impacts of the oil boom on the lives of people living in the Albertine Graben region of Uganda.

¹³ The Protection of Rights to Customary Land Ownership in Acholi Region: The Case of Youth in Acholi. (2017).

¹⁴ Nyanzi, K. (2015). The Political economy of land grabbing in Oil resource areas. The Uganda Albertine Graben.

¹⁵ BankTrack. (2020). East African Crude Oil Pipeline (EACOP) Uganda. Retrieved from https://www.banktrack.org/project/east_african_crude_oil_pipeline/pdf

¹⁶ Byakagaba, P., & Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts.

scholars' view that agricultural reasons are the main cause. Land grabbing is mainly negative as it leads to loss of economic livelihoods, lack of cooking energy, displacement of people among others. Following the discovery of oil in the region, residents have gradually defied their traditional arrangement of owning land communally.¹⁷

Typically, this is attributable to the perceived increase in land value which is a result of oil discovery in the area.¹⁸ Unlike in the past when land was left idle or mainly used for farming and grazing, the trend in land-use patterns have changed considerably.¹⁹ Today, people are not scared of doing anything, be it illegal, as long as it allows them to retain ownership of land in the Albertine region. It is on this basis therefore that this study is conducted to assess the impact of oil discovery on land markets in the Albertine region.

1.4 General Objective

To assess the how well land Laws in Uganda are set up regulate the impact of oil discovery on land markets.

1.5 Specific Objectives

1. To examine the legislative and regulatory framework governing land ownership and use in Uganda.
2. To examine how commercial oil discovery has impacted on the population growth, land use patterns and the value of land in the Albertine region.
3. To examine the ability of the Land legal framework in regulating the growing land market in the Albertine Region.

1.6 Research Questions

1. What is the legislative and regulatory framework governing land ownership and use in Uganda?

¹⁷ Kizito, Nyanzi. "The Political economy of Land grabbing in Oil resource areas. The Uganda Albertine Graben." (2015).

¹⁸ Muriisa, R. K., & Twinamasiko, S. (2019). Land grabbing in the Albertine graben.: *Oil Wealth and Development in Uganda and Beyond*, 239-264.

¹⁹ EIN Uganda Clearinghouse. (2015). 1.8 – Land use and land tenure.

2. How has commercial oil discovery impacted on the population growth, land use patterns and the value of land in the Albertine region.?
3. Does the Land Legal framework have the ability to regulating the growing land market in the Albertine Region?

1.7 Justification of the Study

The discovery of oil in the Albertine Graben region has motivated the manifestation several effects on the environment and people living along the region. The impacts which are both positive and negative are changing people's perception regarding the value of land in the Albertine Graben region. Unlike prior to the discovery of oil in this region, land was communally owned. Residents in this region believed that it was not necessary to implement laws governing the use of their land.

However, all this changed after discovering billions of oil barrels in this region. Today, many people are suffering from land-related conflicts because everyone wants to own land that was previously owned communally. It is on this basis that the researcher conducted a study to examine how the discovery of oil has impacted on the value of land in the Albertine Graben region.

1.8 Significance of the Study

Results from this study exposed the various ways in which the market value of land in Uganda has been impacted following the discovery of oil in the Albertine Graben region. In addition, this study has become a rich source of information for other researchers who wish to explore a similar or related topic. Furthermore, policymakers are going to use the study for inference, especially when addressing challenges stemming from the discovery of oil.

1.9 Theoretical Framework

The theoretical framework is constructed by combining three different perspectives in order to get a broader analysis regarding the problems with land market growth issues. This perspective relates firstly to a definition of power in order to outline the different stakeholders 'perception on land issues. The framework will use Steven Lukes' third dimension of power, where power is explained and exercised through manipulation and domination over those that are less free.²⁰

²⁰ Lukes, Steven. *Power: A radical view*. Macmillan International Higher Education, 2004.

To get a deeper understanding regarding the effects that land market growth has on people and the environment, the Universal Declaration of Human Rights by the UN will secondly be included in the framework.

“Human beings are born free and equal in dignity and have the right to life, liberty and security[...]” (OHCHR, article 1).

It is of importance to get a human rights perspective since land issues in Africa and particularly Uganda, have led to dispossession of people, which affects their livelihood. Thirdly the theoretical framework will include Karl Polanyi’s theory about the transformation of the market economy, which has affected and is integrated in the society.

This has had a major effect regarding the relation between economy, politics and the society, where Polanyi claims that the society has become subordinate to the market economy, where labor and land have become products of the economic system and therefore been alienated from the society.²¹ Polanyi’s theory could contribute to outline and identify stakeholders as well as the discourse of land grabbing, since foreign investors acquire land for large-scale agricultural production to meet the demand of for example food and biofuels. A combination of these three perspectives will be used in applying the CDA on the materials being perused.

²¹ Polanyi, Karl, and Robert Morrison MacIver. *The great transformation*. Vol. 2. Boston: Beacon press, 1944.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

The chapter reviewed existing literature that relates to oil discovery in Uganda, and how the industry is affecting the market value of the nation's land. Chapter two is guided by the specific objectives that are aimed at allowing the conducting a chronological review of the existing literature by the researcher.

2.2 Legal Framework for land regulation in The Albertine Region

Inequities in land ownership and access have persisted in Uganda for centuries. Oloka Onyango writes that they

“have been exacerbated by the failure of post-independence governments to comprehensively pursue land reform measures which are equitable, rational and sustainable.”²²

In recent years, the situation has worsened due to the government giving away publicly owned land or acquiescing in illegal land grabbing.²³

Land has often been a source of tension as communities fight to protect their rights, individuals seek to increase their wealth and population growth puts more pressure on this limited resource. In both the colonial and post-colonial eras, Uganda has enacted policy and legal reforms aimed at resolving historical injustices and contemporary challenges, but it has failed to find a solution that harnesses land as a driver of inclusive growth and reduced inequality.

The first major effort to juggle the interests of landowners and occupants was the 1900 Buganda Agreement between the colonial government and the Buganda Kingdom. The agreement quickly came under strain, and in 1903 the colonial government enacted the Crown Land Ordinance, claiming oversight and control of land that did not fall under private ownership.

²² Oloka-Onyango, J. (2017), “Land Injustice, Impunity and State Collapse in Uganda: Causes, Consequences and Correctives”, Human Rights and Peace Centre (HURIPeC), Makerere University

²³ Espeland R.H. (2006). The “Lost Counties”: Politics of land rights and belonging in Uganda. Bergen, Norway: University of Bergen and Chr. Michelsen Institute. https://www.mpl.ird.fr/colloque_foncier/Communications/PDF/Espeland.pdf [Accessed 28th February, 2021]

Traditionally, people were able to establish security of tenure over land under tribal or clan rules. The Ordinance allowed indigenous Ugandans to occupy land, in accordance with these customary laws, if it was not subject to a freehold or leasehold – however, the implication was that the British Governor could sell or lease this land to someone else. The uncertainty this created undermined incentives to invest in improving land.

At independence, the Public Lands Act (PLA) 1962 vested the management of Crown land in the new independent state. A 1969 revision to the PLA stopped the issuance of freehold and leasehold grants on any public land occupied by customary tenants without proof of their consent.²⁴ More radically, the Land Reform Decree (LRD) of 1975 converted all Uganda’s land into leaseholds and vested it in the State to be held in trust.

The current legal framework for land ownership, administration and use is anchored in the 1995 Constitution.²⁵ It declares that land belongs to the citizens of Uganda, not the state, and defines four land tenure systems: customary, freehold, mailo and leasehold.²⁶ Particular complications are introduced by mailo, especially when the land is commoditized.²⁷ With its origins in the Buganda case, the mailo system defines the rights and obligations of an owner of land that is occupied by others in good faith. As the Minister of Lands put it,

*“As someone who deals with land matters every day, Mailo system is the number one challenging system because of the multiplicity of interests on that land.”*²⁸

Chapter 15 of the Constitution lays down the functions of the Uganda Land Commission (ULC) and District Land Boards (DLBs) as managers of land for public good. The Land Act 1998 was enacted to implement the Constitution. It formally recognizes customary land tenure, and provides citizens an option to acquire certificates of customary ownership.²⁹ It provides for the conversion of customary or leasehold land tenure to freehold.³⁰ And it recognizes the security of tenants and bona fide occupants of land. However, implementation has been ineffective.

²⁴ Mugambwa, J. (2007) “A Comparative analysis of land tenure law reform in Uganda and Papua New Guinea”, *Journal of South Pacific Law*, Vol. 11, No. 1: 39-55. www.paclii.org/journals

²⁵ Article 15 and 26 respectively.

²⁶ Article 237[1], [3].

²⁷ Daily Monitor March 4, 2018. Opinion: Bamugemereire should not throw away the baby with the bath water. pp. 10.

²⁸ Daily Monitor March 30, 2017 at <http://www.monitor.co.ug/News/National/Mailo-land-system-hardest-tomanage/688334-3870282-1230qkb/index.html> [Accessed 28th February, 2021]

²⁹ Article 237 (4) [a] of the 1995 Constitution and Section 5[1] of the 1998 Land Act respectively

³⁰ Articles 237[5] and [6].

2.2 Impact of Commercial oil Discovery on Populations Growth in the Albertine Region

According to EIN, there are similar trends in the population demographics of the Albertine region compared with other oil producing regions.³¹ Typically, the structure is in the form of a pyramid, which is indicative that the number of dependent age groups doubles that of independent groups. Additionally, the population demographic structure is comprised of more females than males.

Notably, out of the total population in the Albertine Graben region, 49% are males, while 51% are females. Arua and Nebbi are the districts in the Northern part of the Albertine graben region that have the highest population density as compared to Amuru with the lowest.³² In Central, the highest population density is found in Masindi and Kibaale districts as compared to Kiboga and Buliisa with the lowest. Contrary to Bushenyi that has the highest population density in the South of the Albertine graben region, there is a low population density in Rukungiri and Kasese.³³

In his review, Nyanzi contends that the discovery of oil in the Albertine Graben region has attracted many individuals in this area, particularly, in the Bunyoro kingdom. The seemingly rich immigrants come to the region to buy large chunks of land.³⁴ As such, this influx of recent land owners are prognostically expecting to sell their pieces of land at a comparably higher prices than the average market rates in the likely event that the presence of oil is ascertained by the government.

Nyanzi highlights that over 700 ha of land in Buliisa have been bought by these new comers. Because of oil discovery in Uganda's oil districts, these areas are increasingly becoming sparsely populated since residents are forcefully evicted from their ancestral lands. Moreover, many victims of this mistreatment or human rights violation hardly receive any compensation for their pieces of land.

In their attempt to protect their land, these aggrieved lawful occupants have resorted to doing whatever is in their means, including undressing for land grabbers.³⁵ A significant number of

³¹. EIN Uganda Clearinghouse. (2015). 1.9 – Socio-Economic status of the Albertine graben

³² *ibid*

³³ *ibid*

³⁴. Nyanzi, K. (2015). The Political economy of land grabbing in Oil resource areas. The Uganda Albertine Graben.

³⁵. Ogwang, T., Vanclay, F., & Assem, V. D. (2018). Impacts of the oil boom on the lives of people living in the Albertine Graben region of Uganda.

residents in the Albertine region have fallen prey to land-related conflicts between themselves and the land buyers.³⁶ It is noted that the discovery of oil and the related activities such as oil drilling and digging of seismic wells have not only caused the displacement of people but has also caused an influx of migrants into some areas of the Albertine Graben region.

The migrants move to this region in search of opportunities that are perceived to stem from oil and the related activities. Accordingly, Annet Kutesa warns that the new migrants may not only cause an increase in the growth of the region's population but will also intensify the pressure on the existing limited land resources.³⁷ In addition, there is an increase in the demand for social services like water, education, infrastructure, and health services among others, and these are all attributable to a growing influx of new settlers.

Whereas the discovery of oil has triggered an increase in population growth across this oil endowed region, there are various challenges amidst opportunities, such as the problem of ill-health associated with a high-population due oil-related activity remain a public concern. In a report compiled by EPRC, it highlights the likelihood of residents in the Albertine Graben region being prone to environmental pollution.³⁸ It is perceived that oil-related activities will cause different types of pollution, including water, air, and land pollution.

As a result, this shall impact livelihoods and wellbeing hence threatening the health of native populations that are bound to suffer from several complications. In the long run, this pollution may claim people's lives, thus causing them a significant decrease in the size of the population. In their research, Ogwang, Vanclay, and Assem warn that the influx of people in the Albertine Graben region would lead to various socioeconomic and environmental challenges often associated with the high population. For instance, there is a possibility that the newcomers may engage in prostitution, leading to a spread of sexually transmitted diseases, including HIV/AIDS. Furthermore, criminology among the population is likely to increase with increasing population growth.

Byakagaba and Twesigye note that before the discovery of oil in the Albertine region, this area was sparsely populated. Moreover, there was no need for residents to fragment their land.³⁹

³⁶. Gildseth, I. (2013). Land tenure practices and land acquisitions in the oil region. The case of Hoima, Western Uganda.

³⁷. Kutesa, A. (2016, July 29). Local communities and oil discoveries: A study in Uganda's Albertine graben region.

³⁸. EPRC. (2015). Natural Resource Management In The Albertine Graben Region Of Uganda: Baseline Survey Report.

³⁹. Byakagaba, P., & Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts.

Typically, this is because most residents relied mostly on lakes for livelihood. The lakes provided fish for daily food. On the other hand, residents were comfortable sharing land for various activities like farming and grazing.

Accordingly, implementing rules and regulations that govern different land uses was unnecessary. However, land fragmentation, stricter rules of land use and abandonment of fishing have emerged ever since confirming the existence of oil in the Albertine region. With the increasing trends in population demographics, Byakagaba and Twesigye warn that the region is bound to face clashes over land ownerships following the growing desire to maximize personal land interests by every individual.

The discovery of oil in the Albertine Graben has also stirred up the process of urbanization in the region. Residents and migrants have intensively invested in developing towns within the Albertine region.⁴⁰ As a result of this remarkable effort, it is therefore unsurprising that some towns, including Fort Portal have been upgraded to city status. The remaining part of the region are districts with well-established governance systems at the local level. Examples of the most known districts in the region include Masindi, Hoima, and Kasese, to mention a few.

Following the ongoing development ventures, several Ugandan and foreign investors have strategically migrated to these towns for various economic activities.⁴¹ In addition, Fort Portal is a well-known center for tourism in the nation. All these factors have pulled masses from all over the world to the Albertine region. It is important to note that before oil was discovered in this region, majority of the local natives lived in rural areas.⁴² Today, a significant percentage of them resides within urban centers for either economic and leisure founded activities or permanent settlement.

2.3 Impact of Commercial oil Discovery on Land-Use Patterns in the Albertine Region

Just like any other regions in Uganda, Land in the Albertine region is predominantly used for agriculture. According to Ogwang and Vanclay, a huge chunk of land in this region is used for crop production and livestock farming. It is noted that there are 6788616 hectares of the total

⁴⁰. World Bank. (2015). Project Information Document (PID) Appraisal Stage.

⁴¹. Sseremba, D. K. (2020). Oil And Community Development In Uganda: Citizens' expectations and participation in the oil and natural gas sector.

⁴². Ogwang, T., Vanclay, F., & Assem, V. D. (2018). Impacts of the oil boom on the lives of people living in the Albertine Graben region of Uganda.

land in the Albertine region.⁴³ Out of this, EIN Uganda indicates that 79.1% of this total area, which is equivalent to 5369164 hectares, is used for settlement, agriculture, and other small land activities.⁴⁴

The rest of the land, 1419452 hectares, which is 20%, is protected land. Notably, the protected areas include wildlife conservation areas and forest reserves.⁴⁵ It is important to note that the Uganda Wildlife Authority (UWA) and (National Forest Authority) NFA manage the forest reserves in this area in conjunction with local forest reserve protection units in the area. On the other hand, wildlife conservation areas include national parks and wildlife conservation centers. Out of the total land in the Albertine region, 7.01%, which is equivalent to 462129 hectares, are covered by forest reserves. Also, 14.5%, an equivalence of 957194 hectares, are covered by wildlife conservation areas.⁴⁶

Prior to the discovery of oil in the Albertine Graben region, land in this area was used mainly for four purposes. These include wildlife conservation, settlement, Agriculture, and forest conservation. Following the discovery of oil in this region, the trend of land-use patterns has encountered gradual changes.⁴⁷ For instance, the use of land has been diversified to incorporate several other social-economic activities. Notably, the establishment of transportation facilities is one of these activities manifesting in the region due to oil discovery. As a prerequisite, the government has embarked on constructing both feeder roads and highways to facilitate easy transportation of people and their commodities.⁴⁸

These transportation facilities are also established to ease the movement and preparations for the process of exploring crude oil. The fact that the nation is about to commence the exploitation of its oil, efforts are being focused on the construction of the oil pipeline.⁴⁹ It is worth noting that this pipeline shall traverse more than ten districts in Uganda and eight regions

⁴³ Ogwang, T., Vanclay, F., & Assem, V. D. (2018). Impacts of the oil boom on the lives of people living in the Albertine Graben region of Uganda

⁴⁴ *ibid*

⁴⁵ EIN Uganda Clearinghouse. (2015). 1.8 – Land use and land tenure.

⁴⁶ *ibid*

⁴⁷ Patey, L. (2015). Oil in Uganda: Hard bargaining and complex politics in East Africa. Retrieved from <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2015/10/WPM-601.pdf> [Accessed 28th February, 2021]

⁴⁸ Ministry of Energy and Mineral Development. (2017). Progress of Implementation of The National Oil and Gas Policy for Uganda. Kampala: Republic of Uganda.

⁴⁹ Aalberg, B. A. (2019). The Development Of The East African Crude Oil Pipeline. Retrieved from <https://ntnuopen.ntnu.no/ntnu-xmlui/bitstream/handle/11250/2610874/no.ntnu%3Ainspera%3A2297362.pdf?sequence=1&isAllowed=y>

in Tanzania. Besides, the pipeline which will be 24 inches wide, will occupy between 10 and 30 meters of land in the ground.

In the same line of establishing developments on land, an oil refinery is being constructed in Hoima district.⁵⁰ Typically, the construction of this facility is in response to the need to refine the oil that will be exploited in the Albertine region. Before the discovery of oil, it was never thought of that there would be a refinery in Western Uganda. However, this changed following the confirmation of large crude oil reserves in the region.

Today, a big chunk of land is being used to set up a refinery.⁵¹ It is also worth noting that an airport is being established on the soils of the Albertine region. Typically, all these tremendous developments on land in this region are surfacing because of the existence of oil in the area. In relation to settlement that has been one of the predominant uses of land, investors have injected huge amounts of funds into bringing about urbanization of the area.⁵²

In this regard, the formerly considered trading centers are upgrading their statuses to towns. Remarkably, Fort Portal, one of the districts in the Albertine region, was recently promoted to a city status. The practice of urbanization has emphasized the removal of dilapidated structures to create space on land for establishing standard structures or buildings.⁵³ The new establishments are meant to give a true reflection of a region containing billions of oil barrels.

As noted earlier, 20% of the land in the Albertine Graben region is covered by either Game Park or forest reserves hence designated as protected areas. The region has ten national parks and wildlife reserves, all of which are essential in terms of tourism and conservation of biodiversity. Among the national parks in this area include; Queen Elizabeth, Bwindi, Kibale, Murchison Falls, Mgahinga, Rwenzori mountains, and Semuliki.⁵⁴ The wildlife reserves are located in various areas of the region.⁵⁵

⁵⁰ Manyak, T. (2015). Oil and Governance in Uganda. *Journal of Public Administration and Governance*, 5(1). Retrieved from <https://www.researchgate.net/publication/276887058_Oil_and_Governance_in_Uganda> [Accessed 28th February, 2021]

⁵¹ Sejjal, S., Wagacha, N., & Baru, E. (nd). Situation Analysis: The State of Oil and Gas in East Africa. East African Law Society.

⁵² Ministry of Lands, Housing and Urban Development. (2016). The Uganda National Housing Policy, 'Adequate Housing for All'. Kampala: Government of the Republic of Uganda.

⁵³ Kuteesa, A. (2016, July 29). Local communities and oil discoveries: A study in Uganda's Albertine graben region.

⁵⁴ *ibid*

⁵⁵ Smith, H. (2012). The Overlap between Conservation and Development Organizations in the Albertine Rift, Western Uganda. Retrieved from <https://pubs.iied.org/pdfs/G03724.pdf> [Accessed 28th February, 2021]

For instance, East Madi and Ajai are located in the North-Eastern side of the Albertine Graben region. Besides, Karuma and Bugungu wildlife reserves are found in Masindi and Buliisa districts. Other wildlife reserves in the Albertine region include Kyambura in Bushenyi district, Kabyoya in Hoima, Tooro-Semliki located in Bundibugyo, and Kigezi wildlife reserve in Kanungu and Rukungiri districts. It is also important to note that the region's protected areas also have forest reserves such as Budongo and Bugoma forest reserves.

Before the discovery of oil in the Albertine region, these protected areas were conserved purposely for wildlife as their intended land use. No other activity was allowed to take place in these protected areas, and this was mainly for purpose of conserving wildlife and biodiversity.⁵⁶ However, today, the trend of land-use in these areas has changed due to oil discovery. Particularly, the commencement of oil activities has fueled the changed trend in land use.

For instance, the construction of the oil pipeline project is expected to traverse across many of the previously designated conservation areas of the Albertine region. Bank Track notes that a feeder pipeline will originate from Tilenga oilfield and pass-through Murchison National Park before connecting to the main pipeline.⁵⁷ Similarly, another feeder pipeline will originate from Kingfisher oilfield and thereafter pass through Bugoma forest before reaching the pump station in Hoima.

The climatic conditions and physical landscape in the Albertine Graben region favor agricultural activities conducted from different locations of the region. In the rift valley zone, there is insufficient rain, which limits agricultural activities.⁵⁸ Besides, the rift valley also has sandy soils with drainage characteristics that worsen the suitability of this area to be used for agriculture. Thus, the biggest part of the rift valley in the Albertine Graben region is less essential in as far as agricultural practices are concerned. The foothills of mountain Rwenzori and the rift valley escarpment receive sufficient rainfall throughout the year. Thus, residents in this area often engage in agricultural activities at any time of the season.⁵⁹

⁵⁶ Ibid

⁵⁷ BankTrack. (2020). East African Crude Oil Pipeline (EACOP) Uganda. Retrieved from https://www.banktrack.org/project/east_african_crude_oil_pipeline/pdf [Accessed 28th February, 2021]

⁵⁸ Ayebare, S., Kihumuro, P., & Leal 26.43, M. E. (2018). Assessing the distribution and habitat use of chimpanzees in the corridor forests located between Budongo and Bugoma Forest reserves in the Murchison-Semliki Landscape- REDD+

⁵⁹ Kyomugasho, M. (2016). *Oil Industry in Uganda: The Socio-economic Effects on the People of Kabaale Village, Hoima, and Bunyoro Region in Uganda* (Master's thesis, Syracuse University). Retrieved from <https://surface.syr.edu/cgi/viewcontent.cgi?article=1613&context=etd> [Accessed 28th February, 2021]

The agricultural practices are backed up by the presence of fertile soils which support the growth of both food crops as well as cash crops. The main cash crops grown include cotton and tobacco, and these predominantly exist in Kasese and Buliisa district, respectively. Whereas coffee is grown in Bushenyi, Sheema and Ntungamo, tea is mainly grown in district such as Hoima, Tooro and Kanungu district. Kinyara is the only sugarcane plantation, and it is found in Masindi district. The main food crops grown, include bananas, maize, and beans. River Mubuku acts as a reliable source of water for irrigation, especially for farmers residing in the rift valley. Livestock farming is common among Batuku tribe residing on Semliki flats. Following the discovery of oil in this region, agricultural practices have been disrupted. Notably, this is common amongst individuals whose pieces of land for agriculture are located along the corridor where oil was detected.⁶⁰ Most of these farmers have lost their farm lands after being evicted by the government. The same incident happened in areas where the oil pipeline will pass. Accordingly, land in these sites is currently idle, awaiting the commencement of oil exploitation and construction of the oil pipeline.

The settlement patterns of the Albertine Graben region vary depending on the temperature. Due to the hotness in the general conditions of the rift valley, few people reside in this area. Moreover, the few indigenous pastoralists residing in the rift valley are predominately reliant on cattle rearing. These include Basongora in Kasese and the Batuku in Semliki flats.⁶¹ The majority of residents along the shores of Lake Albert and Lake George engage in fishing as their main income-generating activity.⁶²

2.3 Impact of Commercial Oil Discovery on the Value of Land in the Albertine Region

Several researchers highlight that the discovery of oil in the Albertine region has not only impacted the lives of residents but has also caused a substantial impact on land in this area. In their study on Extractive industries and society, Ogwang, Assem, and Vanclay connote that these impacts are both positive but also negative.⁶³ Before the discovery of oil in the Albertine Graben region, the land was communally owned by societies. Byakagaba and Twesigye reveal

⁶⁰ Mugerwa, F. (2013, August 21). Oil compensation splits Hoima residents. Kampala, Central, Uganda: Daily Monitor.

⁶¹ Albertine Region Sustainable Development Project (ARSDP). Resettlement Policy Framework (RPF). Volume 1 Final Draft Report." 2013.

⁶² *ibid*

⁶³ Ogwang, T., & Vanclay, F. (2019). Social Impacts of Land Acquisition for Oil and Gas Development in Uganda. *Land*, 8(7). Retrieved from https://www.researchgate.net/publication/334309344_Social_Impacts_of_Land_Acquisition_for_Oil_and_Gas_Development_in_Uganda [Accessed 28th February, 2021]

that residents were corporative and willing to share land for various activities like crop production and pastoralism.⁶⁴ Farmers could use land without any restrictions. However, following the discovery of oil in the region this changed as further substantiated in the forthcoming sections of the research.

Today, a significant number of residents are engaged in land-related conflicts either with fellow village mates or exterior investors who wish to own land by using fraudulent means. Illegal ownership of land is one of the emerging problems that has manifested following the discovery of oil in the region.⁶⁵ It is noted that this land grabbing practice is said to have begun as early as the 2000s before confirming the existence of commercial oil deposits in the Albertine region. Although the government of Uganda implemented laws against this vice, several individuals in the Albertine Graben region have fallen victim of land grabbing where influential people use fraudulent means to own land illegally.

The desire to benefit from the perceived increased value of land has fueled land-related wrangles among residents of the region.⁶⁶ Notably, this stems from the fact that many residents are opting to change from the customary system of land ownership to private ownership. Kansiime reveals that local leaders have embraced traditional conflict approaches like peace building, use of local councils, and strengthening traditional mediation to resolve the problem of illegal ownership of land.⁶⁷

Twinamasiko and Muriisa specify that appropriation of public land is one of the forms in which the ownership of land is unlawfully transferred or obtained by people in the Albertine region.⁶⁸ In Hoima and Buliisa districts, most of the land with oil reserves is public land. It has national parks, and the rest is found along the shores of Lake Albert. Some of the populations that had settled on this land are unlawful occupants and Congolese immigrants, some of whom were evicted following oil discovery in this region. It is worth noting that this eviction stemmed from the fact that the land value of the had increased following the ascertaining that several oil

⁶⁴ Byakagaba, P., & Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts.

⁶⁵ National Association of Professional Environmentalists. (2012). A study on land Grabbing cases in Uganda.

⁶⁶ Muriisa, R. K., & Twinamasiko, S. (2019). Land grabbing in the Albertine graben: *Oil Wealth and Development in Uganda and Beyond*, 239-264.

⁶⁷ Kansiime, K. N. "Promoting Traditional Ways of Handling Land Disputes in Western Uganda." 2019, www.researchgate.net/publication/336459267_Promoting_Traditional_Ways_of_Handling_Land_Disputes_in_Western_Uganda.

⁶⁸ Muriisa, R. K., & Twinamasiko, S. (2019). Land grabbing in the Albertine graben: *Oil Wealth and Development in Uganda and Beyond*, 239-264.

reserves lie beneath it. It is for the same reason that there are prevalent cases of land grabbing in the Albertine Graben region.

Twinamasiko and Muriisa reveal that most land grabbers in Buliisa are claim to have lawfully bought land from the owners.⁶⁹ However, these claims are questionably doubtable because investigations have often shown that the specified landowners are non-existent. Such incidents are common among individuals who wish to own land through fraudulent land deals, which is also attributable to the perceivably growing increase in the market value of the land in Albertine Graben.

In preparation for the oil refinery to be constructed in Kabaale parish, an area which is part of in Hoima district, the government Ugandan forcefully evicted several residents of that parish. Although the victims were compensated to look for other alternative places of their choice, the eviction caught them off-guard, and it happened against their will.⁷⁰

Due to this abrupt eviction, the most displaced occupants were unsatisfied with the compensation process of since most of them thought that their land was under-valued in relation to the amount being paid for compensation. It was not until the Africa Institute for Energy Governance filled a case for a hearing in Uganda's High Court that residents received fair compensation from the government.⁷¹ However, even when the land remained idle, local natives were justly restrained from using it for agriculture, regardless of land being the primary source of livelihood to the population in this area.

A similar situation existed in Buliisa where residents sought government's permission to use the 56-square miles land that were previously occupied by Bagungu pastoralists.⁷² Land that was rich in nutrients for food crop and cotton production was soon sealed off by police with a motive of restricting natives from using it.

The need to make large capital investments from acts of selling land is a powerful driver of land grabbing tendencies that are witnessed in Hoima and other parts of the Albertine Graben region. Prior to the discovery of oil in the Albertine Graben region, residents were unlikely to

⁶⁹ *ibid*

⁷⁰ Emerging Human Rights Concerns In The Albertine Graben In Uganda." 2017, www.albertinewatchdog.org/2017/10/01/emerging-human-rights-concerns-in-the-albertine-graben-in-uganda/. [Accessed 28th February, 2021]

⁷¹. Access to Information in Africa Project: The Case of Uganda In partnership with the World Resources Institute & International Development Research Council (IDRC). (2013).

⁷². Muriisa, R. K., & Twinamasiko, S. (2019). Land grabbing in the Albertine graben: *Oil Wealth and Development in Uganda and Beyond*, 239-264

recognize the relevance of having land titles. Typically, this is because 85% of the land in this region has always been owned through a customary basis, which is a simple registration.⁷³ In a bid to prepare for the perceived increase in the value of land due to oil discovery, the majority of the population have sought land titles for their plots of land.

A significant number of residents in Buliisa and Bunyoro have lost their land or have not been compensated because they lacked land titles showing that they are the rightful owners of land. Most of these victims were residing in parts deemed to have oil reserves, for instance, those in Bullisa who were living near the national park were evicted to pave the way for the construction of the oil pipeline.

Twinamasiko and Muriisa note that the Albertine Graben region has embraced land governance initiatives in the area's land tenure system.⁷⁴ Notably, the development that manifested following the discovery of oil guides on how landowners should manage land and natural resources. Through land governance, authorities are also mandated with full responsibility in terms of planning and make decisions regarding any investments on the land.⁷⁵ On the other hand, the same governance is meant to solve any conflicts related to land ownership and land grabbing being one of the vices for which there was establishment of a land governance policy.

Unfortunately, a significant number of land-related cases have remained a public concern in the Albertine Graben region.⁷⁶ Surprisingly, a dispute has risen between the central government and the Bunyoro kingdom, and this is about sharing revenues generated from oil.⁷⁷ The fact that much of the oil reserves are located in districts within the boundaries of this kingdom, accounts for the worsening state of relationship between the kingdom and the central government.

Typically, this stems from the failure of the current oil policy to specify how the revenues shall be shared between the central government and traditional institutions in the Albertine Graben region. Unless such controversial issues are handled with critical care, the declining state of

⁷³ Ibid

⁷⁴ Ibid

⁷⁵ Byakagaba, P., & Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts.

⁷⁶ Gildseth, I. (2013). Land tenure practices and land acquisitions in oil region. The case of Hoima, Western Uganda.

⁷⁷ Baligira, J. (2017). Land Politics and Conflict in Uganda: A Case Study of Kibaale District, 1996 to the Present Day.

relationship between the government and Bunyoro Kingdom could either paralyze or even delay the oil-related activities within the boundaries of the kingdom.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

Chapter three highlights the methods and procedures followed by the researcher while conducting the study. In its structure, this chapter embraces an analogical research onion. Notably, this onion that was developed by Saunders in 2007 describes the various stages that researchers should follow in the process of establishing an effective methodology for the study.⁷⁸

The onion's first section is concerned with the research approach and philosophy used in the chosen topic of study. In its second section, the onion gives a justification for the methods used in the research, and further highlights the strategies used in implementing the chosen methods. Following this part is the third section that focuses on data collection and analysis. In the last section, the research onion highlights the limitations that the researcher may encounter. As reflected in the figure below, chapter three of this study logically follows the layers of the onion by beginning with the outer layers before proceeding to the inner ones.

3.2 Research Approach

On a research onion, this is the outermost layer, whose main function is to shape the research design for the study of an individual. Saunders, Lewis, and Thornhill specify that there are two concepts to consider in relation to the research philosophy. These include epistemology and ontology.⁷⁹ Unlike ontology, which focuses on the nature of reality, epistemology looks at what is generally accepted. Bryman subdivides the philosophical layer into a classification of two other major segments, subjectivism, and objectivism.

Bryman emphasizes that a research methodology should embrace objectivism because this highlights the independence of existing social phenomena from social factors.⁸⁰ On the contrary, Saunders introduces two research approaches, including the inductive and deductive approaches. Most writers often prefer the deductive approach given its clear and logical linear

⁷⁸. Saunders, M., Lewis, P. and Thornhill, A. (2012). *Research methods for business students*. 6th ed. Harlow, England: Prentice Hall.

⁷⁹. *ibid*

⁸⁰. Bryman, A. (2008). *Social research methods*. 1st ed. Oxford: Oxford University Press.

sequence.⁸¹ Preferably, such a research approach is also suitable for this study that will involve reviewing literature and developing a hypothetical proposition that shall be tested before analyzing the collected data.

These procedures are typical of a deductive approach that incorporates the linear processes into research initiatives. It is worth noting that this approach integrates quantitative research, which is the method chosen for this study.

3.3 Research Design

This study made use of a doctrinal research methodology. Qualitative research design method was used and interviews were undertaken targeting specific identified groups of people especially those with information and knowledge that is important to the success of this research and data analysis through published documents and literature that is relevant for the topic in question.

3.4 Sampling, Data Collection, and Analysis

This section focused on how the researcher collected data and specified how analytical exploration was undertaken on the collected data. The section justified the type of data collection method embraced by the researcher. Saunders explains that surveys tend to use several data collection methods. Notably, these may include; interviews, questionnaires, observations to mention a few. Although the researcher can use all these in a survey, the choice of a specific data collection method depends on various factors.⁸² For this study, it adopted an interview guide as the best data collection tool because for two major reasons; firstly, the targeted respondents and secondly the sources of data.

A snowball sampling method was used given the challenge of time constraints and the complexity of selecting the right individuals for participate in the study. Notably, this non-probability sampling technique was chosen as the sampling strategy for undertaking the study.

The rationale for using snow ball sampling was that some people may not want to be found. For example, if a study was investigating something sensitive like land grabbing or insecurity,

⁸¹. Saunders, M., Lewis, P. and Thornhill, A. (2012). *Research methods for business students*. 6th ed. Harlow, England: Prentice Hall.

⁸². Kabir, S. M. (2016). *Methods Of Data Collection*. Retrieved from https://www.researchgate.net/publication/325846997_METHODS_OF_DATA_COLLECTION [Accessed 28th February, 2021]

or any other “unacceptable” societal behavior, potential participants would be wary of coming forward because of possible ramifications. However, other study participants would likely know other people in the same situation as themselves and could inform others about the benefits of the study and reassure them of confidentiality.⁸³

This sampling method was carried out by identifying potential subjects in the population. Often, only one or two subjects can be found initially. These subjects were then requested to recruit other people (and then ask *those* people to recruit others). Participants were made aware that they do not have to provide any other names.⁸⁴

These steps are repeated until the needed sample size is found. Ethically, the study participants were not be asked to identify other potential participants. Rather, they were asked to encourage others to come forward. When individuals are named, it’s sometimes called “cold-calling”, as you are calling out of the blue. Cold-calling is usually reserved for snowball sampling where there’s no risk of potential embarrassment or other ethical dilemmas.⁸⁵

This method was preferred for this research topic because it allowed for the study to take place where otherwise it might be impossible to conduct because of a lack of participants. More to that, Snowball sampling also helps a researcher discover characteristics about a population that they weren’t aware existed.⁸⁶

While collecting data, the researcher shall deliver and retrieve the questionnaire physically. For purposes of easing comparison and the process of analysis, the interview guide was comprised close-ended questions. In contrast, open-ended questions were also made available for purposes allowing the respondents to fully express their own opinions. The collection data using answered interview guides took one week.

However, incurring high costs while using this data collection method remained a concern that the researcher had to establish a way of resolving in the due course. Typically, the high cost was most likely bound to stem from the distribution, management and collection of the questionnaires. For purposes of ensuring that the designed interview guide meets the desired standard or quality, it was shared with the supervisor for any necessary improvements and modifications. The approved interview guide was used to interview the identified respondents

⁸³ Goodman, Leo A. "Snowball sampling." *The annals of mathematical statistics* (1961): 148-170.

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Ibid

3.5 Quality/Error Control

In the process of designing an interview guide, the researcher took into account the reliability and validity as the two main key points of consideration. On one side, reliability focuses on consistency of the interview guide.⁸⁷ It looked at the ability of the designed data collection tool to generate the same results when used in different places and at different time intervals. Bryman specifies three important aspects that a reliable interview guide should have. Notably, these include inter-observer consistency, internal reliability, and stability.⁸⁸

3.6 Access and Ethical Issues

Throughout the study, the researcher observed ethical considerations. Before going to the field to collect data, the researcher ensured that the supervisor approved the interview guide. The supervisor also issued an introduction letter to the researcher for identification while in the field. The researcher assured respondents that their information given on interview guides will be kept confidential and used for academic purposes only. Besides, the identity of respondents shall remain anonymous.

The researcher ensured that the respondents fill a consent form prior participating in the study. It also made it explicitly clear that the respondents were entirely free to withdraw their consent at any stage of the study. A declaration of no conflict of interest and potential biases was disclosed whenever and wherever these areas between the researcher and the research study.

3.8 Limitations

The researcher faced a challenge of limited funds, especially to facilitate the process of data collection. Besides, the allocated time was not sufficient to allow him conduct a comprehensive study whose results could be used for general inference. Furthermore, some participants were not be cooperative, which may affect the process of data collection.

Being that the area of study was a recognised region in Uganda's Oil and gas industry, the researcher's request took longer to be approved by the human resource manager as well as the Executive Director because a lot of scrutiny and revision had to be carried out to ensure that

⁸⁷ Ibid

⁸⁸ Bryman, A. (2008). *Social research methods*. 1st ed. Oxford: Oxford University Press.

the researcher was actually a student and not an undercover “spy” from another company that was seeking to “steal” the company’s information.

3.9 Work plan/Timeline (Ghant chart)

Activity	Oct	Nov	Dec
Topic identification	█		
Confirmation of the topic and objectives by supervisor	█		
Commencement of writing the proposal		█	
Proposal writing		█	
Completion of proposal writing			█
Submission of Proposal for approval			█
Responding to the supervisor’s comments (if any)			█
Final submission of the proposal			█

3.10 Conclusion

Chapter three focuses on philosophical justification, explains research methods, approach, and strategies. It also highlights the method used in data collection, describes the significance of the study, forecasts the potential challenges to be faced, and displays a timeline to be followed when writing this proposal.

CHAPTER FOUR

LEGAL AND REGULATORY FRAMEWORK FOR LAND ADMINISTRATION

4.1 Introduction

This chapter provides a background underpinning the legal framework upon which analysis is to highlight its strong points and its shortcomings in regulating market growth in land of the Albertine. This chapter analyses all the legal instruments which are used in administering land in Uganda ranging from policies, to laws to international instruments.

4.2 Legal Framework for Land Administration in Uganda

On the face of it, a common man would define land as a solid portion of the earth's surface.⁸⁹ But in law the term 'land' means more than that. The common law conception of land is summed up in the Latin maxim: *cuius est solum cuius est usque ad coelum et ad inferos*.⁹⁰ Translated literary

, as the maxim means that a person to whom a particular soil belongs also owns the heavens above and everything below it.⁹¹ The statutory definition of land indicates that the concept of land covers more than what meets the naked eye that is physical portion of the earth's surface.

For instance, Section 1 (i) of the Registration of Title Act is to the effect that land includes "Messuages"⁹² resources, tenements and hereditaments corporeal or incorporeal and in every certificate of title, transfer and lease issued or made under this Act, "land "also includes all easements and appurtenances appertaining to the land described there in or reputed to be part of that land or appurtenant to it. Other statutory definitions may be wider or narrower depending on the object of the particular legislation.

It is therefore significant to define land because it is important to determine the nature and extent of the rights of land owner against the rest of the community. The legal framework on

⁸⁹ I.J.T Mugambwa Principles of land law in Uganda. Page 50

⁹⁰ Ball, Stuart S. "The Vertical Extent of Ownership in Land." *University of Pennsylvania Law Review and American Law Register* 76.6 (1928): 631-689.

⁹¹ Grey K. Elements of land law (2^d ed. London Butterworth's 1973) P.6

⁹² Messuages means a similar structure and garden

land law in Uganda is governed by the 1995 constitution of Uganda as amended, various statutes, customary law and common law and principle of equity.⁹³

4.2.1 The Constitution of the Republic of Uganda, 1995

The Constitution of the Republic of Uganda, 1995 as amended, lays down fundamental principles with regard to land ownership. Since the Constitution is the supreme law of the country any other law or custom which is inconsistent with its provision is deemed null and void to the extent of its inconsistency with the Constitutional framework.⁹⁴ The Constitution also abolished the land reform decree and re - stated the system of customary land tenure, free hold, lease hold tenure and Mailo tenure.⁹⁵ It also made new and radical changes in the relationship between the state and land ownerships in Uganda; it declared that land in Uganda would hence forth belong to the citizens of Uganda.

In the Constitution it is stated that land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the following land tenure systems, that is to say customary, freehold, mailo and lease hold.⁹⁶ Non - citizens of Uganda may only own land but only in case such land is comprised in lease hold.⁹⁷

With respect to customary tenure, Article 237 (4) provides that

“all Ugandan citizens owning former public land under customary tenure may convert their title to freehold in a manner prescribed by the parliament.”

The Constitution also sets out detailed provisions relating to land rights while leaving provisions to be determined by subsequent legislation. It permits the government, or a local government body, to acquire land in the public interest subject to the provisions of Article 26 of the Constitution, which protects people from being arbitrarily deprived of their property right.

Article 26(1) is to the effect that, every person has a right to own property either individually or in association with others. The constitution also gave "lawful" and "bonafide" occupants of

⁹³ Coldham, Simon. "Land reform and customary rights: the case of Uganda." *Journal of African law* (2000): 65-77.

⁹⁴ Article 2(2) Constitution

⁹⁵ Article 237(3) of the Constitution

⁹⁶ Article 237 Constitution

⁹⁷ Art 237. 2 (c) Constitution

mailo land, freehold and leasehold a moratorium against eviction until parliament enacted an appropriate law to regulate their relationship with the registered owner of such land.⁹⁸

Article 238 of the 1995 Constitution establishes the Uganda Land Commission which is charged with the holding and managing of any land in Uganda vested in or acquired by the government of Uganda in accordance with the provisions of the constitutions. Article 243(1) provides for the establishment of Land Tribunals whose jurisdiction include the determination of disputes relating to the granting of leases, repossession, the transfer or acquisition of land by individuals, the Uganda land Commission or any other authority. Article 242 also empowers the Ugandan government to regulate land use in Uganda in accordance with the laws made by the parliament.

4.2.2 The Land Act Cap 227 Of 1998

The Land Act largely deals with land ownership, land administration and resolution of land disputes.⁹⁹ The Land Act was enacted in 1998, following five years of vigorous debatable controversies. Some of the Act's provisions had been previously mentioned in the Constitution and law was intended at giving them practical effect. The two most important issues covered by the Land Act are ownership and tenure rights and land administration.

Section 2 provides that all land in Uganda shall vest in the citizens of Uganda and shall be owned under different tenure systems which include; a) Customary (b) free hold c) Mailo and d) lease hold.¹⁰⁰ Section 42 provides for the acquisition of land by the government and it is to the effect that the government or local authority may acquire land in accordance with article 26 and 237(2) of the constitution.¹⁰¹

While the previous land Reform Decree of 1975 had sought to increase control over land by the central government and make tenure conditional on the land development, the Land Act of 1998 appears to be advancing a somewhat part of a very different policy. It expressly limits government owned land as that which was being used by the government when the constitution of 1995 came into force. It stipulates that if the government requires additional land it must purchase this, either from a willing seller or through compulsory acquisition in accordance with the rights to private property contained in the constitution.¹⁰²

⁹⁸ Article 237 (8) and (9)

⁹⁹ Introductory part of the land Act 227

¹⁰⁰ Land Act Cap 227

¹⁰¹ Land Act Cap 227

¹⁰² Articles 26 and 237 (2) constitution and S.42 land Act Cap 227

The Land Act also upholds the Constitution's support for women and girl's property rights by stating under section 27 that any decision made on customary land according to the customs or traditions that denies women access to ownership occupation or use of any land or violates the rights of women. Also, the 2007 amendment to the Land Act gives all spouses the right to securely occupy family land and requires for spousal consent of for any transactions that relate or affect family land.¹⁰³ The land Act further outlines the mutually reciprocating obligations which tenants and landlords have towards each other.¹⁰⁴

The Constitution, the Land Act and the National Land Policy are clear that women have property rights. For example, Section 28 of the Land Act makes it illegal for anyone to discriminate against women and children in respect of ownership, occupation and use of land, while Section 40 requires spousal consent for the transfer of household land. The NLP is supposed to

“redress historical injustices to protect the land rights of groups and communities marginalized by history or on the basis of gender, religion, ethnicity and other forms of vulnerability”

However, other laws – such as the Divorce Act and Succession Act – continue to discriminate against women in matters which affect land rights, such as marriage, divorce and inheritance. Proposed reforms that would more fundamentally challenge societal perceptions about gender have not received the necessary support. NLP proposal to guarantee gender equality in the rules of transmission of land rights under customary land tenure remains shelved.¹⁰⁵

In 2007, the government prepared a Land (Amendment) Bill designed to curb rampant, often forced, land evictions of occupiers lacking full ownership rights (especially problematic in urban/peri-urban areas). The Land (Amendment) Bill enhances the security of bona fide and lawful occupants. Under the proposed bill, a person claiming an interest in land held under customary tenure can only be evicted by a court order; and tenants on registered land can only be evicted for non-payment of rent. The Bill generated strong opposition from landlords, some parliamentarians, the Buganda, Acholi and other ethnic groups, bankers, many churches, NGOs, and citizens who argue that it will weaken property rights and jeopardize the ability of landowner to use lands as collateral for loans. The bill was passed in November 2009.

¹⁰³ Section 39 land Act Cap 227

¹⁰⁴ Section 32 A (1) Land Act Cap 227

¹⁰⁵ Para 41 of the NLP

4.2.3 Registration of Titles Act Cap 230

The Registration of Titles Act, as the title suggests, deals with transfer and registration of titles to land.¹⁰⁶ In Uganda, the system of registration of title which operates is commonly known as the Torrens system which was introduced in Sir Robert's own state of South Australian in 1858, and subsequently it spread to other Australian states, New Zealand, Malaysia, Papua New Guinea some states in the U.S.A and some Canadian provinces.¹⁰⁷

The Torrens system was introduced in Uganda by the Registration of Tittles Act (Cap 205) which was enacted in 1922 by Ordinance 1908 and the Equitable Mortgages Ordinance 1912, The Act is based on the Transfer of Land Act, 1915, of the Australian state of Victoria. The Registration of Titles Act (Cap 230) automatically applies to all mailo Land included in any final certificate and all lands alienated in freehold or leasehold and any transaction relation to such land.¹⁰⁸ Customary land tenure is not registrable under the Act. Owners of land under customary tenure who wish to bring their land under the Act must convert their tenure to freehold as provided for under the Land Act.

The Torrens system has two essential features that distinguish it from other system of conveyance; title by registration and the principle of indefeasibility of title. The two features are inter-dependent and they are both essential to the Torrens system.

Title by Registration

Under the Torrens system, interests in land are created or transferred not by execution of document or under the common law but by registration in the manner prescribed by the Registration of Title Act. The key provision is Section 54 which stipulates that an instrument purporting to confer an interest in land is not effective to pass any estate or interest in land or bind the land by way of mortgage until the instrument is registered as provided under the Act.

Unregistered instruments

Though Section 54 of the Registration of Title Act Cap 230 states that no estate or interest can be created or transferred until the instrument purporting to transfer the same is registered, the section does not thereby deny unregistered instruments any legal efficacy.

¹⁰⁶ Provision on the introductory part of Registration of Titles Act

¹⁰⁷ Section 7(i) registration of titles Act Cap 250

¹⁰⁸ Rowton Simpson, land law and registration (Cambridge University press 1976) pg ?????

Indefeasibility of Title

The second essential feature of the Torrens system is the principle of indefeasibility of the title. Basically, this means that once a person is registered as proprietor of an estate or interest in land, the government guarantees that his or her title cannot be divested or attacked by rival claims (and except as prescribed under the R.T.A). Interestingly, the expression, "Indefeasibility, though widely used in the R.T.A, its meaning and scope is nevertheless, extracted from what professor Whalan describes as a "Mosaic of sections"¹⁰⁹ These sections include;

Section 59 which declares that

"the certificate of title shall be conclusive evidence of all particulars and endorsement therefore of and the person named in the certificate as the proprietor is possessed of the estate or interest described".

The courts are required under the section to receive and treat the certificate of title as conclusive evidence of its particulars. Section 64 declares that subject to the exceptions stated therein, the estate or interest of a proprietor registered under the Act prevails over any other unregistered interest or claim over the land.

Section 176, 181 and 184 protects a registered proprietor against any action or ejection or damages. Except as stated in these provisions, production by a person of certificate of title on his or her name is deemed to be an absolute bar estoppel against any legal action.

Exceptions to indefeasibility

The principle to indefeasibility of title though central to the Torrens system is not absolute. It is subject to several exceptions, some of which are expressed within the registration of title Act Cap 230.¹¹⁰ Others are created by overriding statutes and by the courts in the exercise of their inherent jurisdiction.

The exception from the Registration of Title Act Cap 230 is provided for under section 176. The section guarantees the indefeasibility of a registered title. This is subject to exceptions; encumbrances notified on the folium, fraud, the estate of a proprietor claiming under a prior instrument of title, land included by wrong description, interest of any tenant of land, Adverse

¹⁰⁹ Mugambwa Principles of land law in Uganda (which page

¹¹⁰Deiningner, Klaus, and Raffaella Castagnini. "Incidence and impact of land conflict in Uganda." *Journal of Economic Behavior & Organization* 60.3 (2006): 321-345.

possession, Public rights of way and easements and unpaid rates, taxes and charges.¹¹¹ Other exceptions not from the Act include lease, license and other authority granted by the minister and lastly but not the least, registrar's powers as an exception to indefeasibility and these powers are granted under the Land Act.

Co ownership of land

Co- ownership of land is where two or more persons concurrently own an interest in land. The interest may be a lease hold, freehold and mailo. Each co-owner is entitled to the simultaneous enjoyment or use of the land. This is by claiming not a separate portion but a mutual right in the whole co-ownership may be in joint tenancy or tenancy in common.

Joint tenancy

There is a joint tenancy where two or more persons together as a group own the entire interest in the property. Co-owners in joint tenancy unlike tenants in common, do not have distinct shares in land. In the eyes of the law, they hold the whole jointly and nothing separately. A joint tenancy has two essential features which distinguish it from a tenancy in common, presence of the four unities and the right of survivorship. Unless these two exist, there cannot be joint tenancy.¹¹²

Article 26 of the Constitution gives connotations for the joint tenancy/co-ownership by guaranteeing ownership of property by all Ugandans individually or in association with others. Under Section 56 of the RTA (Cap. 230) the legal presumption as to the joint tenancy is stated as follows: Two or more persons who are registered as joint proprietors of land shall be deemed to be joint tenants and, in all cases, where two or more persons are entitled tenants in common to undivided shares or in any land those persons shall in the absence of any evidence to the contrary be presumed to hold that land in equal shares.

Tenancy in common

This differs from joint tenancy in that tenants in common hold land in individual shares. In other words, each tenant in common holds a distinct share in the property. What makes the parties co- owners is that they all have shares in a single piece of land. Though the land is not yet physically divided amongst them, each tenant in common has a fixed share in the land. The doctrine of survivorship does not apply hence if one of the tenants in common dies, his or her

¹¹¹ Ibid Supra Note 104

¹¹² Section 56 of Registration of Titles Act

undivided share of the land passes under his or her will or intestacy. Although the four unities may be present in a tenancy in common, the only essential are is unity of possession.¹¹³ Support with relevant case law.

4.2.4 Mortgage Act 2009

Section 3 of the Mortgage Act is the effect that a person holding land under any form of land tenure may by an instrument in the prescribed form mortgage his or her interest in the land or part of it to secure the payments. Section 5 provides for mortgage of matrimonial homes notwithstanding section 39 of the Land Act. However, such a mortgage is only valid if the document creating a mortgage has been assented to by the mortgagor and the spouse.

Section 7 of the Mortgage Act provides for the creation of mortgages on customary land. And it is the effect that mortgage is under customary land shall continue to be in accordance with customary laws Section 8 of the Mortgage Act provide that mortgage of a land shall take effect as security only as shall not operate as a transfer of any interest or right from the mortgagor to the mortgagee. Section 20 provides that where a mortgagor is in default, the mortgagee may require the mortgagor to pay, appoint a receiver, lease the mortgaged land, enter into possession or sell the mortgage land.

A recent Ugandan High Court decision, *Sendagire Stephen and Nanyombi Gladys v DFCU Limited, Kabiito Karamagi and Kirumira Godfrey Kalule*¹¹⁴, has set out good practice requirements for a mortgagee in exercising their right to sell mortgaged land upon default by a mortgagor.¹¹⁵

The plaintiffs borrowed money from the defendant bank, against a mortgage over property developed with a school (the “mortgaged property”). The plaintiffs defaulted and the defendant bank appointed a receiver to recover the loan. The property was advertised for sale and eventually sold to the third defendant.

In deciding whether the suit property was lawfully sold, the judge held that the relationship between a bank and customer was one of close proximity based on trust and confidence and

¹¹³ Ibid

¹¹⁴ *Sendagire Stephen and Nanyombi Gladys v DFCU Limited, Kabiito Karamagi and Kirumira Godfrey Kalule* HCCS No. 26 of 2008

¹¹⁵ Phillip Karugaba, 'Ugandan High Court Sets Guidelines For Mortgagees Exercising Their Right Of Sale Of Mortgaged Property - Finance And Banking - South Africa' (*Mondaq.com*, 2021) <<https://www.mondaq.com/southafrica/financial-services/854474/ugandan-high-court-sets-guidelines-for-mortgagees-exercising-their-right-of-sale-of-mortgaged-property>> accessed 9 March 2021.

premised on a duty of care and mutual benefit. As such, there are common rules to be applied to safeguard the interests of both parties in this relationship.¹¹⁶

Mortgage under the RTA shall when registered have effect as a security but shall not operate as a transfer of land thereby mortgaged. However, banks, financial institutions and money lenders have always ignored and or wrongfully sold such mortgages which have always caused conflicts. According to Meggary, a mortgage may have the right to sell, to fore close, to take possession and to appoint a receiver.¹¹⁷

4.2.5 The National Environment Act 1995

The Act established National Environment Management Authority as the overall body responsible for the management of the environment in Uganda National Environment Management Authority in consultation with the relevant authorities and stakeholders sets regulations and standards for the management and conservation of natural resources and the environment.

The National Environment Statute establishes the National Environment Management Authority (NEMA) as the highest institution concerned with the management of the environment. This followed recognition by the National Environment Action Plan processes that one of the factors that were hampering effective management of the environment was poor institutional set up. Section 5(1) of the statute provides that there shall be a body called the National Environment Management Authority.¹¹⁸

Section 7 provides for the broad powers of the authority, as the principal agency in Uganda with the power to coordinate, supervise and monitor all activities in the field of the environment. On the whole, the authority has endeavored to play its role in ensuring that environmental standards are maintained at a minimum level. It has tried to coordinate- the various institutions involved in the management of the environment.

Since 1994 there have been significant policy developments in wetland management. The most significant are contained in the National Environment Statute and the National Wetlands Policy. Issues concerning Uganda's wetlands are a) draining of wetlands, b) over harvesting of

¹¹⁶ Ibid

¹¹⁷ R.E Meggary. A Manual of the law of Real Property (199) page 598

¹¹⁸ The National Environmental Management Statute

wetlands products and c) increasing levels of pollutants in some wetland ecosystems (NEMA, 1996).

4.2.6 Land Acquisition Act Cap 226.

The Land Acquisition Act cap. 226 govern the compulsory acquisition of land for public purposes in addition to the constitution of Uganda and the Land Act.

4.2.7 Succession Act Cap 162

According to section 2 (m) immovable property includes incorporeal tenements, land and things attached to land or earth.¹¹⁹ Also under Section.4 (i) when one dies leaving an immovable property in Uganda, succession to the property shall be regulated by the laws of Uganda, not regarding the domicile of the person at his death.¹²⁰

Section 30 Succession Act Cap 162 is to the effect that no wife or husband of the deceased will get any interest from the estate if at the time of the death of the deceased he or she had separated with the deceased.¹²¹ After the death of a husband, the wife has the first priority to administer the property of the deceased. This is illustrated in the case of *Sebowa V. Sebowa*,¹²² where it was stated that were the deceased left the wife and children, they have the first priority to apply for the letter not any other remote relative.

4.2.8 Customary Law

Customary law constitutes an important source of land law. Customary land law mainly applies to land owned under customary law. Section 27 of the Land Act provides that decisions in respect of land held under customary land tenure shall be determined in accordance with the customary practices; however, any custom that discriminates against children, women, and people with disabilities contrary to Articles 33, 34 and 35 of the constitution is void.

The judiciary statute of 1996, also empowered the court to apply and enforce the observance of customary practice for as long it is not repugnant to natural justice, equity and good conscience and provided it is not inconsistent with any written and applied law.¹²³ A case in point is *Babiruga V Karegyesa and others*¹²⁴ where the high court declined to enforce an

¹¹⁹ Succession Act Cap 162

¹²⁰ Succession Act Cap 162

¹²¹ Succession Act Cap 162

¹²² *Sebowa V. Sebowa* (COMPLETE CASE CITATION MUST BE ADDED)

¹²³ Section 17 (i) judiciary statute

¹²⁴ *Babiruga V Karegyesa and others* D.R.CA No MKA 13 of 1993 (unreported)

alleged Kikiga custom, which said that land formerly cultivated by a child's mother upon her death automatically, passes to the children and does not revert to the husband.

Furthermore, as written by Mugambwa,¹²⁵ customary law is also not applicable where the parties expressly or by implication from the nature of their transaction agreed that other law should regulate the transaction.¹²⁶ For instance, in the case of *Wasswa V Kikungwe*,¹²⁷ the court applied the general Law of mortgages to a transaction resembling a mortgage of land owned under customary tenure.

4.2.9 Common Law and Doctrines of Equity

Common law is the residue source of land law. The Judicature Statute provides that subject to any written law and in so far as written law does not apply or extend to, the matter the courts shall apply the common law and the doctrine of equity. The expression 'common law' and 'doctrines of equity' refers to the unwritten law in Uganda, other than customary law, administered by the high court of Uganda.¹²⁸

When discussing equity and custom, there is a controversy which always arises as to what takes precedence between customary law and equity. Some say customary law takes precedence that it follows just next after statutory instruments and the constitution and that rules of equity and common law will follow thereafter but others object to that.¹²⁹

In a decided case *Kabaka's Government Vs Musa Kitonto*¹³⁰, it was stated that where common law and customary law conflict, customary law prevails. This should be understood clearly common law is foreign law as much as it applies to Uganda because of the fact that Uganda is a common wealth member, customary law is the home-made law accepted by the people, customary law governs the law of life of the different members of each individual society in the country which has come from a multiplicity of tribes in Uganda.

4.3 Institutional Framework for Land Administration

The Uganda Land Commission holds and manages all land vested in or acquired by the government. It maintains records of leases on state land, and is engaged in the acquisition and

¹²⁵ Mugambwa Principles of land Law in Uganda page 1

¹²⁶ Section 17 (2) Judicature statute

¹²⁷ *Wasswa V Kikungwe* (1952) 56 line

¹²⁸ Section 17 (s) Judicature Statute

¹²⁹ Nakajubi, Application of The Common Law Doctrine of Equity in The Ugandan Legal System, (2013). Page

¹³⁰ *Kabaka's Government Vs Musa Kitonto* (1965) EA 278

allocation of public land to the private sector for investment purposes.¹³¹ District Land Boards hold and allocate land that is not owned in the district, and facilitate the registration and transfer of interests in land. In urban areas, land committees play an advisory role to the District Land Boards.¹³² Several line ministries and government agencies are responsible for certain lands, such as the Uganda Wildlife Authority and the National Forestry Authority which have jurisdiction over protected areas.

The Uganda Land Registry (Ministry of Water, Lands and Environment) is responsible for registering land, issuing title deeds and maintaining records of land transactions.¹³³ In 2004, the government privatized land surveying. The government Surveyors' Registration Board is charged with the professional registration of surveyors. In 2008, Uganda had only 27 registered land surveyors.¹³⁴ The limited number of registered surveyors and high costs of surveying have contributed to few rural land holders registering their land.

Land tribunals may be created at both the district and sub-county level, with appeal to the High Court.¹³⁵ Land tribunals have jurisdiction over disputes relating to: 1) the grant, lease, repossession, transfer or acquisition of land by individuals, the Uganda Land Commission or other land authority; and 2) the amount of compensation paid for land. A new Land Division at the High Court is responsible for supervising the work of the Land Tribunals.¹³⁶ Due to problems of implementation and a long backlog of cases, all land tribunals were suspended in December 2007. The approximately 8000 pending land cases were handed over to the Magistrate Courts.¹³⁷

¹³¹ Musinguzi, Moses, et al. "Assessment of the land inventory approach for securing tenure of lawful and bona fide occupants on private Mailo land in Uganda." *Land Use Policy* (2020): 104562.

¹³² Ibid

¹³³ Ibid

¹³⁴ Bakama, James. 2009. Uganda: Unregistered surveyors petition parliament. New Vision, 10 February. Kampala: New Vision. <http://allafrica.com/stories/200902110101.html> (accessed February 2021).

¹³⁵ Overseas Development Institute (ODI). 2005. New approaches to land for agricultural growth and poverty reduction. All Party Parliamentary Group on Overseas Development. http://www.odi.org.uk/events/apgood/Agric_in_Africa_05/apgood_oct25/report.html (accessed February 2020)

¹³⁶ Ibid

¹³⁷ Government of Uganda. 2009a. Land Division. The Judiciary of the Republic of Uganda. http://www.judicature.go.ug/index.php?option=com_content&task=view&id=90&Itemid=143 (accessed February 2021)

4.4 The Efficacy of Land Legislation in Uganda

4.4.1 Registrations of Customary Land Rights in the Albertine

Although, as discussed above, the customary land right is inter alia a recognizable form of land tenure in Uganda, the effective respect and protection of this form of tenure security leaves much to be desired, considering that customary right in land is not guaranteed in perpetuity. The four land tenure systems in terms of which land is owned in Uganda should in principle deserve similar respect and protection without differentiation, and any condition applicable to one of them should also apply to all.

Given that the idea of land tenure security in Uganda does not appear to be inchoate, as is evident from the above description of the historical context, the Constitution and the ULA could have established and provided clear and simple provisions concretizing and ensuring an effective land tenure system.¹³⁸ Instead, they provided for contradictory and possibly opposing provisions to rights in land. The narrowly framed normative provision of Article 237 of the Constitution and section 3 of the Uganda Land Act, which is firmly supported by a contradictory Article 237(4)(a) of the Constitution and section 5 of the Uganda Land Act, clearly show that this is not the case.

Both the Constitution and the Uganda Land Act explicitly and specifically exclude customary land tenure from the broad umbrella of protection and subject it to the registration of a certificate of ownership. The implication of this is that any customary land rights holders who have not yet acquired a certificate of customary ownership could be deprived of their rights therein, since there is no conclusive evidence to justify the customary rights and interests in the land.¹³⁹

Thus, the issue of a certificate of customary ownership appears to erode the envisioned legal protection of customary land tenure, which is indicative of the fact that the status quo remains predominantly the same¹⁴⁰ as in the colonial era and most probably could remain so in the near future if measures are not taken to address the issue. With an estimated 80% of all land in Uganda and particularly in the Albertine held under customary tenure, customary rules for land

¹³⁸ Ashukem, Jean-Claude N. "Land Grabbing and Customary Land Rights in Uganda: A Critical Reflection of the Constitutional and Legislative Right to Land." *international journal on minority and group rights* 27.1 (2020): 121-147.

¹³⁹ Section 9 of Uganda Land Act

¹⁴⁰ H. Busingye, 'Customary Land Tenure Reform in Uganda; Lessons for South Africa', International Symposium on Communal Tenure Reform, Land Reform in Africa: Lessons for South Africa (2002) p. 8.

governance should in principle play a major role in determining customary land and property rights, which arguably do not rely on a certificate of customary ownership, but instead customary rules of acquisition and ownership of land.

The reason is that in a traditional African system such as that which exists in Uganda, oral proof of title is the most commonly and widely used and accepted form of land holding. This is so because the vast majority of customary laws and customs relating to land in Africa are passed down orally from one generation to another,¹⁴¹ and this accounts for the continuity and resilience of customary land tenure.

Clearly, the fact that norms of customary land tenure are derived from and are sustained by the community itself and not by statutory law, suggests that customary land tenure should be as much a social system as a legal code on which land rights held under this form of land tenure as it is in Uganda, ought to be respected and protected. Also, although customary tenure is constitutionally protected and has been legislated, it must be borne in mind that the practices and cultures of a people in terms of its land use, ownership, administration and management may not change for a long time.

Notwithstanding the above, the logic here is that Article 237(4)(a) of the Constitution leaves open a number of obvious observations that require attention and should have been addressed by the Uganda Land Act.¹⁴² While on the one hand the absence of registered land rights for rural Ugandans underscores the view that the land governance regime is weak and practically incapable of protecting customary land rights,¹⁴³ on the other hand Article 237(4)(a) makes the legal position of people holding land under customary form of land tenure extremely precarious and susceptible to dispossession within the context of land grabbing as the land markets grow.

The researcher found that land grabbing is constitutionally defined as the acquisition of vast portions of land, often through non-transparent and exclusionary land acquisition deals whether purchased or leased that negatively impact on the rights and interests of local communities and affected stakeholders. Such land deals are usually concluded between a foreign investor, which

¹⁴¹ M. Hansungule and A. O. Jegede, 'The Impact of Climate Change on Indigenous Peoples' Land Tenure and Use', 21:2 *International Journal on Minority Group Rights* (2014) pp. 256–291.

¹⁴² However, this was not the case, since it was government's intention that in future most customary land rights would be converted into freehold, following the free market approach adopted by the 1989 study by the University of Wisconsin

¹⁴³ S.B. Mabikke, 'Escalating Land Grabbing in Post-Conflict Regions of Northern Uganda: A Need for Strengthening Good Land Governance in the Acholi Region', in the *International Conference on Global Land Grabbing*, p. 1; D. Kraybill and M. Kidoido, 'An Analysis of Relative Profitability of Key Uganda Agricultural Enterprises by Agriculture Zone', in *Background Paper No. 4*, p. 1.

can either be a private company or a foreign government or a financial institution, and the government of a host country, and is often directed towards the eventual production of food crops and increasingly biofuels.

This practice can lead to the usurpation of the rights of ownership and use of land of local communities and a whole range of social, economic and environmental and related rights and interests can be negatively impacted on a. It is this usurpation of rights (both ownership and of use) that is termed land grabbing.¹⁴⁴

4.4.2 The Issue of Conversion of Customary Land Rights

It has been argued that the envisioned legal recognition and protection afforded by the Constitution and the Land Act to customary land tenure has barely been translated into “a pro-customary land tenure policy.”¹⁴⁵ Clause (8) of Article 237 of the Constitution provides that the lawful or bona fide occupants of mailo land, freehold or leasehold land shall enjoy security of occupancy on their land, The same rhetoric is repeated in section 10 of the Land Act, but not with reference to customary land tenure.

Thus, the above observation raises curiosity for understanding why the holders of a customary land tenure should acquire a certificate of registration which is convert into freehold land tenure upon registration, or why the lawful or bona fide occupants of mailo land, freehold or leasehold land should enjoy security of occupancy and not the holders of customary land tenure? It must be noted that the idea of converting customary land tenure into freehold was largely based on the recommendations of the Ugandan Constitutional Commission, which was of the view that “in practice, many individuals and families holding land under customary tenure have something akin to freehold tenure”¹⁴⁶ and that converting customary land tenure into freehold was conceivably the best way forward for the country’s greater economic development.

It is therefore apparent from the above presumptions that Uganda’s land governance regime is rather weak as it falls short of protecting people’s right to land (especially customary land),

¹⁴⁴ J.C.N. Ashukem, ‘A Rights-Based Approach to Foreign Agro-Investment Governance in Cameroon, Uganda and South Africa’ (Ild thesis, nwu, 2016) p. 37; J.C.N. Ashukem, ‘Included or Excluded? An Analysis of the Application of the Free, Prior and Informed Consent Principle in Land Grabbing Cases in Cameroon’, 39 Potchefstroom Electronic Law Journal (2016) p. 2; also see O. De Schutter, ‘The Green Rush: The Global Race for Farmland and the Rights of Land Users’, Harvard International Law Journal (2011) p. 504; L. Cotula, S. Vermeulen, R. Leonard and J. Keeley, Land Grab or Development Opportunity? Agricultural investment and International Land Deals in Africa (fao, 2009) p. 17.

¹⁴⁵ J. Mugambwa, ‘A Comparative Analysis of Land Tenure Law Reform in Uganda and Papua New Guinea’, 11:1 Journal of South Pacific Law (2007) pp. 41; 52

¹⁴⁶ Justice B. Odoki (Chairperson), The Report of the Uganda Constitutional Commission: Analysis and Recommendations, (1992) 25.61, cited in Mugambwa, supra note 3, at footnote 72, p. 53

and particularly so within the context of the formal land administration set-up.¹⁴⁷ In light of the above, should Article 237(4)(a) and section 5 of the Uganda Land Act be strictly applied? If so, then the government of Uganda is inevitably putting a vast majority of Ugandans who own and occupy land under customary land tenure in a situation of de facto illegality? This makes it reasonable to question the legality of Article 237 of the Constitution and section 3 of the Uganda Land Act with respect to the land tenure regime in Uganda, especially considering the historical injustice and insecurity in this context.

The constitutional and legislative requirement of converting customary land into freehold seems to suggest that rights in freehold land tenure are held in perpetuity but not those of customary land tenure, because rights in customary land ceases to exist once converted into freehold land tenure. Neither does the Uganda Land Act nor the Constitution explicitly require a reconversion of freehold land tenure back into customary land tenure.

The absence of this further supports the argument that the Constitution and the Land Act aim to facilitate the demise of the customary land tenure system.¹⁴⁸ It has been suggested that the Uganda Land Act, in conjunction with the Constitution, have treated customary land tenure as a transitory and secondary form of land tenure that may cease to exist after everyone has converted their right to freehold.¹⁴⁹ By converting customary land tenure into freehold, the rights inherent in the former are invariably transferred to the latter, and this further raises the complexity of the matter of the security of customary land tenure under the Constitution and the Uganda Land Act.

4.5 Conclusion

This chapter has indeed demonstrated that although the present legal regime of Ugandan land law is indicative of significant progress in the pre-colonial, colonial and in the post-colonial eras, there are still considerable overlaps and a possibility of conflicting provisions on the constitutional and legislative guarantee to the right to land. For this reason, the current state of legal framework is far from being characterized as an adequate legal regime. With capacity to sufficiently provide for an efficient land governance. This critic generally relates to the lacking

¹⁴⁷ S.B. Mabikke, 'Escalating Land Grabbing in Post-Conflict Regions of Northern Uganda: A Need for Strengthening Good Land Governance in the Acholi Region', in the International Conference on Global Land Grabbing, p. 1; D. Kraybill and M. Kidoido, 'An Analysis of Relative Profitability of Key Uganda Agricultural Enterprises by Agriculture Zone', in Background Paper No. 4, p. 1.

¹⁴⁸ Ibid Supra Note 37

¹⁴⁹ Ibid

state of the land regime in the country and with reference to the undocumented evidence of land ownership rights specifically associated with the customary system of land tenure.

It has been argued that despite the four formally recognized forms of land tenure in the country, the protection of customary land rights has been made subject to a stringent condition. This is in form of the ownership of a certificate of title, the absence of which acts as a catalyst for the deprivation of customary land rights, and particularly so in the context of land grabbing. In fact, there is barely much progressive steps in terms of implementing Article 237(4) of the Ugandan Constitution and the supplementary provisions of the Uganda Land Act that have actualized the realization of protection of land rights generally and customary land tenure in particular.

It has also been indicated that the status quo has remained practically unchanged since not even a single certificate of ownership has to date been issued by the government to the landowners in the Albertine region and they haven't been able to benefit from the growth in land market of value following oil discovery in the region.

CHAPTER FIVE

IMPACT OF OIL DISCOVERY ON POPULATION, LAND USE PATTERNS AND VALUE OF LAND IN THE ALBERTINE

5.1 Introduction

This chapter showcases the impact of the discovery of commercial oil reserves in various social economic contexts of the communities in the Albertine Region. The research looked at three main variables thus: population, land use patterns and land values. The results from this study are categorically presented below.

5.2 Impact of Oil Discovery on Population

Population and energy consumption are inseparable twins. According to Barliwala and Reddy (1993),¹⁵⁰ as the world population increases every year, the more energy resources are also needed for supporting numerous human activities. It thus implies that limited energy resources are one of the factors that might potentially inhibit human economic activities, thereby hindering economic growth in the process. It is a known fact that people consume energy for various purposes like agriculture, transportation and for industrialisation related activities. Hence, the ever-expanding population is more likely to result into an increased demand in energy consumption as compared to a smaller population which probably reduce the energy demand hence leading to negative trends in levels of energy consumption and consequently the lower levels of economic growth.¹⁵¹

It was found that understanding how oil endowments impact population growth would be important in studying its correlations with economic development. There has been considerable research investigating about the connection between a country's population growth rate and its economic development. Some research suggests that a high population growth rate is detrimental to a country's economic development for example, the Kelley and Schmidt study

¹⁵⁰ Batliwala, Srilatha, and Amulya KN Reddy. "Energy consumption and population." *Population: The Complex Reality* (1994). Page

¹⁵¹ Headey, Derek D., and Andrew Hodge. "The effect of population growth on economic growth: A meta-regression analysis of the macroeconomic literature." *Population and Development Review* 35.2 (2009): 221-248.

of 1994 that showed a negative relationship between population growth and per capita economic growth for the 1980s.¹⁵²

Therefore, it makes sense to understand the relationship between oil endowment and population growth as a way of understanding the pathways through which nature resources closely interact with matters of economic development. Although this forms the second reason may seem similar to the first reason in that the “resource curse” concept also links oil endowments to economic development. In as much as such as presupposition is true to an extent, the key distinction lies in the fact that the “resource curse” concept is incapable of identifying the link between population growth rate the causality chain from oil endowment to economic development.

In a 2009 research by Conrad and Alexeev, it was empirically found that an increase in a country’s oil endowment is more likely to result into an increase in its population growth rate. This therefore means that a change in a country’s oil endowment may have an effect on its economic development as well as its the population growth rate. Furthermore, it was discovered that an increase in oil endowment also seems to result in an increase in the fertility rate, an increase in the birth rate, and a decrease in the mortality rate. These secondary results are valuably sensible given their role in explaining population growth rate where oil is discovered.¹⁵³

In a 2016 study conducted by Nicholas Sean Dowhaniuk, found that population growth was spatially variated with each district surrounding the Albertine region exhibiting unique changes in population density over each of the years of undertaking population census.¹⁵⁴ There were striking variances in the growth rate of the population density between the oil-impacted districts of Bulisa, Nebbi, and Nwoya, in comparison to the non-oil-impacted districts of Kiryandongo, Oyam, and Masindi between 2002 and 2014.¹⁵⁵

All three oil-impacted districts had different trajectories in population for the census years of 1969 and 2002 respectively. However, all the three oil-impacted districts had large increases in population density between 2002 and 2014 when compared with historical trends of their

¹⁵² Kelley, Allen C., and Robert M. Schmidt. *Population and income change: Recent evidence*. The World Bank, 1994.

¹⁵³ Alexeev, Michael, and Robert Conrad. "The elusive curse of oil." *The review of Economics and Statistics* 91.3 (2009): 586-598.

¹⁵⁴ Ibid

¹⁵⁵ Dowhaniuk, Nicholas Sean. "Assessing the impact of industrial oil development, human population growth, and post-conflict regrowth in an African biodiversity hotspot." (2016).

population demographics. In Bulisa, there was a much slower growth in population density in each year of undertaking the population census between 1969 and 2002. For instance, between 1969 and 1980, the population density in Bulisa increased by 56.54%. Then, between the next two census dates, population density decreased by 38.87%. Between the 1991 and 2002 census years, population density increased by 31.63%. By the 2014 census year, population density increased by 65.24%.¹⁵⁶

The population trends in Nebbi District, indicate a steady increase in population density of all census years. Between 1969 and 1980, the population density of the district increased by 9.10%. By 1991, it had increased by 25.09%, and then by 2002 it increased another 30.07%. Between 2002 and 2014, population density increased by 61.10%. Between 1969 and 1980, Nwoya District had a 14.44% growth in population density. At the 1991 census, the population density decreased by 32.03%. In 2002, Nwoya's population density started rising again, recording an increase of 8.06%.in its population density Finally, the population density started growing at a very fast rate as Nwoya registered a population increase of 169.9% by 2014 from its 2002 population.¹⁵⁷

In general, non-oil impacted districts have exhibited slower growth in the most recent census than oil endowed districts Between 1969 and 2002, the population density in Kiryandongo increased by 15.35%. By 1991, there was a 62.56% increase in its population density. Between 1991 and 2002, the population density of Kiryandongo increased substantially by 124.39%, before the district experienced a highly reduced rate of growth in population density between 2002 and 2014 of 5.73%. Between 1969 and 1980, Masindi's population density increased by 67.09%.

This followed a muted growth between 1980 and 1991 of 11.12%, before there was a more defined growth of 52.39% between 1991 and 2002. Between 2002 and 2014, there was a 38.52% increase in population density within the district. Finally, Oyam experienced a 60.86% increase in population density between 1969 and 1980. Between 1980 and 1991, the district's growth rate reduced to 46.15%, before increasing slight in the 2002 census to 51.62%. Between 2002 and 2014, Oyam's population density increased by 41.46%.¹⁵⁸

¹⁵⁶ Ibid

¹⁵⁷ Ibid

¹⁵⁸ Ibid

Population Density Values							
Year	Bulisa	Kiryandongo	Masindi	Nebbi	Nwoya	Oyam	Uganda
1969	42.98	25.15	32.3	67.25	17.87	34.7	48
1980	67.28	29.01	53.97	73.37	20.45	55.85	64
1991	93.43	47.16	47.97	91.78	13.9	81.58	85
2002	122.98	105.85	73.1	119.375	15.02	123.69	123
2014	2003.21	111.88	101.26	192.31	40.54	172.88	174
Percentage Change in Population Density							
1980	56.54	15.23	67.09	9.1	14.44	60.86	33.33
1991	38.87	62.56	11.12	25.09	-32.03	46.15	32.81
2002	31.63	124.39	52.39	30.07	8.06	51.62	44.71
2014	65.24	5.73	38.52	61.1	169.91	39.77	41.46

(Adopted from: [Assessing the Impact of Industrial Oil Development, Human Population Growth, and Post-Conflict Regrowth in an African Biodiversity Hotspot] by Nicholas Sean Dowhaniuk, 2016)

In the interviews, the researcher found that migration was a common theme related to oil development, where people from outside of the oil-impacted districts have immigrated to the area in hopes of purchasing land to gain royalties and other benefits. In fact, on one hand all interviews in the oil impacted districts cited oil discovery as a key driver for migration. On the other hand, non-oil impacted districts attributed the increase in their natural population to the increasing numbers of refugee migrants as reasons for population growth. Residents within the three oil impacted districts have also been selling their land cheaply to investors and are often left regretting their decision when the money is inevitably spent and they are left with no land. One respondent mentioned,

“Oil has also affected us and the land. People think that oil is in the community, but for now, oil is in the park. People were anticipating oil in the land, and had big dreams of becoming rich. They would purchase land in hopes of royalties from the oil companies finding oil on their land. This

attracted people from other parts of the country to buy land, and speculators have purchased small plots up to the Nile...People are heading towards danger. They are selling their land very cheaply because they want to get money. This will cause problems for the next generation, because they will have nothing, nowhere to settle”

5.3 Impact of Oil Discovery on Land Use Patterns in the Albertine Region

When considering land cover in a very pure and strict sense it should be confined to describe vegetation and man-made features. Consequently, areas where the surface consists of bare rock or bare soil are describing land itself rather than land cover. Also, it is disputable whether water surfaces are real land cover. However, in practise, the scientific community usually describes those aspects under the term land cover.

Petroleum and other derived products, including several types of fuels, lubricants, and other oil materials for countless manufactured products from crude oil are essential for the functioning of the society worldwide.¹⁵⁹ However, petroleum production and other ancillary activities in the Albertine have had a great impact on the land use and land cover pattern in the area. The changing trends in land use leads to impacting of the local environmental which may eventually lead to cumulative to global issues.¹⁶⁰

In the Albertine, activities of petroleum exploration companies have had a drastic and profound impact on land uses/ land cover. Land use patterns in the Albertine and the impact of their changes have assumed a critical dimension in view of the proximate and underlying factors that influence biodiversity, livelihoods, and a wide range of socio-economic and ecological processes.

The researcher found that changes in land use can be categorized by their complex interactions with structural and behavioural factors associated with technological capacity, demand, and social relations that affect both environmental capacity and the demand, along with the nature

¹⁵⁹ Rosales, Rosa Ma, et al. "Study of subsoil in former petrol stations in SE of Spain: Physicochemical characterization and hydrocarbon contamination assessment." *Journal of Geochemical Exploration* 147 (2014): 306-320.

¹⁶⁰ Salami, A. T., and E. E. Balogun. "Utilization of NigeriaSat-1 and Other Satellites for Forest and Biodiversity Monitoring in Nigeria." *National Space Research and Development Agency (NASRDA) Monograph, Federal Ministry of Science and Technology, Abuja* (2006). pg ??

of the environment of interest.¹⁶¹ It has become one of the major parameters for environmental change monitoring and natural resource management.

The trends in land conversion and land fragmentation varied considerably across the districts surrounding the Albertine, with oil-impacted districts having the highest loss of natural land cover, along with largest increases in developed land cover. Additionally, all oil-impacted districts had witnessed a higher increase in their natural area patches compared to non-oil-impacted districts, that are representing increased fragmentation. All the land cover change metrics are measured in proportional change, whereby the 2014 metric value for each land cover was subtracted from the 2002 metric value, then subsequently divided by the 2014 metric value.

There were greater proportions of land cover change and fragmentation that were also found in oil-impacted districts, and these manifested as higher proportional increase in total patches, decrease in patch size and patch area, and increased isolation of natural areas compared to non-oil impacted districts. This was the case bearing in mind the developed landscape class included agriculture and infrastructural frameworks such as feeder and main roads), the land use in the oil districts is increasingly fragmented due to increases in roads and growth in small-holder agriculture.

A likely driver of this fragmentation is a growing influx in numbers of migrants in these oil enriched districts. The researcher found that there as 2 classes of land use. The 2 classes included in the binary land cover classification are; Developed class (Developed, Agriculture/Village-Agriculture Mosaic) and natural class (water, savanna woodland, closed shrub thicket, forest, wetland, grassland, savanna grassland, open shrubland). Conversely, a non-oil-impacted district such as Masindi had a higher proportional decrease in natural area compared to any other district. Masindi also had a much smaller increase in the total number of soil patches in both terms of classes as well as recorded increase in patch size. The type of land fragmentation exhibited in Masindi is much different from all other districts in this study.

The nature of Land Fragmentation evidenced in Masindi may illustrate the impacts of commercial sugarcane agriculture within Masindi, or outgrowth from Masindi Town Center (currently the fourth fastest growing municipality in Uganda between 2002 and 2014, at 8.9% growth). The outgrowth of the large sugarcane plantations is more likely show up as much less

¹⁶¹ Ahmad, Farooq. "Detection of change in vegetation cover using multi-spectral and multi-temporal information for District Sargodha, Pakistan." *Sociedade & Natureza* 24.3 (2012): 557-571.

fragmented on the land fragmentation metrics than subsistence agricultural growth (large areas of converted swaths, rather than of smaller, fragmented fields).

Industrial and development activities may often bring about agricultural expansion through increasing road networks and access to locations that were previously difficult to reach.¹⁶² In areas where population growth, agricultural potential, and biodiversity are high, there is increased access to isolated areas can create regions where development can be detrimental to important ecological areas.¹⁶³

5.4 Impact of Oil Discoveries on Land Value in the Albertine Region

Several researchers point out that the discovery of oil in the Albertine region has had a significant effect not only on the livelihoods of the residents but also on the land in areas of the oil rich districts. Ogwang, Assem, and Vanclay state in their analysis on extractive industries and society that these impacts are both positive and negative.¹⁶⁴ It is imperative to note that prior to the discovery of oil land in the Albertine Graben area was communally shared by communities. Residents of Byakagaba and Twesigye were organized in a cooperative as a result they were capable of sharing land for different activities such as crop production and pastoralism, according to Byakagaba and Twesigye.¹⁶⁵ Farmers will have unrestricted access to property. However, following with the discovery of oil in the field, this changed, as the research will show in the following parts.

Today, a significant number of residents are engaged in land-related conflicts either internally with their fellow village mates or externally with investors wishing fraudulently own land by using. Illegal ownership of land is one of the emerging problems that has manifested following the discovery of oil in the region.¹⁶⁶ It is noted that this land grabbing practice is said to have begun as early as the 2000s long before confirming the commercial existence of oil deposits within the Albertine region. Although the government of Uganda implemented laws against

¹⁶² Wilkie, David, et al. "Roads, development, and conservation in the Congo Basin." *Conservation Biology* 14.6 (2000): 1614-1622.

¹⁶³ Laurance, William F., et al. "A global strategy for road building." *Nature* 513.7517 (2014): 229-232.

¹⁶⁴ Ogwang, T., & Vanclay, F. (2019). Social Impacts of Land Acquisition for Oil and Gas Development in Uganda. *Land*, 8(7). Retrieved from https://www.researchgate.net/publication/334309344_Social_Impacts_of_Land_Acquisition_for_Oil_and_Gas_Development_in_Uganda [Accessed 28th February, 2021]

¹⁶⁵ Byakagaba, P., & Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts.

¹⁶⁶. National Association of Professional Environmentalists. (2012). A study on land Grabbing cases in Uganda.

land grabbing, several individuals in the Albertine Graben region have fallen victim of this vice as influential people used fraudulent and illegally methods to gain ownership of land.

The desire of benefitting from the perceived increased value of land has also fueled land-related wrangles among residents of this region.¹⁶⁷ Notably, this stems from the fact that many residents that are now opting to change from the customary system of land ownership to private ownership. Kansiime reveals that local leaders have embraced traditional conflict resolution approaches such as peace building, use of local councils, and strengthening traditional mediation to resolve the problem of illegal ownership of land.¹⁶⁸

The discovery of oil in 2006 is the main driver of increase in land value in the region. According to an interviewee,

“so many people became thirsty and hungry for land due to the future investment prospects after the discovery of oil.”

It is such an urge to acquire more land aimed at making investments out of it or sell it at a relatively higher price to the oil companies that makes people to acquire more and more portions of land.¹⁶⁹

This factor has also been confirmed by the UHRC where it is stated that cases of displacement of people happening in the Albertine Graben are

“as a result of the ongoing oil exploration and refinery activities.”¹⁷⁰

Unlike in the past, after oil discovery, the region started gaining attention from people across the social and economic divide. It should be noted that the Albertine region was initially ignored by settlers and the government itself partly because nothing of much economic viability was expected from this region.¹⁷¹ So, the area so much lagged behind in terms of social service provision such as health, education, power. The road infrastructural development ranks among the lowest in comparison with other regions in Uganda.

¹⁶⁷ Muriisa, R. K., & Twinamasiko, S. (2019). Land grabbing in the Albertine graben: *Oil Wealth and Development in Uganda and Beyond*, 239-264.

¹⁶⁸ Kansiime, K. N. "Promoting Traditional Ways of Handling Land Disputes in Western Uganda." 2019, www.researchgate.net/publication/336459267_Promoting_Traditional_Ways_of_Handling_Land_Disputes_in_Western_Uganda.

¹⁶⁹ KIZITO, NYANZI. "The Political economy of Land grabbing in Oil resource areas. The Uganda Albertine Graben." (2015).

¹⁷⁰ Ibid

¹⁷¹ Kagaba. P., 2006. Bunyoro has been ignored. Published in the new vision on Apr 30, 2006, Kampala Uganda. Available at, <http://www.newvision.co.ug/D/8/21/495990> [Accessed 28th February, 2021]

The current trend however shows a complete turn of events. The region has also attracted several international and local expatriates, privately owned business individuals, government agencies such as, Justice Centers Uganda, UHRC which have opened up regional offices; there are a lot of Civil Society advocacy campaigns taking place there as well as other informal and illegal businesses such as prostitution.¹⁷²

The increasing number of people in the region has escalated the cost of living with most of the social services doubling the price and the area whose land was regarded as the least valuable now, “*land in Kibaale [and other areas] has turned into hot cake*” (interviewee). It is this increasing interest of the people in the region leading to a high value of demand for the land and consequently the increasing instances of land grabbing.

The existence of unutilized land has also triggered off the rush for people to acquire it. The respondents also believe that, the region is surrounded by vast proportions of vacant lands. The explanation for this is both historical and current. Bunyoro region appears to have suffered the biggest impacts of colonialism resistance in Uganda during the reign of Omukama Kabalega¹⁷³ in which many people lost lives in course of rebellion related battles.¹⁷⁴

The loss of these people in addition to so many others that fled the area left the area getting depopulated and hence making most of the land vacant. Moreover, due to colonial resistance, the region was severely punished in terms of social services extension. As a result, few people found it profitable to stay in the region. Many preferred to move to areas where they felt had better social services like roads and schools.¹⁷⁵

A significant number of residents in Buliisa and Bunyoro have either lost their land or have never been compensated because lacking land titles for proving that they are the rightful owners of land.¹⁷⁶ Most of these victims were residing in parts that are deemed to have oil reserves, for instance, those in Bullisa who were living near the national park were evicted to pave the way for the construction of the oil pipeline.

¹⁷² Tumusiime K. A., 2014. The impact of oil discovery on Hoima District. Published in the New Vision on Tuesday, August 5 2014 at 01:00, Kamapala Uganda. Available at, <http://www.monitor.co.ug/SpecialReports/The-impact-of-oil-discovery-on-Hoima-District/-/688342/2408198/-/c5x11k/-/index.html> [Accessed 28th February, 2021]

¹⁷³ Omukama Kabalega was a famous King of Bunyoro who resisted the British imperialism and Buganda rule. He led the Kingdom from 1870 to 1899

¹⁷⁴ Doyle. S., 2012. Impact of colonialism on Bunyoro – Part II. Published in the Daily Monitor on Tuesday, June 26 2012 at 01:00, Kampala, Uganda. <http://www.monitor.co.ug/SpecialReports/Impact-of-colonialism-on-Bunyoro--Part-II/-/688342/1435688/-/dvsvk1z/-/index.html>, [Accessed 28th February, 2021]

¹⁷⁵ Ibid

¹⁷⁶ Ibid

Twinamasiko and Muriisa note that the Albertine Graben region has embraced peculiar land governance initiatives to overcome problems bedeviling the land tenure system of the area.¹⁷⁷ Notably, the developments that manifested following the discovery of oil guides on how landowners must manage land and natural resources. Through land governance, authorities are also mandated with responsibility in terms of planning and making decisions regarding any investments on the land.¹⁷⁸ It should be noted that the same governance is meant to solve any conflicts related to land ownership and land grabbing being one of the vices for which there was establishment of a land governance policy.

Unfortunately, a significant number of land-related cases have remained a public concern across the Albertine Graben region.¹⁷⁹ Unsurprisingly, a dispute has risen between the central government and the Bunyoro kingdom, and this is about sharing revenues generated from oil.¹⁸⁰ The location of districts with oil reserves within the boundaries of this kingdom, explains the worsening state of relationship between the kingdom on one hand and the central government on the other hand.

Typically, this stems from the failure of the current oil policy to specify how the revenues shall be shared between the central government and traditional institutions in the Albertine Graben region. Unless such controversial issues are handled with critical care, the declining state of relationship between the government and Bunyoro Kingdom could either paralyze or even delay the oil-related activities within the boundaries of the kingdom.

5.5 Conclusion

This chapter examined the changes in population, land use and land value in the Albertine region a result of the discovery of oil and gas reserves back in 2008. It was found that there are inflated population densities in the districts where oil development is occurring within the most recent census period. A trajectory of population density that differs from the national average of Uganda and non-oil impacted districts. Additionally, oil-impacted districts had increased fragmentation and conversion of natural lands compared to non-oil impacted districts. People living in oil-impacted districts have faced unique changes to their livelihoods, including the

¹⁷⁷ Ibid

¹⁷⁸ Byakagaba, P., & Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts.

¹⁷⁹ Gildseth, I. (2013). Land tenure practices and land acquisitions in oil region. The case of Hoima, Western Uganda.

¹⁸⁰ Baligira, J. (2017). Land Politics and Conflict in Uganda: A Case Study of Kibaale District, 1996 to the Present Day.

perceived increased migration due to oil development, destruction of personal property and perceived lack of adequate compensation.

CHAPTER SIX

ABILITY OF THE LAND LEGAL FRAMEWORK IN REGULATING THE GROWING LAND MARKET IN THE ALBERTINE REGION

6.1 Introduction

This chapter analyzed the existing land laws and their ability to effectively govern land markets by addressing the growing controversies associated with the Albertine Region.

6.2 Land Tenure Systems in Uganda

The 1995 Constitution states that “land in Uganda shall be owned in accordance with the following land tenure systems; customary; freehold; mailo; and leasehold.”¹⁸¹ Customary tenure represents the bulk of landholdings, between 70% and 80% of the land. There is also a considerable range of customary tenure systems within the more than 60 ethnic groups of Uganda. This is indicative of a shift from strongly individualistic tenure patterns to highly communal systems.

Customary systems also tend to vary in how members access, use, manage, and transfer land. The Land Act also recognizes that occupancy of customary land conveys legal rights without documentary evidence and provides for a “certificate of customary ownership.”¹⁸² Under Ugandan law, customary tenure is described as

“a system of land tenure regulated by customary rules which are limited in their operation to a particular description or class of persons.”¹⁸³

Little land is held under registered freehold tenure and most of this land is found in the former Ankole, Toro, Kigezi, and Bugisu Districts. Transactions involving freehold land (as well as mailo land registration) are governed by the Registration of Titles Act. Mailo is a customary form of freehold. Land held under mailo tenure (about 9000 square miles) is confined to Buganda (central Uganda) and Bunyoro (western Uganda). The British colonialists demarcated

¹⁸¹ Section 237 (3) Constitution of Uganda 1995.

¹⁸² Section 60 Uganda Land Act

¹⁸³ Mwebaza, Rose. *How to integrate statutory and customary tenure: the Uganda case*. Vol. 83. International Institute for Environment and Development, 1999.

mile-square blocks of land to Baganda notables in exchange for political cooperation. Today, most people occupying mailo land are tenants.¹⁸⁴

A person or institution can obtain a lease from an owner of freehold, customary or mailo land or from the Uganda Land Commission (or the Crown of England before independence) for a period of 49 or 99 years.¹⁸⁵ The grantee of a lease is entitled to a certificate of title. Leasehold tenure generally applies to grants of state land to urban holdings and to non-citizens (“Any lease which was granted to a Ugandan citizen out of public land may be converted into freehold.”¹⁸⁶ Leases of private land often have conditions of payment of rent while leases over public land have conditions of use. Owners of land under the freehold system of land tenure have considerable rights to use or dispose of their land. There are also local restrictions on the use of customary land.

6.3 Legal Framework for Land in Uganda

The researcher found that the Constitution (1995, amended in 2005) vests land in the citizens of Uganda: “Every person has a right to own property either individually or in association with others.”¹⁸⁷ Some scholars and advocates have argued that the principle of public trust applies to all national resources and public land. Under the public trust doctrine, the government has an obligation of managing national lands and resources in a manner that doesn’t prejudice the interests of all Ugandans.

The Land Act (1998) recognizes the four historic forms of land tenure in Uganda (customary, leasehold, freehold, and mailo); grants all lawful and bona fide occupiers (legally defined) property rights; decentralizes land administration; and establishes land tribunals. The (10-year) Land Sector Strategic Plan (2001) was developed to implement the Land Act. The National Land Use Policy (2008) provides guidelines on effective land use for socio-economic development and on minimizing land degradation. In January 2007, the government issued a third draft of the National Land Policy, which attempts to address all aspects of land in the context of national development. The draft policy was vetted for review and comments, for a

¹⁸⁴ Green, Elliott D. 2005. Ethnicity and the politics of land tenure reform in central Uganda. Development Studies Institute Working Paper Series, 05–58. London: London School of Economics and Political Science. <http://www.lse.ac.uk/collections/DESTIN/pdf/WP58.pdf> (accessed February 2021)

¹⁸⁵ Ibid Supra Note 177

¹⁸⁶ Section 237 (5) Constitution of Uganda 1995

¹⁸⁷ Section 26 (1) constitution of Uganda 1995

fourth working draft before its release by the Ministry of Lands, the Housing and Urban Development in September 2009 and the policy was launched out in 2013.

In 2007, the government prepared a Land (Amendment) Bill designed for curbing rampant, and often forceful, land evictions of occupiers lacking full ownership rights (especially problematic in urban/peri-urban areas). The Land (Amendment) Bill enhances the security of bona fide and lawful occupants. Under the proposed bill, a person claiming an interest in land held under customary tenure can only be evicted by a court order. Also, tenants on registered land can only be evicted for non-payment of rent.

6.4 Ability of the Legal Framework to Govern Land Issues in the Albertine Region

6.4.1 Legal Definition of Public Interest

Laws allow the government to give land to investors in the public interest, but do not clearly define the public interest. The Constitution¹⁸⁸ stipulates that “public use” covers interests such as defence, public safety, public order, public morality and public health, but laws give broad authority to the Minister of Lands. The Land Acquisition Act refers to the Minister being “satisfied that any land is required by the government for a public purpose”, but does not define public purpose. A draft report on implementation of the Land Acquisition, Resettlement and Rehabilitation Policy argues that concept is interpreted too broadly.¹⁸⁹

In practice, the supposed “public interest” often ends up benefiting already wealthy individuals. For example, in one case in Kampala, land that housed a primary school serving a low-income community and training teachers was given to a private investor to build a hotel.¹⁹⁰ The investor instead built a shopping mall with office space. The school was relocated to the outskirts of the city, far from the community whose children it was set up to serve, and the teacher-training aspect has not been restored. Such similar cases have taken place in the Albertine region but are barely noticed by the government and media.

An interviewee mentioned that,

¹⁸⁸ 3 Article 26(2) (a) of the 1995 Constitution (as amended)

¹⁸⁹ Land Acquisition, Resettlement and Rehabilitation Policy, Draft Report for the Ministry of Lands, Housing and Urban Development (MLHUD) Uganda, April 2017. Report by Intersocial Consulting Ltd. in joint venture with Consultant Surveyors & Planners.

¹⁹⁰ Wafula (2010). Daily Monitor. New Shimoni land owner revealed. <https://www.monitor.co.ug/News/National/688334-1070252-b66dghz/index.html> [Accessed 28th February, 2021]

“there is no clear distinction between public land and government land in legislative framework. The regulation and guidelines to control the management and land use, including the disposal of these lands are not provided in the constitution or laws of Uganda. Government currently deals with government land and public land without regard to public interests as if the two estates are held for the beneficial interest of the government as an institution. It has disposed off the two estates to investors and individuals as though they are one and the same thing. District Land Boards are failing to observe that they hold public land in trust for the people of Uganda.”

6.4.2 Governance of Land Records

In most cases, the land given away is under the management of the Uganda Land Commission (ULC) and the District Land Boards (DLBs). The ULC fails to keep a comprehensive inventory of its land: a 2015 report by the Auditor General looked at 211 pieces of government land and found that 19% did not have records.¹⁹¹ Similar gaps have been found in land records managed by the DLBs. The DLBs and ULC interpret any land as public land if it is not occupied or claimed as customary, with proof of long usage, even if there are no records showing it as public land.

The gaps in records have facilitated encroachment onto government land and land grabbing by investors through government agencies.¹⁹² Numerous audit reports have recommended that the government improves implementation.¹⁹³ In 2016, the Minister for Lands set up a Committee chaired by the Minister of State for Housing with aims including: (i) compiling a comprehensive inventory of government and public land; (ii) determining the boundaries of individual holdings of government and public land by overseeing its adjudication, demarcation and titling; and (iii) advising on how to manage or reclaim government and public land that is disputed or encroached on.¹⁹⁴ However, no outcomes from this exercise have yet been made public.

These challenges have taken on a new dimension following the recent introduction of policies aimed at separating ownership of land from mineral wealth. The effect is that the government can permit mining companies in access private land that contains minerals without negotiating

¹⁹¹ Report of the Auditor General on the Financial Statements OF Uganda Land Commission for the year ended 30th June 2015.

¹⁹² The Auditor General’s reports; Performance and Local Government reports

¹⁹³ Article 239

¹⁹⁴ Press Statement by the Minister reported on the Government Media Centre page at <https://www.mediacentre.go.ug/pressrelease/media-statement-lands-minister>.

access with the landowners. The government argues that it owns the minerals under the land, and it does not need the landowner's consent to extract them.¹⁹⁵

6.4.3 Legality of Land valuation

The Land Acquisition Act empowers the Minister to make regulations for the assessment and payment of compensation, but there is no legal definition of the basis for assessing compensation or the valuation method to be used. The absence of clear procedures for valuing land given to private companies which makes it impossible to weigh the expected benefits from the planned investment against displacement costs for the Ugandan people, as the basis for demanding fair compensation.

Valuation of land for compensation purposes is done by the DLBs under Section 59 of the Land Act, and by the Chief Government Valuer under other legislation for purposes such as assessing stamp duty and registering titles. Wealthy landowners are better placed to contest valuations. The poor have limited or no power to influence what they receive, and often receive too little. For example, the Ministry of Finance's Budget Monitoring and Accountability Unit (BMAU) found that in the Karuma Interconnection Project, the market price of land was between 2.5 and 7.5 times higher than the compensation paid.¹⁹⁶

Sometimes those removed from land receive no compensation at all, in August 2014 when a big number of people were evicted from land in Rwamutonga village, Bugambe sub-county, Hoima district. In this incident, a total of 250 families were violently evicted from 485 hectares of land (two people died) by one businessman (Joshua Tibagwa) to pave way to oil waste management by the American based waste management firm.¹⁹⁷

Section 77 of the Land Act states that "the value of the land shall be the open market value of the unimproved land, the value of the buildings at market value as well as the value of the standing crops." However, the open market value can be hard to determine with confidence as the land market in much of Uganda is not well developed. In most rural areas in the Albertine region like Kiryandongo, Oyam and Bulisa, land tends to be sold only when money is needed

¹⁹⁵ The Daily Monitor, Thursday October 2nd 2014.

¹⁹⁶ BMAU (2015), Power transmission line projects: What delays implementation? Briefing Paper No.9

¹⁹⁷ Mwesigye. S., 2014. Oil: land grabs fuel deaths in Hoima. Published in the Observer on 28 October 2014, Kampala Uganda. Available at, <http://observer.ug/business/79-businessstopstories/34591--oil-land-grabs-fuel-deaths-in-hoima>. [Accessed 28th February, 2021]

to meet unexpected costs. In some communities, no market value is attached to land as it is believed that land should not be sold but kept for future generations.¹⁹⁸

6.4.4 Weaknesses of dispute resolution mechanisms

The most frequent causes of disputes around land relate to boundaries, rights of way or access (36%), ownership or use (25%), land grabbing (22%) and missing or unclear land titles (4%).¹⁹⁹ There is a large backlog of court cases on land disputes, 3,846 cases waiting to be heard at the High Court in Kampala alone.²⁰⁰ The inadequacy of land dispute resolution mechanisms is a major contributor to inequality. Several institutions and mechanisms exist, with little or no coordination framework, including Chief Magistrate's Courts, Local Council II and III Courts, family and clans, Resident District Commissioners and District Land Boards.

The researcher found that the Laws are unclear on which forum should be used when. For example, the Land Act Amendment of 2004 gives Local Council II courts jurisdictions over customary land matters.²⁰¹ The Land Act also permits customary clan systems to determine disputes of a customary nature.²⁰² The Magistrates Court Act Cap 16 and the Judicature Act Cap 13 permit the filing of cases in Magistrates Court or High Court, depending on the pecuniary value associated with the court in question. Wealthy litigants commonly “forum shop”, choosing the mechanism most likely to rule in their favor.²⁰³

Trust in dispute resolution mechanisms is undermined by interventions of the Office of the President in cases that are already in court. Poor communities, frustrated by the difficulty of obtaining legal redress. This is mainly because of income inequalities and consequently limited access to affordability of justice. These frustrations have sometimes instead resorted to violence.

Attempts have been made to create a special land tribunal with flexible rules for ordinary litigants, but these have failed due to the lack of funding. Most litigants lack the knowledge, money and will to engage in protracted court processes. This is especially true of vulnerable groups such as women, youth, orphans and the elderly. Most land conflicts are treated as civil

¹⁹⁸ Judy Adoko & Liz Neate; Securing Family and Community Land Rights for Equity and Sustainability Through Resilient, Traditional Land Management Institutions.

¹⁹⁹ Ibid

²⁰⁰ Justice Bamugereire. <http://www.monitor.co.ug/News/National/ Courts-fail-to-try-470-cases-over-10-years/688334-3429660-13bms8f/index.html>. [Accessed 28th February, 2021]

²⁰¹ section 76A of the 1998 Land Act as amended

²⁰² section 88 of the Land Act

²⁰³ Para 114 of the NLP

rather than criminal cases, unless some additional involvement of committing an offence such as trespass or murder.

The government has responded by setting up various commissions of inquiry, specialized units in the police and State House (the seat of the president) to handle land matters, and the Land Division of the High Court (LDHC). An ongoing Commission of Inquiry into the Effectiveness of Laws, Policies and Processes of Land Acquisition, Land Administration, Land Management, and Land Registration in Uganda, headed by Justice Catherine Bamugemereire, is reviewing land administration structures, laws, policies and practice.

These responses have not yet provided a sustainable solution. For example, the LDHC mostly handles cases with a high financial value and matters of appeal, which are expensive to pursue. The LDHC's slowness in resolving land-related matters is one cause of the backlog of cases, along with stress on the judicial system caused by the volume of other cases not related to land.

Interventions of government institutions such as the Ministry for Lands, Housing and Urban Development and District Land Tribunals (DLTs) have also not been effective in resolving the numerous land conflicts. The activities of the DLTs were suspended in 2007 and their power vested in the Magistrates' courts, but this did not speed up the resolution of cases, and removed an option for seeking justice at local level. In response to weak political will and gaps in enforcement, some local leaders have come up with their own initiatives to try to increase the voice and participation of citizens.

6.4.5 Legal Rights of Women as Land Owners

Inequality disproportionately affects women, who are more likely to be poor and vulnerable. Most people in unpaid subsistence agriculture are women. Women often bear the brunt of climate-related shocks, and they suffer health effects associated with indoor pollution. As land, forest and water resources are increasingly compromised, women's livelihoods are particularly marginalized. Gender equity and equality in land tenure, access and control is essential in improving food security, education, health and economic development.

The Constitution, the Land Act and the National Land Policy are clear that women have property rights. For example, Section 28 of the Land Act makes it illegal for anyone to discriminate against women and children in respect of ownership, occupation and use of land, while Section 40 requires spousal consent for the transfer of household land. The NLP is supposed to

“redress historical injustices to protect the land rights of groups and communities marginalized by history or on the basis of gender, religion, ethnicity and other forms of vulnerability”

However, other laws – such as the Divorce Act and Succession Act – continue to discriminate against women in matters which affect land rights, such as marriage, divorce and inheritance. Proposed reforms that would more fundamentally challenge societal perceptions about gender have not received the necessary support. National Land Policy (NLP) proposal to guarantee gender equality in the rules of transmission of land rights under customary land tenure remains shelved.²⁰⁴

Both harmonization and implementation of laws is required to close existing gaps in legal frameworks. As noted in the Gender Strategy for Implementation of the Land Policy, many provisions have largely remained on paper and have drawn limited practicability on the side of policy and legal implementation. Legal provisions are yet to be fully translated into practice because of weak institutions, lack of finances and political support.

“No government institution at central or local level is exclusively mandated to protect women, children or other vulnerable people. There is a glaring gap between policy and legal text and the reality of implementation on the ground.”

The NLP notes that women are unable to effectively own or inherit land in some parts of the country including the districts in the Albertine Region because customary practices continue to override statutory law.

6.5 Conclusion

Legal provisions are yet to be fully translated into practice because of weak institutions, lack of finances and political support. No government institution at central or local level is exclusively mandated to protect women, children or other vulnerable people.²⁰⁵ The DLBs control only the allocation of public land, not private or customary land, and their composition has in most cases been less than 30 percent women, violating the legal requirement. This has made land grabbing in the oil districts common for the unfortunate families that do not have males as family leaders.

²⁰⁴ Para 41 of the NLP

²⁰⁵ Nakirunda Maureen (2011), “Decentralized Land Administration and Women’s Land Rights in Uganda: An Analysis of the Legal Regime, State Institutional Arrangements, and Practice”, Centre for Basic Research

CHAPTER SEVEN

SUMMARY, CONCLUSION AND RECOMMENDATIONS

7.1 Introduction

In this chapter, the researcher summarized the study, discussed, drew conclusions and made recommendations accordingly. The conclusions and recommendations were made from the findings that were analyzed, interpreted and presented in the previous chapter. The main objective of the study was to assess the how well land laws in Uganda are set up regulate the impact of oil discovery on land markets.

7.2 Summary of the findings

The researcher found that the Constitution (1995, amended in 2005) vests land in the citizens of Uganda:

“Every person has a right to own property either individually or in association with others.”

Some scholars and advocates have argued that the principle of public trust applies to all national resources and public land. Under the public trust doctrine, the government has an obligation to manage national lands and resources in a manner that doesn't prejudice the interests of all Ugandans.

The Land Act (1998) recognizes the four historic forms of land tenure in Uganda (customary, leasehold, freehold, and mailo). It also grants all lawful and bona fide occupiers (legally defined) property rights. The land Act decentralizes land administration and establishes land tribunals. The (10-year) Land Sector Strategic Plan (2001) was developed to implement the Land Act. The National Land Use Policy (2008) provides guidelines on effective land use for socio-economic development and on minimizing land degradation. In January 2007, the government issued a third draft of the National Land Policy, which attempts to address all aspects of land in the national development context. The draft policy was vetted for review and comments, and a fourth working draft was released by the Ministry of Lands, Housing and Urban Development in September 2009.

Understanding how oil endowments influence population growth was discovered to be critical for understanding economic development. It has been empirically shown that increasing a

country's oil endowment increases its population growth rate. As a result, a shift in a country's oil endowment can have an impact on its economic development through the effect of the oil endowment on population growth rate.

Human population growth varied spatially, with each district covering the Albertine region exhibiting distinct changes in population density between census years. Between 2002 and 2014, there was a significant gap in population density growth between the oil-impacted districts of Bulisa, Nebbi, and Nwoya and the non-oil-impacted districts of Kiryandongo, Oyam, and Masindi.

Petroleum exploration companies' operations in the Albertine have had dramatic and profound effects on land use/land cover. Because of the proximate and underlying factors that affect biodiversity, livelihoods, and a broad variety of socioeconomic and ecological processes, Land use trends in the Albertine and the impacts of such changes have taken on a crucial dimension.

The conversion and fragmentation of Land cover varied greatly throughout the districts surrounding the Albertine. Oil-impacted districts have seen the greatest loss in natural land cover, as well as the greatest rise in built land cover. Furthermore, all oil-impacted districts had a greater proportional increase in natural area patches than non-oil-impacted districts, indicating increased fragmentation. Since the established landscape class included both agriculture and infrastructure (including roads), the oil districts are becoming increasingly fragmented as roads expand and small-holder agriculture grows.

The discovery of oil in 2006 is the primary cause of the region's rise in land value. It is the desire to buy more land in order to make investments or sell it at a higher price to oil companies. Such a trend often leads to people acquiring more and more land in the region. Unlike in the past, the area began to attract interest from people across the social and economic spectrum following the discovery of oil. It should be remembered that the Albertine area was initially overlooked by settlers and the government because nothing important was required of it.

The Land Acquisition Act empowers the Minister to make legislation for the calculation and payment of compensation, but there is no legal specification of the grounds for determining compensation or the valuation system to be used, according to the findings on legal effectiveness. Since there are no simple procedures for valuing land given to private companies, it is difficult to weigh the potential benefits of the proposed project against the costs to Ugandans as a basis for seeking reasonable compensation. Furthermore, the inadequacy of land dispute settlement processes contributes significantly to inequality.

Inequality in the enjoyment of land ownership rights overwhelmingly affects women, who are more likely to be disadvantaged and marginalized. Women make up the bulk of those engaged in unpaid subsistence agriculture. Most women bear the brunt of climate-related shocks, as well as the health consequences of indoor emissions. Women's livelihoods are especially marginalized as land, forest, and water supplies are increasingly threatened. Gender equity and equality in land ownership, access, and control are critical for enhancing food security, education, health, and economic growth.

7.3 Conclusions

Within the most recent census period, the study concluded, there are inflated population densities in the districts where oil production is taking place. The population growth trajectory that varies from Uganda's national average and non-oil affected districts. Furthermore, as opposed to non-oil affected districts, oil-impacted districts have seen a greater rise in cases of land degradation and conversion of natural lands.

Land grabbing has also been seen as a negative phenomenon to the people. It for example affects their source of livelihood through loosing employment in agriculture, leads to displacement, loss of natural water bodies, food, and leads to less benefits in return. Whereas, the impacts can be felt by the entire society, the widow, orphaned children, the elderly, the economically and politically weak especially women suffer the greatest risks. Land grabbing still occurs at alarming rates simply because of the low implementation levels and the corruption tendencies of the law enforcement officials.

People living in oil-impacted areas have experienced unique changes in their livelihoods, such as perceived increased migration due to oil production, destruction of personal property and perceived lack of adequate compensation, increase in prostitution due to influx of money and demand for sex industry, and lack of jobs and economic benefits.

It was also concluded that the discovery of oil resources increased the value of land in the Albertine region. This, in particular, has been one of the primary causes of land grabbing and other land-related injustices. The profitability associated with global oil wealth prompted a land rush for oil-related activities, resulting in land titling processes in the Albertine area.

The desire to profit from oil resulted in large-scale land purchases and a rapid conversion of land from customary land ownership to freehold land tenure ties. These procedures entailed

illegal land purchases, collusion with influential elites and businessmen, undervaluation, and delayed or insufficient payments.

7.4 Recommendations

Carrying out massive civic education on people's land rights, how to protect rights of occupancy and processing of a certificate of occupancy under customary land ownership and how to process land titles would in one way or the other reduce the citizen's ignorance of the law and empower them to demand for their rights. Though some CSOs are already doing this, the program has fully rolled out to all areas because of possibly financial difficulties. So more of the sensitizations could be done.

Existing land laws and policies must be brought into line with the Constitution, and with regional and international standards. More commissions of inquiry will not be enough. Relevant bills already put before parliament should be enacted urgently. Gaps in land acquisition policies and laws should be filled to ensure they protect the right to prompt, fair and adequate compensation.

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

The government should build the capacity of institutions involved in valuation of land to ensure fair and timely compensation for displaced people. New procedures should be developed and reference values frequently updated on an annual basis. Compensation should also account for social capital and cultural attachments to historical lands, and the impacts of relocation on psychological health and wellbeing. The government should consider the need for medium-term arrangements to enable displaced households to transition to a new form of livelihood, such as business and financial management counselling.

7.5 Suggestions for Further Study

Further studies should delve into examining the critical assets for community development especially if these are existent within the Albertine Graben community. Much as some of the articles reviewed enumerated resources that exist in the Albertine region, there is need for a having a rigorous inquiry into the existence of different capitals: Those varied facet of capital could range from financial, environmental, cultural, political, human, physical available and devise means on how they can be mobilized for community development. Oil per se is singly not enough to lead to sustainable development. Additionally, research could be carried out to assess the correlation between land tenure system and nature of relation with foreign holders of oil and contracts in the Albertine region.

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