

**EFFICACY OF LAND ACQUISITION LEGAL FRAMEWORK IN OIL AND GAS INDUSTRY IN
UGANDA ALBERTINE GRABEN- BULIISA DISTRICT CASE STUDY**

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DECLARATION

I, Mukwatanise Arthur, hereby declare that this my thesis is my original work and has never been submitted or presented before any higher institution of learning for any academic award.

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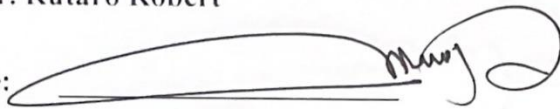
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APPROVAL

This is to certify that this dissertation, "Efficacy of land Acquisition legal framework in Uganda, Albertine Graben- Buliisa district case study" has been fully done under my supervision and is now ready for submission.

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9/05/2024

List of Acronyms

ACODE	Advocates Coalition for Development and Environment
AGODA	Albertine Graben Oil and Gas Districts Association
CHOGM	Commonwealth Heads of Government Meeting
CSCO	Civil Society Coalition on Oil and Gas
CSGBAG	Civil Society Budget Advocacy Group
CPF	Central Processing Facility
CSOs	Civil Society Organization
DENIVA	Development Network of Indigenous Voluntary Association
DLG	District Local Government
DPs	Development Partners
EACOP	East African CO Pipeline
EITI	Extractive Industries Transparency Initiative
FBO	Faith Based Organization
FGD	Focus Group Discussion
FID	Final Investment Decision
EPC	Engineering, Procurement and Construction
IFIs	International Financial Institutions
IMF	International Monetary Fund
KII	Key Informant Interview
LAA	Land Acquisition Act
LGA	Local Governments Amendment
LGs	Local Governments
MEMD	Ministry of Energy and Mineral Development
MDAs	Ministries, Departments and Agencies
MHLUD	Ministry of Housing Lands and Urban Development s
MoFPED	Ministry of Finance, Planning and Economic Development
MoLG	Ministry of Local Government

NGO	Non-Government Organization
NLC	National Land Commission
NOGP	National Oil and Gas Policy
NRM	National Resistance Movement
OAG	Office of Auditor General
PAU	Petroleum Authority of Uganda
PEFA	Public Expenditure and Financial Accountability
PFM	Public Financial Management
PPDA	Public Procurement and Disposal of Public Assets
PEPD	Petroleum (Exploration, Development and Production) Act
PAPs	Project Affected Peoples
PSA	Production Sharing Agreement
SOPs	Standard Operating Procedures
SWGs	Sector Working Groups
TV	Television
ULC	Uganda Land Commission
ULSB	Uganda Land Service Bureau
URA	Uganda Revenue Authority

ABSTRACT

Oil and gas as an industry has a wide effect on society and as an industry it covers vast aspects of the economy. This sector is concerned with the community where its operations are, the people who are affected by its operations as it has to acquire vast chunks of land. Big land is the reason why the sector is very sensitive and therefore a strong legal regime is very necessary. It has to work side by side with the community in order to extract the oil.

The explored area is said to represent less than 40% of the total area with the potential for petroleum production in the Albertine Graben and only 12% is licensed. Much as there is a potential for petroleum resources to be discovered in Uganda, more vast land shall be required and more people are to be affected.

The overall objective of this dissertations was to examine the effectiveness of existing Land acquisition laws, policies, and regulation's ability to properly compensate Project Affected peoples (PAPs), transparency and accountability of oil and gas resources in Uganda, Albertine Graben and particularly in Buliisa District as a case study.

The study adopted a qualitative research approach that incorporates qualitative data obtained from both secondary and primary sources. The comparative methods were employed to assess the selected jurisdictions for purposes of comparisons.

This study aimed at determining key factors that limit effective attainment of all the objectives 6investigated and hence determine ways of addressing such challenges with an overall purpose of enabling fair and effective results from exploiting oil and gas for the greater good, arriving at a win-win situation.

This paper found out that the work carried out by the oil and gas sector has a direct impact on the wellbeing of the communities where the oil is situated and the citizens of Uganda. The inhabitants of the Albertine Graben have so far been affected by the exploration and development stages of production. Some were asked to relocate and others were reallocated to other parts of the country with or without compensation.

There is need to enact strong laws and or updating the current legal regime plus ratifying of international instruments that do protect land rights among others.

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CHAPTER I: Introduction

1. History and Background of the problem

The existence of oil and gas in Uganda was first suspected by geologist through detection of oil seepages along the shores of Lake Albert in 1925. Between 1936 and 1958, shallow and deep wells were drilled in Butiaba, Kibiro and Kibuku for geological correlation by the African European investment company.¹ After independence, oil exploration activities were put on halt because of political instabilities that ensued in the country.² Immediately after coming to power in 1986, the NRM government together with multinational oil exploration companies embarked on an aggressive oil exploration process.

Access to land is key for the successful operation of the oil, gas energy and mining projects in any jurisdiction. In 2006, Uganda confirmed commercially viable oil and gas deposits of up to 6.5 billion barrels in the Albertine Graben region. As a natural resource, the discovered oil and gas belongs to the citizens of Uganda but it is held by the government of Uganda in their trust. It is the duty of the government of Uganda to extract the resource for the benefit of its people and the country for the growth of the economy. The oil discovery called for land acquisition by the government for its exploration and development.

Out of the confirmed deposits, around 1.4 billion barrels are thought to be recoverable.³ While making a presentation at the 5th Oil Summit at Kampala Serena Hotel on 25th September 2019 President Museveni estimated that Uganda would earn over US\$ 80 billion from its recoverable 1.4 billion barrels at current prices. The government take would reduce to US\$ 50 billion after recoverable costs. Uganda's oil and gas industry has since transitioned from the exploration stage and is now on the advanced levels of development and production phase. Uganda is to earn about \$2 billion (Shs.7 trillion) in revenue from the oil and gas sector when oil production starts

¹ International Alert (2013) Governance and Livelihood in Uganda's Oil Rich Albertine Graben. Harnessing the Potential of Oil to Contribute to Peace and Development in Uganda, Kampala.

² NAPE (2012) the Oil Industry in Uganda. Raising. Women's voices: Community Perspective. The National Association of Professional Environmentalists with support from American Jewish World Service.

³ Benjamin A. and Nakayi, R. (2014) Eastern Africa: A New Oil and Gas Frontier; The Republic of Uganda Ministry of Energy and Mineral Development, January 2017, Kampala

in the next 3 years. The revenue will come from the Production Sharing Agreements (PSAs) signed with the oil companies for producing oil in the Kingfisher and Tilenga project oil fields in Buliisa District.⁴

In Uganda, the discovery of oil and gas has been identified as having the potential to transform its economy, moving away from the predominantly low-income to a competitive upper middle-income country by 2040.⁵

The exploration, extraction, processing, and distribution of oil and its products require a lot of infrastructure development, which needs acquisition of a reasonable big chunks of land from the people near the project sites. This calls for land acquisition and this study is on the oil and gas which have caused displacement and resettlement of the local communities. The law and the international best practices that require observance of human rights, involuntary resettlement to be avoided or at least be minimized and in the event of unavoidable resettlement, the affected people be fully, fairly, promptly and legally compensated. The affected people should have a right to be involved in the resettlement process.

If properly utilized, the expected oil revenues and employment opportunities can fundamentally change the nature of Uganda GDP and wellbeing of its people. Indeed, President

Museveni has always emphasized that oil money will wipe out Uganda's debt of US\$ 12.4 billion, develop the country's badly needed infrastructure, stimulate other sectors of the economy and improve the social wellbeing of Ugandans. In September 2020, after many years of excruciating negotiations, government of Uganda (GoU) announced that it had reached a consensus with international oil companies on sticky issues paving the way for the Final Investment Decision (FID). After, the 2021 election, in his address to the nation about the countries progress on the fight against the Covid-19 pandemic, President Yoweri Museveni revealed that oil companies were to begin the construction of the pipeline, oil refinery and other

⁴ New Vision Thursday April 14th 2022 Page 6 by John Odyek

⁵ Christopher Mbazira, Teddy Namatovu (2018) African Human Rights Law Journal

related activities. Indeed, the FID was announced on the 2nd February 2022 by Mr. Patrick Pouyanne the Chief Executive Officer and chairman of Total Energies who led the Joint Venture Partners and was witnessed by His Excellency Yoweri Kaguta Museveni the president of the Republic of Uganda, His Excellency Phillip Isidor Mpango the vice president of the United Republic of Tanzania at Kololo independence grounds in Kampala. This announcement heightened excitement in the country as many believe that it marks an important stage in the final development process of the sector.

By FID it implies that the joint venture partners affirmatively consented to undertake the constructions of the project and the company has given a full notice to proceed under an EPC contract. It is a point in the capital project planning when the decision to make major financial commitment is taken. At the FID point major equipment orders are made and contracts are executed for Engineering, Procurement and Construction (EPC). FID is the commitment of the beginning of the detailed Engineering, Procurement and Construction (EPC) phase by the joint venture partners.

The Uganda oil project joint venture JV companies' shareholders are the Uganda National Oil Company (UNOC) holding 15%, the Joint venture partners (Total Holdings International B.V having 62% and CNOOC Uganda Ltd with 8%) and the Tanzania Petroleum Development Corporation (TPDC) holding 15% . These oil companies are expected to invest about US\$ 10 billion to develop the Uganda oil and gas resource through the implementation of the Tilenga project in Buliisa and Nwoya Districts, the King Fisher project in Hoima and Kikuube Districts (US \$ 6.8 bn) and EACOP making the first oil expected by 2025.

As late comers in the soon to be oil producing nations, Ugandan authorities have been and are keenly aware that if the process of developing the oil and gas sector and utilization of realized revenues is not deeply understood and properly handled, the expected benefits may not be realized.

A deep understanding of these processes is important because many studies have revealed that sophisticated exploitation tendencies of multinational companies such as tax avoidance and underpricing; land disputes in oil producing areas; neglect of environmental safeguards; disagreements on sharing of oil revenues between oil companies and governments; and conflicts on allocation of public goods between various ethnic groups or regions have turned oil resources into a curse in many African countries.⁶ For example, the experience of Nigeria – one of the biggest oil producers in Africa has indicated that over reliance on crude oil exports, corruption, and neglect of strict environmental safeguards comes with many negative environmental consequences in oil producing areas, costs the economy and breeds political and military conflict⁷.

Uganda has undertaken several measures to avoid such mistakes. For example, it insisted on building a refinery alongside the crude oil exporting pipeline. Ugandan government officials have also undertaken studies from countries such as Trinidad and Tobago, Norway and Botswana to benchmark best practices on how to utilize oil and gas resources revenues effectively. In preparations to exploit this resource in ways that fulfill its constitutional mandate, the Government of Uganda (GoU) has established more policies, laws and regulations aimed at ensuring effective transparency and accountability in the oil and gas industry so far but no specific law on the land acquisition has been enacted.

The GoU developed the National Oil and Gas Policy purposely to address issues of exploration, development, production, utilization and commercialization of the country's petroleum resources in 2008⁸. The main objective of this policy is to use the Country's oil and gas resource

⁶ Shaxson, N. (2007). Oil, Corruption and the Resource Curse. *International Affairs (Royal Institute of International Affairs)*, 83(6), 1123-1140. Retrieved December 25, 2020, from <http://www.jstor.org/stable/4541914>; Obi, S. (2010). Oil as the 'curse' of conflict in Africa: peering through the smoke and mirrors. *Review of African Political Economy* 37(126), 483 – 495. <https://www.jstor.org/stable/25767298>; Kiiza, J., Bategeka, L., Ssewanyana, S., (2011). Righting resource-curse wrongs in Uganda: the case of oil discovery and the management of popular expectations. *EPRC. Research Series, No 78*; Chayes, S. & Peck, S. (2015). *The Oil Curse: A Remedial Role for the Oil Industry*. Carnegie Endowment for International Peace. <https://carnegieendowment.org/2015/09/30/oil-curse-remedial-role-for-oil-industry-pub61445>;

⁷ ibid 6

⁸ Oil and gas Policy (2008)

to contribute to early achievement of poverty eradication and create lasting value to society⁹. One of the objectives of the policy is to ensure mutually beneficial relationships between all stakeholders in the development of a desirable oil and gas sector in Uganda. This implied that the development of the oil and gas sector in Uganda should be taken in a manner that recognizes the roles of different stakeholders while ensuring their participation in the development of the sector. The policy recognizes the need to promote high standards of transparency and accountability in licensing, procurement, exploration, development and production operations and management of revenues from oil and gas.

The Uganda Petroleum Act 2013 was enacted after the NOGP to ensure that petroleum operations in Uganda are carried out in a manner that guarantees optimum benefits for all present and future Ugandans. The law establishes an effective legal framework that: regulates, manages, coordinates and monitors midstream operations; enables the construction, placement and ownership of facilities; provides for an open, transparent and competitive process for licensing of oil and gas companies; provides for health, safety and environment regulations not sufficiently regulated in other laws. The law further emphasizes the need to support citizen participation, national content development, ensuring transparency and accountability in conducting of all activities in the oil and gas industry in Uganda.

In 2016, the government of Uganda also put in place a National Petroleum Content Regulations which set guidelines for assisting Ugandan companies, registered entities and citizens to develop their capacities to further the development of national content in petroleum activities. The regulations call for the promotion of training and employment of Ugandans, transfer of knowledge, technology, provision of goods, and services by Ugandan companies, registered entities and citizens. In addition, the regulations emphasize enterprise development through provision of support to Ugandan citizens and companies. These were intended to supplement or compliment the already existing laws, policies and agencies aimed at fighting corruption; ensuring effective citizen participation in public affairs; enforcing contract transparency in

⁹ Ojijo Pascal, The Legal Regime for protection of Environment during Oil and Gas Exploitation Case Study of Uganda.

government procurements; promoting public accountability; equitable development; protecting people on their land and ensuring proper use of oil and gas resources in the country.

The author examined the process of land grabbing as a result of exploration and exploitation in Buliisa District. The nature of land grabbing examined related to the oil discovery, the drivers of land grabbing (Legal and social framework guiding acquisition) and the results of land grabbing all based on data collected from Buliisa, existing literature, government reports and newspapers. Field work was carried out in Buliisa in Bukona, Nyomasyoga and Kyapolani villages.

1.1. Statement of the Problem

There is extensive academic literature on oil and gas, landownership and land tenure, the acquisition, compensation and land grabbing. How the legitimate land owners are identified, their interests in land valued and fair compensation awarded is done in a manner that lacks respect of the laws of Uganda and the globally accepted best practices generally. All these are in different contexts and do not provide in-depth knowledge on the oil and gas sector in Uganda. Such literature may not be used to directly inform the improvement or adoption of new policies and laws aimed at ensuring that the oil resource benefits Uganda optimally. No in-depth academic studies have been undertaken so far to examine the effectiveness of land Acquisition laws in the oil and gas management frameworks mainly because the industry is in its nascent stage and or for political and economic gain by the holders of power in the government.

1.2. Purpose of the study

To find out the effectiveness of the land Acquisition law as regards oil and gas industry in Uganda

1.3. Significance of the study

If properly utilized, oil and gas resources will have a huge positive impact on Uganda. The opposite can also be true. By highlighting the existing limitations embedded within the existing land Acquisition legal frameworks, it is hoped that rectification can be made at this earlier stage for the better management of the oil and gas resource and many more future harmonious

management of land Acquisition related issues and avoid the mistakes other countries have gone through.

1.4. Justification of the study

This research was undertaken to contribute to the national dialogue for developing a compulsory land acquisition and resettlement policies within international legally accepted framework. The proposed guidance is to help in avoiding shortfalls in the land acquisition for a more systematic and accountable way by balancing both the interests of national development and individual land owners or the PAPs.

1.5. Aims and Objectives

1.5.1. Main Objective

In light of the above knowledge gaps, the overall objective of this research was to critically examine the effectiveness of the existing land acquisition laws, policies and regulation's ability to properly compensate land owners for their land, analyse Uganda's international and regional obligation in regard to compulsory land acquisition, transparency and suggest appropriate recommendations for addressing the challenge of compulsory land acquisition in Uganda.

1.5.2. Specific Objective

2. To examine the effectiveness of the current land Acquisition laws in protecting landowners from unfair land acquisition practices.
3. To explore and analyse Uganda's international and regional obligations regarding compulsory land acquisition.
4. To suggest appropriate recommendations for addressing the challenges of compulsory land acquisition in Uganda.

1.7. Research Questions

1. How effective is the land Acquisitions law in the oil and gas sector in protecting the land owners from the unfair land acquisition?

2. How is the Uganda's land law on compulsory land acquisition comparable to the regional and international best practices on land acquisition?
3. What recommendations can be made to ensure good law is put in place for compulsory land acquisition?

1.8. Scope of the Study

This study was done in Uganda with particular bias in the Albertine Graben and in Buliisa District as a case study to critically analyse the extent and effectiveness of the current laws in regard to compulsory land acquisition.

1.9. Chapter Synopsis

The study is arranged in six chapters. Chapter one introduces the study, presents the background to this research, the aims and how to achieve them and gives the rationale for conducting the research. Chapter two does the examination and evaluation of literature and theoretical evidence provided from the literature by the previous researchers about the land legal acquisition framework in Uganda, gaps acknowledged through the literature review and discussed with a view of making the foundation of this study.

Chapter three, discusses the methodology of the study adopted, a discussion of quantitative and qualitative methods, an evaluation of the case study and comparative research designs. This chapter looks at sources and nature of data, evaluates the validity and reliability of data used in the research, reviews data presentation and analysis. It considers the applicable ethical considerations, resource requirements and limitations of the study.

Chapter four handles introduction of the topic as regards in depth how the legal framework of the available land acquisition laws in Uganda and analyses the results and findings. Chapter five makes an analysis of the land acquisition laws and institutions in Uganda and other select jurisdictions. It makes observations on the findings and contains a study on international based practices in regard to compulsory land acquisition.

Chapter six deals with conclusions of the findings, and handles the recommendations for a better future compulsory land acquisition in Uganda.

1.10. Limitations of the study

The research was undertaken during and after the period of COVID-19 restrictions (SOPs). It was not able to obtain the targeted population as people had fear of contracting the virus, there was lack of free movement in the study area.

It was not easy, because of the language barrier, as most of land owners were illiterate. There was, therefore, need to source interpreters which consumed a lot of time and resources.

There was limited cooperation on the part of the government officials, the known land speculators and politicians as information was withheld from the researcher and it was not easy to verify the results.

1.11. Conclusion

The study was aimed at analyzing the available laws in Uganda in regard to the compulsory land acquisition, the effectiveness of the said laws and effects on the affected land owners and people in the oil and gas regions of the Albertine Graben. It was envisaged that after the study and having analyzed the effects, the recommendations would be of help to other researchers and even the government into formulating better and more civilized land acquisition laws for the people of Uganda.

CHAPTER II: Literature Review

2. Introduction

During the initial period of developing this dissertation, literature on the various themes and objectives of this study was discussed, gaps identified and thematically highlighted. This chapter, therefore, reviews the literature to the overall objectives of the thesis by examining and analyzing the efficacy of the land acquisition law in regard to compulsory land acquisition in Uganda and in particular the Albertine Graben with emphasis in Buliisa District

2.1 Summary of Literature reviewed

The demand for land since the oil projects need vast areas has led and will continue to lead to the displacement of large numbers of people,¹⁰ If not well managed, resettlement can have severe consequences for local communities¹¹ and can create human rights impact.¹²

According to Isaac Christopher Lubogo¹³ states that “Uganda’s oil and gas law falls short of protecting and promoting fundamental and other human rights and freedoms enshrined in the country’s constitutional framework. The country’s current policy and legal regime fails the compliance test with regard to the UN Guiding Principles on business and human rights”.

All projects should adhere to international best practices, which among other things, require that involuntary resettlement be avoided or at least minimized, and that, where resettlement is unavoidable, all affected people should be fully and fairly compensated, and have an opportunity to be involved in the resettlement process.¹⁴

¹⁰ Kinyera,P.B. Land,oil and expressions of citizenship in Uganda’s Albertine Graben .Extr.Ind.Soc.2019,6,

¹¹ Smith, E;Vanclay,F. The social framework for projects; A conceptual but practical model to assist in assessing, planning and managing the social impacts of projects. Impact Assess.Proj.Apprais, 2017, 35, 65-80.

¹² Van der Ploeg,L.;Vanclay,F. Challenges in implementing the corporate responsibility to respect human rights in the context of project-induced displacement and resettlement. Resour. Policy 2018, 55, 210-222

¹³ Christopher Isaac Lubogo The Law of oil and gas in Uganda 1st Edition,Jescho Publishing House A member of Jescho Group Ltd Marias Galleria. Level 3 Room 17, Luwum Street Kampala (U), East Africa. E-mail jeschogroupltd@gmail.com Website:www.jeschogroupltd.co.ug page 125

¹⁴ Vanclay,F.;Hanna,P. Conceptualizing company response to community protest: Principles to achieve a social licence to operate.Land2019,8,101.

Each project should be considered as an opportunity to improve the wellbeing of affected people. If international standards are not complied with, land acquisition for projects and the associated displacement and resettlement leads to impoverishment and conflict.¹⁵ It has been argued that the extractive industry is usually associated with the incidents of corruption, political and social instability, economic under performance, rather than the anticipated positive and inclusive development.¹⁶

Roberts K. Muriisa¹⁷ “writes that the discovery of commercially visible oil deposits in Uganda in 2006 brought a lot of optimism about the new discovery contribution to the development of Uganda. He states that the discovery of oil will transform the country from low to middle income status by 2017 and a first world country by 2040. “Uganda is on the verge of becoming an OPEC power house.

According to **Byakagaba**¹⁸, the above considerations are promoted by politicians, a populist’s approach to politics where leaders want to maintain themselves into power by overseeing expected benefits of the discovery. The optimism with which this discovery comes with lowest fell short of reality when people in the oil rich Albertine Graben region began facing evictions from their land and some went into internally displaced people’s camps (IDP) like conditions.¹⁹

Apart from evictions, there are reports that speculate land acquisition and application for freehold registration of land has increased. This affects people’s livelihood and transforms into conflicts which may in the long run affect the oil industry.

¹⁵ Alao, A. *Natural Resources and Conflict in Africa: The Tragedy of Endowment*; University of Rochester Press:

¹⁶ Collier, P. *The Bottom Billion; Why the Poorest Countries are Failing and What Can be Done About It*;

¹⁷ Muriisa R. K. (2018). *Land Grabbing and Oil industry, Implications for Women’s Land Rights and Oil Industry in Uganda*. Centre for Research on Peace and Development (CRPD) KU Leuven Parstraat 45, box 3602, 3000 Leuven, Belgium.

¹⁸ Byakagaba, P. and Twesigye, B. *Securing Communal Land and Resource Rights in the Albertine Region in Uganda* Kampala, Uganda. CRED September 2015

¹⁹ <https://www.observer.ug/business/38business/38987-oil-rich-Hoima-struggles-to-solve-the-land-question> accessed 26th June 2022

A full developed plan for the oil region in the Albertine Graben has not yet been prepared by the government, but the area needs a large amount of infrastructural development to make oil exploration possible Oil in Uganda. Roads, pipeline airstrips, a railway and a refinery are the main infrastructural improvements the government needs to exploit the resource. (NEMA 2012)

The infrastructure developments connected to the oil discovery are mainly taking place in the areas where a lot of people have their homes and their livelihoods through customary tenure. The developments such as roads and the refinery require much lands which is in use by the local communities. This results in land acquisition by the government to achieve the planned development (Uganda Road Authority 2012, Ministry of Energy and Mineral Development 2013, Downstream Today 2012).²⁰

There is little academic work that has examined land grabbing as a phenomenon, the process and drivers of land acquisition and the outcomes of this process and in particular the conflicts much of the land grabbing is on the land grabbing fair head, lead scoonies (2012) with justification of green, food and biofacts as necessitating land grabbing due to agriculture and less forces on block grabbing. The method used by government in acquisition of land, speculative investment by individuals in the Albertine Grab after the oil discovery is like land grabbing due to the manipulative nature of the process of acquisition.

The discovery of oil was met with joy and excitement for its prospective contribution to development. The need for land to pave way for oil exploration, exploitation and development as well as speculative investment has generated a land acquisition which the author herein regards as land grabbing.

Roberts K. Muriisa opines that the phenomenon of land grabbing has been widely researched in the agricultural sector because of the scale and size of land taken over in the process of land acquisition and much less in the oil and extractive industry. The writer quoted “land is not a mere

²⁰ Ingrid Gildseth, 2013. Land tenure practices and Land acquisitions in oil region; The case of Hoima, Western Uganda, Master Thesis of Geography, Norwegian University of Science and Technology, Trondheim

commodity, but an essential element for the realization of many human rights. For many people land is a source of livelihood and is central to economic rights. Land is also often linked to people's identities and so is tied to social and cultural rights"^{21,22} The author cites Article 237 of the constitution as to land ownership in Uganda being belonging to the citizens subject to Article 26 where government can acquire land in the public interest and hold land in trust for the people for the common good of all citizens like lakes, river, forest reserves wetlands gone and national parks and land reserved for ecological and touristic purposes.

The nature of land grabbing in the Albertine Graben indicates that it takes various forms and the process of land acquisition fulfills almost all the condition of land grabbing. There is outright violation of land rights, there is limited information on the land acquisition and takeover and there was limited participation into the process of land deals by the people. He further writes that in addition, the forms included forceful takeover followed by evictions, dubious dealings, and "compulsory acquisition" a proportion of public lands by government in public interest as provided for under Article 237 (2) of the constitution²³

Land acquisition in Buliisa took the forms of appropriation of public land that was forming part of the National park, the lake shores and therefore protected public land, fraudulent or dubious dealings by land grabbers who claim to have purchased the land, forced evictions especially to the people who refused the compensation because they felt the process was not fair and their property not given fair true values, those who accepted to relocate and are still waiting to be relocated, those that accepted compensated and have not yet been compensated and those that were compensated and vacated the land. Some of the threatened have moved and are renting in towns and trading centers away from their land and have abandoned farming.²⁴ The conclusion

²¹ Uganda Consortium on Corporate Accountability UCCA Handbook on Land Ownership Rights, Interests and Acquisition in Uganda May 2018. <http://www.iser-uganda> assessed 08 June 2022 at 1:16pm

²² United Nations Human Rights Office of the High Commissioner

²³ *ibid* 17

²⁴ <http://ugandaoil.co/2014/refinery-site-residents-abandon-farming-a>.

is that land grabbing is real and the main drivers are institutionally led by the state agencies which has greatly negatively affected the livelihoods especially of women in the region.

The author further writes that land is of economic, social, political, cultural and environment meaning and importance. It is our view that the multinational significance of land for people can only be taken seriously through the lens of a “human rights approach”.²⁵ It starts from the recognition of especially the most vulnerable farmers, indigenous people, and communities of artisanal pastoralists and landless people who are rights holders with respect to land. He also writes that to date; it is uncertain whether the PSA’s contain agreements with the land owners as a benefit which would not only accrue to the land owner but to the community. The human face to oil in Uganda seems to have disappeared and simply remain on paper under the Constitutional provisions.²⁶

The study decided to investigate the effect of oil prospecting and discovery on land tenure and livelihoods in the region with deliberate efforts being made to unearth issues in the region with outcome to be drawn on policy issues and engagement plus dialogue towards a policy direction to land governance in the Albertine Graben. This research examines the process of land grabbing as a result of oil and gas exploration and exploitation in Uganda in Buliisa District. The characteristics of land acquisition and drivers of land grabbing both from the legal and social aspects guiding land acquisition. Data was collected from Buliisa, the available literature and government reports.

Land was acquired for roads construction, dumping site of the oil refuse and other activities related to oil activities like construction of camping sites and the refinery. In-depth interviews

²⁵ In a human rights – based approach, human rights determine the relationship between individuals and groups with valid claims (rights holders) and state and non-state actors with correlative obligations (duty-bearers) identifies rights-holders and their entitlements and corresponding duty-bearers and their obligations and work towards strengthening the cooperatives of rights-holders to make their claims and of duty-bearers to meet their obligations (UNDP 2004)

²⁶ Land grabbing and its effects on the communities in the oil rich Albertine Region of Uganda case of Hoima, Buliisa and Arua, By Uganda Land Alliance, September 2011.

were conducted with specific groups, CSO and community leaders as such interviews are flexible and allow getting more data by probing many respondents.

Kyanalebye –stated having been made a Buganda land Board Managing Director that” Research has shown that when women have secure rights to land, it is more likely that opportunities will emerge to break the cycle of poverty and improves their lives”⁹

New Vision Page 12, Monday October 14, 2019 wrote that 500 land titles in oil Rich Buliisa District were cancelled in 2017 and the government has embarked on the systematic land demarcation exercise and issuance of new land titles.²⁷

Land titles and applications processes between December 2010 and February 2017 by Buliisa land Board were cancelled due to irregularities affecting 160 land lords owning 5,090 hectares. One person owned half of the affected land titles. Land buy outs were reported in the district with speculators anticipating to profiteer from selling it to the government and oil companies at a higher price. Minister Among Betty faulted the board for allegedly conniving with police and land committees to facilitate the land grabbing. Most people who had settled on the lands for years were not aware that the land had been applied for and title obtained.

New Vision, Monday, September 30, 2019 by Harriet Kuganza reported that GPS was to be used in Buliisa Land demarcation exercise and she wrote that the Global positioning system (GPS) will be used as an alternative to resolve common land grabbing incidents in Buliisa District. This was revealed by Mr. Denis Obo a spokesperson Ministry of lands at a meeting of commercial land association members held at Kigwera sub county headquarters as coordinates in systematic.²⁴

²⁷ Transparency International, Uganda and Democratic governance facility (DGF) ²⁴ New Vision, Monday, September 30, 2019 by Harriet Kuganza.

Germano Mwabu²⁸ writes some policy makers and academics see oil as a blessing for Africa because oil Revenue could be used to finance social and physical infrastructure that many African countries have been unable to undertake for a long time whereas others are skeptical of the benefits that oil exploitation is likely to bring. Some of them see natural resources as a curse or a natural disease because of its strong association with conflicts prescribed by selfish goals of some groups or individuals. Thus, any welfare or efficiency result of an oil resource depends on how it is extracted managed shared and how its proceeds are deployed.

The Kenya's oil governance regime is in its 2010 constitution. It provides the principles related to fair land tenure and effective land use, environmental preservation and protection, citizens participation in the management of natural assets, fair benefit sharing from natural resources and associated fished revenue, transparency in the management of public service and assets and access to information of the public nature. Kenya's oil governance framework is a component of the country's national governance framework as specified in its constitution. The Kenya parliament updated the legislation governing the management and regulation of biophysical environment and socioeconomic conditions in relation to the exploitation of oil and gas. The legislation amended The Environmental Management and Coordination Act, The wildlife policy and The Wildlife Protection Act, the draft wetlands policy, The Land Act and the Land Registration Act, and the Community Land Bill. Kenya tabled the National Resources (Benefit sharing) bill to establish a method of sharing revenue.²⁹ The study decided to investigate the effect of oil prospecting and discovery on land tenure and livelihoods in the region with deliberate efforts being made to unearth issues of land grabbing.

The study focused on tenure arrangements and land transactions in the region with an outcome to be drawn on policy issues and engagement plus dialogue towards a policy direction to land governance in the Albertine Graben.

²⁸ Mwabu, G. (2018) Kenya's Oil Governance Regime: Challenges and Policies , Working Paper No. 71, Centre for Research on Peace and Development, Belgium [http://soc.kuleuven.be/files\(pdf\)/](http://soc.kuleuven.be/files(pdf)/), visited 27th June 2022

²⁹ page 4 CRDD work paper No. 71

It is important to analyze the rights at depth in an effort to find out whether the ownership of those rights and their transfer to the oil and gas industry is within the legal process or is marred with irregularities, illegalities and violation of human rights. Despite the existence of legal instruments like the Constitution, the National Oil and Gas policy, land conflicts still persist in Busereka Sub-County (International Alert, 2023).

Isaac Christopher Lubogo,³⁰ wrote that the media reported the threats emanating from the land uncertainty as a result of oil exploration like hatred between the oil exploration company and the indigenous displaced people. He quotes a baseline survey carried out by Hoima Caritas Development Organisation (HOCADDO) which reports that the majority of the individuals believed in the idea that there were incidences of land grabbing as seen from the 143(46.7%) who strongly agreed, 84(27.5%) who did not agree to the statement. Moreover, the majority of the respondents had a perception that more people were likely to be displaced on their land due to oil discovery. The oil and gas infrastructure developments are majorly taking place in areas occupied by customary.

The oil and gas infrastructure developments are majorly taking place in areas occupied by customary. According to **Isaac Christopher Lubogo** in his book³¹ in recent years, a number of transnational oil companies have joined the government and civil society to establish multi-stakeholder initiatives aimed at maximizing positive human rights impact and preventing negative ones in the sector. Such initiatives include the Extractive Industry Transparency Initiative (EITI), the Voluntary Principles for Security and Human Rights, and the Global Oil and Gas Industry Organisation for Environmental and Social Issues. He further observed the domestication of these principles and initiatives into national laws and policies is critical to the full realization of the “Protect, Respect and Remedy” framework of the UN Guiding Principles on Business and Human Rights.

³⁰ ibid 12 page 116

³¹ ibid 12 page 124

The analysis demonstrates that Uganda's oil and gas laws in regard to land acquisition and compensation fall short of protecting and promoting fundamental rights and right to property as enshrined in the country's celebrated constitution. The critical analysis proves that Uganda's current legal framework in regard to compulsory land acquisition compliance test fails as well.

Land in Uganda is owned in accordance with customary, freehold, mailo, and leasehold land tenure systems.³² The constitution further provides that all Ugandan citizens owning land under customary tenure may acquire certificates of ownership in a manner prescribed by parliament and land under customary tenure maybe converted to freehold land ownership by registration.³³ And upon coming into force of the constitution and until parliament enacts an appropriate law within two years under article 237 (9) the lawful or bonafide occupants of mailo land, freehold or leasehold land shall enjoy security of tenure of the land.³⁴

Whereas customary tenure is recognized in Uganda legal regime, the identification of the holders complicates the acquisition exercise. The government does not fully appreciate the occupants land tenure rights. This is also the case in most of the Albertine Graben area (NEMA2010), which has made the local population vulnerable to land grabbing.

Despite of the land owners being uncomfortable as regards to their land being taken for oil activates, no specific studies have been engaged on the oil exploration activities and land conflict in oil countries and in Uganda. This has resulted in increased hostilities and loss of land and livelihood. Therefore, there is need to conduct a comprehensive study on the relationship between the oil exploration activities and land conflict in Buliisa District. The writer in this thesis will give the impact of the available land compensation laws in Uganda to the people in the oil and gas areas.

³² Article 237 (3) ibid

³³ Article 237 (4) ibid

³⁴ Article 237 (8) ibid nn g

Tom Ogwang & Frank Vanclay 2019³⁵ argued that oil activities require substantial land take. They discussed the social impact on the livelihoods of local people and urged the oil activities should not lead to a resource curse, Dutch disease and or a Nigerian disease. Instead, Uganda and other resource –rich countries in Africa should ensure that the negative consequences from resource exploitation, and especially from land acquisition, are fully addressed by adhering to international best practices.

Human rights are the basis for securing dignity and equality for all people.³⁶ The human rights “bill of rights” is made of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which set out a range of rights and freedoms like protection from deprivation of property, right to education favorable work conditions and the right to a clean and healthy environment. The oil companies that do not take interest in protecting human rights face hostilities in their areas of operations leading to the denial of a social license to operate, face operational delays, reduced employee satisfaction. Lawsuits and a reputation harm and limited investment expansion and opportunities.³⁷

Byakagaba³⁸ writes that the people interviewed, all the participants in the focus group discussions and key informant interviews held in Buliisa agreed with the view of registering communal land under a communal land association as provided in the Land Act 1998.

³⁵ Tom Ogwang & Frank Vanclay, 2019. Social Impact of Land Acquisition for Oil and Gas Development in Uganda, Urban and Regional Studies Institute, Faculty of Spatial Sciences, University of Groningen, 9700AV Groningen, The Netherlands, (online) available at ;<https://www.mdpi.com/2073-445x/8/7/109/pgf> (accessed 24th June ,2021)

³⁶ European Commission, Oil and Gas Sector Guide on Implementing the UN Guidelines on Business and Human Rights.

³⁷ See I. Avots Sans Frontieres (ASF), 2015. Business and Human rights aspects in Uganda oil and gas sector. Kampala, Uganda.

³⁸ Byakagaba, P. and Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region in Uganda. A case of Hoima and Buliisa Districts, Uganda, Kampala; ACODE Policy Research series No. 75 of 2016. Balancing Development and Community Livelihood. A frame Work for Land Acquisition and Resettlement in Uganda.

In most countries, oil is produced in areas inhabited by ethnic groups. However, the proceeds go to the government officials and national coffers.³⁹ According to *Emeseh*,^{40, 41} oil resources-induced conflicts in many cases creates two or three parties to the conflict-the government of the host state, the oil producing companies and the host local communities. The revenues from oil resources are maximized by the state and the oil producing companies leaving the oil host communities in a state of alienation and deprivation.

Land conflict has been very pertinent in sub-Sahara Africa in countries like Nigeria, Congo, Angola, Gabon, Sudan, Ghana, Senegal.⁴² This can highlight to Uganda that the experience differs radically from the promise of petroleum. A more worrisome situation is created when the gap between the expectation created by oil riches and the actual produced is a condition for disorder and war which distort the country's petroleum potential.

Land is the main productive asset and means of wealth accumulation for most Ugandans. It is now 16 years since the first National Land Policy for Uganda was passed. The policy explicitly provides for customary tenure as one of the four tenure of land ownership in Uganda. Customary tenure is defined in the Land Act 1998 as a tenure category that is applicable to a specific area of land and a specific description of persons governed by rules generally accepted as binding and authoritative in that community.⁴³

The rules governing customary tenure include communal ownership of Land. Since the enactment of the Land Act 1998 the provisions of the law relating to communal tenure have remained unimplemented due to limited demand and lack of awareness of the value of formatting

³⁹ Festus Winyi, 2016. Relationship Between Oil Exploration Activities and Land Conflicts in Hoima District, Uganda; A Case Study of Busereka Subcounty.

⁴⁰ Emeseh, Avoiding the Social and Environmental Governance Deficit time bomb by Newly Emergent Petro-States in West Africa: Lessons from Nigeria, Aberystwyth Law School, June 2011.

⁴¹ <https://hdl.handle.net/2160/40817>

⁴² Ukiwo, Ukoha (2011), The Nigerian state, oil and the Niger Delta crisis, in Obi, Cyril & Rustad, Siri Aas (eds.) (2011), Oil and insurgency in the Niger Delta. Managing the complex politics of petroviolece, pp. 10

⁴³ Section 3 of the Land Act cap 227

ownership from the community groups. Government has not put in place the necessary structure and guidelines to operationalize registering and administering land under communal tenure.

The local communities have also not been sensitized on the importance of registering land rights. The failure by the community group to formalize their tenure status has made them vulnerable particularly in the Albertine region where oil and gas exploitation and development are currently taking place. The local communities are losing land rights to land speculators because of under tenure status, communal land is viewed as free land “free for grabs.”⁴⁴

President Yoweri Kaguta Museveni while commenting on the received copy of the Bamugemerire Land Commission report had this to say “ I think this report shall help us to dismantle the old and barbaric laws that for long have hard pressed our people please help me to stabilize the situation once and for all”. He is reported to have said on 23rd January 2021 by the Independent Newspaper⁴⁵ “that once implemented shall cure both current and historical land problems which have existed since the colonial era citing the mailo land that the British gave to chiefs and their collaborators in areas of Buganda and Bunyoro.

2.2 Conclusion

The researcher during the above literature review has discovered that much as the land law in regard to acquisition is in place within the constitution and or other legislations, the effectiveness of such laws to the benefit of citizens and the government in general needs a lot to be desired. As such, this presentation shall try to look at the weakness and strength of the law in relation to oil and gas and how it can be upgraded to the benefit of all.

These several authors have shown interest in the oil and gas sector and the number is growing through the oil production stages. I have captured the different stages of oil production from the upstream to the downstream and the literature captured should be able to lead the reader in

⁴⁴ CRED, 2014 Land Rights abuses in the oil rich Albertine Graben in Uganda.

⁴⁵ <https://www.independent.com> The Commission of Inquiry into the Effectiveness of the law, policies and processes of land acquisition, land administration and regulation in Uganda regulations.

establishing the land acquisition legal process in Uganda and analyze the weaknesses therein for a better improvement.

CHAPTER III: Research Methodology

3.0 Introduction

Research philosophies are systems of beliefs and assumptions about the development of knowledge and the way researchers view the world. The way researchers view the world shapes many aspects of their research projects. There are quite a number of research philosophies namely: positivism, critical realism, interpretivism, postmodernism and pragmatism. Each one of them contributes a unique and valuable way of seeing the world and none can claim to be superior to the other.⁴⁶

As earlier stated, the overall purpose of my study, was to examine the effectiveness of existing laws, policies, and regulation's ability to properly compensate PAPs for their land, enhance citizen participation, transparency and accountability in the management of oil and gas resources in Uganda. This fits well with interpretivism research philosophy that similarly aims to create deeper understandings and interpretations of phenomena by taking into account the perspectives of participants. Because of its focus on complexity, richness, multiple interpretations and meaning-making, interpretivism is explicitly subjectivist and has many strands. In this research, the phenomenologist interpretivism strand which will focus on participants' lived experience, recollections and interpretations of those experiences in shaping organizational and social worlds.⁴⁷

This researcher employed the comparative research methods as some selected jurisdictions were studied to gain comparisons for the better understanding of the effectiveness of Uganda's land acquisition laws particularly in the oil and gas industry.

We will consider how effective the legal framework is and how land acquisition has led and shall continue to make displacement and affect the lives of the PAPs in Buliisa District, having

⁴⁶ Saunders, M.N.K., Lewis, P. & Thornhill, A. (2019). *Research Methods for Business Students*. 8th edn. Harlow: Pearson.

⁴⁷ Ibid

experienced much land acquisition .This research will primarily use the qualitative data collection techniques with in-depth interviews, focus group discussions and field observations

3.1 Legal context and Research Setting

3.1.1 Study design

This study will adopt a qualitative research design and use data from secondary and primary sources. Scholars have emphasized that a good quality qualitative research should use multiple data sources.⁴⁸ In this case, the study was built on secondary data which was a review of the laws of Uganda relevant to land acquisition. Looked at were related were international policies together with the institutional frameworks related to the issues of land acquisition as obtained from published newspapers, academic journals and books, Oil companies, CSO and government reports. This was supplemented with primary data collected from PAPs selected from Buliisa district and KIIs with different actors. This followed the inductive research approach which involved obtaining in-depth information from smaller numbers contrasting with deductive studies where shallow information was obtained from huge numbers of participants.

The researcher employed the comparative analysis that assisted in looking for similarities and variances in selected jurisdiction of oil and gas producing countries. This assisted in assessment and explanations in approach and procedures during land acquisition of different jurisdictions.

3.1.2 Area of Study

The research was carried out in the Buliisa District within the Albertine Graben oil and gas rich western part of Uganda. Buliisa district is 241,551 square kilometers of which the land area covers 200,523 square kilometers.⁴⁹ The Buliisa town which is the district headquarters is 290.1 km from Kampala via Hoima and 309.6 km via Masindi.

⁴⁸ Gioia, D. A., Corley, K.G., and Hamilton, A.L. (2012) Seeking Qualitative Rigor in Inductive Research: Notes on the Gioia Methodology. *Organizational Research methods*, 16(1), 15–31.

⁴⁹ <http://www.ubos.org/uploads>

3.1.3 Population size

The population size of Buliisa district was put at 113,161 on the 27th August 2014 by the national population census and household survey as enumerated. In July 2020, the Uganda Bureau of Statistics UBOS estimated the mid-year population of the district at 149,300 people'.⁵⁰

3.2. Sample and Sampling Techniques

The study used a heterogeneous non-probability purpose sampling. Non-probability sample size recommendations for grounded theory range from 15-35.³⁻⁴ Focus Group Discussions (FGDs) of 6-10 participants that take 1-2 hours are considered appropriate.⁵¹ Several KIIs were conducted with people directly involved or in possession of specialized knowledge in oil activities. These included political and technical officials in both central (Uganda Revenue Authority (URA), Petroleum Authority of Uganda (PAU), Ministry of Finance Planning and Economic Development (MoFPED) and local governments, non –Governmental Organisations (NGOs), Faith Based Organisations (FBOs), Civil Society Organisations (CSOs) partners, and Oil Companies. FGDs were also conducted in Buliisa with sampled community members (with at least one for general community members, one for the youth, one for women, and for the men). Each FGD comprised 8–10 members and lasted for at least one hour. This research observed the SOPs set by the Ministry of Health in order to avoid any COVID – 19 transmissions.

3.3. Data collection strategy/method

3.3.1 Interview

In-depth semi-structured interviews have been touted as effective tools to rich data using an interpretative phenomenological approach by many scholars.⁵² Data from the sampled respondents was collected using interviews guided by semi-structured interview questionnaires

⁵⁰ <https://en.m.wikipedia.org/wiki>

⁵¹ Saunders, M. N. K., & Townsend, K. (2016) Reporting and Justifying the Number of Interview Participants in Organization and Workplace Research. *British Journal of Management*, 27(4), 836852.

⁵² Waddell, E., Pulvirenti, M., and Lawn, S. (2016) The Lived Experience of Caring for an Australian Military Veteran with Posttraumatic Stress Disorder. *Qualitative Health Research*, 26(12), 1603–1613; Yambo, T.W., Johnson, M.E., Delaney, K.R., Hamilton, R., Michaels Miller, A.M., and York, J.A. (2016) Experiences of Military Spouses of Veterans with Combat-Related Posttraumatic Stress Disorder' *Journal of Nursing Scholarship*, 48 (6) 543–551.

that were constructed in line with the study objectives and approval from the supervisor. The study tools underwent pre-testing before their actual administration so as to identify any errors and then fine-tuned to ensure that the questions asked during the real interviews were clear, consistent to generate the much-needed data.

3.3.2 Documentary review

The literature reviewed in this study were obtained from the libraries, Ministry of Energy and Mineral Development, Ministry of Finance, Planning and Economic development. Further research was obtained from the local newspapers, particularly the New Vision newspaper, and the internet. The studied documents enabled the researcher to obtain findings and make appropriate recommendations for future research and studies.

3.4. Data Analysis Plan

Many scholars have emphasized that grounded theory techniques such as open coding, axial coding, content analysis and quotations are effective in analyzing qualitative data and increasing dependability of generated findings.⁵³In this study, transcribed primary data was triangulated with secondary data and analyzed in themes as per the stated objectives. It also included selected quotations to support and illustrate the respondents' points and arguments.

3.5 Ethical Considerations

From the onset, informed consent of the respondents participating in the study was obtained. Interviews begun with full explanation that the research was meant for academic purpose only. Respondents were assured of their right to stop participation in the interviews at any time in case they feel uncomfortable to continue. Because of the sensitivity of some of the information sought and risks that could come out with revealing the identity of participants, the respondents' views

⁵³ Strauss, A. & Corbin, J. (1998). *Basics of qualitative research*. 2nd edn. Thousand Oaks, CA: Sage; Charmaz, C. (2006). *Constructing grounded theory: A practical guide through qualitative analysis*. Thousand Oaks, Sage Publication; Miles, M.B., Huberman, A.M., & Saldaña, J. (2013). *Qualitative data analysis: A methods sourcebook*. 3rd edn. London: Sage Publications; Hussein, M.E., Hirst, S., Slayers, V., & Osuji, J. (2014). Using grounded theory as a method of inquiry: Advantages and disadvantages. *The Qualitative Report*, 19(27), 1–15.

were treated with utmost confidentiality. Primary data was then be triangulated with information obtained from secondary data to come up with a nonnumeric analysis.

3.6 Methodological constraints and limitations

The expected benefits and challenges that come with oil and gas resources differ quite significantly across different stakeholders. Therefore, understanding these and the different objectives stated above moreover from the point of view of those stakeholders was a daunting task for the researcher. Therefore, it was key to manage values and beliefs during research processes with reflexivity skills possessed.

3.7 Conclusion

The study draws much of its information from already documented sources, laws and literature like published works, policies, articles, conference papers, journals, books and other publications found in libraries and materials from the internet. These made a foundation of the study.

The quantitative and qualitative methodologies were employed as numerical satisfied methods were relied on to measure and analyze aspects of the phenomenon in regard to the relationship between variables to produce generalized results.⁵⁴ Comparative analysis was employed to justify the findings and strengthen the recommendations.

⁵⁴ Johnson & Onwuegbuzie 2004

CHAPTER IV: Results and Analysis

4.0 Introduction

This study is aimed at analyzing how effective the current land Acquisition legal framework is in relation to the oil and gas industry and the land owners. It is focused to find how the oil and gas resource is to be shared by the government and the land owners in view of the prevailing law. Conclusions shall be made after the study findings at the end of this chapter.

4.1 Recap of research objectives

The overall objective of this research was to critically examine the effectiveness of the existing land acquisition laws, policies and regulation's ability to properly compensate land owners for their land, analyse Uganda's international and regional obligation in regard to compulsory land acquisition, transparency and suggest appropriate recommendations for addressing the challenge of compulsory land acquisition in Uganda. Specifically, the study is to examine the historical background to the problem of compulsory land acquisition in Uganda, the effectiveness of the current land legal regime in protecting landowners from unfair land acquisition practices, to analyse the effectiveness of the land acquisition law for citizens in influencing allocation of oil and gas revenue in Uganda. The study explored and analysed Uganda's international and regional obligations regarding compulsory land acquisition and suggest appropriate recommendations for addressing the challenges of compulsory land acquisition in Uganda.

4.2 Synchronizing Primary and Secondary findings

4.2.1 Timeline for compulsory land acquisition in Uganda

In 1899 there was the acquisition of land for the East African Railway. The crown exercised authority under the treaties and the right to compulsory acquire land accrued to the crown and by virtual of the right to the protectorate.

The Buganda and Tororo Agreements of 1900 and the Ankole agreement of 1901 established the tenure system. Land was divided and gazette as public land or as crown land in the different kingdoms. The order in council of 1902 defined crown land as "all public lands which are subject to the control of His Majesty by virtue of any treaty, convention or agreement and all lands

which have been acquired by His Majesty for Public services or otherwise whatsoever”⁵⁵. The 1903 Crown Land Ordinance gave the crown powers to alienate land in freehold.

The Busulu and Envujjo law of 1928 protected the rights of tenants and provided that they could only be evicted for public purposes and for other good and sufficient cause with an order of eviction from court. This law conferred legal status and protection of the tenancy to Bibanja holders and were guaranteed hereditary security of tenure⁵⁶. The Tooro and Ankole landlord and tenant laws of 1937 and 1947 domesticated the Busuulu and Envujjo law that was only applicable in Buganda to Tooro and Ankole kingdoms as well.

The compulsory Land Acquisition Act (LAA) that came to force in 1965 laid down the procedural steps of compulsory acquisition land by government whereas the public lands Act of 1969 introduced the leasehold land tenure system over public lands which became the only tenure in 1975 with the Land Reform Decree.

The Land Reform Decree was the first major post-colonial legislation aimed at reforming Uganda’s land regulation and management and addressed the government need of having the power to compel development of any part of Uganda based on government priorities. It made all land in Uganda Public land to be administered by the Uganda land commissions and abolished the freehold and mailo land tenure by converting them to leases of 99 years for private individuals and 199 years for public bodies. This decree saved customary tenure holding.

The 1995 Constitution introduced Article 26 that provided the right to property and any deprivation is done with a fair and adequate prompt compensation prior to the taking of land in Uganda.

The National Land Policy, 2013 provided that the state as trustee for the citizens of Uganda shall exercise the power of compulsory acquisition in the public interest. It empowers the state to put

⁵⁵ [https://mlnud.go.ug > uploads pdf](https://mlnud.go.ug/uploads/pdf) , <https://www.studocu.com> This law conferred

⁵⁶ <https://www.linkedin.com> visited 18th October 2023

guidelines and procedures for the payment of the prompt, adequate and fair compensation to those affected in the course of compulsory land acquisition.

The national land policy looks at the challenges in the Land Act including the provision that the government will take measures that legislation will address women and children inheritance, ownership rights, equality rights of valuable groups to land acquisition (policy statement 66 and 74), protecting security of tenure (policy statement 94) aligning areas in the land policy with international and regional law obligations (policy statement 156).

However, a big gap remained with the involuntary resettlement .There is need of implementing the aspects of the land policy, land protection and a restitution process.

The land sector strategic plan (LSSP) for 2013-2022 enjoins the Ministry of Lands, Housing and Urban Development to facilitate faster acquisition of land for planned urbanization and infrastructure development.

The commission of inquiry into land matters was mandated to review the legal administrative and structural issues affecting the management and governance of land in Uganda. The issue of compulsory land acquisition was one of the questions to be addressed and make policy recommendations but the report has not been made public.

The constitution (Amendment) Bill, 2017 was a matter after the UNRA vs Asuman Irumba and another⁵⁷ Supreme Court case that declared S.7 of the Land Acquisition act unconstitutional. This section allowed government to take over private land before compensation. This amendment was to defect the Supreme Court decision and thus undermine the judiciary. When passed the amendment would be contrary to the court decision other than amending the land acquisition Act to align with the decision.⁵⁸ The constitutional Amendments Bill No 13 of 2017

⁵⁷ Supreme Court Constitutional Appeal No 2 of 2014

⁵⁸ Muhindo, J. (2017), Compulsory Land Acquisition in Uganda: An Analysis Of The Proposed Amendment of Article 26 of the Constitution, ACODE Policy Briefing Paper Series No.47, Kampala.

as tabled in parliament to amend Article 26 is another tool yet to be used by the government to further deprive the citizens of their land.

The court system takes many years to resolve disputes and with land cases over ten years on average before a judgment can be delivered. This would imply that when money as per the government valuer has been deposited in court, and which the landowner has the option to withdraw pending the determination of the dispute as to the balance, the cases would even lose morale by the landowner and or even the judicial officers hence the many years in court. The time value of money (TVM) principle shall not work in the circumstances and the ultimate loser is the landowner.

The bill provides that it is Parliament that shall provide in the enabling law the time frame within which the dispute shall be resolved by courts of law. Ever since the constitution came into force, it is now coming to 27 years without the substantive compensation law. The country shall have years before the enabling law is made as even this very constitutional amendment shall be passed into law.

4.2.2 Land Tenure Systems in Uganda

Ownership of land in Uganda is no longer controlled by the state. Customary tenure systems regulate 75% of the land ownership and is still the most common form of tenure in the country. It also applies to the former public land that has been registered.

The constitution recognizes customary, freehold, mailo and leasehold tenure systems under Article 237. This is re-encoded in Section 3 of the land Act. The clause alters the old system where land was lodged in the public land with individual's rights to land secured by virtue of occupation. Under the Land Act, a community, family or person holding land under customary tenure may acquire a certificate of customary ownership for the land, but has no obligation to do so. The parish land committee receives application for a certificate of customary ownership after which it applies customary law much as it is obliged to safeguard the interest and rights in

such land which is the subject of the application of women absent person, Minors and persons with disability by E. Mwebesa.⁵⁹

Land tenure is the relationship whether legally or customarily defined among people as individuals or groups with respect to land. It is an institution i.e., rules invented by societies to regulate behaviors how access is granted to rights to use control and transfer land well as associated responsibilities and restraints. Land tenure systems determine who uses given resources, time and conditions under which they get to use them. It is an important part of the economic, social and political a structure.

The land tenure in Uganda puts the vast majority of lands in private hands under freehold, leasehold, mailo and or customary tenure and this limits the amount of public land available which calls the Government of Uganda to acquire lands from private owner for purposes of development.

There are presently four types of land tenure systems in Uganda; customary, mailo, freehold and leasehold and the holder of such tenure his or her rights to land are recognized by others and protected bylaw in cases of any challenges.

4.2.2.1 Land Tenure in the Albertine Graben-Buliisa District

Private land use is where land is used for subsistence cultivation and commercial activities such as small service and retail businesses, hotels and taverns by individual owners. Public land use that recognizes communal land uses like grazing and community conservation areas, lake shore landing sites and institutional land use (places of worship and community halls) and cultural sites. Government land with Educational and health facilities rights of way and roads plus environmental reserves such as Murchison falls National Park (MFNR).

Buliisa district was formally a county in Masindi District which was granted a district status in 2006 and comprises six sub countries and a town council in the main (Buliisa) town center.

⁵⁹ <https://hrap.org>

Agriculture and livestock production are the main economic activities in the Eastern part of the district and fishing processing activities occur along the shores of Lake Albert.

Whereas the communities in the Albertine Graben are predominantly agriculturalists land is the principal resource to meet their livelihoods needs. In Buliisa district land also has an important cultural and historical meaning and shapes the interactions among the different ethnic groups, clans and families in the Area. Land defines social identity and historical attachment (settlement on land over generations) strengthens their claim to the interest in land and is also a source of family and community disputes.

Tilenga project is an oil exploitation project, lying within the Murchison Falls National Park in the Northwest of Uganda in Buliisa district, which is being implemented by Total Energies, a multinational oil and Gas Company. The Tilenga central processing facility (CPF) in Ngwedo sub-county is expected to cover over 110,000 hectares of land affecting 5,600 land owners. It was estimated to physically affect 265 people by them losing their homes, another 345 were to be economically displaced with their livelihoods, crops livestock grazing and natural resources gathering of firewood and foods.

Through its Chief Valuer, the government valued these peoples land at Shs 3.5 million per acre. However other community members demanded Shs.21 million per acre. Most of the affected people accepted the valuation and were compensated. However, nine landowners (Ignatius Happy, Michael Sabiti, Midadi Mboineki, John Tundulu, Janet Nyabigambo, Seduraka Birigenda, Aheebwa Korokoni and two others) whose land measured 74.21 acres valued at Shs 368 million refused this valuation arguing that the money offered was too little to enable them buy land elsewhere. They opted to be relocated instead. Rather than meet their request, the government through the Attorney General filed an application against these at the Masindi High Court and deposited the Shs 368 million disputed compensation value in court on July 2020.

The Attorney General asserted that this step will not prejudice the respondents' rights. FGDs with some of these people in December 2020 yielded limited details because they are under their lawyers' instructions to publicly discuss this matter while it is still in court.⁶⁰

Mr. Daniel Omara – one of the three lawyers representing the nine land owners that refused the government valuation argues that it is not right for government to take PAPs to court when they are still negotiating for relocation instead of cash compensation. Some of the allegations in the affidavit such as delaying the project were wrong because the government has been in physical occupation of this land since 2016. Omara further argues that the government is using this case as a test to set a precedent to amend Article 26 of the constitution and enforce compulsory land acquisition.⁶¹

Many other similar disagreements have been reported in Buliisa and the Albertine region generally.⁶² According to Prof. Julius Kiiza, however, the proposals by President Museveni suggesting that government should enforce compulsory land acquisitions on which public projects are to be executed should be analyzed from the broader perspective of issues that have surrounded land acquisition for public purposes. He argues that syndicated corrupt actors both in government, private sector and even land owners have corruptly extorted huge sums of money from the government through bogus land valuations over the years.

Therefore, if compulsory land acquisitions are undertaken with genuine public interests, they would help reduce the hemorrhage of public money by these land corruption entrepreneurs. The failure of government to meet the terms of PAPs to be relocated or fairly compensated is now one of the issues that activist trying to curtail takeoff of the EACOP project and FID are capitalizing on.⁶³ It is therefore important that issues surrounding land and compensation of

⁶⁰ FGDs, with PAPs that rejected government compensation (Men, Women and Youth) Buliisa District, 07/12/2020.

⁶¹ Interview, Council Daniel Omara, Kampala 17 December 2020.

⁶² Taylor, L. (2020). Families left in limbo as Uganda oil project earmarks land. *Rueters*. <https://www.reuters.com/article/us-uganda-rights-oil-idUSKBN26M5JW>; Mugerwa, F. (2020). Govt pushes for compulsory land acquisition in Buliisa. *Daily Monitor*, 13 December. <https://www.monitor.co.ug/uganda/news/national/govt-pushes-for-compulsory-land-acquisition-in-buliisa3227494>

⁶³ Bank Track, 350.org Africa, AFIEGO, Inclusive Development International & IUCN NL (2021). Over 260 organisations call on banks not to finance Total's East African Crude Oil Pipeline. Retrieved from,

PAPs is properly handled because it has the potential to derail the already late oil production decisions.

Many PAPs have grievances relating to the compensation process and some are regretting their decision of accepting the compensation that has made them homeless and poorer than hitherto. The increased land demand has created land speculation in the region. Most of the land owners are illiterate, lack understanding of the implications of selling land. They do not have access to legal or para-legal services in the land transaction process hence were and are easily cheated and or defrauded⁶⁴.

The study aimed at examining the social economic impacts of land acquisition in oil and gas development in Uganda. In Uganda's history, the land ownership question, rights and interests has always been a socio-economically sensitive issue⁶⁵, Land is the major source of livelihood of the majority of Ugandans. It provides the daily basic needs of families which include shelter, food, healthcare and when sold money to run projects and pay school fees. Land is viewed as spiritual and cultural values by most communities. Putting in consideration the said values, laws and regulations and its governance has to be handled with diligence by the government of Uganda.

The analysis demonstrates that Uganda's oil and gas laws in regard to land acquisition and compensation fall short of protecting and promoting fundamental rights and right to property as enshrined in the country's celebrated constitution. The critical analysis proves that Uganda's current legal framework in regard to compulsory land acquisition compliance test fails as well.

https://www.banktrack.org/article/over_260_organisations_call_on_banks_not_to_finance_total_s_east_african_crude_oil_pipeline

⁶⁴ <.570 EACOM Tilenga Project. Environment and social Impact Assessment; National Environment Management Authority; Nairobi, Kenya, 2008 Volume I V-V, Available online:

<https://www.eranl/docs/mer/diveren/Tilenga-esia-v0lume 1V-13-09-18 pdf> (assessed on 23.5.19) >dg

⁶⁵John Mugambwa, 2002, Source Book of Uganda's Land Law-Kampala, Fountain Publishers,

4.2.3 Uganda's Land legal Regime

4.2.3.1 Linkages between land as a property right and other human rights

The right to own property is recognized in the 1995 constitution of Uganda. Article 26 and 8A and objective XIV of the National Objectives and Directive Principles of state policy (NDDPSP) Uganda ratified the International Covenant Economic Social and Cultural Rights (ICESCR) and African Charter on Human and People's Rights (ACHPR) stating that it may only be encroached upon in public interest according to the laws. General comment No. 4 on the right to adequate housing explains the linkages between the rights to land as property to other human rights and the right to life. The violation of the right to land and housing can ultimately be or major threat to the enjoyment of right to life.⁶⁶

4.2.3.2 The Constitution of the Republic of Uganda

The Constitutional Provisions of Land law in Uganda is owned in accordance with customary, freehold, mailo, and leasehold land tenure systems.⁶⁷ The constitution further provides that all Ugandan citizens owning land under customary tenure may acquire certificates of ownership in a manner prescribed by parliament and land under customary tenure maybe converted to freehold land ownership by registration.⁶⁸ And upon coming into force of the constitution and until parliament enacts an appropriate law within two years under article 237 (9) the lawful or bonafide occupants of mailo land, freehold or leasehold land shall enjoy security of tenure of the land.⁶⁹

Whereas customary tenure is recognized in Uganda legal regime, the identification of the holders complicates the acquisition exercise. The government does not fully appreciate the occupants land

⁶⁶ Uganda Consortium on Corporate Accountability (2018) Handbook on Land Ownership, Rights, Interests and Acquisition in Uganda, UCCA Secretariat ISER, Plot 60 Valley Drive Minsiters' Village, Ntinda <<http://www.iser-uganda.org/>, visited 08 June 2022>

⁶⁷ Article 237 (3) ibid

⁶⁸ Article 237 (4) ibid

⁶⁹ Article 237 (8) ibid nm g

tenure rights. This is also the case in most of the Albertine Graben area (NEMA2010), which has made the local population vulnerable to land grabbing

In the constitution, every person has a right to own property either individuals or in association with others⁷⁰ and no person shall be compulsorily deprived of property or any interest in or right over property of any description except where the following conditions are satisfied,⁷¹ that the taking of possession or acquisition is necessary for public use or in the interests of defence, public safety, public order, public morality or public health⁷²; and the compulsory taking of possession or acquisition of the property is made under a law which makes provision for prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and a right of access to a court of law by any person who has an interest or right over the property.⁷³ Under Article 27(i), no person shall be subjected to unlawful entry by others of the premises of that person.

In chapter fifteen, land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in the constitution.⁷⁴ It further provides that the government or the local government may subject to article 26 acquire land in the public interest and the conditions governing such acquisition shall be as prescribed by parliament.⁷⁵ The government or a local government as determined by parliament by law shall hold in trust for the people and protect natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land to be reserved for ecological and touristic purposes for the common good of all citizens.⁷⁶

Under article 244, Parliament was mandated to make laws regulating the exploitation of minerals, the sharing of royalties arising from mineral exploitation and mineral and mineral ores shall be exploited taking into account the interests of the individual land owners, local

⁷⁰ Article 26(1)

⁷¹ Article 26(2) of the Constitution of Uganda

⁷² Article 26 (2) (a) *ibid*

⁷³ Article 26 (2) (b) *ibid*

⁷⁴ Article 237 (1) *ibid*

⁷⁵ Article 237 (2) (a) *ibid*

⁷⁶ Article 237 (2) (b) *ibid*

Governments and the government.⁷⁷ There is need under this Article for a deeper interpretation of the difference in regard to land law. It provides for both the surface rights and sub-surface rights over land. The surface rights refer to the use of land on and above the earth's crust like for farming, tourism, and infrastructure and settlement usage.

The surface rights are in ordinary circumstances the most and common use of land. The sub-surface on the contrary is the usage of land beneath the surface mainly mining and involves drilling and deep excavation.

When government acquires land in trust of its citizens having discovered oil and gas beneath the surface, it is this sub-surface that is held in trust but the licensee to access it must use the surface, hence the surface rights of the land owners must be acquired and compensated in order to access the sub-surface.

4.2.3.3 The Petroleum (Exploration, Development and Production) Act, 2013

In its preamble this law among others give effect to Article 244 of the constitution; to regulate petroleum exploration, development and production. It came into force on 5th April 2013 having been assented to on 21/3/2013

The purpose of this Act as provided in section 1 thereof is to operationalize the National Oil gas policy of Uganda by establishing an effective legal framework and Institutional structures to ensure that the exploration, development and production of petroleum resources of Uganda is carried out in a sustainable manner that guarantee optimum benefits for all Ugandans, both the present and future generations and ensuring transparency and accountability in the conduct of all activities regulated under this Act.⁷⁸

Land owner is defined in Section 2 of this Act as meaning a person who holds or occupies land in accordance with the land Act whereas Section 3 provides for compliance with environmental

⁷⁷ Article 244 (2) *ibid*

⁷⁸ Section 1(a) *ibid*

principles commands any person or license to comply with environment principles and safeguards presented by the National Environmental Management Act and other applicable Laws.⁷⁹

Section 4 of the Act vests Petroleum Rights into the government. In accordance with Article 244 of the constitution the entire property in and the control of petroleum in its natural construction in, on or under any land or water in Uganda is vested in the Government on behalf of the Republic of Uganda and for the avoidance of doubt, the Government of Uganda shall hold petroleum rights on behalf of and for the benefit of the people of Uganda.

4.2.3.4 National Oil and Gas Policy

The policy was approved by cabinet on 30th January 2008 to guide the development of Uganda's emerging and gas sector following the discovery of communal Petroleum resources in 2006. The policy was intended to put in place a framework for the efficient management of the oil and gas resources and revenues accruing there from.⁸⁰

The policy recommends upgrading of the existing regulatory framework by putting in place a new law for the Administration of oil and gas activities and a law for the management of oil and gas revenues.

Ownership and control of minerals and petroleum in on or under any land or water in the county is vested in the Government by Article 244. The constitution empowers parliament to make laws regulating the exploration and exploitation of minerals and petroleum, the management of accruing revenues, payment of indemnities and the conditions for the restoration of derelict lands.

The oil and gas policy recognizes that the implementation of the activities will affect and be affected by existing land policies, laws and regulations and will impact land ownership and use.

⁷⁹ Section 3(ibid)

⁸⁰ Ministry of Energy and Mineral Development February 2008. ⁴⁵
Section 6.1.1 The National Oil and Gas Policy

It cited Article 237 the land Act of 1998 the National Land use policy 2004 and the land sector strategic plan 2001-2011. It will be essential for oil companies and/or Gov't to acquire land and compensation agreements were leveraged for land surface interests. Article 204 provides for decentralization of land Administration to District land Boards which hold and allocate land, facilitate registration and transfer interests in land together with other matters connected with land in the respective districts. This policy shall promote the implementation of oil and gas activities in accordance with the existing laws and regulations on land ownership and use in the county.

The National Oil and Gas policy, 2008 together with the oil and gas revenue management policy of February 2012 under the Ministry of Finance, Planning and Economic Development required that an appropriate framework be put in place to and for the sustainable management of oil and gas revenue. The policy provides how the expected Revenue shall be managed and integrated into the existing Government systems with a view of mitigating the overall impact of the revenues on the economy. Policy calls for highest standards of transparency and accountability in the management of oil and gas revenues. The policy gives the institutional and governance structure to be used to achieve the objective. The policy provides for a mechanism for the sharing of royalty revenues with the local government within the oil producing regions.⁸¹

The demand for land has an input on the environment and on purely land dependent communities, with no national resettlement policy which outlines a set of principles for land acquisition and resettlement, development projects may not benefit the communities.

Uganda National Land Policy 2014- established a path for an ongoing review of all land related laws. It was expected there would be new approaches to land acquisition, prioritization of areas with natural resources, easing of land identification and market exchange and resettlement framework so needed for efficient and equitable development. Formulating a national

⁸¹ Oil and Gas Revenue management policy February 2012, Ministry of Finance, Planning and Economic Development

resettlement policy needs to be with a revised land policy in order to reduce vulnerability to potential development related conflict.

4.2.3.5 The land Acquisition Act Cap 226

This is the main law applicable to land Acquisition in Uganda. However, it is not in line with the provision of Article 26 and Article 237 (2) (b) of the constitution. It does not require payment prior to taking possession of land. Section 7 allows the assessment officer to take possession as the land “as soon as he or she has made an award under Section 6, after publication of the declaration if the Minister certifies that it is in the public interest for him or her to do so.”

This law leaves a lot of powers in the hands of the Minister of Lands (and or persons authorized by the Minister) as Section 3 provides that whenever the Minister is satisfied that any land is required by the Government for a public purpose, he/she may by S.1 statutory instrument make declaration to that ‘effect’ what constitutes a public purpose is not defined. More of the provisions of this Act is discussed in 4.2.4 ahead in this thesis.

4.2.3.6 The Land Act, Cap 227

It regulates the land tenure, ownership and management of land in Uganda. It establishes the district land Board, District Land Office, Land Tribunals and Land Committees. S.42 provides for Government or local Government to acquire land compulsorily in accordance with Articles 26 & 237 (2) (b) of the constitution. S.77 provides guidance to District Land tribunals on assessing compensation in case of a dispute relating to the amount of compensation to be paid. The section is not instructive to the valuer and does not meet the standards of fair and adequate compensation like where it provides the value of the buildings to be taken at depreciated replacement) cost for the rural areas.

The DLT (District Land Tribunal) can award disturbance allowance on a successful claim under S.41 and S.77, S.41 deals with land fund and allows 15% disturbance allowance in cases where tenants by occupancy are to be resettled through Government intervention. S.77 deals with land tribunals in their role to determine compensation where there is a dispute. No statutory definition

of what amounts to disturbance allowance or its purpose. This may be or may not in exceptional circumstances hence creating room for corruption. Rates referred to in section 59(1) (e) are to be used in determining the amount of compensation payable. S.10 (1) of the Land Act 1998 provides that any person, family, community, communal land association, holding land under customary land tenure may convert their tenure to freehold following the prescribed procedure. The Act does not give the relevant Authority discretion to decide whether or not to allow an applicant to convert their title to freehold.

The normal practice is for customary owners to apply for a certificate of customary owners by the land owner and later if they wish to apply to the relevant Authority to convert their customary title to freehold. However, it would seem from the Act that possession of the customary certificate of ownership is not a pre requisite for conversion to freehold, applicants may fast track the process by directly applying to the Authority to convert their customary tenure to freehold.⁸²

S.38A(2) of the Land Act provides that the spouse shall in every case have a right to use the family land and give or withhold his or her consent to any transaction referred to in section 39, that may affect his or her rights

4.2.3.7 Petroleum (Exploration Development & Production) Act No. 3 of 2013

The interest in land in a development area belongs to the land owner. The Government of Uganda is however, vested with the interest in the petroleum in or under any land or water in Uganda. Subject to any law relating to acquisition of land and S.135 of the same Act, a holder of petroleum production license may obtain a lease of land or other rights to use it upon such terms as to the rent to be paid for the land or the duration extent or area of the land to which the lease or other rights of the lease shall relate as may be agreed upon between the holder of a license and other land owner.

The license shall pay to the land owner a fair and reasonable compensation for any disturbances or for any damage done to the surface of the land. The crops, trees, buildings work. No. taking

⁸² This is implied in S.12 (4) and 13(2) of the Land Act 1998.

into consideration of the presence of the petroleum only improvements on the land. Any dispute in value offered is referred to the Chief Government valuer.

Ministry of Energy and Mineral Development (MEMD) oversees and approves all the project activities. MEMD has a regulatory Role in the oil and gas industry and ensures the project is compliant with legislation and approval of all project technical and financial planning.

The National Physical Planning Act 2010 designates the whole country as a planning Area thus any land can be acquired for the purpose. The National Oil & Gas Policy for Uganda provides that Government shall where necessary and in accordance with the constitution, acquire land in public interest to support implementation of oil and gas activities and that agreements will have to be entered with the land owners to cover aspects like compensation for their land surface interests.

4.2.3.8 The constitutional (Amendment) Bill, 2017, (NO.13)

The Bill would deny citizens of Uganda the right to Land, which is critical in the livelihoods of most of the rural population. The bill violates article 26(1) of the constitution that provides that every person has a right to own property either individually or in association with others. The proposal amendment limits the fundamental right to property. It can easily be a source of land grabbing by the government agencies.

The rationale of the bill is to empower the government or local government to take possession of the declared property upon depositing the compensation awarded for the property with court pending the determination by the court of the disputed compensation awarded to the property owner or person having interest in or right over the property. The government would not want to utilize the land or property even when court has not made a judgment on the dispute or compensation. This would also discourage investors.

Uganda ratified (21st Jan 1987) the UN General Assembly international covenant on Economic, social and cultural rights which requires the state to ensure full realization of rights to land, food

security and livelihood for all citizens involved in land acquisition and settlement. Uganda will not be able to fulfill this principle if the amendment is passed by parliament. Hence not advisable to pass the bill.

Government using the land before compensation may result into displacement of people into protected areas that are not well secured against the encroachers like parks and forests. The bill will increase tenure insecurity because of the fear of being unfairly compensated by government. Land tenure security has been found to be associated with less deforestation. Studies have shown that environmental degradation especially forest and wetlands loss and degradation tend to increase with insecure tenure.

In depth, interviews were undertaken with people mainly women to understand their view on the constitution over land and how their lives were affected by oil discovery. Interviews were held with civil society organization and community leaders and local council chiefs. In-depth interviews helped because of flexibility as it allowed in getting more data through a detailed probing of the Respondents. Land acquisition and resettlement must be conducted in accordance with National Laws. However, there is a lot of gaps, contradictions and ambiguities in the legal framework governing land acquisition. Legislation in regard to land ownership will continue to evolve.

The constitution, the LAA cap 226 and The Land Act 227 are the main legal instruments that govern land acquisition and compensation. There is no law in Uganda that provides for resettlement & rehabilitation after involuntary land acquisition.

The constitution provision is to the effect that in Uganda land belongs to the citizens it provides the protection of private properties rights and the power of government to acquire land compulsorily subject to Article 26 thereof⁸³. Land acquisition and resettlement must be

⁸³ Article 237(2) (b) subject to Article 26.

conducted in compliance with the national laws. However, there is a lot of gaps, contradictions and ambiguities in the legal framework governing land acquisition.

The broad constitutional provision has not been translated into more specific guidance in legislation, which means that interpretations of public use, public interest or purpose vary, leaving room for misuse of these terms in justification taking or acquisition. This lack of clarity weakens the country's land governance environment.

CHAPTER V: Land Acquisition in Uganda and other studied jurisdictions

5. Introduction

The land acquisition is still the most contentious and unresolved questions in Uganda's History with roots for back before the 1900 Buganda agreement. In spite of the historical challenges in land governance and administration in Uganda, the issue now has contemporary challenges emanating from increased pressure on land due to population growth, capitalism national resources and extractives oil, gas and mining) together with investments and development.^{84,85}

The issues of land acquisition have been controversial through Uganda's land history from way back in the pre-colonial times as kings and their subjects conflicted over land, the colonial agreements that landed big lands to the colonial government local kings and chiefs. The post – colonial land issues were between the state and the kingdoms culminating into the abolition of kingdoms in 1960's and land Nationalization in 1975 until 1995 when the Constitution introduced the current land tenure systems of freehold, leasehold mailo and customary tenure.

Uganda has made advances in the legal recognition of land rights and customary land tenure that includes pastures, forests and water. Legal protection under the constitution is under Article 26. The 1995 Constitution granted land rights to the people privately own and the government forfeited the land rights.

Article 26 (1) provides every person has a right to own property either individually or in association with others.

(2) No person shall be compulsorily deprived of property or any interest in or right over property of any description except where the following conditions are satisfied□

⁸⁴ Apollo, N. (1997) "Conflict and the land acquisition in Uganda" a paper presented at the International conference on conflicts under the auspices of Makerere Institute of Social Research, Makerere University.

⁸⁵ Mathew, K. (2017), "The Rampart Land evictions in Uganda" <<http://www.leadershipmagazine.org/?/=14009> , visited 01 June 2022>

- (a) the taking of possession or acquisition is necessary for public use or in the interest of defence, public safety, public order, public morality or public health; and
- (b) the compulsory taking of possession or acquisition of property is made under a law which makes provision for
 - (i) prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and
 - (ii) a right of access to a court of law by any person who has an interest or right over the property.

The constitutional (Amendment) Bill No. 13 of 2017 as intended to amend Article 26 and allow Government take possession of private land, proceed with development deed not accept the compensation awarded by the Chief Government Valuer.

Land Acquisition relevant Legislation in Uganda also include; Registration of Titles Act⁸⁶, The water Act⁸⁷, The National Physical Planning Act⁸⁸, Physical planning Act⁸⁹, Survey Act⁹⁰, The roads Act⁹¹, Access to Roads Act⁹², Uganda National Road Authority Act, 2006, Local Government Act⁹³, Illiterate protection Act⁹⁴, National Oil & Gas policy, 2013, Uganda National Land Policy, 2013, Strategic Environmental Assessment of oil & gas activities in the Albertine Graben 2015, National Physical Planning Standards & Guidelines, 2011, National Policy for older persons 2009, Environmental impact Assessment Guidelines for the Energy sector 2004

⁸⁶ Cap 230, 1924

⁸⁷ Cap 152

⁸⁸ Act No. 8 of 2010

⁸⁹ Act No. 9 of 2010,

⁹⁰ Cap 232, 1939 (as amended)

⁹¹ Cap 358, 1964

⁹² CAP 350, 1969

⁹³ Cap 243, 1997 (as amended in 1997, 2001 and 2003)

⁹⁴ Cap 78, 1918

and The National Environment (Wetlands, River bank and Lake shores management) Regulation⁹⁵.

5.1. Compulsory land acquisition in Uganda

Land Acquisition in Uganda as anywhere in Africa is out of the desire for the increased global demand for inter alia oil resources, infrastructure, food as a result of the increased population growth; environmental preservation.⁹⁶ The National Land Policy (NLP) 2013 recognizes land as “the most basic resource in terms of space provides the environmental resources it contains.

Government and JV Partners agreed to develop the land Acquisition and Resettlement Framework (LARF) to standardize the way in which land acquisition and resettlement planning was to be conducted.

LARF was specific to the oil and gas sector to address the social economic impacts that result from land acquisition and involuntary resettlement in the process of development in upstream oil and gas facilities in the Albertine Graben.⁷⁶

5.1.1. Procedure for Compulsory Land Acquisition in Uganda

Uganda has very old laws that regulate and legalize the government while acquiring land from its citizen. The 1965 law has not been amended to conform to the present situation and circumstances. The constitution of the Republic of Uganda enacted in 1995 is like it adopted the said 1965 Act. (Article 26 supra) .The land Acquisition Act chapter 226 of the laws of Uganda commenced on 2nd 1965 July making provisions for the compulsory acquisitions of land for public purpose and for matters incidental thereto. It gave powers to the minister to authorize any person to enter upon the land for survey into subsoil and remove samples or do anything to

⁹⁵ Regulation No. 3 of 2000

⁹⁶ Cotulla, et al (2009) Land Grab or Development opportunity: Agricultural Investments and International Land Deals in Africa, IIED/FAO/IFAD, London/ Rome and supports and the capital it represents and generates. It is a commercial asset that can be used and traded and is a biggest factor of production. It is a major factor in shaping individual and collective identity by history, the cultural expressions and idioms. It influences spirituality and Gesthetic values of human societies and is the most essential pillar of human existence and National development,

ascertain the suitability for the purpose required⁹⁷ The government is to pay compensation to any person who suffers damages and any dispute to the compensation payable has to be referred by the Attorney General to the court for decision.

It is worth noting that whereas the constitution provides that such a law must contain a provision for a right of access to a court of law by any person who has an interest or right over the property. The land acquisition Act provides for the Attorney General to refer the matter to court. This deprives the land owner from enforcing their rights under the law and is contrary to the constitution hence rendering the provisions in the Act unconstitutional. However, it be the government or any member of parliament has yet tabled any bill for the amendment. This has left the land owners vulnerable to the land acquisition process that has indeed benefited the rich and government at the detriment of the poor land owners. Land is usually a political issue hence its control, use and management are a critical factor in Uganda as is elsewhere globally⁹⁸.

Notice of interest after publication in the gazette is given to the person with interest in the land. The minister being satisfied that the land is required for public interest after publishing the declaration, the assessment officer has the right to take possession of the land⁹⁹ and the land immediately vests in Uganda Land commission without any encumbrances under s.7 (2) (a) and the estate with all interests of the land owner immediately before the land so vested is converted into a claim for compensation under S.7 (b) of the Act.

The situation is compounded and the land owner is deprived of the property under S.7(3) where when the assessment officer after taking physical possession of the land forwards a copy of the declaration to the Registrar of titles, on receipt the Registrar notwithstanding any inconsistency with the Registration of titles Act is mandated to take every step as are necessary to give effect

⁹⁷ Section 1(1) of the land Acquisition Act and Section 1(3)

⁹⁸ Simon K, Patrick K, Jonathan L, Paul M and David P, (2008) Compulsory acquisition of land & compensation, Viale delle Terme di Caracalla, 00153 Rome, Italy

⁹⁹ Section 7 Land Acquisition Act Cap 226

in the register book .These provisions are contrary to the constitutional provision for a prompt compensation prior to the taking possession or acquisition of the property.

The Community, the Estate and interest of every person having a concern in the said land immediately before the land so vested is deemed to have been converted into a claim for compensation¹⁰⁰

5.1.1.1. General Valuation Procedure

Valuation process starts with the identification of the affected property owner and the assets. The owner is informed and sensitized and permission is sought to allow access to the land for inspection. This is the ideal situation. But in practice the valuers just come to the land and with or without the participation or knowledge of the land owner carry out the valuation. The land owner comes to know of the amount to be compensated at the time of payment or upon confrontation with the valuers after valuation as being trespassers.

The asset recording such as crops, the type and growth stage, economic trees and buildings with the size and material, and land characteristics are recorded ideally by the owner, local leaders and or project representatives. The constitution and or any other statute does not provide detailed information on valuation methods and procedure.

The law does not define the bases of assessment of compensation nor the valuation methods to be used. S.20 of the Act empowered the Minister by S.1 to make regulations for the assessment and payment of compensation. It is now 56 years and no such regulation has ever been made since the enactment in 1965.

S.19 of the LAA provides further modes of compensation for the interest of the land owner including award of an alternative land and resettlement but no guidelines have ever been put in place as regulations.

¹⁰⁰ Section 7(2)

The assessment process is by law left in the hands of the government officials. The assessment officer who after the inquiry makes an award, has the right to adjourn the scheduled meeting from time to time as the occasion may require¹⁰¹.

5.1.1.2. Valuation for compensation in Uganda

Legal provisions in the constitution and other statutes do not provide detailed information on valuation methods and procedures. There is need for developing National guiding principles and procedures in line with the International Valuation Standards (2013) and best practices together with the Royal Institute of Chattered Surveyor's guidelines.

The statutory rates issued by the District Land Boards are not updated periodically and so is the process of review of the rates, some rates like for fruit trees, graves and shrines do not reflect the full replacement costs and values attached by the PAPs.

Valuation should be made at full replacement cost without the consideration of the condition of the asset. Depreciation should not be taken into account. Valuation of assets must separate the different interests in the asset and valued in term of fairness and adequacy. In replacement of land, offer must include all costs associated with the acquisition of replacement land including obtaining title transfer fees, taxes and utilities.

The CGV in the valuation division of the MHLUD is responsible for the approving all valuations. This office is also involved in resolving public complaints and disputes that arise from valuation for land acquisition and compensation payments.

Methodology in valuation in Uganda is based on the principle of equivalence broadly assumed be the financed equivalent of the assets taken. PAPs should not be worse off or better off in financial terms from their status prior to acquisition. The asset is valued at the market value without any decrease or increase attributed to the reasons that led to the acquisition. Any special value to the owner which is not included in the market value is excluded. Added is disturbance

¹⁰¹ S.6 of the Land Acquisition Act

allowance of 15 or 30% compensation is cost incurred and loss sustained following direct, natural reasonable consequence of having to relocate.

Valuation methods to determine market value are comparison methods contractor's method, investment method, profit method and residual method. Several factors should be taken into consideration to arrive at the compensation amount payable to the land owner inclusive of damages occasioned. In the case of *Law Development Centre vs Wasswa Dan Serufusa*¹⁰², Justice Bashaija K. Andrew while considering the compulsory acquisition of land by Government in awarding damages held that the landowner must be put in the position, he or she would have been had he / she not suffered the loss or damage. The brief facts are that the then Ministry of Lands, Housing and Survey exercised the powers conferred by s.2 (1) and s.7 of the Land Acquisition Act 1965 and pursuant to the land Acquisition (Makerere) Instrument, 1987 S I No 74 of 1987 declared land comprised in Kyadondo block 9 plots 34, 89, 154-166, 170, 221, 222, 245, 240-451, 464-467, 481-482, 508-509 and 510-511 to be required by government for public purpose. The CGV gave the 4.5 acres piece of land a value of Shs.579,600,000/= as at 22.1.2013 and the Attorney General was added unto the suit as a third party by the defendant landowner for indemnity purposes.

The court advised the parties to explore settlement which they did but failed to agree on the quantum of damages. The court followed the case of *Assist(U) ltd vs Italian Asphalt & Haulage and Another*¹⁰³ where it was held that a party who suffers damages due to the wrongful act of another must be put in the position he /she would have been had he /she not suffered the loss or injury and In *Kibimba Rice Ltd vs Umar Salim*¹⁰⁴ and *Uganda Commercial Bank vs Kigozi*¹⁰⁵ held regard should be had of factors such as the economic/financial value of the subject matter, the inconvenience that a party was put to and the nature and extent of the loss or injury suffered.

In the Law Development Centre case (supra), court considered the physical and psychological stress on the landowner who was a businessman. He had paid the squatters, graded the land to

¹⁰² HCCS .724 Of 2003

¹⁰³ HCCS No. 1291 of 1999 at page 39

¹⁰⁴ SCCA No. 17 of 1992

¹⁰⁵ (2002) 1 EA 305

construct a hostel and restaurant. The suit land is located in a commercial cum Institutional zone and mainly surrounded by hostels and the Law Development Centre and was awarded Shs. 500,000,000/=. The valuation in Uganda does not put in the factors above according to the available literature.

5.2. International Valuation standards under compulsory land acquisition.

Development of large infrastructure projects usually entail land intake which include involuntary resettlement of landowners; hence compensation is inevitable to PAPs. International best practices require that displaced persons and communities be compensated for the loss of their developments at a displacement cost and be offered assistance to improve or restore their standards of living and livelihoods.

International Valuation Standards (IVS) has guided in harmonizing valuation activities probably to assess fair market value. Compensation following a compulsory acquisition of land is based on the principle of fairness and adequacy compensation for loss of land. It should be determined considering the PAPs economic and social intake. The replacement value is equated to the current market costs of the replacement of the land should be taken into account.

5.3. Uganda's oil and gas regulatory governance.

The discovery of oil and gas in Uganda has been identified as being a potential to transform its economy to a middle income class by 2040.¹⁰⁶ Following the discovery of the commercially viable oil deposits in the Albertine Graben in 2006¹⁰⁷, Uganda has tried to establish effective regulatory framework to promote the growth, development and respect of human rights .The Constitution under Article 79(1)¹⁰⁸ empowers Parliament to make laws on any matter for the peace, order, development and good governance of Uganda. Under this provision the Parliament of Uganda can make any laws for the better management of the Oil and gas industry in Uganda.

¹⁰⁶ Christopher Mbazira, Teddy Namatovu(2018) African Human Rights Journal).

¹⁰⁷ Pamela Mbabazi and Martin Muhangi, Uganda's Oil Governance Institutions: Fit for Purpose CPRD Working Paper No 60 (2018) Mbarara University

¹⁰⁸ The Constitution of the Republic of Uganda as amended

The ownership and control of oil and gas resource whether on land, under the ground or under water is vested in the state by the Constitution of Uganda 1995 on behalf of the citizens.¹⁰⁹ The same provision empowers the Parliament to make laws regulating the exploration of minerals and petroleum. After the oil discovery and confirmation of commercial oil in 2006, the cabinet approved The National Oil and Gas policy (NOGP) in 2008 to guide the exploration, development and utilization of the petroleum resource¹¹⁰.

The main goal of the NOGPs is to ensure that Uganda's oil and gas is used to eradicate poverty among Ugandans and to bring about sustainable economic development. It also aims at creating efficiency in licensing, production, refining and ensuring national participation in the oil and gas sector while preserving the environment and biodiversity¹¹¹.

In 2012, the oil and gas management policy were also approved to steer the management, monitoring and supervision of the oil activities. The Petroleum (Exploration, Development and Production) Act 2013 (PEPD Act) came into force to manage the exploration, development and production activities in the country. This law introduced the National Oil Company (UNOC) to cater for the country's oil and gas commercial interests. It also introduced The Petroleum Authority of Uganda (PAU) to handle the country's oil and gas regulatory framework¹¹².

In 2013, The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act was enacted to guide the refining, transportation and storage activities of oil and gas within Uganda¹¹³ and The Revenue Management Act which came into force on 23.2.2015 was made to facilitate the proper management of revenue from oil and gas resources. This law established a petroleum fund where all revenues that accrue to the government are to be deposited.

It is worth noting that no land law was enacted or amended to guide or regulate oil activities including acquisition of the land, management and disposal of the land in areas affected by the oil

¹⁰⁹ Article 244 of the Constitution of the Republic of Uganda.

¹¹⁰ Abigaba 2014

¹¹¹ PEPD-MEMD 2015

¹¹² MEMD 2015

¹¹³ PEDDMEMD 2015

and gas activities in Uganda. There is need to have a very strong legal framework to ensure proper harmonious land acquisition for a beneficial management of the oil and gas resource in Uganda.

5.4. Uganda's International and Regional obligation regarding compulsory land acquisition.

The key issues that have been identified are the dynamics of land acquisition for development at the global, regional, national and local levels. It is the goal of this research to obtain evidence on land acquisition and assess the whole situation to obtain a very clear understanding of how it is done in Uganda in order to forge a way forward for coherent and effective policies, laws and regulations.

Land acquisition and involuntary resettlement in Uganda moves together with the dynamics of the globalization and market demands. According to FIAN¹¹⁴ Land grabbing is possession and or control of a scale of land by lawful or unlawful means of a commercial / industrial production, which is misappropriate in size compared to the average land holding in the region.

The projects sanctioned by government create opportunities for various agencies to interpret the existing laws in different ways that can undermine the security of tenure not only for investors but also existing land owners and tenants. This insecurity in land ownership affects those communities who live on the land.

5.5. Institutional Framework for Land Acquisition

5.5.1. The Ministry of Lands, Housing and Urban Development

It is responsible for exercising the powers of compulsory Land Acquisition as per the Land Acquisition Act Cap 226. The Minister for land appoints an assessment officer whose responsibility is to execute the process; by issuing notice to persons having interest in the land, holding an inquiry into claims and objections made in respect of the land making an award specifying the compensation which in his or her opinion should be allowed for the land and taking possession of

¹¹⁴ <https://www.fian.org> visited 20th May 2022 at 8:53pm

the acquired land. He can be a public officer or other person appointed by the Minister. In Uganda this has always been the Chief Government Valuer (CGV).

Where the powers of compensation acquisition are not involved the executing agency/project acquire land using the office of the CGV or using private registered valuation consultants under supervision of CGV including the office of the Prime Minister, MEMD, Ministry of Water & Environment, Ministry of Works & Transport (the SGR Project) Uganda National Roads Authority, National Forest Authority, National Environment Management Authority, Uganda Electricity Generation Company Limited, Uganda Electricity Transmission Company Limited, Rural Electrification Agency (REA), Electricity Regulation Authority, National Water and Sewerage Corporation, Uganda Wildlife Authority, private companies like Total, Tullow, and CNOOC in the oil and gas sector.

5.5.2. Area Land Committee

These are established under the Land Act.¹¹⁵ They operate at sub county levels. The Committees role is to establish ownership of the land for purposes of registration.

5.5.3. District Land Board (DLBs)

These are established under Article 240 of the Constitution and under The Land Act.¹¹⁶ The DLBs facilitate transfer of interests in land within their respective districts and other functions as outlined under section 59 of the Land Act including reviewing the list of rates of compensation as required.¹¹⁷

¹¹⁵ Section 64.

¹¹⁶ Section 56.

¹¹⁷ Section 59 (1) (e).

5.5.4. The Uganda Land Commission (ULC)

The ULC is established under section 46 of the Land Act. One of its main functions is to hold and manage land which is vested in or acquired by the government in accordance with the Constitution,¹¹⁸ and all other functions provided for under the Act.¹¹⁹

5.5.5. Judiciary

The Constitution created the land tribunal with a mandate of determining any disputes relating to the amount of compensation to be paid for land acquired or any disputes relating to land acquisition by the ULC or other authority with responsibility relating to land. These tribunals need to be revived under Article 243(1) of the constitution.

5.6. Effectiveness of the current land law in protecting PAPs from unfair land acquisition practices

The term land encompasses all physical elements, bestowed by nature, to a specific area or piece of property – the environment, fields, forests, minerals, climate, animals and bodies or sources of water.¹²⁰ Agenda 21 defined Land as a physical entity in terms of its topography and special nature thus including natural resources like the soil, minerals, and biota existing on the land.¹²¹ In English law, land includes the physical clods of earth which make up the surface layers of land, mines and minerals beneath the surfaces and buildings, or parts of buildings erected on the surface and “corporeal hereditament.”⁹² It also includes various intangible rights or incorporeal hereditament like the rights of way over somebody else’s land.¹²²

Land ownership determines who can use the land, for how long and under what conditions. A land holder/land owner is a holder of an estate in land with considerable rights of ownership or

¹¹⁸ Section 49 (a).

¹¹⁹ Section 49 (d).

¹²⁰ Chen, J (2020). Land. Accessed from <https://www.investopedia.com/terms/l/land.asp>(August 15 2020).

¹²¹ UNSD (1992). United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992. AGENDA 21. Accessed from <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf> 92 Ibid.

¹²² Kenton, W. (2020). Incorporeal Rights. *Investopedia* Accessed from <https://www.investopedia.com/terms/i/incorporeal-rights.asp>

simply put, as owner of land.¹²³ The Law of the land involves the whole body of valid laws, statutory or otherwise existing and in force in a country or jurisdiction at given date. Every valid statute is the “law of the land” with respect to its subject matter.¹²⁴

In Uganda, land is the most important livelihood asset for majority of the people.¹²⁵ From the very inception of Uganda as a country by British colonialists, land ownership and management processes by governments raised many controversies. The first act of the British colonialists in relation to land in Uganda was the conversion of its ownership from customary to individualized statutory land rights mainly in Buganda, Tooro, and Ankole and Bunyoro kingdom. This mainly benefited the colonial government, kings, religious institutions and chiefs and disadvantaged majority of the common people (peasants) who became tenants on their own or their ancestors land.¹²⁶ President Idi Amin’s Land Reform Decree, 1975 changed this colonial land grabbing and ownership structure by declaring all land in Uganda public.¹²⁷ However, Article 237 (1) of the Uganda Constitution 1995 reverted land ownership powers to the people of Uganda by repealed Amin’s Land Reform Decree of 1975.

Article 26(1) of the Uganda Constitution 1995 provides that every person has a right to own property either as an individual or in association with others like a community among others. In Uganda, land belongs to the citizens of Uganda and is vested in them with the land tenure systems provided under Article 237 (3) of the constitution. The land tenure systems are customary, freehold, mailo and leasehold.

Over 70% of the land in Uganda is owned under customary tenure without any certificates of ownership. Community members may claim customary land on an individual basis or as

¹²³ Teacher, L. (2013). The Ownership of Land Law. Retrieved from <https://www.lawteacher.net/free-lawessays/land-law/the-ownership-of-land-law.php?vref=1>

¹²⁴ United States Bureau of Labor (2011). *Bulletin of the Bureau of Labor, Issues 26-31*. U.S. Government Printing Office, 1900.

¹²⁵ LANDac (2016) “Food Security and Land Governance Factsheet Uganda” Available at <https://www.landgovernance.org/wp-content/uploads/2019/09/20160627-Factsheet-Uganda.pdf>

¹²⁶ Green, E.D. (2006). Ethnicity and the Politics of Land Tenure Reform in Uganda. *Commonwealth and Comparative Politics* 44(3)370–388; Mugambwa, J. (2007). A Comparative Analysis of Land Tenure Law Reform in Uganda and Papua New Guinea. *Journal of South Pacific Law* 11(1).

¹²⁷ Government of Uganda (1975). Land Reform 1975 Decree, No 3 Kampala September 1975.

collective communal tenure. Changes in land use and the increasing economic activity and investments in the Albertine Graben together with land grabbing has increased the need to register customary land into freehold. This is however not a simple process for the customary holders as off because of who is entitled to the land ownership, the cost of conversion and the cumbersome nature of the process. The women and children are by custom and culture not entitled to own land hence not eligible for compensation. The social and spiritual aspects are not considered in compensation.

In *Katamba Hussein Vs UNRA*¹²⁸ – Justice Ayuko Anthony Ojok, the Plaintiff filed a suit seeking declaration that the defendant is a trespasser on his kibanja situated at Mabye, Katende, on order that the defendant vacates the suit kibanja, a permanent injunction restraining further trespass, general damages and costs. The plaintiff, by license utilized and utilized the kibanja where there is a cultural site called ‘Nabukalu’. It is a cultural land for healing purposes and later purchased the Kibanja from the land owner. The plaintiff alleges that the defendant without a consent drew up plans for Kibuye-Busega-Mpigi express road through his kibanja and they have threatened to demolish and remove the cultural site for the road construction. The plaintiff requested the defendants to redesign the road plan in vain.

The defendants claimed they conducted a land and property evaluation of the suit kibanja for purposes of compensation and came up with a value of Shs. 4,661,800 that was disclosed to the plaintiff who argued that a claim of Shs. 500m was the compensation for his land. The court held that customary laws and protocols are recognized as central to the very identity of many local communities. The laws, conventions and protocols concerned many aspects of their lives. The court awarded the plaintiff Shs 4,661,800 and did not put into consideration the cultural values the plaintiff attaches to the land.

Land in Uganda and as is in the Albertine Graben is mainly used for agriculture both in crop farming and animal husbandry. However, with the discovery and production of oil in the study region, land now is increasingly being used for commercial and infrastructure purposes. With

¹²⁸ HCCS No 18 of 2021 at Mpigi

the increase in population both natural and due to immigration plus the economic activities this has led to change to intensive land use. These factors have led to land acquisition that calls for displacement of the communities. The oil projects being essential for the development of Uganda all land acquisition is therefore involuntary resettlement.

Article 26 (2) protects people from illegal deprivation of their property including land as it provides that no person shall be unlawfully deprived of property or interest in or right over property of any description. However, such property can be acquired when necessary for public use, or in the interest of public defense, public safety, public order, public morality or public health provided the compulsory taking of possession or acquisition of the property is made under a law that provides for a prompt payment of fair and adequate compensation before the taking of possession or acquisition and such law provides for the right to access courts of law by any such person who has an interest or right over the property¹²⁹.

The same constitution provides for the government to acquire land from the citizens in public interest and conditions governing such acquisition were to be prescribed by parliament and hold such land in trust for the people. Article 244 of the same constitution vests management of mineral resources in the hands of government.¹³⁰ The minerals are to be exploited considering the interests of the individual land owners, local government and the government. This implies that government and oil companies must acquire land from which to extract the crude oil or upon which to build oil related facilities/infrastructure. Currently, Uganda has no comprehensive land compensation laws or policy. The available instruments are scattered in various laws and government institutions and department with conflicting or overlapping responsibilities. This scenario is likely to cause or has caused discontent among people and communities who may feel short changed by government or oil companies land compensation packages. The rush to

¹²⁹ article 26 (2) (a) and (b) of the constitution of the Republic of Uganda

¹³⁰ Constitution of the Republic of Uganda (1995) Available at <https://ulii.org/ug/legislation/consolidated-act/0>.

grab land by private speculators in the poor oil affected communities may worsen the already preposterous land grabbing/disputes in these communities.¹³¹

The Albertine region is mainly inhabited by fishermen, subsistence farmers and hunters. Most of their land is owned or managed under customary tenure. Article 237(4) a) of the constitution provides that people may apply for the certificate of ownership but does not oblige them to do so. Under the Land Act 1998 and 2010 (as amended) proof of ownership under customary land tenure system shall be by possession of certificate of registration. Since the enactment of the Land Act in 1998, the provisions of the law relating to communal tenure have largely remained unimplemented particularly in this region and many communities own land not documented (with no land titles) to prove its ownership. This is majorly attributed to limited demand caused by lack of awareness of the value of formalizing ownership from community groups. However, lack of formalized land ownership papers makes such communities people or particularly the very poor easy targets for land grabbers.¹³² For example, customary land holdings are being titled as freeholds without the consent or knowledge of the customary owners. The outcome is that they are denied to the royalties that may accrue from the natural resources.¹³³ Oil processing activities require extensive swathes of land on which various facilities/activities can take place.

5.7. Effectiveness of the law for citizens in influencing allocation of oil and gas revenues

In regard to compulsory land acquisition, under the constitution of the Republic of Uganda Article 244(2), minerals are to be exploited taking into account the interests of the individual land owners, local government and the government. Citizen participation in the management of their countries resources has been touted by many scholars and organizations as a practice that promotes social justice, deliver better development outcomes; and increases the chances of allocating more resources to those areas that are more likely to benefit low income/marginalized

¹³¹ Byakagaba, P. and Twesigye, B. (2015). Securing Communal Land and Resource Rights in the Albertine Region in Uganda. A case of Hoima and Buliisa Districts, Uganda, Kampala; ACODE Policy Research series No. 75 of 2016. Balancing Development and Community Livelihood. A frame Work for Land Acquisition and Resettlement in Uganda.

¹³² Muriisa R. K. (2018). Land Grabbing and Oil industry, Implications for Women's Land Rights and Oil Industry in Uganda. Centre for Research on Peace and Development (CRPD) KU Leuven, Belgium.

¹³³ Byakagaba and Twesigye, (2015).

groups. Participation is a broad and complex concept that has been defined differently by different people, reflecting their objectives, values and contexts. It has even become a catchword for organizations and or governments that have little to do with participation itself.

The World Bank defines participation as a process through which all stakeholders' influence and share control over development initiatives, decisions, and resources that affect their lives. Oxfam defined it as a way of engaging people in joint analysis of development priorities with the ultimate goal of fostering the existing capacities of local, poor women and men and to increase their self-reliance, control of their resources and integrating them in the decision-making processes and structures that shape their lives. Participation can take the form of face to face, written or combinations of different communication mechanisms, deliberation or input to decision-making. It ranges from one-off public consultation or invitations for submissions, to on-going and institutionalized relationships. Participation stems from recognition that involving citizens in the management of natural resources generally reduces passiveness, resentment, conflict, dependence and enhances a sense of community ownership, promotes accountability, transparency, democracy and desired change in a society.

Uganda is a signatory member of the Universal Declaration of Human Rights, and the African Charter on Human and Peoples' Rights which all place citizen participation in the governance and management of the country's affairs as a fundamental human right. Thus, Article 38 of the Uganda Constitution 1995 categorically makes citizen's participation in influencing public policy and governance a human right. Several Acts have been enacted to actualize this constitution requirement. For example, the Public Finance Management Act 2015 provides that the proposed national annual budget should be prepared in consultation with the relevant stakeholders taking into consideration balanced development, gender and equity responsiveness.

The Local Government Act (as amended) (1997) brought devolved powers to local government and gave people at local government levels control of decision making in relation to utilization of local resources. The Local Governments Amendment Act, 2015 requires that budget conferences are held and open to the public at all levels of local council from village to the

district. The oil and gas industry is anticipated to generate significant amounts of revenues for both central government and local government districts directly. Therefore, it is prudent to examine the existing participatory budget frameworks and their effectiveness in ensuring optimal utilization of oil revenues at both central and local government level. However, it appears the interests of the individual land owners as regards oil revenue has not been considered in Uganda and as provided under the article 244(2) of the constitution.

The PAU, MoFPED and BOU are mandated to manage oil and gas activities, collect public revenues realized from the sale of oil and gas resources and allocate them accordingly through the annual budgets and other revenue sharing mechanisms. The Public Finance Management Act 2015 (PFM Act 2015) provides that annual budgets which ultimately determine how public money is spent should be prepared in consultation with the relevant stakeholders. All citizens should be included in this process to ensure balanced development, gender and equity responsiveness.

The key agency responsible for budget planning in Uganda is the Ministry of Finance, Planning and Economic Development (MoFPED). In its budget planning processes, the MoFPED is guided by national priorities as stipulated in the National Development Plans, Vision 2040 and other key frameworks. As part of the participatory process, budget conferences aimed at soliciting views of all stakeholders so as to ensure that the national budget reflects the views, aspirations and priorities of all Ugandans are undertaken. The first Budget Consultative Workshop whose participants include Cabinet Ministers, Members of Parliament, technical officials from the Central Agencies, Local Government Officials, Development Partners and Civil Society and Private Sector Organisations is held to officially launch the beginning of the budget preparation process.

After the national budget consultative meeting, each Sector Working Group organizes discussions with spending agencies within the sector¹³⁴ and agree on sector priorities and the financing required. Each Sector Working Group is made up of representatives from all

¹³⁴ <https://budget.go.ug>

Ministries, the Ministry of Finance, Planning and Economic Development, Departments and Agencies within the sector, representatives from civil society and the private sector, Local Government (representative's district and sub- County) and representatives of development partners. The individual land owners in the Albertine Graben and Buliisa District are however not consulted or included in the budget so far in regard to oil & gas revenue collections. This national budgeting process provides a platform for all non-state actors to participate and influence the budgetary decision. The opportunities have enabled the mobilization of CSOs into thematic groups (agriculture, education, health, JLOS, Budget to make informed and constructive contribution to decision-making. For instance, CSOs have organised themselves under Civil Society Budget Advocacy Group (CSGBAG). Equally, ACODE and CSGBAG are being included in the entire budget process from consultations to budget performance.

The CSOs have been involved in the areas of (i) simplification and sharing of budget information to citizens especially at lower government levels; (ii) building capacity of Councilors and citizens to enhance their budget literacy, effective participation in the budget process, monitoring service delivery and demanding for accountability, (iii) mobilization of citizens into advocacy groups that can effectively influence decisions, monitor service delivery and demand for accountability and iv) Budget analysis, research, and advocating for strategic allocation of resources and enhanced effectiveness and impact on national priorities. Budget advocacy in Uganda has been to some extent effective, with CSOs influencing budgetary decisions for central government and improving project implementation. The downside is that the current organization of the budget consultations does not allow effective engagement of stakeholders particularly the rural poor. Besides, the CSO initiatives are dependent on donor funding which is not sustainable in the long term. However, on the overall, the participation of civil societies in the budget process can enhance effective allocation of oil and gas funds in ways that benefit the most disadvantaged whose interests they mostly represent.

The MoFPED usually develops 3–5 years national Indicative Planning Figures (IPFs) which reflect its expected revenues, expenditure and allocations for the respective sectors within that period. For participatory purposes, the MoFPED gives the IPFs to district local governments to

guide their own budget plans. Once the districts have received the IPF, they review them and set their own budget priorities in accordance with the amounts of resources expected from the MoFPED and their own local revenue targets. They then organize different budget conferences (at Sub County, district and regional levels) through which people participate. Community members and key stakeholder including representatives from CSOs, Ministries Departments and Agencies (MDAs) and development partners are invited to attend. Community members and the other key stakeholders work with district officials to generate ideas and priorities that can inform the formulation of a demand driven budget.

After the budget conference, the district technical people prepare the budget. This is laid before the council for approval. The district council may choose to approve or reject the budget. After the budget is approved, community development officers (CDOs) coordinate communities to form community user committees to oversee projects/programme implementation. Because of these participatory and inclusive budget processes at all levels, Uganda has been ranked number one in budget transparency in the East African region and ranked second in Africa in the Open Budget Index. Uganda's PFM systems are also relatively strong (PEFA 'A'-rated) in budget classification and documentation, public access to fiscal information, transparency and preparation of the budget.¹³⁵ The individual land owners and or community holders are involved in the expected revenue yet first oil is expected in 2025.

5.8. The challenges of land acquisition in Uganda

There are no updated laws in Uganda to harmonize land acquisition. The Constitution of Uganda 1995 contradicts the provision of the land acquisition act of 1965 and its S.7 (2) of the Act provides thus;

- a) "When the assessment officer takes possession of the land, the land shall immediately by the operation of this Act vest in Uganda Land Commission"

¹³⁵ PEFA Assessment 2016

- b) The estate and interest of every person having an interest in the land immediately before the land vested shall be deemed to have been converted into a claim for compensation under this Act.
- c) As soon as may be after taking possession of land under this Act, the assessment officer shall forward to the Registrar of titles a copy of the declaration relating to the land endorsed with a certificate signed by the assessment officer which shall state that the assessment officer has taken possession of the land and specify the date when he or she did it.
- d) On receipt of (3) above, the Registrar of titles shall notwithstanding any inconsistency with the Registration of titles Act take such steps as may be necessary to give effect in the register book to the operation of sub-section (2) in respect of the land that is specified in the declaration.

The provision of the above section was held unconstitutional in the case of *Uganda National Roads Authority Vs Irumba Asuman and Peter Magelah* Supreme Court Constitutional Appeal No. 2 of 2014 in which it was held to be unconstitutional to the extent of its inconsistency with Article 26(2) of the Constitution in so far as it did not provide for the prompt payment of a fair and adequate compensation prior to the taking of possession or acquisition by any property by the state.

Government has since lost a fallback position after the expunged S.7 of the Land Acquisition Act. Its upon that background that the government tabled The Constitutional (Amendment) bill 2017 whose main objective was for the amendment to allow or enable the government to take possession of or acquire property upon payment of the compensation awarded by the government valuer while any resolution of the dispute to determine the additional amount claimed by the property owner is ongoing.

The government intended to curb the delays in the implementation of the government infrastructures and investment projects to be able to be complete them in time. The bill is

expected to allow for persons dissatisfied to resolve the dispute in court which is different from the previous law that only allowed the Attorney General to refer the matter to court.

The conflicts over compensation have had many effects on the part of the government. The contractors claim delayed compensation is the reason for them delaying completing and handing over the projects in time. The delay to use the loans attracts interest being accumulated on unused funds. The development partners lose interest in funding the project in some cases, and some end up in litigation arising out of the government failure to meet its obligations under the contracts. The citizens do not enjoy the benefit of the project in its scheduled time yet have to pay the loans used to work on the project through payment of taxes.

Due to such conflicts, the system has faced many challenges that include lack of transparency, the corruption mainly associated with the Government officials and wealthy citizens when it comes to land speculation and acquisition.

Inadequate compensation as the government valuers are either corrupt or consider the illiteracy of the poor citizens to offer less value. There is no timely compensation as per the constitution that provides for adequate and prompt compensation.

There is lack of rehabilitation and resettlement provision in the laws, guidelines or policies which has led to exploitation of the peasants or the poor citizens, the communities and PAPs and increased poverty levels instead of putting back the land owners to the same level or elevate them and claim the benefits of the oil and gas industry

There is therefore absence of a clear land policy in this area. The indigenous citizen's lands rights cannot be protected as against the interests of the rich and foreign capitalist, corruption in land administration and registration systems brought about by the increased pressure on land due to the population growth and the increased demand for land.

The major challenges in land acquisition in the Albertine Graben as it may be in other areas in Uganda not under this study can be summed up as lack of good and enabling law and regulations

made there under. This has enabled lack of transparency in the valuation, assessment and payment system, has created supreme authority with the government officials who are viewed by the land owners as helping them to be compensated, corruption in the whole chain system that leads to both over and undervaluation of properties resulting in inadequate and or over compensation, lack of rehabilitation and resettlement provisions, ignorance on the part of the land owners ending in their being exploited. An example on ignorance is where the paying officer makes the uneducated sign or thumb print the payment acknowledgement form indicating a figure far more than the amount paid to him or her in cash. The PAPs have at the end emerged out exploited and with increased poverty.

5.9. Land acquisition comparisons with other jurisdictions

5.9.1. The international legal framework

The laws, policies, treaties and legal framework at the international and national levels and a comparison and identification of the gaps to be filled as between international and national laws and between policy and the mechanisms of implementation. Many protocols and treaties focus on the fundamental rights of all persons and the security, self-determination and access to livelihood, food, housing, education and health among others. Land acquisition falls under self-determination recognized in the human rights law.¹³⁶ The international covenant on civil and political rights (ICCPR) adopted by the UN in 1966 as part of the international Bill of Rights, committed the signatories to respect rights like the right to life and adequate housing.

The Vienna Convention on human rights (1993) states that human rights are universal, indivisible, interrelated and interdependent. International human rights law includes the Universal Declaration of Human rights (UDHR)¹³⁷.

¹³⁶ <https://www.justiceinitiative.org>> accessed 20th May 2022 at 9:11pm

¹³⁷ <http://www.un.org/en/documents/udhr/> (assessed on 26.3.2022)

The African Charter on Human and Peoples rights (ACHPR) reinstated the above declaration including the right to own and freely dispose of property or where land is needed in public interest then appropriate compensation is paid.

As for compensation the international and regional laws provide for transparency, consistency in application to all persons affected. Possession of the acquire land and related assets should be taken only after compensation has been made available. Resettlement sites and moving allowances must be provided to the displaced persons in addition to compensation.

The developer is required to ensure there is active community participation as set out in the IFC performance standard 1. There must be a grievance handling mechanism as set out in the IFC performance standard 1 and a collection of appropriate socio-economic baseline data to identify the persons who will be displaced by the project to determine the ones eligible for compensation and assistance. There must be an established procedure necessary to monitor and evaluate the resettlement implementation. There should be a resettlement Action Plan (RAP) requirements. These WB and IFC framework structures do go beyond the legal protection.

International Human Rights Law and Standards with the roots in the universal Declaration on Human Rights (UDHR) The international Human Rights Law is provided in Article 17(2) which declares that no one shall be arbitrarily deprived of his or her property. The UN committee on Economic, Social and cultural rights enjoins member states to ensure that all persons enjoy a degree of security of tenure which guarantees legal protection against among others forced evictions and harassments.

The African Chapter on Human and People's rights (ACHPR) provides that the rights to property, shall be guaranteed and may only be encroached upon in the interest of the community. The International Finance Corporation (IFC) in its performance standards Number five on Land Acquisition and Involuntary resettlement advocates for avoidance or minimal displacement of individuals from their land in the course of project development. It requires the implementing

government to do the necessary due diligence to minimize adverse social and economic impacts of the project on the affected communities.

5.9.2. Compulsory Land Acquisition in Kenya

Land is a critical resource for the social economic and political development of any country. Respect for property rights to land whether owned by communities, individuals or companies is an important driver of rapid economic transformation. Land in Kenya is competing for various reasons uses and since most of this land already has interests it calls for the use of the eminent domain which is the power of the government to compulsorily acquire land for use by the public.

History of unregistered /undocumented land in Kenya

The history of formal documentation /registration is as old as the history of colonization of the country. Formalization of ownership of land in Kenya was introduced by the acquisition of the ten miles coastal strip by the Sultan of Zanzibar which was later transferred to the British colonialists in 1895 via the Imperial British East African Company. The crown Land Ordinance of 1902 was established to regulate government control of alienation of Crown land and later in 1915 the office of the Commissioner of lands was conferred powers on behalf of His Majesty over administration of all lands in Kenya (Omalo,1986). In 1939 the Kenya Native Area Order in council was established and vested the management of the native land to the Native lands trust board which became The Trust Lands Act (cap 288) of the laws of Kenya and put the County Councils to hold lands in trust of the local people within their jurisdictions. Currently it is held by the county governments.

Land registration was started over years through various legislations that include the Land titles Act (L.T.A) for the ten miles coastal strip, Governments Land Act (G.L.A) Cap 280, The Registration of Titles Act (R.T.A) established in 1920, The Trust Lands Act Chapter 300 in 1963, The Land Consolidation and Adjudication Act of 1968 and the Sectional Properties Act 1987 for units within a building.

The above laws have now been rationalized and harmonized on the enactment of the current constitution in 2010 and the main land Acts in force are, The Land Act 2012, the Land

Registration Act 2012 and The National Land Commission Act 2011. Despite the several land laws to actualize land registration, most of the land in Kenya is unregistered and there is no formalization of land rights in the country.

The protection of the right to property is provided for under Article 40 of Kenya 2010 constitution which provides every person with the right to acquire and own property and Article forbids parliament from making laws that permit the state or any person to arbitrarily deprive a person of property or of any right or interest therein. It extends this protection to occupants who may not hold titles to the land they occupy as long as they are bonafide claimants. Article 40(1) Subject to Article 65 every person has the right either individually or in association with others, to acquire and own property.

Article 40(3) (b) provides

“The state shall not deprive a person of property of any description or of any interest in, or right over, property of any description, unless the deprivation is for a public purpose or in the public interest and is carried out in accordance with this constitution and any Act of Parliament that;

- a) requires prompt payment in full of just compensation to the person and
- b) allows any person who has an interest in or right over, that property a right of access to a court of law.

The Land law (Amendment) bill 2016 sought to overhaul the compensation structure for private owners by replacing all existing statutes and align the law to the constitution and these included the Land Act. The land registration Act and The National Land Commission Act. This was and or is commendable.

Land laws supporting Compensation without formally registered land rights.

Kenya has progressive land laws that do recognize compensation even in cases where the land is not formally registered. In the Kenya constitution Article 40(3) provides for compensation to

the occupants in good faith of acquired land who may not hold a title to the land. In the land act 2012, section 5 recognizes customary land rights whether documented or not, as one of the forms of land tenure in the country. In the community land Act 2016, s.5 (3) emphasizes the fact that customary land rights have equal force and effect in law with freehold and leasehold rights. Rules and regulations to govern the implementation of the above statutes are however yet to be developed in the compulsory acquisition projects the government has largely succeeded in actualizing the envisioned implementation of just and prompt compensation.

Land Acquisition and Compensation in Kenya

Land acquisition in Kenya was until recently governed by the process under the Land Acquisition Act Cap 298 (now repealed). The Act commenced in 1968 and was in effect until 2012 when it was repealed by the enactment of The Land Act 2012. The Land Act provided conditions under which private land would be acquired and methods of the acquisition. Section 8 provides for a full and prompt payment of the compensation before vesting and taking possession of the acquired land. The amount of compensation is determined based on an assessment of the market value of the land and the improvements or developments thereon with an additional 15% of the market value to cover disturbance.

Several forms of land tenure ownerships are recognized under the Land Act, but one has to be documented and registered for an award of compensation to be issued. The community land Act, 2016 provides for a prompt and fair compensation of persons affected through compulsory acquisition. This implies that there should be a method used in determining the value of land whether it is registered or documented or not. Most valuations for compensation have been done in well documented and formally registered interests in land. There is a gap in the methodology that would be used in arriving at the fair compensation to the affected persons thus a need to provide for a law for guiding the process for it to be legally acceptable and admissible in courts of law or in case of conflict resolution. In the case of *Partrick Musimba vs National Land Commission and others*¹³⁸ High Court of Kenya emphasized the overarching rights to compensation and the importance of a just and prompt compensation. The compensation is

¹³⁸ Petition No.613 of 2014

calculated as the market value of the land. This is consistent with The Land Act section 111 (1B) which allows a land owner to choose any form of compensation. This can include allocation of alternative land, monetary payment, and issuance of government bonds, grants or transfer of development rights or equity shares in a government entity.

In Kenya the law provides for any person with an interest in the land to access a court for determination of the interest. This ensures the obligation of state authorities to abide by the rule of law in acquisition of land and the right to fair administrative action provided under Article 47 of the constitution.

The National Land Commission must ensure transparency in assessing the value of the land to be acquired. It must establish and make available a gazette notice detailing particulars of the land, conduct open and transparent public inquiries into ownership of the land to ensure that compensation is paid to the rightful land owner.

The Land Value (Amendment) Act¹³⁹, has lengthened the period taken to pay compensation up to one year after acquisition hence prolonging the suffering experienced by the PAPs. The Prompt Payment Bill 2020 which is an alternative to the LVA is looked at as a progressive law that if passed into law will underscore the need for prompt compensation.

5.9.3. Land Acquisition and Tenure in Ghana

Customary land represents all the different categories of rights and interests held within traditional systems and which include stool lands, skin lands, clan lands and family lands. They occur where the right to use land or dispose of use – rights over land rests neither on the exercise of brute force, nor on the evidence of rights guaranteed by government statute, but on the fact that they are registered as legitimate by the community the rules governing the acquisition and transmission of these rights being usually explicitly and generally known by not normally recorded in writing. Such ownership may occur through discovery and long uninterrupted

¹³⁹ Act 2019 (LVA)

settlement, conquest through war and subsequent settlement, gift from another land owing group or traditional over lord and purchase from another land owing group.

The Constitution of Ghana has specific purposes for which land may be acquired. The kind of projects that allow the government to use its power to compulsory acquire land and specifies that displaced inhabitants should be resettled on suitable alternative land.¹⁴⁰ It is provided in the said article that;

1. No property of any description, or interest in or right over any property shall be compulsorily taken possession of or acquired by the state unless the following conditions are satisfied
 - (a) The taking of possession or acquisition is necessary in the interest of defense, public safety, public order, public morality, public health, town and country planning or the deceitful or utilization of property in such a manner as to promote the public benefit
 - (b) the necessity of the acquisition is clearly stated and is such as to provide reasonable justification for causing any hardship that may result to any person who has an interest in or right over the property
2. Compulsory Acquisition of property by the state shall only be made under a law which makes provision for
 - (a) the prompt payment of fair and adequate compensation
 - (b) a right to access to the high court by any person who has an interest in or right over the property whether direct or an appeal from any other authority for the determination of his interest or right and the amount of compensation to which he is entitled.
3. The state to resettle the displaced individuals on suitable alternative land with due regard to their economic well-being and social and cultural values

¹⁴⁰ The constitution of Ghana Chapter 5, Article 20

4. Nothing in this article shall be constrained as affecting the operation of any general law as so long as it provides for the taking of possession or acquisition of property.
- (a) as way of vesting as administrative of trust property, every property or property of persons adjudicated or otherwise declared bankrupt, insolvent or unsound mind, deceased persons bodies corporate or unincorporated in the case being wound up, or
 - (b) in execution of a judgment or order of a court
 - (c) by reason of being in a dangerous state or injurious to the health of human beings, plants or animals , or
 - (d) in consequence of any law with respect the limitation of actions, or
 - (e) for as long as only as may be necessary of the purpose of any examination, investigation, trial or inquiry
 - (f) or necessary for carrying out of work on any land for the purpose of the provision of public facilities or utilities, except that where any damage results from such work they shall be paid appropriate compensation
5. Any property compulsorily taken or acquired in the public interest or for a public purpose shall be used only in the public purpose for which it was acquired
6. Where property not used in the public interest or purpose for which it was acquired, the owner of the property immediately before the compensation acquisition, shall be given the first option for acquiring the property and shall on such reacquisition refund the whole or part of the compensation paid to him as provided for by law or such other amount as is commensurate with the value of the property at the time of reacquisition.

Legal basis for compulsory land acquisition in Ghana

Ghana constitution guarantees private property ownership. Article 1 provides that every person has a right to own property either alone or in association with other. Article 20(1) provides that no property of any description or interest in or right over any property shall be compulsorily taken possession of or acquired by the state unless the taking of possession or acquisition is

necessary in the interest of defense, public safety, public order, public morality, public health, town or country planning or the development or utilization of property to promote public benefit.

The Prompt payment bill 2020 as an alternative to the LVA is a progressive law if passed by parliament and will underscore the need for prompt compensation. There is also an expectation that where the reason resulting in acquisition fails or ceases to exist, the land upon refund of any compensation paid would revert to the original owner

There is lack of public inquiries as a procedure. The NLC must formulate guidelines for public inquiries. Notice to guarantee language should be clear and simple.

NLC has been accused of impurity, delaying compensation and mismanagement of public funds in the process of compulsory acquisition and as a result, livelihoods have been disrupted, communities deprived of their important solid, rigorous and cultural sites and socio-relations have compromised.

Compulsory Acquisition laws and processes should consider the consequences of land Acquisition to community in economic, social and political terms, Compensation whether monetary form or as replacement land should meet the legal threshold and adhere to a well – designed compulsory acquisition model guided by key principles of human rights.

5.9.4. Land acquisition in Nigeria

Every citizen of Nigeria is empowered to acquire and own immovable property anywhere in Nigeria. However, the right is not absolute but subject to certain qualifications. Nigeria recognizes seven land tenure systems which are freehold, inheritance, communal, leasehold, gift, rent tenure and tenants at government at will. The law of compulsory acquisition of land in Nigeria is rooted in the country's constitution that such property shall not be acquired compulsorily, except in the manner prescribed by a law that requires both the payment of prompt compensation and compliance with the rule of law on access to the court.

The land use Act of 1978 provides that all lands comprised in the territory of each state in Nigeria are vested in the governor of that state and such land shall be held in trust and administered for

the use and common benefit of all Nigerians, and the Governor may revoke a right of occupancy for overriding public interest.

The Government must ensure that such land is being acquired for public use and cannot be used for individual benefit. The court of Appeal, per Salami JCA in *Alhaji Wahabi Layiwola Olatunji vs Military Governor of Oyo*¹⁴¹ held among other things that acquiring authority is required to state one or a combination of the public purposes for which the land was being acquired in the notice to the holder of a right of occupancy to enable the holder or occupier to challenge the acquisition and that it is not for an individual to speculate or presume that his land is being acquired for public use, he must be notified as to why his land is being acquired by the Government.

When proven that the land is to be used for a private purpose, such acquisition will be vitiated by the reason. Land compulsorily acquired for a public purpose can be vitiated where it was subsequently diverted to serve a private need.

In *Olatunji Supra*, court further held that the requirement that acquisition for private lands should be published in the National gazette only constitute notice to the whole world and cannot be taken as a substitute for the notice to be given to the individual owner of the land. Hence nothing can waive the requirement of personal notice to the individual owner of the land compulsorily acquired. Notice must be personally served on the individual concern.

The land use Act, 1979 highlighted projects of public purpose to include building of schools, roads, construction and bridges, laying of pipelines construction of mines etc.

Land Compensation in Nigeria

Compensation is enshrined in the Nigeria Constitution. Its importance cannot be overemphasized as a failure to compensate the occupier renders the acquisition a nullity. Section 44 of Constitution of the Federal Republic of Nigeria as amended) It provides that no individual

¹⁴¹ (1994) LCN/0219 CA

land should be acquired without compensation. It should as well be noticed that payment of compensation for lands acquired should be prompt and not delayed unnecessarily. The procedure and guiding laws are in The Land Acquisition Act 2020 of Nigeria. In Nigeria, enquiries on the land are done to determine the availability or otherwise of any defects in the land to be purchased, investigations of the title are undertaken, deducing title is done , preparation of the deed of assignment and contract of sale and then perfection of title .

In *National Universities Commission Vs Oluwo*^{142,143} count held that the rights of an individual to acquired properties anywhere in Nigeria is in the constitution of such properties, thus, any individual whose land the government compulsorily acquired is entitled to prompt payment of reasonable compensation

5.9.5. Land Acquisition in Norway.

In 1972 the Norwegian government established its own company Statoil which was awarded 50% of all petroleum production licenses and currently the government owns 67% of Statoil while the other 33% is in private ownership¹⁴⁴.

This is implemented through a cadastral expropriation procedure handled by a special Expropriation Commission. The Norwegian legal description of compulsory acquisition (expropriation) follows from the Constitution of the Kingdom of Norway (Act of 17th May 1814). It provides “If the states need demand that somebody must leave his moveable or immoveable property for the public use, he should have full compensation from the treasury”¹⁴⁵. The Constitution gives in an old-fashioned way a similar definition of compulsory acquisition as FAO, (FAO, 2008, page 5) which states “the power of government to acquire private rights in land without the willing consent of its owner or occupant in order to benefit society”.

¹⁴² <http://www.mondeq.com>

¹⁴³ (2001) 3 NWLR (PT.69) Page 90

¹⁴⁴ Havard Steinsholt Land Acquisition and Expropriation performed decentralized: Experiences in Norwegian Municipalities. Norwegian University of Life Sciences, Department of Landscape, Architecture and Spatial Planning. P.O BOX 5005, N-1432 As Norway. Havard.steinsholt@umb.no

¹⁴⁵ ibid 133

The public purpose in the constitution authorizes expropriation with “full compensation” for public purpose in public infrastructure, schools, hospitals, space for other public institutions. The indirect or secondary public purposes may occur when private parties directly profit from purchase for the private housing development, industries etc. Indirectly this could benefit the public fulfilling of housing policies, labour policies, tax income etc. Norwegian law accepts such indirect public interests.

The Institution of Expropriation in Law Regulations of Norway.

The Expropriation Act (23rd October 1959) that was revised by the 19th June 2009 No704 lists 55 different purposes that could legitimate expropriation in Norway. The valuation court proceedings are based on the Acts of Court dated 13th August 1915 and Act of Valuation court proceedings of 1st May 1917 No 1.

The valuation principles are based on standards of expropriation compensation Act of 6th April 1984. The purchase process like documents, transfer, subdivision and registration follow the same rules as in normal sale of land. The prepossession process where land is taken possession of before the compensation process is finalized follows special rules provided in the bylaws.

Procedure on Compensation in Norway

Norwegian law limits the use of expropriation to a fixed number of purposes and plan categories. This is known as the principle of Positive law permit. The consequences of the project must be documented, it's called the principles of impact assessment. The consequences of the affected right holders must be specifically investigated and documented.

Both public hearings and specific contact with the affected rights holders must be carried out and documented. This is the principle of transparency. There is a principle of negotiation first and the agreement possibilities must have been tried first with the land owner otherwise the rights holder has a right to complain on more of these aspects.

The expropriation courts duty is to calculate compensation and has to check up if the steps have been carried out and if the quantitative standards of the law were fulfilled. When not satisfied

the court has the mandate to stop the process and at worst orders “back to start”. This is known as the Legality test.

In Norway expropriation is not commonly used. Voluntary agreements are the most common much as most agreements are signed under a (not outspoken) threat of expropriation. Expropriation is an expensive process. It involves workload, time, expensive lawyers and other professionals to be hired. Norway compensates economic loss of future income and considers reduced damage where the property not wholly expropriated is adjusted by the owner to reduce the loss.

The Norwegian law has not been challenged in any courts because of its wide interpretation of public interest. Norway has signed both the European convention on Human rights and fundamental freedoms and the Istanbul Declaration Agreements and has accepted them as being superior to the domestic legislation¹⁴⁶.

5.10. Conclusion on land acquisitions on studied jurisdictions

Kenya and Ghana like Uganda are in Africa and share almost the same economic and social conditions and therefore comparing their land tenure systems can be seen as feasible. The country like Uganda can learn from the compared jurisdictions experiences while avoiding any mistakes that may have been committed. The comparison with Norway is for purposes of getting experience of a rather developed economy which can guide for purposes of a better management of land as a biggest resource.

The study of the above different jurisdictions has revealed the laws and practices of different countries on land acquisition do differ. It is evident the level of economic and political development determines the approach of the procedure of compensation to the land owner. What is uniform is that whatever the form of tenure of land ownership there has to be compensation irrespective of the methodology used by the governments. In Kenya and Nigeria, the procedure

¹⁴⁶ Harvard Steinsholt, Norway Some Aspects Norwegian Expropriation-Input comparative study of chosen Expropriation Issues; Germany, Norway and Poland . FIG Congress 2020 Facing the challenges in building the capacity, Sydney, Australia 11-16 April 2010 [http:// www.dlaperealword.com](http://www.dlaperealword.com) opened 12th December 2020

is rather flexible compared to the Uganda procedure, in Ghana it is tough and with little respect to the landowners while in Norway it is advanced that would not cause any conflict between the state and land owners hence minimal litigation in courts of law.

CHAPTER VI: Conclusion and Recommendations

6. Introduction

This study set out to examine the effectiveness of existing laws, policies, and regulation's ability to properly compensate PAPs for their land and accountability in the management of oil and gas resources in Uganda for the benefit of the landowners and empowerment of land owners in engaging with decision makers on revenue sharing. The available laws move well with the international and regional legal provisions on land as a property and compensation in a situation of compulsory land management but fall short of implementation and for the benefit of the citizens.

6.1. Discussion of Conclusions

Based on the study findings presented and discussed above, several conclusions have been drawn: There are no sufficient laws, regulations and policies that can guide land acquisition processes for oil and gas activities. There is no all-encompassing legal framework guiding land acquisition, resettlement and rehabilitation save for the oil and gas sector land Acquisition and resettlement framework not put in place yet.

The legal framework does not provide for engagement of PAPs in the process in areas of information sharing, sensitization, consultation and participation as a requirement which otherwise foster the protection of PAPs property rights and livelihoods in accordance with the international best practices.

The law does not provide the definition of public use, public interest and public purpose that justifies compensation acquisition (as was done in Norway giving 50 types of land use), the method of valuation procedures special consideration for vulnerable groups, cultural assets, compensation options, the establishment of an impeded grievance redress mechanisms, the supervision monitoring and evaluation of the processing within the legal framework.

The present laws are creating impulses that may negatively impact oil and gas development and overall livelihoods of PAPs. The now ancient Land Acquisition Act of 1965 contradicts the

provisions of Article 26 of the constitution of the republic of Uganda of 1995. No wonder the constitution almost three decades old but the legislature is just silent on the matter. It appears the big citizens' benefit from such conflict of the laws. There are also no participatory, bureaucratic and institutional frameworks that can provide space to enable citizen participation in the emerging oil and gas industry in Uganda.

However, the low involvement of the local people in the formulation, implementation, monitoring and evaluation of policies and plans coupled with disregard of their concerns result into apathy where citizens feel that they have limited role to play in determining how this industry will play out. This is evidenced by low level of community members' perception on the influence of their voices on decision making on oil and gas activities.

Further analysis of the policies and laws corroborating with primary information obtained during the study reveal that there is lacuna, and deficiencies in implementation of the laws and policies that undermines the benefits of the land owners in sharing the resource. Thus, public policies and laws have not been so responsive to the needs of the land owners. This is echoed in throughout the dissertation. Since citizens have not been able to influence fiscal governance, it can therefore be inferred that given the current trend about citizens' participation, it is highly debatable whether the local people will optimally benefit from the oil and gas resources.

People are generally not aware of existing benefits of sharing the mineral as provided in article 244; even where they are aware, they are unable to agitate for the full operationalization. Furthermore, there is no guarantee that opinions or findings arising from the lacunas will be sufficiently considered by the government.

The lessons learnt and findings showed that several ways of improving legislation to support the process of land acquisition for even unregistered and undocumented land, there is a great need for mass titling and digitization of title records processing systems and land records.

6.2. Findings

There is laxity on the government entities like the Uganda Land Commission, National Forest Authority, Uganda Railways Corporation and local governments are responsible for land claimed by private individuals.

There is participation of government and district officials in questionable processes leading to loss of land. The transactions are usually issued and supported by instructions to survey by the district staff surveyor and connivance from cartographers, land officers, registrars of titles, district land boards and area land committees. There is failure of relevant public officers to do due diligence processes, to ensure that the land applied for is held under customary tenure and is available.

There is lack of institutional framework and vigilance and dereliction of duty by government institutions mandated to processes to ensure that the land applied for is held under customary tenure into freehold, area land committee, District land board and the department of land Registration the area land committees do not regularly carry out on ground inspections to confirm the persons applying for freeholds are indeed customary owners”¹⁴⁷

The area land committee and District Land tribunals have no mechanisms to confirm their inspection report. Staff surveyors do desk work rather than field resulting in land being converted from customary to freehold tenure.

6.3. Recommendations for future research

The Bamugemereire Land Commission has indeed recommended which this researcher agrees with for the formation of Uganda Land Service Bureau (ULSB) which should assume the processes of land transactions currently done by the Ministry of Lands, Housing & Urban Development. The ULSB should be responsible for the entire Land Admin & Management process with the expanded mandate to play the traditional role of the ULC, the directorate of

¹⁴⁷ The New Vision, Wednesday, April 06th 2022 Page 3 Vol. 3f No. 68.

Land Admin & department of Land registration, the office of the government Chief Valuer and department of survey and mapping¹⁴⁸.

Recommends ULSB also conducts land inspection, supervision and regulation of the land market and personal revenue collection. The ordinary survey process that leads to land registration shall be under ULSB. If put in place it is hoped ULSB should resolve the land grievances. Should be headed by the Director General appointed by the President. Should be with a co-host of professional staff within a strong disciplinary framework.¹⁴⁹ It should have a network branch right up to the local government with clear handling of complaints and feedback mechanisms.

There is need to establish institutional framework for administration of not only customary land holding but a strong administrative body to administer the land system. The Bamugemereire commission indeed recommended for the establishment of the Uganda land services commission that should take over the roles currently undertaken by the Ministry of lands Housing and Urban development to do the entire land administration and management process that include all roles presently played by the directorate of Uganda Land Commission, directorate of land administration, land reregistration the chief government valuer and the department of land survey and mapping.

The said commission also recommended that “All land in the country should be put on a register after an adjudication process”. Further recommended is the establishment of the land and environment court, reinstatement of the district land tribunals and the land ombudsman¹⁵⁰.

There is no constitutional provision for the government to acquire land on the basis of voluntary land Acquisition on the willing seller willing buyer basis. However, the government is at liberty to use this situation to acquire land be for public use, public interest or even after thereafter for private use for instance to give land or sell it to private developers for eventual public interest

¹⁴⁸ <https://www.mediacentre.ug>

¹⁴⁹ *ibid* 139

¹⁵⁰ <https://landnet.ug> and <https://www.mediacentr.ug>

like gaining through employment taxes, and indirectly infrastructure around the area acquired. The Norway experience should be the best example as discussed ahead in chapter 5.9.5.

Voluntary Land Donation usually involves the contribution by individuals of land for a project that has communal benefits like schools, health center facility or even village roads.

Government should urgently address the ongoing impasses relating to land compensation and relocation needs of PAPs that refused the current valuations. If possible, a win-win situation arrived too by out of court compromises should be sought other than continuing with the ongoing court battles that will result in a win-lose outcome.

Government should create a special fund for districts that have oil and gas deposits to enable them implement oil activities. These districts include Hoima, Kibuule, Buliisa, Nwoga, Ntoroko, Pakwach, Arua and Moyo, among others. Such funds should be decentralized to the district natural resource officers but not being controlled from Kampala.

It is recommended that where valuation has been refused by the land owner, the landowner should be allowed to engage a private valuer who should hold the valuation with the government valuer and make a joint valuation report. Such a joint valuation report should be final in order to minimize the lengthy court litigation that in most cases result in seeking fresh valuation.

There should be a provision in the law that in the event that should the reason for the compulsorily acquisition fail or seizures to exist, the land owners to have a pre-emptive right to re-acquire the land upon a refund or revalued amount of the compensation hitherto paid. Government should provide for public inquiries before valuation and make available the gazette whose language should be simple and clear for the ordinary citizen.

The laws and regulation formulated and passed for specifically compulsory land acquisition should be made to safe guard impunity on the part of the government officials, minimize delaying compensation and mismanagement of public funds, minimize disruption of livelihoods, and communities social, religious, cultural and not compromise their socioeconomic relations.

The compensation must meet the legal threshold and adhere to the well-designed compensation acquisition model guided by the principles of the international best practices and human rights.

Parliament should do its role of effectuation of Article 237(2) (a) which provided for the government or local government to acquire land in public interest. The conditions governing the acquisition was and is to be prescribed by Parliament. This article has been deliberately ignored by the executive and parliament for reasons well known to themselves but instead the Constitutional (Amendment) bill of 2019 was tabled.

The law should be amended or a new law made to protect and guard or safe guard the now still illiterate PAPs. It is recommended that cash payment as adequate fair and prompt compensation should be made as a last resort. This would equally reduce or remove corruption in the valuation process, speculation and land grabbing by the rich, the literate and connected.

The resettlement option would equally help the families since cash compensation is always received by men as heads of families and more often than not have either not bought land or have bought smaller portions than the compensated land and used the balance of the money to marry other women and or resorted to alcoholism at the detriment of the family. The women and children who are dependent on the land end up landless and the most affected communities' livelihood is agriculture in a peasantry economy.

The cash compensation after all due diligence and valuation for those who opt for it should be by the consent of the recipient and with the adult family members. This minimizes loss of livelihood of the family from their land. It should be put in mind that the compensation comes at a time when most of the PAPs are not prepared to sale their lands, have never sold any land and have no value attached in monetary terms.

Any amount of money offered is looked at as free money. Sensitization is paramount and hence a need for a law that provides for such principles. There is need to make a law recognizing women as co-owners of land at least in areas where the land is to be acquired by the government under the land Acquisition laws. The process of land acquisition should be simplified for the

affected people not to look at the government officials as small gods who have come to help them out.

Punishing those involved in corruption with fear or favour; and genuinely make oil and gas management approaches bottom-up from the current reality which is in fact top-down. In addition to putting in place quick process for compensation and resettlement process, greater transparency should be promoted during land acquisition, valuation and resettlement process among others to avoid speculation and unnecessary anxiety which negatively affects perception of community participation in the industry.

Campaigns/ trainings/ sensitization of citizens on participation in development process as a constitutional right, needs to be regularly and continuously undertaken through local meetings/forums, churches/ mosques and public media platforms.

Efforts should ensure that public information is presented in simpler version, translated in local language and presented in abridged versions and the formulation/ review process of public policy/ regulatory framework should follow bottom-top approaches.

Valuation guidelines with clear co-existence-oriented goals and containing rules, principles, and standards, informed by balancing such key values. Implementation of the guidelines and policies should always be evaluated periodically and or after any single project undertaken.

It is recommended that tension should and can be managed by creating co-existence between formalism and flexibility and such co-existence being not only theoretically viable.

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APPENDIX

Appendix A: Copy of Interview Questions

1. What kind of safe guards have been put in place to address land challenges among PAPs and surrounding communities
2. What kind of land challenge arising from oil and gas related activities are you facing in the community (for PAPs)?
3. In your opinion, how does the prevailing institution frameworks facilitate effective land management, citizen participation, transparency and accountability in the management of oil and resources in Uganda?
4. What proposals/ recommendations have you submitted to government on oil and gas management frameworks in the last 5 years? for (CSO, oil companies and IFIs)
5. What Proposals/recommendations have been taken up by decision makers on these frameworks?
6. In your opinion, do you think the current legal and policy framework for managing oil revenues promotes transparency and accountability?

Appendix B: Focus Group Discussion Guide

1. As a citizen, what does community participation mean to you when it comes to issues related to oil and gas activities in your area?
2. How do you describe the level of participation of women and youth, disabled (attendance, interest, and submissions) in decision making on oil and gas activities?
3. What mechanisms do you have through which you or community members express their voices and concerns on issues of oil and gas? Are your views heard/taken during decision making on planning oil and gas development issues in your area?
4. Which particular issues/concerns pertaining planning for oil and gas development in your area where you are able to influence most?

5. Do you believe that your opinion and concerns on planning for development of the oil and gas or mining industry in your areas were taken seriously and addressed?
6. What are some of the challenges related to land are you facing in your areas?

Appendix C: Key Informant Interview Guide

KII Central and local government officials (Technocrats and politicians)

1. How was the issue of land acquisition and compensation handled?
2. What are the different ways through which people in this area participate in oil and gas activities?
3. How has the district leaders enabled or encouraged people to participate in oil and gas development activities?
4. What mechanisms do you have through which you or community members express their voices and concerns on issues of service delivery?
5. What percentage of oil and gas revenues will be allocated to districts directly affected by oil and gas activities?
6. Which pieces of legislation and policy inform how you go about implementing public participation processes? Are they effective in enhancing citizens' participation?
7. What mechanism do you have in place to ensure transparency and accountability in the management of oil and gas public resources?

END



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DISSERTATION CORRECTION COMPLIANCE REPORT BY THE CANDIDATE (POST VIVA FORM)

Date: 18th April 2024

Name of Candidate: MUKWATANISE ARTHUR

Reg. No: RS 18M 23/314.

Title of Dissertation: EFFICACY OF LAND ACQUISITION LEGAL FRAMEWORK IN OIL AND GAS INDUSTRY IN UGANDA: ALBERTINE GRABEN- BULIISA DISTRICT CASE STUDY

SN	COMMENTS BY EXTERNAL EXAMINER	ACTION TAKEN	INDICATOR
1	When using the word for the first time, make sure you add the full name before abbreviations. For instance, refer to your reference to PAPs in the abstract	Full names added before abbreviation e g PAPs , NRM, FID	Page iii, page 3 and page 4 respectively
2	This is not a proposal but rather a thesis. In the abstract, correct the first sentence which reads, "The overall objective of this	Corrected	Page iii in the abstract

	proposal.....”		
3	The abstract is lacking. It could be revised to ensure that it precisely spotlights what the research is about	The abstract was revised to capture the objectives of research	Pages iii and iv
4	The introductory chapter one, should in the second paragraph, connect land access to the oil and gas developments. You could say something like, “Access to land is key for the successful operation of oil, gas, energy and mining projects.....”	The change was effected accordingly	Page 3 corrected
5	Spotlight the justice issues associated with acquiring land for oil and gas. These are aspects you should clearly discuss in your work	Issues to do with injustices were high lightened in chapters 4,5 and 7 dealing with land grabbing, unfair compensation ,corruption and weak legislation	Page 29, 36,45,56 to 64 and 81
6	The references are lacking, especially in chapter one. Most of the work is not well cited	Citations were made in Chapter one	Pages 4 and 6
7	The introductory chapter should not go into details about the discussion on laws and regulations. These should be discussed in a separate chapter	Discussion of Laws and regulations were transferred to chapter 4 and 5	Pages 29 to 36
8	The problem statement in 1.1 should clearly mention what the land issues are with respect to oil and gas: and the gap your research intends to address	The oil and gas issues were clearly captures in the statement problem	Page 8 corrected
9	The purpose in 1.2 is also not strong enough. You could combine this section with the one on research objectives	The purpose in 1.2 was made specific to relate to land acquisition and amalgamated in the research objectives	Page 9
10	The research questions should be rephrased. The second and last question are not clear	The research question was rephrased The second and third questions were changed to fit	Page 9

		in the research question hence made clear	Page 9
11	Chapter 2 on literature review is not flowing very well. No need to discuss the legal framework here. Focus on scholarly articles and books on the subject	Literature review extensively handled. More scholars and books read Legal framework discussion transferred to chapter 5	Pages 12 to 23 Pages 45
12	Chapter 3 on methodology, should include a comparative analysis as a method, since you discuss the Nigerian example in chapter 4	Comparative methodology analysis added	Page 23
13	Chapter 4 should be divided into two. You need an independent chapter on the legal and institutional framework. At the moment, this is discussed in chapter four. The references are also lacking in this chapter	Chapter 4 was divided into 4,5 and 6	Pages 28 to 78
12	The thesis contains good information. But it could benefit from further revision and restructuring	Extensively revised and more information added in the thesis	Pages 12 to 23 and 76 specifically but generally improved the whole thesis

SN	COMMENTS BY INTERNAL EXAMINER	ACTION TAKEN	INDICATOR
1	Revisit the topic to limit the coverage of the research to a specific land law	Topic limited to Efficacy of land acquisition legal framework in oil and gas instead of Efficacy of oil and gas industry land legal framework	e.g. Cover page
2	More review of literature required	Much many books and scholars were reviewed	Page 1
3	Look at comparisons in other jurisdictions how land for oil and gas is acquired	jurisdictions of Kenya, Ghana, Nigeria and Norway were studied for comparison purposes	Pages
4	Correct grammatical errors	Grammatical errors corrected	general
5	Visit the library for more readings on land acquisition	Library visited and more books on the topic read and reviewed	Visited several libraries

SN	COMMENTS BY VIVA VOCE PANNEL	ACTION TAKEN	INDICATOR
1	Grammar errors to be attended to	Grammar errors have been corrected	page
2	Title to general and wide hence narrow it down	Title narrowed to Efficacy of land acquisition legal framework in oil and gas industry in Uganda From Efficacy of oil and gas land legal framework	Cover page and approval page corrected
3	Proposal language shouldn't be at this stage	Proposal error corrected	Page iii corrected
4	Chapter 1 not properly arranged	Chapter I rearranged and discussion of laws transferred to chapter 5	Page 45
5	Problem statement should be revised	revised	Page 8
6	Objectives (specific), not properly aligned	Specific objective aligned	Page 9

7	Research questions define chapter arrangement	Chapters re arranged into chapters 4,5 and 6	Pages from 45 to 60
8	Topic should be broken down, too wide	Topic was broken down from land law to only land acquisition legal framework in oil and gas	Cover page
9	Objectives should be rearranged	The objectives were rearranged to suit the topic	Page 8
10	No proper literature reviewed about the subject and no substantial books mentioned; however, this be subjective to the narrowed down topic	Several books and journals reviewed	Page 12,18,20,21, and 22
11	Methodology needs a total redo Limitations come in chapter 1	Methodology was redone and limitations transferred to chapter one	Page 23
12	No significant references made <ul style="list-style-type: none"> • Topic confusion, please work on that • Redo general objectives and specific objectives • Laws much discussed • Findings should be reviewed 	Topic was narrowed down as in 8 above and limited the thesis to land acquisition The objectives were redone in line with the scaled down topic and specifically to handle the Effectiveness of the land acquisition law in Uganda in relation to the oil and gas exploitation. Discussion of the law was limited to the topic on land acquisition Findings have been reviewed to cover the topic only	Cover page Page 9 Cover page Page 81

Mukwatanice Arthur 

Candidate's Name

Signature

RUTARO ROBERT M. 

Supervisor's Name

Signature