



## Annex 1

### Previous research on the Albertine region oil project's impact on human rights

The first explorations for oil in the Lake Albert region started in late 1997. In 2006, British company Tullow made the first findings indicating that extraction was commercially viable. Over the last 23 years, and especially since the late 2000s, the region has thus been marked by speculation about the wealth that could be obtained from extractive projects. This led to conflicts, tensions, violations or threats to the human rights of the people living in the area. Human rights organizations and other NGOs, journalists and activists warned early on about the risks of such impacts and documented many violations in preliminary phases of the project, such as the land acquisition process for the oil refinery by another consortium in Hoima District. Their reports laid the foundation for the FIDH-FHRI study.

Among the emerging concerns raised by these preliminary reports lie the consideration of the **rights of the people displaced** by the development of the projects and the modalities of definition of property rights on the land at stake.<sup>1</sup> This has two implications. On the one hand, compensation is often linked to disputes about the value of the land, in a systematic asymmetry of power where companies have the means to deploy expert knowledge and to rally the support of local and national authorities to back their arguments and methods. On the other hand, this problem is compounded with the fact that in many areas land is communally used, and ownership is often unclear or lacks formal registration, thus allowing powerful actors to land-grab and seek compensation from companies. At times, speculators even expel inhabitants under the claim that they are illegally occupying land where they have lived--sometimes for generations. In all these processes, a strong gender bias where women tend to be systematically excluded from land rights and compensation has been documented.<sup>2</sup>

Issues involving monetary compensation for lost land are just the tip of the iceberg. Several studies have shown how displacement often brings about violations of the rights to

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<sup>1</sup> Global Rights Alert *Acquisition of Land for the Oil Refinery: Tracking Progress in Resettling Project Affected Persons Who Opted for Land Compensation* (2015)

<<https://www.business-humanrights.org/sites/default/files/documents/Uganda%20Global%20Rights%20Alert%20Resettlement%20Report.pdf>>

<sup>2</sup> e.g. Avocats Sans Frontières, *Digging for Power: Women empowerment and justice amidst extractive industry developments in the Albertine and Karamoja, Uganda* (2019)

<<https://www.asf.be/fr/blog/publications/digging-for-power-women-empowerment-and-justice-amidst-extractive-industry-developments-in-the-albertine-and-karamoja-uganda/>>



food,<sup>3</sup> water,<sup>4</sup> education,<sup>5</sup> health,<sup>6</sup> freedom of movement,<sup>7</sup> and adequate housing.<sup>8</sup> When they opt to be resettled, people must often wait years before being allocated another piece of land with adequate housing. In the meantime, it can be difficult to keep producing crops or grow cattle, which are crucial goods for household consumption and trade. Additionally, children may have difficulties accessing schools, and school dropout rates tend to rise. Displacement causes vulnerabilities by breaking the social network of affected people, who may be separated from relatives or other neighbors on whom they can rely, or render access to health services more difficult. Finally, it is unclear whether the land and housing or the money obtained in compensation will indeed allow for communities to sustain adequate livelihoods, as people need to adapt to new social, economic and environmental contexts.

Another set of issues concerns the **environmental effects** of extractive projects in the Albertine region: several studies have highlighted actual or potential impacts on the quality of water,<sup>9</sup> air,<sup>10</sup> food produced on the land, as well as damages to wildlife and biodiversity<sup>11</sup>

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<sup>3</sup> e.g. Action Aid & IPIS, *Business, Human Rights, and Uganda's Oil. Part III: Respect and Remedy: Implementing Corporate Responsibility Under the UN Framework on Business and Human Rights* (2015) ; Global Rights Alert & IRCU, *Called to be stewards of God's Creation: The Role of Religious Leaders in Uganda's Oil Governance. A Survey Report on capacity needs of religious leaders to enable their participation in the oil sector*, (2012); Avocats Sans Frontières, *Digging for Power: Women empowerment and justice amidst extractive industry developments in the Albertine and Karamoja, Uganda* (2019)

<sup>4</sup> Avocats Sans Frontières, *Business, Human Rights and Uganda's Gas and Oil Industry: A Briefing of Existing Gaps in Uganda's Oil and Gas Laws* (2015); Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013); Global Rights Alert, *Acquisition of Land for the Oil Refinery: Tracking Progress in Resettling Project Affected Persons Who Opted for Land Compensation* (2015); AFIEGO, *The Abuse of the Refinery Affected People's Rights Poised to Worsen, AFIEGO Warns* (2014)

<sup>5</sup> Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013); AFIEGO, *The Abuse of the Refinery Affected People's Rights Poised to Worsen, AFIEGO Warns* (2014); Global Rights Alert, *Acquisition of Land for the Oil Refinery: Tracking Progress in Resettling Project Affected Persons Who Opted for Land Compensation* (2015)

<sup>6</sup> Avocats Sans Frontières, *Business, Human Rights and Uganda's Gas and Oil Industry: A Briefing of Existing Gaps in Uganda's Oil and Gas Laws* (2015); Global Rights Alert, *Acquisition of Land for the Oil Refinery: Tracking Progress in Resettling Project Affected Persons Who Opted for Land Compensation* (2015); AFIEGO, *The Abuse of the Refinery Affected People's Rights Poised to Worsen, AFIEGO Warns* (2014)

<sup>7</sup> Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013)

<sup>8</sup> Global Rights Alert, *Acquisition of Land for the Oil Refinery: Tracking Progress in Resettling Project Affected Persons Who Opted for Land Compensation* (2015)

<sup>9</sup> Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013); Kristina Ericson, *A Crude Awakening: The Relationship Between Petroleum Exploration and Environmental Conservation in Western Uganda* (Independent Study Project, 2014); Action Aid & IPIS, *Business, Human Rights, and Uganda's Oil. Part III: Respect and Remedy: Implementing Corporate Responsibility Under the UN Framework on Business and Human Rights* (2015); Netherlands Commission For Environmental Assessment, *Review of the Environmental and Social Impact Assessment (ESIA) Report for the Tilenga Project - Findings of the NCEA working group* (2018)

<sup>10</sup> Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013); CSCO & CSO Network, *Comments on the Environmental and Social Impact Assessment Report of the Tilenga Project* (2018)

<sup>11</sup> Kristina Ericson, *A Crude Awakening: The Relationship Between Petroleum Exploration and Environmental Conservation in Western Uganda* (Independent Study Project, 2014); CSCO & CSO Network, *Comments on the Environmental and Social Impact Assessment Report of the Tilenga Project* (2018); Netherlands Commission For Environmental Assessment, *Review of the Environmental and Social Impact Assessment (ESIA) Report for the Tilenga Project - Findings of the NCEA working group* (2018)



leading to negative impacts on the tourism industry, in particular in Murchison Falls National Park.<sup>12</sup> Oil spills or other chemicals and waste involved in drilling and the construction of facilities may have long term polluting effects on the surface--but also on underground water sources. Road construction, flaring, venting and other methods of waste disposal also affect air quality. Finally, in their evaluation of Total's ESIA for the development of the project in Murchison Falls National Park, the Netherlands Commission for Environmental Assessment clearly stated that the company either minimized or biased the assessment of its impact on protected wildlife.<sup>13</sup>

**Violations of civil and political rights** have also been documented. Several studies have shown that in early phases, the development of extractive projects in the Albertine region was accompanied by killings, physical violence and harassment conducted by security forces either working for the companies or belonging to the state.<sup>14</sup> This violence is particularly acute for women and girls, who have faced increased harassment, rape and sexual exploitation, including of minors.<sup>15</sup> This atmosphere of violence and threats contributes to the **infringements of the right to participation and access to information**, highlighted by several studies, which show that the affected population is often barred from learning about the projects in detail and how they can impact their rights.<sup>16</sup> This occurs in a context in which the laws themselves are not properly designed to defend people's rights, and the right to access justice is impaired by the unwillingness or weakness of the local authorities<sup>17</sup> and by

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<sup>12</sup> Netherlands Commission For Environmental Assessment, *Review of the Environmental and Social Impact Assessment (ESIA) Report for the Tilenga Project - Findings of the NCEA working group* (2018)

<sup>13</sup> Netherlands Commission For Environmental Assessment, *Review of the Environmental and Social Impact Assessment (ESIA) Report for the Tilenga Project - Findings of the NCEA working group* (2018)

<sup>14</sup> Avocats Sans Frontières, *Business, Human Rights and Uganda's Gas and Oil Industry: A Briefing of Existing Gaps in Uganda's Oil and Gas Laws* (2015); Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2103); Lizabeth Paulat 'Land Evictions Breeds Violence in Oil-Rich Hoima, Uganda' *Voa News* (September 24th, 2014) <<https://www.voanews.com/africa/land-eviction-breeds-violence-oil-rich-hoima-uganda>>; Twesigye Bashir, *Up Against Giants" Oil Influenced Land Injustices in the Albertine Graben in Uganda* (CRED, June 2015) Action Aid & IPIS, *Business, Human Rights, and Uganda's Oil. Part III: Respect and Remedy: Implementing Corporate Responsibility Under the UN Framework on Business and Human Rights* (2015); Civil society coalition on Oil in Uganda, *Contracts Curse. Uganda's oil agreements place profit before people* (2010)

<sup>15</sup> Lizabeth Paulat 'Land Evictions Breeds Violence in Oil-Rich Hoima, Uganda' *Voa News* (September 24th, 2014) <<https://www.voanews.com/africa/land-eviction-breeds-violence-oil-rich-hoima-uganda>>; Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013); "Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region" (*The Albertine Watchdog*, October 1, 2017) <<https://www.albertinewatchdog.org/2017/10/01/emerging-human-rights-concerns-in-the-albertine-graben-in-uganda/>>; Avocats Sans Frontières, *Digging for Power Women empowerment and justice amidst extractive industry developments in the Albertine and Karamoja, Uganda* (2019)

<sup>16</sup> Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013); Mbazira & Namatovu, "Civic space and human rights advocacy in the extractive industry in Uganda: Implications of the 2016 Non-Governmental Organisations Act for oil and gas civil society organisations" (2018) *African Human Rights Law Journal* vol 18 n1; Avocats Sans Frontières, *Digging for Power: Women empowerment and justice amidst extractive industry developments in the Albertine and Karamoja, Uganda* (2019); CSCO & CSO Network, *Comments on the Environmental and Social Impact Assessment Report of the Tilenga Project* (2018)

<sup>17</sup> Uganda Human Rights Commission, *Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region* (2013); Avocats Sans Frontières, *Digging for Power Women empowerment and justice amidst extractive industry developments in the Albertine and Karamoja, Uganda* (2019)



corruption.<sup>18</sup> The crucial role of civil society organizations to demand redress is impaired by the criminalization of these organizations and the violence and harassment by state or non-state actors.<sup>19</sup>

FIDH and FHRI have decided to contribute to this ongoing effort to address the past, present and potential human rights violations linked to the oil projects in the Albertine Graben by conducting a study with communities who live in the areas affected by Tilenga and Kingfisher specifically. The particularity of this project is its community-based character, conducted through focus groups, interviews and long-term engagement with the population. The overwhelming stress put on locals by companies and government entities regarding compensation for land tends to obscure other human rights violations, in particular economic, social and cultural rights associated with traditional forms of living that are affected by the projects. This Human Rights Impact Assessment aims to interpret the projects' past, current, and potential impacts on human rights and the environment to shed light on the range of challenges posed, with a focus on the violations of the rights to land, adequate housing, an adequate standard of living, water, health and a clean and healthy environment.

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<sup>18</sup> NomoGaia, *Tullow Oil PLC Human Rights Risk Assessment / Human Rights Risk Assessment Update*, (2012/2014); Avocats Sans Frontières, *Digging for Power: Women empowerment and justice amidst extractive industry developments in the Albertine and Karamoja, Uganda* (2019), Action Aid & IPIS, *Business, Human Rights, and Uganda's Oil. Part III: Respect and Remedy: Implementing Corporate Responsibility Under the UN Framework on Business and Human Rights* (2015)

<sup>19</sup> "Emerging Human Rights Issues. Special Focus on Selected Districts in the Albertine Region" (*The Albertine Watchdog*, October 1, 2017)  
<<https://www.albertinewatchdog.org/2017/10/01/emerging-human-rights-concerns-in-the-albertine-graben-in-uganda/>>



## Annex 2

### Complementary elements on the institutional and legal framework on the right to land in Uganda

#### 1. Land Tenure Systems in Uganda

The Constitution of Uganda provides four land tenure systems outlined in Article 237 (1) as Customary, Freehold, Mailo and Leasehold.<sup>20</sup> The four land tenure systems are accompanied by specific means of establishing ownership or interest in land. The Land Act provides specific procedures for the sale, lease or registration of rights over land, particularly when these transactions entail a conversion to a different type of land tenure (i.e. from a customary to a freehold tenure). The regime applicable to these types of tenure is thus relevant to understanding the implications of compulsory acquisition depending on the applicable law.

In Hoima and Kikuube—the **districts affected by the Tilenga and Kingfisher projects**,—the predominant ethnic groups are the Banyoro and Bagungu, together accounting for about 77% of the population, followed by the Alur and Jonam (7%), Bakiga (4%), Lugbara and Aringa (3%) and others (9%).<sup>21</sup> Land is predominantly held under unregistered customary tenure according to the practices of different ethnic groups. **The Bagungu mostly own land communally on a clan basis and unfarmed communal land is mostly used for open access grazing and natural resource harvesting.** The Alur and Acholi practise the individual customary tenure system, mainly for cultivated land. While all four types of land tenure systems are practised in Hoima and Kikuube, communal land ownership is the predominant one.<sup>22</sup>

Under customary tenure, land is held individually, or collectively – by a family, a clan or a community – with an informal recognition of access to land which is predominantly governed by the relevant norms and customs applicable to each area. Under this tenure, land is owned in perpetuity.<sup>23</sup> There are currently two mechanisms stipulated by the Land Act by which rights held under customary tenure can be formally recognized; namely (1) through a Certificate of Customary ownership, whereby a person, family or community holding land under this form of tenure on former public land may acquire a certificate by proceeding through a tiered application process, and (2) via the creation of a Communal Land Association.<sup>24</sup>

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<sup>20</sup> Resettlement Advisory Committee, *Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben*. (Resettlement Advisory Committee, 2017) p 20 <[https://pau.go.ug/site/assets/files/1116/larf\\_land\\_acquisition.pdf](https://pau.go.ug/site/assets/files/1116/larf_land_acquisition.pdf) > accessed 20 August 2019.

<sup>21</sup> Environmental and Social Management Framework, “Albertine Region Sustainable Development Project” (Final Report, Dec 2013) <<http://documents.worldbank.org/curated/en/480061468111883485/pdf/E44290V20AFR0E00Box382148B00PUBLIC0.pdf> >

<sup>22</sup> CNOOC, “Environmental and Social impact assessment for the CNOOC Uganda LTD Kingfisher oil Development Uganda” (Sep 2018), p. 28 <[https://nema.go.ug/sites/all/themes/nema/docs/Vol\\_0\\_CNOOC\\_Kingfisher\\_ESIA\\_Non-Technical\\_Summary\\_Final.pdf](https://nema.go.ug/sites/all/themes/nema/docs/Vol_0_CNOOC_Kingfisher_ESIA_Non-Technical_Summary_Final.pdf) >

<sup>23</sup> Resettlement Advisory Committee, *Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben*. (Resettlement Advisory Committee, 2017) p 21

<sup>24</sup> Resettlement Advisory Committee, *Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben*. (Resettlement Advisory Committee, 2017) p 21





Furthermore, Ugandan law protects not only customary ownership rights but also the use and lease of land. These precarious rights over land may be registered and are subject to a specific legal framework that aims to protect the right-holder. The Land Act outlines various scenarios where the prior consent of a spouse, dependent child of the age of majority, and the local Area Land Committee in the case of children or orphans under the age of majority, must be obtained before a person enters into a transaction to “sell, exchange, transfer, pledge, mortgage or lease any land; enter into any contract for the sale, exchange, transfer, pledging, mortgage or lease of any land; or give away any land *inter vivos* or enter into any other transaction.”<sup>25</sup> **Should any person enter into a transaction in good faith and for value without notice but not complying with consent requirements, the transaction will be void.**<sup>26</sup> However, consent may not be unreasonably withheld, and in the case that it is withheld, any person aggrieved by the withholding may exercise their right to appeal to the land tribunal, who may then compel the child, spouse or committee to explain why consent could not be given. In the event the explanation is not sufficient, consent may be dispensed.<sup>27</sup> Any attempts to sell or lease land in the Albertine Graben must conform with the above requirements.

## 2. Valuation Methods Under the Land Acquisition and Resettlement Framework

Five possible valuation methods are identified to determine market value of the property to be acquired: the comparison method, contractor’s method, investment method, profit method and residual method. PAU explains that land is valued based on the market rates as provided in section 77 of the Land Act Cap 227.

Considering that land transactions in the project area are largely informal and unregistered, and that perceptions about land have been significantly impacted by the development of the project, the LARF considers the comparative method will be predominantly used. In applying this valuation method, “any special value to the owner which is not reflected in market value is excluded.”<sup>28</sup> According to PAU, “the compensation rates are reviewed annually to ensure equity and to make sure they are in line with prevailing market prices.” However, the comparative method does not take into account the socio-cultural dimensions related to land.

## 3. The notion of prompt, adequate, and fair compensation

As pointed out in the present report, land acquisition processes shall be conducted by the uniform principle of providing prompt, adequate, and fair compensation. The way in which this requirement concretely translates into practice has been detailed through case law.

Ugandan case law has acknowledged that the determination of the market value, on the basis of which the compensation shall be assessed, is the price which “a willing vendor might be

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<sup>25</sup> The Land Act 1998, s 39 (1)(a-c)

<sup>26</sup> Land Act 1998, Chap 227, Section 39(4)

<sup>27</sup> Land Act (as amended), Chap 227, Section 39(5)-(6)

<sup>28</sup> Resettlement Advisory Committee, *Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben*. (2017), point 8.3.1.



expected to obtain from a willing purchaser. A willing purchaser is one who, although may be a speculator, is not a wild or unreasonable speculator.”<sup>29</sup> Moreover, the timing of the assessment is one of the elements taken into account to determine the fairness and adequacy of compensation. Indeed, the high court has considered that a “valuation [...] made in 2005 did not reflect the market value of 2010. It therefore becomes clear that compensation which the Plaintiffs allegedly received in the year 2009-2010 did not reflect the market value of the land; hence it was neither fair, adequate nor prompt. In conclusion, I find that the compensation award offered by the Government pursuant to the Valuation Report of August 2005 was outdated and insufficient and inadequate since it was not based on the open market value and disturbance allowances were never considered.”<sup>30</sup>

The LARF considers that the compensation package shall be tailored to the situation of every affected person. The details to be taken into account in the process include property and improvements,<sup>31</sup> crops (type and growth stage), fruit and economic trees,<sup>32</sup> and buildings (size, materials), and, where relevant, the features and characteristics of the land. Although these initial factors follow the market value approach, regarding the disturbances component, compensation shall “consider the Project’s impacts on livelihoods, i.e. the loss of future opportunities to earn income [this includes food security as a substitution for cash earnings to buy food supplies] and standards of living; and the interruption of the progressive improvement over time of living conditions.”<sup>33</sup> From this perspective, opposite to the pure market value approach, the understanding of a fair and adequate compensation must not only take cognisance of the value of the asset that is lost, but also the disruption that resettlement is likely to cause, including the objective<sup>34</sup> and subjective value of the loss.

#### 4. The Resettlement Action Plan (RAP)

In order to ensure a harmonised and coordinated land acquisition process, Government and joint-venture partners work closely in undertaking Resettlement Action Plans (RAPs) and studies to acquire land for the required facilities. According to PAU, “the process is aimed at determining the affected persons and properties, and managing the loss of socio-economic activities and livelihoods as a result of displacement of Project Affected Persons (PAPs).” RAPs shall implement the LARF to the specific project areas, and are developed to assist with the application of and compliance with Uganda’s legal requirements in the process of land acquisition and involuntary resettlement.

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<sup>29</sup> High Court of Uganda, *Sheema Cooperative Ranching Society & 31 Ors v Attorney General* (Civil Suit No.103 OF 2010 ) [2013], citing *Buran Chandmary vs The Collector under the Indian Land Acquisition Act (1894)* 1957 EACA 125

<sup>30</sup> High Court of Uganda, *Sheema Cooperative Ranching Society & 31 Ors v Attorney General* (Civil Suit No. 103 OF 2010 ) [2013].

<sup>31</sup> Although the LARF does not provide a specific definition some examples are elements of a house that are improved vis-à-vis usual houses, as may be for example a corrugated iron roof, a concrete floor, and a ventilated pit latrine

<sup>32</sup> The term fruit and economic trees is used but not defined by the LARF. During the research it appeared that the common understanding of this term is fruit trees are those who bear fruits while economic trees are those whose materials (i.e. wood) are sold for construction.

<sup>33</sup> Resettlement Advisory Committee, *Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben*. (2017), point 8.3.3

<sup>34</sup> Objective value is the cost incurred and losses sustained as a direct, natural and reasonable consequence of having to relocate.



Every RAP plans four phases for the land acquisition and relocation process: the screening phase, the planning phase, implementation phase and finally the monitoring and evaluation phase. The process includes:

- project disclosure to stakeholders,
- cadastral/land survey and asset survey,
- livelihood restoration interviews and cultural heritage and archeology survey.

Compensation frameworks are, according to the RAPs, to be developed in close consultation with communities and local authorities. During the surveys and interviews, information is to be collected and verified in the presence of landowners and/or users, along with their spouses, in order to ensure the preservation of the interests of the whole household. The survey forms are then to be signed, in presence of a translator and local leader. A copy shall be given to the affected person.

RAP and valuations reports, including the above mentioned information are then approved by the Chief Government Valuer in the Ministry of Lands, Housing and Urban Development before the disclosure and implementation of compensation and resettlement programs.

The Resettlement Action Plans specifically identify the potential impacts subject to compensation. Among these impacts are the permanent loss of residential, ancillary and business structures, loss of agricultural land, perennial/annual crops, grazing areas and access to other common resources such as forest or wetlands, loss of graves and sacred sites, of social infrastructure, including schools, clinics and markets, temporary loss of access to lake resources due to restrictions during construction, increased demand on existing infrastructure and common resources (e.g. grazing land and cultivated land sites) and increased security issues. Compensation may also arise where land or improvements are affected but not necessarily acquired in the interest of the execution of works. Furthermore, PAU explained that all RAPs include a dedicated cultural heritage management plan as well as special provisions for vulnerable people.

##### 5. The process for resettlement and compensation

Once Project Affected Persons (PAPs) are identified, company representatives engage with them in order to start the resettlement and compensation process.

In this process PAPs have two main options:

- opting for cash compensation
- choosing to receive a replacement land.

“Those who choose cash will be paid out an amount based on the replacement land calculation with a 30% statutory disturbance allowance.”<sup>35</sup>

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<sup>35</sup> Total, Government of Uganda, Tullow, prepared by Atacama Consulting (in association with Synergy) “Resettlement Action Plan RAP 1 for the proposed Industrial Area and N1 Access Road” (Tilenga Project, January 2018) Point 9.3, p.130 <<https://fr.scribd.com/document/411336100/Final-Tilenga-Project-Rap1-Report>>.





The possibility to choose to receive a replacement land is only available for households losing residential land. In such cases, two options are offered:

- Option 1 – Relocation to replacement residential plots to be identified by PAPs within an agreed budget and agreed area.
- Option 2 – the project will endeavour to identify land available and suitable for the development of a resettlement village. Replacement residential plots will be large enough to accommodate the envisaged replacement structures and to the same value as the lost land.

The procedure provided in RAP 1 follows the steps below:

- a. Confirmation of PAPs' eligibility;
- b. Engagement to present and explain available options, and record the PAPs' choice between compensation or replacement land. Minutes of attendance (MoA) in English (verbally translated to them) are signed by the PAP and the spouse.
  - i. If PAPs opt for the replacement option
    1. A Memorandum of Understanding (MoU) establishing the criteria to be followed in the identification of replacement land shall be signed between the PAP, the spouse, the government representative and the project representative. Total Uganda and the Ministry of Energy participate as witnesses. These criteria include in particular specifications regarding the possible villages where the land could be located and the maximum price of replacement, and the time frame for such identification (two months after which the offer will by default become cash compensation);
    2. Once the land is identified, the PAP must notify the RAP implementation team;
    3. The RAP implementation team shall conduct site checks and prepare a site suitability report;
    4. An MoU is then prepared with the seller;
    5. The MoU is signed and the legal officer will be instructed to conduct all necessary steps to transfer property to the PAPs. This transfer should occur at the same time or before the land acquisition of the project land.
  - ii. If PAPs choose cash compensation
    1. The MoU should include the details of the land and the amount of cash approved by the Chief Government Valuer, as well as a copy of the cadastral survey;
    2. The PAP, the spouse, the government representative and the project representative will sign a contract for the transfer of cash in exchange for the property of land;
    3. Bank accounts will be set up for PAPs, when necessary. Once the payment is received, the contractor (Atacama) mobilises the PAP for the signature of an acknowledgement of receipt.
  - iii. Eviction notices are issued once compensation has been effected.



## 6. Cadastral and Asset Surveys

The key elements in the calculation of the value of a specific property are the Cadastral and Asset surveys conducted to identify the rights and property of a specific affected person or family.

For land, a **Cadastral Survey** is undertaken following the methodology established in the RAP. Land surveyors will identify the boundaries and position of each plot of land in presence of the landowner, neighbors in all directions, and the representative of the Local Council Chairperson and Area Land Committee. For each landowner, a Land survey form will be completed and signed by the landowners and land users in the presence of the spouse, a witness and the Local Council Chairperson. “Where the land was held as a family or a clan, only one plot was surveyed for the entire family.”<sup>36</sup> With respect to untitled land, according to the RAPs, the joint-venture partners will facilitate the titling of the land. According to PAU, the cadastral surveys are undertaken in compliance with the Land Acquisition and Resettlement Framework (LARF) and Adhering to International Finance Corporation (IFC) Standards.

With the objectives of identifying, survey and value of all the affected assets PAPs and their properties within the **Asset Survey** is conducted at the same time as the Cadastral Survey. This survey consists of a valuation process that shall be in accordance with the Laws of Uganda and the requirements of the Ministry of Lands, Housing and Urban Development, taking into consideration the valuation principles and requirements of the LARF. After an on-site visit to measure and record the affected properties, building/structure, crops, trees and cultural heritage sites/graves, a Property Assessment Form is completed for each landowner and is signed by the landowners and land users in the presence of the spouse, a witness and the Local Council Chairperson.<sup>37</sup>

On the basis of the market research and the Surveys, compensation is calculated and the user or owner is notified of the offer, including a detailed assessment of valued assets. A project representative and the LC-1<sup>38</sup> of the relevant area conduct an initial visit to the project affected person (PAP) with the aim of registering issues or complaints from the affected persons. On the second visit, the PAP is presented with the land agreement and compensation forms to sign. If he or she is not satisfied with the offer, a record of disagreement is signed by the representative and the PAP. Grievance management mechanisms have been adopted by the joint venture partners to address complaints and grievances related to the project. If no agreement can be reached, the procedure will be deemed unsuccessful. In such a case, the operators and the Ministry of Energy and Mineral Development (MEMD) reserve the right to call upon the expropriation procedure to obtain rights for the land required by the project, but the offer remains open until the expropriation to give the PAP time to change his or her mind.

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<sup>36</sup> Total et al. “Resettlement Action Plan RAP 1 for the proposed Industrial Area and N1 Access Road” (Tilenga Project, January 2018), Point 5.1.1, p. 63.

<sup>37</sup> Total et al. “Resettlement Action Plan RAP 1 for the proposed Industrial Area and N1 Access Road” (Tilenga Project, January 2018), Point 5.1.2, p. 64

<sup>38</sup> Local Council 1 is the local representative elected at the smallest administrative unit in Uganda.



## 7. Land Governance and Regulatory Bodies in Uganda

For regulating and governing tenure, ownership, and management of all land in Uganda, the Land Act establishes land administration institutions such as the District Land Boards, District Land Offices, Land Tribunals and Land Committees.

**District Land Boards** are responsible for holding and allocating district lands that are not owned by any person or authority and facilitate the registration and transfer of interests in land.<sup>39</sup> They are also responsible for surveying,<sup>40</sup> planning, mapping, drawing and making estimates on land via their officers or agents.<sup>41</sup> They must create and keep a list of the compensation rates that are payable towards crops and non-permanent buildings on property,<sup>41</sup> as well as review these lists yearly, having consulted technical officers in the district.<sup>42</sup> According to the Land policy, the government has to establish terms and conditions for accountable use and management of all land held by District Land Boards.<sup>42</sup>

**District Land Tribunals** resolve disputes pertaining to grants, leases, repossessions, transfers, or acquisitions of land by individuals, the Uganda Land Commission or any other authority with responsibilities that involve land. When assessing compensation for land that is acquired by the government as a result of compulsion, the District Land Tribunal considers many factors, including: whether in the case of a customary owner, the value of the land in question is the open market value of the unimproved land, whether the value of the buildings on the land are to be taken at open market value for urban areas and depreciation replacement costs for rural areas, and the value of standing crops on land – excluding annual crops that could be harvested during the notice period given to the tenant in question.<sup>43</sup> **However, the land tribunals have been suspended since 2006 due to a lack of adequate budgetary support.**<sup>44</sup>

**Land Committees** are appointed by the council at the sub-country level and they determine, verify, and delineate boundaries of all interests in land subject to an application for a certification of customary ownership or in grant of a freehold title.<sup>45</sup>

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<sup>39</sup> Land Act (as amended), Chap 227, Section 59(1)(a).

<sup>40</sup> Land Act (as amended), Section 59(1)

<sup>41</sup> Land Act (as amended), Section 59(1)(e)

<sup>42</sup> Land Act (as amended), Section 59(1)(e)

<sup>43</sup> Ibid 100-1.

<sup>44</sup> ASF p 16. This was confirmed during a meeting held on February 27, 2020 at the office of the Chief Government Valuer (CGV). Representatives of the CGV expressed that cases brought to courts can take very long, and are usually accessible only to the most wealthy. This is why CGV representatives consider tribunals to be the last resort that should be used only in complex cases where no other solution can be found.

<sup>45</sup> Resettlement Advisory Committee, *Land Acquisition and Resettlement Framework: Petroleum Development and Production in the Albertine Graben*. (2017) p 101.