

CONSULTANCY SERVICES OF DEVELOPING STANDARD OPERATING PROCEDURE (SOP) MAINSTREAMED BY GENDER FOR PROVISION OF LAND SERVICES IN UGANDA

Standard Operating Procedures for Managing Expropriation and Compensation in Uganda

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FINAL REPORT

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Acronyms and Abbreviations

Cap.	-	Caption
CGV	-	Chief Government Valuer
DLB	-	District Land Board
e.g.	-	For Example
EIA	-	Environmental Impact Assessment
ESIA	-	Environmental Social Impact Assessment
GCALA	-	Guidelines for Compensation Assessment under Land Acquisition
GMC	-	Grievance Management Committee
IFC	-	International Finance Corporation
ISU	-	Institution of Surveyors of Uganda
IVS	-	International Valuation Standards
IVSC	-	International Valuation Standards Council
LC 1	-	Local Council 1 Chairpersons
LG	-	Local Government
MDAs	-	Ministries, Departments and Agencies
MEMD	-	Ministry of Energy and Mineral Development
MLHUD	-	Ministry of Lands Housing and Urban Development
MoFPED	-	Ministry of Finance, Planning and Economic Development
NEMA	-	National Environment Management Authority
NFA	-	National Forest Authority
NLARRP	-	National Land Acquisition, Resettlement and Rehabilitation Policy
PAH	-	Project Affected House hold
PAP	-	Project Affected Persons
RAP	-	Resettlement Action Plan
SRB	-	Surveyors Registration Board
TOR	-	Terms of Reference
ULC	-	Uganda Land Commission
UNRA	-	Uganda National Roads Authority

Definitions of Common Terms

Table 1: Definitions of Common Terms

Term	Meaning
Affected Person	Person or enterprise experiencing physical and/or economic displacement. While Project Affected Person (PAP) is often used to refer to land and asset owners (thus those that are entitled for compensation under the law), this is strictly incorrect as land is generally owned by households rather than individuals as the PAPs are all members of the affected household. Thus, PAP shall be used to address all members of affected households, while PAH shall be used for affected households; thus, land and asset owners.
Chief Government Valuer	The Commissioner Valuation in the Ministry of Ministry of Lands, Housing and Urban Development.
Compensation	Payment in cash or in kind for the loss of an immoveable asset or a resource. In-kind compensation may include provision of replacement land, housing or other ways. Guidelines for compensation assessments are provided in the Land Act (1998 Art 77.1) and the "Guidelines for Compensation Assessment under Land Acquisition" (hereinafter Guidelines 2017) as amended from time to time.
Displaced person	A person that loses shelter, land, livelihoods etc. and is forced to replace and restore these at a different location or in a different form (in-situ displacement). A displaced person experiences physical and/or economic displacement.
Disturbance Allowance	Cash paid for expenses other than losses of immoveable assets. Therefore, "allowances" should be distinguished from compensation, which is intended to cater for the loss of an immoveable asset. The Land Act (1998 Art. 77.2) for example provides, that "in addition to compensation, (PAPs) shall be paid a disturbance allowance of 15% or, if less than six months' notice to give up vacant possession is given, 30%" of the replacement value of the affected assets.
Economic displacement	Loss of assets (including land) or access to assets that leads to loss of income sources and/or means of livelihood as a result of project-related land acquisition or restriction of access to natural resources. People or enterprises may be economically displaced with or without experiencing physical displacement.
Guidelines 2017	MLHUD: Guidelines for Compensation Assessment under Land Acquisition 2017.

Term	Meaning
Injurious Affection	Unanticipated depreciating effect on or damage to land and property as a consequence of project works.
Land Acquisition	The process by which land is acquired for development of public infrastructure projects etc.
Land Expropriation	The lawful compulsory acquisition of private land for public purpose following a just and fair compensation. It is also called eminent domain. Public purpose projects include infrastructure works such as roads, bridges, dams, tunnels, railways, etc.; public facilities such as hospitals, schools, prisons, libraries, leisure centers, etc.
Livelihood	A livelihood comprises the capabilities, assets (including both material and social resources) and activities required for a means of living. A livelihood is sustainable when it can cope with and recover from stress and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource base. (UNDP: Guidance Note on Livelihoods, 2010).
Livelihood Restoration	The restoration and/or improvement of the following: a) income sources and levels, b) household food security, health and nutrition, c) access to markets, infrastructure and services, and d) resilience to natural and economic shocks etc.
Living standard - Standards of Living	The standard of living includes the way how and where people live as well as the amount of goods and services produced and available to purchase by a household or person. It doesn't include nonmaterial characteristics, such as relationships, freedom, and satisfaction as these, while important to a good quality of life, are difficult to objectively measure. The adequacy of living standards equate with a view on housing or shelter can be measured by quality, safety, affordability, habitability, cultural appropriateness, accessibility, and locational characteristics. Adequate housing should allow access to employment options, markets, and basic infrastructure and services, such as water, electricity, sanitation, healthcare, and education.
Marginal land	Residual land that is not economically viable and therefore acquired by UNRA even when it is located outside the road reserve. This includes also "orphaned land" that cannot be accessed by the owner after land acquisition.
Market related rates	Are derived from market analyses conducted by the office of the CGV or a delegated appointee who is a registered Valuer. These rates are specifically applied to land interests and permanent buildings. Factors considered during the assessment of these assets include market conditions, tenure systems, covenants, securities, and physical conditions of the asset, among others.
Market value	"The estimated amount for which an asset is exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after

Term	Meaning
	proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion” (Guidelines 2017).
Person having an interest in land	This includes all persons claiming an interest in compensation payable for or in respect of land acquisition under the Land Acquisition Act incl. all persons having an interest in an easement affecting that land.
Physical displacement	Loss of dwelling or shelter as a result of project-related land acquisition, which requires the affected person(s) to move to another location, dwelling etc. Physical displacement however often entails economic displacement, as physically displaced people usually lose access to land, employment, or business incomes associated to their former location.
Physical resettlement	While it is assumed that non-vulnerable PAPs are able to purchase replacement dwellings, shelters and the land attached to them of similar or higher quality, UNRA provides targeted assistance to physically displaced vulnerable PAPs to achieve the same objective. On a case by case basis, UNRA delivers this by aiding in the identification and purchase of a replacement dwelling, shelter etc. of similar or higher quality or through the provision of replacement housing of similar or higher quality. For details see Appendix 2 “Guidelines for the physical resettlement and livelihood restoration assistance for vulnerable households”.
Project Affected Household (PAH)	A household that experiences physical and/or economic displacement. A household in the context of this policy includes the person entitled to compensation under the law as well as other people, who live in the same house etc. and share at least one meal a day as they commonly form an economic unit with the person entitled for compensation under the law.
Project Affected Person (PAP)	Person or enterprise experiencing physical and/or economic displacement. While PAP is often used to refer to land and asset owners (i.e. the person entitled for compensation under the law), this is incorrect as land is generally owned by households rather than individuals as the PAPs are all members of the affected household. Thus, PAP shall be used to address all members of affected households, while PAH shall be used for affected households; thus, land and asset owners.
RAP Completion Audit	A systematic verification conducted by Internal Audit that a) all entitlements under the RAP were implemented and b) all additional land taken as well as all damaged lands and assets were compensated according to the same standards.
Registered Surveyor	A practicing Surveyor licensed by the Surveyors Registration Board of Uganda.
Registered Valuer	A practicing Valuer licensed by the Surveyors Registration Board of Uganda.

Term	Meaning
Replacement value/cost	<p>Replacement value of an asset based on the Guidelines 2017 as amended from time to time, is defined as “method of valuation yielding compensation sufficient to replace Developments, plus necessary transaction costs associated with development replacement. The replacement cost does not consider depreciation. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive Developments, or the undepreciated value of replacement material and labour for construction of structures or other fixed Developments, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. Replacement cost translates into fair value or equitable value in accordance with (International Valuation Standards) IVS and the Constitution of the Republic of Uganda.”</p>
Resettlement	<p>Resettlement refers to a form of compensation whereby affected people are offered replacement housing and “resettled” to that housing. However, internationally “involuntary resettlement” has taken a broader signification and is used as an overarching term covering both impacts (“involuntary resettlement impacts”) and compensation measures associated to land acquisition and/or restricted access. “Resettlement” understood as a compensation measure is generally used in a broad sense that covers all forms of compensation, not only those entailing physical relocation to replacement housing.</p>
Resettlement Action Plan (RAP)	<p>The RAP effectively constitutes a ‘blueprint’ for the compensation and resettlement operation and is based on reliable information about the land to be acquired, precise information on all rights and interests associated to that land and the socio-economic baseline situation within the footprint of the project. RAP is a living document in that it is highly volatile in terms of the changing circumstance of each project and must therefore be updated to suite the project circumstance.</p>
Severance and diminution	<p>Severance and diminution occur when only part of the claimant’s land is taken. It is not necessary that the claimant’s retained land be divided, although this would possibly serve to increase the damage sustained. Damage due to severance and diminution arises when the land acquired contributes to the value of the retained land and the loss of the land acquired reduces the value of the land retained.</p>

Term	Meaning
Statutory rates	Rates provided for in the s.59 and s. 77 of the Land Act 1998. These include rates for crops, economic trees, temporary structures and graves, and are determined by District Land Boards (DLBs) with input from the relevant professionals.
Temporary Structure	Defined in the National Physical Planning Standards and Guidelines, 2011. Dwelling units built with non-durable wall and roof materials that cannot maintain stability for more than 3 years and require regular replacement.
The Minister	The Minister Responsible for Lands. (in the Ministry of Lands, Housing and Urban Development to day)
Vulnerable	Vulnerable or “at-risk” groups include people who, by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage or social status may be limited in their ability to use cash compensation to restore their living standards and livelihoods to pre-project levels.
Wetlands	Areas permanently or seasonally flooded by water where plants and animals have become adapted, and include swamps, mambos, areas of marsh, peatland, mountain bogs, banks of rivers, vegetation, areas of impeded drainage, or blackish salt.

1.0 INTRODUCTION

1.1 Introduction

Uganda's processes of expropriation and compensation are known to be slow and to result in undercompensating landowners while causing government high budget costs. All this is attributed to at least 3 factors. Firstly, the legal framework for the payment of compensation for expropriations is outdated. While the Constitution (1995) and the Land Act (1998) to some extent attempted to address this issue, the primary instrument in this area is the Land Acquisition Act (1965), which is outdated and inadequate for handling new developments in land policy, such as legal recognition of customary tenure; much of which is undocumented, or secondary and subsidiary rights, such as rights of access to pastoral and forestry resources. Secondly, current valuation practices tend to result in the undervaluation of land, as systems for the valuation of rights that are not easily monetized or registered, such as pastures and access to forest resources, are poorly developed. Thirdly, weaknesses in systems of governance and corruption often lead to underpayment and/or prolonged delays in the payment of compensation. To address the above problems, IGAD considered developing a standard operating procedure to ensure transparency and accountability in land expropriation process.

1.2 Standard Operating Procedures

IGAD has noted that Standard Operating Procedures (SOP) have become a great organizational tool to achieve efficiency in all kinds of organizations. They are written, step-by-step instructions that describe how to perform a routine activity. They enable employees to complete procedures in the exact same way every time so that the business or service can remain consistent. The benefits of SOPs include:

- i. They save time and money (efficient). Having a standard operating procedure in place streamlines the process so employees can accomplish more in less time. They also make it easy to scale up or down.
- ii. They provide consistency. They ensure that regardless of who is working, business processes are being completed the correct way.
- iii. They facilitate training new employees. They are a great tool for training.
- iv. They improve communication. They make employees' jobs easier because they do not have to guess how to do their jobs or to remember the instructions they received when they were first hired; and
- v. They allow employees to be held accountable. They make it easy to evaluate employees' performance and to hold them accountable.

1.2.1 Benefits of SOPs

A simplified and flexible SOP would bring the following benefits to IGAD Member States, including, using it to:

- i. reduce the current costly and cumbersome procedures in service delivery.
- ii. facilitate the expansion of service delivery beyond the statutory/modern sector to cover the larger customary and community rural and range lands, and the urban informal settlements, at least in the following services: land dispute resolution; land use planning; organizing communities/land owning groups into legal entities and registering their lands; and valuation of unregistered lands;
- iii. facilitate development of options to integrate or improve coordination and linkages among fragmented land institutions in Member States.
- iv. explore new methodologies, approaches, and appropriate technologies such as fit-for-purpose, valuation of unregistered lands, and computerized LIS/LIMS.
- v. facilitate knowledge transfer (with a model SOP) among Member States and get the most out of the region's scarce skills within and outside government; and
- vi. facilitate convergence in delivery of land administration and management services thereby helping IGAD meet its mandate of promoting cooperation among Member States through policy harmonization.

1.3 Objectives of the Land Expropriation and Compensation SOP

The main objective is to review experiences and results in addressing the Uganda's processes of land expropriation and compensation, with a view to producing the following:

- a) a summary of the procedures and performance of expropriation and compensation, highlighting progress made in the form of a case study.
- b) a summary of impacts in the way of undermining land rights by underpaying landholders while also undermining socio-economic development by increasing public investment costs through higher budget outlays on compensation and cost-overruns due to project completion delays.
- c) recommendations on appropriate or improved methodologies or procedures for expropriation and compensation that other Member States should strive to achieve to increase efficiency and reduce budget costs while also paying fair compensation to landholders; and
- d) lessons from experience that could benefit other Member States.

2.0 REVIEW OF LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK

The purpose of this review is to identify for strict adherence, the applicable local laws and regulations that govern land expropriation and compensation activities in Uganda.

2.1 The Legal Frame for Land Expropriation and Compensation

Land expropriation and compensation in Uganda is guided by several legal instruments; some of which date back to the colonial era while others have either been repealed, amended or are newly enacted by parliament. Some of the national legislations include the Constitution of the Republic of Uganda (1995), Land Acquisition Act (1965), the Land Act (1998), the Registration of Titles Act (1964), the Decentralization Act (1997), the Local Governments Act (1997), the National Environment Act (1995), the Access to Roads Act (2019), the Roads Act (2019), the Surveyors Registration Act (1974), the Survey Act (1939), the Electricity Act (1999), Public Finance Management Act (2015), the Physical Planning Act (2010), among others. However, the national constitution, the Land Acquisition Act and the Land Act stand out as the most prominent in guiding land expropriation and compensation in Uganda.

2.1.1 Constitution of the Republic of Uganda (1995)

Article 237(1) of the Constitution vests all land of Uganda in the citizens of Uganda. Such land according to the Constitution is prescribed under four tenures systems in accordance with which rights and interests in land may be held individually or in association with others; these are Customary, Leasehold, Mailo, and Freehold. However, under Article 237(2) (a), the Government or Local Government can acquire land in the public interest. Such acquisition is subject to the provisions of Article 26 of the same Constitution, which gives every person in Uganda a right to own property as against any deprivation save for compulsory acquisition in public interest on condition there is prompt payment of fair and adequate compensation. Article 26 on protection from deprivation of property. (1) 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 - 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.

Expropriation or Compulsory acquisition of land is defined as the intervention of Government, including local government, to acquire land in the national interest, such as public use, interest of defense, public safety, public order, public morality and public health.

There is no provision for compulsory acquisition of land by individuals or corporate bodies in the name of public interest, and is thus the explicit prerogative of the State.

2.1.2 The Land Act (1998)

This Act provides for the tenure, ownership and management of land; to amend and consolidate the law relating to tenure, ownership and management of land; and to provide for other related or incidental matters in Uganda. The Act was last amended in 2010 to provide for the rights of lawful and bonafide occupants to land among others. The Act provides for four land tenure systems also referred to in the Constitution; i.e. customary, leasehold, freehold and 'mailo' as further explained below for the purpose of this assignment:

2.1.2.1 Customary Tenure

Customary tenure is governed by rules generally accepted as binding and authoritative by the class of persons to which it applies. Land can be held in perpetuity or less than perpetuity. Under customary tenure, there is a clear decision hierarchy in terms of bundles of rights. The king oversees the entire kingdom territorial land, then it descends to the chiefs, the clan and family heads and finally to individual users. Transfer or sale of customary land is usually limited to members within the kingdom. However, this position is slowly changing due to migration, urbanisation and favourable laws that allow any Ugandan citizen to own property in any part of the country (Constitution ,1995).

The Land Act provides for two mechanisms in which rights held under customary tenure can be formally recognised i.e. by acquiring a Certificate of Customary Ownership (CCO) or registering Communal Land Association (CLA). Any person, family or community holding land under customary tenure on former public land may acquire a certificate of customary ownership.

Section 71 of the Land Act provides for the absolute protection of public rights of way over private property. Section 42 of the Act reiterates Article 237(2)(a) of the Constitution. It states that, "the Government or a local government may acquire land in accordance with articles 26 and 237(2) of the Constitution".

2.1.2.2 Leasehold Tenure

Leasehold tenure is created either by contract or by operation of law. The landlord or lessor grants the tenant or lessee exclusive possession of land usually, but not necessarily, for a defined period, and usually, but not necessarily, in return for a rent and/or premium. Leases created out of public land are usually for initial period of five years, extendable to 49, then 99 years on application to the controlling authority and upon fulfilling the terms and conditions of the lease. Holders of lease created out of public land may be allowed to convert to freehold upon application to the relevant authority. The ground rent charged on government leased land is usually nominal.

2.1.2.3 Freehold Tenure

Freehold tenure involves the holding of registered land in perpetuity or for a period less than perpetuity which may be fixed by a condition, and enables the holder to exercise, subject to the law,

full powers of ownership. A freehold may arise from a grant by a District Land Board (DLB) or Uganda Land Commission (ULC) or by conversion from customary ownership or leasehold (Land Regulations, 2004).

2.1.2.4 Mailo Tenure

Mailo tenure involves the holding of registered land in perpetuity. Mailo tenure permits the separation of ownership of land from the ownership of developments on land made by a lawful or a bona fide occupant. It also enables the holder and his/her successors in title, to exercise all the powers of ownership, subject to the customary and statutory rights of those persons lawful or bona fide in occupation of the land at the time that the tenure was created. Under 'mailo' land ownership, there exist another informal right called the 'kibanja' in singular and 'bibanja' in plural. The 'bibanja' holders are tenants who settled on 'mailo' land with either full knowledge of the mailo owner, by succession or purchase from the former bibanja holders. The bibanja claimants were made tenants and subject of the mailo owners by the colonial treaty known as 1900 Buganda Agreement that allocated land between the Buganda Kingdom (the official mailo) and the Central Government (crown land), the Chiefs and the loyal subjects of the king (private mailo).

2.1.2.5 Public Land

Public Land (Government Land) is a special category of land vested in Government for public investments and conservation. Although this land is not strictly defined under the known land tenure, it is actually derived from the four legal tenure. The land is held by Uganda Land Commission (ULC) as provided for by the Land Act and the Constitution. In essence, all land acquired by government is held by ULC. Examples of such land includes educational and health facilities, government owned premises, right-of-way and similar linear corridors used by utility companies, environmental reserves such wetland, lakes, rivers, forests, national parks, game reserves and mountains.

2.1.2.6 Lawful and 'Bonafide' occupants on Land and Tenants by Occupancy

The Constitution protects the tenure rights of lawful and 'bonafide' occupants on 'mailo' land, freehold or leasehold land to enjoy security of occupancy on the land as "lawful occupants". In addition, tenants by occupancy are also by the Land Act. Section 29 of the Land Act specifies in greater detail as follows:

- Lawful occupants are either persons occupying land by virtue of the repealed Busuulu and Envujjo Law (1928), or the Toro Landlord and Tenant Law (1937), or Ankole Landlord and Tenant Law (1937); or persons who entered land with the consent of the registered owner, and includes a purchaser; or persons who had occupied land as customary tenants, but whose tenancy was not disclosed or compensated for by the registered owner at the time of acquiring a leasehold certificate of title, so qualify as lawful occupants.

- Bonafide occupants are persons who before the coming into force of the Constitution of the Republic of Uganda (1995) had occupied and utilised or developed any land unchallenged by the registered owner or agent of the registered owner for twelve years or more; or had been settled on land by the government or an agent of the government, which may include a local authority.
- A tenant by occupancy on registered land shall enjoy security of occupancy on the land, subject to terms and conditions set in the Land Act.

2.1.3 Land Acquisition Act (1965)

This is the principal legislation on compulsory land acquisition in Uganda. The Act makes provision for the compulsory acquisition of land for public purposes and for matters incidental thereto and connected therewith. The Act stipulates that land owners affected by compulsory acquisition must be adequately compensated for their land, developments thereon, and loss of livelihood prior to the resettlement/relocation.

2.1.3.1 The Procedures for Compulsory Land Acquisition under the Act

The procedures for compulsory acquisition are as follows:

- i. The Minister upon being satisfied that any land is required by Government for a public purpose makes a declaration by statutory instrument to that effect;
- ii. A copy of the declaration is served on the registered proprietor of the land specified in the declaration or, as the case may be, on the controlling authority, and if the proprietor is not the occupier of the land, on the occupier;
- iii. Upon publication of the declaration by the Minister, the assessment officer causes the land to be marked out and measured, and a plan of the land to be made if a plan of the land has not already been made;
- iv. The assessment officer then causes a notice to be published in the gazette, and exhibited at convenient places on or near the land, stating that Government intends to take possession of the land, and that claims to compensation for all interests in the land may be made to him or her;
- v. The assessment officer then causes a copy of the notice to be served on the registered proprietor of the land to which the notice relates or, as the case may be, on the controlling authority, and, if the proprietor is not the occupier of the land, on the occupier;
- vi. On the day specified in the notice, the assessment officer proceeds to hold an inquiry into claims and objections made in respect of the land, and then makes an award under his or her hand;
- vii. The assessment officer causes a copy of the award to be served on the Minister and on those persons having an interest in the land, if they were not present personally when the award was made;
- viii. The assessment officer takes possession of the land as soon as the award is made. The Act also provides that if the Minister certifies that it is in the public interest, possession

- may be taken after publication of the declaration;
- ix. When the assessment officer takes possession of the land, it immediately vests in the Uganda Land Commission, free from all encumbrances, and the estate and interest of every person having an interest in the land immediately before the land vested in the Uganda Land Commission converts into a claim for compensation;
 - x. The assessment officer then forwards to the registrar of titles a copy of the declaration relating to the land endorsed with a certificate signed by the assessment officer, stating that the assessment officer has taken possession of the land and specifying the date when he or she did so;
 - xi. On receipt of a declaration endorsed by the assessment officer, the registrar of titles then takes the steps necessary to give effect in the Register Book to the vested interest and compensation requirements of the land specified in the declaration.
 - xii. Persons aggrieved by either the decision of the Minister or an award of the assessment officer may refer the matter to Courts of law for determination.

Section 19 of the Act further provides for other ways through which government may acquire land. It says that "... government can acquire land by entering into an agreement with a person having an interest in land by which; (a) that person's interest in land is acquired by the Government; or (b) that person's claim to compensation for land under this Act is settled by the grant of other land or in any other way".

2.1.4 Registration of Titles Act (1924)

Using the Torrens system of land registration, the Act governs the documentation of freehold, leasehold and *mailo* land tenure systems. Section 59 of the RTA provides that the certificate of title is conclusive evidence of ownership. Section 64 states that the interest of the registered proprietor has priority over any interest except in cases of fraud. The Registrar of titles is mandated to cancel titles issued in error and or by fraud on application and determination of Court. Any person with interest in a registered land can lodge and register a caveat on the title in order to protect his or her interest.

2.1.5 Physical Planning Act, No. 8 of 2010

The Act regulates development where development is the making of any material change in the use of any building, land, sub-division of any land, and the erection of such buildings or works and carrying out of such building operations. It declares the whole country a planning area bringing the entire country under planning control. It has established planning institutions like the National Physical Planning Board (NPPB), District Physical Planning Committee, and Urban/Local Physical Planning Committees. These institutions provide national and regional planning frameworks and inform district, urban and local planning processes.

The Minister has powers to declare an area a special planning area or suspend all developments in the special planning area. This affects all land even land in the hands of Uganda Land Commission. The effect of the Act is that the entire country is a planning area. This means that

all developments including land allocation, is subjected to planning approval. Therefore, where Uganda Land Commission (ULC) has land it wants to allocate, and no planning and allocation has taken place before, the District Physical Planning unit in conjunction with the Physical Planning Committee of the area will prepare a layout which will guide ULC in the allocation of such land as per the land use attached to it. These developments, including sub-division and consolidation of land, renewal or extension of a lease on any land, and change of land use, require approval by the National Physical Planning Board.

Land owners have to use qualified planners to prepare local physical development plans through the local physical planning committees. All developments must take place with development permission from the Physical Planning Committee prior to any development taking place. The development plans should provide for the making of new roads, streets, right of way, sites for bridges, quarries, power lines, telecommunication lines, industries, dumping sites, sewerage treatment plants, schools, petrol stations, human settlements, and sites that have injurious impact on the environment (approved after getting Environmental Impact Assessment).

2.1.6 Survey Act (1939) - As Amended

This Act provides for, among others, the surveying, inspection and maintenance of national and international boundaries, acquisition of small and large scale photographs for mapping, maintenance of all aerial photographic records and supplying the same to other organizations, surveying for production of large and small scale topographic maps, execution of new grant surveys, and compilation of deed plans, approving all title surveys, production of plans for the gazetting of administrative boundaries, forests and National Park boundaries. It provides for the commissioner of lands and surveys to authorize at any time, the carrying out of any trigonometric or topographical survey or any other survey which, in the opinion of the commissioner, is necessary. Surveyors can enter upon any land and make all inquiries and do or cause to be done all things necessary for the survey. They can cause to be cleared any boundary or other line which it is necessary to clear for the purpose of any survey by cutting down and removing any trees, bushes, fences or standing crops, doing thereby as little damage as possible, or otherwise, to assist in the survey of the land. Further, the commissioner, his or her officers and agents may without the payment of compensation build and occupy camps on any uncultivated or unused land and take from that land for the construction of camps, beacons and survey marks such materials, wood, not being timber of special value, or water.

The Act also regulates the licensing of Land Surveyors, Valuation Surveyors, and all professionals listed in the Act through the Surveyors' Registration Board (SRB).

1.2.7 Local Government Act (1997) - As amended in 1997, 2001 and 2003

An Act to amend, consolidate and streamline the existing law on local governments in line with the Constitution to give effect to the decentralisation and devolution of functions, powers and services; to provide for decentralisation at all levels of local governments to ensure good governance and

democratic participation in, and control of, decision making by the people; to provide for revenue and the political and administrative setup of local governments; and to provide for election of local councils and for any other matters connected to the above.

The Act provides for the establishment of Upper and Lower local governments and administrative units. The city divisions, municipal division or urban councils, which is comprised of elected members, is the highest political authority having legislative and executive powers in their jurisdictions, and other councils in lower-level local government are also the highest political authorities in their jurisdictions. The District local government system is comprised of a five-tier structure where, in rural areas, the village council (LC I) forms the lowest level, followed by the parish council (LC II), then the sub-county council (LC III), the county council (LC IV), and at the top (the district) the district council (LC V).

The local government is a key stakeholder in land expropriation and compensation.

2.2 Policies, Regulations and Standards for Land Expropriation and Compensation

2.2.1 Land Regulations (2004)

Section 24(1) states that “the District Land Board (DLB) shall, when compiling and maintaining a list of rates of compensation, take into consideration the following: a) Compensation shall not be payable in respect of any crop which is illegally grown; b) As much time as possible shall be allowed for harvest of seasonal crops; c) The current market value of the crop and trees in their locality will form the basis of determining compensation; d) For buildings of non-permanent nature, replacement cost less depreciation will form the basis of compensation. The valuation of permanent buildings and land are referred to the Chief Government Valuer (CGV).”

In practice, the rates for crops and “non-permanent” structures for assessing the compensation award referred to in section 59(1) (e) of the Land Act are compiled and annually updated by DLBs at District levels under the supervision of the CGV.

2.2.2 Guidelines for Compensation Assessment under Land Acquisition (2017)

Arising from a need to improve transparency and accountability in the land acquisition process specifically in the oil and gas sector, MLHUD in 2017 issued a guiding document referred to as GCALA, 2017. The guidelines establish a basic framework comprising legal, policy and standards to be followed in the assessment of compensation in case of compulsory acquisition of land. Important to mention is that it recommends development of a Resettlement Action Plan (RAP) for every project. However, some of the provisions of the guidelines such as 15% annual increments on delayed payment of compensation awards and the timeframe provided have been challenged as lacking a legal backing. The use of the guidelines has largely remained as voluntary best practice.

2.2.3 NLARRP draft 3

The National Land Acquisition, Resettlement and Rehabilitation Policy is being developed by MLHUD. The draft policy comprehensively illustrates the gaps in the existing practices in order to meet internationally acceptable standards for consideration in case of involuntary displacement of people by government. Important to note is that it recommends for the enactment of a new Land Acquisition Act and a specific law to establish the office of the Chief Government Valuer and also regulate the valuation practice in Uganda.

2.2.4 International Valuation Standards (IVS)

The IVS are set by the International Valuation Standards Committee (IVSC) which is an arm of the Royal Institution of Chartered Surveyors (RICS) with headquarters in England. IVS is a global standard regulating standards for its valuation members globally. Institution of Surveyors of Uganda (ISU) ratified the use of IVS in 2014. The IVS is reviewed every two to four years and the latest version is of January, 20120. ISU is a professional association of Valuers in Uganda. It is regulated by the Surveyors' Registration Board (SRB) under the Survey Act. The office of CGV being a subscriber to ISU has by default adopted the use of IVS. The CGV's office has initiated several reforms and capacity building measures to enable the office perform to the expectation of IVS.

2.2.5 Internal Policies of other MDAs

Other ministries, departments and agencies of government including Ministry of Energy and Mineral Development (Oil and Gas sector 2016), UNRA (2019), Rural Electrification Agency (REA), Standard Gage Railway (SGR), Ministry of water and Environment, and Uganda Electricity and Transmission Company Limited (UEGCL) have developed internal policies to guide their acquisition of land. Whereas most provisions of the policies are consistent with the existing laws, come sections have been modified to address requirements of their international stakeholders. Some of these external stakeholders with preferred environment and social safe guards include the World Bank (IFC performance Standards), African Development Bank, European Union, French Development Agency. The external stakeholders commonly referred to as funders make the use of their policies a precondition for project financing.

Often at times, the rate of change of the international policies and standards are in conflict with the law.

2.3 Institutional Framework for Land Expropriation and Compensation

2.3.1 Ministry of Lands, Housing and Urban Development

The Ministry of Lands, Housing and Urban Development is responsible for exercising the powers of compulsory land acquisition as per the Land Acquisition Act, Cap 226. The Minister for lands appoints an assessment officer whose responsibility is to execute the process: by issuing notice to persons having an interest in the land; holding an enquiry 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 acquired land. According to the Land Acquisition Act, an assessment officer can be a public officer or any other person appointed by the Minister. In practice, the Chief Government Valuer performs the functions of an assessment officer. The CGV heads the valuation department under land management directorate of the ministry. The land survey component is supervised by the Commissioner Surveys and Mapping (Geodesy) under the same Ministry. Land title is issued by the Registrar of Titles in accordance with the Registration of Titles Act.

Where the powers of compulsory acquisition are not invoked, the executing agencies/project proponents in the different sectors have been acquiring land either using the office of the Chief Government Valuer (CGV), their in-house valuers or using private registered valuation consultants under the supervision of the office of CGV.

2.3.2 Important offices within the Land Act

The Land Act which regulates the tenure, ownership and management of land in Uganda establishes a number of land administration institutions, notably District Land Boards, District Land Office, Land Tribunals and Land Committees who also play some roles in the acquisition of land as highlighted below.

2.3.2.1 District Land Boards

Each district has a land board comprised of a chairperson, one member representing the municipal council, one member representing the urban council and one member from each county in the district. The district land board functions are to:

- i. Hold and allocate land in the district, that land, which is not owned by any person or authority;
- ii. Facilitate the registration and transfer of interests in land;
- iii. Take over the role and exercise the powers of the lessor in the case of a lease granted by a former controlling authority;
- iv. Cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents;
- v. Compile and maintain a list of rates of compensation payable in respect of crops, and

- buildings of a non-permanent nature;
- vi. Review the above-mentioned lists of rates compensation every year in consultation with the technical officers in the district;
 - vii. Deal with such other matters that are incidental or connected to their responsibilities.
- The District Land board has power to sell, lease, or otherwise deal with the land held by it.

2.3.2.2 The District Land Office

This office is a sector under the Natural Resources Department of the District. The Land Office is established under S.59 (6) and (7) of the Act which states that each district council shall have a district land office comprising the offices of the District Physical Planner, the District Land Officer, the District Valuer, the District Surveyor and District Registrar of Titles. The District Land Office shall provide technical services to the district land board in the performance of its functions.

2.3.2.3 District Land Tribunals

Each district has a land tribunal comprised of a chairperson who is well qualified to be magistrate Grade 1, and two other members. District land tribunals have power to:

- i. Determine disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the Uganda Land Commission or other authority with responsibility relating to land;
- ii. Determine any dispute relating to the amount of compensation to be paid for land acquired compulsorily by government;
- iii. Determine disputes in respect of land value which exceeds two thousand five hundred currency points in rural areas; five thousand currency points in urban areas; and twelve thousand five hundred currency points in a division;
- iv. Make consequential orders relating to cancellation of entries on certificates of title or cancellation of title in cases handled by the lower land tribunals;
- v. Determine any other disputes relating to land.

In the determination of land disputes, district land tribunals have powers to grant decrees of specific performance; issue injunctions; alter any action, notice, order, decree or declaration made by any official or any board or any committee or any association or the commission, as the circumstances of the case require.

The district land tribunal in assessing compensation for land compulsorily acquired by government considers the following:

- i. In case of a customary owner, the value of land is the open market value of the unimproved land;
- ii. The value of the buildings on the land, shall be taken at the open market value for urban areas and depreciation replacement cost for the rural areas;
- iii. The value of standing crops on the land, excluding annual crops which could be harvested during the period of notice given to the tenant.
- iv. In addition to this, a disturbance allowance of 15% must be paid, or if less than six months' notice to give up vacant possession is given, 30% of any sum assessed as above stated.

2.3.2.4 Area Land Committees (ALC)

The council at the sub-county level appoints Area Land Committees (ALC). These committees determine, verify and mark the boundaries of all interests in land that is subject to an application for certificate of customary ownership or in grant of freehold title. The ALC assists the DLB in an advisory capacity on matters relating to land, including ascertaining rights in land boundaries and disputes, and performs any other function conferred on it by law.

3.0 CHALLENGES WITH THE EXISTING SYSTEM

As highlighted in the earlier chapters, challenges still exist in the expropriation and compensation process of Uganda. Some of the challenges include:

- i. Whereas to a great extent, Uganda's laws and policies support gender and equity in land expropriation, cultural norms and practices such as demonstration of loyalty or allegiance limits the extent to which such rights can be enjoyed by women. Often at times, women prefer that either their husbands or adult sons receive compensation on their behalf.
- ii. There is limited awareness about gender equity affects both men and women when it comes to participation and decision-making process in land expropriation and compensation.
- iii. Land expropriation globally is a creature of the law. To a great extent, the process of land expropriation and compensation in Uganda is loosely structured in the Land Acquisition Act (1965).
- iv. In 2014, the Supreme Court in the case of Uganda National Roads Authority vs Irumba Asumani and Peter Magelah, declared that the Land Acquisition Act (LAA) s.7 was unconstitutional in so far as it did not prescribe prior payment of compensation. Attempt by government in 2018 to amend Article 26 of the constitution to provide for circumstances under which land can be expropriated prior to compensation was met with stiff nationwide resistance.
- v. The law does not define the basis of compensation assessment nor the valuation method to be used to arrive at the compensation figure; however, section 20 of the Act empowers the Minister, by statutory instrument to make regulations for the assessment and payment of compensation. No such regulations have been written since the enactment of the law in 1965.
- vi. Lack of consultations of stakeholders like PAPs. In most cases consultations are carried out in initial stages and only limited to local councils' officials. For example, in the case of Hoima –Kaiso –Tonya road and oil refinery PAPs were only consulted on the oil refineries when it came to oil roads they were never consulted only got to know about the project when surveyors were plotting where roads would pass (ACODE, 2016).
- vii. Delayed compensation and Resettlement of PAPs. From delayed compensation, two issues come out prominently. One is the gradual loss in value worth of the amount of financial compensation, especially with the runaway inflation and competition for resources that the country experiences. Second is the disruption and impoverishment that occurred as PAPs transitioned economically during relocation and compensation exercises. Both affected the ability of families to sustain their livelihoods. For example, the compensation for the Oil Roads and Hoima to Kaiso/Tonya road projects started nearly one and a half years later. At the time of the research, a number of PAPs from the two projects reported that they had not been compensated. (Framework for Land Acquisition and Resettlement in Uganda page 53)
- viii. The declaration of the ownership of the land for resettlement by PAPs; People were resettled on land for which they were no longer certain or guaranteed to their original rights held on land from which they were displaced. For example, when Atacama was acquiring land for the Tilenga pipeline project, people who had been resettled were ordered by the consultants to register as

tenants and not land owners since the land where government took them is in someone's names. (National Dialogue on Compulsory Land Acquisition Report page 57)

- ix. Inadequate involvement of property owners during land demarcation and surveying: During the acquisition process, land owners are usually not involved in the expropriation process for example the project along the East African Crude Oil Pipe Line (EACOP) corridor and the refinery area. People asked redundant question which would have actually been avoided if they had been fully involved. The Resettlement Action Plan (RAP) committees created by contractors did not take it upon themselves to inform the affected people but then validated the exercise. There is need to declare the kind of support which is given to RAP committees to undertake thorough outreach (National Dialogue on Compulsory Land Acquisition in Uganda Report 2019 page 57).
- x. Weak grievance mechanism. There is a weak grievance handling mechanism where complaints on compensation rates and values have not been handled in time and some members said to be compromised by contractors. This has been noticed where the authorities are highly reluctant and the issues can only be addressed for those aggressive affected persons that continuously move back and forth to seek justice. Sometimes cases forwarded to national level receive weak feedback and in some cases no feedback is provided at all.
- xi. Speculation. Government has also experienced scenario where speculators illegally processed titles and obtain illegal titles over legitimate customary owners' lands. These speculators try to force government to compensate them as title holders and pay the legitimate owners as occupants. In all these scenarios, they demand excessive value, reject compensation awards by the CGV even when the values arrived at are based on the prevailing market values obtaining.

For other challenges, refer to appendix 3.

4.0 LESSONS LEARNED

Several lessons can be drawn from Uganda's practice of land expropriation and compensation. Some of these include the following:

- i. Uganda Land expropriation laws and policy framework is weak to address emerging challenges.
- ii. There is increased push by international development partners for the country to adopt their internal policies as best practice. However, reliance on external policies without national legal backing can only lead to more project implementation delays. Therefore, countries should review or amend their national laws to address legal gaps, train officers to bridge knowledge gaps and provide the required tools to ensure that the expropriation process is accountable.
- iii. The impact of land expropriation and compensation is so much on those affected to the extent that no amount of compensation is adequate to redeem. Often at times, expropriation should only be considered as an option where acquisition of land is not possible by other means such as by negotiated settlement, willing buyer willing seller, co-ownership, land exchange, easements, and so on.
- iv. Effective stakeholder engagement and participation is instrumental in achieving grievance free land expropriation process. This has been demonstrated the Kampala Jinja Expressway (PPP) project under Uganda National Roads Authority (UNRA).
- v. Land expropriation be non-political. As much as possible, ensure that land expropriation activities are devoid of political sentiments and affiliations to avoid misinformation that derails progress.
- vi. Coordination in government: To ensure that expropriation workplan is implemented according effectively, all concerned government offices be well coordinated. i.e. from planning, budgeting, implementation, monitoring and exit be well coordinated.
- vii. The cost of implementing land expropriation and compensation in Uganda is met by the acquiring authority (government). PAPs however, incur some modest cost of acquiring and providing the required legal documents for their compensation. E-governance by use of modern technology can be adopted to reduce some costs relating to printing and photocopying of documents.

5.0 RECOMMENDATIONS

From the challenges highlighted, there is need to improve Uganda's Land expropriation and compensation systems in order to realise some of the core principles of compensation i.e. informed, prompt, fair (equitable) and adequate compensation to all the affected people in the following ways.

- i. RAP must deliberately provide opportunities that benefit all gender groups such as:
 - Encouraging joint disclosure of compensation award in case of family owned land.
 - Encouraging joint opening of Bank Accounts in case of family owned land.
 - Tailored skills development and livelihood enhancement for vulnerable women, men, youths and the disabled
 - Equitable representation of women, men, youth and the disabled in the Grievance Management Committee (GMC).
 - As much as possible, both men and women in a household setting should actively participate in identifying family relocation sites so that gender specific issues are considered.
 - Gender focus group discussions be conducted before, during and after the expropriation exercise in order to capture and address gender specific issues that emerge e.g. divorce, polygamy, alcoholism, prostitution, drug abuse, abandonments, etc.
- ii. Expedite process of enacting a new land acquisition and valuation laws as well as amending all land related laws for Uganda to address gender concerns, among other things.
- iii. Build mechanisms into a framework that integrates and accommodates different stakeholder interests, strengthening how policy is put into action by aligning policy with implementation.
- iv. instill an atmosphere of trust into the process as a range of voices contributes to the negotiated outcomes for the benefit of all stakeholders. Stakeholders include government ministries and authorities, industry, politicians, local governance and citizens' groups, local communities and PAPs, and civil society and advocacy organization.
- v. provides a process to guide line ministries as custodians of citizens resource, social welfare and the provision of services while development of extractives expands and deepens across many sectors. Decisions can be better coordinated among government ministries and governance officials so as to avoid negatively impacts that compromise the objectives and operations of related political and technical units, such as the National Forestry Authority and the Ministry of Lands, Housing and Urban Development
- vi. Project design and planning. Apply a stringent framework and procedures to the assessment of the impacted region and populations, reinforce mechanisms at all stages of the land acquisition process, and create action plans and outcome measures for the mitigation of social and environmental risks.
- vii. Valuation and compensation. The fair valuation of land and property and timely compensation is at the core of maintaining and improving PAP livelihood. In line with national law and international best practices, prior compensation is required; PAPs need to be compensated before land acquisition begins and property destroyed or its use constrained. For example, all districts will update and make current valuation rates for replacement of land and property, prior compensation is required since compensation

should be paid before resettlement and/or the disruption of livelihood and identify the categories of beneficiaries as well as the respective interests each holds.

- viii. Timely compensation: Ringfence compensation budget funds to ensure timely implementation and acquisition of land. This can be achieved by legally providing for escrow accounts into which such funds can be held in case of conflict on ownership of a claim or under valuation of property so that when matters are resolved, the payment can be immediately effected.
- ix. Monitoring. International best practice recommends transparency and accountability measures to independently monitor and audit the implementation of land acquisition and the resettlement process. PAPs require resources and knowledge to represent their own interests and to assess the impacts of project activities on their lives. (a frame work for Land Acquisition and Resettlement in Uganda.)

For other recommendations, refer to appendix 3.

6.0 STANDARD OPERATING PROCEDURES FOR MANAGING EXPROPRIATION AND COMPENSATION IN UGANDA

6.1. General Compliance

Compliance with transparent and good democratic governance principles, best practices and core values such as Fair, Consultative, Participative Interactive, Inclusive, Professional, Timely, Transparent, Gender sensitive, Innovative and Cost effective is key in achieving an efficient and effective land expropriation. This can be achieved by adopting the following procedures:

- i. Screening of project location or alignments based on risk and impact mitigation hierarchy by:
 - Identifying all physical and economic displacement risks.
 - Conducting option assessments to identify feasible alternatives such as choosing alternative sites, or routes, that avoid the need for physical and economic displacements.
 - For linear corridors, optimize design, use realignments, narrow road reserves and adopt fit-for purpose technologies to minimize physical displacements.
- ii. Conduct free, prior, informed consultations with all affected people and communities throughout the project cycle but most importantly during the planning, implementation, and monitoring of Resettlement Action Plans (RAP). To be able to establish the correct entitlements, options and compensation packages with the aim of obtaining broad community support in a transparent and consistent manner.
- iii. Ensure active participation of the project affected people and their leaders in the loss inventory and assessments. Socio-economic, land and valuation surveys be witnessed and endorsed by the affected people and their local leaders.
- iv. Ensure that the livelihoods and living conditions of all affected people as minimum are restored to pre-project levels through the provision of cash compensation at full replacement costs for non-vulnerable households.
- v. Identify vulnerable households and individuals who are unable to use cash compensation, discuss and agree on how to assist them to be also able to restore and rehabilitate their living standards and livelihoods to pre-project levels. This assistance should be tailored around the specific vulnerabilities, the type, and magnitude of impacts/losses and focus on physical resettlement and livelihood restoration assistance.
- vi. Compensate the affected people or relocate them prior to commencement of civil works to avoid further vulnerability.
- vii. Give adequate time for project affected people to relocate after compensation.
- viii. As practical as possible, allow project affected people to salvage materials from condemned property upon receipt of compensation in order to expedite their relocation and ease their livelihood restoration process.
- ix. Disclose RAPs to the local authorities and those affected in a manner that is accessible, understandable and culturally appropriate for those affected.

- x. Establish appropriate grievance management system in each member state. The grievance management should follow the social and cultural formation of the affected population in order to solve grievances and address complaints in a timely, impartial, transparent and gender sensitive manner.

6.2 Framework for Managing Expropriation and Compensation in Uganda

To ensure all legal processes are adhered to, the following table provides that framework by illustrating the steps, activities and responsible person or body from the time land is needed to the point it is fully acquired and titled for government purpose. There is no specific timeframe or cost provided as project designs and implementation plans vary greatly. The timelines and cost for expropriation and compensation should therefore be provided for in the project feasibility report.

Table 2: SOP Framework for Managing Expropriation and Compensation in Uganda

Steps	Activities	Responsibility
Determine the need for land	Evaluate Government's investment plans that need acquisition of land for public good.	MDAs/LGs
Notice to the Minister for a need to acquire land	Formal letter to the Minister justifying the need for land	MDAs/LGs
Ascertain the suitability of any land for a public purpose	Appointment by the Minister to any person to establish the suitability of any land. Carryout stakeholder consultations and engagements by the person appointed by the Minister. Entry into land to carryout surveys; dig or bore into the subsoil and remove samples; and do any other thing necessary for ascertaining its suitability for that purpose. Production of a plan for the land indicating the sketch of land and location	MDAs/LG <i>(Ministries, Departments and Agencies/Local Government)</i>
Declaration that land is needed for public purpose	Formulate a gazette notice Request to the Attorney General to place the Gazette notice in the Government Gazette Publication of the Gazette Notice	The Minister/Attorney General and Printing and Publishing Corporation
Formal instructions to the assessment officer	Instructions to the assessor to undertake survey, assessment and determination of compensation award	Minister/ CGV
Notification and engagement of stakeholders	Cause a copy of every declaration to be served on the registered proprietor of the land specified in the declaration or, as the case may be, on the controlling authority and, if the proprietor is not the occupier of the land, on the occupier.	Stakeholders' Engagement Specialist, Liaison Officer, Valuer and Land Surveyor
Marking out the Land and other	Cause the land to be marked out and measured and a plan of the land to be made if a plan of the land	Registered Land Surveyor

Steps	Activities	Responsibility
properties	has not already been made	
Notifying persons having an interest	On advise of Attorney General, cause a notice to be published in the Gazette and exhibited at convenient places on or near the land, stating that the Government intends to take possession of the land and that claims to compensation for all interests in the land may be made to him or her.	MDAs/LG, AG
	Include the particulars of the land to which the notice relates. Invite all persons having an interest in the land to appear personally or by agent before the assessment officer on a day and at a time and place specified in the notice.	
	The estate and interest of every person having an interest in the land immediately before the land so vested shall be deemed to have been converted into a claim for compensation	
Develop a RAP/ framework	Develop Resettlement Action Plan or Framework for the expropriation exercise	RAP team leader
Approval of Assessment/ Valuation methodology	Develop and obtain approval of CGV for the methodology that will be used in the compensation assessments.	Assessment officer
Survey of the land	Obtain cadastral data from Lands office	Surveyor
	Set out the affected area specifying the village, the corridor, chainage, other utility lines, etc.	
	Measure and geo-reference each parcel in the presence of the owner or his/her/their representative(s).	
	Specify the true area of the land, its tenure, owner, and developments affected.	
	Where possible, show severed land in relation to total land to be acquired.	
	Conduct title search with Registrar of title to confirm registration status of titled land.	
	Present a well-structured and authenticated survey report.	
Inspection and assessment of land	In a participatory manner, take measurements, count, describe, sketch, take photographs and record all affected physical assets in a standard valuation form.	Valuer
	Secure on each form, the date and signatures of the owner, a witness and Valuer, confirming affected asset inventory for each person	
	Record all economic losses that must be assessed for compensation.	
	The signing of the form marks the cut-off date for	

Steps	Activities	Responsibility
	each affected person.	
	Compute and attach the approved rates for land, structures and crops to the assessments.	
	Analyse and specify the compensation which is fair and adequate for the land	
	Apportion the compensation among all the persons known or believed by him or her to have an interest in the land, whether or not they have appeared before him or her.	
Approval of Survey and Valuation Assessment Report	-Obtain approval if the exercise is done under the supervision of CGV. -Approval is based on the approved methodology, compliance with professional practice standards and regular monitoring of the exercise and comments for improvement made by the CGV.	Valuer, Surveyor and CGV
Household Social-economic Survey	Conduct comprehensive household survey to identify, plan, mitigate and manage vulnerability.	Social team
Conduct Financial Literacy Training	To ensure proper use of compensation funds, conduct financial management training to all interested PAPs.	Social-Econ team
Steps	Activities	Responsibility
Disclosure of compensation award	Cause a copy of the award to be served on the Minister and on those persons having an interest in the land as are not present personally or by their representatives when the award is made.	Assessment officer
Implement the RAP	-Update and implement the RAP -Start implementing livelihood restoration and enhancement initiatives	RAP team
Summon and demand documents for verification	For the purposes of an inquiry the assessment officer has the same power to summon and enforce the attendance of witnesses and to compel the production of documents as is vested in a magistrate's court in its civil jurisdiction.	Assessment officer, Land Surveyor, Auditor and Legal officer
	-Identification: National ID, Refugee ID or Passport non-citizens, Memorandum and Articles of Association (Companies), Guardianship Order (for Minors), Power of Attorney, affidavits, deed poll, etc.	
	-Ownership document: Land title, Sale agreements, License, etc.	
	-Bank Accounts information: copy of account statement (recent) in the names of persons(s) entitled for compensation.	
	-Signatures: sign on assessment forms, land transfer forms, etc.	
	-Contact detail: Phone number, email or any	

Steps	Activities	Responsibility
	other address. An inquiry may be adjourned from time to time as the occasion may require.	
Auditing, Monitoring and Evaluation	Systematic and unsystematic inspections and compliance audits.	Internal Audit, Accountants, Community leaders, Parliament, other government agencies
Setting up for payment	Enlist all verified persons with their details and forward to MoFPED.	Assessment officer
Payment of Compensation	-Pay compensation in accordance with the award as soon as may be after the expiry of the time within which an appeal may be lodged.	MoFPED
Appeals/ Objections and Grievances	-Appeal may be lodged against an award made, - Appeal may be lodged when a person awarded compensation under this section refuses to accept payment. -or if any other circumstance arises which renders it inexpedient, difficult or impossible to make payment in accordance with the award.	Assessment officer
	Appeal objecting to compensation amount must be made to the Assessment officer within 60 days from disclosure.	Assessment Officer or CGV
	The High Court, on the application of the Attorney General, may order payment to be made into court on such conditions as it thinks appropriate.	Attorney General
Vacation Notice	-Issue vacation notices to all persons fully compensated. -Vacation notices should provide adequate time for people.	MDAs/LGs
Taking possession	Take physical possession of the land after vacation notice period.	MDAs/LGs
	Plant permanent marks such as mark-posts to physically demarcate the land.	MDAs/LGs
	Form an enforcement team to secure the acquired land.	MDAs/LGs
Titling	-Compute and submit JRJ files to Commissioner Surveys and Mapping Department for titling.	Land Surveyor
	Submit to Commissioner Land Registration 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 so.	Assessment officer or Land Surveyor
Recording in	On receipt of a declaration endorsed, the	RT

Steps	Activities	Responsibility
Register Book	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 in respect of the land specified in the declaration.	
	The land is registered in the names of Uganda Land Commission; specifying the user entity.	Registrar of Titles (RT)
Withdrawal from acquisition	The Minister may revoke an instrument made of compulsory acquisition made at any time before the assessment officer takes possession of the land	Minister
	Upon the revocation of the instrument, payment will be made to any persons having an interest in the land compensation for any damage suffered by them as a result of such action taken in respect of the acquisition.	
	Any dispute as to the compensation payable is referred by the Attorney General to the court for decision.	

6.3 Operational Procedure for Gazettement

Guided by section 3 of the Land Acquisition Act and as shown in table 2, the power of Gazettement is entrusted to the Minister responsible for Lands. The operational procedure involves the following:

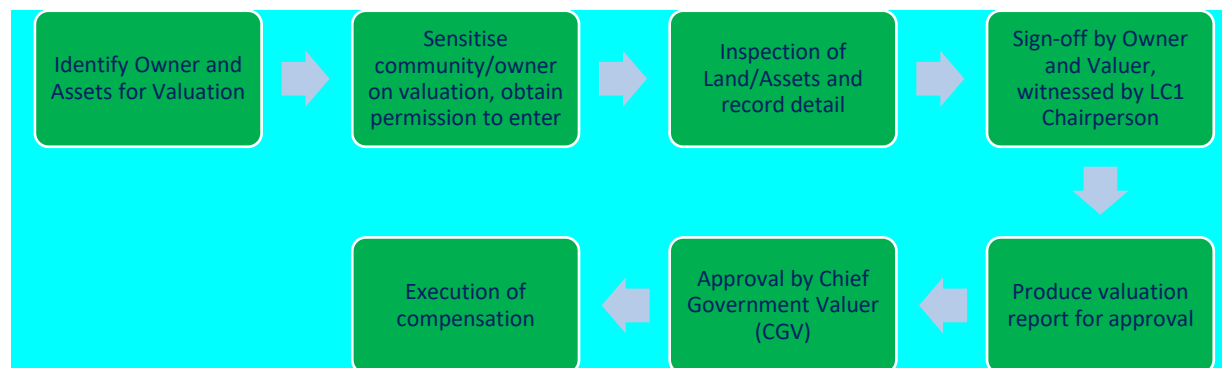
1. Planning and securing approval of project design is done by the applying Agency, Ministry, Departments or Local Government.
2. Upon approval, the Agency, Ministry, Department or Local Government forwards the plan to the Permanent Secretary of MLHUD, requesting for the preparation of a statutory instrument for the Gazettement of the project site.
3. Upon receipt, a first draft gazette is prepared and signed by the Minister for Lands.
4. The draft is then forwarded to the Solicitor General by the Permanent Secretary MLHUD.
5. The Solicitor General reciprocates with a legally refined draft through the Permanent Secretary for the final signature of the Minister for Lands.
6. Upon signing of the refined instrument by the Minister, the Permanent Secretary – MLHUD reverts to the Solicitor General for gazettement.
7. The user Agency, line Ministry, Department or Local Government or the designated project Land Surveyor follows up the Gazettement process to its conclusion.

6.4 Detail Survey and Valuation process for compensation purpose in Uganda

In Uganda valuation for compensation of land and improvements that are affected by Government projects was originally undertaken solely by the office of the CGV. This practice has changed in recent times. Government entities can now recruit in-house land acquisition team or hire registered private Valuers to compile valuation assessment reports on behalf of Government. However, the CGV has retained its oversight role in ensuring that standards are maintained and government interests are duly protected. The valuation is carried out in consideration of established practice standards, policies, regulations and Ugandan laws. Note that the legal provisions in the Constitution and other statutes do not provide detailed

information on valuation methods and procedures. The office of the CGV adheres to the International Valuation Standards and Ministry of Lands, Housing and Urban Development Guidelines on Compensation Assessments under Land Acquisition (GCALA 2017). The figure below illustrates the valuation process.

Figure 1: Generic Valuation and Compensation Process



Source: LARF for Oil and Gas Sector Uganda (2016)

The valuation is achieved with the inputs from the design, survey, social and legal teams as shown in the following stages.

6.4.1 Preparation Stage

- i. Obtain instruction to assess and value property for compensation.
- ii. Interpret instruction and make preparation for a reconnaissance inspection.
- iii. Undertake reconnaissance inspection of the land to determine the scope of the assignment.
- iv. Develop a methodology and approach for executing the assignment i.e. identify the client, location of the land, supporting legal and institutional framework such as; the local administrative structures and their roles, sensitisation and stakeholder's engagement plans, how assets and interests will be assessed, data collection tools, land acquisition timelines, district compensation rates applicable, indicative market rates for land and replacement cost rates for structures, list of valuation assessment team with their qualifications and roles among others. Valuation and survey team leaders must be licensed by Surveyors Registration Board (SRB). The methodology must be submitted to CGV for approval.
- v. Obtain approval of methodology. CGV will desk review the proposed assessment methodology and inspect the land if necessary, issue an approval for execution or differs the draft for amendment by stating what must be amended for the methodology to be approved.

6.4.2 Stakeholders' Engagement and Sensitisation stage

- i. Upon approval of the survey and valuation methodology, develop stakeholder's engagement and sensitisation needs package suitable for each category.
- ii. Publicise implementation plans with the relevant stakeholders. The plans should indicate dates, duration and location or venue for stakeholder's engagement and

- sensitisation meetings, expectations from the contact persons for the exercise - which must include the LC1 chairpersons and the community liaison officer or any other. Use appropriate means such as use of posters, local based radios and televisions, megaphones, announcements in places of worship and markets to ensure the key stakeholders are mobilised for the meeting.
- iii. Meetings be conducted in a manner that respects the community's social-economic and political values e.g. meeting time be short and not to interfere with other activities such as gardening, market days, burials, political rallies, or marriage ceremonies. Inform members of the upcoming programs, what is expected of them. Local leaders should take lead in chairing the meeting. Views of participants of the meeting must be documented and appropriate feedback provided.
 - iv. Conduct election of Grievance Management Committees (GMC) members comprising representation of all key interest groups and gender affected by the land expropriation. The number of the GMCs to be formed and the number of members will depend on the geographical scope and diversity of interests being considered. The chairperson of the GMC must not be the LC1 chairperson of the village. Stakeholder's engagement is a continuous function throughout the land expropriation process.

6.4.3 Land Surveying stage

- i. Set out and demarcate the land required for acquisition. Tie ribbons, fix pegs, mark objects that can help in identifying the extents of the required land during the valuation data capture.
- ii. Identify the affected property owner(s) and their assets with the help of the LC1 chairpersons. Registered and titled land owners are identified by copies of their land titles, unregistered land holders by their sale agreements, other users of land by the documents that grant them such permissions or rights. The criteria enables distinction between legal and equitable interests in land for further analyses.
- iii. Obtain cadastral data from Survey department and superimpose it on the expropriation land in order to show the surveyed parcels of land within the affected location along with names of the registered owners.
- iv. Delineate (using GPS enabled machine) and measure every piece of land in acres, rounded off to 4 decimal places, and clearly show dependency hierarchy in terms of superiority of rights. E.g. freehold, leasehold, sub-lease, unregistered rights (customary or bibanja holders).
- v. Print out a draft cadastral sheet or strip map depicting the survey data that has been captured, names of land holders, their tenure, plot and block numbers, size of land affected, reference number of PAP, affected structures, protected land, other utility corridors, roads, etc.
- vi. Display the draft strip map at strategic and accessible locations to enable the community verify its content. Provide adequate time for collection of feedback.

6.4.4 Valuation Data Capture, Analysis and Report Approval stage

- i. With the help of the amended cadaster or strip map, capture details of affected improvements with full participation of the PAP or a representative of the PAP and the Local Area representative (the LC1 chairperson).

- ii. Record a summary of all the improvements such as crops and economic tree (type and growth stage), buildings (type of building, use, sketch, measure area, brief description construction, level of completion, workmanship and condition), the photograph of the affected property and the affected person, and where relevant, the features and characteristics of the land.
- iii. Transfer all the information in (xvii), land ownership and PAP reference number from the survey sheet (xvi) to the standard valuation data collection form.
- iv. The valuation data collection form recording is witnessed, at a minimum, by the property owner, LC1 chairperson and the field Valuer. Appending of signatures to the form mark the cut-off date for the PAP. A copy of the form is retained by the PAP.
- v. Analyse the data using the approved excel template for compensation assessments. Adopt the approved rates by CGV and the area District Land Board, analyse cases of severance and multiple interests in land and assess them accordingly, adopt the disturbance allowance which suites the vacation notice period (either 15% or 30% as the case may be).
- vi. Prepare a draft report for CGV's review and approval in the acceptable standards of reporting (International Valuation Standards of reporting). Include among others the detailed assessment matrix and summary per village, photo grid, land, crops and construction rates applied, survey report incorporating cadastral or strip maps in the standard format and scale, preamble and a list of land owners with their plot and block numbers, tenure, land size taken and residue land.
- vii. CGV approves the valuation assessment report for implementation. CGV's approval marks the cut-off date for the specific section in the report in case of a phased approach, or the entire valuation exercise in case of a wholistic approach to the acquisition of the land.

6.4.5 Implementation stage

Upon approval of the valuation assessment report by the CGV, preparations are made for its implementation. The preparation involves planning with the local authorities for the pre-disclosure activities as listed below:

- i. Collect and analyse social economic data on households, businesses, institutions, among others which are affected by the expropriation.
- ii. Prepare a Resettlement Action Plan (RAP) with the help of information captured in the approved valuation report. Depending on the scope of the expropriation, the entire exercise may be phased into manageable sections.
- iii. From the RAP report, identify and provide extra support to vulnerable PAPs. Feasible support may include resettlement, provision of transportation, legal aid, bank account opening, farm implements, health and safety stop gap measures, counselling services, etc. as the RAP may recommend.
- iv. Conduct pre-disclosure financial literacy training to ensure that compensation funds are not misused by the PAPs; notify PAPs to assemble all required documents for compensation such as original land ownership documents such as land title, sale agreements and consent letter from landlord, recent passport size photos, bank statements, identification documents such as national ID or Passport, company memorandum and articles of association, power of Attorney, Guardianship orders for

minors, and on time frame for disclosure, payment and vacation of land. Display for all to see, the list of PAPs who appear in the valuation roll.

- v. On the planned date, time and venue which ought to be convenient, and with full participation of the LC1 chairperson and the chairperson of the GMC, conduct disclosure of award to the PAPs. Display again for all to see, the list of PAPs who appear in the valuation roll. With a check list, confirm, acknowledge, and disclose to every PAP who presents with the required documents. In case some documents are missing, inform PAP how the document can be obtained and delivered. Disclosure must entail all details of PAP captured in the valuation assessment report and be made in the preferred language of the PAP. Priorities be given to PAP's information privacy. PAPs with joint bank accounts must all appear in person for the disclosure of award. Summarise the required information on a standard disclosure sheet. If a PAP is satisfied with the award, the PAP be allowed to sign the compensation payment and land transfer forms; where it is applicable. The forms be witnessed by the LC1 chairperson, the disclosing officer (Valuer), and where need be, the representative of the PAP. A PAP who rejects the award may state the reason(s) for the objection and have it (them) registered on the disclosure form. PAPs may choose to first consult before deciding on the award however the decision must be made within the specified period. The Land Acquisition Act recommends sixty days from disclosure. After the disclosure, provide an exit interview desk to evaluate the exercise. Disclosure interview must be conducted in confidence. Adequate time be allowed for the entire identification and disclosure exercise.

6.4.6 Post Disclosure Activities

- i. Verify all documents PAPs submitted for compensation during disclosure exercise. Legal document should preferably be verified by a Lawyer.
- ii. Review and respond to all grievances recorded during the identification, disclosure and verification exercises. Some grievances may trigger preparation of supplementary valuation report(s).
- iii. Submit for payment all PAPs whose documents have been verified.
- iv. Provide extra support to the vulnerable PAPs.

6.4.7 Post Compensation Activities

- i. Formerly notify all PAPs about their compensation payment, informing them to prepare to vacate the land within the notice period. Adequate time be allowed for PAPs to relocate or vacate the land.
- ii. Return all residue land titles or sale agreements to the owners.
- iii. Monitor the relocation process for smooth implementation.
- iv. Possess the land.
- v. Apply and acquire land title for the land.

7.0 KEY GENDER RESPONSIVE SOPS FOR LAND EXPROPRIATION AND COMPENSATION

Land Expropriation process affect both men and women in many different ways. Therefore, to be able to manage these gender dynamics and their impacts, the expropriation and compensation process must be implemented in a gender sensitive manner through the following gender approaches:

- Encouraging joint disclosure of compensation award in case of family owned land.
- Encouraging joint opening of Bank Accounts in case of family owned land.
- Tailoring skills development and livelihood enhancement for vulnerable women, men, youths and the disabled
- Equitable representation of women, men, youth and the disabled in GMC
- Where it is possible, both men and women in a household setting should actively participate in identifying family relocation sites so that gender specific issues are considered.
- Gender focus group discussions be conducted before, during and after the expropriation exercise in order to capture and address gender specific issues that emerge e.g. divorce, polygamy, alcoholism, prostitution, drug abuse, abandonments, etc.

8.0 GRIEVANCE MANAGEMENT

Similar to all public projects, land expropriation and compensation process is prone to grievances. The grievances vary greatly and as such a clear plan and system are required to receive, record, process and respond to them. This can be achieved by having a robust grievance management system. The type of system depends on the nature of the project and the community affected.

8.1 Grievance Redress System

The RAP should define the most efficient and effective Grievance Redress Mechanism that will be adopted for land expropriation. A three-tier grievance management level is recommended as follows: at community level, the project level and organisational level. This is intended to establish a mechanism that can quickly identify and also address the different types of grievances to the required satisfaction of both the PAPs and the project.

8.1.2 GMCs at Community Level

The composition of GMCs at community level includes opinion leaders, women, elders, youth, persons with disabilities, PAPs representatives and the LC 1 chairpersons as ex-officio. These committees should be democratically elected by the community members and during the process of their formation, a lot of attention is focused on gender issues by ensuring that at least half of the committee is comprised of women. Chairpersons of Local Councils are also co-opted as committee members because they are more knowledgeable about the local history.

Information about the Grievance Redress System is disseminated in the project area, as part of informing the public about the project. This information includes the process for submitting grievances and the process the Grievance Management Committee will use in reviewing or assessing grievances, including the expected response time. The information also includes the location (or website) at which grievances can be submitted, and the name (or names) of persons responsible for receiving grievances.

In undertaking assessment of any grievances regarding denial of compensation because of lack of clear title to land or other property, the Grievance management Committee accepts evidence of peaceful possession of such land or property prior to the field inventory process. Such evidence could consist of witness testimony from local authorities that the complainant has been a resident of the area, photographic evidence of prior evidence, or other means of demonstrating prior peaceful possession.

GMCs should be properly facilitated and trained mainly to build capacity of their members to manage grievances but also to be continuously monitored to track their functionality and level of effectiveness in conducting their work.

Generally, GMCs are intended to resolve non-complex grievances relating mainly to local property ownership, family disputes, boundary disputes as well as providing guidance and insights into fairly complex outstanding grievances that are being escalated for further management by the project team. Technically, GMCs are broadly expected to execute the following functions;

- Receiving and recording all grievances from PAPS
- Hearing/arbitrating grievances of PAPS and providing an early solution to those they are able to resolve;
- Immediately bring any serious matters to the attention of the Community liaison officer;
- Escalate grievances that they are not able to resolve or that are outside their jurisdiction;

and
Inform the aggrieved parties about the progress of their grievances and the decisions made by the GMC.

Table 3: Steps of grievance management at community level

Step 1	GMCs receive and register grievances in a standard manner using the project logbook. Grievance registration should be done by the GMC secretary.
Step 2	GMC members review and address some grievances at this level. The amount of grievances addressed at this level depend on the capacity of the GMC and what is allowable under this arrangement.
Step 3	The GMC secretary reviews the log book and indicates grievances that have been addressed and those that haven't.
Step 4	The GMC submits the list of grievances that have not been addressed to a project Community Liaison or Client Care Officer for additional action. He or she reviews the list, enters all pending grievances into a database. In consultation with the relevant people tries to address the grievances at this level.
Step 5	The Community Liaison or Client Care Officer updates the list by indicating what has been addressed. He or she submit the final list to the RAP team leader or the Assessment Officer.
Step 6	The project RAP team leader reviews the list and in consultation with the relevant people takes additional action. It is hoped that all pending grievances will be resolved at this level.

REFERENCES

ACODE. 2016. Balancing Development and Community Livelihoods: A Framework for Land Acquisition and Resettlement in Uganda: ACODE Policy Research Series, No. 75, Page 39.

IFC. 2012. Performance Standards on Environmental and Social sustainability. World Bank.

IVSC. 2020. International Valuation Standards. London. UK.

Land Net. 2019. National Dialogue on Compulsory Land Acquisition in Uganda Report. Kampala. Page 57.

MEMD. 2017. Framework for Land Acquisition and Resettlement in Uganda: Petroleum Development and Production in the Albertine Graben. Kampala. Page 53.

MLHUD. 2017. Guidelines for Compensation Assessments under Land Acquisition. Kampala.

MLHUD. 2018. The National Land Acquisition, Resettlement and Rehabilitation Policy: Draft No.3. Kampala.

UNRA. 2019. Land Acquisition and Resettlement Policy. Kampala.

Appendix 1: Contents of Resettlement Action Plan (RAP) and Livelihood Restoration Plan (LRP)

On completion of the studies and the development of the compensation packages, the proposed RAP (in case of physical displacement) and/or LRP (in case of economic displacement) for the project will outline, at a minimum, the following (UNRA, 2019):

1. Introduction
2. Project Description
 - i. Project components including associated facilities (if any)
 - ii. Overall estimates of land acquisition and resettlement areas and impacts
3. Approach to Land Acquisition and Resettlement and Efforts to Avoid and Minimize Scope of Displacement
4. Institutional and Legal Framework
5. Existing Socio-economic Conditions (Census, Socio-economic and Asset Survey Data)
 - i. Socio-economic baseline data collection methods
 - ii. Communities in the wider project context
 - iii. Households in the Project area
6. Impacts of Land Acquisition
 - i. Impacts on people and households
 - ii. Impacts on businesses
 - iii. Impacts on public access, facilities and infrastructure
 - iv. Impacts on cultural heritage and religious assets
 - v. Impacts on land, crops, natural resources and livelihoods
7. Stakeholder Engagement
 - i. Goals and objectives
 - ii. Identification, mapping and analysis of stakeholders (incl. host communities)
 - iii. Involvement of women
 - iv. Minority groups
 - v. Engagement structures and activities
8. Eligibility and Compensation Framework
 - i. Goals and objectives
 - ii. Legal basis
 - iii. Method of valuation
 - iv. Eligibility criteria and policies
 - v. Entitlements matrix for each category of impact and justification of cash compensation (where this is the preferred option)
9. Resettlement Measures
 - i. Rates for each asset to be compensated in cash (crops, etc.)
 - ii. Resettlement sites (incl. site selection criteria and procedure) (only applicable to RAP)
 - iii. Resettlement housing and other replacement structures (only applicable to RAP)
 - iv. Replacement land
 - v. Assistance measures and allowances

10. Rehabilitation, Livelihood Restoration and Community Development Measures (specific to LRP)
 - i. Goals and objectives
 - ii. Target groups
 - iii. Programmes and activities
 - iv. Implementation partners and plan
11. Vulnerable People Support Measures
12. Grievance Management
13. Implementation
 - i. Approach and strategy
 - ii. Organisational chart
 - iii. Roles and responsibilities (incl. institutional arrangements)
14. Monitoring and Evaluation
15. Budget for both further planning and implementation
16. Schedule for both further planning and implementation
17. Annexes (copies of census and survey instruments, interview formats, and any other research tools; information on all public consultation; examples of formats to be used in monitoring and reporting on RAP implementation)

Appendix 2: Land Acquisition and Resettlement Experience in Uganda

National Land Acquisition, Resettlement and Rehabilitation Policy (NLARRP) Draft 3 (2018) identifies the following land expropriation and compensation case studies in Uganda.

Land acquisitions are largely driven by increased investments on land triggered by increased global demand for energy, minerals and oil resources, food and infrastructure development¹. In Uganda, land acquisitions are largely triggered by infrastructure development for electricity generation, transmission and distribution, roads, mineral and petroleum development, agricultural investments, resettlements for war and environmental refugees, conservation purposes and preserving/restoration of the natural environment. All these demands for land often result in an increased frequency of “crises” of displacements and involuntary resettlement.

According to the research by the International Consortium of Investigative Journalism in Uganda. 19 projects involved displacements between 2004 and 2013, this represents 31% of all the World Bank-financed projects in Uganda. An estimated 55,318 people were displaced by 9 projects².

A few agencies have in the recent past carried out case studies on projects involving land acquisition, displacement and involuntary resettlement to assess the land acquisition and resettlement processes and procedures and impacts on the individuals, families and communities. Advocates Coalition for Development and Environment (ACODE) carried out five such case studies in 2015: Mpokya and Rwamutanga land in Kibale and Hoima; Bujagali Hydroelectric Power (BHP) project in Buikwe District; the Oil Refinery Project and Kaiso/Tonya Road project in Hoima District. Overall the findings demonstrate the overwhelming negative impacts of development on PAPs and communities. The studies point to weak implementation of existing laws and policies and how, overtime PAPs had lost their livelihoods. The findings show an uneven application of resettlement protocols across projects and land acquisition schemes, as well as vulnerability in the land tenure security and restoration of livelihoods. Findings also show startling gaps between the aims of national legislation and how policy unfolds at the community level. The research found a gap between policy and implementation; that is what policies are supposed to do and how the procedures are implemented on the ground.

This is in spite of well-intentioned planning using RAPs as a foundation for implementation. Findings further point to weak mechanisms, inefficient processes, the absence of monitoring and harmful engagements with project-affected communities.

Regarding stakeholder consultations, the ACODE study revealed that consultations with PAPs were carried out before and during project implementation in the 3 projects which had RAPs, namely BHP, Oil Refinery and the Hoima to Kaiso/Tonya Road. The level of consultations varied from one project to another. Out of 257 people affected by the BHP project who responded to the question whether consultations were done, the majority (64%) responded that they had not been consulted. Only 35% said their views were sought. It was clear that there had not been any consultations of PAPs in Mpokya and Rwamutanga land evictions. PAPs of the Oil Refinery and the road project revealed that consultations were largely limited to the Local Council officials, and that in most cases PAPs only came to know about the project when aerial survey was being done as in the case of the Oil Refinery and when the surveyors were plotting areas where the road would pass in the case of

¹ Cotula, L et al (2009) Land Grab or Development Opportunity: Agricultural Investments and International Land Deals in Africa, IIED/FAO/IFAD, London/Rome

² International Consortium of Investigative Journalism (ICIJ) (2015)

the road project. Findings show that inclusiveness of the consultation processes varied-it was high with BHP and low with the Oil Refinery project.

As regards stakeholder sensitization, out of those who reported that they were consulted, only 54% said they were sensitized; 41% said they were not sensitized: and only 5% could not remember whether they were sensitized. All the BHP PAPs said they were sensitized, whereas the majority of those who were not sensitized were from the Oil Refinery project and the Hoima to Kaiso/Tonya Road. For those who claimed to have been sensitized, when asked what they were sensitized about, the vast majority (92%) had been sensitized on the "benefits of the project", and only 30% said they were sensitized on the law relating to land acquisition. About a half-reported sensitization their land rights and on the process of land acquisition. Nearly half of the respondents (45%) reported that they were not sensitized about the relocation/resettlement of PAPs.

As for compensation options, the research established that in the case of BHP project, PAPs has two main options, namely (1) resettlement in an officially gazette place with a house modelled on a UN Habitat design and other social amenities such as electricity and water connected to the house. This option also involved restoration of an equivalent of land acreage owned prior to the project; (2) the alternative package consisted of cash compensation for the value of land, crops and other plants of value. 35 houses were constructed, each on an acre of land. The resettled PAPs were compensated on equivalent of land acreage owned prior to the project, within the vicinity of the resettlement village.

Similarly, in the case of the OR project, PAPs had two options, resettlement and cash compensation for land. Cash compensation was paid for developments on the land including houses, crops, fruit and other trees. For PAPs who opted for resettlement, each household was entitled to the same land acreage owned previously in addition to being entitled to a fully constructed house serviced by access roads, water, electricity etc.

Those who opted for resettlement were 93 out of 2000 PAPs. Regarding assessment and valuation, except in the case of BHP, the research learned that property assessment and valuation lacked the vigour and comprehensiveness with which it was expected to be done, in addition to lacking mechanisms for checks and balances. Allegations of under-assessed and undervalued properties were not uncommon among the PAPs. Based on disagreements with the values and valuation process in the Oil Refinery case, the research learnt that some PAPs refused to sign and opted to go to court (according to MEMD, there are sixteen such cases in court). In addition, the PAPs alleged that there were "ghost" property owners that appeared on the list of those whose property was valued even when such "individuals" were unknown to the local community.

Similar to allegations of ghost PAPs, it was alleged that individual PAPs with "means" were able to influence the assessment and valuation of property. Some of the assessors were reported to have been compromised, and as such inflated the amount of land and property of people who were able to pay them. The research was not able to independently verify these allegations of ghost PAPs. However, in the case of Hoima to Kaiso-Tonya Road, the commission of enquiry instituted for UNRA confirmed that compensation was made to PAPs who never existed and that the length of the road was less than what had been compensated by more than 10%, suggesting that government could have lost nearly UGX 30 billion in addition to what was spent to pay non-existent PAPs.

In addition, findings show that nearly three-quarters of the respondents were not satisfied with the compensation process. Three reasons were given for the dissatisfaction: 55% argued the amounts

declared were inadequate, 37% said that the amount declared was not equivalent to what they would lose, while 8% were of the view that the amount declared was not for everything that was valued.

The oil companies, CNOOC Uganda Ltd, Total E & P Uganda BV. and Tullow Uganda Operations Pty Limited reviewed past resettlement experience in 3 projects; RAP for Proposed Hoima-Mputa-Fort Portal-Nkenda 132kV Power Transmission Line and Associated Substations-UETCL 2008; RAP of Proposed Kigumba-Masindi-Hoima-Kabwoya Road to Bituminous Standards-UNRA, 2012; Assessment of Past Resettlement Activities and Action Plan (APRAP) (Bujagali HPP) – Bujagali Energy Limited, 2006. Key areas of focus were the types of compensation packages being offered by the project proponents and which additional requirements (over and above Uganda, legislation) were met to achieve ‘fair’ compensation. Key findings of the review were: -

Hoima-Mputa-FortPortal-Nkenda Power Transmission Line	Kigumba-Masindi-Hoima-Kabwoya Road	Bujagali Hydro Power Project
<p>1. Compensation assessment</p> <ul style="list-style-type: none"> - Buildings and structures were valued on the basis of depreciated cost³ - A transitional allowance equivalent to one month's earnings based on the average income from employment in the real sector in the area was given to business owners and employees of enterprises that were affected 	<p>Compensation assessment</p> <ul style="list-style-type: none"> - When valuation principles based on Uganda law were adopted, the AfDB stipulated that asset depreciation should not be discounted when arriving at the depreciated cost of the affected assets - Furthermore, the compensation rates included the cost of transport, labour costs, and any transfer fees or taxes involved in replacing an asset. - For PAPs losing businesses, production capacity or rental income due to the loss of commercial structures, an additional 6% of the value of affected building was added in lieu of deprived income 	<p>Compensation packages</p> <ul style="list-style-type: none"> - Compensation packages were proportionate to the level impacts - A resettlement package was offered as an option to all physically or economically displaced households, including:- <ul style="list-style-type: none"> ✓ provision of a plot on a resettlement site, with slightly greater surface area than the present ✓ affected person's plot, and similar or better agricultural potential ✓ the provision of a replacement house, improved vis a vis usual house, featuring amongst other improvements a corrugated iron roof, a concrete floor, and a ventilated pit latrine ✓ agricultural inputs such as seeds, seedlings, fertilisers ✓ cash compensation against the value of lost perennial crops plus disturbance allowance, and ✓ cash compensation against the cost of moving

³ This is not in line with the World Bank OP4.12

Hoima-Mputa-FortPortal-Nkenda Power Transmission Line	Kigumba-Masindi-Hoima-Kabwoya Road	Bujagali Hydro Power Project
<p>2. Entitlement options</p> <ul style="list-style-type: none"> - Two entitlement options were made available - Option 1 for the majority of PAPs who were likely to lose a small section of land and same structures. The measures included a mix of cash compensation for lost assets, assistance during relocation, and where appropriate, measures to cover any short-term changes in livelihood - Option 2 was specifically designed for vulnerable PAPs and for those who preferred to receive replacement assets rather than cash compensation. - All livelihood impacts were considered under a transition allowance:- <ul style="list-style-type: none"> ✓ Income losses from perennial crops were calculated based on the standard yield and rate per weight multiplied by the number of years to maturity ✓ The livelihood impact of loss of annual crops was calculated at 10% of the average daily income from annual crops for a one month period 	<p>Compensation principles</p> <ul style="list-style-type: none"> - Resettlement and compensation of PAPs would be carried out in compliance with relevant Ugandan laws and AfDB standards - All physically and economically displaced people were to be adequately compensated - Wherever possible, UNRA would assist people in restoring their livelihood by providing transitional assistance - Resettlement had to be implemented in a gender sensitive manner. Spousal consent had to be obtained for the approval of final packages and resettlement - Based options were strongly promoted to avoid misuse of cash by male household heads to the detriment of their spouses - Cash compensation was discouraged where “land-for-land” compensation options were feasible - The objective of compensation was to ensure that people are not worse off after resettlement and attention should be given to ‘vulnerable’ categories such 	<ul style="list-style-type: none"> - Cash compensation for those who do not opt for resettlement or who are not displaced, for their land, perennial crops and buildings. All compensations were calculated according to the Ugandan legislation with an “uplift” from the project proponent to meet WB/IFC requirements - Only 40% of the eligible displaced households chose the full resettlement package

Hoima-Mputa-FortPortal-Nkenda Power Transmission Line	Kigumba-Masindi-Hoima-Kabwoya Road	Bujagali Hydro Power Project
<ul style="list-style-type: none"> ✓ Business income losses were calculated at 50% of the daily net income for a one-month period ✓ Loss of employment was provided for on the basis of the average income in the retail sector for a one-month period ✓ A transitional allowance of UGX 24,000 per household was allowed for the loss of annual crops (in addition to harvesting the crops during the notice period). The allowance was calculated at 10% of the average daily income from agriculture, for a period of one month. ✓ Transport assistance for household or business goods to a new settlement or non-adjacent land was provided ✓ Compensation to business owners and tenants for the potential loss of business income was paid as a transition allowance in the amount of UGX 240,000. This was calculated at 50% of the average daily income for business in the area for a period of one month ✓ PAPs employed in affected roadside 	<p>as child-headed and female-headed households</p> <p>Transitional allowances</p> <ul style="list-style-type: none"> - A number of transitional allowances were included in the compensation packages - A perennial crop transition allowance was added to cover lost income incurred by households during transaction period until replacement crops are ready for harvest (at 10% of their annual crop income for 3 years) 	

Hoima-Mputa-FortPortal-Nkenda Power Transmission Line	Kigumba-Masindi-Hoima-Kabwoya Road	Bujagali Hydro Power Project
kiosks, shops, bars and restaurants, a transition allowance of UGX 95000 was provided, calculated on the basis of their average wage for a period of one month		

The same study by the 3 oil companies also reviewed three resettlement projects i.e. Kampala Institutional and Infrastructure Development Project (KIID) Phase 1, Bujagali Hydropower Project, and Energy for Rural Transformation Program III to distil lessons learned from the experience in implementing land acquisition and resettlement projects. Lessons learned are summarized here:-

Speculation

Activities of a speculative nature are common on resettlement projects. Experiences from Bujagali HP project showed the importance of conducting comprehensive baseline studies during the development project design phase. In some cases, the unavailability of this data allowed for speculators to benefit from the compensation packages given to affected persons.

There are advantages from Gazetting land: land titling in the proposed project area is frozen. Additionally, it ensures that the land required is reserved for public interest and project activities can still continue despite land disputes. It is useful in combating speculative activities.

Valuations

Past land access experience (particularly for the Bujagali project)⁴ and locally in the Albertine Graben has shown that PAPs often contest the value which they are compensated for loss of crops and land. It is important that the baseline rates and valuation methodologies are disclosed to communities.

Livelihood restoration

Key to the success of livelihood restoration in projects reviewed is the early identification and reporting of socio-economic baseline conditions. The lack of detailed baseline data created difficulties for monitoring teams on the Bujagali project as there was not sufficient baseline data to determine whether livelihoods had been restored, which in turn hampered proof of compliance with project financiers' policies on livelihood restoration.

The World Bank also carried out four case studies in four different areas of Uganda: The Kawanda-Masaka 132kV Transmission Line Project (co-financed by IDA); Kampala City Council Authority (KCCA), Kampala Institutional and Infrastructure Development Project (KIIDP), co-financed by IDA; Oil Refinery Project, financed by GoU.

The Oil Refinery Project:- 97% opted for cash and 3% for physical relocation. 93 households out of 2347 are eligible for housing but only 46 houses are under construction. Public participation involved CSOs advocating for the rights of the PAPs by raising grievances on unfair and outdated compensation rates Grievance resolutions mechanisms (GRMs in the form of committees composed of local leaders, youth, elders and women. RAP and ESIA were prepared. There were concerns of inadequate consultations and information sharing with PAPs and specifically lack of support to some of the most vulnerable groups such as the elderly and the women.

In the Mbale Industrial Park Project, the client (GoU) had no budget for compensation and no RAP was prepared. The project had no public consultations and as a result many PAPs, especially the vulnerable groups were left out. There was no record of any stakeholder engagements. The PAPs were required to abide by the decisions made by the agency reached without their participation.

⁴ It was found that many PAPs had rejected the CGV's offer. In fact, a court case had been opened by 557 affected people to contest the compensation they had received for their crops and land

Due to lack of funds for compensation, the project stalled for 8 years. This has led to increase in the number of affected people and the cost of the project. Compensation costs rose from Shs.3.5 billion in 2010 to Shs.5.5 billion (due to re-valuation).

In Kawanda-Masaka 132kV Transmission Line Project, robust public participation and consultations guided the PAPs on the compensation choices which ranged from cash, land for land, physical relocation (resettlement) 42 houses were constructed.

Through stakeholder engagement, vulnerable groups were identified. Furthermore, the grievance redress mechanism was successful because it was anchored on robust stakeholder engagement. GRMs include a committee at the agency headquarters in Kampala and other committees along the transmission line, formed to address complaints arising from the project. The project prepared socio-economic impact assessment both in the form of the RAP and the ESIA. A Community Development Action Plan (CDAP) for livelihoods restoration which was informed by a community needs assessment was prepared.

During the RAP implementation period, the implementation agency engaged the services of a non-governmental organization to perform the monitoring and evaluation KIIDP li Project faced a challenge of property encumbrances, which were not in the ambits of KCCA's immediate resolution to compensate prior to implementation. These included land mortgage, family property conflicts, land administration process, absent landlords, long term compensation alternatives such as building replacements and roads rehabilitation in lieu of the cash compensation. The challenge necessitated alternative but acceptable avenues of continuing with implementation of the project.

Robust public participation and consultations guided PAPs on the compensation choices which ranged from cash, land for land, physical relocation (resettlement).

The project has grievance redress committees (GRCs) at the Local Council 1 level. If a PAP is not satisfied with the outcome of the case at this level, it is sent to the Division level (committee composed of Community Development Officer, Environment Officer, Mayor, representative of the PAP and a member of the Local Council 1). If one wants to appeal the outcome of this committee, the appeal is sent to KCCA. The project prepared socio-economic impact assessments both in the form of the RAP and ESIA.

Appendix 3: Key Gaps and Required Reforms in Institutional Framework

The following are the key land expropriation and compensation gaps in and recommended reforms to the institutional framework as identified in the NLARRP draft 3: -

#	Gap in Institutional Framework	Required Reform
1.	MLHUD has the institutional mandate to handle compulsory land acquisition but does not have exclusive mandate on all matters of land acquisition. CGV is responsible for valuation and approval of reports, while line government agencies and ministries, also have responsibilities of acquiring land for development projects within their sectors, leading to overlaps in institutional mandates; Resettlement planning is thus widely practiced with no guiding process and subsequent agency for approval and monitoring resettlement implementation.	<p>This policy outlines a streamlined process that will reduce coordination challenges and related delays if the required legal and policy framework reforms are implemented.</p> <p>A multi-disciplinary, multi-sectoral Technical Committee shall be established to coordinate the uniform planning, implementation and review of all LARR processes in the country together with a National Resettlement Monitoring Committee as the designated institution for monitoring and evaluating LARR processes. They will co-opt social and gender specialists.</p>
2.	<p>Lack of resources and capacity within the different government authorities to manage the LARR process. This has consequences in terms of:</p> <ul style="list-style-type: none"> - Lack of guidance on the management of compensation funds; - Enforcement of the requirement of prompt payment of compensation; - Enforcement of existing rights of women and vulnerable people; - Delays in land acquisition leading to asset revaluation during project implementation period which increases costs and propensity of contentious issues that lead to litigation; 	<p>Each executing agency shall ensure that it has the required human and financial resources to manage their LARR processes on projects. In order to build capacity of the personnel in ministries and implementing agencies, the state shall identify a public institution of higher learning and collaborate to develop academic programs intended to equip students with knowledge and skills on land acquisition, involuntary resettlement and rehabilitation. The identified institution may also develop refresher short courses targeting agency staff, and also use them as platforms to share experiences and best practices. Other key stakeholders such as members of the judiciary who handle cases arising from compulsory land acquisition and resettlement processes may benefit from short trainings on principles and practices in compulsory land acquisition, resettlement and rehabilitation.</p>

#	Gap in Institutional Framework	Required Reform
	<ul style="list-style-type: none"> - Inadequate or non-existent planning for restoration of livelihoods; and - Delays in relocation of PAPs resulting into insecurity during the transition period. 	
3.	<p>Local governments are also given authority to invest and undertake development independent of the central government as a result of decentralization policy. However, while they do play an important role in solving ownership disputes and identifying absentee owners, local governments do not have the financial and human resources for managing the land acquisition process and compensation.</p>	<p>The Constitution, under article 237, empowers a local government to acquire land compulsorily in the public interest. This policy limits this power of compulsory land acquisition to the central government as the local governments often lack the requisite capacities. The local governments shall acquire land through open market negotiations; consent and/or donations, but strictly in compliance with this policy.</p>
4.	<p>Lack of arrangements for management of compensation funds</p>	<p>Ministry of Finance, Planning and Economic Development needs to deposit compensation funds in an escrow account as soon valuation has been completed and MoUs with PAPs on compensation have been signed in order to avoid delays in paying compensation to affected persons when the land acquisition is approved. This strategy decreases the risk of the need for revaluations before implementation of the RAP which is currently the case where MFPEC only releases compensation money sporadically or one year after valuation, invalidating the initial valuation.</p>
5.	<p>The Office of the CGV's resources and capacity to undertake valuations across the country, approve district rates and determine adequate compensation rates is limited.</p>	<ol style="list-style-type: none"> a. Convert the Division of the CGV into a Department in MLHUD; b. Staff numbers need to be increased to be able to handle the high number of projects being developed in the country; c. Ensure diverse and specialized human expertise such as sociology, cultural anthropology, agriculture, natural resources, environment and agro-economics are involved in the valuation process; d. Develop national standards and guidance on valuation for the Office of the CGV to improve the adequacy and transparency of compensation rates, thereby decreasing the number of disputes and court injunctions on compensation that currently delay the land

#	Gap in Institutional Framework	Required Reform
		<p>acquisition process ;</p> <ul style="list-style-type: none"> e. Develop an ethical code for valuers with sanctions for cases where property owners conspire with valuers to claim exorbitant amounts and reject the standard compensation, a problem which leads to the loss of billions of shillings during the valuation exercise; f. Recognize that valuation methods are inappropriate for and work internally and with executing agencies to develop compensation packages that address the full suite of socio-economic and cultural impacts by involving diverse and specialized human expertise such as sociology, cultural anthropology, agriculture, natural resources, environment and agro-economics; g. Enhance the Office of the CGV's capacity, including for the valuation in specialized industries like minerals, natural resources, plants, machinery, real estate financing, livelihoods and investment; h. Ensure through its representation on the Technical Committee that sufficient funds have been foreseen in the LARR budget of each project to facilitate CGV staff travel to project sites around the country in order to value properties, assets and resources and intervene in grievance redress; i. Develop a mechanism to systematically approve compensation rates set by the District Land Boards annually j. Data and information on compensation rates, land values, rates of construction of structures need to be disclosed publicly.
6.	District Land Boards	<ul style="list-style-type: none"> a. District Land Boards need to be set up in all districts as stated in the Land Act Section 59. b. District Land Boards need to be supported with adequate human and financial resources and their capacity strengthened to be able to take responsibility for determining compensation rates for crops and

#	Gap in Institutional Framework	Required Reform
		<p>temporal structures and updating these on an annual basis.</p> <p>c. Clear coordination is required between the District Land Boards and the Uganda Land Commission that currently sometimes exercise overlapping mandates which lead to allocating the same land by both institutions in execution of their respective mandate</p>
7.	Lack of a national and regional crop index	The Ministry of Agriculture, Animal Industry and Fisheries should consider the development and publication of a reliable national and regional crop index with the involvement of professionals of diverse backgrounds (agricultural, animal industry, forestry, economy). The index should be regularly updated and used in the annual review of the district rates.
8.	Delays in mutation of land titles, which deny PAPs access to utilize them and also compromise their security of tenure.	MLHUD shall designate a Land Registration Unit to handle mutation of titles for agencies involved in land acquisition. Currently these titles are managed generally with all other titles creating a lot of delays in returning PAPs titles sometimes to beyond two years.
9.	Responsibility of the judiciary to handle cases related to LARR	<p>There is need to identify either:</p> <ul style="list-style-type: none"> - a single subordinate court (e.g. the Magistrate Courts) that is responsible for adjudicating substantive and procedural cases related to compulsory acquisition, including the process, identification of affected assets, resources and rights holders entitled to compensation, the amount of compensation and other entitlements, objections to compensation and the apportionment of compensation, and outcomes, with the High Court retaining its appellate jurisdiction for all such matters; or - an expansion of the jurisdiction of the High Court(Land Division) to handle all contentious cases related to all substantive and procedural aspects of land acquisition, resettlement and rehabilitation, with the Court of Appeal having appellate jurisdiction over cases handled by the High Court; or- the Magistrates Grade I Courts having jurisdiction over substantive matters of identifying rights holders entitled to compensation, including civil cases of divorce, inheritance etc. and land boundaries, that need to call upon the traditional authorities to

#	Gap in Institutional Framework	Required Reform
		<p>adjudicate cases exclusively governed by civil customary law such as ownership, user and other rights over customary land, and the High Court having jurisdiction over all procedural matters of the LARR process.</p> <p>Also, the capacity of the judiciary authorities dealing with LARR cases needs to be strengthened.</p>
10.	Office of the Inspector General of Government (IGG)	Clarify the role of the Office of the Inspector General of government (IGG) and parliament in managing grievances and monitoring LARR processes.
11.	Uganda Land Commission	<p>A law is required stipulating the details about mode of operation and structure for the ULC to dispense with its mandate and setting limits within which it executes its mandate, clearly setting out circumstances under which the ULC can implement directives. This should include clear guidelines on ensuring the use of public land is managed, including encroachment. Moreover, ULC's financial and human resources (need to hire a lawyer), reach beyond Kampala to other parts of the country and inventory of land held by government need to be significantly improved, together with a re-structuring of the commission to get rid of institutional overlaps with other institutions and authorities such as the District Land Boards, National Forest Authority (NFA) and Uganda Investment Authority (UIA).</p>

Required Legislative Reforms

#	Issue	Law	Required Reform
1	The law does not define what constitutes a “public purpose” and in practice the interpretation of ‘public use’ and ‘public interest’ to justify land acquisition and resettlement is too broad and weakens the country’s land governance environment.	Constitution (1995) Land Acquisition Act	<p>Either in the Constitution or the Land Acquisition Act, clearly define what constitutes “public interest”, “public use” and “public purpose” as well as the legal requirements and criteria to assess whether a project meets the criteria relating to “public interest”, “public use” and “public purpose” to ensure that compulsory land acquisition powers are used sparingly and not for a broad range of activities, do not impose social costs on land tenure rights holders and occupiers that exceed public benefits, improve accountability, clarity and prevent abuse. The law will have clear and detailed provisions that identify the acceptable scope of public interest, public use and public purpose based on an exhaustive list of purposes for which compulsory acquisition is allowed. Commonly accepted public purposes include:</p> <ul style="list-style-type: none"> • Transportation uses including roads, canals, highways, railways, bridges, wharves, and airports • Public buildings including schools, libraries, hospitals, factories, religious institutions, and public housing • Public utilities for water, sewage, electricity, gas, communication, irrigation and drainage, dams, and reservoirs • Public parks, playgrounds, gardens, sports facilities, and cemeteries • National defense
2	The Act leaves broad authority in the hands of the Minister of Lands (and persons authorized by the Minister): section 3 provides that “whenever the Minister is satisfied that any land is required by the Government for a public purpose, he or she may, by statutory instrument, make a	Land Acquisition Act Section 3	A Technical Committee will evaluate the public purpose, public use or public interest of a project by applying a cost-benefit analysis to the predicted social benefits and social costs based on a scoping Social Impact Assessment (SIA) as set out in the Project Brief. The scoping SIA identifies all socioeconomic impacts and demonstrates that all efforts have been undertaken to avoid resettlement, and if not possible, to minimize displacement. The executing agency should be required to justify the proposed acquisition and demonstrate that the acquisition

#	Issue	Law	Required Reform
	declaration to that effect”.		is in the public interest by applying a proportionality test before expropriating lands. This test would determine whether the land acquisition is necessary to serve a public purpose, whether the project is suitable , and whether the public benefits deriving from the land acquisition are proportionate to costs borne by the affected populations and the environment ⁵ .
3	Provision for procedures of LARR planning, implementation and monitoring and evaluation with a legal requirement for consultation and engagement with affected persons and communities in relation to land acquisition and resettlement and the development of a Resettlement Action Plan and/or Livelihood Restoration Plan	Land Acquisition Act	<p>The Land Acquisition Act shall set out the procedural requirements of the LARR process, including:</p> <ul style="list-style-type: none"> • The identification of whether a project meets “public use” or “public interest” in order to improve accountability • The declaration of a cut-off date • a census and socio-economic survey is undertaken upon the public declaration of a cut-off date to collect gender-disaggregated demographic, socioeconomic and cultural baseline data that will serve to identify all impacts, all interests in affected assets, all affected persons, communities, organisations and businesses, and their means of livelihood. • The consultation, meaningful engagement and active participation of all affected persons, organisations and businesses and host communities in the LARR process • Clearly define eligibility criteria and entitlements for compensation and for resettlement assistance for the various land rights holders, occupiers and users under the different land tenure categories, including women. The eligibility criteria should recognize all legitimate rights holders, including those who do not have any formal documentation of their rights and customary tenure rights holders, especially the case for people who hold secondary and tertiary rights (e.g. tenancy agreements, labourers, sharecropping and rights to common

⁵ N. Tagliarino, Encroaching on Land and Livelihoods. How National Expropriation Law Measures up Against International Standards

#	Issue	Law	Required Reform
			<p>property resources) and residents or users of land such as road reserves, gazetted prior to their occupancy</p> <ul style="list-style-type: none"> • The identification of vulnerable people based on context-specific vulnerability criteria and a vulnerability assessment is undertaken in order to develop a vulnerable peoples support programme. • Entitlements and compensation packages • Budget • Schedule • responsibilities for implementation • Supervision, monitoring and evaluation of land acquisition and resettlement processes to ensure that compensation and resettlement is fair, prompt and consistent • Establishment of independent grievance redress mechanisms that are accessible to affected communities and individuals
4	Identification, assessment and evaluation of social impacts, including impacts of displacement.	National Environment Act (Chapter 153) (1995) and Environmental Impact Assessment Regulation (1998)	<p>Include the incorporation of social impacts in the National Environment Act and Regulation so that all social impacts, including but not limited to gender-disaggregated impacts of displacement on housing and business structures, community infrastructure and services, livelihoods, social networks/cohesion, culture, natural resources, ecosystem services and environmental changes are also (or better assessed) and mitigated. Therefore, consider the development of the Environmental and Social Impact Assessment Regulation. Require that a Resettlement Action Plan and/or Livelihood Restoration Plan is developed where a project causes impact of economic and/or physical displacement, including restrictions on land use.</p>
5	Enforcement of equality and equity of women	Constitution Art. 21 Divorce Act (1904)	The constitution of Uganda provides that women shall be accorded full and equal dignity of the person with men, ⁶ and the state shall

⁶ The Constitution of Uganda article 33 (1).

#	Issue	Law	Required Reform
		Succession Act (1904)	make an effort to protect the rights of women with due regard to their unique status. ⁷ Equality and freedom from discrimination is a rule embedded in the Constitution article 21. It provides that all persons are equal before and under the law and in all spheres of a political, economic, social, and cultural nature, and are entitled to equal protection of the law. ⁸ Discrimination on the basis of race, sex, color ethnic, tribe, creed or religion, social, economic standing, political opinion or disability is prohibited under the constitution of Uganda. ⁹ Equality in rights for both men and women should be observed at all stages; at marriage, during marriage and its dissolution ¹⁰ including in the process of land acquisition and compensation. Also note that Uganda is a party to the Convention on Elimination of all Forms of Discrimination Against Women (CEDAW) which provides for the non-discrimination against women. ¹¹ However, there is prevalence of customary tenure with practices that are discriminatory against women in the sphere property rights is among the key factors undermining women's and children's land right in Uganda. ¹² Currently customary land practices that are against women's rights to own land can be evoked to eliminate women from categories of persons entitled to compensation or resettlement during land acquisition. This practice does, however, not exclude women from eligibility to compensation for use and other non-ownership rights to assets and/or resources located in the moratorium area. Government will work with both men and women to ensure that women equally

⁷ *Ibid*, Art 33 (3).

⁸ *Ibid*, Article 21 (1).

⁹ *Ibid*, Article 21 (2) and (3).

¹⁰ *Ibid*, Article 31 (b).

¹¹ Adopted and opened for signature and ratification by General Assembly resolution 2106 of 21 December 1965, entry into force 4 January 1969, in accordance with Article 19. Uganda ratified the CEDAW on July 22nd, 1985.

¹² UNLP, Strategy 63., Rose Nakayi, The Legal and Policy Framework on emerging trends of Large Scale Land Acquisitions for Women's Land Rights in Uganda, Center For Basic Research, 2015 at 25.

#	Issue	Law	Required Reform
			<p>benefit from compensation measures.</p> <p>Section 27 of the Succession Act, only catered for wives and dependents of deceased intestate males, in which case the wives received only 15% of the estate of the deceased. This formula was not applicable to a situation where a wife dies intestate, which means her husband could inherit her whole estate. However, the Constitutional Court impugned Section 27 of the Success Act among others on ground that they were unconstitutional and recommended amendment of the law.¹³ An attempt to fill the gap was made by drafting the Succession (Amendment) Bill 2011, which provided for a new formula for distribution of any property amongst the beneficiaries to the estate of an intestate whether male or female. At the time of writing the policy, the Bill is not yet passed into law. In the meantime, the formulae in the impugned provision “15 %” of the estate of an intestate is applied to a “spouse” and not only the widow of an intestate, which is also unconstitutional practice.</p> <p>This policy urges the competent authority to implement the recommendations of the UNLP strategy 64 for legislative reforms to promote the rights of women and children to own land, ensure that succession rules are not detrimental to women and children’s rights to property; customary practices do not inhibit their rights, and also the need to design a regime on matrimonial property. A regime of fair laws and policies to women in a bid to enjoy property rights is an invaluable prerequisite for processes of land acquisition to result into fairness.</p>
6	People occupying land or using a resource who have no recognizable	Limitation Act Section 5	Currently the legislation (Limitation Act Section 5) only recognizes the rights to compensation of squatters settled on private land for 12

¹³ Constitutional Court found that sections 14, 15, 26, 27, 29, 43, 44, and rules 8, 17 and 9 of the second schedule of the Succession Act Cap. 169 were null and void since they contravene articles 21(1) (2) (3).

#	Issue	Law	Required Reform
	legal or customary right or claim to the land or other assets they occupy or use (category 3), are not entitled to land compensation but are entitled to the same compensation for structures, crops and other assets they use or own informally, provided that these were established on the cut-off date.		years and above. They should be entitled to compensation for usage, crops, residency and livelihoods affected by land acquisition.
7	Protection of customary interests in land and traditional use of forests in situations of land acquisition	Constitution Art. 32 (i) and 180 (2), Land Act (1998), National Environment Statute (1995)	The customary interests in land and traditional use of forests are protected by law. However, the laws do not offer detailed guidelines on how to protect them specifically in situations of land acquisition. As per the Constitution parliament and local governments are authorized to enact laws that cater for equal opportunities and affirmative actions for marginalized groups.
8	Protection of groups who have been historically disadvantaged and discriminated against such as ethnic and minority groups	Constitution Art. 32	Article 32 places a mandatory duty on the state to take affirmative action in favor of groups who have been historically disadvantaged and discriminated against, justifying paying special attention and providing specific support to ethnic or minority groups facing eminent loss of land through land acquisition processes.
9	Enforcement of spousal consent when dealing with family property	Land Act (Amendment) Act 2004 section 39 Registration of Titles Act Cap. 230 section 140 (2)	Any sale, exchange, pledge lease, give away or any transaction in respect of family land without the prior written consent of the other spouse that is not the one undertaking any of the above dealings on family land is prohibited by law. The Spouse would have to give consent prior to acquisition. Such consent has to be given in a form that is prescribed by law. Where the land acquired is family land, the defense of <i>bonafide purchaser for value without notice</i> (actual or constructive) is not available to protect a purchaser of family land without the prior written consent as required by law. A spouse who is not an owner of such family land is by law allowed to lodge a Caveat on the land to protect his/her rights. The Registration of Titles Act Cap. 230 section 140 (2) provides for a general rule that caveats lapse in 60 days. Note that a caveat lodged by a spouse against transfer of family

#	Issue	Law	Required Reform
			property does not lapse, hence stretching the protection for the caveator.
10	Prompt, just and adequate compensation	Land Acquisition Act	Make provision for payment of prior, prompt, just and adequate compensation in line with the Constitution and Supreme Court rulings. The law will specify what constitutes "fair and adequate" compensation considering international standards and best practices and existing jurisprudence.
11	Timing of payment of compensation	Land Acquisition Act Section 7 (1965)	Section 7 of the LAA contradicts the progressive constitutional requirement of prior compensation, in that it allows the assessment officer to take possession of the land as soon as he or she has made his or her award under section 6, except that he or she may take possession at any time after the publication of the declaration if the Minister certifies that it is in the public interest for him or her to do so. Upon taking the land, this land, fully unencumbered, is vested in the Land Commission. If the land is considered unencumbered after possession by the assessment officer and before compensation, it is a situation of acquisition prior to compensation, in contradiction to the Constitution. The LAA therefore puts the public interest in higher regard than compensation to the land owner prior to taking which can result in impoverishment of the affected persons, through uncertainty, displacement and lack of financial means to re-establish themselves. The LAA needs to be revised to require state organs and agencies to pay full compensation prior to physical relocation and acquisition of land and define the timeframe.
12	Financial responsibility for land acquisition or taking of property	Land Acquisition Act	The law will define the procedures for ensuring the required funds for land acquisition are available and how these will be handled.
13	Mandate of District Land Boards	Land Act	The Ministry of Agriculture, Animal Industry and Fisheries should consider the development and publication of a reliable national and regional crop index with the involvement of professionals of diverse backgrounds (agricultural, animal industry, forestry, economy). The index should be regularly updated and used in the annual review of

#	Issue	Law	Required Reform
14	<p>Section 20 of the Land Act empowers the Minister, by statutory instrument to make regulations for the assessment and payment of compensation. No such regulations have been written since the enactment of the law in 1965, and as such the basis of compensation assessment nor the valuation method are currently provided in the law.</p>	<p>Land Act New Valuation Act and Regulations</p>	<p>the district rates.</p> <p>A new Valuation Act will define the basis, principles, methods and procedures of valuation to determine replacement value for all losses incurred as a result of the land acquisition, including land (also severance, injurious affection and disturbance), cultural assets and common property resources in order to improve consistency and greater transparency. Heads of compensation to be defined in the law which should include the participation of independent valuation experts in order to avoid a situation where the acquisition and valuation of land is solely the premise of the acquiring agency. The Valuation Act needs to ensure a comprehensive and gender-sensitive valuation of compensation and includes special considerations for</p> <ul style="list-style-type: none"> • Economic activities, improvements and historical/cultural connections associated with land • Physical cultural resources such as graves and shrines, • Minerals and natural resources • Machinery • Real estate financing • Fish cages, • Climate change supportive properties, • Carbon trade values, • Loss of visual impression, • Commercial trees, • Perennial crops, • Businesses and • Detailed benefits from agricultural production • livelihoods, • National Forest • Investment • Authority (NFA) assets, • fish ponds,

#	Issue	Law	Required Reform
15	The choice offered to displaced persons of resettlement housing (out of options available), relocation assistance and replacement land, i.e. requirement to consider in kind compensation;	Land Acquisition Act	The LAA shall set out the eligibility criteria and entitlements including options for compensation in cash and in kind and livelihood restoration, make provision for physical resettlement and set criteria for determining entitlement to physical resettlement (in-kind compensation).
16	Bring the contradiction in the Land Acquisition Act in line with the constitutional requirement for fair, adequate and prompt compensation and the need to make compensation funds available at the outset of the project.	Land Acquisition Act	<p>Revoke the proposed constitutional amendment of removing the requirement of prior compensation.</p> <p>The law shall provide for fair and transparent procedures and define timeframes for the prompt payment of compensation.</p>
17	Currently the law does not provide for restoration of livelihoods and rehabilitation	Land Acquisition Act	<ul style="list-style-type: none"> (i) Provide for special, targeted measures designed to fully restore and improve the living standards, livelihoods, productive capacities and living standards of PAPs, especially of vulnerable people among the PAPs. (ii) Resettlement of vulnerable people on alternative land is required where the loss of their land means a loss of their livelihoods, and they are unable to use cash compensation to purchase similar land elsewhere or to find new ways to earn a living. Resettlement may be the only way to maintain their livelihoods. (iii) Physical resettlement may also be required for people in informal settlement and others who have weak or absent legal rights to land that is acquired. (iv) Other special consideration for vulnerable groups, including the requirement to consult, engage and further protect; <p>) Provisions on social assistance plans</p>
18	Judicial recourse	Land Acquisition	Identify in the Land Acquisition Act either a single subordinate court

#	Issue	Law	Required Reform
		Act	<p>that is responsible for adjudicating cases related to compulsory acquisition, including the process, the amount of compensation, objections to compensation and the apportionment of compensation, or expand the jurisdiction of the High Court to handle all contentious cases related to land acquisition, resettlement and rehabilitation.</p> <p>Guarantee the procedural rights of people who are affected, including the right of notice, the right to be heard and the right to appeal.</p> <p>Grant the right of appeal to an independent court against:</p> <ol style="list-style-type: none"> a. the purpose of the project and the designation of land to be taken; b. against the procedures used to implement involuntary resettlement; and c. against the compensation assessment and value. <p>The review of appeals should be fair, inexpensive, easily accessible and prompt and the law should provide a time framework within which to conclude court cases.</p> <p>Allow affected people to hire their own valuers and lawyers to challenge the compensation award with the cost of their fees being added to their overall compensation award in the case their appeal is successful.</p>
19	Grievance Redress and Disputes (expiration of District Land Tribunals' mandate)	Land Act Cap. 227	Provide for an independent mechanism for the expeditious resolution of grievances and disputes in connection with the land acquisition and resettlement process.
20	Attorney General can make an application to High Court for an order to deposit the compensation money into Court, where there is a pending appeal against the award of compensation. In practice, deposit of	Land Acquisition Act	Where the compensation award is challenged the money is deposited in an Escrow account with a financial institution until the case has been resolved. This is not considered compensation.

#	Issue	Law	Required Reform
	the money in court is considered compensation to the aggrieved, and a right for government to take the land. Yet, the fact that there is an appeal pending is an indication that someone is challenging the compensation. In such circumstances, the compensation is not prior to taking of property as required by the Constitution.		
21	The granting, under the Land Act, of the power of compulsory land acquisition to local governments which do not have adequate capacity; and resources	Constitution Art. 237 Land Act Section 42 (and amendment of 2010)	The Constitution, under article 237, empowers a local government to acquire land compulsorily in the public interest. This policy limits this power of compulsory land acquisition to the central government as the local governments often lack the requisite capacities. The local governments shall acquire land through open market negotiations; consent and/or donations, but strictly in compliance with this policy.
22	Coordination, supervision, monitoring and evaluation	Land Acquisition Act	Establish by law the Technical Committee and National Resettlement Monitoring Committee and define the processes of supervision, monitoring and evaluation of land acquisition and resettlement. Clearly define the roles and responsibilities of the various state organs and agencies in the land acquisition, resettlement and rehabilitation process, including identifying a lead, co-ordinating agency and specifying how coordination among state organs and agencies will take place. The law will consolidate authority to oversee the process of acquisition, resettlement and rehabilitation in the MLHUD.
23	Restitution	Land Acquisition Act	Determine the obligation of restitution if the purpose of acquisition is cancelled, abandoned or rights are lost through the expiration of a time limit. The original landowner shall have the right of first refusal if the acquired land is to be sold in the open market.

Appendix 4: Summary of Entitlements and Eligibility Matrix for Uganda

Extract from the approved LARF for Oil & Gas Sector (2016)

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
1. LOSS OF LAND				
a. Permanent loss of land with dwellings	In kind or cash compensation for loss/deprivation of use	Titled owners on freehold land on which complete Immoveable housing structure is established	Cash - Where in-fill resettlement is possible on the Remainder of the affected parcel of land or the existing community, or where the household owns land for residential use elsewhere which they choose to occupy as primary residence, compensation in cash for surveyed land at agreed rates.	Persons must prove ownership of complete immoveable housing structure and in land (not necessarily through title) at the time of final asset surveys. Persons must prove ownership of a suitable house elsewhere to qualify for cash compensation.
		Registered owner or claimants of customary held land on which complete immoveable housing structure is established	OR In kind - Where in-fill resettlement on the remainder of the affected parcel of land or within existing community is not possible, provision of	
		Registered leaseholders on public land on which complete immoveable housing structure is established		

		standardised housing plot on planned resettlement site Resettles will be given the same security of tenure as their displaced land, but a Customary Certificate of Ownership (CCO) as a minimum.	
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
b. Permanent loss of agricultural (crop) land	In kind or cash compensation for loss/deprivation of use (including orphan land)	Titled owners on freehold land Registered owners or claimants of customary heldlands Registered leaseholders on public land	In kind – Package to empower farmers to find their own replacement agricultural land of same size, or an amount of land with equivalent productive value, contingent on timely payment. Land will be brought to same level of preparedness as at time of crop survey (see also	Persons must prove ownership (not necessarily through title) at the time of final asset surveys. Persons must prove interest in surveyed alternative land.

			<p>livelihood section below).</p> <p>OR</p> <p>Cash - where in-kind replacement is not possible, or where owner has access to alternative farm land suitable for the same agricultural purpose compensation in cash at agreed rates for full replacement cost, in proportion to the tenancy or sharecropping agreement should there be any</p>	
		Users (incl. tenants by occupancy)	In-kind - Where there is a tenant or sharecropper relationship, the tenant or sharecropper will be entitled to use the replacement land on the same basis as the	Tenants and sharecroppers must prove sharing arrangement (documented proof or land owner consent) at the time of final asset surveys.

			current relationship and also have access to livelihood programmes.	
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
c. Permanent loss of grazing land			OR Cash – In case the owner receives cash compensation, where there is a tenant or sharecropper relationship, the tenant or sharecropper will receive compensation in cash at agreed rates for full replacement cost in proportion to their sharing arrangement.	
	Cash compensation for loss of land	Titled owners on freehold land	Cash – Compensation in cash of the value of the land at full replacement cost	Persons must prove ownership (not necessarily through title) at the time of final asset surveys.

d. Permanent loss of fallow land		Registered owners or claimants of customary heldlands		
		Registered leaseholders on public land		
	In kind or cash compensation for loss/deprivation of use	Titled owners on freehold land	In-kind – Provision of support package to identify suitable fallow land	Persons must prove ownership (not necessarily through title) at the time of final asset surveys.
		Registered owners or claimants of customary heldlands	OR Cash – Compensation in cash of the value of the land at full replacement cost	
e. Temporary loss of	Cash rental/lease payments for	Registered leaseholders on public land		
		Titled owners on freehold	Cash – Cash payment based on	Person must prove interest in land.

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
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agricultural (crop) land, grazing land, fallow land	temporary land use	land Registered owner or claimants of customary heldlands Registered leaseholders on public land	formal lease agreement determined by affected land area. Rental/lease amount based on professional valuation of the affected land for its present use. Rental/lease amount, payment frequency and duration of lease to be stipulated in lease agreement.	
		Users (incl. tenants by occupancy)	Where there is a tenant or sharecropper relationship, the tenant or sharecropper will receive compensation in cash based on the formal lease agreement (see above) in proportion to their sharing arrangement.	Tenants and sharecroppers must prove sharing arrangement (documented proof or land owner consent) at the time of final asset surveys.
f. Permanent restrictions on affected residential, agricultural (crop) and grazing land (including orphan land)	Cash compensation through easement agreement	Titled owners on freehold land Registered owner or claimants of customary heldlands Registered	Cash – Once-off easement fee for the restricted use of the affected land by the Project as a result of linear infrastructure, based on an agreed easement fee determined by a	Person must prove interest in land. Orphan land will be classified on merit.

(typically for linear infrastructure)		leaseholders on public land	professional valuation of the affected land for its present use. Easement fee scale to be	
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
g. Loss of improvements to land			determined.	
	Agricultural Improvement Package or cash compensation	Farmers	Improvements to land such as irrigations, ditches will be provided on the replacement land or included in the calculation of cash compensation	Person must prove interest in land.

2. LOSS OF LIVELIHOODS

<p>a. Crops</p>	<p>Annual crops: no compensation unless standing crops cannot be harvested</p> <p>Perennial crops: cash compensation for standing perennial crops.</p> <p>Fruit and economic trees: cash compensation for fruit and economic trees, or provision of replacement tree saplings.</p>	<p>Owners of crops and trees on farm land</p>	<p>Annual crops:</p> <p>1) Where the Project will give sufficient notice (90 days) to farmers to harvest their annual crops no compensation will be paid for annual crops.</p> <p>2) Cash – Where annual crops cannot be harvested due to a reduced notice period; damaged crops will be compensated as mature crops at agreed rates determined annually by the District Land Board.</p>	<p>Crops in place (rooted) at cut-off date and identified through final surveys.</p> <p>Compensation according to defined age or size categories.</p> <p>Crop owners identified through final asset surveys.</p> <p>Shared crop owners receive compensation in proportion to an agreed share of ownership determined at time of final asset surveys.</p>
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
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			<p>Perennial crops:</p> <p>Cash compensation at full replacement cost at agreed rates determined annually by the District Land Board or based on full replacement cost determined by formal market studies.</p> <p>Fruit and economic trees:</p> <p>Cash compensation at full replacement cost, including the cost of forfeited economic benefits, for all agreed fruit and economic trees, shrubs (e.g. coffee) and plants (e.g. cassava) at agreed rates determined annually by the District Land Board or based on full replacement cost determined by formal market studies.</p> <p>In kind – Where cash compensation is not preferred for fruit and economic trees, two (2)</p>	
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			<p>replacement saplings for every damaged tree of a crop variety suitable for the identified replacement farm land.</p> <p>No replacement fruit and economic tree saplings will be planted within infrastructure corridor with land-user restrictions.</p>	
Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility

			<p>Perennial crops: Cash compensation at full replacement cost at agreed rates determined annually by the District Land Board or based on full replacement cost determined by formal market studies.</p> <p>Fruit and economic trees: Cash compensation at full replacement cost, including the cost of forfeited economic benefits, for all agreed fruit and economic trees, shrubs (e.g. coffee) and plants (e.g. cassava) at agreed rates determined annually by the District Land Board or based on full replacement cost determined by formal market studies.</p> <p>In kind - Where cash compensation is not preferred for fruit and economic trees, two (2) replacement saplings for every damaged tree of a</p>	
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			<p>crop variety suitable for the identified replacement farm land. No replacement fruit and economic tree saplings will be planted within infrastructure corridor with land-use restrictions.</p>	
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility	
	Re-establishment assistance in kind or in cash	Farmers, including sharecroppers	<p>For owners of annual and perennial crops:</p> <p>In kind – Access to agricultural improvement package consisting of labour and mechanical inputs to bring land to same level of preparedness and inputs for 1 year such as improved seeds, pesticides, training, equipment if replacement agricultural land has been secured.</p> <p>OR</p> <p>Cash – Once-off land preparation allowance based on agreed rates determined annually by the District Land Board⁵⁸ or formal market studies.</p>	Farmers identified through census and asset surveys.	final
	Livelihood support in improvement	Farmers, including sharecroppers	In kind – Participation in livelihood	Farmers identified through census and asset surveys.	

	kind	rs	nt improveme nt programmes to increase earning capacity. Details of programme to be determined.	Participation based on a Preference Survey to identify interested farmers and sharecroppers.
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
	OR Alternative livelihood assistance in kind or cash	Farmers, including sharecroppers	<p>In kind - Participation in alternative income generation development programmes.</p> <p>Cash - entitlement for loss of agricultural land (see Land section above) converted into start-up capital (cash equivalent) based on viable Business Plan</p>	<p>Farmers identified through final census and asset surveys.</p> <p>Participation based on a Preference Survey to identify interested farmers including sharecroppers.</p> <p>Participants in alternative programmes will forfeit entitlement to in-kind replacement land and receive</p>

b. Restricted access to landing areas and associated facilities			(assistance to people with review of their proposed business plans).	cash compensation instead.
	In kind compensation for access restrictions to fishing grounds	Fisherfolk	In kind – Address access restrictions through consolidated and improved alternative landing areas and associated facilities.	Organised fisherfolk identified during baseline surveys.

Type of Loss	Types of Mitigation	Category of Affected	Entitlement	Eligibility
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Person			
c. Livestock rearing	In kind livelihood improvement programmes	Fishermen, labourers and people involved in fishing related livelihood activities (incl. women)	In kind – Participation in livelihood improvement programmes to increase earning capacity. Details of programme to be determined.
	OR Alternative livelihood assistance in kind or cash	Fishermen	<p>In kind – Participation in alternative income generation programmes.</p> <p>OR</p> <p>Cash – compensation for abandoned fishing gear and equipment converted into start-up capital (cash equivalent) based on viable Business Plan for alternative income source (assistance to people with review of their proposed business plans).</p>
	In kind livelihood improvement	Livestock owners and herders	In kind - Participation in livelihood improvement programmes to increase earning
			<p>Fisherfolk identified through final census and asset surveys and Preference Survey.</p> <p>Participants in alternative programmes will forfeit fishing gear and equipment.</p> <p>Livestock owners and herders identified through final census surveys and Preference Survey.</p>

			capacity. Details of programme to be determined.	
	Alternative livelihood assistance in kind or cash compensation	Livestock owners and herders	Cash – entitlement for loss of grazing land (see Land section above) converted into start-up capital (cash equivalent) based on viable Business Plan.	Livestock owners identified through final census surveys and Preference Survey. Participants in alternative programmes will forfeit entitlement to replacement grazing land.

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
d. Loss of small businesses	Compensation for loss of net income from business operation during transition	Business owners whose operations are temporary restricted Business owners who are physically and economically displaced	Cash – Cash compensation for the temporary loss of income from non-farm businesses for the duration of the temporary restriction or business closure, based on financial records of individual businesses. The project will endeavour, where	Business owners identified during final census and business surveys. Income and expenditure data obtained from final census and business surveys. In the absence of recorded financial information, aggregate information based on similar businesses will inform determination of

			practical, to schedule its activities to minimise temporary business income losses.	monthly net income.
			Cash - In case of a person who is physically and economically displaced on a permanent basis, cash compensation for the loss of income from non-farm businesses for a period of three months from the date when the Project takes possession of the affected business structure.	Review of businesses that were physically displaced to assess progress of re-establishment before end of three-month assistance. Employees of affected business enterprises will be provided with separate cash compensation (see Business employee section below).
	Re-establishment of business operation	Business owners	In kind - Business advice to assist with re-establishment of displaced businesses.	Business owners identified through final census and business surveys.

		Cash/In kind – business owners with immovable structures will be provided with replacement structures (see Structure section below) or cash compensation.
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
	In kind or cash compensation for cost of moving	Business owners	<p>In kind – Transportation assistance for business items, where practical, including loading, transportation and unloading assistance.</p> <p>OR Cash – Transportation allowance for self-arranged transportation of business items at an agreed all-inclusive rate per kilometre for transporthire and fuel.</p>	Business owners identified through final census and asset surveys.
	In kind livelihood improvement	Business owners and employees	<p>In kind – Participation in business improvement programmes to increase earning capacity. Details of programme to be</p>	Business owners and employees identified through final census and business surveys and confirmed by Preference Survey.

			determined.	
	Alternative livelihood assistance in kind or cash compensation	Business owners and employees	In kind – Participation in alternative income generation programmes. OR Cash – entitlement for loss of business structure (see Structure section below) converted into start-up capital (cash equivalent) based on viable Business Plan.	Business owners and employees identified through final census and business surveys and confirmed by Preference Survey. Participants in alternative programmes will forfeit entitlement to replacement business structures, but will receive cash compensation for affected structures.

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
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e. Employees of affected non-farm businesses	Compensation for loss of net income during transition	Employees of affected existing operating non-farm businesses	Cash – Compensation in cash of net income based on non-farm business records for transition period of 6 months from the time the Project takes possession (if there is re-establishment of business).	Employees confirmed during census and business surveys. final
	Alternative livelihood assistance in kind compensation	Retrenched employees of affected businesses Physically displaced employees of affected businesses no longer able to continue employment due to business displacement	In kind – Participation in alternative income generation programmes. Where practical, preferential employment on Project based on skills training, suitability and competence. Cash – Retrenchment payment based on labour legislation requirement and conditions of employment if employment cannot be continued (see Employees section above).	Employees confirmed during census and business surveys and confirmed by Preferred Survey. final

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
f. Rental income from residential and commercial buildings	Compensation for net loss of income during transition	Landlord – owners of rented structures	<p>Cash – Compensation in cash, net equivalent to monthly rental income, for transition period, as follows:</p> <ul style="list-style-type: none"> • Where rented structure is replaced, transition period is equal to duration for replacement of affected structures from the time the Project takes possession of rented structure, up to a maximum of 6 months. 	Proof of established rental agreement identified during final census surveys.

			<ul style="list-style-type: none"> Where rented structure is compensated in cash, transition period is one month from the time the Project takes possession of rented structure. 	
	In kind livelihood improvement	Landlord – owners of rental structures	<p>In kind – Landlord who is provided with a replacement structure (see 3.b. below) will have a better quality building to attract tenants which should result in improved returns. No further compensation.</p> <p>Landlord who chooses cash compensation may participate in business improvement programmes to increase earning capacity. Details of</p>	None

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
g. Loss of natural resources and access to natural resources such as forests, wetlands, non-economic trees			programme to be determined.	
	In-kind livelihood assistance	Resource users	<p>The Project will endeavour to find resettlement sites (if applicable) that maintain access to natural resources. If these resources cannot be replaced</p> <p>communities will receive additional livelihood improvement or alternative livelihood support</p>	Persons identified through final census.

3. LOSS OF SHELTER AND STRUCTURES (IMMOVEABLE STRUCTURES IMPACTED BY PHYSICAL DISPLACEMENT)

<p>a. Dwellings used as primary residence</p>	<p>In kind replacement or cash in certain instances</p>	<p>Owners who occupy affected dwellings</p>	<p>In kind – Replacement house of equivalent size (measured floor area or number of rooms) with consideration of functional spatial use. Choice of standardised replacement house designs that comply with building/planning standards and that take spatial and cultural function into consideration. House constructed from durable wall and floor materials and with permanent roof. Materials may be salvaged at the owner’s expense and if Project schedule allows this.</p> <p>OR</p> <p>Cash – Compensation at full replacement cost (taking replacement standard of</p>	<p>Houses completed and occupied at cut-off date and identified through final asset surveys.</p> <p>Ownership established through final asset surveys.</p> <p>Cash option available to homeowners with proven and verified alternative dwelling suitable for household members identified during final census survey; Combination of cash and in-kind package for homeowners who prefer a smaller replacement house and the balance paid in cash for improved finishes assessed on case-basis.</p> <p>Cash compensation eligibility rules to be further developed.</p>
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
			<p>durable material and permanent roof into consideration) based on professional valuation.</p> <p>OR</p> <p>In kind/Cash combination – Compensation for area of dwelling not replaced based on agreed rate per sqm for existing materials and finishes.</p> <p>Cash for non-typical/ special finishes (floor and/or wall tiling, fitted kitchens and bathrooms) based on assessment of replacement value by registered valuer.</p>	
	Rent allowance in cash	Tenants occupying affected dwellings	<p>Cash – Rent allowance⁵⁹ calculated per occupied room per month for 6 months⁶⁰ from the date when Project takes</p>	Tenants with proof of rental agreement with landlord, identified through final census and asset surveys.



possession of the affected dwelling.

Limited to tenants who will not be able to relocate into the replacement dwelling and continue their tenancy with existing landlord.

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
	In kind or cash compensation for cost of moving	Tenants of affected rented structures	<p>In kind – Transportation assistance for household items to move tenant to new premises if within 50 km of the affected structure, including loading, transportation and unloading assistance</p> <p>OR</p> <p>Cash – Transportation allowance for self-arranged transportation of household items at an agreed all-inclusive rate per kilometre for transport hire and fuel if within 50 km of the affected structure.</p>	Tenants with proof of rental agreement with landlord, identified through final census and asset surveys.

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
b. Dwellings used for secondary purposes (rental houses, free accommodation for relatives, etc.)	Cash or in kind compensation for loss of structure	Owner of residential structure	<p>Cash – Compensation at full replacement cost (taking replacement standard of durable material and permanent roof into consideration) based on professional valuation.</p> <p>In kind – Replacement house of equivalent size (measured floor area or number of rooms) with consideration of functional spatial use.</p> <p>Choice of standardised replacement house designs that comply with</p>	<p>Complete houses at cut-off date, identified through final asset surveys.</p> <p>Ownership established through final asset surveys.</p> <p>Where dwelling is occupied and used to earn income (livelihood), preference is for replacement house with continuation of tenancy agreement to avoid displacement of tenants.</p> <p>Transportation assistance for tenants is provided for under 3.a. above.</p>

			<p>building/planning standards and that take spatial and cultural function into consideration.</p> <p>House constructed from durable wall and floor materials and with permanent roof.</p> <p>Materials may be salvaged at the owner's expense and if Project schedule allows this.</p>	
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
c. Sanitation facilities	In kind replacement of affected facilities and provision of new facilities for all physically displaced persons	Owners – residential, commercial, and other commercial buildings. Government agencies and owners of public facilities	In kind – Provision of on-site composting latrines, one per affected household or per physical planning standards.	Facilities in place and used for designated purpose at cut-off date and identified through final asset surveys. Physically displaced households, businesses and other community buildings identified through final census and asset surveys.
d. Non-residential privately owned buildings including commercial buildings, places of worship constructed with permanent materials	In kind compensation	Owner of building	In kind – Replacement building of equivalent size (measured floor area) with consideration of functional spatial use. Replacement design to comply with building/planning standards. Constructed from permanent wall and floor materials with	Complete building at cut-off date, identified through final asset surveys. Ownership established through final asset surveys.

e. Public buildings			permanent roof. Materials may be salvaged at the owner's expense and if Project schedule allows this.	
	In kind compensation	Government or community	In kind - Replacement structure of equivalent size (measured floor area) with consideration of functional spatial use. Replacement design to comply with relevant building/planning standards. Constructed from permanent wall and floor materials with	Complete building at cut-off date, identified through final asset surveys. Ownership established through final asset surveys.

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
f. Moveable and other structures such as fences, livestock enclosures, bridges, fish ponds, livestock water points, etc..			permanent roof.	
	Cash compensation or replacement of communal structures	Owner structures of community	Cash - Compensation at full replacement cost for affected structures based on assessment by registered Valuer. OR	Ownership established through final asset surveys. Structures in place at cut-off date and identified through final asset surveys.

g. Incomplete buildings and structures			<p>In kind – Replacement of communal structures, such as livestock water points, based on agreed location and applicable standard or technical specification.</p> <p>Materials may be salvaged at the owner's expense and if Project schedule allows this.</p>	
	Cash compensation	Owners of incomplete structures	<p>Cash – Compensation for incomplete buildings and structures based on assessment by registered Valuer and based on % of completion.</p> <p>Materials may be salvaged at the owner's expense.</p>	<p>Incomplete at cut-off date, identified through final asset surveys.</p> <p>Ownership established through final census and asset surveys.</p>
4. LOSS OF INFRASTRUCTURE				

Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
a. Roads and drainage, and pathways	In kind replacement of affected district and local roads where applicable	District and local government, communities	In kind – Provision of roads within communities to national road safety standards including drainage and safety crossings where required. Provision of access roads to resettlement sites where there is no existing access. Rerouting of pathways around project infrastructure based on assessment of loss of access.	Community roads and drainage and community pathways in place at cut-off date and identified through community asset surveys. Owners of displaced residential, commercial and other buildings identified through census and asset surveys.
	In kind provision of access roads to resettlement sites where applicable			
	In kind provision of drainage in accordance with statutory road safety requirements			
	In kind replacement of pathways			
5. CULTURAL IMPACTS				
a. Graves/cemeteries	In kind assistance	Family and community members	In kind – Complete relocation of graves (exhumation, transportation and reburial) in designated cemetery at agreed rates per grave (in accordance with national legislation).	Familial graves identified during asset surveys. Unmarked graves identified through chance-find do not qualify for ceremonial assistance.

		Provision in kind (or cash equivalent) of agreed customary ceremonial assistance per family.	Chance-find procedures (Cultural Heritage Management Plan) to be adhered to.
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
b. Shrines and othersacred sites	In kind assistance	Community, clans	<p>In kind – Disassembling, transportation and reinstatement (where feasible) of shrines and sacred assets.</p> <p>Provision in kind (or cash equivalent) of agreed ceremonial assistance per clan/ community.</p>	<p>Shrine or sacred asset identified during final asset surveys.</p> <p>Clan/community allegiance recorded and confirmed through final asset surveys.</p>
6. OTHER IMPACTS				
a. Re-establishment allowance	Cash compensation for general disruption	All households that are being physically resettled	Cash – Transition allowance per individual to allow households to cover basic living expenses during early transition period	Individuals identified through final census survey.

b. Vulnerable Support Programme	In kind assistance based on assessed need for vulnerable households to mitigate possible increased vulnerability	Vulnerable individuals and families who may find it difficult to cope with the transition e.g. disabled and elderly persons	<p>In kind – Transitional hardship assistance program appropriate to specific cases and based on Project assessment, including:</p> <ul style="list-style-type: none"> • Priority in physical mobilisation and transfer to resettlement plot; • Special assisted transit to resettlement plot; • Additional moving, loading and unloading assistance, if necessary; • Assistance from support case workers during transit process; <p>Other specific support related</p>	Identified through final census survey based on agreed vulnerability criteria relevant to Project.
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Type of Loss	Types of Mitigation	Category of Affected Person	Entitlement	Eligibility
			to moving process (e.g. medical assistance)	

c. Social networks			identified by support case workers.	
	In kind assistance through participatory planning in advance	Physically displaced households	In kind – Allocation of replacement residential plots based on household preferences to the extent possible in order to maintain or re-establish social networks	Physically displaced households who choose to resettle on a replacement plot identified by the Project.
d. Financial transition	In kind assistance through training	Individuals and families who will be receiving cash compensation	In kind – Money management training will be provided. Assistance with the opening of bank accounts.	All persons receiving a form of cash compensation identified through final census surveys.

Appendix 5: Timelines Proposed in the NLARRP - draft 3

Timing	Task	
Preparation	Project scoping (project brief), review by Technical Committee and publication of notice of intention to acquire land compulsorily	
Month 1 to 4	<ul style="list-style-type: none"> - Issuance of Cut-off date - Conducting Census, asset surveys and baseline studies - Valuation of affected assets and approval by CGV. 	Grievance resolution
Month 5	<ul style="list-style-type: none"> Development of other elements of compensation package Development of proposed RAP Submission of proposed RAP to Technical Committee 	
Month 6	Review of proposed RAP by Technical Committee	
Month 7	<ul style="list-style-type: none"> Revision of RAP based on comments of TC Public Disclosure of revised RAP Consultations of PAPs on compensation and options, with right of appeal 	
Month 8	<ul style="list-style-type: none"> Resolution of outstanding grievances Verification of ownership documents Signing of MoUs with PAPs on compensation 	
Month 9	<ul style="list-style-type: none"> Preparation of Final RAP Review of Final RAP by Technical Committee Approval of Final RAP and Land Acquisition by TC Public Disclosure of final RAP Submission of request to Ministry of Finance to Release Compensation Funds 	
3 months	<ul style="list-style-type: none"> Public announcement of RAP Implementation RAP Implementation <ul style="list-style-type: none"> - Signing of compensation agreements - Construction of replacement infrastructure - Establishment of bank accounts - Implementation of livelihood programmes - Implementation of vulnerable people support programme 	
Latest 12 months after declaration of cut-off date	<ul style="list-style-type: none"> - Provision of financial literacy training - Payment of cash compensation - Provision of in-kind compensation, including handover of replacement infrastructure and land, and 	



Timing	Task	
	moves of affected people - Mutation of titles	
Project access to land		
12 months after announcement of RAP Implementation	Audit of RAP Implementation	
18 months after announcement of RAP implementation	Implementation of corrective measures	