

**THE POTENTIAL IMPACTS OF THE EAST AFRICAN CRUDE OIL PIPELINE  
(EACOP) ON HUMAN RIGHTS IN UGANDA.**

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**1. Abstract:**

This paper is primarily centered on interaction between the advancement of the East African Crude Oil Pipeline (herein after the EACOP) on one hand and aspects of human rights on the other hand. This paper shall seek to borrow ideas from land rights, environmental rights and other right based narratives in demonstrating how and why the EACOP project is not only the most exciting socioeconomic but also a project giving room for opposing phenomenological discourses most of which are hinged upon ideas of human rights. This analysis shall therefore adopt a comparative as well as a reflective research design in asserting that in as much as the project is economically viable, lesson must be picked from other developing regions where similar projects have culminated into detrimental consequences upon the communities.

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## Table of Contents

1. Abstract:.....	1
2. Introduction:.....	3
3. The Ownership of the EACOP .....	3
4. Legal framework meant for averting controversies around the EACOP.....	3
5. Environmental rights and impacts from East African Crude Oil Pipeline(EACOP).....	4
6. Land rights and likely impacts from the East African Crude Oil Pipeline (EACOP) .....	7
7. Labour rights as likely impacts from East African Crude Oil Pipeline (EACO P) .....	11
8. Conclusions and recommendations.....	13
9. Bibliography .....	15
International legal sources cited.....	15
Domestic legislation.....	15
Case law .....	15
Textbooks cited .....	15
New paper Articles:.....	16
Journal Articles cited.....	16
Website Sources ; .....	16

## **2. Introduction:**

The EACOP is a 1445- kilometer heated pipeline expected to be constructed between Uganda and Tanzania as a key infrastructure for the transportation of Uganda's crude oil from the delivery point in Hoima District, Uganda, to the port of Tanga, Tanzania on the Indian Ocean.<sup>2</sup>

The oil project which encompasses the Tilanga and Kingfisher upstream oil projects and the EACOP, is being carried out by transnational corporation Total Energies and China National offshore oil Corporation (herein after referred to as CNOOC) alongside the national oil companies of Uganda and Tanzania.<sup>3</sup> Once completed, EACOP is expected to benefit both Uganda and Tanzania but also affect several key environmental sites including Uganda's Murchison falls, National Park which is known for its wildlife, particularly large mammals.

During the 13<sup>th</sup> Northern corridor Heads of state summit in Kampala that transpired in April 2016, Uganda officially announced its choice of the Tanzanian route for undertaking its crude oil pipeline activities. It is worthwhile reinstating that above route was rather than the alternatives for the Kenyan routes via Mombasa or Lamu routes respectively.<sup>4</sup> Consequently in September 2020, a bilateral agreement was reached between the Tanzanian and Ugandan Governments of embarking on the joint construction of an oil pipeline. The Agreement was shortly followed by the signing of an agreement between Uganda (as the host government) on one hand and Total Energies (as the Foreign Direct Investment Transnational Company on the other hand. In this regard the latter represented and protected the French Company's rights and obligations in the pipeline's construction and operation.<sup>5</sup>

## **3. The Ownership of the EACOP**

As of 2020, the list of potential equity partners enjoying ownership rights of the EACOP included; the Government of Uganda that is represented by Uganda National Oil Company and the Government of Tanzania, represented by the Tanzanian Petroleum Development Corporation, each have 15% shareholding in the pipeline company. Additionally the China National Offshore Oil Co-operation (hereinafter referred to as CNOOC) has 5%, finally Total Energies, Uganda B.V. holds 65% shares in the company<sup>6</sup>.

## **4. Legal framework meant for averting controversies around the EACOP.**

The Constitution of the Republic of Uganda, 1995 As Amended, National Environmental Management Act, Cap 2019, EACOP (Special Provisions) Act, 2021, Land Act, Cap 256, As Amended, Inter Government Agreement, signed between Uganda and Tanzania, The Host Government Agreement, signed in February 2020 between Tanzania and Uganda, The Tariff and Transportation Agreement, The Share Holder's Agreement signed on the 11<sup>th</sup> April 2021.

Human Rights are ‘

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<sup>2</sup> <https://www.trade.gov.ug-oil->

<sup>3</sup> Directorate of petroleum, "Uganda", Accessed September 30, 2021

<sup>4</sup> supra

<sup>5</sup> Musisi Fredric (16 August 2017). "Uganda, Tanzania target "' flexible'" European pipeline funding' 'Daily monitor. Kampala. Retrieved 16 August 2017.

<sup>6</sup> supra

*“Rights and freedoms which every person is entitled to enjoy possibly deriving from the natural law but more likely to be enforced in international law if founded on for example united Nations Declarations of human rights of 1948 [...]”.*<sup>7</sup>

The Universal Declaration of Human Rights<sup>8</sup> (UDHR), was the first legal document to set out fundamental human rights to be universally protected and continues to be the foundation of all international human rights law.

The UDHR together with two covenants; the International Covenant for Civil and Political Rights (ICCPR)<sup>9</sup> and the International Covenant for Economic, Social and Cultural Rights (ICESCR)<sup>10</sup> make up the International Bill of Rights.

The UN Charter<sup>11</sup> reflected the importance and protection of Human Rights on an International level, under chapter 14, came up with the establishment of the International Court of Justice (ICJ) which is a very important part of the enforcement of international human rights.

Chapter four (4)<sup>12</sup> provides for the bill of Rights, Rights are inherent and non derogable but most of these Rights have already been violated and many of them are yet to be violated with the development of the EACOP project yet if attention is made to them then the project will be of benefit to the Ugandan community and East African Community at large.

In September 2020, the Human Rights organization and international Federation for Human Rights and the Foundation for Human Rights Initiative undertook a community based human rights impact Assessment of the oil fields, pipelines, and proposed oil refinery. The assessment documents numerous serious violations of local community’s rights, including rights to land, housing and an adequate standard of living, the right to health and clean water and the right to a healthy environment that had already occurred at the early stages of the projects.

## **5. Environmental rights and impacts from East African Crude Oil Pipeline(EACOP)**

The rationale and ideological tents upon which environmental rights are founded settle with the realm of epistemological discourses that justify the human right to a health environment

It is imperative to restate that there is Constitutional credibility of promoting and protecting the entitlement a clean environmental. That is to the effect that,

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<sup>7</sup> Osborn’s Concise Law Dictionary 9<sup>th</sup> Edition at page 196

<sup>8</sup> Universal Declaration on Human Rights. (Hereafter UDHR) adopted by the UN General Assembly on 10 December 1948

<sup>9</sup> International Convention on Civil and Political Rights (ICCPR) Adopted 16 December 1966, United Nations, Treaty Series, vol.999, p.171

<sup>10</sup> UN General Assembly, international Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol.993, p.3

<sup>11</sup> UDHR 1945

<sup>12</sup> supra

*“Every Ugandan has a right to a clean and healthy environment.”*<sup>13</sup>

However, the climate impacts of the oil projects are also evident at peak production, the oil exported by the EACOP is anticipated to produce roughly 34 million metric tons of additional carbon emissions per year. This figure does not account for the full amount of oil that will be extracted, for example, the amount processed by the proposed refinery in Uganda has not been calculated. The estimate is significantly larger than the current combined emissions of Uganda and Tanzania. It has been further observed that the level of expected emissions is incompatible with the Human Rights treaties which Uganda is party to.

The EACOP emissions is also irreconcilable with the findings published by the inter Governmental panel on Climate change (IPCC) in April 2022, which warns the limiting warming to within 1.5 degrees Celsius requires having all greenhouse gas emission by the 2030s, a target which can only be achieved by ambitious and immediate climate change .

Similarly, warnings by the international Energy Agency (IEA) are unequivocal. Exploitation and development of new oil and gas fields must stop if the world is to stay within safe limits of global warmings and meet the goal of net zero emissions by 2050.

As such, the EACOP project jeopardizes the global communities’ chance of achieving this goal.

There is adequate evidence that in some of the African countries where the crude oil projects have taken place there has been considerable evidence of environmental related challenges.<sup>14</sup> To this end this analysis is mindful that at the moment it might be too early to identify with clarity Ugandan based facts and evidence as to how the EACOP project might impact environmental rights of Ugandans living within its nearby vicinity as well as the country at large.<sup>15</sup> However necessary reference shall be made from other African case studies that are demonstrating the ways in which the environment of other African countries has already been affected in the course of undertaking oil and gas mining. In that regard Specific reference shall be made to literature from countries such as Nigeria,<sup>16</sup> Ghana among other African countries environment has already been affected in the due course of participating in oil and gas sector exploration activities. Consequently, an argument shall be advanced that unless relevant Ugandan authorities undertake the pre-requisite preventive and precautionary measures, there is a high possibility that its nationals are likely to face similar or the same environmental impacts as a result of venturing in this sector.

The Ogoni case is a classic example of how environmental rights tend to be affected by the modern era of oil and gas mining.<sup>17</sup> This implies that there is a need of expounding on how the

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<sup>13</sup> Article 39 Of the Constitutional of Republic of Uganda 1995 as amended.

<sup>14</sup> Kinnari Bhatt, Jennifer Lander and Sanne Taekema, ‘Introduction: the rule of law in transnational development projects - private actors and public chokeholds International Journal of Law in Context (2021) 17(1), 91-99

<sup>15</sup> Bruno Zeller, ‘The acquisition of land for infrastructure and construction projects in Asia Construction Law Journal (2020) 36(5), 340-359.

<sup>16</sup> Bukola Faturoti, Godswill Agbaitoro and Obinna Onya, ‘Environmental protection in the Nigerian oil and gas industry and Jonah Gbemre v Shell PDC Nigeria Limited: let the plunder continue? African Journal of International and Comparative Law, 2019, 27(2), 225-245

<sup>17</sup> Dickson E. Omukoro Environmental regulations in Nigeria and liability for oil-pollution damage: musings from Norway and the US (Alaska) International Energy Law Review. 2017, 8, 324-330

oil activities of Shell have led to socioeconomic impacts on the lifestyles of the local fishermen within societies of other countries where oil and gas mining previously happened.<sup>18</sup> In the above regard, the case of *Jonah Gbemre v Shell PDC Nigeria Limited* is as important as the Ogoni case of Nigeria that was grossly affected following the dumping of oil refuse at the different intervals Niger delta river.<sup>19</sup> Consequently there was cumulative contamination of the river Niger with oil refuse. In this context it must be born in mind that the definition of the environment must be afforded a broader interpretation to encompass various components of the atmosphere such as water bodies comprising of lakes and rivers,<sup>20</sup> climate that comprise of tropical, equatorial and climatic conditions,<sup>21</sup> the soil, which are also comprising of various types like clay soil, loam soil to mention but a few,<sup>22</sup> the vegetation is consisting of forests, wetlands (swamps).<sup>23</sup> The toxicants from oil bi-products were discharged on the water bodies and such a discharge formed an oil generated air proof seal on the surface of water bodies which are situated in the area of the Ogoni community.<sup>24</sup> Polluting the river was clearly a problematic and a growing concern especially within the Ogoni community as a traditionally fishing society.<sup>25</sup> Subsequently a case of public interest litigation was initiated and it gained momentum as means of enabling the Ogoni communities to seek for environmental justice due environmental problems. The financial influence of Shell over the Nigerian government comprised the Ogoni community instead of affording them forum to attain the required standards of justice.<sup>26</sup> As a result, it become almost impossible to deal with the problems of the local natives. It is important to restate there are cases that have emerged over time which are associated with environmental mitigation measures.

In the Ugandan context reference can be made to related environmental orientated cases such as *Greenwatch (U) Ltd v. Attorney General and NEMA*,<sup>27</sup> according to which Justice Eladad Mwangusya had the following to say in relation to the Constitutional tenets for environmental protection.

*“If I may say the objectives of the organisation are noble and their efforts to protect the environment must be applauded by everybody because Article 245*

<sup>18</sup> Eddy Wifa, ‘Potential conflicts of interest in the dual functions of the Nigerian Department of Petroleum Resources as both economic and environmental regulator’, *International Energy Law Review*, 2016, 7, 306-312

<sup>19</sup> Bukola Faturoti, Godswill Agbaitoro and Obinna Onya, ‘Environmental protection in the Nigerian oil and gas industry and *Jonah Gbemre v Shell PDC Nigeria Limited*: let the plunder continue? *African Journal of International and Comparative Law*, 2019, 27(2), 225-245

<sup>20</sup> Bakama B. Bakama Nume and Hannington Segendo ‘Water and Wetland Resources in Uganda in Bakama B. Bakama Nume,(ed.) ‘A Contemporary Geography of Uganda’, 2010 Nkuki na Nyota Publishers pg. 91

<sup>21</sup> Bakama B. Bakama Nume, ‘Climate of Uganda in Bakama B. Bakama Nume(ed.), ‘A Contemporary Geography of Uganda’, 2010 Nkuki na Nyota Publishers pg. 3

<sup>22</sup> Bob Nakaleza ‘Soils and soil degradation’, in Bakama B. Bakama Nume(ed.), ‘A Contemporary Geography of Uganda’, Nkuki na Nyota Publishers 2010 pg. 51.

<sup>23</sup> Bakama B. Bakama Nume and Hannington Segendo ‘Water and Wetland Resources in Uganda in Bakama B. Bakama Nume,(ed.) ‘A Contemporary Geography of Uganda’, 2010 Nkuki na Nyota Publishers pg. 91.

<sup>24</sup> Paul Samuel Tamuno, ‘Corporate social responsibility in the Niger Delta: past, present and future challenges *Journal of African Law*, 2022, 66(3), 391-417

<sup>25</sup> Eghosa O. Ekhatior, ‘Improving access to environmental justice under the African Charter on Human and Peoples’ Rights: the roles of NGOs in Nigeria’, *African Journal of International and Comparative Law*, 2014, 22(1), 63-79

<sup>26</sup> Eloamaka Carol Okonkwo, ‘Assessing the role of the courts in enhancing access to environmental justice in oil pollution matters in Nigeria’, *African Journal of International and Comparative Law*, 2020, 28(2), 195-218

<sup>27</sup> *Greenwatch (U) Ltd v. Attorney General and NEMA* Miscellaneous cause 140 of 2002

*of the Constitution of the Republic of Uganda which I set down hereunder enjoins parliament to take measures for protection and preservation of the environment which this application seeks to do.”<sup>28</sup>*

The said provision is to the effect that,

*“The protection and preservation of the environment, the parliament shall by law provide measures intended to; protect and preserve the environment from abuse, pollution and degradation. To manage the environment for sustainable development and promote environmental awareness.”<sup>29</sup>*

It is imperative to highlight that such decisions are evidence of cases where Ugandan courts have pronounced themselves on matters and questions of environmental rights. Even though such jurisprudence is far from precisely dealing with problems of the EACOP project and environmental rights, nonetheless they are equally important in this age of a right based approach. In this regard there is a school of legal scholars that use notions of interconnectivity in perceivably deducing evidence of a link between the right to life and the right to reside in a clean environment and how all these inform and influence the right life.<sup>30</sup>

Accordingly, there is need of ensuring the economic benefits of the EACOP project are neither overshadow nor obstruct the challenges while comprising the protection of lakes and rivers such as lake Albert and river Nile respectively whose location is adjacent to the presence the Albertine graben mining activities.

## **6. Land rights and likely impacts from the East African Crude Oil Pipeline (EACOP)**

There are cases that have emerged over time that are associated with how land rights have been impacted by the growing trends of oil mining.<sup>31</sup> This implies that over a period of time, societies have either seen their land rights constrained through acts that undermine right to own property particularly in regions from which mining activities tend to take place.<sup>32</sup> It is for this very reason that it would be a grave omission for any discussion about the EACOP project to exclude expounding on some controversies surrounding issues of land rights.<sup>33</sup> In essence a comprehensive analysis of a rights-based violations is incomplete as long as the land rights fall short of the required measures of analysing the various kinds of rights.

In the Ugandan constitutional framework, it is important to start by referring to the presence of a relevant provisions under the 1995 Constitution that provides for the rights of owning property.<sup>34</sup>

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<sup>28</sup> Ibid.

<sup>29</sup> Article 245 of the 1995 Constitution of the Republic of Uganda.

<sup>30</sup> Article 22 of the 1995 Constitution of the Republic of Uganda.

<sup>31</sup> Taiwo Ajala, ‘Examining the legal safeguards against the environmental impact of land grabbing in African countries: a critical review of Nigerian environmental law’, *Environmental Law Review* (2018) 20(1), 3-15.

<sup>32</sup> Bruno Zeller, ‘The acquisition of land for infrastructure and construction projects in Asia Construction Law Journal (2020) 36(5), 340-359.

<sup>33</sup> Taiwo Ajala, ‘Examining the legal safeguards against the environmental impact of land grabbing in African countries: a critical review of Nigerian environmental law’, *Environmental Law Review* (2018) 20(1), 3-15.

<sup>34</sup> Article 26 of the Constitution of 1995 of the Republic of Uganda.

To that end it is stated that,

*“Every person has a right to own property either individually or in association with others.”<sup>35</sup>*

In expounding on the Constitutionality of land rights, it becomes important to expound Article 237 which expounds of matters of land ownership. This expounds on constitutional matters of land ownership.

*“Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in this Constitution.”<sup>36</sup>*

It as far as property ownership is concerned, this needs to be afforded a broader interpretation since this encompasses movable and immovable property on one hand as well tangible and intangible property on the other hand. In that regard land rights fall in the calibre of immovable property rights. In the Ugandan context there are growing fears that the infringement on land rights through acts of land grabbing might be a likely vice especially in those regions where oil resources are undergoing exploration. This becomes very problematic bearing in mind that in the African context land rights are an embodiment of wealth that remains a pre-request for facilitating socioeconomic empowerment in the enjoyment of other socioeconomic rights. That analysis precisely demonstrates that in the Ugandan context land rights are a matter of agency since they underpin the lifestyle and livelihood of a home and a family. There are also acute variances between the different types of land tenure upon which land rights are derived according to the Ugandan Constitutional framework.<sup>37</sup> Classical examples of these include customary, freehold, the mailo and leasehold.<sup>38</sup> This implies that residents in oil mining districts such as Hoima, Bulisa can enjoy the rights under Article 26 of the Constitution strictly because their ownership rights fall in one of the above land systems of tenure. Although this research is less interested in the establishment the type of land tenure systems that are largely used by those district. Consequently, the remaining part of analysis shall expound on how laws tend to permit exception to the above ownership rights.

Regardless of the above provisions pertaining to Uganda’s land ownership rights, the same Constitution goes an extra mile in permitting the acquisition of privately owned land so long as the such an acquisition was done in line with public interests by either the Ugandan Government or the local government and in accordance with considerations enshrined in Article 26 of the Constitution.<sup>39</sup> Under the same provision,<sup>40</sup> Ugandan parliament is entrusted with powers of legislating laws detailing terms and conditions governing such acquisitions.<sup>41</sup>

Furthermore sometime around September 2020, Oxfam and the FIDH<sup>42</sup> published new reports on the social, environmental, cultural and human rights risks associable with EACOP for

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<sup>35</sup> Article 26 (2) Constitution of 1995 of the Republic of Uganda as amended

<sup>36</sup> Article 237 (1) Constitution of 1995 of the Republic of Uganda as amended

<sup>37</sup> Article 237 (2) Constitution of 1995 of the Republic of Uganda as amended

<sup>38</sup> Article 237 (3) Constitution of 1995 of the Republic of Uganda as amended

<sup>39</sup> Article 237 (2) Constitution of 1995 of the Republic of Uganda as amended

<sup>40</sup> Article 237 (2) Constitution of 1995 of the Republic of Uganda as amended

<sup>41</sup> Article 237 (2) Constitution of 1995 of the Republic of Uganda as amended

<sup>42</sup> International federation for human Rights



communities located along the proposed pipeline corridor. one of the major issues found concerns land. Land is an important resource for communities especially rural, who in most cases depend on it for their livelihoods and socio-economic development. For the pipeline to be built, there is need for land acquisition for the entire proposed route. in the current EACOP scenario around 14,000 households will lose land, while over 500 households will need to be resettled thus a n infringement on people's right to property(land).<sup>43</sup>

More to this, many communities in Uganda in the areas that are going to be affected by the EACOP have faced a challenge of communication and or enough information about the land acquisition process. As such, these delayed compensations already have caused harm to livelihood. For example, many people have been instructed and or told to stop farming on the land that will be acquired by the EACOP, even when no compensation has been paid. This has further worsened the practice of land grabbing and many cases have been reported because fraudsters see opportunities quick gains through compensation.

The loss of culturally/traditionally- important resources like medicinal plants and traditional lands add to this worry. as such, the threats to communities' basic right to own property seem not properly taken into account by the EACOP developers, despite their commitment to respect human rights.

Further to land in as far the EACOP project is concerned, there is a need for land to be obtained for construction of the pipeline, and this has attached some of the civil society organisations like East African crude oil pipeline Host communities.<sup>44</sup> For purposes of those whose land ownership rights have been impacted by construction of the pipeline, it remains important to affect the provision of land resettlement plans in such cases.

In this regard, it has been pointed out that EACOP requires land access for two main purposes, namely, for permanent facilities for the construction and operation of the pipeline.<sup>45</sup> Whereby some of those facilities would include a corridor with a radius of 30 metres beneath which the pipeline will be situated and this is also known as the right-of-way.<sup>46</sup> Additionally, envisaged corridor may be slightly wider at some locations. The above installations are also inclusive of pumping stations as well as pressure reduction stations at the marine storage terminal situated in Tanga.<sup>47</sup>

Secondly to install the priority Areas related to land requirements for construction purposes. This shall be comprised of the Coating Plant area (where the individual pipe joints will be insulated).<sup>48</sup> Additionally, the main Camp and Pipe Yards (MCPYs) are used for construction camps and pipe storage in the course of the construction phase.<sup>49</sup> There is a future plan of

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<sup>43</sup> IPIS Briefing September 2020 – The human rights impact of the East African Crude Oil Pipeline, page 1

<sup>44</sup> <https://eacophc.org/#:~:text=Through%20the%20lobby%2C%20research%2C%20and%20community%20education%2C%20EACOPHC,and%20land%20rights%20of%20vulnerable%20communities%20are%20protected>

<sup>45</sup> <https://eacop.com/land-acquisition/>

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid

<sup>49</sup> Ibid

converting four of these MCPYs in Tanzania to becoming solar farms.<sup>50</sup> Equally important are land for constructing accessory easements/passages to both permanent and temporary to the various facilities.

The EACOP website further makes reference to an official policy documents of EACOP, that is a statement that the intended land acquisition process shall not only comply with the National legislative requirements but will also respect relevant International Financing Standards (IFS) as captured in the Equator Principles (EP) IV and the Performance Standards (PS) of the International Finance Corporation (IFC).<sup>51</sup> The problem is less associable with the absence of relevant framework but more attributed to the likely absence of effective compliance with land compensation policies.

In terms of the execution mechanism, it is mentioned that the Host Government Agreement, is set in a way that that EACOP shall takes responsibility of executing the land acquisition process. Such a process shall include all administrative costs for compensation. The EACOP project borrows its Constitutional rigour from Article 244,<sup>52</sup> the land will be owned by the host Governments and leased back to EACOP.

In relation to land containing minerals, consideration shall be afforded to this article, in which case the Parliament shall make laws regulating how minerals exploitation is done, how the royalties arising from the minerals exploited shall be shared, how the conditions for payment of indemnities arising out of exploitation of minerals, and the conditions regarding the restoration of derelict lands.<sup>53</sup> Additionally, minerals and mineral ores shall be exploited taking into account the interests of the individual landowners, local governments and the Government.<sup>54</sup> Save for the clay, murrum, sand or any stone commonly used for building or similar purposes the definition of mineral is take a broad enough context to be inclusive of oil.<sup>55</sup> In addition to specifying leases as the land tenure system in which investors of the EACOP can own land, it has also been specific that those leases will be for sixty-six (66) years for the permanent facilities and five (5) years for the priority Areas.

According to contemporary reports, the entire pipeline route has been designed to minimize environmental and social impacts. In so doing, it is noted that some physical displacement would lead to loss of shelter and economic consequences that would also impact the livelihoods of communities. Given the value of land across the countries it must be resisted that both the individuals as well as households remain affected by these impacts even though there might be variances at varied levels. For purposes mitigation the clashes associated between private ownership rights and compulsory land acquisition, it is mentioned on the publicly accessible section of the EACOP website that a Resettlement Policy Framework that is currently being implemented in Tanzania alongside the ten Resettlement Action Plans

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<sup>50</sup> Ibid

<sup>51</sup> Ibid.

<sup>52</sup> Article 244

<sup>53</sup> Article 244 (1)

<sup>54</sup> Article 244 (2)

<sup>55</sup> Article 244 (3)

(hereafter the RAPs). As part of the RAP project, on the Ugandan section this project is destined to cover a stretch of 296km. For the Tanzanian section there also 9 RAPs stretching over 1147km of the comprising of one RAP for the Priority Areas. This basically implies that the communities and households that are affected by land related demands of paving way for activities of the EACOP project are entitled and eligibility for for different types of compensation, vulnerable people affected by land acquisition, in kind compensation options including replacement housing, transitional support and livelihood restoration programmes as well as the implementation and monitoring plans.

However, in spite of these detailed and flowery EACOP Resettlement Policy Frameworks in both Uganda and Tanzania, there are still some sceptics on the dangers of corrupt officials that might either misappropriate funds for either resettling those displaced or deny them adequate compensation in the name of greed and self-centred economic gained.

In terms of the current tatus of how the EACOP undertaking are impacting land rights in the gazetted districts, initial land delineation and surveys have already been undertaken. As a result of land surveys, valuation reports were developed and approvals of the same were granted by the appropriate Authorities in timeframe of 2018-2020. Following some criticism globally, there have been delays in the timing of the final investment decision.

However, for EACOP project to attain lasting harmony with the affected natives there will be need to ensure compliance with the national legislation and international legal framework as well as financing requirements.

The inevitable infringements on land rights will call for ensuring that all landowners and landowners that are yet to be affected by the ongoing process of acquiring land are not only treated respectful but also receive compensation that is equivalent to the replacement value. It will also remain instrumentally vital finding ways of identifying those most vulnerable and powerless people whose land ownership rights in Articles 26 and 237 of the 1995 Constitution are faced with detrimental impacts due to the land acquisition with a purpose of rendering them assisting special assistance whenever and wherever necessary.

Additionally, compensation agreements must be signed with each and every single affected landowners, whether as individuals, or as households and as well as institution irrespective the legal or social status of those individuals. There will be a need of ensuring that all those whose ownership rights might be impacted by EACOP are given notice prior to accessing their land. Although where need be such notices ought to be accompanied by some kind of provisions for transitional support in form of food packages to the poorer and eligible households. Especially mindful that most, if not all of the displaced families are mainly substance farmers and thus dependant of the same land from which they are being displaced

## **7. Labour rights as likely impacts from East African Crude Oil Pipeline (EACOP)**

There are other cases emerging which are also associated with labour rights especially rights that relate to health and safety measures of Ugandan and foreign employees that will serve in this hazardous sector. It is important to reiterate that considering the hazardous nature of this industry there is a necessity of ensuring that all the necessary occupational, health and safety measures are integrated in the designing of employment manuals. Of course, a merely having

employment policies in place that are hardly respected in terms enforcing rights of workers or employee makes such policies pointless. Some of the personal protective equipment that should be deemed as part of health and safety requirements, include the protective footwear, protective helmets, gloves and ovals. The Kimberly Diamond mines in South Africa are an example of a mine where such miners worked with very basic and minimal protective health and safety gears. It must also be pointed out that in recent times the duty to respect health and safety measures remains compromised by the growing tendency by multinational companies to outsource some of their employment activities to recruitment agencies. The contracts are in this regard made between the recruitment agencies and the recruited employee. The contracts are often temporal or periodic in their nature and in other cases the casual labourers are called up on a part time basis thus denied of labour rights due to absence of a continuous employee-employer relationship. However, in the context of advocacy for labour rights, it is paramount ensuring effective compliance with labour rights of all workers serving on the premises of the mines or within the scope of workplace.

Some legal scholars have projected a positive image on global initiatives of improve the extractive sector as advanced by Cusato,

*“Several global regulatory initiatives have been devised to assist governments in reforming the natural resource sector and ensure that extractive activities are conducive to peace (e.g., the Kimberley Process Certification Scheme and the Extractive Industries Transparency Initiative (EITI).”<sup>56</sup>*

It is instrumentally vital to highlight the interconnectivity that subsists between labour rights on health and safety issues and the impact enjoyment of the right to health of the affected workers. Health concerns emerged among several former coal miners in Wales.<sup>57</sup> Most of the affected men had detrimental health consequences as experienced in the aftermath of their retirement. The deplorable health complications that were faced by former coal mines was largely attributable to having been exposed to working in coal mines but without personnel protective equipment. Sadly, side effects have a tendency of surfacing many years after the closing or decommissioning of the mining operations.

In addition to often denying miners their right to descent working conditions, there wellbeing coupled with welfare has remained somehow appalling. This is demonstrated by presence of several welfare courts decisions on miners in other industrial jurisdictions in which intensive mining activities have historically thrived.<sup>58</sup>

A related branch of rights worthwhile pointing out under employment, is the less clarity the criteria shall be used to ensure a diverse, indiscriminate and merit centred approach in the recruiting of employees of EACOP project. More so a detailed written account on how attributes of diversity on grounds of gender, disability, tribe among other factors shall be respected and maintained in implementation of a fairly inclusive the recruitment procedure. There are emerging voices Ugandans that there is a high likelihood that the men are three times

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<sup>56</sup> Eliana Cusato, ‘International law, the paradox of plenty and the making of resource-driven conflict’, *Leiden Journal of International Law* (2020) 33(3), pg. 649-666

<sup>57</sup> *Jones v Secretary of State for Energy and Climate Change*, Queen's Bench Division [2012] EWHC 2936 (QB)

<sup>58</sup> *Skegness Urban DC v Derbyshire Miners Welfare Committee* [1959] A.C. 807, [1959] 2 W.L.R. 711, [1959] 2 All E.R. 258. See also. *Skegness Urban DC v Derbyshire Miners Welfare Committee* [1958] 1 Q.B. 298, [1957] 3 W.L.R. 1048, [1957] 3 All E.R. 692

more likely to dominate various sectors of the jobs for the EACOP projects. In as much as there also concerned Ugandans that worry that certain tribes are more likely to literally dominate and even assume ownership rights as communities with preferential privileges as the only Ugandans to enjoy majority, if not all of the jobs associated with the EACOP. This means that there is a feeling that some Ugandan tribes envisage a danger of inclusionary and exclusionary tendencies between Ugandan societies. In case of the EACOP employability opportunities being tainted by tendencies of biased recruitment practices, that will contravene the constitutional right for all Ugandans to be equally treated, in an indiscriminative manner while distributing and allocating employment opportunities from this resourceful venture.

In a nutshell, any failure in terms of adhering to rights of the employees has left considerable effects on the individual's capacity to enjoy socioeconomic and cultural rights. The concept of interconnectivity or interrelated nature of rights is yet another key factor that employment rights.

## **8. Conclusions and recommendations.**

There is an urgent need to ensure that necessary suggestions are made, which are deemed important in terms of advancing a rights-based approach when designing and developing this project.

The analysis and extensively expounded on how the different facets of human rights of Ugandans or Ugandan households could be impacted by the implementation of the EACOP project. To this end the environmental rights, land rights, employment rights are some of the key examples of rights that this project has expounded about.

In spite of the demerits that the EACPO project might have on various regimes of human rights, it would be overly pessimistic for this initiative to be described or labelled in a purely negative sense. Therefore a balancing act or approach becomes important so as to avoid over emphasising notions of human rights at the expense of room for oil exploration.

Nevertheless extra precaution must be taken into account with a view of minimising the potentially negative or harmful impacts which the EACOP project is anticipated to have on various human rights of Ugandans.

In that regard this analysis would render less hope if it falls short of suggesting possible solutions in which the project can be advanced without protecting, promoting or preserving human rights norms.

For land rights, the governments involved should exercise transparency in increasing the public accessibility for the facts and figures of the land, the number of families whose land has been affected, aggregate monetary budget for each based on the size of land for each. For now, the information that is detailed enough and even regular updates as to what exactly is going on with land compensation and resettlement plans remains largely inaccessible to the general

Ugandan public. This inaccessibility of information and updates of resettlement progression by the different stakeholders raises more questions but with barely any answers as to how the land rights issues are currently being dealt with.

For purposes of protecting environmental rights, there will be a need to respect conventional principles of environmental law such as the polluter pays principle and the precautionary principle. Each of these must be perfectly integrated in every stage of the ongoing EACOP project. To this end institutional actors such as; the National Environment Management NEMA, Petroleum Authority of Uganda (PAU), UNOC, Uganda National Oil Company (UNOC) among others, should not only be involved but also equipped with the relevant training so as to have capacity and competencies of dealing with envisaged environmental centred concerns. The interconnectivity or possible overlaps between environmental rights and aspects of climate change should be afforded deserving attention.

Labour rights should be enhanced by strengthening the currently pre-existing labour laws as well the relevant institutional structures such as the Industrial courts. To this end proactive efforts and resources should be invested in boosting the labour courts. Additionally, the importance of improving concerted efforts in demonstrating the correlations that subsist between labour/employment rights and the enjoyment of socioeconomic and cultural rights. Such knowledge remains instrumentally vital for better policies and practices and yet often lacking from within the relevant institutions.

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