



POLICY BRIEF

Understanding Property Rights and Compensation in Uganda: A Guide for Communities



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About Women on Environment Mission(WEM)

Women on Environment Mission (WEM) is a Ugandan-based female-led organization dedicated to promoting environmental conservation and human rights. The organization empowers women to stand up against environmentally damaging projects linked to the exploitation of oil and gas. Through lobby and advocacy, WEM ensures that women's voices are heard by decision-makers at all levels.

Our Vision

A world in which women rights and integrity of the environment is protected.

Our Mission

To advance women's empowerment and end the climate crisis, poverty and food insecurity.

Abstract

Uganda's 1995 Constitution is widely regarded as one of the most progressive in protecting human rights. Chapter Four outlines a broad range of rights, including environmental and property rights, intended to ensure the well-being of citizens. Despite these strong legal provisions, violations of human rights particularly property rights under Article 26 continue to increase.

Rapid economic growth, driven by large-scale development projects in sectors such as electricity, construction, infrastructure, and oil, has intensified pressure on land. As a result, many citizens especially poor and vulnerable communities are increasingly pushed to the margins of society.

These communities are often deprived of their primary means of livelihood as government and private investors acquire large tracts of land for projects such as dams, plantations, refineries, and pipelines. A major cause of these violations is the limited awareness among citizens of their constitutional rights and the legal mechanisms available to defend them.

This policy brief highlights key legal provisions and corresponding rights relating to property and compensation. Its primary objective is to support local communities, and other stakeholders across Uganda in effectively applying existing laws for the common good.

1.0 Introduction

1.1 Property Rights for Everyone

Property and compensation rights, like other fundamental human rights, are clearly provided for under the Constitution of Uganda and various sectoral laws, including the Land Act (Cap 227), the Land Acquisition Act (Cap 226), and the Electricity Act. These rights are inherent and not granted by the state or any other authority.

At the international level, the right to own property is recognized in several legal instruments, including Article 17 of the Universal Declaration of Human Rights, Article 14 of the African Charter on Human and Peoples' Rights, and the Convention on the Elimination of All Forms of Discrimination Against Women. However, there remains a significant gap in awareness and understanding among both citizens and government institutions regarding the rights and responsibilities involved in land acquisition and compensation processes.

In June 2012, the Government of Uganda earmarked approximately 29 square kilometers of land in Kabaale Parish, Hoima District, for the construction of an oil refinery. This decision affected more than 7,118 people across 13 villages, including Nyahaira, Kyapaloni, Kitegwa, Bukona A and B, Nyamasoga, Kayera, Kabale A and B, Kigaga, Katoke, Kijumba, and Nyakasenene.

In 2018, TotalEnergies initiated land acquisition processes in Uganda to facilitate the development of the East African Crude Oil Pipeline. The project led to the compulsory acquisition of land from 3,648 households across 10 districts, including Hoima, Kikuube, Kakumiro, Mubende, Gomba, Sembabule, Lwengo, Kyotera, Rakai, and Kyankwanzi affecting an estimated population of 24,744 individuals.

Although the land acquisition process began in 2018, a number of affected persons remain uncompensated to date, raising concerns about delays in redress and the adequacy of compensation mechanisms within large-scale infrastructure projects. The acquisition left many residents feeling deprived of their land and livelihoods.

Evidence suggests that compensation offered to affected communities has often been inadequate, inconsistent with legal standards, and based on outdated valuation rates. Many residents have also raised concerns about lack of consultation and transparency. Meanwhile, government authorities maintain that the compensation process has been fair, even as eviction notices are issued before compensation is fully paid.

This situation highlights the urgent need for citizens to understand their rights and actively demand accountability. The Constitution empowers citizens to defend their rights, and failure to do so risks normalizing human rights violations.

This brief therefore summarizes key legal provisions on property and compensation rights, outlines the conditions under which these rights may be limited, and identifies the responsibilities of institutions tasked with protecting them. It forms part of ongoing efforts to empower communities particularly in the Albertine Graben and Greater Masaka to participate effectively in decision-making processes related to oil development, environmental governance, and human rights.

- a. To simplify key legal provisions on property and compensation rights in Uganda
- b. To empower local communities, local governments, and other stakeholders with relevant information for the promotion and protection of human rights.

2.0 Meaning of the Right to Property and Compensation

The Constitution of Uganda, under Article 26(1), guarantees every person the right to own property either individually or in association with others. Article 237 further recognizes four land tenure systems: customary, mailo, freehold, and leasehold. The first three tenure systems are reserved for Ugandan citizens, while leasehold tenure may be held by both citizens and non-citizens.

The Constitution also sets strict conditions under which the right to property may be interfered with. Any acquisition that does not comply with these conditions is null and void. For instance, in *Advocates for Natural Resources Governance and Development & Another v Attorney General* (Constitutional Petition No. 40 of 2013), the court declared Section 7(1) of the Land Acquisition Act unconstitutional to the extent that it did not provide for prior payment of compensation before compulsory acquisition or possession of property. The court held that taking possession of land before payment of compensation violates the right to property as enshrined in Article 26(2) of the 1995 Constitution.

Furthermore, Article 2 establishes the Constitution as the supreme law of Uganda and provides that any law inconsistent with it is void to the extent of that inconsistency. Consequently, all legislation—including the Land Act, the Land Acquisition Act, and the Electricity Act—must be interpreted and applied in conformity with constitutional provisions on property rights. In exercising their mandates, government agencies must therefore respect and uphold the rights of project-affected persons. Property owners are entitled to demand and defend their rights as provided under the law.

2.1 Right to Use Property Freely

The right to property includes the freedom of owners to use and manage their land in accordance with the law. This encompasses the right to sell, cultivate, lease, donate, mortgage, develop, or undertake any lawful activity on the land. Property may be held under any legally recognized tenure system. These tenure systems include customary, freehold, mailo, and leasehold. Any person or entity, other than the government acting within the law, who interferes with your ability to use, register, sell, or develop your property violates your right to property. Even where the government seeks to interfere with this right, it must strictly comply with the constitutional requirements governing compulsory acquisition, as outlined below.

2.2 Government Interference with Property Rights

Although protected, the right to property is not absolute. Under Article 26, government may compulsorily acquire property only under specific conditions and upon payment of prompt, fair, and adequate compensation. Importantly, only the government not private individuals or entities has the authority to compulsorily acquire land.

The Constitution permits such interference only in the following circumstances:

2.3 Compulsory Acquisition for Public Use

The Government may compulsorily acquire private property where it is demonstrably required for a public purpose. Such purposes include the development of infrastructure and services such as roads, railway lines, and other projects that serve the broader public interest. The acquiring authority must show that the project delivers clear benefits to the general public, including affected landowners where applicable. Large-scale development projects, such as refineries and similar national infrastructure, may fall within this category where they are justified as serving the public interest.

2.4 Acquisition in the Interest of National Defence

The Constitution permits compulsory acquisition of property where it is necessary for national defence or security. Such acquisition must be strictly aimed at protecting the security interests of the State as a whole and must not be used to advance private interests or benefit particular individuals or groups.

2.5 Acquisition for Public Order

Government may acquire property where its location or use poses a threat to public order or interferes with the maintenance of law and order. In such cases, acquisition must be justified as necessary to safeguard peace, stability, and the rule of law.

2.6 Acquisition for Public Safety

Where property presents a demonstrable risk to public safety, the State may intervene through compulsory acquisition. This power may only be exercised where acquisition is necessary and proportionate to eliminate or mitigate the identified risk.

2.7 Acquisition for Public Morality

The State may, in limited circumstances, compulsorily acquire property where it is reasonably necessary to protect public morality and preserve accepted social and cultural standards. Any such action must be justified in line with constitutional principles and public interest.

2.8 Acquisition for Public Health Protection

In the interest of public health, including during disease outbreaks or other health emergencies, the Government may acquire property where such action is necessary to prevent the spread of disease or to protect the health of the population.

3.0 Conditions for Lawful Property Acquisition

Before acquiring property, government must fulfill the following conditions:

3.1 Prompt, Fair, and Adequate Compensation

The Constitution provides that, prior to the compulsory acquisition of property, there must be a law ensuring the prompt payment of fair and adequate compensation before the property is taken or possession is effected.

(a) Prompt payment

Prompt payment requires that compensation be made within a reasonable time and, in practice, should not exceed six months from the date of the declaration that the land is required for a public purpose.

(b) Fair and adequate compensation

Fair and adequate compensation is intended to place the affected person, as far as possible, in the same position as they were prior to the acquisition. In general practice, compensation whether for customary land or other tenure systems should reflect the open market value of the property. “Market value” refers to the price a willing seller would reasonably expect to obtain from a willing buyer in an open and competitive market.

(c) Prior payment before taking possession

The requirement for compensation to be paid prior to acquisition means that payment must be made before the government takes possession of, or assumes control over, the property.

3.2 Right of Access to Courts for Redress

The law must guarantee affected persons the right of access to courts and other competent tribunals for the resolution of disputes arising from compulsory acquisition. This access must be practical, affordable, and effective, ensuring that affected persons can meaningfully challenge decisions that affect their property rights.

The right to compensation also includes the right to claim damages necessary to restore the affected person, as far as possible, to the position they would have been in had the acquisition not occurred. Accordingly, compensation should be sufficient to enable relocation to a socially and economically comparable standard of living, rather than leaving affected persons worse off than before.

3.3 Right of Access to Information on the Acquisition Process

The Constitution and the Access to Information Act guarantee the right of access to information held by the State or its agencies. Affected persons are therefore entitled to obtain timely and relevant information regarding the acquisition process, including current compensation rates, the methodology used to determine such rates, and the expected timelines for payment.

Withholding key documents such as Resettlement Action Plans (RAPs) undermines transparency and limits the ability of affected persons to engage meaningfully in negotiations. Such non-disclosure may amount to a violation of constitutional rights.

3.4 Right to be Consulted in the Determination of Compensation Rates

Under Section 59 of the Land Act (Cap. 227), District Land Boards are mandated to establish compensation rates for crops and non-permanent developments and to review them annually in line with prevailing market conditions.

Given that compensation must reflect open market value, affected persons should be meaningfully consulted during the formulation and review of these rates. Failure to consult project-affected persons undermines fairness and may render the resulting rates inconsistent with constitutional requirements.

3.5 Right to Compensation Based on Updated Rates

Compensation must reflect current open market value at the time of acquisition. Therefore, rates used for valuation must be regularly updated and aligned with prevailing market conditions.

Given the appreciation of land values over time, reliance on outdated compensation schedules risks undervaluation of property and failure to restore affected persons to their pre-acquisition socio-economic position.

3.6 Right to Timely Payment

The principle of prompt compensation, as provided for under the Constitution, requires that payment be made before the transfer of ownership or possession of the property. Failure to ensure timely payment constitutes a violation of constitutional rights.

Delays in payment may place property owners in a vulnerable position, effectively dispossessing them without compensation and undermining their economic security.

3.7 Right to Choose Between Monetary Compensation and Resettlement

Ugandan law and policy frameworks recognize that project-affected persons should have the option to choose between monetary compensation and resettlement support. This includes the option to manage their own relocation or to receive resettlement assistance alongside compensation for crops and developments.

Imposing a unilateral decision on the form of compensation or resettlement undermines this right. Affected persons must be provided with complete and timely information, including access to the Resettlement Action Plan (RAP), to enable informed decision-making.

3.8 Right to Reject Inadequate Compensation and Seek Judicial Redress

Affected persons have the right to reject compensation they consider inadequate or below market value. Exercising this right should not attract punitive treatment.

Instead, disputes should be resolved through negotiation and, where necessary, through an impartial court of law, which has the authority to determine fair and adequate compensation in accordance with constitutional standards.

3.9 Need for Reform of the Land Acquisition Act (Cap. 226)

The Land Acquisition Act (Cap. 226), enacted in 1965, predates the 1995 Constitution and contains provisions that are inconsistent with modern constitutional standards.

Notably, the Act does not explicitly require prompt payment prior to acquisition, and its provisions on compensation and access to courts are limited, focusing mainly on appeals against compensation amounts rather than broader constitutional protections.

There is therefore a need to reform the Act to align it with constitutional principles of fair and adequate compensation, prompt payment, transparency, and full access to judicial redress.

4.0 Conclusion

Despite a strong legal framework, property rights violations remain widespread in Uganda, particularly in the context of large-scale development projects. Addressing these challenges requires increased public awareness, stronger institutional accountability, and legal reforms to ensure that land acquisition processes are fair, transparent, and constitutional.

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