



# The Impact of Extractives Industry Activities in Karamoja and Bunyoro sub-regions - Uganda

Community-Based Human Rights Monitoring Report

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JANUARY 2020 – DECEMBER 2021

### ACKNOWLEDGEMENTS

Avocats Sans Frontières (ASF) appreciates all the different stakeholders and partners that made input to the Community Based Human Rights Monitoring Report on the The Impact of Extractives Industry Activities in Karamoja and Bunyoro sub-regions. This monitoring report was made possible within the framework of the project "Empowering communities and civil society to demand for good governance in natural resource management" 2020-2021 financed by the European Delegation in Uganda; without which the report would have not been produced and we are grateful for this support. The project was jointly implemented by Avocats Sans Frontières (ASF) and Advocates for Natural Resources Development (ANARDE). Michael Musiime Namanya (Coordinator Natural Resources Governance at ASF led the writing of this report in conjunction with Emmanuel Achelam (Legal Officer- ANARDE). The invaluable contributions of Sharon Joy Lucima (Monitoring and Evaluation Officer- ASF) in data analysis, Irene Winnie Anying and Faridah Kyomuhangi cannot go without mention.

ASF is particularly grateful to the community based human rights monitors and civil society organisations in the Karamoja and Albertine who were responsible for collecting and verifying the

## EXECUTIVE SUMMARY

From November 2020 to November 2021, Avocats Sans Frontières (ASF) in partnership with Advocates for Natural Resources and Development (ANARDE), conducted a Community Based Human Rights Impact Assessment (CBHRIA) of key extractives industry (EI) activities, that is, oil and gas exploration in the Albertine Graben (Bunyoro sub-region) as well as mineral exploration and exploitation in the Karamoja sub-region. This was enabled through support provided by European Union (EU) in a two-year project geared at, "Empowering communities and civil society to demand for good governance in natural resources management". The overall project goal was to contribute to good governance in the management of extractive resources in Uganda with the specific objective of empowering affected local populations to demand and have their rights respected and protected at all phases of extractive resource exploitation projects.

The CBHRIA was implemented through a network of locally based human rights monitors and civil society organizations located in the vicinity of EI activity sites. Through use of mobile phones, reported incidences of human rights violations/abuses were documented by the community monitors and verified by the civil society organizations through follow-up visits to the sites and affected individuals. These human rights concerns were presented as grievances to relevant duty bearers at both local (sub-county and district) levels and at national level towards facilitating access to remedy in both the immediate term for the affected population and long term in the form of policy and legal reform/ formulation.

From the monitoring, a total of 255 relevant incidents were identified across both regions. The data collected identified companies as the primary violators of HR in both regions, that is, 67% in Bunyoro region and 48% in Karamoja region above other actors such as individuals and government bodies. Additionally, the recorded incidents were categorized within the framework of the key human rights monitored by the project, including the right to property, the right to life, the right to a clean and healthy environment, the right of access to information, the right of access to remedy and labour rights. In Karamoja and Bunyoro regions, the rights were reflected as follows, the right to property (18%, 62%), the right of access to information (0%, 15%), the right of access to water (2%, 5%), the right to a clean and healthy environment (20%, 5%), labour rights (36%, 1%) respectively. The right of access to remedy in both regions was also analyzed as a crucial link to the realization of all other rights.

The form of these violations are discussed in detail in section 4 of the report however, further interrogation revealed endemic issues such as incomprehensible compensation regimes during large scale land acquisition processes, structural challenges in the administration/ management of actors in the nascent sector, coupled with a lack of access to information and absence of transparency in the sector all compounded by inefficient and inaccessible grievance options for project affected persons (PAPs). Experiences by the PAPs reflected the need for continued objective and meaningful engagement to be able to realize the constitutionally mandated standard in Directive II of the National objectives and directive principles of state policy.

The report also makes several recommendations to the key actors in the sector, including calls for the government of Uganda to streamline the law and policy on compulsory land acquisition process whilst improving access to effective remedy by strengthening both state and non-state judicial and non-judicial access to remedy mechanisms available to persons affected by extractives industry activities. Additionally, companies and the government are called upon to improve transparency in the sector by improving access to information to enable meaningful participation. The report concludes by making a clarion call to recognize and support the role of civil society in contributing to participation of affected populations in the governance and sustainable exploitation of natural resources.



### Partner organizations who contributed to the data collection and verification; and the selection and supervision of monitors

#### Bunyoro



#### Karamoja



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## LIST OF ACRONYMS

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ACHPR	African Charter on Human and Peoples' Rights
ADR	Alternative Dispute Resolution
ANARDE	Advocates for Natural Resources and Development
ASF	Avocats Sans Frontières
BAPENECO	Bunyoro Albertine Petroleum Network on Environmental Conservation
BIRUDO	Buliisa Initiative for Rural Development Organisation
CBHRIA	Community Based Human Rights Impact Assessment
CBM	Community-Based Monitoring
CCCC	China Communications Construction Company
CGV	Chief Government Valuer
CICO	Chongqing International Construction Corporation
CLOs	Community Liaison Officers
CNOOC	China National Offshore Oil Corporation
CRED	Civic Response on Environment and Development
CSCO	Civil Society Coalition on Oil and Gas
CSOs	Civil Society Organisations
EACOP	East African Crude Oil Pipeline
ECO	Ecological Christian Organisation
EI	Extractive industry
EOC	Equal Opportunities Commission
EIA	Environmental Impact Assessment
DCDO	District Community Development Officer
DGSM	Directorate Of Geological Survey and Mines
DISO	District Internal Security Officer
FID	Final Investment Decision
FIDA	The Association Uganda Women lawyers
GMCs	Grievance Management Committees
HGAs	Host Government Agreements
HR	Human Rights
IDUAI	International Day for Universal Access to Information
JVPs	Joint Venture Partners
KAMIG	Karamoja Interest Mining Group
KAYESE	Karamoja youth Effort to save environment
KAWIDA	Kakindo Women's Development Agency
KDF	Karamoja Development Forum
KHEDA	Kitara Heritage Development Agency
KIDS	Karamoja Integrated development services
KWG	Kwataniza Women Farmers Group
LARF	Land Acquisition and Resettlement Framework
LASPs	Legal Aid Service Providers
LC	Local Council
M&E	Monitoring and Evaluation
MEMD	Ministry of Energy and Mineral Development
MIRAC	Mid-Western Region Anti-Corruption Coalition
MOU	Memorandum of Understanding
NAVODA	Navigators of Development Association
NEMA	National Environment Management Authority
NGO	Non-Government Organisation
PAPs	Project Affected Persons
PAU	Petroleum Authority of Uganda
PPE	Personal Protective Equipment
RDC	Resident District Commissioner
RRA	Resource Rights Africa
RUCODET	Rupa Community Development Trust
UHRC	Uganda Human Rights Commission
ULS	Uganda Law society- Moroto Field office
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Populations Fund
UNGPs	United Nations Guiding Principles on Business and Human Rights
UNOC	Uganda National Oil Company
UNRA	Uganda National Roads Authority
UPDF	Uganda People's Defence Forces
S/C	Sub County



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# 1. INTRODUCTION

## 1.1. Introduction & Context

Natural Resources exploitation is envisaged as a key driver for many economies towards a successful transition from lower to middle income status as is the case with Uganda. However, without efficient and productive utilisation of both oil & gas as well as mineral resources, the challenges arising from this exploitation might extinguish/ nullify any perceived/ anticipated benefits. This therefore needs a well-established natural resource management policy and legal systems to ensure the efficient utilisation of existing natural resources. Uganda is endowed with a rich reservoir of natural resources combining both oil and gas as well as mineral deposits which are being exploited to realise this outlook of development.

The project was implemented during a period of transition and development in Uganda's oil and gas sector from the exploration phase to the development phase which is characterized by large scale acquisitions of land as companies move towards the extraction and commercialization of oil deposits. As a result, this has precipitated a rise in the number of grievances from affected communities who are increasingly reporting negative impacts on human rights and the environment. The major Extractives Industry (EI) developments in the region include the Tilenga Project operated by Total Energies, Kingfisher Development Project run by China National Offshore Oil Corporation (CNOOC), the East African Crude Oil Pipeline (EACOP) administered by the EACOP partners and the Refinery Project. These projects are supported by other government developments being undertaken in the region including the expansion of road networks as well as development of the Kabaale Industrial Park.

Likewise, Uganda's mining sector has seen tremendous growth and investment in the past years in an effort to boost exploitation of the vast mineral deposits in the nation. The Uganda National Bureau of Statistics ranked mining and quarrying as the 7th most lucrative enterprise undertaken by Ugandans despite the challenges facing the sector such as institutional and regulatory gaps, human resource limitation and poor funding. The Karamoja sub-region is one of the most vibrant mining regions in the country, endowed with a variety of minerals including gold, marble and limestone. This has attracted major foreign and local interest to explore and exploit these minerals. However, the impact of EI activities in the region continues to be felt by local communities in the form of lack of compensation for surface rights to land, poor working conditions and instances of child labour at mining sites, poor communication between companies and affected communities among others. This situation is further exacerbated by the presence of persistent insecurity in the region orchestrated by cattle rustling commonplace among the Karamojong culture of nomadic pastoralism.

The heightened investment in the extractives industry in the coming years will only continue to expose local communities in the vicinity of extractives resources to these and more challenges. Participation of these communities therefore in decision making is important in so far as it can increase the positive perception of EI projects and the sense of inclusion in economic development. In spite of this, the voices of affected communities continue to be absent at both local and national level policy formulation and implementation.

The project "Empowering Communities and Civil Society to demand for Good Governance in Natural Resource Management" implemented by Avocats Sans Frontières (ASF) and Advocates for Natural Resources and Development (ANARDE) sought to bridge this gap through a Community Based Human Rights Impact Assessment. This effort was achieved through a collaborative system with local Civil Society Organisations (CSOs) and network of human rights monitors in Bunyoro and Karamoja sub-regions to monitor and analyse the impact of extractive industry (EI) activities on human rights in the identified areas regions. The rights violations identified and analysed in this report are based on the existing national legal and policy frameworks as well as legally binding instruments intended to regulate EI activities (see section 3 on regulatory framework). This report attempts to present a synthesized analysis of trends and observations for the period of November 2020 to November 2021 during which monitoring took place.



## 1.2. Methodology

The monitoring was undertaken on a Community-Based Monitoring (CBM) Approach developed by ASF. It is rooted in the UN Guiding Principles on Business and Human Rights and influenced by the Getting It Right tool published by the Canadian organisation Rights & Democracy. It seeks to create harmonized human rights monitoring standards at the community level and ensure that the information derived is channelled up to relevant bodies. Built on the existing monitoring structures at the local level, it taps into existing networks of community based volunteers and locally based CSOs to promote a bottom-up approach to monitoring.

The Project was implemented in Bunyoro and Karamoja sub-regions specifically because of the intensive oil and mineral exploration and exploitation activities therein and the glaringly significant socio-economic impact of these activities on the lives of those who reside in and around these resource rich areas. The specific districts of implementation were Hoima, Kikuube and Buliisa in Bunyoro sub-region and Moroto, Nakapiripirit, Abim and Amudat districts in Karamoja sub-region. The monitoring system comprised of 6 local CSOs and a regional network in each region as follows;

**Table 1: List of CSO partners in Karamoja and Bunyoro sub region**

Karamoja sub-region	Bunyoro sub-region
<ul style="list-style-type: none"> <li>Ecological Christian Organisation (ECO)</li> <li>The Association Uganda Women lawyers (FIDA)</li> <li>Karamoja Interest Mining Group (KAMIG)</li> <li>Karamoja youth Effort to save environment (KAYESE-256)</li> <li>Karamoja Development Forum (KDF)</li> <li>Karamoja Integrated development services (KIDS)</li> <li>Uganda Law society- Moroto Field office (ULS)</li> </ul>	<ul style="list-style-type: none"> <li>Bunyoro Albertine Petroleum Network on Environmental Conservation (BAPENECO)</li> <li>Buliisa Initiative for Rural Development Organisation (BIRUDO)</li> <li>Kakindo Women's Development Agency (KAWIDA)</li> <li>Kitara Heritage Development Agency (KHEDA)</li> <li>Kwataniza Women Farmers Group (KWG)</li> <li>Mid-Western Region Anti-Corruption Coalition (MIRAC)</li> <li>Navigators of Development Association (NAVODA)</li> </ul>

These local actors were selected on the basis of a well-defined criteria which included;

- The nature and mandate of the organisation.
- Local anchorage manifested through a proven track-record of community work and integration in communities
- Presence of a network of community monitors
- The organisation's relationship with duty bearers and companies
- The organisation's integration into CSO networks or coalitions, among others.

Additionally, a network of 40 community based volunteers was identified, 20 in each region. These were selected on the basis of the following criteria:

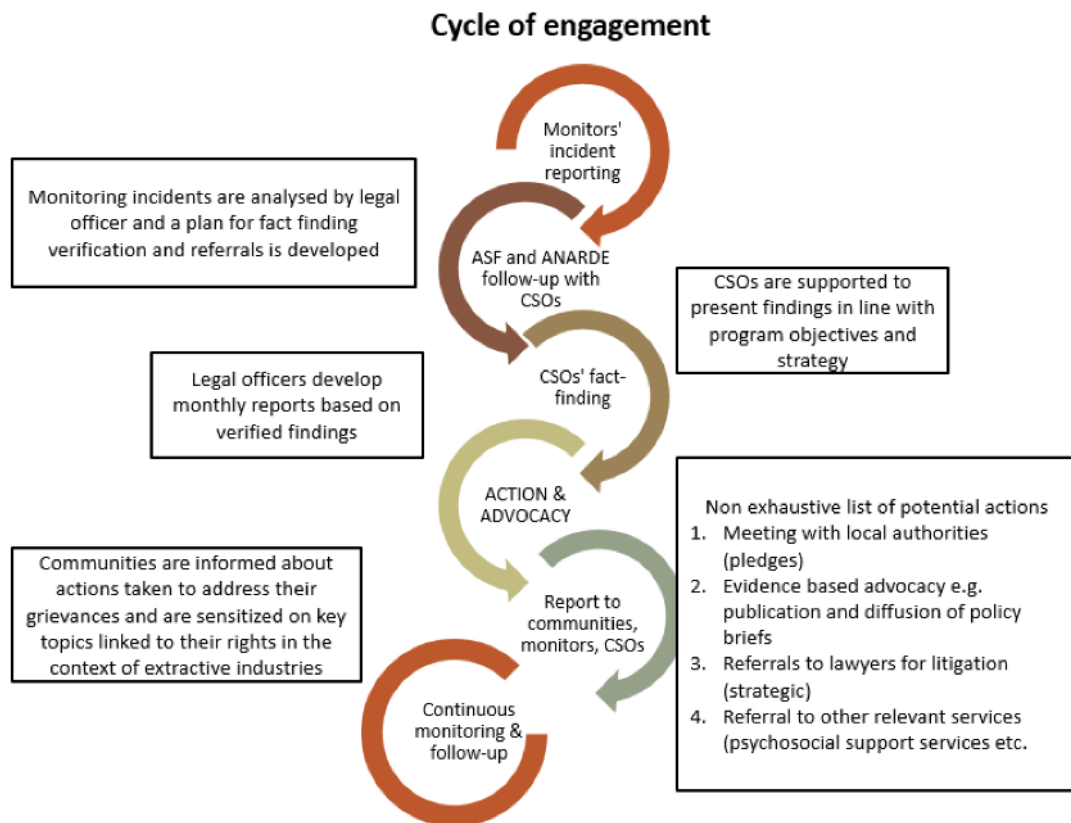
- Local anchorage
- Neutrality
- A minimum level of literacy for use of the reporting tools
- Gender representation
- Attached to the CSOs identified

The monitors and CSOs were trained to monitor human rights with a specific context of human rights in the extractives industry. They were also comprehensively trained on tools for monitoring as well as the use of digital technology (smart phones and the kobo collect interface) in reporting incidences of human rights violations. Therefore, they were able in real time to observe and report grievances arising from extractive industry (EI) projects and activities.

These monitors were stationed at hotspots<sup>1</sup> near or in the communities affected by key industrial project activities. Through interviews and observation, they identified violations suffered by community members and/or the environment. Using mobile phones, they were able to submit regular reports to KoboToolbox, an online platform for remote data collection. Key information criteria reflected in the tool includes the nature of violation/grievance, the number and category of Project Affected Persons (PAPs) involved/affected such as women, elderly etc., alleged violators and any follow up/remedy actions undertaken by the PAP and/or duty bearers to resolve the grievance. Additionally, provision was made for attachment of photographs where relevant to the incident or any relevant documents pertaining to the grievance registered such as a complaints record submitted to a company or grievance management structure.

The information submitted via the platform was thereafter subjected to verification and cleaning by the M&E officer together with the respective Legal officer. Key areas/issues of follow up were identified and shared with the local CSOs through focal persons. The CSOs were responsible for field follow-up to verify the occurrence of the incident, gather further facts and details as well as commence the initial steps of identifying the relevant remedy pathways to be explored for that particular case. The focal persons aforementioned submitted monthly reports to the ASF Legal Officer to guide the formation of follow-up actions through the identified referral pathways, presented new developments and/or reported on ongoing incidents. The Legal officer then analysed the data submitted to identify key grievances and patterns/trends towards addressing not only particular PAPs grievances, but also systemic issues in the extractives industry. The preliminary findings from the data were presented to district authorities and later to the national stakeholders captured in policy briefs and other advocacy actions. Following this, outreaches were organised to support further data collection on specific violations as well as to provide essential feedback to communities.

**Figure 1: Diagrammatic representation of the methodology employed titled the «Cycle of engagement»**



<sup>1</sup> A hotspot in the context of the project was defined as an area (site/location) where there has been/or will be a significant impact whether in number of occurrences or in the magnitude of an EI activity on the population in that area or their resources.

## Limitations

In the initial stages, the key limitation was adaptation to the digital monitoring system by the monitors. Although they were trained sufficiently on use of kobo and the digital gadget (mobile phone), it was noted that the monitors took a while to adapt to the digital platform particularly on the proper use of the monitoring tool. The accurate identification of relevant incidents, and plotting of the same under the correct headings in the system took the monitors at least 2 months. The monitors although capable of identifying a particular issue as a human rights violation, often included non-extractives industry related issues/violations in the database such as domestic violence<sup>2</sup>. To address this, consistent and frequent engagements by the legal officers with the monitors was done through support visits and telephone follow-up on an individual basis.

The COVID-19 pandemic also posed a particular threat to the monitoring with regard to limitations in movement of persons in both years of implementation<sup>3</sup>. Strict measures put in place to limit the spread of the virus inhibited movement and meeting of persons. This had a significant impact on the follow-up and verification of incidents by CSO focal persons and field staff alike. To ensure continuity amidst these challenges, support was provided to the monitors and CSOs through provision of Personal Protective Equipment (PPE), limiting of numbers of participants in meetings, as well as adapting technology as a key tool through online meetings such as zoom. Likewise, local CSOs on ground were able to leverage key partnerships with local authorities to enable them conduct outreaches and verification meetings with PAPs even during the pandemic.

Additionally, the hindered access to EI sites especially in the Bunyoro region also created limitations in monitoring human rights. Access to these sites is largely limited due to heavy security presence around the largely fenced off sites with restricted permission to enter. CSOs are often subjected to tedious administrative protocols often held and controlled by the central government making independent verification of facts of incidents all but impossible. Local authorities in the regions of operation are also subject to the same process of approval limiting the scope of the monitoring personnel.

Insecurity in Karamoja by cattle rustlers also limited movement and access to sites by CSOs and human rights monitors. In June 2021, there was a rise in cases of insecurity reported by the monitors which was majorly attributed to the increased raids by cattle rustlers especially in Abim, Moroto (mostly Rupa sub-county) and Nakapiripirit. These constant raids led many mining sites to be abandoned and many times, monitors and CSO's were cautious about accessing such risky sites. For instance, at Nakabaat mining site in Moroto, bandits took over the area and as a result, monitoring at the site was inhibited.

The shrinking civic space in Uganda exacerbated this situation. The civic space under which monitoring took place was characterised as one consisting of a heavy military presence at sites of operation, coupled with lengthy and obstructive processes towards granting of access to monitoring of EI sites. Additionally, interference by local security organs such as the District Internal Security Officer (DISO) and the office of the Resident District Commissioner (RDC) was common more often in the form of stopping CSO activities and engagement with community members. This was frequent in capacity building activities or sensitisations on human rights within the communities. Furthermore, actions at the national instance including the NGO bureau crack down on CSOs through cumbersome legal hoops tied to compliance, often limit the operation of an independent and objective civil society. To this effect, a comprehensive monitoring of the sector was challenging in light of these limitations.

In terms of intervention strategies and avenues for their implementation, a key limitation encountered during the project was during the engagement of duty bearers. The willingness of corporate and private entities to engage in discussions concerning and in response to allegations of human rights violations and abuses connected to their work was limited. This was more the case in the Karamoja sub-region where calls for dialogue often were rejected, ignored or frustrated by mining companies. While companies were more willing to engage in the Bunyoro sub-region, there were limitations in the quality of engagement largely due to the inequality of the parties, that is, many of the local CSOs lacked the information and bargaining capacity/ leverage to hold oil companies accountable for human rights violations in the region. Additionally, in light of the aforementioned political persuasion and misleading perceptions concerning civil society interventions as "anti-development" and "economic saboteurs", local leaders' attitudes were often un-reliable and uncertain manifesting in limited commitment towards CSO initiatives and interventions in oil and gas projects.

<sup>2</sup> These issues were addressed through referral at community level by the local CSOs to the relevant JLOS actors for intervention.

<sup>3</sup> Paper based monitoring was adopted for the first three months (November 2020 to January 2021) of monitoring before a transition to the digital monitoring system.



## 2. REGULATORY FRAMEWORK FOR NATURAL RESOURCES MANAGEMENT

Uganda boasts of a robust legal and policy framework for the regulation and management of both the oil and gas as well as mining and minerals sector. The key legislations are listed hereunder;

### OIL & GAS

The primary legislation include<sup>4</sup>;

#### **The Petroleum (Exploration, Development and Production) Act 2013**

This Act inter alia provides for the general regulation of petroleum exploration, development and production in Uganda through establishment of relevant regulatory agencies such as the Petroleum Authority of Uganda, process and standards to regulate the licensing, exploration, development, production and cessation of petroleum activities, participation of corporate entities and the State.

#### **The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013**

This Act seeks to regulate midstream operations in Uganda through enabling the development of petroleum refining, gas conversion, pipelines, transmission pipelines and midstream storage facilities; investment in midstream operations and regulating the planning, preparation, licensing, installation and maintenance of facilities for midstream operations and related functions in Uganda.

#### **The East Africa Crude Oil Pipeline (EACOP) (Special Provisions) Act**

This Act was enacted specifically to facilitate the implementation of the East African Crude Oil Pipeline Project in Uganda through enabling the obligations of Uganda provided under the Inter-governmental Agreement and the Host Agreement. It was passed and assented to in December 2021.

#### **The National Oil and Gas Policy for Uganda 2008**

The National Oil and Gas Policy<sup>5</sup> provides the governance direction in all matters of exploration, development, production and utilization of the country's oil and gas resources. The policy was developed to advance efficient management of the oil and gas resources as well as revenues accruing therefrom, formed the foundation of the relevant legal framework referred to above and defined the roles of all stakeholders engaged in the sector.

### MINING

#### **Mining Act, 2003**

The Mining Act, 2003 was enacted to operationalize the Mineral Policy of 2001, replacing the Mining Act, 1964. The Act created key provisions aimed at formalizing a regime which conformed to the relevant provisions of the 1995 Constitution, vesting the ownership and control of all minerals in Uganda in the Government, providing for the acquisition of mineral rights among other related matters<sup>6</sup>.

<sup>4</sup> The relevant subsidiary legislation includes, The Petroleum (Exploration, Development and Production) Regulations 2016, The Petroleum (Exploration, Development and Production) (National Content) Regulations 2016, The Petroleum (Exploration, Development and Production) (Metering) Regulations 2016, The Petroleum (Exploration, Development and Production) (Health, Safety and Environment) Regulations 2016, The Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016, The Petroleum (Refining, Conversion, Transmission and Midstream Storage) (Health, Safety and Environment) Regulations, 2016

<sup>5</sup> A review of the Policy is currently underway by the Ministry of Energy and Mineral Development.

<sup>6</sup> The Mining and Minerals Bill 2021 was passed by the Parliament of Uganda on 17 February 2022 and is set to replace this legislation once assented to by the President.

### **The Mining (Licensing) Regulations 2019**

The Mining Regulations 2019 were gazetted in July 2019 and replaced the Mining Regulations of 2004. The main objective of the regulations is to transition Uganda's mineral licensing system from a paper-based to an entirely online mineral licensing platform.

### **OTHER POLICIES**

Management of the extractives sector cuts across policy areas of taxation and revenue management, government accountability, corporate regulation, environment, land security, etc., so it is important to recognise that there are other existing laws relevant to the overall framework for managing the new sector. In addition to the Constitution itself, these include:

#### **The Land Act Cap 227, 1998**

The Land Act, 1998 governs land ownership and provides a legal framework on which ownership of Land is based, it provides for various licenses for owning land and establishes bodies that regulate land ownership in the country these include The Area Land committee and the Land Board. In the Mining industry, for one to acquire a Mining lease he/ she must go through the Land board and follow the requisite procedure.

#### **Access to Information Act, 2005**

The Access to Information act effectuates Art 40 of the Constitution on the right to access to Information. It regulates access to Information in relation to government departments and agencies, however it is notable that there are exemptions to this right which include Security and Privacy. For Mining host communities and stakeholders, it is essential to access information related to mining companies in place for example; Mining leases, Environmental Impact assessments to hold mining companies accountable.

#### **National Environment Act, 2019**

The National Environment Act regulates environmental aspects of investment or development activities in Uganda. It continues the establishment of the National Environment Management Authority which is the regulating body handling sustainable development and environment generally. The Act also provides for environmental and social Impact assessments for projects that may have potential deleterious effects on the Environment. The Mining sector has been known to be one of the biggest degraders of the Environment; this law is therefore essential in regulating such impacts of Mining on the environment.

Other relevant laws include;

- Public Finance Management Amendment Act
- Investment Code Act, chapter 92
- Penal Code Act, chapter 120
- Income Tax Act, 2002
- Wildlife Act, chapter 200
- National Forestry and Tree Planting Act, 2003
- Public Health Act, chapter 281
- Water Act, chapter 152
- Public Procurement and Disposal of Assets Atc.



## 3. FINDINGS

### 3.1. An overview

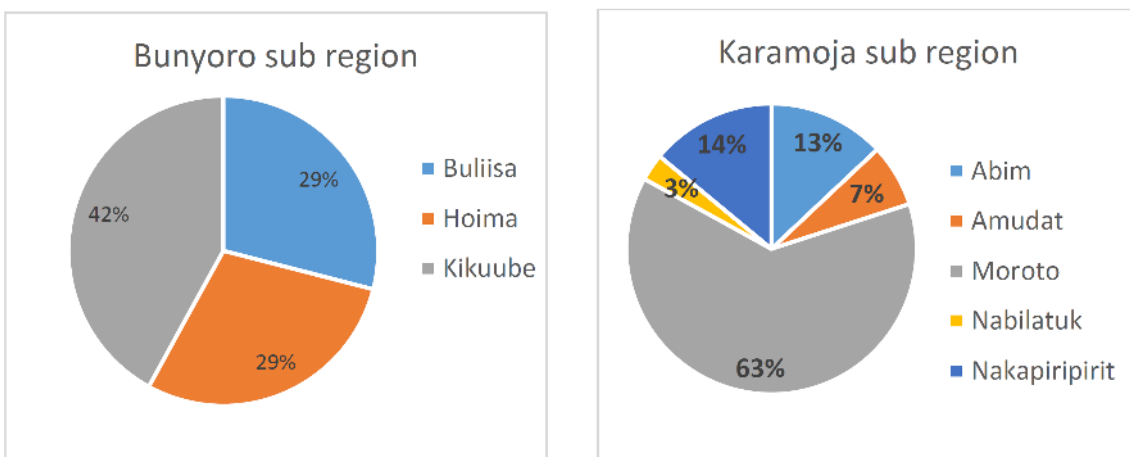
This section provides a snapshot into the data collected and covers key aspects such as the number and nature of incidents recorded across each region, the number and nature of the respondents engaged during the report period, the key actors involved and implicated as well as the nature of violations. Where possible, the report provides a juxtaposition of the data across each region to provide some insight in the distinctions between the two sectors and regions.

A total of 255 relevant incidents were recorded during the reporting period across both sub-regions, with 144 in Bunyoro and 111 in Karamoja. The relevance of a reported incident was determined by the objective of the monitoring which was to track human right violations specific to the sites/regions monitored and limited to extractives related activities. HR related incidents not arising from EI activities were excluded, for instance in Bunyoro, HR violations related to Bugoma Forest land acquisition for sugar cane growing by Hoima Sugar Limited; reports of boundary issues between communities and game reserves and evictions of fishing communities near the shores of Lake Albert due to government policy.

#### Characteristics of incidents reported

- **Timeline;** For Bunyoro sub-region, incidents reported during the monitoring period of 2020-2021 tracked back to 2007 while those in Karamoja were more recent with the earliest incident reported to have started in 2015.
- **Natural resource types;** In the Bunyoro sub-region, the major resources identified by the reports were Oil and gas as well as geothermal exploration. In Karamoja, limestone, gold and marble were the major resources identified.
- **Geographical location;** In Bunyoro sub region, most of the incidents were reported in Kikuube district whereas in Karamoja, they were reported mainly in Moroto district (see figure 2). These incidents originated from the sub-counties of Ngwedo, Kigwera sub counties in Buliisa; Buseruka sub-county in Hoima district and Kiziranfumbi and Kabwoya in Kikuube district for Bunyoro; whereas the most affected sub-counties by district in Karamoja were; Alerek, Morulem in Abim; Lokales in Amudat; Rupa and Tapac in Moroto; Moruita in Nakapiripirit and Nabilatuk in Nabilatuk.

**Figure 2: Incident description by districts in Karamoja and Bunyoro sub-regions**





## Background characteristics of respondents

### Age of Respondents

The majority of the respondents were in the age bracket of 24 to 50 (81%), with the largest being those between the ages of 31 - 40 representing 31% of the incidents recorded<sup>7</sup>. The least number of respondents were either below 23 or above 61 years of age.

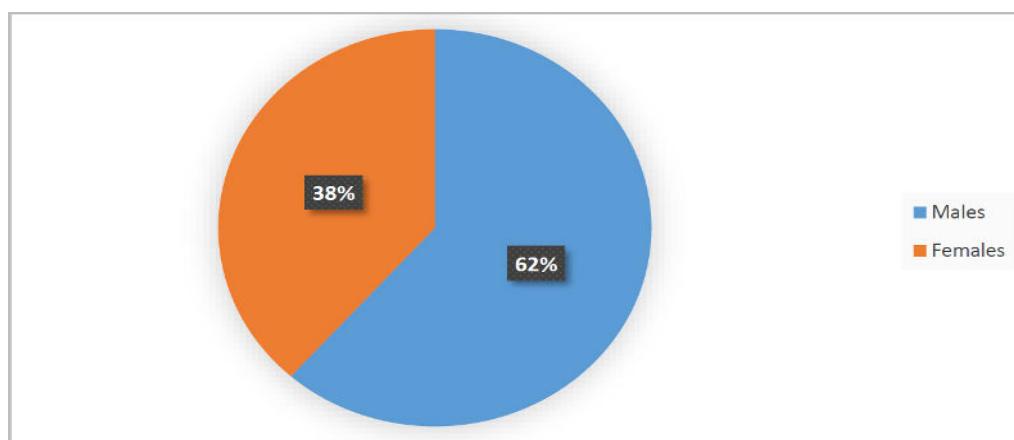
**Table 2: Incident description by districts in Karamoja and Bunyoro sub-regions**

Age group	Freq.	%age
18-23	7	4%
24-30	44	22%
31-40	62	31%
41-50	56	28%
51-60	23	12%
61 and more	8	4%
Total	200	100%

### Gender representation of Respondents

According to the data, majority of respondents were male (62%) while the rest were female (38%) (see figure 3 below). However, it is important to note that this data is not necessarily a representation of the gender of persons affected by the extractives industry activities, but rather the gender of those who reported the incidents. Additionally, a significant number of respondents opted not to respond to this question. However, because one of the major impacts of EI related development projects affect land ownership and use, it is acknowledged that women as the major land users in rural communities- primarily responsible for cultivation of the land for sustenance, are often most affected by poor implementation of these projects especially during land acquisition processes<sup>8</sup>.

**Figure 3: Incident description by districts in Karamoja and Bunyoro sub-regions**



<sup>7</sup> This number of respondents is only reflective of those who opted to respond to the question concerning their age. It is not reflective of persons who were affected by EI activities, but rather those who were engaged during the monitoring.

<sup>8</sup> See [https://www.womankind.org.uk/wp-content/uploads/2020/08/DiggingDeep\\_NAPE\\_NAWAD\\_Womankind\\_Report\\_March-2018.pdf](https://www.womankind.org.uk/wp-content/uploads/2020/08/DiggingDeep_NAPE_NAWAD_Womankind_Report_March-2018.pdf)  
<https://www.icrw.org/wp-content/uploads/2016/10/Gender-Land-and-Asset-Survey-Uganda.pdf>

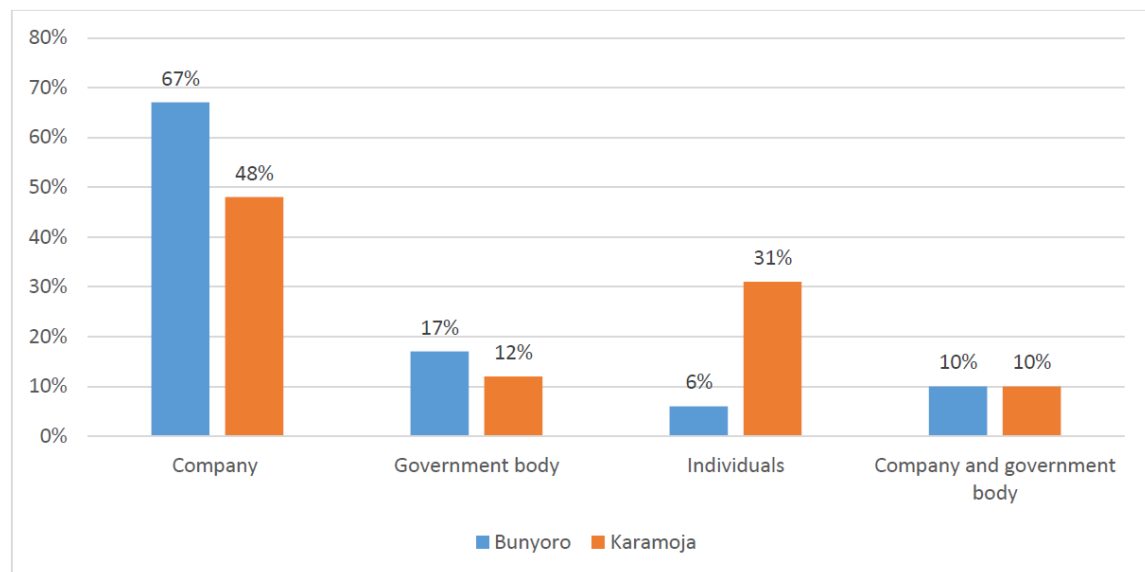
**Table 3: Number of respondents disaggregated by gender across Bunyoro and Karamoja sub regions**

Region	Gender		
	Male	Female	Did not respond
Bunyoro	62	48	35
Karamoja	63	30	20
Total	125	78	55

### 3.2. Key actors

The major actors involved and implicated in incidents arising from extractive industry activities from the reports were companies; 67% in Bunyoro region and 48% in Karamoja region. Other actors implicated included individuals, government bodies, companies and government bodies jointly as shown in the figure below;

**Figure 4: Comparison of actors implicated across Karamoja and Bunyoro sub-regions**



Companies implicated included those holding contracts for the EI related activities and their recognised sub-contractors. For instance, in Bunyoro sub region, the reports cited TotalEnergies and its respective sub-contractors Atacama Consulting and New Plan; and Tororo Cement in Karamoja sub region. The incidents recorded under the title "individuals" (6% in Bunyoro sub region, 31% in Karamoja) majorly involve grievances amongst affected persons (inter-PAP grievances). These were few and far between and majorly revolved around land ownership disputes and compensation entitlements especially in the Bunyoro sub-region. In the Karamoja sub-region however, these were the second largest group of actors implicated which can be attributed to the nature of the mining industry largely comprised of artisanal miners who operate as individuals.

Government bodies (17% in Bunyoro, 12% in Karamoja) cited included regulatory departments/bodies responsible for oversight and implementation of key projects such as road construction directly linked with supporting EI related activities. Particularly in Bunyoro sub region, Uganda National Roads Authority (UNRA) accounted for up to 12% of the incidents reported. Additionally, government actors were jointly implicated with companies (10% in Bunyoro, 10% in Karamoja) for HR violations where the nexus between the company and government involvement in the EI activity was apparent.

**Table 4: Key actors implicated across Bunyoro sub-region**

Type of actor	Actor	No. of incidents (independently)	With others	%age
<b>Oil company &amp; sub-contractors</b>	Total E&P Atacama Consulting	16	6	13%
	China National Offshore Oil Corporation (CNOOC)	5	0	3%
	New plan	3	2	3%
	Strategic Friends International	1	0	1%
	Tullow Oil	5	0	3%
<b>Uganda National Roads Authority (UNRA)</b>	China Railway Seventh Group	16	5	12%
	China Communications Construction Company (CCCC)	18	0	10%
	Chinal Railway N°5	2	0	1%
	China Wui	1	1	1%
	Chongqing International Construction Corporation (CICO)	11	4	9%
	UNRA	9	11	12%
	Kolin Construction company	1	0	1%
	GADI Uganda Ltd	1	0	1%
<b>Government</b>	Security forces (UPDF/Police/others)	2	5	4%
	District/local authorities	5	9	8%
	Uganda National Oil Company (UNOC)	0	8	5%
	Petroleum Authority of Uganda	0	10	6%
	Min. of energy	0	3	2%
	Central government	0	1	1%
	UMEME	1	0	1%
<b>EACOP</b>	EACOP	5	1	3%
<b>Individuals</b>	Individuals	5	0	3%
<b>Total</b>		<b>107</b>	<b>66</b>	<b>100%</b>

**Table 5: Key actors implicated across Karamoja sub-region**

Type of actor	Actor	No. of incidents (independently)	With others	%age
<b>Company</b>	Angaro company Ltd	2	0	2%
	Ateker Cement	2	0	2%
	Sunbelt Mining Group	13	4	17%
	Tororo Cement Co. Ltd	18	2	20%
	International University of East Africa	1	1	2%
	Jan Mangal	1	2	3%
	Mechanised Agro (U) Ltd	1	0	1%
	EverGrand Resources Ltd	5	1	6%
	Multitask Co. Ltd	2	0	2%
<b>Government</b>	UNRA	1	1	2%
	District/local authorities	0	12	12%
	Security forces (UPDF/Police/Other)	6	14	20%

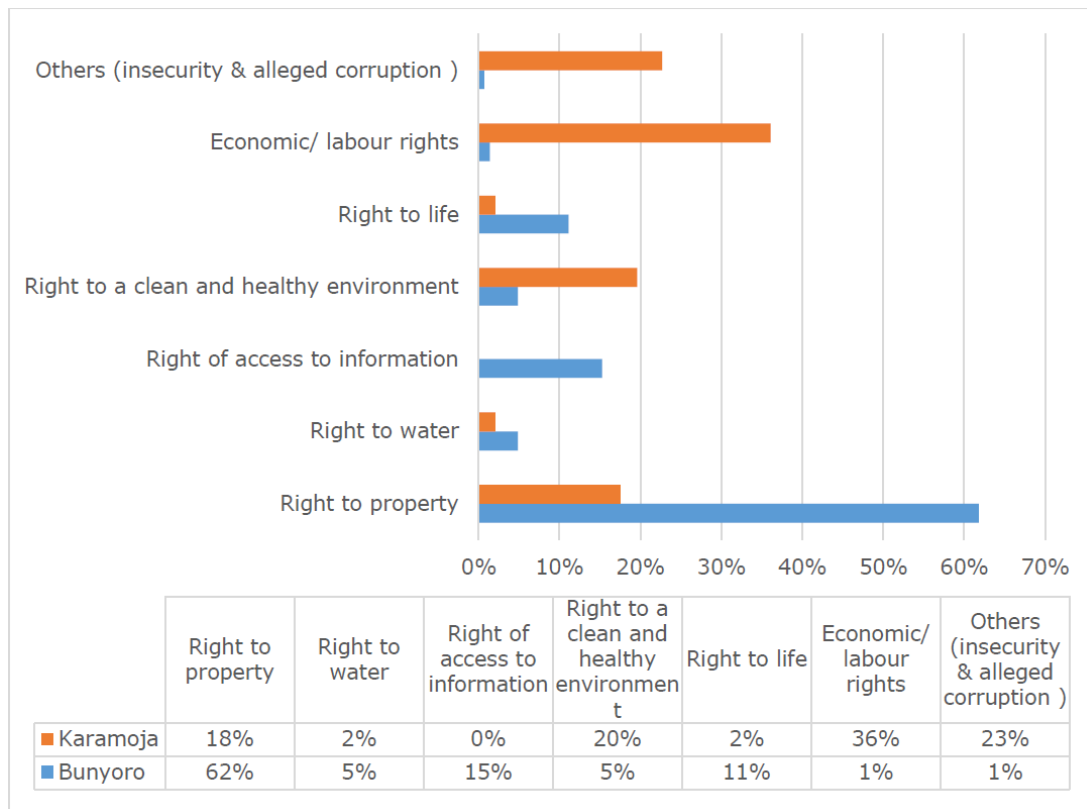
<b>Individual(s)</b>	Armed warriors	4	0	4%
	Artisanal miners	4	0	4%
	Community members	1	0	1%
<b>Total</b>		<b>61</b>	<b>37</b>	<b>100%</b>

### 3.3. Analysis of the Human Rights violations and abuses

The Human Rights violations and abuses presented are based on an analysis of the current human rights standards as expressed and elucidated in various international, regional and national instruments, conventions and judicial decisions. For purposes of this report, the following key human rights were analysed; the right to water, right to property, right to a clean and healthy environment, economic & labour rights, right of access to information and the right to life. Notably, the right of access to remedy was assessed for its relevance towards enforcing the substance of human rights and freedoms in whatever form.

From the findings, the majority of violations reported in Bunyoro sub region related to the right to property (62%) and the least; labour rights (1%). However, in Karamoja sub region, the majority were related to labour rights (36%) and the least being the right to water (2%) as shown in figure 5 below.

**Figure 5: Comparison of key rights violated across Bunyoro and Karamoja sub-regions**



The issues arising from the different rights violations ranged from delayed and inadequate compensation, destruction of property, pollution of water sources, low prices for minerals, non-payment of royalties among others across the two regions. A detailed summary of the issues identified during the monitoring by sub region is presented below whereas a detailed analysis is presented hereinafter.

**Table 6: Key human rights violated with corresponding issues in Bunyoro sur-region**

<b>Rights violated</b>	<b>Issue</b>	<b>No. of cases</b>	<b>%age</b>
<b>Right to property</b>	Delayed compensation	22	15%
	Inter-PAP grievances	4	3%
	Inadequate compensation	9	6%
	Lack of access to property	19	13%
	Destruction of property	16	11%
	Exclusion of property	11	8%
	Denial of compensation	8	6%
<b>Right of water</b>	Lack of access to safe water	7	5%
<b>Right of access to information</b>	Lack of access to information	22	15%
<b>Right to a clean and healthy environment</b>	Poor waste disposal	2	1%
	Destruction to the environment	5	3%
<b>Right to life</b>	Reckless driving & Accidents	16	11%
<b>Economic/labour rights</b>	Labour	1	1%
	Poor working conditions	1	1%
<b>Others</b>	Alleged corruption	1	1%
<b>Total</b>		<b>144</b>	<b>100%</b>

**Table 7: Key human rights violated with corresponding issues in Karamoja sur-region**

<b>Rights violated</b>	<b>Issue</b>	<b>No. of cases</b>	<b>%age</b>
<b>Right to a clean and healthy environment/rights of nature</b>	Destruction of environment and grazing lands	13	13%
	Noise and air pollution	3	3%
	Pollution of water sources and grounds by mercury use	3	3%
<b>Right to property</b>	No compensation/inadequate compensation for land	9	9%
	Conflicts for mining rights between ASMs and companies	6	6%
	Lack of free, prior informed consent (FPIC)	2	2%
<b>Labour rights</b>	Low prices for minerals (ASMs), low wages/no wages/delays in payment	8	8%
	Lack of protective equipment for workers	1	1%
	Child labour	9	9%
	Accidents at mining sites/open pits	7	7%
	GBV at mining sites	1	1%
	Non-payment of royalties	3	3%
	COVID-19 lack of health safety gear	6	6%
<b>Right of access to water, right to livelihood and culture</b>	Lack of access to grazing land and water sources	2	2%
<b>Right to life, right to property</b>	Loss of life-conflicts between ASMs	2	2%
<b>Others</b>	Corporate social responsibility	2	2%
	Alleged corruption	1	1%
	Insecurity	19	20%
<b>Total</b>		<b>97</b>	<b>100%</b>

### 3.3.1 The right to property

The recognition of the right to property at the international level can be traced to Article 17(2) of the UDHR which declares that no one shall be arbitrarily deprived of his or her property. Although the International Covenant on Economic, Social and Cultural Rights (ICESCR) does not explicitly provide for property rights under General Comment No. 7 on Forced evictions, the UN Committee on Economic, Social and Cultural Rights enjoins member states to ensure that all persons enjoy a degree of security of tenure which guarantees legal protection against forced evictions, harassment and other threats. At a regional level, the African Charter on Human and Peoples Rights (ACHPR) provides that the right to property shall be guaranteed and may only be encroached upon in the interest of public needs or in the general interest of the community. Much as the ACHPR provides for a limitation to the right to property, this limitation should be exercised within the agreeable degree and should not be used to the detriment of the rights holder.<sup>9</sup>

At the national level, The **Constitutional order** regarding ownership of land and protection of property rights in Uganda is elaborate. Pursuant to Chapter fifteen, ownership of land is vested in the Citizens of Uganda under Art.237. Secondly, in Chapter Four, the Constitution provides for more stringent protection from deprivation of property under Art. 26<sup>10</sup>. The reading of Article 26(2)(b) is unequivocally clear that payment of fair and adequate compensation must precede the taking of possession of an individuals' property. This goes ahead to provide for recourse to court to ensure that one's interest and/or rights in land are adequately protected and compensated for, prior to taking over the land. Additionally **The Land Act Cap 227 under section 59(1) (e) and (f)** spells out the functions of the district land board among others to compile and maintain a list of rates of compensation payable in respect of crops, buildings of a non-permanent nature and any other thing that may be prescribed.<sup>11</sup> **The Land Acquisition Act Cap 226** only specifies the procedures for the acquisition of land and thus relies on the Land Act and general valuation practices for land and developments to determine compensation awards and more so the need for valuation guidelines. However a number of laws regarding the development of various public infrastructures also provide for guidance on compensation for example section 139 of The Petroleum (Exploration, Development & Production) Act 2013 makes provision for fair and

Notwithstanding this elaborate and supportive legal framework, it is important to note recent government efforts to dilute the safeguards in place mentioned above including the right to prior fair and adequate compensation before land is compulsorily acquired.

This was evident in among others efforts to amend Article 26 of the Constitution through Constitutional (Amendment) Bill No. 13 of 2017 wherein the bill sought to grant government powers to take possession of private land, proceed with developments and pay the land owner later.

These efforts were resuscitated in Attorney General v. Happy Ignatious et al (Judgment) App. 25 of 2020 (30 April 2021). In this case, the government of Uganda sued 9 PAPs who previously had rejected compensation offered under the Tilenga project. By it, the court ordered the money deposited in court and permitted the government to take vacant possession of the land nullifying the import of Article 26 of the constitution which mandates prior compensation before land is taken over in any land acquisition process.

The findings below however depict a distinct deviation from the legal norms and standards expressed above.

#### BUNYORO

The majority of violations reported (62%) were related to property rights arising from;

- Delayed & Inadequate compensation
- Absence of district or updated compensation rates
- Destruction of property
- Inaccessibility to property

<sup>9</sup> The International Finance Corporation (IFC) in its performance standard Number five on "Land acquisition and involuntary resettlement" advocates for avoidance or minimal displacement of individuals from their land in the course of project development. IFC Standard 5 also enjoins project implementing governments to do the necessary due diligence to minimize adverse social and economic impacts of the project on the affected communities.

<sup>10</sup> Article 26 states: 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"

<sup>11</sup> Under section 59(1) (f), boards must review a list of rates of compensation annually and in consultation of technical officers. In doing this, they also have the duty to consult affected people and listen to their complaints regarding unfair rates.



a) **Delayed & Inadequate compensation** reflecting 22 and 10 incidents respectively formed the bulk of the reported violations. With the exception of a few incidents where PAPs reported claims of undervaluation of property with specific basis such as undervaluation arising from missing or excluded compensable items on their land such as trees, or disagreement with the surveyors/valuers about the stage of maturity of trees subject to compensation, many of the reports concerning undervaluation were general claims of being given low rates for land without any tangible basis for claims for more compensation. This could be attributed to the expectations and speculations arising from the perceived increase in the value of the land since it is being acquired by government or IOC. For instance, the latest of these incidents reported was in Kijumba Village, Busuka S/C Hoima district under the EACOP Project during Pre-Disclosure exercise which took place in June 2021. It was reported that certain PAPs refused to sign for the compensation offered due to the alleged undervaluation of their land. It is acclaimed that one acre of land was valued at 6 million while the current value of land in Kijumba is at 12 million per acre. In this case, the undervaluation arose from a disparity between the value of the land offered under the project and the alleged prevailing market value of the land at the time.

On the other hand, incidents of delayed compensation were reported from the beginning of the monitoring period to the end which mainly arose from the poor implementation of Resettlement Action Plans (RAPs)<sup>12</sup>. The long-term intervals in communication to the PAPs about their land subject to acquisition, assessment, disclosure of the amount owed to them and actual payment exceeded reasonable standards. It has been noted that whereas RAPs were developed with the intent of limiting the impact of activities on Project Affected Persons (PAPs), delayed implementation of compensation processes including property assessment, valuations, disclosures as well as dispute resolution take extended periods. Combined with cut-off dates<sup>13</sup> implemented at the start of the project cycle, these factors prevent PAPs from utilizing their land and denies them the right to be adequately compensated for the full value of their land. Additionally, inadequate compensation manifested as a standalone violation in incidents where PAPs' properties were undervalued or excluded from valuation reports. This was common in incidents involving crops and semi-permanent structures.

b) **Absence of district or updated compensation rates**<sup>14</sup> were identified across all 3 districts monitored. Hoima and Buliisa district had not updated compensation rates since the 2018/2019 financial year. As a result, valuation of properties in the ongoing compensation under RAP 4 of Tilenga utilised district compensation rates of FY 2018/2019 in Buliisa and Hoima districts. These arguably inadequate rates negatively affected the compensation received by PAPs with regard to crops and semi-permanent structures during this period<sup>15</sup>. This challenge is not unique to the reporting period but is detectable during the compensation phase for the refinery land<sup>16</sup>. During a meeting with district officials<sup>17</sup>, it was raised as an issue by district officials in Hoima that although they had submitted rates to the CGV's office for the year 2020, these had yet to be approved for use by the district. Similar delays were echoed during engagements with district authorities of Buliisa district.

c) **Destruction of property** representing 13% of all registered incidents is largely evidenced in violations reports linked to ongoing road construction under the purview of the Uganda National Roads Authority. For example, rock blasting conducted at quarry sites in Kigorobyia and Kihooko in Hoima district have affected PAPs outside the defined compensable radius of 700 metres. Other reports indicate that heavy machinery employed in road construction have caused major cracks in buildings adjacent to the road under development. Additionally, poor construction of drainage channels along these roads has led to surface run-off destroying homes and water access points such as a borehole in Kaseeta-Nyairongo Butimba west in Hoima district.

On the other hand, a few incidents were registered where PAPs complained of their property being destroyed during valuation surveys undertaken to determine the portion/ parcel of land to be taken over.

d) **Inaccessibility to property**, representing 15% of the total incidents is also reported along the constructed roads exhibited in elevated land levels restricting access to plots by land users and owners including PAPs with vulnerabilities such as Persons with Disabilities (PWDs) and the elderly. This is exhibited along the Buhimba-Kakumiro road construction in Kigaaya village in Hoima district under the supervision of UNRA.

12 One of the incidents reported dates back to claims against the Ministry of Energy and Mineral Development for non-payment of relocation transport packages under the refinery land acquisition process which commenced in 2012. <https://www.pau.go.ug/the-uganda-refinery-project/>

13 The cut-off date is a key concept in land acquisition and resettlement. It is a date set by the developer (usually in conjunction with the government) that is communicated to affected people announcing that a census or inventory of people, dwellings and assets (including crops) has been done (or is about to be done). For more information; Ref: <https://www.sciencedirect.com/science/article/pii/S2214629621000633#b0030>

14 Compensation rates for semi-permanent structures and crops are developed by the district land board in each district and are revised on a yearly basis subject to their mandate under the Land Act as amended (section 59 (e)). However, these rates are subject to approval by the Chief Government Valuer (CGV) before they are adopted. Conversely, rates for land and permanent structures are determined by the CGV.

15 Government of Uganda Auditor General's report (see <http://www.oag.go.ug/wp-content/uploads/2018/10/Final-PAPS-Report-Edited-compressed.pdf>) revealed the impact of delayed compensation on money received by PAPs based on un-updated compensation rates.

16 Ibid

17 Quarterly Meeting with district authorities to present preliminary findings, held at Hoima Resort Hotel on the 18th February 2021



**Figure 6: Pictures of inaccessible water along Buhimba-Kahumiro road, Kikuube district (Left) and lack of access to house due to poor construction at Buswekera, Hoima City (Right)**

### **KARAMOJA**

In Karamoja, the right to property comprised of 18% of the incidents reported. Although it is lower in comparison to Bunyoro sub region, it equally had a huge impact with multiple interests and persons affected. These issues included;

- Absence of and/ or inadequate compensation for surface rights.
- Absence of district or updated compensation rates
- Failure to engage land owners to acquire consent.

#### **a) Absence of and/ or inadequate compensation;**

Whereas the law provides for compensation for disturbance to surface rights of land owners<sup>18</sup>, reports<sup>19</sup> from the monitoring indicated that many companies in the region did not fulfil this requirement. For instance, in Moroto district, Rupa sub-county, Jan Mangal Uganda Limited was impugned for commencing operations without making any compensation of surface rights<sup>20</sup>. Additionally, Tororo Cement Limited operating in Tapac sub-county, Moroto district was also cited as a violator of this cardinal right. Although the latter is reported to have commenced operations in the region in 2003, there is no record of the company making any recompense to the affected community. In spite of multiple attempts to follow up on the issue by different stakeholders including government officials, this has to yield any positive results.

However, the monitoring reports also identified instances where some companies within the region have attempted to compensate the land owners and communities for their interest in the communally owned land. For instance in Nanyidik mining site, Rupa sub-county, Moroto district, Sunbelt Mining Group Limited in 2018 is said to have dispatched one billion eight hundred million shillings (UGX 1,800,000,000/=) in compensation for surface rights in the community<sup>21</sup>. Likewise, Agro Mechanised Company Limited was indicated via monitoring reports submitted to have compensated the land owners in Amudat district, Lokales sub county, Chepkararat and Cheptokol villages a total amount of six hundred million shillings (UGX 600,000,000/=). Additionally, incident reports submitted from Abim district identified Evergrande Resources Company Limited as having compensated host communities for their surface rights<sup>22</sup>. As much as these payments have been positive strides made by the companies, they have been greatly criticised and undermined by 2 critical factors. One mis-payments to unproven claimants. In Amudat for example, there have been allegations that payments were being made to wrongful\fraudulent persons other than the true land owners; in Nanyidik, unfair amounts of money offered as compensation to some of the land owners; delayed payments for example at Kosiroi mining site by Tororo cement.

<sup>18</sup> See Section 82 of the Mining Act, 2003, wherein a mineral rights holder (investor) is required to compensate the landowner for surface rights on land where minerals have been discovered or activities are to take place.

<sup>19</sup> Although monitoring reports were collected during the project timeframe, the incidents tracked back to 2014.

<sup>20</sup> Jan Mangal's licence was later revoked in 2019 on the basis of non-compliance with statutory requirements. <https://www.independent.co.ug/jan-mangal-uganda-ltd-loses-gold-mining-license-in-karamoja/#:~:text=Kampala%2C%20Uganda%20%7C%20THE%20INDEPENDENT%20%7C,in%20less%20than%20three%20years.>

<sup>21</sup> <https://www.monitor.co.ug/uganda/business/prosper/how-firms-are-scrambling-for-karamoja-s-mineral-wealth-3350536>

<sup>22</sup> The amount paid to the beneficiaries was however unclear and efforts to substantiate the same did not materialise.

### **Inadequate compensation due to absence of or updated district compensation rates**

Much like reports from the Albertine region above, districts within the region of Karamoja, save for Abim following complaints from land owners in the region have for a long time had no compensation rates or very outdated rates.<sup>23</sup> This has led to inadequate and in some instances of non-payment of compensation as evidence in the sunbelt-Moroto mining license area,<sup>24</sup> the Soroti-Moroto road, and the Evergrande Resources licence, where the community in Cheptokol in Amudat District have been highly affected.<sup>25</sup> ANARDE in partnership with ASF, have undertaken initiatives through an ongoing project funded by the DGD to provide technical assistance to the district authorities of Moroto, Nakapiripirit and Kotido districts in formulation and development of an up to date district compensation rates<sup>26</sup>.

#### **b) Failure to engage land owners in order to obtain their consent**

The need for Free Prior Informed Consent (FPIC) is key & a requirement in every land acquisition process including but not limited to entry upon land<sup>27</sup>. Significantly, the need for public participation during the decision making process<sup>28</sup>. A few reports from the community based monitoring indicated a lack of transparency and non-participation of communities in the land acquisition process for many companies engaged in mining in the region. During community outreaches with affected communities in Tapac sub-county, PAPs reported that although Tororo Cement had been engaged in mining in the region for over 20 years, the company has failed to carry out comprehensive community engagement prior to and during its operations. This is substantiated by the absence of a memorandum of understanding between Tororo Cement and the community, who are the land owners.

#### **c) Inaccessibility to property**

This has occurred, in the form of cordoning off access roads to grazing land and in some instances feeder roads connecting community to their homes and public places such as schools. Monitoring reports show that in Nandunget S/C, Moroto district, Ateker cement cordoned off community land and limited access of the area which was a grazing land and communally owned land, without obtaining consent and adequately compensating the community land owners. Additionally, the company also cordoned off a feeder road which connected the community and a nearby school hence complicating access to the community school.

## **3.3.2 The right of access to information**

The starting point of any initiative to ensure respect for human rights is to provide access to information to affected communities, in order to explain the likely consequences and to obtain their free, prior, and informed consent (FPIC). In May 2012, the African Commission on Human and Peoples' Rights (ACHPR) at its 51st Ordinary Session adopted ACHPR/ Res.224 (LI) 2012 on a Human Rights-Based Approach to Natural Resources Governance, calling on State Parties to "confirm that all necessary measures must be taken by the State to ensure participation, including the free, prior and informed consent of communities, in decision making related to natural resources governance." Access to information is a fundamental human right recognized by international human rights instruments. It is also recognized by article 19 of the International Covenant on Civil and Political Rights; articles 13(1) and 17 of the Declaration on the Rights of the Child; article 15 of the United Nations Declaration on the Rights of Indigenous People; and the United Nations General Assembly Resolution, 59 (1). In 2012, the United Nations also recognized access to the internet as an important tool for the promotion of the right of access to information, while 2016 was the first year that UNESCO marked September 28 as the "International Day for Universal Access to Information" (IDUAI).

At regional level, the right to access information is enshrined in article 9 of the African Charter on Human and Peoples' Rights (ACHPR). In Uganda, the right to access to information is enshrined in Article 41 of the Constitution (1995) which provides that, "Every citizen has a right of access to information in the possession of the state or any other organ of the state except where the release of the information is likely to interfere with the security of the state or the right to the privacy of any other person".

The Constitutional provision on access to information is operationalized in the Access to Information Act 2005 and Access to Information Regulations 201 to promote the right to access to information, promote an efficient, effective, transparent and accountable Government and to enable the public to effectively access and participate in decisions that affect them as citizens of the country. Despite all these initiatives, access to vital information by citizens remains a big challenge. The implementation of the Access to Information Law faces various challenges such as: wide exemptions to accessible information, ignorance of the Law and its relevance, tedious complaints mechanism among others.

23 Report on Workshop with key district officials on the compilation of compensation rates for crops, trees and semi-permanent structures in the districts of Moroto, kotido and Nakapiripirit, 23-24/Sept/ 2020.

24 ANARDE/ASF Data from the community based Human Rights monitoring.

25 See <https://ugandaradionetwork.net/story/over-200-miss-compensation-on-soroti-moroto-road>

26 Report on Workshop with key district officials on the compilation of compensation rates for crops, trees and semi-permanent structures in the districts of Moroto, Kotido and Nakapiripirit, 23-24/Sept/ 2020.

27 Article 41 of the Constitution of the Republic of Uganda, 1995.

28 Article 38 of the Constitution of the Republic of Uganda, 1995.

## BUNYORO

14 incidents were reported directly concerning the right of access to information in the database. However, the other reports recorded in the database indicated prevalence of issues arising from the PAPs' and CSOs' lack of information. This lack of information is evidenced mainly in lack of knowledge or understanding by PAPs about key processes, timelines, and relevant actors under specific projects or actions among others. This is not to be assumed as evidence of lack of a robust network or system of engagement devised by both government duty bearers and corporate actors in the sector but should be assessed from an effectiveness standpoint. This pre-existing and persistent information gap between the project affected communities, oil companies and the government duty bearers is present at both local and central government level. This is often characterized by poor engagement of PAPs by both oil companies and the state duty bearers for instance, the monitoring indicated that in Rujunju cell, Kisambo Ward in Kikuube town council, five land titles were taken without clear information given to PAPs by UNRA in order to process their compensation. Additionally, general information as to timelines of development activities, or progress on previous communications is severely lacking among the PAPs. This is mostly common during the following instances;

1. During the time it takes to review and validate information obtained during surveys for purposes of assessment for compensation as was seen during the delays experienced in the EACOP compensation process as well as RAPs 2-5 of the Tilenga Project, that is, delays occasioned by the poor implementation of RAPs as between the cut-off date and other phases of project implementation within the development cycle.
2. During the remedy process for grievances lodged which was manifested in the grievance handling by Atacama consulting and Uganda National Roads Authority (UNRA) GMCs. PAPs were largely uninformed about the status of their grievances reported with multiple incidents lodged, but with no response at all or no meaningful response to PAPs over lengthy periods of time.

Although the companies through the RAP processes setup extensive and elaborate engagement strategies<sup>29</sup>, the gap in access to information by PAPs seems to persist even with the creation of community structures such as Community Liaison Officers (CLOs) and regional offices. Furthermore, the poor structuring of the engagements organized to inform the community about key developments, issues and processes limits the effectiveness of such interventions. While many meetings were scheduled and held by companies across the project implementation period<sup>30</sup>, the nature of their structure denied meaningful engagement with the PAPs and CSOs. There was not enough time for the PAPs and CSO representatives to speak or ask questions and seek clarity or further information on the subject being engaged on. Additionally, the predominantly technical aspects of valuation rates and considerations are still unclear to the PAPs and local CSOs who take the primary role in bridging the information gap.

## KARAMOJA

Despite having no direct reports from the monitors on access to information, further inquiries through outreaches and field visits to mining sites revealed that there is a general lack of participation of communities during mining negotiations as noted in the previous sections.

Engagements with community members during outreaches as well as meetings with responsible actors such as district authorities revealed an undebatable opaqueness in the industry manifesting from a lack of access to information. This is evident in the inability to access mining company's agreements most notably, the agreement between Sunbelt mining group in Moroto district and the Rupa community represented by Rupa Community Development Trust (RUCODET). In terms of royalties the law is clear on the percentages to be paid, but there is no clear record of royalties' payment in the region with the only available information traceable is that for the period of 2018 to 2019. Additionally, the mode of calculating these royalties is unclear with no regulatory mechanism to ensure that the data generated from self- declaration by the companies is accurate and ensures commensurate remuneration to the entitled communities.

### 3.3.3 Right of access to water

The Committee on Economic, Social and Cultural Rights in General Comment 15, which exclusively regards the right to water<sup>31</sup> stated, —The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements. Additionally, Resolution 64/292 declares the United Nations General Assembly's recognition of —the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights<sup>32</sup>.

<sup>29</sup> For instance Tilenga RAP 1 Report sets out extensive structures from pages 84 - 92

<sup>30</sup> Tilenga RAP1 Report, pg. 84,166. This issues was raised on numerous occasions by CSOs, however there was no tangible result from the engagements

<sup>31</sup> Committee on Economic, Social and Cultural Rights, General comment No. 15: The right to the water, 2002.

<sup>32</sup> United Nations General Assembly, Resolution 64/292. The human right to water and sanitation, 2010, <http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E>



Under Ugandan law, the right to water is directly stipulated in the Constitution of the Republic of Uganda under the National Objectives and Directive Principles of State Policy. Objective XIV articulates social and economic rights, including the right to water, health and an adequate standard of living. Objective XXI defines the role of the government in ensuring universal access to the right to water; stating that the government will take —“all practical measures to develop good water management systems throughout the nation.” Additionally, under the principal objective under the Water Act, CAP 152 is the promotion of the provision of clean, safe and sufficient water supply of water for domestic purposes to all persons.

## BUNYORO

**8 incidents forming 6% of all registered incidents** during the monitoring period concerned a limitation of the right of access to safe water. The effect of these 8 incidents cannot be underestimated since the right of access to water cannot be restricted to an individual but rather usually has a broader impact on families and communities at large as water plays a large function in the day to day existence/ livelihood of any eco-system.

Key instances of violation of this right are seen in inaccessibility to a water source due to the increased surface run-off along the newly constructed Kaseeta- Lwera road and the Kabale-Kiziranfumbi road which has covered boreholes (kikuube district, kabwooya sub- county) and water streams respectively. Far worse effects were seen in Kikuube district, Buhimba sub-county where key natural water points were destroyed<sup>33</sup> as a result of rock blasting (for purposes of road construction), that is, Kalyabuhooro and Karugira, as well as Waguma which stopped functioning and Kacugira developed serious cracks. Kiryanga is the only remaining source of water in the whole village, but requires monthly repair.

The impact of these violations is further exacerbated by the delays in remedying the negative effects. In spite of active efforts by the PAPs to relay these challenges to the relevant authorities at district level and to the companies implicated (especially in road construction), little or no relief has been provided.

## KARAMOJA

Three (3) incidents of such nature were reported. These took the form of pollution or contamination of water sources by mercury use<sup>34</sup> especially by ASMs in gold mining for instance at Nakabaat mining site, Moroto district. Additionally, monitoring reports also revealed restriction of access to existing water sources such as communal water access points in areas where mining licences had been granted and operations were being carried out. This was recorded at the Sunbelt mining area in Moroto district, where a community borehole was covered by the mining license so a new borehole had to be procured for the community. The community's access to water needs however are greater than what the new access point can provide. Although a small dam was constructed by the company, challenges such as water contamination are prevalent since cattle drink from the same dam and some community members bathe in the same water.

The importance of access to water cannot be understated and emphasised enough in Karamoja due to the semi-arid nature of the area as well as the socio-cultural impact due to their nomadic and pastoralist nature. Activities especially in gold mining are recognised to need large volumes of water in the extraction and purification processes which are seen to put the already fragile eco-system in jeopardy.

### 3.3.4 Right to a clean and healthy environment

The right to a clean, healthy and sustainable environment is recognised as a human right under the Human Rights Council's Resolution 48/13. Additionally, the African Charter on Human and Peoples' Rights provides that “all peoples shall have the right to a general satisfactory environment favourable to their development.”

In Uganda, Article 39 of the 1995 Constitution emphasizes that every Ugandan has a right to a clean and healthy environment. Additionally, Objective XXVII, mandates the state to promote sustainable development and public awareness of the need to manage land, air and water resources in a balanced and sustainable manner for the present and future generations. The National Environment Act 2019 further builds upon this right by establishing the mandate of the National Environment Management Authority (NEMA) as the principal regulatory agency in Uganda for the good management and enforcement of recognised best practice standards of environmental management<sup>35</sup>. The destruction of the environment is directly linked to the right to clean, healthy and sustainable environment as well as the rights of nature substantiated in Section 4 of the National Environment Act 2019<sup>36</sup>.

33 This incident is attributed to China Railway No. 5 which implemented the road construction and has since vacated the site (2019) without restoring the damaged water sources or providing alternate sources of safe water for the affected communities.

34 This incident and its impact is further discussed under the right to a clean and healthy environment

35 Greenwatch v A.G & Another Miscellaneous Cause 140 of 2002

36 The section provides inter alia that “Nature has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.

## BUNYORO

A total of 10 incidents were reported in the CBM directly affecting the right to a clean and healthy environment. This was evidenced in poor waste disposal as well as acts directly leading to destruction of the environment. For instance, in Kigwera sub-county in Buliisa district, monitoring reports indicated that Chongqing International Construction Company (CICO) which is constructing Hoima- Wanseko main road was disposing of road construction debris and other materials in and along Kansuwe wetland. Additionally, poor waste management at camp sites constructed for CCCC in Ngwedo Sub-county, Buliisa district were also reported. The Kibiro oil spill<sup>37</sup> resulting from drilling for geo-thermal exploitation is the only major incident reported directly arising from oil and gas exploitation activities during the reporting period.

It should be noted that there is no significant impact recognizable in the region at this stage of EI development since the sector has only just transitioned from the exploration into the development and production phase. Increased investment and development of the sector confirmed through the signing of the Final Investment Decision (FID), with first oil expected in 2025, is projected that this will precipitate an increase in environmental related incidents in the region. Whereas a significant legal framework has been put in place with numerous safeguards such as Environmental Impact Assessment's (EIAs) before commencement of EI activities, the effectiveness and compliance with these standards is yet to be assessed.

## KARAMOJA

In Karamoja, 20% of the monitoring reports indicate environmental degradation or damage which forms one of the highest violations in the region, second to labour rights. This could be attributed to the semi-arid nature of the environment hence causing more focus on environmental issues or simply because the environmental implications of mining are so glaringly observable so much so that they are impossible to miss. The National Environment Act requires project developers to carry out environmental and social impact assessments prior to commencement of project activities.<sup>38</sup> According to the findings of the CBM, most companies in Karamoja went through this process, however, the challenge has been compliance with the provisions of the EIA certificates.

In mining sites such as Kosiroi mining site in Tapac & Nanyidik village Rupa sub county both in Moroto district, incidents of extraction of marble and limestone and leaving pits uncovered were persistently reported by monitors during the project period. This is contrary to the standard required of most Environmental impact assessments that require most companies to refill and restore the land on which the mining is taking place; something which has not been done by the majority of the miners at the sites.

Through field visits of the different mining sites, it was observed that there is gross destruction of trees and vegetation both by artisanal and mining companies. Given the semi-desert status of the region, one tree at a time is essential in preventing total desertification of the region. The Land Desk Catholic diocese in Moroto district carried out a study which revealed that 300 hectares in Moroto district, Tapac sub-county, Katikekile parish had been destroyed by the mining operations by Tororo cement and its affiliates. This raises eyebrows as to the potential additional impact that may come with the renewal of Tororo cements mining lease after the expiry of their current lease.

Suffice to note that there are no outright reports of large scale pollution of the environment either through water, soil, air, noise and vibrations pollution by the mining companies. However, for ASM's, there have been reports of pollution of water sources by use of mercury especially in Nakabaat mining site, but it is also notable that this reduced towards the end the monitoring period.



**Figure 7: Mining pits at the Nanyidik mining site in Moroto district**

<sup>37</sup> The spill which occurred on March 29, 2021 and lasted nine hours, contained natural gas, clay, water, drilling fluids, mud, sand, sediments and traces of crude oil and was attributable to actions of M/s Royal Techno Industries Limited. <https://www.newvision.co.ug/news/1527236/experts-concerned-about-kibiro-oil-spill>

<sup>38</sup> S.112, S.113 of the National Environment Act, 2019.



### 3.3.5 Labour rights

Article 23 of the Universal Declaration of Human Rights to which Uganda is bound stipulates that, “everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment; everyone, without any discrimination, has the right to equal pay for equal work...”. According to the Constitution of Uganda under Article 40, labour rights are ensconced under the label “economic rights” with provision to make laws or inter alia, to provide for the right of persons to work under satisfactory, safe and healthy conditions, to ensure equal payment for equal work without discrimination; to ensure that every worker is accorded rest and reasonable working hours and periods of holidays with pay, as well as remuneration for public holidays.

In addition, key labour laws in Uganda include; the Workers Compensation Act 2000, the Minimum Wages Act 2000, the Employment Act 2006, the Labour Union Arbitration and Settlement Act 2006 and the Occupational Safety Act 2006. The Employment Act 2006, outlines the conditions of employment including, contract of service, termination of contract, termination notices, and protection of wages, hours of work, rest and holidays, employment of women, employment of children and care of employees. Likewise, the Workers Compensation Act 2000 entitles employees to automatic compensation for any personal injury from an accident arising out and in the course of his employment even if the injury results from the employee’s negligence.

#### BUNYORO

Only 2 incidents of these nature were officially reported through the CBM and both implicated China Communication Construction Company (CCCC) which was responsible for the construction of Paraa-Buliisa road. In the first incident, the complaint was in the form of absence/ refusal to provide workman’s compensation for injury and disability suffered during course of duty. An employee raised a complaint against China Communication Construction Company (CCCC) for failing to support him when he got an accident while he was working with them where his left side arm was broken while off-loading the cement from their truck. The other general complaint reported was poor working conditions exhibited by long hours of work without overtime or sufficient rest, non-registration and remittance of NSSF contributions and lack of safety equipment/ gear such as gloves and goggles.

The low number of incidents is attributable to two major functions. One, the lack of key economic activity at the sites since major works are yet to be commenced under the development phase of oil exploitation; and two, is the lack of access to camp sites and other key installations by monitors and CSOs to properly investigate claims of abuse of labour rights. However, with signing of key agreements such as the Host Government Agreements (HGAs) and the Final Investment Decision (FID) between the Governments of Uganda and Tanzania and the JVPs, this is expected to change with the onset of key construction activities leading towards first oil expected in 2025. For instance, claims of poor working conditions including discrimination, low wages among others were alleged to have been occurring at the site of the Kabaale Airport, but these were not verified due to restricted access to workers at the site.

#### KARAMOJA

The reports indicate that 36% of the human rights violations in the mining sector were labour rights issues which formed the bulk of incidents in the region. In karamoja, when visiting a mining site, it is a normal sight to find miners working without helmets, boots or gloves; deep gold mining pits risking the miners lives; uncovered pits at the marble and limestone sites; and use of rudimentary and unhealthy methods of mining, tools and methods.

**a. Lack of workman’s compensation for workers;** Two incidents were reported against Sunbelt mining group at Rupa sub county, where a casual laborer got his hand injured by a machine in Sunbelt and another where one of the laborers who used to crash stones to powder got hurt, both having been denied workman compensation. There were further allegations made that the workers were being overworked; close to 10 hours a day at the site. In Acherer, Nakapiripirit district, at the University of East Africa mining site, a report was shared of a machine, referred to as the **Makita Machine** which caused people body pains after use. The site caretaker however denied having knowledge of any side effects of use noting that no one had complained of it directly<sup>39</sup>.

**b. Lack of protective equipment for workers;** Lack of safety gear was openly observed in most if not all mining sites. Save for the mining companies, many reports and outreaches indicated the issue of use of hammers, pangas and various rudimentary tools being used for long hours’ in limestone and marble mines without gloves, helmets or footwear this was visible at Nanyidik and Tapac- Moroto, huthut-Nakapiripirit. The reports also indicated lack of helmets, gloves and masks for heavy dust releasing mining methods especially in gold mines like in Morulem-Abim and Chepkararat- Amudat. In Abim district, incidents have been reported of gold mines over 40 metres deep, some having collapsed on the miners. In August 2021, it was reported that a pit in Kokano mining site, Abim district, in which three miners were mining gold collapsed causing injuries to one of them. This was not the first time this was happening in the mining site; In 2019, four (4) people were reported to have been buried in a mining tunnel, 2 of them died and the rest remained injured.

39 UNHR-Moroto Field Office, UN Follow up Field visit to Muri Akimat, Acherer, Hutut mining site, Nakapiripirit district and Chepkararat mining site, Amudat district to assess human rights issues, 18-21,Oct, 2021.

c. **Low/no payment of workers;** this complaint was mainly raised in Rupa sub-county where some community members allege a very low pay for the casual workers at the mining sites. From one of the interactions with a community member at the mining site, he stated that he was paid five thousand shillings (UGX. 5,000) per day and sometimes not paid at all while he worked for Sunbelt mining group<sup>40</sup>. However, the chairperson of RUCODET during one of the engagements with duty bearers clarified that these payments for casual labourers at Sunbelt had been harmonised<sup>41</sup>.

d. **Child labour;** Field visits to various mining sites in Karamoja<sup>42</sup> together with monitoring reports indicated the presence of children at mining sites operated by ASMs. The presence of children on sites run by mining companies was not evident with the sole incident being reported in Chepkararat sub-county, Amudat district, where children were observed working with the Chinese at their site.

In Abim district, a case was reported where a child was beaten up by the mother because he had refused to go to mine gold for the family which then led to the child running away to Kotido district. This matter was later on followed up by police. In another incident in August 2021, a case was reported in Nakabaat where a child (boy) aged 8 who was taken by the relative to help remove soil from the underground tunnel after digging, was hurt when the mine he was working in collapsed on him, causing cuts on his head. The boy was helped after several hours due to the distance of the hospital from the mining area and the place he got aid which was in Moroto district. Engagements with community members revealed that the pervasiveness of this issue is encouragement or involvement of the parents of the children involved in the mining as many of the children witnessed were seen to be either giving company to or helping their parents in the mining work. Engagements with duty bearers revealed that although efforts to have children removed from mining sites had been made, this had not yielded results due to the desparacy arising from the socio-economic situation in the region with mining being the principle source of sustenance for local communities. Apart from the implication on the children's ability to obtain an education, they suffer from mental and physical harm due to the nature of the mining work<sup>43</sup>.



**Figure 8: A child working at Nakabaat mining site, Moroto district**

e. **Health and safety of workers at mining sites;** At the height of COVID-19, many of the mining sites were reported to not follow Standard Operating Procedures; the artisanal miners did not wear masks, social distancing was not taken seriously, numbers at the site never reduced and curfew restrictions were only followed due to the insecurity in the region. However, no cases of COVID-19 for workers at the sites were reported through the monitoring system, which could be attributed to the fact that most of the miners were never tested and the records remain unclear and insufficient.

Mercury use was also reported at various gold mining sites, including Nakabaat and Chepkararat. Community outreaches revealed allegations by indigenous ASMs that external ASMs from other regions in the country including Bagisu, Acholi, Baganda as well as Tanzanians among others are responsible for the introduction and use of mercury at the mining sites. The Minamata<sup>44</sup> principles regulate the use and distribution of Mercury and these principles. There is no evidence however that these principles are respected or implemented in the region.

Furthermore, the inaccessibility to medical facilities was reported in and observed in the mining

40 Outreach to discuss human rights situation in relation to Mining companies in Rupa sub county-e Moroto district.

41 Presentation of preliminary findings to local authorities of Moroto district

42 International treaties to which Uganda is privy and the Uganda Constitution categorically protect the freedom of a child from forced labour. The Constitution defines a child as a person below 18 years and this is the consideration that was taken under the project.

43 Illiteracy levels in the Karamoja sub-region were reported at 75% as compared to only 6% in Kampala according to the United Nations Population Fund (UNFPA) report, "Leaving no one behind in Karamoja," 2018.

44 The Minamata Convention on Mercury can be accessed at <https://www.mercuryconvention.org/en>

sites for example, Acherer – Nakapiripirit district, Morulem-Abim district, Nanyidik and Nakabaat-Moroto district. At these sites, miners need to move for an average of not less than 10 km to access public medical treatment. Although an administrative issue that can be traced back to governments priorities, this goes beyond the interest of miners as well as the neighbouring communities and citizens who should be guaranteed this right to health.



**Figure 9: A photo of a woman using mercury at Nakabaat mining site, Amudat district**

### 3.3.6 Right of access to remedy

Governments are obliged to protect their citizens from human rights abuses, including those resulting from EI activities. In real terms, a government's obligation to protect human rights in the context of business activities "requires taking appropriate steps to prevent, investigate and redress such abuse through effective policies, legislation, regulation and adjudication".<sup>45</sup> Governments are also obliged to effectively enforce that legal framework once it is in place, to prevent abuse and to ensure accountability and redress where abuses do occur.<sup>46</sup>

Article 50 of the 1995 Constitution of the Republic of Uganda guarantees judicial remedy for human rights violations and in particular stipulates that, any person who claims that his or her fundamental right guaranteed under the Constitution has been infringed or threatened, is entitled to apply to a competent court for redress. The judicial avenues for offering remedy to complaints of business-related human rights violations include the Civil Division of the High Court, the Environmental Tribunal, and the Industrial Court for employment and labour relations among others. In the event of dissatisfaction, there are provisions for appeal to the Court of Appeal and further to the Supreme Court.

In addition to the judicial mechanisms, victims can also seek quasi-judicial mechanisms for remedy. There are other tribunals such as the Uganda Human Rights Commission (UHRC) Tribunal and the Equal Opportunities Commission (EOC) Tribunal.

#### **BUNYORO**

In the oil and gas sector, there also exist and operate non-state non-judicial company operated grievance management structures such as Grievance Management Committees (GMCs)<sup>47</sup>.

The aforementioned legal protection notwithstanding, stakeholder consultations revealed that the complex nature of court procedures, along with socio-economic and political factors, present barriers in accessing remedy. Some of the challenges in accessing effective remedies include inadequate number of judicial officers, high cost of litigation, long distance to court, delayed payment of awards, limited enforcement of judicial decisions and inadequate internal grievance redress mechanisms.<sup>48</sup> At an international level, The United Nations Guiding Principles on Business and Human Rights (UNGPs), highlight access to remedy for those whose rights have been violated. Guiding Principle 25 identifies that as part of their duty to protect against business-related human rights abuse, states must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within the territory and/or jurisdiction those affected have access to remedy. Furthermore, UNGP 31 on criteria for assessment of effectiveness of non-judicial grievance mechanisms states that;

<sup>45</sup> UN Commission on Human Rights, "Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, Annex, I.A.1," A/HRC/17/31, March 2011.

<sup>46</sup> "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect, and Remedy' Framework," New York, 2011, B.3.

<sup>47</sup> LARF Section 9.4, Grievance Management, page 74

<sup>48</sup> The National Action Plan on Business and Human Rights, August 2021: Chapter 3.7 pg 19

31. In order to ensure their effectiveness, non-judicial grievance mechanisms, should be:

- (a) Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake; 34
- (f) Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights;
- (g) A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
- (h) Operational-level mechanisms should also be based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

From the CBM undertaken, it was observed that;

1. Every project that is between EACOP, TILENGA, KINGFISHER and road construction projects under UNRA has a self-established remedy system with no clear confluence to each other or the national justice system. These systems operate under their own standards each with its own unique processes. Furthermore, these co-based are riddled with multiple challenges but centrally, because of their structure and setup, lack the independence necessary to engender a high level of stakeholder trust with consequent implications for their legitimacy and therefore effectiveness.

2. Resort to political offices or personalities is predominant in the resolution of disputes. This is presumably due to the quick response by political actors arising from the slow but sure decimation of the judicial executive divide in the pursuit of justice or the challenges exhibited in accessing the said judicial and quasi-judicial forums indicated above. Often, the reports indicate that the grievance was first reported to the Local Council (LC) I, II III & V. It is worth noting that although local council courts are set up at these levels according to the Local Council Courts Act 2016, there is no evidence to indicate that these complaints are handled by these courts<sup>49</sup>. The reports often indicate that the case was reported to the LC chairperson in their personal capacity in virtue of the office held. Additionally, where these fail, PAPs often resort to the Resident District Commissioner (RDC) or any other political figure such as the Member of Parliament or even Minister. For PAPs with limited awareness about existence and functionality of judicial and quasi-judicial mechanisms, this further limits reasonable access to remedy.

3. PAPs have limited or no knowledge arising from a lack of information as to the functioning of grievance handling mechanisms. Whilst local leaders are sometimes used as entry points and co-opted by corporations to support grievance registration and improve communication channels with PAPs, the data from incident reports emphasises a significant knowledge gap among PAPs regarding operational grievance management structures. This gap exists primarily on two levels:

a) **The steps and functioning of the grievance management structures;** For example, PAPs have been reporting grievances arising from road construction activities to the companies' in-charge of the developments and not to UNRA- who is the supervising and regulatory entity. UNRA is then supposed to investigate, assess and determine a remedy. This distinction is however not present in incidents handled under Total Energies, CNOOC and EACOP where grievances are handled directly by the implementing party/ corporation and not the supervisory entity such as Petroleum Authority of Uganda (PAU) or the Ministry of Energy and Mineral Development (MEMD). This difference is unclear to PAPs who often confuse and misapply the processes.

b) **Lack of adequate feedback provided in disputes between companies and PAPs;** however, it is more prevalent when it comes to UNRA related complaints arising from the road construction works. As noted above, the complaints registered at sub-county and parish level are not followed up.

4. Although CSOs are organised under various loose coalitions (CSCO & BAPENECO), legal aid interventions to support access to remedy are as well disjointed with regard to individual PAPs as no central point of access to information exists, nor does a collective intervention exist save for exceptional incidents of public interest litigation like that of the Attorney General v. Happy Ignatius et al.

<sup>49</sup> The functioning of Local Council Courts is provided for under the Local Council Courts Act 2006 and regulations created thereunder. The jurisdiction of these courts is established under section 10 of the Act which limits it to specific civil and customary law matters in the 2nd and 3rd schedule thereunder.



Therefore, these observations point to the absence of a holistic, inclusive and functional grievance management system in the sector. This adds to pre-existing limitations in access to justice and results in a denial of the right to access remedy<sup>50</sup>.

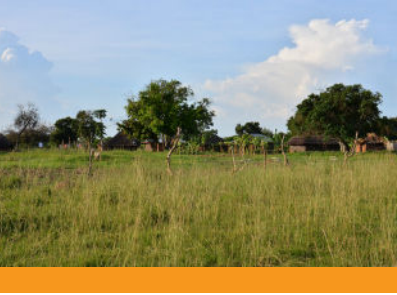
Access to remedy in Karamoja for violations of human rights arising from extractives industry related activities remain slow and limited as shown by the analysis below;

1. The few mining agreements available indicate Alternative Dispute Resolution (ADR) as options to resolving any dispute arising from mining activities between company and community. In the agreement between Dao Marble and the community of Rata parish in Moroto district, it is agreed that all disputes arising from the agreement shall be referred to an arbitrator. This same arrangement pertains to the agreement between Karamoja Miners Association and Mechanised Agro (U) Ltd. However, none of these arbitration clauses were tested in both circumstances to date which leaves the question of enforceability of these clauses unanswered. Additionally, the pre-existing contradiction of such clauses is who bears the cost of hiring an arbitrator in such matters. It is quite impractical given the high poverty levels in Karamoja and hence the local communities will not be able to afford such services in cases where they are the aggrieved.
2. The Courts of law have often been pondered as the major dispute resolution mechanism in most Ugandan investment projects. Even where ADR clauses are placed, many times cases end up in court. In the Ateker cement and Nadunget community case, the matter was forwarded to Soroti high court majorly due to the land acquisition of the case.
3. Most issues in the Mining sector in Karamoja are at first instance resolved through dialogue, these dialogues are often moderated by the district officials or the Department of Geological survey and mines (Field office) with the help of civil society for example, the issue of inaccessibility of the adjacent mining community near Sunbelt was resolved through constant engagements with Sunbelt. The increment of loading and offloading fees for the miners in Tapac sub-county is also being resolved through dialogue and a bye-law was passed to this effect.

### **Challenges related to obtaining remedy;**

- a. In most circumstances communities are illiterate and unaware of the options they have when it comes to remedy. Most communities are unaware about the provisions of their contracts and hence end up not enforcing such arbitration clauses which they are not aware of.
- b. Some mining companies have no enforceable agreements and hence no agreed upon Remedial mechanism. In such cases, the only options left are informal dialogue or the judicial system.
- c. The high cost of legal services; many communities ponder legal action against these mining companies, but failed to follow through due to the high cost of the legal process hence resort to dialogues which often do not yield any results. As analysed above, the cost of arbitration is equally too high and only companies can afford.
- d. The high levels of poverty; these have affected remedy in the sense that many times the community leaders are often bribed or lured to support the companies as was the case in Tapac with Tororo cement. Communities are also easily blindsided by the company's public relation stunts in form of killing bulls and free alcohol, due to the high levels of poverty which diverts their minds from the major issues within the communities.
- e. The lack of funding and capacity by government in providing remedy; the Uganda Human Rights Commission office remains underfunded to do its inspections and mediations; the Natural resources departments of the Karamoja districts and the DGSM field office remain under staffed for example; the Moroto field DGSM office only has two staff to supervise and handle the whole Karamoja and Northern Uganda region.

50 ASF commissioned a study titled "Effectiveness of the Right to Remedy in Compulsory Land Acquisition for the Oil and Gas Sector in Uganda." to further develop insights into the question of access to remedy.



## 4. INTERVENTIONS

The project structure centred on building capacity and awareness of local actors to respond to and seek redress –where possible- for grievances related to human rights arising from EI activities in their region. To this end, interventions followed a bottom-up approach with locals (CSOs, monitors and PAPs) exploring and seeking remedy from relevant avenues available to them. The key interventions took the following form;

1) Supported by the legal officer, verification of incidents was conducted in a systematic and informed manner, targeting key information packets necessary to close data gaps to facilitate the local actors and PAPs identify the veracity of the claim, as well as its nature and appropriate course of action. This included but was not limited to identifying and selecting the appropriate forum to handle the grievance or provide effective remedy to PAPs whose incidents were already underway. The follow-up was conducted through the focal persons selected from the CSOs and was mainly done with local authorities such as the LC1 and other local administrative units and political offices such as the LCV, the District Community Development Officer (DCDO), the Resident District Commissioner's officer, the police and others.\$

Below is a snapshot of the nature of follow up and referrals undertaken by ASF/ANARDE in Bunyoro and Karamoja region;

**Bunyoro:** Lack of compensation claims by PAPs in Ndongo village, Kaseeta parish, Kabwoya Sub County against CNOOC were cleared through follow-up by the local CSO focal person through engagement of the community supervisor of CNOOC. It was revealed that the claims for need for extra 30 metres of land for the oil pipe line after compensation were false and made by alleged land grabbers. Upon discovery of this, the matter was referred to the local police for further investigation as well.

**Karamoja:** An artisanal miner who was arrested by the police in Nayindik mining site, in November 2020 for allegedly protesting against an order by the Sunbelt supervisor for the artisanal miners to leave the mining site was legally supported through ANARDE and KDF. While it was also alleged that he had a panga and had tried to attack the Sunbelt supervisor, ANARDE and the KDF- Focal point person followed up the case with police, paid visits and with the help of the RUCODET chairman- standing in as surety had the miner released on Police Bond.

**2) Engagements with duty bearers at both national and local level (district authorities) were conducted** where the grievances arising from communities were communicated in a human rights language and follow-ups engagements planned to ensure action is undertaken to resolve grievances which are within the capacity of the local duty bearers to address.

In Bunyoro, UNRA related complaints relayed during district engagement meetings in Hoima and Kikuube districts on 8th & 9th September 2021 received commitments by relevant local government officers to have the grievances submitted with the support of the local CSOs to UNRA and action followed up.

In Karamoja, ANARDE together with other CSO's in Tapac led by the Catholic Diocese also created a loose network called the Friends of Tapac to help follow up the plight of the Tapac mining community, Moroto district against Tororo cement. This team created a joint work plan with each CSO carrying out their duties as per the work plan.

Additionally, local district administrations in the districts of Moroto, Nakapiripirit and Kotido were supported in development of compensation rates for trees, crops and semi-permanent structures pursuant to Section 59 of the Land Act, in Sept 2020. These rates were later approved by the district local government councils in all three districts. This ameliorated the challenges of inadequate or non-payment of compensation by developers or government during development projects.

At the National level, several engagements were organized to pivot rising issues to national level stakeholders including;

a) **Regional Consultative Workshop on the Mining and Minerals Bill, 2021 (KARAMOJA SUB Region), 16th Nov 2021;** This meeting generated views and proposals to the mining bill 2021 and were presented to the relevant Members of Parliament of Karamoja sub region as well as members of the Natural resource committee during the Members of Parliament Dialogue on The Mining and Minerals Bill 2021, 30th Nov 2021. This engagement was crucial to ensuring that the relevant advocacy issues arising from the data were incorporated in the legislative review process then on-going before parliament.

b) **The 3rd Annual Symposium on Business & Human Rights was organized alongside Resource Rights Africa (RRA)** under the theme “Looking Ahead: Partnership for effective implementation of the National Action Plan on Business and Human Rights in Uganda”. The symposium was instrumental in sharing preliminary findings with national level stakeholders as well as mainstream key natural resource governance advocacy issues under the broader business and human rights context.

c) **Civil Society Meeting jointly organized by the Ministry of Energy and Mineral Development and the Civil Society Coalition on Oil and Gas (CSCO)** under the «Strengthening the Management of the Oil and Gas Program (SMOGP III)»; Held on 19th December 2021, the meeting was instrumental to raise key issues arising from the monitoring and inform the review process of the National Oil & Gas Policy 2008.

3) **Referrals;** In addition to the structure of referrals created within the project, that is; through the CSOs/CBOs engaged directly by the project, ANARDE referred a total of 6% of the incidents reported to different stakeholders; as noted above Uganda Human Rights commission, Justice Law and Order sector, all viable options already nationally set. The major entities that received referrals were Uganda Law Society (ULS) and Uganda Association of Women Lawyers (FIDA) specifically working with their Moroto field offices. These referrals were not limited to EI related HR issues, but also incidents such as domestic violence incidents which were forwarded directly to the Legal Aid Service Providers (LASPs).

4) **Publications;** From the data, the following key publications were developed in order to inform and direct public policy on extractives in both regions;

a) Policy Brief entitled; **“What does due diligence mean in a shrinking – and militarized – civic space? An analysis of corporate obligations in Uganda’s Oil and Gas sector”**<sup>51</sup> was published by ASF and supportive civil society partners in October 2021. This was aimed at raising concern about the heightened due diligence obligations for corporations operating in the oil and gas sector towards ensuring that affected communities are able to voice and have their grievances acted upon especially where there is a shrinking civic space and heavy securitization of the industry that often strangles civic participation.

b) A **Study on the Effectiveness of Remedies in Incidents of Compulsory Land Acquisition in the Oil and Gas Sector in Uganda** was conducted to further explore the right of access to remedy for PAPs affected by extractives industry activities. This research shall inform key strategies adopted in accessing remedy, but also inform government and corporations in the sector on how to address the challenges limiting the right to effective remedy in the oil and gas sector and form the basis for advocacy efforts during the review process of the National Oil & Gas Policy 2008.

c) **“Taking Mineral Royalties to communities in Karamoja sub region,”** Nov 2021; this was carried out to examine the gaps and limitations to accessing mineral royalties by the communities in Karamoja to influence policy and key stakeholders in management of EIs to ensure mining communities ultimately benefit from the same. The report also proposed a legal and regulatory framework that may contribute to maximization of returns from Uganda’s rich mineral endowment and more so benefit the Karamoja mining communities.

51 A digital copy of the same can be accessed here: <https://asf.be/publication/policy-brief-what-does-due-diligence-mean-in-a-shrinking-and-militarized-civic-space-an-analysis-of-corporate-obligations-in-ugandas-oil-and-gas-sector/>



d) **“Harnessing community development Agreements – a case of Karamoja Community Development Agreements”**; This study was undertaken to provide a review of the Mining and Minerals Bill in light of whether the provisions on community development agreements (CDAs) (participation of mining communities and rights of host communities) in their current form had the potential to enhance sustainable socio-economic transformation to mining host communities in Karamoja. The review identified the challenges and/or gaps and opportunities of the clauses.

e) **Community outreaches and legal aid**; In Karamoja, key outreaches were held among affected communities to address child labour at mining sites, especially by ASMs, Mercury use and land rights generally. In Bunyoro, legal aid camps were held jointly with Civic Response on Environment and Development to provide legal assistance to affected PAPs in the districts of Buliisa and Kikuube. Additionally, legal representation was offered to 9 PAPs from Buliisa District who were sued by the Attorney General in Attorney General vs. Happy Ignatius for having rejected the value of compensation offered to them.



## 5. LESSONS LEARNT

The Community Based Monitoring approach to HR monitoring is not a novel approach, but the specific methodology developed and adapted to extractives industry monitoring in the sub-regions of Karamoja and Bunyoro is un-paralleled in so far as it enhances participation of all stakeholders at all levels in the extractives value chain. With regard to the system, the security of data, PAPs and all concerned actors is realised while ensuring timely communication and addressing of grievances. The mixed method approach of data collection, that is, a digital system complemented by paper based monitoring is recommended in cases where digital challenges are expected.

The adopted methodology under the CBHRIA enhances sustainability of the action. Capacity building efforts of local actors are key to building sustainable and impactful monitoring interventions. Continuous capacity building is necessary however to ensure effective deployment of the system. The methodology is replicable not only for monitoring of extractives, but applicable to other HR related interventions. In Bunyoro, CRED and MIRAC, have adopted and implemented the same in their monitoring efforts for the EACOP and land rights affecting women respectively.

Presentation of findings at local levels enhances appreciation of natural resource governance issues as well as accountability to local communities at all levels. It has also served to address arising human rights issues and ease access to remedy for legal concerns raised during the meetings. Local actors are willing and capable of being a part of the remedy solution.

Additionally, engagement of all stakeholders in one space complements effective grievance management and response through proper identification and acknowledgement of roles and responsibilities.

The CBHRIA methodology complements evidence based collaborative actions by CSOs which are vital in timely response on issues raised by communities as well as advocacy efforts generated around major issues arising. In response to the shrinking civic space, it was also noted that joint actions by CSO actors are more effective shock absorbers to threats posed.



## 6. RECOMMENDATIONS

### To Government

- a.** Streamline the law and policy on compulsory land acquisition process to ensure prior compensation and informed consent to lessen the burden on persons affected by compulsory land acquisition processes.
- b.** Strengthen existing state judicial and non-judicial access to remedy mechanisms available to persons affected by extractives industry activities to ensure redress for HR violations and abuses suffered
- c.** Support and regularize company based grievance mechanisms to ensure access to effective remedy
- d.** Acknowledge the role played by civil society in contributing to good governance efforts by lessening the undue administrative burden and other limitations to the effectiveness of their mandate
- e.** Expedite the enactment of key legislation aimed at preservation of the rights of PAPs and Human Rights Defenders including the Human Rights Defender's Protection Bill 2020 and National Legal Aid Bill 2019
- f.** Ensure increased access of information flow to project affected persons at all levels including access to key operational agreements in the extractives sector

### To Companies

- a.** Implement all due diligence processes in good faith in order to mitigate the negative impacts of extractives industry activities
- b.** Build and strengthen company initiated grievance handling mechanisms on a basis of continuous learning and improvement.
- c.** Continuous information sharing and effective engagement with community actors and members to foster meaningful community participation in EI projects

### To Civil Society

- a.** Pursue enhanced collaboration and partnership to reduce the divide and increase complementarity of efforts between local, national and international civil society actors.
- b.** Continued capacity building amongst vulnerable host communities of EI projects on rights awareness and accountability by duty bearers.







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■ **Headquarters**

Avenue de la Chasse 140  
1040 Brussels  
Belgium  
Tel.: +32 (0)2 223 36 54  
communication@asf.be

■ **Office in Uganda**

Plot 16, Vale Road, Naguru  
P.O.Box 36710, Kampala

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