

Analysis of Property Rights on Natural Resources: Oil Exploration in Uganda

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Abstract

Purpose of the article By the end of 2006, findings in the Lake Albert region of Uganda recommended that entire oil reserves in the block would add up to 2.5 billion barrels. This would mark the Albertine Graben one of the biggest onshore oil fields in Africa and would guarantee the potential to convert Uganda's agriculture-based economy. However, the governance of this resource faces numerous challenges. The aim of this research is to get a clear overview of these challenges considering the citizen perspective, since they are affected by the process of oil exploitation.

Methodology/methods A mixture of mutual quantitative and qualitative procedures was used. A sample of n=70 respondents was studied using structured questionnaires, our data was subjected to Excel analysis.

Scientific aim To explore, describe as well as obtaining the perceptions of selected Ugandans about oil discovery, exploitation and major challenges facing the sector.

Findings There was found that Lack of government commitment on clear policies 29 %, corruption 56 %, 3 % environmental liabilities, absence of clear land rights, Political insecurity 3 %, limited planning 6 %. Other findings show that Uganda is witnessing a violation of communities' land rights in the Albertine oil region.

Conclusions Land rights like any other property rights in the country are out of order and hence limiting efficiency in business in terms of transferability, enforceability and exclusivity. The government of Uganda needs to handle the matter not only with urgency but also be more rational in this regard.

Keywords: Property Rights, conflict, resource curse, ownership, utilization

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Introduction

This study examines oil exploitation, and some determinants such as politics, and property rights in Uganda as well as providing lessons and policy advice for the East African state, since oil exploitation has become more a problem than an opportunity to many oil producing countries in Africa and elsewhere (Vokes, 2012; Shepherd, 2013; Kopoin et al., 2015; Manyak, 2015; Ayanlade and Howard, 2016; Ovadia, 2016), referred to as avoiding passed mistakes/ Dutch Disease (Gylfason and Nganou, 2014).

Conferring to the Constitution of Uganda (The Republic of Uganda, 1995), Article 273 “all land in Uganda belongs to the people”, and Article 26 (2) specifies that: “No person shall be compulsorily deprived of property or any interest in right over property of any description except where taking property or possession is necessary for public use and, or, is made under the law after prompt payment of fair and adequate compensation (Basiime et al., 2016)

The objective is to explore, describe and examine oil exploration and the major factors that influence the success of the utilization of this rich resource. Perceptions of some of the citizens will be captured and analyzed herein.

The first profitmaking oil unearthing in Uganda was made in 2006 by a United Kingdom listed Tullow Oil PLC. Uganda has commercial oil deposits amounting to over 2 billion barrels (Vokes, 2012). This rich oil reserve has attracted numerous multinational corporations to engage in further exploration and production activities. Oil production is estimated at 150,000 barrels per day with an anticipated increase to 350,000 per day in 2018. Based on the oil price of \$75 per barrel, the revenue peak production is estimated at over \$ 2billion per year. This would guarantee the potential to convert Uganda's agriculture-based economy that has been dependent on oil import, wood fuel and charcoal for both household and industrial production (Vokes, 2012; Hickey, 2013; Shepherd, 2013; Muhanguzi et al., 2014; Okello et al., 2014; Manyak, 2015; Mohammed, Bashir, and Mustafa, 2015; Ovadia, 2016).

Referring to Vokes, (2012) the first commercial oil discovery in Uganda was confirmed in 2006, although the investigation had started as early as 1930. These determinations had led to the documentation of surface leakages of oil and to the drilling of primarily shallow wells around these see pages.

Numerous studies maintain that, the encounter of oil in land locked nations has engendered fear that the oil resources would seizure out to be a curse rather than a blessing, particularly when the predicted revenues are not properly planned and more decisively, justifiably and transparently exploited (Vokes, 2012; Shepherd, 2013; Kopoin et al., 2015; Manyak, 2015).

The government of Uganda already made surveys on the projected land for the establishment of an oil refinery at Kabaale in Buseruka Sub County, Hoima District. The formation of the oil refinery that will process crude oil for both local consumption and export comes after commercial deposits worth 3.5 billion barrels of oil which were discovered in the Albertine Graben in 2006. Up to 29km² was needed to provide space for the development of the refinery and its attendant infrastructure such as an airport, petrochemical industries, refinery staff accommodation and social services in the community. It is estimated that about 14 villages have been affected by the project which has left many homeless due to late compensation, hence violating property rights of the local people (The Uganda Land Alliance, 2011; Vokes, 2012; Gylfason and Nganou, 2014; Davis et al., 2005).

Natural resource management stands a challenge to numerous nations in Africa, countries such as Angola, Nigeria, Equatorial Guinea and Cameroon have been drilling some crude oil for many years now. Instead of turning around and boosting their economies, the citizens have become poorer, thus developing and ending conflicts in most oil rich nations in Sub-Sahara Africa (Bybee and Johannes, 2014; Sturesson and Zobel, 2015; Hickey, 2013; Hickey and Izama, 2016). It is the question whether the circumstances in the developing world, where oil exploitation has been associated to worsen poverty, will also occur in Uganda. The argument is about Uganda's future with oil, whether this plentiful natural resource will be a source of improved livelihood and an economic explosion for the country (Ericson, 2014; Hickey et al., 2015; Khan, 2015; Hickey and Izama, 2016) in terms of socioeconomic and environmental development.

1 Property Rights, Land and Natural Resources

Conferring to Davis et al. (2005) property rights give a precise understanding for both the local and international perspective. They asserted that the former is part of natural resource management involving considerations on ecological, social and economic systems, which need to be maximized. In reverence to the economic systems, land rights and management is considered an important aspect in any economy and in regional development, since it is a potential source of conflict if not well handled.

Tietenberg and Lewis (2009) and Miškolci (2013) assert that land ownership, like any other property rights, determines the participation of players in resource exploitation/utilization.

Miškolci (2013) distinguished that the conduct of resource use is dependent on the nature of their property rights that govern such kind of behaviors. The proprietorship rights of any resource can be conferred in individuals, which is characteristic in capitalist economies. Private possessions are mutually excludable and rival in nature. Individual property right of entry, use, prohibitions and management are organized and controlled by the private owners. State owned property, means that it is possessed by all, but its right of entry and use are controlled and managed by the state; commonly known as socialist economy.

Collective property considers properties that are possessed by a collection of individuals. Right of entry, use, and exclusions are controlled by the shared owners. Factual commons can break down, nevertheless, unlike open-access assets, common property owners have superior capability to manage conflicts.

1.1 The importance of property rights in resource use

Davis et al. (2005), Klemperer (1996), Tietenberg and Lewis (2009), noted that property rights give way for efficiency in the usage and allocation of natural resources in a well-functioning market economy. Markets can be proficient at producing private goods and possessions, this is because producers and consumers have the right of ownership and control of the resources and their exchange in any economic matters, meaning;

- Enforceability; Property ownership rights secure involuntary appropriation and or violations on ones property by others.
- Exclusiveness; The proprietor directly or indirectly appreciates the benefits of possessing such a resource, also the owner is liable to accumulated costs as a result of owning and utilizing this property by sale or other means.
- Transferability; Property ownership allows easy transferability from one owner to the other in willingly manner, hence lowering chances and conflict susceptibility.

However, markets can be less efficient if property rights do not exist and is equally evident in countries where the ownership of this resource is not clear (WWF, 2017). WWF (2017) argues that if not well regulated, for example, more than 80 % of the global forests will be lost between the years 2010 and 2030. This is because of corrupt governments, irrational companies that are aiming at maximizing their profits at any cost, irrespective of the environment.

1.2 Impact of a lack of property rights

The nonexistence of property rights may lead various problems:

Depletion of resources-such as the exhaustion of rain forests globally, traffic congestion and over-fishing - are related with a lack of property rights. Over-use can also effect in the overall exhaustion of other natural resources, including our environment. Environment is such a scarce resource that can be exhausted at will, since much of it cannot be protected by establishing property rights.

Opportunism: abusing the lack of private proprietorship, since it is not possible to put define borders, persons can 'steal' from ones property and this is common in the forests too. The free rider problem, meaning that the price instrument is less operative at pricing goods and services that can easily be stolen by others for free.

Misappropriation of scarce resources such as releasing litter on the roadsides, and intentionally dripping oil in the sea. This problem can be worse if accompanied by moral hazard; that is, assuming that someone else will clean the seas or will plant trees if the forest.

2 Materials and Methods

A comprehensive study of scientific papers from prominent journals and publishing houses was undertaken. Research requirements (Maxwell, 2005; Creswell, 2009, 2011; Punch, 2005, 2009) i.e. qualitative and quantitative approaches were employed. The investigation also carried out primary data collection and analysis. Structured questionnaires were sent to 150 people by email, and n=70 were returned correctly. The data was then subjected to descriptive statistical analysis using Excel software.

The questions included;

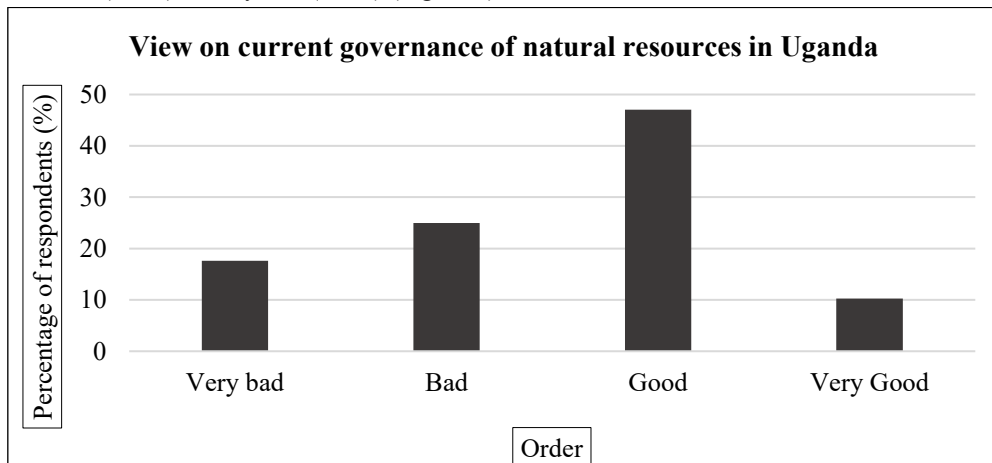
- View on current governance of natural resources in Uganda.
- View on land rights in the oil region and the country at large.
- Considered pressing problems facing oil exploitation in Uganda.
- View on information sharing in the oil governance by both companies and government.

3 Findings and Discussion

This study captured the demographic background information of the participants so as to understand the individuals' characteristics of those that participated in the study. Most of the respondents were male: 66.7 % male and 33.3 % female.

Many of the respondents were between 26 and 30 years old (60.9 %), followed by 31 to 40 (21.7 %), 15 to 25 (10.1 %), 41 to 50 (4.4 %) and lastly 50 years plus (2.9 %).

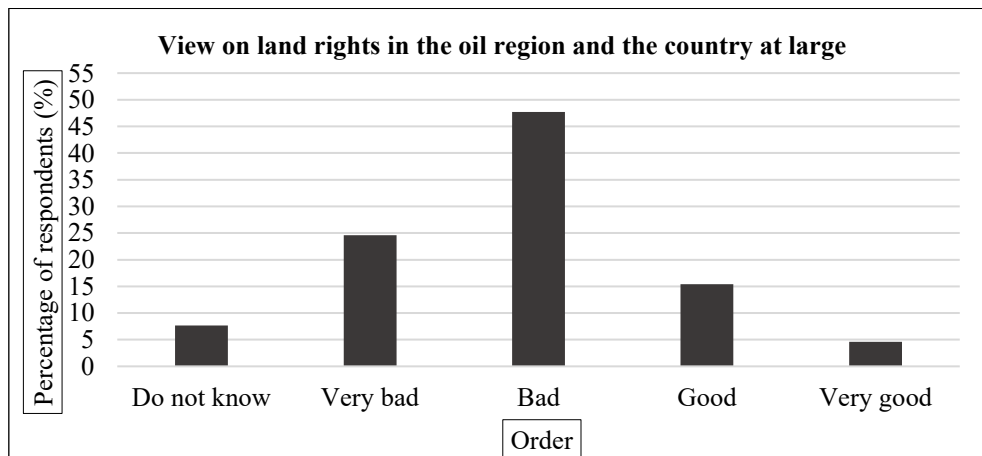
Regarding the current governance of natural resources in general in Uganda, 57 % of the respondents agreed that the governance is good (47 %) or very good (10 %). However, 43 % of the participants responded that the governance is bad (25 %) or very bad (18 %) (Figure 1).



Source: Own analysis

Figure 1 Respondents view on the governance of natural resources in Uganda; shown in percentage

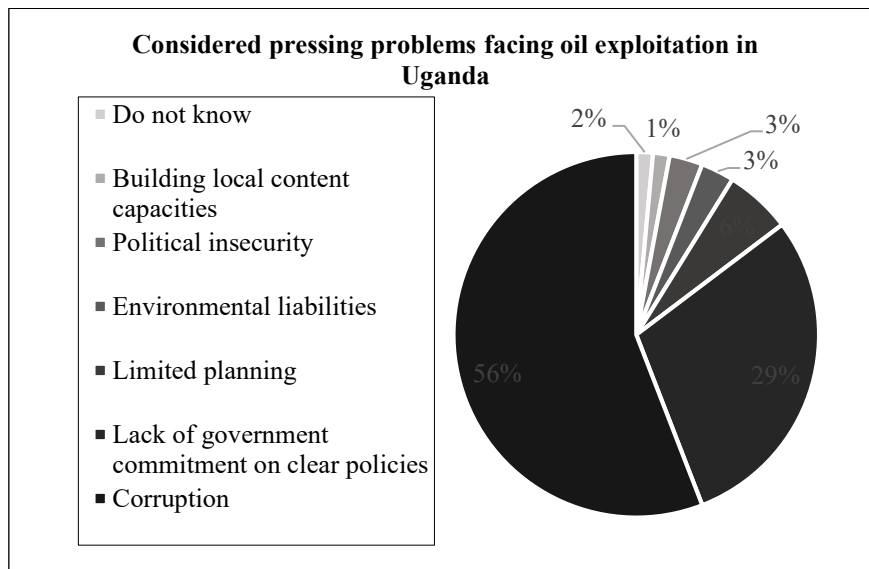
The thoughts to the view on land rights in the oil region and in Uganda show that 72.3 % of the respondents say it is bad including 25 % who responded that it is very bad. 15.4 % of the respondents have a good view on land rights and 4.6 % has a very good view, and the last 7.7 % did not know (figure 2).



Source: Own analysis

Figure 2 Respondents view on land rights in the oil region and the country at large; shown in percentage

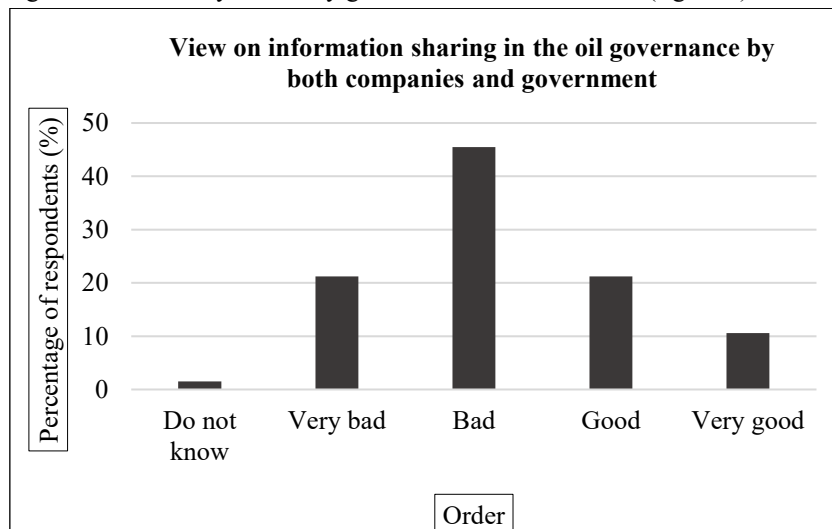
Considering pressing problems facing oil exploitation in Uganda, responses show that 56 % says corruption is the most pressing problem, second is lack of government commitment to make or implement clear policies with 29 %, third is lited planning by the government 6 %, followed by environmental liabilities 3 %, political insecurity 3 %, building local content capacity 1 %, and 2 % did not know (Figure 3).



Source: Own analysis

Figure 3 Respondents view on pressing problems facing oil exploitation in Uganda; shown in percentage

The views on information sharing in the oil governance by both companies and government, show that over 65 % says it is bad including 21.2 % saying it is very bad, 21 % agrees that the information sharing by companies and government is good and 11 % says it is very good and 3 % did not know (figure 4).



Source: Own analysis

Figure 4 Respondents view on information sharing in the oil governance by both companies and government; shown in percentage

2.1 Some of the selected Responses

- It’s sad that for the last 3 years, the government has failed to complete and put in place new environmental law, EIA regulations and SEA regulations for the governance of the oil sector. So, as the oil activities in game parks, across lakes and rivers, forests, wetlands and community land continues, there is no clear law to guarantee equity and social justice in the processes for the common good. This clearly means that the government is not committed to good governance of oil.
- In a system highly corrupt like our current Uganda, good oil governance remains an unattainable dream and perhaps one could urge a curse. Besides the government's efforts to build local capacity to be meaningfully employed in the oil and gas sector are questionable. The oil and gas sector remains highly centralized closing out local stakeholders. Land governance is also one of the issues the sector is grappling

with, characterized by displacement of families from their customary land without timely, fair and adequate compensation.

- I highly think and recommend that there is more information on the oil processing activities to the general public and that since the government failed to manage all parastatals and privatized them for better management, so should the oil sector be privatized for better management and exploration.
- The oil agreements were kept a secret from the public. Majority of the citizens are not aware what they entail. The level of corruption in oil exploration is beyond measure. There's also need to build capacity of local communities in terms of empowering them with information about their land rights, property rights, human rights and laws in Uganda.
- There is excessive corruption of government officials to allow certain unfair exploration terms and condition to take effect.
- Increasingly, Uganda is witnessing violation of communities' land rights in the Albertine oil region. This negation of constitutional and natural rights results, in great measure, from government-backed compulsory land acquisitions and private speculation- both of which are intended to facilitate investments in extractives, public infrastructure, agriculture, among others. While compulsory acquisition of land by government in the public interest is provided for under Uganda's laws, provision is made for fair, adequate and timely compensation for affected parties. However, violation of these constitutional and legal provisions continues to take place as witnessed in the many irregular land transactions triggered by the discovery of Oil and Gas in the Albertine Graben. Irregularities in land acquisition schemes – inadequacies in valuation of property, delayed compensations, among others – are leaving project-affected persons worse off than they were previously. Land grabbing by powerful speculators is oftentimes said to be state-linked, and has become a common phenomenon. Customary land owners are most afflicted due to lack of documentary evidence of ownership of their land. Although most of the land in Uganda is held under customary tenure, land titles – however fraudulently acquired - seem to supersede customary claims in majority of land transactions. Persistent land conflicts– which have now been recognized by Government– have resulted from this complexity. At the same time, population pressure and the uncontrolled influx of migrant communities have triggered tensions with ethnic undertones over land for animal grazing and crop cultivation. These challenges are taking place in districts already grappling with shortage of land, traceable to the gazettement of parts of Buliisa land as game/forest reserves. Since most of the land is not surveyed or otherwise properly demarcated, boundary conflicts between neighbors have become a common source of land conflicts. These problems arise amidst a land governance system that does not adequately safeguard land rights for especially customary land owners, but is also associated with fraudulently acquired freehold and leasehold titles. Mechanisms in place for land administration do not seem to sufficiently address these challenges.
- It is meant to benefit each and every being in the country and not just a few individuals who presume they have a bigger share of the national cake.
- On the point of mortgaging the oil resource for the SGR, I think this is not tenable; the SGR has its budgets and financing already set aside and anyone with a contrary opinion is just but lying to the citizens of the country. One; NO single Ugandan knows the output of the oil as yet, and other technicalities such as the intended contract details which may deny the natives the much needed inflows from this precious resource.
- There is need for more government/political commitment to ensuring the benefits are maximized and put to proper public use.
- I disagree with the idea because they are only focusing on the benefits but not the side effect and yet in years to come, we shall be suffering from global warming in that the oil might have also decrease in the volume and where will the future wildlife, plants and people because they will be suffering from many side effects e.g. health problems caused by dust , direct sunlight affecting agriculture sector, tourism sector that contributes a lot in the economy of Uganda in terms of foreign exchange.

According to Vokes (2012), Hickey (2013), Shepherd (2013), Muhanguzi et al. (2014), Okello et al. (2014), Manyak (2015), Mohammed, Bashir, and Mustafa (2015) there is no doubt that Uganda is currently facing resource curse considering the level of corruption cited in most resource exploitation. The political situation is neither conducive for the citizens nor is it for the investors in the oil sector and other natural resources (Hickey et al., 2015; Khan, 2015; Hickey and Izama, 2016).

The various responses from the participants are in collinearity with Hickey and Izama (2016) discussion on the oil and politics in Uganda. This has led to limitations in access to information especially on oil agreements which have since been secret and with the corruption news, the public is losing trust in the government which is

technically headed by politicians. They assert that Uganda ought to slip to conflict if oil issues are not taken care of.

Hickey (2013), Shepherd (2013), Muhanguzi et al. (2014) noted that Uganda has taken necessary steps in process of exploiting her oil, and that this has the potential to drastically turn around the economy. If the proceeds are invested in the illing sectors which will in turn boost production, and create more jobs as well. The findings equally show positive effects, comprising infrastructural development like roads, schools, health centers as well as water sources and an increase in the value for land. The negative effects include effects on farming as a source of livelihood, socio-cultural effects, and land-use conflicts that have hit the oil region and the country at large which is currently agriculture based as well as the largest employer (Bamwesigye and Pomazalova, 2015; Bamwesigye, Pomazalova, and Tamas, 2015)

Conclusion

The oil communities in Uganda among other natural resources, have had a mixture consequences ranging from offer for high prices for sale of their land or government takeover with promise to compensate them and or for others to resettle them. Basiime et al. (2016) argue that land owners risk losing their property and livelihood if government will take over their property without prior compensation as earlier stipulated in Constitution of Uganda, Article 273 and Article 26 (2) as current bill in the Parliament of Uganda for debate suggests.

At the macro level, Oil prospects have not only boosted infrastructure development in the oil region, but also the business communities have felt some impact. The oil industry has had an influence on the social dynamics of the society especially for social services. However, the livelihood of many people from oil communities have had a range of problems including;

- Late compensation and or corruption tendencies in the valuation process of their property.
- All signs indicate that the oil community people would have had good or appropriate sensitization about the oil development and proper measures would have been taken to have them relocated, there would have been no problem.
- Most of the experiences from Sub-Sahara Africa show resource curse across the continent due to huge cases of corruption, inequality and conflict. Since the exploration process, Uganda has had corruption claims and the most recent being UGX 6 Billions paid as bonus to the tax regulatory body, as well as tax waves given to Tullow Oil Company in Uganda, hence showing some level of irregularity.

We conclude that Uganda can still avoid the resource curse, since it is an opportunity to correct current challenges of corruption, unclear laws as well as non pro-citizens laws that can breed conflict.

The study therefore, recommends that the Government of Uganda takes macroeconomic policies seriously, takes serious actions against ministers and other government officials involved in corruption cases. Also, the Government should consider the welfare of the society and the Ugandans, while taking on development projects like compensating affected people and communities timely, as well as taking the land ownership/property rights seriously, since most current conflict is as a result of the same.

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