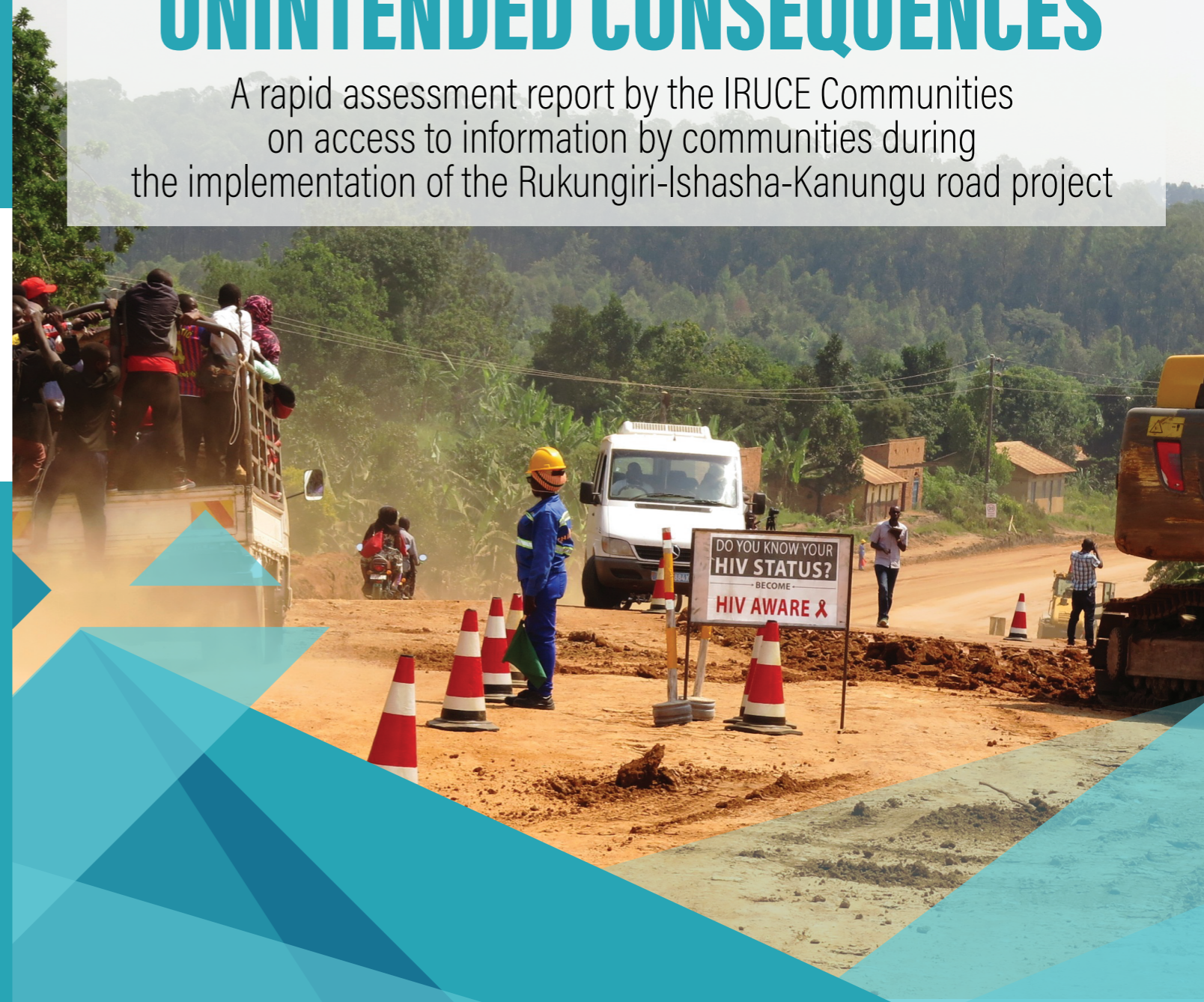




UNINTENDED CONSEQUENCES

A rapid assessment report by the IRUCE Communities on access to information by communities during the implementation of the Rukungiri-Ishasha-Kanungu road project



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Acronyms and Key Definitions:

CHICO: China Henan International Cooperation Group

IRUCE: Integrated Rural Community Empowerment

ESIA: Environmental & Social Impact Assessment

HIV/AIDS: Human immunodeficiency virus/ acquired immunodeficiency syndrome

GHM: Grievance Handling Mechanisms

M&E: Monitoring and Evaluation

NEMA: National Environmental Management Authority

NFA: National Forestry Authority

NGO: Non-Governmental Organization

PAP: Project Affected Persons

RAP: Resettlement Action Plan

UNRA: Uganda National Roads Authority

NEMA: National Environment Management Authority

AfDB: African Development Bank

Key Definitions

Compensation: Payment in cash or in kind at replacement value for an asset or a resource affected by the project at the time the assets need to be replaced.

Displaced Persons: People or entities directly affected by a project through the loss of land and the resulting loss of residences, other structures, businesses, or other assets.

Grievance: This is a complaint that something has not been fair on a person and takes a long route to resolve.

Grievance Procedures: The processes established under law, local regulations, or administrative decision to enable property owners and other displaced persons to redress issues related to acquisition, compensation, or other aspects of resettlement.

Land Acquisition: The process of acquiring land under the legally mandated procedures of eminent domain

Project-Affected Area: The area subject to a change in use as a result of construction and operation of the road.

Project-Affected Person (PAP): Any person who, as a result of the implementation of the project, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, pasture or undeveloped/unused land), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily. Affected people might be displaced either physically (“Physically Displaced People”) or economically (“Economically Displaced People”).

Replacement Value: The rate of compensation for lost assets, that is, the market value of the assets plus transaction costs (taxes, registration fees and cost associated with registration or transfer of new land). The replacement value of an item must reflect the cost at the time it is due for replacement. For land and structures, “replacement value” is defined as follows:

- i) *Agricultural land:* the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land including fees of any registration and transfer taxes;
- ii) *Land in urban areas:* the market value of land of equal size and use, with similar or improved public infrastructure facilities and services, preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;
- iii) *Household and public structures:* the cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labor, contractors’ fees and any registration and transfer taxes.

Resettlement Action Plan: A planning document describing measures to address direct social and economic impacts associated with involuntary land acquisition for the project.

Stakeholders: A broad term that covers all parties affected by or interested in a project or a specific issue— in other words, all parties who have a stake in the project. Primary stakeholders are those most directly affected—in resettlement situations, the population that loses property or income because of the project. Other people who have interest in the project such as the UNRA itself,

beneficiaries of the project (e.g., road users), etc are termed secondary stakeholders.

Vulnerable Groups: People who may by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage or social status become more adversely affected by resettlement than others; and who may have limited ability to claim or take advantage of resettlement assistance and related development benefits.

Executive Summary

This report presents findings from a rapid assessment by the IRUCE Communities and its partners sanctioned in April 2019 to highlight the nature of access to information and any likely gaps, explore any avenues to address the plight of the affected communities on the ongoing construction works of the Rukungiri-Ishasha-Kanungu road.

Access to information is an important pillar for accountability, transparency and meaningful engagement for citizen participation in national development. It is also a prerequisite for effective exercise of freedom of expression for the protection of social- economic rights of the people. It therefore plays an important role in equitable development of the country. For all this to be achieved in a rural community road project in Kanungu and Rukungiri government must be willing and able to give information to their citizens and citizens must be able to use the information they get. Information is a perishable good that must be given in a timely manner. Additionally information should be given in a form and state that citizens are able to understand and utilise.

The constitution of Uganda guarantees the right to access to information and various laws and policies are in place to ensure citizens have access to information. However, despite the existing laws and policies government has not been sufficiently proactive in providing this necessity as seen through several sectors. It is absurd in most infrastructure project implementation processes and it's evident on this road project.

The works and infrastructure sector remain shrouded in state of secrecy, denial and non disclosure of bidding information, contracts and mitigating measure

reports. This has left those directly and indirectly affected by infrastructure development projects unable to make informed decisions on issues that concern their lives and livelihoods. Furthermore with the limited information they receive they cannot ensure respect and protection of their rights. As the road project from Rukungiri- Ishasha to Kanungu takes shape, multiple concerns regarding safety, environmental, health and sexual rights are an unaddressed and call for appropriate action for access to usable information.

The right to information embedded in both the Access to Information Act and Regulations (2011) provides for timely access to accurate information for transparency and accountability in government's effort to provide public services.

This forms the basis for communities' strength to monitor and evaluate the implementation of such development infrastructure and equips them with accurate and timely information to ensure transparency and accountability in the road project.

This assessment, we hope will serve as basis for the communities in Kanungu and Rukungiri, the project implementing partners to earmark and address the aforementioned information gaps and disparities as it gives recommendations directed to different stakeholders. Addressing these gaps is indeed crucial as inclusion and engagement of the local communities is essential for decision making and avoiding disruption and conflict.

Integrated Rural Community Empowerment (IRUCE) and its partners Network for Social Change, FACE Uganda and KADI Initiatives have, therefore assessed the available information to the communities in which the road transcends and interacted with community leaders, the contractor, local and government agencies and project affected persons to arrive at the following conclusions in this report.

1. Introduction

The government of Uganda through Uganda National Roads Authority (UNRA), SMEC as a consulting partner and M/S China Henan International Corporation Group (CHICO) as contractor are working on the Rukungiri-Kihihi-Ishasha-Kanungu

road project No: RA/102 to bituminous standard a 45 mile (78.5Km) stretch that is estimated to last for three years.

This road project funded by the African Development Bank¹ will cost the tax payer an estimated UGShs 207,834,646,967 inclusive 18% VAT as per the contract.² This implies that each kilometer of the road will cost more than UGShs 2.64bn making it arguably the most expensive road construction in Uganda.³

A notable outcry by communities over lack of adequate and comprehensive information, stakeholder engagement and sensitization by the consultant and the contractor M/s China Henan International Corporation Group on issues of access to information, adequate sensitization and consultations on land acquisition and compensation, there have been remarkable attempt to engage the Project Affected Persons especially property owners with some considering legal redress citing lack of best practices on land acquisition processes while remarkable, environmental, health, labor rights and sexual violence cases have reported in the communities.

According to AfDB's policy & guideline, the road project is classified under Category 1, and therefore requires the preparation of an Environmental Social Impact Assessment,⁴ RAP and adequate and timely information sharing with the communities likely to be affected.

Integrated Rural Community Empowerment, (IRUCE) a not for-profit Organization working with the rural communities to strengthen their potential to advocate for improved Livelihoods, Environment and Community Justice in the South West Uganda conducted a rapid assessment to establish the information needs by the affected communities along the recently commissioned road project.

Under its Good Governance and Human Rights Advocacy program, IRUCE initiated this assessment through review of relevant documents regarding the on-going Rukungiri-Ishasha-Kanungu 78.3 kilometer road project, collected data and exploring nature of the existing information to find out community knowledge on their rights and the extent of the stakeholder engagement. This was premised on IRUCE's understanding that community participation and knowledge of their

¹ Africa Development agrees to a \$108m loan with Uganda to fund infrastructure.

² Ministerial Policy Statement FY 2019/20

³ <https://qz.com/africa/1326618/china-is-building-expensive-roads-in-uganda/>

⁴ AfDB's Environmental and Social Assessment Procedures (ESAP)

rights is a paramount measure in safeguarding community rights during the implementation of the project.⁵

The assessment followed several complaints by the community regarding the manner in which the implementation of the project has taken shape with key disparities in the manner business is being conducted especially during the procurement, sensitization, land acquisition, resettlement, compensation and employment of the workers that pointed to possible gaps likely to hinder social-economic benefits of the communities.⁶

This assessment therefore considers the level of community participation and appreciation of project processes enabling the community to understand the project value for tax payer's money vis-a-vis respect for community rights.

The assessment focused on the need for community access to basic information like the road bid documents & contracts, environmental and social impact assessment report, African development bank environmental and gender assessment guidelines, valuation reports, resettlement action plans and compensation rates to avert any risks on fundamental rights abuse in the community.⁷

The right to access to information⁸ by citizens as enshrined in the Constitution guarantees the necessity to provide information to the affected communities except where the release of such information is likely to interfere with the security of the state or the right to the privacy of any other person, which is not the case on such a project.

The right to information⁹ embedded in both the Access to Information Act and Regulations (2011) provides for timely access to accurate information for transparency and accountability in government's effort to provide public services.

This forms the basis for communities' strength to monitor and evaluate the implementation of such development infrastructure and equips them with

⁵ Rukungiri–Kihhi–Ishasha–Kanungu Road

⁶ Lam Kajubi; et al. (11 October 2013).

⁷ Integrated Environmental and Social Impact Assessment Guidelines 2003

⁸ Art 41, Constitution of Uganda (1995)

⁹ Access to Information Act (ATIA), 2005

accurate and timely information to ensure transparency and accountability in the desired road project.

There is no doubt that the communities remain in upbeat anxiety for the tarmac road to improve their social- economic livelihood but this cannot be at the peril of the fundamental rights and freedoms, desired standards and due diligence in the implementation process necessary to achieve the road project and hence there is need for commitment to address any breaches¹⁰ .

2. Location of the road project

The Rukungiri–Kihihi–Ishasha–Kanungu Road starts in Rukungiri Municipality, running in a general westward direction. It passes through Nyakagyeme, Bugangari, Bikurungu and Bwambara in Rukungiri district and Nyamirama, Nyakinoni, both Kihihi sub-county and Kihihi own Council to Ishasha border with DR-Congo. Another spur of the road runs in a general southern direction from Kihihi town through Kyantorogo, Kirima to Kanungu town.

3. Objectives of the Assessment

- To find out whether communities have access to information on the expected road project.
- To establish whether adequate engagement and sensitization of the affected communities (persons) was/is being done throughout the project.

4. Aim of the Assessment

To ensure access to basic information to communities for mitigation of any likely impacts during the project implementation and ensure compliance with project implementation best practices.

5. Assessment criteria

The rapid assessment was guided by the following standard quality criteria;

- a. **Relevance:** the assessment was the extent to which the information themes shared were relevant.

¹⁰ AfDB (Involuntary Resettlement Policy, 2003)

- b. **Effectiveness:** assessment of the documents aligned to meet intended objectives and if they reached the affected communities.
- c. **Efficiency:** assessment of how socially and economically lack of information would impact/ is affecting the project implementation and hence value for money.

6. Assessment Methodology

The methodology applied was largely a qualitative and quantitative approach of assessment.



The qualitative method was used because it is participatory in nature, provided detailed description and interpretation of information; it easily enlisted views, opinions, and experiences of stakeholders.

Qualitative method was used for data collection, literature /documentary review, in-depth interviews, focused group discussions with various key stakeholders.

4 individuals with knowledge of the road scope were trained on how to use designed questionnaires to collect data and carry out key informant interviews from project affected persons, purposively selected community leaders' responses were tabulated to consider their responses and assess the level of their knowledge about the road project.

The sample size was identified by sampling the most affected communities and their leaders where the road project traverses.

Two affected communities of Kihiki construction site and Kaniabizo were randomly selected while 40 community leaders were purposively identified along the project.

Literature review: This entailed a review of relevant documents relating to the subject under assessment including leading texts, policy documents and reports.

7. The Scope of the Assessment

The assessment looked at the two randomly selected focused groups of twenty (20) affected persons in the communities and forty (40) community leaders purposively selected from the project affected areas as well as the project implementers since the start of the project implementation in 2010. This sample covered all the project districts of Kanungu and Rukungiri. It focused on both local, sub-county and district level leaders and engaged two randomly selected groups in a focused group discussions. The groups of the project affected persons in communities were selected due to their prevalent nature of complaints not being addressed along the project scope.

The assessment further looked at the relevancy of the information shared with communities based on collected evidence from project documents such as legal framework papers, Environmental Social Impact Assessments, Resettlement Action Plans and Report, Valuation reports and interaction with both Project Affected Persons, Project Contract staff, Uganda National Roads Authority staff and interviews with key stakeholders.

8. Data collection

This study was a rapid qualitative assessment due to the nature and duration of the data collection exercise and the rigorous nature of the project. The assessors considered key stakeholders for key informant interviews and some interaction with communities affected by the project. The data collection approach utilized three sources of information.

a) Key informant Interviews

The assessment was based on an interview guide with a set of questions focusing on the objectives and document review. The methodology consisted of key-informant interviews that considered the significant change, a qualitative technique used to measure impact. Using this method, the assessor was able to develop an understanding of the community and persons and determine whether the information delivered to them was appropriately addressing relevant gaps prevalent. It explored key informants' views about the relevance and the

significant information provided about the project in the communities. Forty (40) purposively selected local government and community leaders were identified for the interviews and two groups of groups of 10 affected persons each were engaged for discussion, six (6) members of parliament, chairpersons of district infrastructural committee, district chairpersons, district councillors, heads of departments of gender and community development, natural resources, engineers, environment officers and community development officers, a sociologist and project managers and some staff were considered appropriate for assessment through a both key informant interviews and focused group discussions..

b) Existing Documentation Reviewed

The assessment also used background information to help validate and explain the interviews. Documents reviewed included contracts/Memoranda of Understanding, Environmental Social Impact Assessment and Resettlement Action Plan reports and Legal framework and project reports. A review of the Road Contract, Scope, Environmental Social Impacts Assessments and Resettlement Action Plan Report and scanty project reports enabled the assessor in determining the number of people who were knowledgeable about these documents and whether they have come across them. This also helped conclude whether the community leaders and the affected persons had access to information for appropriate remedy to any existing gaps in information between implementing agencies and communities.

A list of the documents reviewed in the assessment is Annex 1

c) Sampling

The assessment used both simple random sampling and purposive sampling procedures. Sixty (60) participants, forty (40) purposively selected community leaders were interviewed and two focused groups of twenty project affected persons (PAPs) were engaged for discussion during the assessment period. The majority of people were recruited through purposive methods. Purposive sampling was used as a fundamental method in this study, where the sample population was predetermined due to their significance and knowledge about the project in order to get first hand information from the key informants.

Simple random sampling was used for the community members especially project affected persons because respondents had equal chances of being selected. With the informal approach most participants (n=60) were receptive to interviews.

The list of questionnaires used in the interviews is presented in the table Annex2

The list of stakeholders that were interviewed is presented in the table Annex 3

These areas were the information themes assessed to find out the effect of any information gaps to the communities.

9. Legal framework

In accordance with the Africa Development Bank policy and guidelines¹¹, projects involving upgrading and rehabilitation of major roads, projects require detailed Environmental and Social Impact Assessment (ESIA). The National Environment Act¹² points to the same mandatory requirement for a full environmental impact assessment for third schedule and major road projects listed in Section 3(a) of the schedule. The standards set by the African Bank guidelines are meant to ensure transparency and accountability to the citizens in the implementation process of the project. This can only be achieved through adequate and timely access to information.

Article 41 of the constitution provides for this fundamental right as an unalienable right that has been tested by court in Attorney General v. Major General David Tinyefuza, 1997¹³ and entrenched. The object of the Access to Information Act (ATIA) is to promote an efficient, effective, transparent and accountable government and give effect to Article 41 of the constitution.¹⁴

The obligation for transparency and accountability in the implementation of the road project is grounded in ensuring an effective public procurement procedure.¹⁵ These rules should encourage true and open competition in tendering and

¹¹ AfDB Policy and Guidelines 2011.

¹² National Environment Management Act 2017

¹³ Major General David Tinyefuza v Attorney General ((Ruling) (Constitutional Petition No.1 of 1996)) [1997]

¹⁴ Ssekandi and C. Gitta, Constitutional Dialogue in Uganda.

¹⁵ Procurement guidelines for tender preparation, evaluation and award of contract (AfDB 2011)

contract award, open meetings and equitable and fair distribution of information, effective monitoring and auditing of all processes and implementation activities.

The implementing agencies have an obligation not to only carry out an Environmental Social Impact Assessment (ESIA) to inform the stakeholders of any likely effects and available mitigation measures. While environmental, economic and social safeguards are clearly streamlined within this legal framework it leaves out a fundamental right of access to information by key community stakeholders affected the project¹⁶.

Access to information in Uganda is not only a fundamental right but a universal right that every government must strive to achieve as basis for a social contract between the contractor, government and communities this helps to mitigate any likely risks.

The right to seek, receive and impart information is recognised as a human right in the 1948 Universal Declaration of Human Rights and the 1969 International Covenant on Civil and Political Rights, the 1986 African Charter on Human and Peoples' Rights ratified by Uganda, acknowledges that every individual has the right to receive information.

The following legal instruments were reviewed to provide a highlight of the project legal framework.

- The Uganda Constitution (1995)
- Access to information Act 2005
- Access to information regulations 2012
- 1948 Universal Declaration of Human Rights
- National Environment Act, Cap 153
- The Local Government's Act 1997
- The Land Act, 1988
- Valuation Act 1965
- The Access to Roads Act ,1965
- UNRA's Land Acquisition Manual (LAM)
- African Development Bank Environmental Screening guidelines
- AfDB (Involuntary Resettlement Policy, 2003)
- Whistleblowers Protection Act 2010

¹⁶ ¹⁶ Art 41, Constitution of Uganda (1995),ibid

- Bid Documents
- AfDB Procurement Guidelines 2011.
- Land Acquisition Act.
- Ministerial Policy Statement FY 2019/20
- Public Finance Management Act 2017.

10. Valuation and Compensation of Assets

The basis of valuation for compensation purposes is provided in the Constitution of Republic of Uganda 1995 and the Land Act 1998.

Section 78 of the Land Act (1988) prescribes valuation principles for compensation including compensation rates which are approved by District Land Boards and updated annually.

This is a major requirement for assessment of compensation of assets as provided under the Valuation Act 1965. The value of land and buildings is based on the market value, that is, the probable value the property will fetch when offered for sale.

District compensation rates are a yard stick to derive compensation values for crops, fruit trees, flowers and shrubs owned by PAPs.

11. Costs and Budget

The road project is funded through an AfDB loan (207 acquired by the government which will be repaid by the citizens of Uganda through taxes. The money used in resettlement and compensation budget including implementation consultancies, monitoring & evaluation and any other provisional funds for special assistance to vulnerable people along entire the road amount (UGShs 7,761,677,479) should be disclosed to Uganda citizens. The Constitution of Uganda 1995, Public Procurement and Disposal of Public Assets Act 2003, Access to Information Act 2011, Whistleblowers Protection Act 2010 and Public Finance Management Act 2017 provide for disclosure of information by the government to its citizens. In a contract whose cost it to the people non-disclose of information is unfair.

12. Grievance Handling Mechanism

The UN Guiding Principles on Business and Human Rights expect companies to establish effective grievance mechanisms for individuals and communities

affected by the project. Despite the need to build trust with local communities, resolving individual and group conflicts help build relations for a successful project. Uganda National Roads Act and Public Service Act, 2008¹⁷ provide for a harmonized grievance handling mechanism.

In most infrastructure projects, grievances arise out of procurement bids, property valuations and labor related discrimination. This, in most cases is a challenge of lack of adequate information.¹⁸

13. Monitoring and Evaluation

Monitoring is essential to ensure that project implementation achieves desired results. A monitoring and evaluation framework is a key requirement for implementation; this includes a plan for monitoring and evaluation of contract scope, Environment Social Impact Assessment, Resettlement Action Plan with indicators for measuring performance, impacts and outcomes.

A table of an extract of affected villages and persons and the cost implication is presented in an Annex 3

A table of responses both in general and specifics terms is also presented in a table Annex 4 and 5

14. Key findings and Recommendations

Key findings are summarized below; according to the information themes and objectives of the assessment.

Generally, 63% of the project affected persons interviewed (*26 leaders of the 40 respondents, 12 PAPs FGDs*) indicated that communities lacked the sense of ownership of the road project; they revealed of how the implementers were offering piece meal information on demand and did not

¹⁷ Public Service (Negotiating, Consultative and Disputes Settlement Machinery) Act, 2008

¹⁸ Harmonized-Grievance-Redress-Mechanism-Managing-Road-Construction-Grievances


know whether they had a right to demand for information regarding the road construction, compensation and mitigation of any likely risks during the implementation of the project.

52.5% (21 community leaders interviewed) indicated that the information known to them was due to the consultative meetings by UNRA carried out at the district, while 65% (13 Project affected persons) said they owned radios where a radio talk show and announcements were aired. This however, they said was not enough to sensitise affected communities on their right to access to information and other related rights for mitigation of any likely impacts.

Over all 16% of the respondents indicated that they had seen documents concerning the road contract, ESIA, RAP, Road Scope or Valuation rates. *The state Minister for Lands Housing and Urban Development Dr. Chris Baryomunsi revealed.....* access to the road information was difficult, as Member of Parliament for Kinkiizi county East in Kanungu, his office was not privy to these documents. (See attached response annex 7)

“.....technical reports like valuation reports, contract EIA reports and others are not shared with me as an MP from the area” Dr. Chris Baryomunsi MP Kinkiizi East-Kanungu





This confirmed the issue raised by most respondents that access to information was not voluntary despite the available legislations.

An elderly woman in her early 60's observed in a focused group discussion that she did not need to bother with things of large files that belong to the educated people.

“.....There is little the uneducated can do my son, we just see project officers come with big loads of documentation and we can't ask, Imagine what would I be asking a contract, bid documents and reports for.....loosely translated from Rukiiga...Vereriya Karuboona a PAP in Ntungwa.

The communities only have abstract information provided through the few sensitization meetings during land acquisition & political talk shows. As clearly they see no need to have this information at hand despite their right to access to information and the implementing agencies have used this to their advantage.

Legal Framework

Considering the number of people interviewed and their positions it is possible that the implementing agencies have underestimated the need to consider provisions of Article 41 of the Constitution of Uganda and Section 4 of the Access to Information Act (ATIA), 2005 and Access to Information Regulations, 2011.

The assessment established that project implementing agencies have ignored or underestimate this right to access to information, evidences indicated that UNRA, the Contractor (CHICO) and its implementing partners have had only 8 radio programmes to educate and sensitise the communities since 2010 when the consultant began engaging communities.

The respondents in a Focused Group Discussion held in Kanyantorogo church of Uganda revealed that information regarding the project remained insufficient;

“.....we have heard some of our leaders on radio talk shows, talk about the road construction and sometimes UNRA people have once in a while addressed communities, these community meetings are not enough to answer our questions”. Henry Mukiiza A project affected person..... ...

The members highlighted the difficulty in accessing the information regarding their compensations and said they had resorted to their MPS and local leaders to address the disparities surrounding. We discussed that the road was turning to a political tool, where politicians were using it to canvass for people mandate. They are largely seizing the moment ahead of the next general elections.

One member said that the road project had turned into a tool for political commentary rather than social-economic justification; this he reminded us of how the president travelled to Kihikihi with the UNRA Executive Director Allen Kagina, to canvass for votes promising this road, it was evident that with the road construction kicking off, different political camps were building around their influence to effect the road, with this may in the short run affect the smooth implementation of the project.


The group members also revealed how little was being done to sensitise both out of school and school going children to avert the sexual abuses emerging from the construction workers, who have money to lure young girls into sexual acts.

“.....Our children have not been prepared enough, they don't have enough sexual education information, it is even more worse with the children not going to school, it has become easy for them to sleep around with construction workers in the trading centres compared to school going children who face bigger risk, something must be done”.....Promise Kabarungi a hotel operator along the road project.

She alludes to earlier reports of increasing rape, defilement and sexual manipulation surrounding the road project involving contractor staff that are highly going unreported to police.

Recommendation There is need for the government (UNRA) to generate enough Information Education Communication material (IEC) in local dialect (*especially on sexual rights, HIV/AIDS, land use management, acquisition and compensation*) in addition to radio sensitization programmes to create awareness in communities, a lot of the project information is scanty and remain in the hands of politicians who are likely to serve their interests.

Regulatory frameworks designed serve and satisfy both the financiers' requirements and communities at risk. UNRA and CHICO should thus;



Provide adequate information to minimize sexual & social disruption and assist those who have lost assets to maintain their livelihoods as a disturbance allowance applies to property compensation.

Clearly the contract bids by the contractor had funds allocated for health safety and sexual education in the communities, this area needs to be re-emphasized to avert the health risks accrued.

Compensation and Resettlement

A total of an estimated **2968 people** have been directly affected by the project in about **80 villages** in the two districts; this population is not a small fraction a larger population affected indirectly. There remarkable complaints filed before UNRA and the contractor due to the delayed compensations and varying valuations especially in the areas where the project has delayed to kick off.

Project affected persons were put off their land and not compensated following the cut-off deadlines after valuations. This is in addition to the ongoing coercion to acquire land without compensation from the people.

Evidences of acquisition of land by UNRA without compensation of the land owners through signing agreements to be paid later were found in many parts where the excavations have started.

“.....It is true that some residents in areas of Kishenyi, Kanyantorogo town, Burema, Kirima and Kanungu town council have entered into agreements to allow us (China Henan International Corporation) use their land as their await compensation CHICO Spokes person Willy Bakiga.

Project affected persons in Kanyantorogo confirmed this allegation too but preferred anonymity. This was confirmed by the local leaders, contractor spokesperson Willy Bakiga who insisted the PAPs had consented.

As provided for by the Constitution of Uganda and the Land Act (1988), Article 237(1) of the Constitution vests land ownership in citizens of Uganda, however under Article 237(1) (a), the Central or Local Government may acquire land in the public interest.

The Constitution prescribes various tenure regimes in accordance with which rights and interests over land and acquisition of property may be acquired and held. It provides procedures to follow in acquiring land in the public interest and

provides for the “prompt payment of fair and adequate compensation” prior to taking possession of land as per Article 26 (2) (b).

It's unfortunate that UNRA and SMEC are aware of the breach of law in the way they are handling the land acquisition processes.

CHICO site manager revealed in an interview on record, how the construction has stalled in some parts of Kanyantorogo and Kirima citing hindrances from land owners who have assured them that they would only use their land if they are compensated, this indeed is evident as land patches remain almost after every 100 meters especially in Kanyantorogo and Kishenyi areas., he also pointed out how this will likely impact their timely delivery of the project.

91% (38 of the 40 community leaders and all members of the Focused Group Discussions interviewed) of the affected persons agree that the way the land acquisition processes will be handled is evident to affect the project.

Recommendation Draw a clear plan to sensitise the communities on the project processes and their rights.

The Land Act (1988) is the principal legislation on land tenure in Uganda which emphasizes adequate, fair and prompt compensation by the developer of the occupier or owner of land.

Section 78 of the Act gives valuation principles for compensation, that is, **compensation rates to be yearly approved by District Land Boards.**

On interaction the affected persons called this news and only gave a highlight of how the officers appeared on their lands without notice.

They were told of how the law categorized their lands but did not give fact sheets on how their arrive at value conclusions

.....for example I don't know why they said my land is classified as semi-arid /dry land yet it's from this land that our family has survived from time immemorial, we use it to farm and I also make bricks for sell..... Augustine a resident in Kaniabizo, Nyamirama laments on the lack of information and fluctuating price values in the valuation processes.

Also annual crops which could be harvested during the period of notice to vacate given to land landowners were excluded in determining compensation values.

The secretary for works for Kanungu district in response to this section said he was not a technocrat on the questions allocated in this section.....***“there is urgent need for UNRA to emphasize sensitization on acquiring land from our people....this information should be broken down in RR”***.....Xtopher Kamara.

Recommendation Project implementers are well aware that valuation rates spans with time, the rates for property have since changed while the people await compensation and others are not even yet aware or agreed to the giveaway of their land and property (considering the willing buyer, willing seller approach).

The used rates for affected land should consider market value for the time of not evidence obtained during property inspection and surveys in 2010, According to Uganda’s compensation regulations and consider valuable crops in a current season. The value appropriation was misunderstood by the, the compensation process remained a rigorous and new exercise to the communities and require further efforts to clarify the figures because they believe they are entitled to additional compensation.

Costs and Budget

There are significant speculations on the cost of the road as the communities only know general cost and budget of the road construction as per the contract (207billion) but this is just the contract costs which could also move upwards as per the available evidences before the parliamentary committee on budget which indicates that UNRA was already indicating demands for budget supplements.

Resettlement and compensation have separate budgets (UgShs 7,761,677,479), there are also several other implementation consultancies, monitoring & evaluation costs and provisional funds for special assistances that are not mentioned to the tax payers yet these loans must be repaid by the citizens of Uganda.

.....our people hardly can tell the money government will spend on this project, personally, I have been trying to add up things bringing different costs altogether **James Kaberuka** a Member of Parliament Kinkiizi West, representing one of the affected constituencies highlighted in the interviews that the road could cost up to 400 billion despite failed attempts to provide evidence to the rising project cost.

Our findings indicate contract allocation of up to 600 millions allocated to health and sexual education in their bid documents which clearly cannot be tracked on ground.

Recommendation There should be a transparent way of utilization of tax payer funds, adequate information must be provided to the regarding allocations of funds meant for the road project in total.

This will help avert misappropriation of tax payers' money, promote accountability and transparency in government projects.

a) Grievance Handling Mechanism

Most grievances reported along this road project are related to property valuation arising out of households considering that compensation values for their assets were insufficient and labor disagreements. Key grievances came from workers reported on strike more than thrice due to an incoherent wage structure.

Complaints from PAPs and households over valuation rates and delayed compensations complete the equation. Despite UNRA assurances to handle the impulse on compensation, it's clear on the gravity the delay is asserting on both the communities and the project contractor.

There are allegations of sexual abuses (harassment and exploitation) in construction camps and the communities have indicated two defilements cases that have we did not trace with authorities and police which leaves a huge guess in regard to the grievance handling mechanism by the contractor, while the authorities also remained reluctant to apprehend the contractor staff.

Recommendation the sensitization process should continue until the end of the road project. There is however no clarity that this will likely continue and there is need for commitment from both UNRA and the contractor.

There is a clear Grievance Handling Mechanism guide and procedure developed by the judiciary and UNRA; contractor should make use of these resources available to communities. Train resource personnel to handle the arising conflicts in the communities and construction camps.

The contractor should also expect disagreements from workers if wage demands and recruitment processes are not streamlined. Information on how to handle these grievances cannot easily however be traced in the communities.

b) Monitoring and Evaluation

These documents remain a preserve of the consultant, contractor and implementing agencies and maybe the funder but leave a key gap in access to information by the communities on ground

How then is the community expected to measure progress and evaluate the impact of the project?

It's very unclear how financial disbursements, compensation complaints and grievance redress, adherence to compensation payment schedule and support of vulnerable PAPs can be followed up without such plans.

.....Key community leaders interviewed could not divulge knowledge of information in this regard, they also did not have track of the number of families that have been compensated, number of people who have acquired legal documents to new property, number of business owners who have restored their businesses, efficiency and effectiveness of grievance redress mechanism and the contract, RAP and ESIA documents.

Recommendations At least ensure that community leaders and local government technocrats have the basic tools and information to help monitor compensation and resettlement, rehabilitation affected persons and their livelihoods, efficiency and effectiveness of the road project.

Potential Impacts

Gender and sexual violence is reportedly on the rise in the areas where the construction work started, there is a remarkable increase in sexual abuse cases according to local police station in Kanungu. For example in Kihihi sub-county and Kihihi Town Council. The number of sexual assault cases reported by women in June had risen from 13 to 21 with most of these cases allegedly committed by people involved in the project or communities in the project affected; it is true that the rising numbers of people settled in construction areas have definitely increased sexual activity.

Two unfortunate cases of defilement have been reported in Kihihi sub-county but traces of their reports at Police stations could not be confirmed.

There is an eminent impact on community livelihoods due to delayed and inadequate compensation of PAPs and removal or destruction of temporary, semi-permanent and permanent residential and commercial structures.



Imagine a RAP report produced based on value in 2010 and approved by district rates that should be updated yearly but the project is being implemented in 2019.

A total land area of 61.80 152.7078 acres in terms of road reserve will be lost in Rukungiri while 100.19 247.322 will be lost in Kanungu districts but a total compensation of UgShs 518,526,616 has been earmarked which is an average cost per acre is 3.4 million along project affected areas in Rukungiri and 899,149,412 whose average cost per acre is 3.6 million along project affected areas in Kanungu District.

15. Conclusion

Overall, 82% (49 respondents of the 60 interviewed) persons in the communities said actual figures of the contract remained speculative, information provision was involuntary and the communities were in a mix of both opportunity money to be spend on the project. 86.6% (52 of the total respondents) did not know whether it was necessary or their right to demand for information or ask questions about the road project.

It is clear, that there are major gaps in relation to access to information by the communities and without the above findings being taken care of in the short run, the project faces an uphill task to achieve its intended objective in the long

run, the assessment findings present themselves as questions and challenges that must be addressed without adamancy.

The communities have reported increased frequencies of sexual abuse and domestic violence, increased sex work increases the spread of HIV/AIDS, sexual harassment of female employees, child labor, school dropouts, fear of retaliation, poor labor practices, and lack of adequate road and workplace health and safety measures.

Unfortunately these cases cannot be traced to their logical conclusions especially with police, this also points to their mysteriously disappearances in handling.

Sexual violence and threats to girls and women that occur in rural communities during the construction contribute to the grave nature of the rising gender based violence in Uganda.

100% of the respondents insisted that there was need for the assessment to make inquiry on the rising part of the sexual abuse and gender work disparities on the project area.

The unfair and delayed compensation for the project affected persons is a clear breach of the duty by government to provide fair adequate, timely compensation prior to land acquisition, and protecting citizens' rights and freedoms to ownership of property in Uganda. Such breaches cannot go without remedy or redress.

Provisions on how government can acquire property are clearly stipulated in Article 26(2) (b) that affords adequate, fair and timely compensation to the affected persons to avoid disruption of business and livelihoods.

Land is a major source of livelihood and its uptake, delayed compensation without assurances to livelihood is a prejudice of the existing government mandate to its citizens that could force them to seek redress.

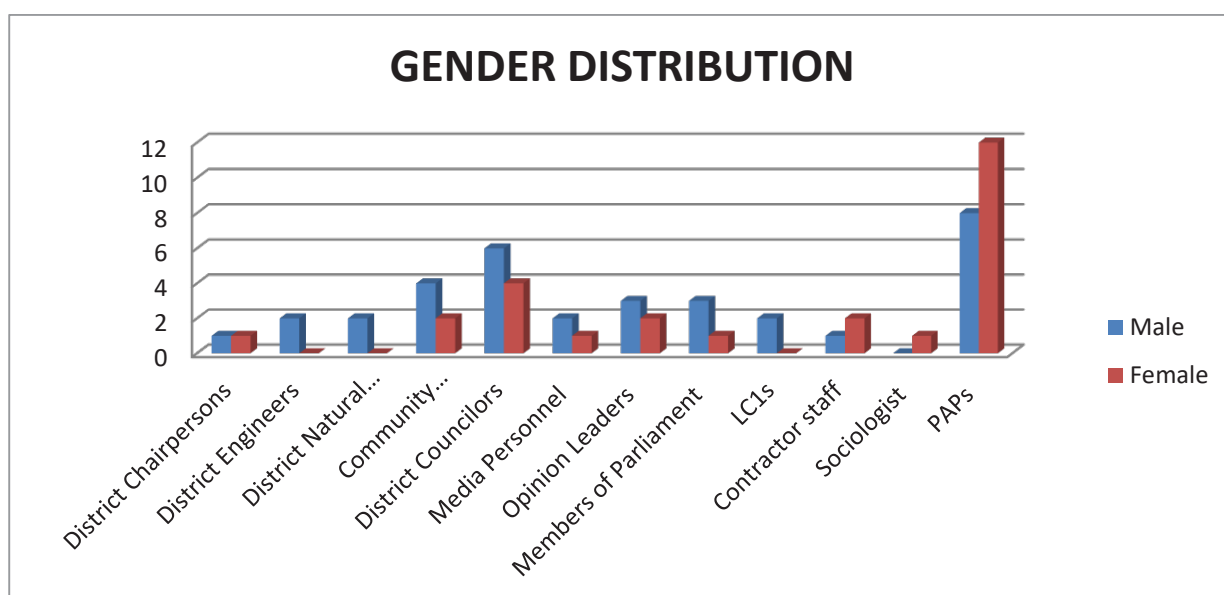
There is selective compensation of few project affected persons; this is an attribute to coercive and extortive allegations raised by communities and

leaders during the assessment, true to this it's difficult to establish the PAPs compensated or expected dates for compensation.

The Government of Uganda and AfDB should work together to support the affected communities, address the concerns & needs of persons at risk, and help ensure that people are protected from abuse and retaliation. These are unfortunately women and children.



LIST OF PERSONS INTERVIEWED FOR THE ASSESSMENT				
S/N	CATEGORY OF PERSONS INTERVIEWED			NUMBERS
		Male	Female	
1	District Chairpersons	1	1	2
2	District Engineers	2	0	2
3	District Natural Resources Officer	2	0	2
4	Community Development Officers	4	2	6
5	District Councilors	6	4	10
6	Media Personnel	2	1	3
7	Opinion Leaders	3	2	5
8	Members of Parliament	3	1	4
9	LC1s	2	0	2
10	Contractor staff	1	2	3
11	Sociologist	0	1	1
12	PAPs	8	12	20
Total		34	26	60



A table of an extract of affected villages and persons and the cost implication is presented in an Annex 2

No. Sub-counties	No. Villages	Number of PAPS	Cost in Uganda Shillings					Total Cost
			Cost for Land	Buildings and other improvements	Cost for crops and trees	Cost for graves	15% disturbance allowances	
Rukungiri district number of PAPS								
Rukungiri TC	02	47	186,968,957	25,847,687	16,643,400		34,419,006	263,873,043
Kagunga	02	61	28,066,790	124,523,500	15,523,500	300,000	25,271,198	193,745,848
Rujumbura	01	53	31,444,295	103,200,300	19,313,000	600,000	23,183,639	177,741,234
Nyakagyeme	03	111	80,553,419	244,869,995	26,110,500		52,730,089	404,264,001
Bugangari	10	419	124,667,048	486,847,400	154,047,000	400,000	114,894,217	880,855,665
Bwambara	10	380	66,826,107	328,034,208	51,260,800		66,918,167	513,039,282
Totals	28	1071	518,526,616	1,313,382,948	282,898,200	1,300,000	317,416,315	2,433,525,079
Kanungu district number of PAPS								
Nyamirama	08	348	47,240,301	126,854,000	35,372,500		31,420,020	240,886,821
Kihihi	11	176	71,056,692	174,060,663	47,243,000	1,600,000	44,094,053	338,054,408
Kanungu TC	04	97	186,787,135	749,204,510	7,310,050	1,000,000	141,645,254	1,085,946,949
Kirima	04	342	177,985,873	823,572,575	45,940,300	2,500,000	157,499,812	1,207,498,560
Kihihi TC	20	550	98,754,382	1,119,291,223	52,311,000	2,200,000	202,883,491	1,555,440,096
Kanyantorogo	05	384	317,325,029	412,966,207	52,000,500	600,000	117,433,769	900,325,565
Totals	52	1897	899,149,412	3,485,949,238	240,177,350	7,900,000	694,976,400	5,328,152,400



General Responses in Assessment

Issue	General Response	Recommendation
<p>1. Cost and Budget Whether the community has an understanding of what the road project is all about in general terms. (A set of 5 general information questions with objects was designed)</p> <p>60 people interviewed, including two FGD discussions.</p>	<p>19 said, community does not feel ownership of the project; some think they don't have a right to even ask, 11 preferred not to answer, 10 leaders asked about the cost, 13 asked whether they were expected to know about the road construction. The road however is most important desire the people need most agreed.</p>	<p>Popularise the implementation of the project processes (through radio and community engagement meetings) in the two districts stating what it is, why it is being constructed, benefits of road to the community, their roles in implementation and monitoring until completion.</p>
<p>2. Do you have an idea of the cost of the road as it is your tax money?</p>	<p>More than 40 agreed, they pay taxes and government cannot be directed on appropriation, 20 were uncertain whether they should know.</p>	<p>It is important for Ugandans to know about the tax payer's money spend on service delivery for transparency and accountability.</p>
<p>3. Who pays for the road project?</p>	<p>36 people said Ugandans are paying taxes, however many were quick to say the road had stalled because of the loan and funding from AfDB. While 4 cited political sabotage.</p>	<p>Ugandans need to be educated on the importance of the taxes they pay and should be sensitised on how they contribute to nation building through taxes.</p>
<p>4. Is it important to know project costs</p>	<p>All in agreement.</p>	<p>The project costs be shared with communities as its</p>

and Budgets?		their right.
5. What is their personal/community responsibility during the implementation of the road project?	8 said they can monitor the contractor, 32 said community members and some local leaders can only lament rather than comprehensively review components of project information. 20 No response to this question.	More information the community has the publicity and dissemination will be created around the project. More community meetings targeting communities in the project areas needed. More IEC Materials needed in the community until the end of the project.
6. Do communities know their rights during implementations of such projects?	6 said Community rights and information is incumbent on request not need, what remains is the project completion. 46 said they need to sensitise while 8 did not respond.	Project stakeholders ensure a deeper participation and understanding of the communities' access to the right information (based on the principle of Free Prior and Informed consent) as part of the International Best Practices for consultation and accommodation of view of local people.
7. Does the Community appreciate mitigation plans available in ESIA, RAP and Valuation report as the project is ongoing.	16 have heard about it, 32 don't know about such mitigation plans, general communities feeling is of a deprived feeling as alternatives still target their resources, called for actual mitigation actions. Others did not respond.	Develop appropriate measures/actions easily observable and appreciated by the communities. For example 'establishing fish ponds' as opposed to 'establishment of beach management plan'