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Constitutional Rights of the Host Community in the Extractive Industry: A Comparative Analysis of Uganda and Indonesia

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Abstract

In Uganda and Indonesia, there is no doubt that the extractive industry has been engaged in severe activities in the oil, coal, nickel, tin, and gas sectors, most notably in the areas where these mineral resources are situated. However, although there is a constitutional framework on the rights of host communities in Indonesia and Uganda's extractive sector, these rights seem not to be fully realized in favor of the host communities of the extractive industry. It is in this study examines how Uganda and Indonesia protect the rights of host communities in the extractive industry. It finds significant challenges, including inadequate compensation, limited access to information, and low community participation levels in governance related to extractive industry activities. The findings show differences in the effectiveness of constitutional protections and enforcement in both countries. The study stresses the necessity of stronger legal safeguards and greater community engagement in the extractive sector for sustainable development. Moreover, the research emphasizes the necessity to integrate human rights in the planning and execution of extractive projects. The Study therefore recommends that there is a need to encourage a collaborative mindset between the state, industry stakeholders, and local communities to create a more equitable framework for resource management in Uganda and Indonesia.

1. Introduction

The extractive sector in Indonesia and Uganda, especially in areas where oil reserves were discovered, is now seen as the principal mainstay of the economy, with significant potential for economic growth for both nations and local communities[1]. In this context, the sector presents high hopes for national growth and the local communities[2]. But the discovery and extraction of natural resources have also placed a greater level of questioning on how 'host communities' (communities living in the immediate area of the extractive activity) are treated within Indonesia's and Uganda's constitutional legislative frameworks[3]. It seems the rights of host communities are now mainstreamed into the intersection of natural resource governance, environmental justice, and human rights.

[1] Chairul Fahmi and Muhammad Siddiq Armia. "Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms." Journal of Southeast Asian Human Rights 6 (2022): 1.
[2] Paul Atagamen Aidonojie. "Restorative Justice." In Elgar Encyclopedia of Energy Economics, 404–409. Cheltenham: Edward Elgar Publishing, 2025; Paul Atagamen Aidonojie. "Legal Compliance for Energy." In Elgar Encyclopedia of Energy Economics, 297–301. Cheltenham: Edward Elgar Publishing, 2025.
[3] Samuel J. Spiegel. "Governance Institutions, Resource Rights Regimes, and the Informal Mining Sector: Regulatory Complexities in Indonesia." World Development 40, no. 1 (2012): 189–205

The Indonesian and Ugandan constitutional frameworks acknowledge some rights of communities, especially where they are affected or rely on the extraction of natural resources[4]. These rights include of land ownership, access to information, public participation in environmental decision-making, and, importantly, the right to a clean and healthy environment[5]. Several laws establish the legal framework for these rights, including the Constitution of the Republic of Uganda and other relevant case law. On paper, these rights and protections exist, but in the context of host communities' experiences, their implementation is lacking to some extent.

The issues around enforcing rights for host communities stem from several structural problems, including ineffective institutional enforcement, insufficient engagement with communities, unclear compensation processes, and restricted access to justice[6]. Indeed, adverse impacts from extractive operations have sometimes displaced host communities, damaged the environment, and disrupted traditional livelihoods, leading to even greater marginalization of host communities[7]. In light of the troubling experiences of many communities affected by extractive industries, questions arise about whether Indonesia's and Uganda's constitutional legal regimes are sufficient to protect the interests of their most adversely affected populations. Concerns about whether host communities are adequately protected by Uganda's constitutional framework for the extractive sector are the topical research area addressed by this study[8]. The research employs a doctrinal methodology to review legal materials, jurisprudence, and academic commentary to assess the strengths and weaknesses of current laws. By examining the interaction between law, policy, and practice, the study reveals not only legal gaps but also the normative socio-political dynamics that undermine host community rights in the resource sector[9].

However, several research studies have focused on specific elements of extractive governance research. The study by Spiegel[10] investigates how Indonesia handles decentralization through its informal mining regulations. Mutesasira[11] studies environmental procedural rights in Uganda, but limits his research to one jurisdiction and its environmental aspects. Kabugho[12] examines land rights protection under Uganda's oil and gas regulations, but does not compare them to international constitutional standards. The Indonesian research on nickel downstreaming participation identifies human rights issues, but it limits its scope to one industry and Indonesian borders[13]. The research work by Atapattu[14] and Nyarko[15] examines international standards, but reflects

[4] Michael Nyarko. "The United Nations Guiding Principles on Business and Human Rights and Uganda's Extractive Sector." In Business and Human Rights Law and Practice in Africa, 57–75. 2022.
[5] Kabugho Byakutaga Caroline. The Analysis of Uganda's Oil and Gas Laws Towards the Protection of Land Rights in the Oil and Gas Industry. Kampala: Institute of Petroleum Studies, 2020.
[6] Olanrewaju Aladeitan and Chidinma Therese Odaghara. "Environmentalism and an International Court for the Environment." Kampala International University Law Journal 2, no. 1 (2018): 143–164; Valentine T. Mbeli. "An Analysis of the Legal Framework for Sustainable Fisheries' Financing in Uganda." Kampala International University Law Journal 3, no. 2 (2019): 1–22.
[7] Kingsley Eghonghon Ukhurebor and Paul Atagamen Aidonojie. "The Influence of Climate Change on Food Innovation Technology: Review on Topical Developments and Legal Framework." Agriculture & Food Security 10, no. 1 (2021): 1–14.
[8] Paul Atagamen Aidonojie, Adesoji Kolawole Adebayo, Eregbuonye Obieshi, and Saminu Abacha Wakili. "Breaking Legal and Socio-Economic Challenges to Plastic Waste Regulation in Nigeria: Lessons Learned from Singapore." Yustisia 13, no. 1 (2024).
[9] Christopher Mbazira and Teddy Namatovu. "Civic Space and Human Rights Advocacy in the Extractive Industry in Uganda: Implications of the 2016 Non-Governmental Organisations Act for Oil and Gas Civil Society Organisations." African Human Rights Law Journal 18, no. 1 (2018): 75–99.
[10] Samuel J. Spiegel, "Governance Institutions, Resource Rights Regimes, and the Informal Mining Sector: Regulatory Complexities in Indonesia," *World Development* 40, no. 1 (2012): 189–205.
[11] Peter Davis Mutesasira, "Multinational Extractive Enterprises and the Human Rights to a Healthy Environment in Uganda: The Role of Environmental Procedural Rights," in *Handbook on Human Rights to a Healthy Environment: International, Regional, and Comparative Pathways for Policy Intervention in Cameroon* (2026), 813–834.
[12] Kabugho Byakutaga Caroline, *The Analysis of Uganda's Oil and Gas Laws towards the Protection of Land Rights in the Oil and Gas Industry* (Master's thesis, Institute of Petroleum Studies–Kampala, 2020).
[13] Albertus Sentot Sudarwanto, Bayu Sujadmiko, and Febryani Sabatira, "Community Participation as a Human Right: Perspective of Indonesia's Nickel Downstream on the Natural Resource Curse Phenomenon," *Jurnal Hukum Novelty* 16, no. 1 (2025).
[14] Sumudu Atapattu, "Extractive Industries and Inequality: Intersections of Environmental Law, Human Rights, and Environmental Justice," *Arizona State Law Journal* 50 (2018): 431
[15] Michael Nyarko, "The United Nations Guiding Principles on Business and Human Rights and Uganda's Extractive Sector," in *Business and Human Rights Law and Practice in Africa* (2022), 57–75.

more on how these standards link to the enforcement of constitutional rights in the United States. The research gap exists because researchers have not conducted a thorough comparative study that examines how constitutional rights systems function in Uganda and Indonesia. The research gap exists because researchers have not conducted a structured comparative study that examines how constitutional rights systems function in Uganda and Indonesia, which this study intends to investigate.

The research contributes to academic knowledge by developing a normative analytical framework that enables researchers to evaluate how host community rights in extractive industry governance will be enforced and achieved in Uganda and Indonesia through their constitutional provisions. Through its examination of constitutional frameworks and judicial decisions, and public participation mechanisms, the study produces fresh legal and policy knowledge about how rights-based systems can be improved through adaptation and implementation in resource-abundant Global South countries to achieve better accountability, environmental justice, and community safeguarding.

Concerning the above, the research will investigate whether the constitutional and legal frameworks of Uganda and Indonesia provide sufficient human rights protection for host communities affected by extractive industry activities. The study will evaluate how existing land rights laws and environmental protection regulations, compensation systems, decision-making rules, and mechanisms for access to justice meet global human rights standards. The research will examine how enforcement deficiencies, weak consultation practices, mandatory land acquisition regulations, and insufficient environmental protection measures impact the social, economic, and cultural rights of local communities. The research will identify provisions that fail to meet established international human rights standards through comparative analysis, including examination of the rights to a healthy environment, property, participation, and sustainable development. The research will analyze how legal deficiencies lead to environmental destruction and community conflicts, and social exclusion in Uganda and Indonesia, while recommending constitutional and legal reforms to improve existing protection systems.

2. Method

This study is based on a doctrinal research approach, which primarily entails a critical study of legal materials. The researchers use a functional and normative comparative analytical framework to investigate how constitutional provisions in Uganda and Indonesia safeguard host communities living within extractive governance systems. The analysis of constitutional interpretation shows how courts and institutions interpret socio-economic, environmental, and participatory rights, leading to the identification of distinct legal doctrines and shared rights-based protections. It focuses on the constitution, case law, and academic publications to analyze the constitutional regime around access rights of host communities affected by Indonesia's and Uganda's extractive industries. A doctrinal approach allows a systematic review of the primary legal materials available, so in this study, we review the Constitutions of the Republic of Uganda and Indonesia, as well as other relevant case law. This study establishes what legal protections host communities have; it will also reveal how those rights are represented within Indonesia's and Uganda's constitutional framework, and it will review the completeness and coherence of the constitutional provisions. Secondary materials were consulted, including academic journal articles, books, and other relevant scholarly literature, to provide context, identify existing gaps, and compare Indonesia's and Uganda's constitutional frameworks. The doctrinal approach is best suited because it enables a more thorough and targeted legal analysis of the Indonesian and Ugandan constitutional frameworks for rights, while identifying shortcomings for further recommendations.

3. Findings and Discussion

3.1. Conceptual Clarification on the Rights of the Host Community in the Extractive Industry

Human rights are inherent to every individual, regardless of their nationality, sex, national or ethnic origin, color, religion, language, or any other Status[16]. They are universal, inalienable, and indivisible, meaning they apply equally to all people everywhere in the world and cannot be taken away. Human Rights can take the form of social, economic, political, and civil rights[17]. For the case of the host communities in the oil region in Uganda

[16] Article 1 of the Universal Declaration of Human Rights

[17] Ariyoosu D. Adeyemi and Abdulkadir O. Abdulrazaq. "Maritime Surveillance and Enforcement Privatisation Galore in Nigeria: A Compromise of State Sovereignty." Kampala International University Law Journal 1, no. 1

and Indonesia, the rights of host communities involve environmental rights, the right of access to information, prior and informed consent, and public participation in decision-making[18].

Figure 1. Rights of the Host



Source: Design by authors

In Indonesia, the rights of host communities derive from broader human rights principles and have been gaining recognition in national policy and legal frameworks governing the extractive industry[19]. Host communities located mostly in remote or indigenous areas are on the frontline of the impact of mining, oil, and gas operations. Such communities have the right to live in a healthy and sustainable environment; this right entails protection against pollution, land degradation, and displacement[20]. Environmental safeguards belong under the ambit of the 2012 Law on Environmental Protection and Management (Law No. 32/2009) and under the Mineral and Coal Mining Law (Law No. 3/2020), which also recognize the right of local populations to participate in environmental decision-making. A very important human right is FPIC, free, prior, and informed consent, which is granted to communities all over Indonesia, especially focusing on those that are being developed on their territory or that belong to the indigenous groups[21]. It is especially important for the indigenous groups, as they are usually marginalized in negotiation processes regarding resource extraction. Indonesia adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which endorses the right of indigenous peoples to withhold consent to projects recklessly harming their lands or resources. Despite being committed to this, the implementations are unevenly executed. Many extractive projects are embarked upon without "real" consultation or consent, leading to social tension and grievances that, for some communities, may linger for some time. Exploitative projects often foster a sense of exclusion and injustice by simply refusing effective disclosure or consultation, let alone participation[22].

(2017): 134–149; Kasim Balarabe. "Improving Mechanisms for the Implementation of International Humanitarian Law." Kampala International University Law Journal 1, no. 1 (2017): 186–204.

[18] Kingsley Eghonghon Ukhurebor, Uyiosa Osagie Aigbe, Robert Birundu Onyancha, Hussain Athar, Benedict Okundaye, Paul Atagamen Aidonojie, Benita Ebindu Siloko, Ismail Hossain, Heri Septya Kusuma, and Handoko Darmokoesoemo. "Environmental Influence of Gas Flaring: Perspective from the Niger Delta Region of Nigeria." Geofluids 2024, no. 1 (2024): 1321022.

[19] Kadir M. Y. Aiyub and Alexander Murray. "Resource Nationalism in the Law and Policies of Indonesia: A Contest of State, Foreign Investors, and Indigenous Peoples." Asian Journal of International Law 9, no. 2 (2019): 298–333; Osikemekha Anthony Anani, Abel Inobeme, Osayomwanbo Osarenotor, Frances Ngozi Olisaka, Paul Atagamen Aidonojie, Emmanuel Olusegun Olatunji, and Aishatu Idris Habib. "Application of Microorganisms as Biofactories to Produce Biogenic Nanoparticles for Environmental Cleanup: Currents Advances and Challenges." Current Nanoscience 19, no. 6 (2023): 770–782.

[20] Luthfi Marfungah, Ahmad Redi, and Amad Sudiro. "Model of Mining and Mineral Mining Exploitation in the Pancasila Perspective and Indonesian Constitution UUD 1945." In Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2019), 503–510. 2020.

[21] Poppy S. Winanti and Rachael Diprose. "Reordering the Extractive Political Settlement: Resource Nationalism, Domestic Ownership and Transnational Bargains in Indonesia." The Extractive Industries and Society 7, no. 4 (2020): 1534–1546.

[22] Iman Prihandono. "Transnational Corporations and Human Rights Violations in Indonesia." Australian Journal of Asian Law 14 (2013): 77; Abdul Halim. "Host State Controls vs. Foreign Investment Protection: Indigenous People Rights on Rempang Island, Indonesia." Kanun: Jurnal Ilmu Hukum 26, no. 1 (2024): 62–80.

Host communities in Indonesia have socio-economic rights that include access to education and healthcare, and fairer sharing of wealth derived from sustainably extracted resources from their common resource base. In principle, extractive companies in Indonesia are asked to contribute directly to the socio-economic development of communities around their operations through continuing CSR programs[23]. However, the variability in the effectiveness and transparency of these programs means that communities often receive little or no of the socially obligated wealth from extractive activities. Communities that can/should benefit from the socio-economic contribution of their non-renewable resources see the widening of the gap between current resource wealth and their community's well-being[24]. Ensuring the rights of host communities in Indonesia requires legal enforcement of their rights, improving the monitoring of corporate accountability and effectiveness, and encouraging authentic collaboration among governments, corporations, and civil society that considers environmental justice, equitable development, and human dignity[25].

However, according to Okurut[26] in his research the Oil and Gas Exploration in the Albertine Rift and Environmental Safeguards"[27] stated that the rift valley contains crucial ecosystems like parks, forests, lakes, rivers, and wetlands; two of the promising wells are located astride Murchison Falls National Park, which is Uganda's largest conservation area; it is the most important eco region in Africa as it hosts the continent's most endemic vertebrate species[28]. However, oil extraction can destroy this habitat, leading to water contamination from drilling in Lake Albert, soil contamination from petroleum waste, and the loss of plant life, green vegetative cover, and animal life in the Albertine Graben. This is contrary to the Constitution of the Republic of Uganda, which provides for the right to a clean and healthy environment[29].

Uganda's oil and gas sector has transitioned from exploration to development in preparation for oil production[30]. The extraction, processing, and distribution of oil require significant infrastructure, which demands considerable land acquisition from communities surrounding project sites[31]. The Uganda Human Rights Commission[32] reported that ever since the operation of the extractive industry in Kabaale Parish, Buseruka Sub-county, there has been internal displacement of people. The Constitution further provides for fair and adequate compensation that precedes the taking of possession of an individual's property[33]. This further provides for recourse to courts of law to ensure that one's interests and/or rights in land are adequately compensated for, before taking over the land. The Land Act provides for the functions of the District Land Board, which, among others, include: 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 which might be prescribed[34]. However, Hoima and Buliisa Districts have

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[23] Nigel D. White, Mary E. Footer, Kerry Senior, Mark Van Dorp, Vincent Kiezebrink, Y. Wasi Gede Puraka, and Ayudya Fajri Anzas. "Blurring Public and Private Security in Indonesia: Corporate Interests and Human Rights in a Fragile Environment." Netherlands International Law Review 65, no. 2 (2018): 217–252.

[24] Chairul Fahmi. "The Application of International Cultural Rights in Protecting Indigenous Peoples' Land Property in Indonesia." AlterNative: An International Journal of Indigenous Peoples 20, no. 1 (2024): 157–166.

[25] Godfrey Oundo. An Analysis of the Efficacy of the Legal Framework on Extractive Industries Transparency Initiative in Uganda's Oil and Gas Industry. Kampala: Institute of Petroleum Studies, 2021; 15. Laura Smith, Anne Tallontire, and James Van Alstine. "Development and the Private Sector: The Challenge of Extractives-Led Development in Uganda." In Handbook on Development and Social Change, 69–88. 2018.

[26] Okurut, Tom. "The Oil and Gas Exploration in the Albertine Rift and Environmental Safeguards." Paper presented at the Nature Uganda Public Talk, Uganda Museum, Kampala, Uganda, September 6, 2012. Accessed May 8, 2026.

[27] Paul Atagamen Aidonojie, Oluwaseye Oluwayomi Ikubanni, Adesoji Kolawole Adebayo, Olusola Joshua Olujobi, and Mundu M. Mustafa. "The Role of Digital and Scientific Technology in Complimenting Global Legal Framework Towards Clean Energy Transition." The Journal of Sustainable Development Law and Policy 15, no. 3 (2024): 314–343.

[28] Nicholas Olwor. "Foreign Direct Investors and Affirmative Action in Promoting Equal Opportunities in the Mining, Oil and Gas Sector in Uganda." Oil and Gas Sector in Uganda, October 13, 2020.

[29] Julius Niringiyimana. "Oil Politics, Institutional Framework, and Inclusive Development in Uganda." In African Governance, Security, and Development, 211. 2021.

[30] Article 237 of the Constitution of the Republic of Uganda.

[31] Paul Atagamen Aidonojie and Osikemekha Anthony Anani. "Legislative Framework in Addressing Emergent Pollutants and Ecological Impacts." In Emergent Pollutants in Freshwater Plankton Communities, 163–176. Boca Raton: Taylor & Francis (CRC Press), 2024.

[32] Paul Atagamen Aidonojie. "Environmental Hazard: The Legal Issues Concerning Environmental Justice in Nigeria." Journal of Human Rights, Culture and Legal System 3, no. 1 (2023): 17–32.

[33] Article 26(2) (b) of the Constitution of the Republic of Uganda

[34] Section 59(1)(e)(f) of the Land Act Cap 236

not updated their compensation rates since the 2018/2019 financial year. As a result, the compensation rates under RAP 4 for Tilenga were based on the 2018 District compensation rates for the Hoima and Buliisa Districts[35]. These inadequate rates negatively affected the compensation PAPs received for crops and semi-permanent structures during this period[36]. The Constitution of the Republic of Uganda states that land in Uganda belongs to the citizens of Uganda and is vested in them through the four land tenure systems: customary, freehold, mailo, and leasehold. Further, the Constitution provides for the right to own land in Uganda: "every person has a right to own land either individually or in association with others." This Article should be amended because the right to own land is not absolute; the government can compulsorily take land from individuals and communities for public projects[37].

The IGAD's Environment and Natural Resources Strategy[38], provides that Bwindi Impenetrable National Park, which is home to endemic bird species, is also located in the Albertine Graben, yet pollution which might occur from oil or chemical spills is a real threat that companies involved in oil exploration and production related activities, cannot guarantee will not happen, considering that at every stage of oil and gas development, there is a potential environmental risk. Oil activities can have significant effects on land, including pollution and long-term environmental damage[39]. The preliminary exploratory work done in preparation for drilling may cause severe environmental damage, including vegetation loss, habitat destruction, oil spills, and water contamination[40]. The composition of soil can drastically affect land, and vegetation can be damaged by drilling activities at production sites and pipelines, as well as by contamination from petroleum discharges. This affects soil productivity in the Albertine region, which, in turn, affects food production, given that most people in the region are engaged in farming. Furthermore, Nyakecho[41], in her book 'Local Communities and Oil Exploration: The Experience of the Albertine Graben, Uganda', notes that there are persistent challenges in realizing meaningful community participation[42]. Communities often face limited access to information. Obwoya & Akol, in 'The Nexus between Access to Information and Community Participation in the Oil and Gas Sector: A Comparative Study,' cite that communities often face exclusion from decision-making processes, an unequal distribution of benefits, and disproportionate environmental burdens. This, in the long term, is a hindrance to Sustainable development and democratic participation in decision-making processes. The decision-making is concentrated in government and corporate entities, leaving local communities without effective recourse[43].

Concerning the above, it suffices to state that the Constitution[44] guarantees the right to participate in governance and highlights its importance at the national level. This right encompasses various privileges, including the right to nominate and elect representatives, participate in political activities, and access

[35] Victoria R. Nalule. "The Role of Distributive Justice and Land Law Reforms in Tackling Land Inequalities in the Extractive Industries in South Africa and Uganda." In Governing Natural Resources for Sustainable Peace in Africa, 101–120. 2023.
[36] Eunice S. Busisa. "'Othering the Other': Emergence of Autochthony Claims and Community Engagement in Ugandan Oil Producing Communities." The Extractive Industries and Society 9 (2022): 100909.
[37] Osikemekha Anthony Anani, Maulin P. Shah, Paul Atagamen Aidonojie, and Alex Ajeh Enuneku. "Bio-Nano Filtration as an Abatement Technique Used in the Management and Treatment of Impurities in Industrial Wastewater." In Bio-Nano Filtration in Industrial Effluent Treatment, 171–182. Boca Raton: CRC Press, 2023.
[38] Xi Yu. "Extra-Territorial Litigation Remedies: A Case Study of the East African Crude Oil Pipeline in Uganda." In Globalization, Environmental Law, and Sustainable Development in the Global South, 67–97. 2021.
[39] Osikemekha Anthony Anani, Paul Atagamen Aidonojie, Esther Chetachukwu Aidonojie, and Gloria Anwuli Anani. "Current Methods in the Management and Disposal of Plastic Wastes During COVID-19 Pandemic." In Plastic and the COVID-19 Pandemic: Innovative Solutions to Mitigate Plastic Pollution, 27–43. Cham: Springer Nature Switzerland, 2024.
[40] Joseph Mawejje and Lawrence Bategeka. Community Expectations and Environmental Aspects in Uganda's Oil and Gas Sector. EPRC Policy Brief Issue P.3, No. 39, December 2013.
[41] Nicholas Nyakecho. "Local Communities and Oil Exploration: The Experience of the Albertine Graben, Uganda." European Journal of Social Sciences 72, no. 2 (2021): 201–213.
[42] Oladiran Akinsola Ayodele and Maruf Adeniyi Nasir. "Implementation of SDGs in Nigeria: Issues and Challenges." Kampala International University Law Journal 3, no. 2 (2019): 83–104.
[43] Masika Sarah Bino and Paul Atagamen Aidonojie. "Achieving Environmental Sustainability through Carbon Neutrality in Uganda: Legal Issues and Strategic Solutions." Cogito: Multidisciplinary Research Journal 17 (2025): 72.
[44] Article 38 of the Constitution of the Republic of Uganda

information[45]. It is a vital role of democratic governance and plays a key role in holding decision-makers accountable for their actions and decisions.

3.2. Constitutional Rights of the Host Community in the Extractive Industry in Uganda

The Constitution of the Republic of Uganda is the supreme law of Uganda. All other legislation is subordinate to the Constitution in its supremacy. The Constitution encompasses a whole lot of laws, from the Bill of Rights enshrined in Chapter Four, to environmental rights in Article 39, the right of access to information in Article 40, the right to Public Participation in Article 38, and land rights in Article 237. Principle XIII of the Constitution mandates the state to protect the natural resources, including land, water, wetlands, minerals, oil, fauna, and flora on behalf of the people of Uganda. This principle has placed the state as the custodian of all natural resources in the country, which are held by the state and sustainably managed and preserved on behalf of the people of the Republic of Uganda. Objective XXVII of the National Objectives of State Policy of the Constitution of the Republic of Uganda provides for the environment and states that:

i. The State shall 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.
ii. The utilization of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations of Ugandans; and in particular, the State shall take all possible measures to prevent or minimize damage and destruction to land, air, and water resources resulting from pollution or other causes.
iii. The State shall promote and implement energy policies that will ensure that will ensure that peoples basic needs and those of environmental preservation are met.

Figure 2. Uganda Constitutional National Objective as it Concerns Resource Management



Source: Design by authors

Article 245 of the Constitution of the Republic of Uganda provides that, "Parliament shall, by law, provide for measures intended: (a) to protect and preserve the environment from abuse, pollution and degradation; (b) to manage the environment for sustainable development; and (c) to promote environmental awareness." These measures have been enacted and implemented through the development of various laws, policies, and regulations for the sustainable management and development of natural resources in the country. Parliament enacted the National Environment Act, 2019, as the primary legislation for the sustainable management of the environment in Uganda.

[45] Osikemekha Anthony Anani, Kenneth Kennedy Adama, Paul Atagamen Aidonojie, and Okagbare Aregbor. "Zooplankton and Community Phytoplankton: Influence of Personal Care Products, Legislative Status, and Possible Remediation." In Emergent Pollutants in Freshwater Plankton Communities, 80–93. Boca Raton: Taylor & Francis (CRC Press), 2025.

Environmental rights are human rights related to the environment and natural resources. They include substantive rights such as the right to clean air and access to safe water, adequate sanitation, and a healthy environment. The right to information, participation in and access to justice, and non-discrimination are also critical environmental rights, commonly referred to as procedural rights. Environmental rights are recognized in a number of international human rights treaties, constitutions, national laws, and legal precedents. They are often considered "enabling rights" because many other human rights, such as the right to life, require certain environmental conditions or inputs to be enjoyed. They are also essential to the rule of law.[46]

Also, article 39 of the Constitution of the Republic of Uganda provides that, "every Ugandan has a right to a clean and healthy environment." This right is recognized as a fundamental right. The right to a "clean and healthy environment" recognizes environmental protection as a fundamental human right, enabling citizens with the authority to advocate for environmental protection and holding accountable those particular authorities or individuals responsible for environmental and pollution damage. citizens are encouraged to participate in measures that call for the preservation of the environment and seek redress when their rights have been infringed. The extractive industries activities by their very nature have an impactful bearing on the environment in terms of their activities from exploration and extraction of the resource to development and production. From extraction which leads to destruction of vegetative cover and habitat as a result of drilling and calibration of boreholes for oil wells, the clearing of large swathes of land for extraction, to extraction which results in accidental spills and results in the contamination of the soil and water catchment areas to development and production which involves processes like the purging, venting and flaring of gases affects air quality, oil waste spillage and reported cases of poor disposal of drilling waste causes the contamination of land from the hazardous chemicals in the petroleum waste. All these affect the health of the host communities and infringe on their right to an adequate, clean and healthy environment. Therefore, the extractive industries operating in the oil region have to ensure that they carry out their activities in consonance with the environmental management principles enshrined in the National Environment Management Act, 2019.

The Constitution provides for the enforcement of environmental rights. Article 50(1) of the Constitution of the Republic of Uganda provides that, "any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation. Article 50(4) of the Constitution of the Republic of Uganda states that, "parliament shall make laws for the enforcement of the rights and freedoms under this chapter." Parliament, to that effect, enacted the Human Rights Enforcement Act, 2019. The Human Rights Enforcement Act provides for procedures for the enforcement of human rights guaranteed under the Constitution, including the right to a clean and healthy environment. Section 3 of the Human Rights Enforcement Act provides that, "any person or organization whose rights protected under the Constitution have been infringed or threatened can institute court proceedings. A person by Article 50(1) of the Constitution of the Republic of Uganda and section 3 of the Human Rights Enforcement Act, has the right to bring a claim relating to environmental harm where a constitutional right has been breached. Court proceedings can therefore be instituted by an individual or by a person acting on behalf of another person, or a person acting on behalf of the public or in the public interest.

Land rights and land ownership, that is the legal entitlement to own land in Uganda is granted by Article 237(4) of the Constitution of the Republic of Uganda that provides that, "land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in this Constitution." land rights mean individuals having an interest in land. It's this interest that gives them the legal rights over land. The Constitution further provides for the right to own property. Article 26(1) of the Constitution of the Republic of Uganda provides that, "every person has a right to own property either individually or in association with others." Article 26(2) of the Constitution of the Republic of Uganda imposes restrictions on the exercise of the power of eminent domain. The Article prohibits compulsory deprivation of a person of their 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 a right to access to a court of law by any person who has an interest or right over the property."

The Constitution states that all land in Uganda belongs to the citizens of Uganda and that, further, individuals have the right to own property either individually or with others, and the Statemay take private land for public benefit, but it must be subject to fair and adequate compensation. Article 237(2) of the Constitution of the Republic of Uganda provides that, "notwithstanding that land in Uganda belongs to the citizens of Uganda, subject to Article 26, the Government or a local government may acquire land in public interest; and the conditions governing such acquisition as prescribed by parliament." Parties in the host communities aggrieved by the

[46] Adapted from the UN Environment Programme (UNEP)'s Environmental Rule of Law: First Global Report.

activities of the host communities may bring a suit against the person or individuals who act or omission has or is likely to cause harm to the environment. Courts have the power to grant an order for the enforcement of various remedial orders. These include injunctions in the form of interlocutory or permanent declarations, remedial orders like restitution orders, and judicial review, among others, as will be listed in the following pages.

Land rights are enforced through a legal system and framework that recognizes the four tenure land systems: customary, freehold, leasehold, and mailo. Parties to a dispute can seek legal action to protect their land rights through land tribunals and courts, primarily relying on the national legal framework for the enforcement of their land rights. Article 50 of the Constitution of the Republic of Uganda guarantees a right of access to Courts and states that, "any person who claims that a fundamental right or other right or freedom guaranteed under the Constitution has been infringed or threatened, is entitled to apply to a competent Court for redress which may include compensation." Article 50(4) of the Constitution of the Republic of Uganda provides that, "Parliament shall make laws for the enforcement of the rights and freedoms under this Chapter." Article 26(2)(b) of the Constitution of the Republic of Uganda prohibits compulsory taking or acquisition of property for public use, unless the taking or acquisition is made under a law which inter alia, makes provision for: Prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property. Section 6 of the Land Acquisition Act deals with the assessor's power to determine and award compensation to persons deprived of their land under the provisions of the Act.

There are exceptions to land ownership and land rights in Uganda. Article 26(2)(a) of the Constitution of the Republic of Uganda provides that, "a person must not be deprived of property except where 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." Article 26(2)(b) of the Constitution of the Republic of Uganda states that, "the compulsory taking of possession or acquisition of property is made under a law making provisions for prompt payment of fair and adequate compensation or acquisition of the property." The Act stipulates that landowners affected by compulsory acquisition of land must be adequately compensated for their land, the developments thereon, and the loss of livelihoods before resettlement.

The right to public participation is also provided for in the Constitution and is a fundamental right and freedom recognized in Uganda, as well as in various international instruments, such as the Universal Declaration of Human Rights. which the various local communities in the Albertine Graben are entitled to. Article 38(1) of the Constitution of the Republic of Uganda states that, "every Uganda citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with the law." 38(2) states that, "every Ugandan has a right to participate in peaceful activities to influence the policies of government through civic organizations." Furthermore, to promote and protect the fundamental rights and freedoms provided for in the Constitution, the Constitution states that "the State shall take all necessary steps to involve the people in the formulation and implementation of development plans and programs which affect them." The various local communities in the Albertine Graben have, to some extent, taken part in decision-making, such as public hearings, which have been held for the assessment of the environmental and social impact assessment reports, whereby the local communities have been engaged to give feedback and comments on the report to assess the likely socio-economic impacts of the proposed project on the community.

The Constitution also provides for the right of access to information, a fundamental right enshrined in various international instruments, such as the International Covenant on Civil and Political Rights. Article 41 of the Constitution of the Republic of Uganda provides for the right of access to information and states that, "every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to privacy of any other person." This Article provides citizens with the right to access information from State agencies or organs. However, such access to information may be denied on the grounds of security and the privacy of third persons. Access to information, like many other rights, is a right in and of itself as well as an enabling right. A right that is necessary for the realization of other human rights. In the Albertine Graben, the host communities can access copies of the relevant environmental and social impact assessments at a prescribed fee by the Authority; however, access to copies of the relevant petroleum agreements is not accessible to the public, not even by the host communities, who are directly impacted by the decisions of the government in the Petroleum Sharing Agreements.

3.3. Contitutional Rights of the Host Community in the Extractive Industry in Indonesia

The 1945 Constitution of the Republic of Indonesia provides the foundational legal context for the rights and obligations of all citizens, including host communities potentially impacted by extractive industry activities. Article 33 of the 1945 Constitution is particularly significant for natural resource governance. The land, water,

and natural resources are under the control of the State for the use and greatest benefit of the people; whereas, this provision requires the State not to limit its role to a regulator but to act as a trustee for the Indonesian people in terms of securing benefits from resource extraction to those directly affected by mining, oil, or gas projects. Therefore, these natural resources must be developed sustainably and equitably, thereby providing host communities with the legitimacy under the Constitution to demand full transparency, inclusion, and environmental accountability. Environmental rights are explicitly recognized in Article 28H(1) of the Constitution. This article guarantees that every citizen has the right to live in physical and spiritual prosperity, to enjoy a good and healthy place to live, and to obtain health services. This is the constitutional basis for host communities to argue for protections against extractive activities that cause environmental degradation, including deforestation, air pollution, water pollution, and hazardous waste disposal. Environmental rights also receive further recognition under Law No. 32 of 2009 on Environmental Protection and Management, which it obligates duty holders engaged in extractive activities to prepare an environmental impact assessment (AMDAL) and also requires that members of the community be engaged in terms of providing input and being involved in decisions regarding their environment.

Another constitutional right inextricably relevant to host communities is the right to public participation. While Article 28C(2) does provide the constitutional basis for the right, it is not explicitly stated. Article 28C(2) guarantees that an individual has the right to advance themselves and collectively develop societies. Host communities are also supported in their participation through statutory legislation, such as Law No. 32/2009 and the Village Law (Law No. 6/2014), which recognize their rights and roles in environmental governance and development planning. In practical terms, therefore, it means that members of communities should be involved in consultation and decision-making related to extractive projects. Unfortunately, in practice, this does not typically occur due to procedural irregularities and marginalization.

Indonesia's Constitution establishes a right to information under Article 28F: Each person shall have the right to communicate and obtain information to develop themselves and their social environment. Such a provision is critical for host communities in the extractive industries sector, as it allows them to obtain accurate and timely information on the scope, impact, and legal basis for a resource project in their locales. Law No. 14 of 2008 addresses the disclosure of public information and holds public bodies, such as the Ministry of Energy and Mineral Resources, to a higher threshold for releasing information in the public interest (e.g., contracts, environmental assessments, license approvals, etc.). If an individual is denied access to public information, they can contest the decision with the Information Commissioner. The Constitution acknowledges the rights of indigenous law communities under Article 18B(2), requiring the State to respect, recognize, and protect traditional communities and systems of customary law. This is valuable for many indigenous communities, where historical land claims are often pursued when there is a need for resource extraction. However, this recognition depends on communities asserting their existence, aligning with local and national development objectives, and being compatible with the unitary state of the Republic. This dependence can be problematic in practice when many indigenous communities struggle to achieve formal recognition of their existence and rights, thereby preventing them from asserting land rights and resisting harmful extractive operations.

In regard to land rights, the Constitution does not give individuals or communities absolute tenure over natural resources, as per Article 33 which controls lie in the State. However, mechanisms under the Agrarian Law (No. 5/1960) and the Basic Forestry Law allow individuals or communities to obtain rights. Either through Certificates of land tenure/land certificates, or a recognition of customary land (tanah ulayat). The Constitutional Court in various decisions, including decision No 35/PUU-X/2012, has reinforced indigenous people's rights to their customary forest, which was previously defined as grievous state land. This court decision provides a constitutional avenue for host communities, affirmatively rejecting State control over host community lands and implicitly accepting their jurisdiction over land and other resources. As previously mentioned, the Constitution protects the right to (legal) remedies as per Article 28I(4) and the State as an obligation, to protect, promote, respect and fulfill human rights. When host communities are violating constitutional rights through land grabbing and environmental pollution, and are subject to forced eviction, they have a right to redress as prescribed by the Courts (Judicial) or the quasi-judicial body, the National Human Rights Commission (Komnas HAM). Non-state actors, including civil society organizations, legal aid services, and local ombudsman, play an increasingly relevant role by working with host communities to navigate complex processes and procedures (Administrative process, legal process, etc.) to seek forms of remedy or accountability against corporations and public officials.

3.4. Simililarities and Differences in Constitutional Enforcement Mechanism

The Ugandan and Indonesian constitutions establish environmental protection, property rights, and participatory governance as essential principles to protect host communities affected by extractive operations. The 1995 Constitution of Uganda establishes the right to a clean and healthy environment, which allows public interest

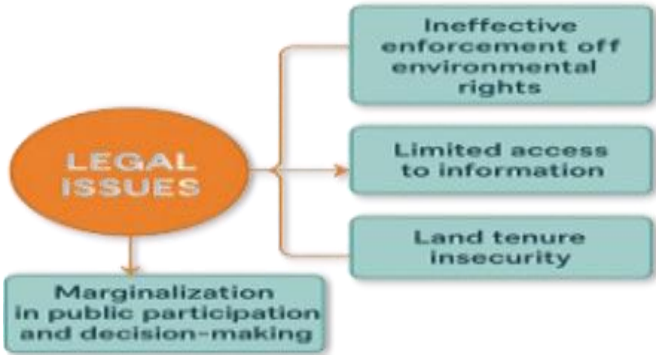
litigation through which people and civil society organizations can pursue court cases without needing to meet strict standing requirements. The 1945 Constitution of Indonesia protects environmental rights while granting the government authority to manage natural resources for citizens' welfare, and it enables the Constitutional Court to assess legislative validity. Courts in both legal systems have emerged as platforms to resolve disputes about extraction activities that endanger both their environmental assets and their basic rights to land and their natural resources. The enforcement mechanisms of this system demonstrate that both sides share a constitutional commitment to rights-based accountability through judicial review, statutory implementation, and procedural safeguards that help resolve disputes between community protection measures and economic growth activities.

The constitutional enforcement system demonstrates identical features, which display two distinct patterns of operation and enforcement strength. The Ugandan system relies on its regular courts because they handle constitutional matters through their enforcement work, which uses extensive standing rights alongside human rights petitions. The Indonesian system assigns its constitutional court exclusive authority to handle constitutional matters, which has enabled the court to examine mining laws and natural resource laws for their compliance with constitutional social justice and public welfare requirements. The Supreme Court of Indonesia handles environmental cases through its judicial review of subordinate legislation, while the Constitutional Court assists in handling these cases. The State Administrative Courts of Indonesia hear cases that challenge government licenses and environmental permits and administrative decisions that pertain to mining and natural resource exploitation. The Indonesian system uses decentralization to create enforcement mechanisms through the allocation of specific governance responsibilities to its local authorities while Uganda operates its extractive regulatory system through centralized control. The structural differences between two systems determine how host communities access their rights to legal remedies which leads to different results for enforcing constitutional rights in extractive situations.

3.5. Legal Challenges on the Rights of the Host Community in the Extractive Industry in Uganda and Indonesia

Examining the comparative constitutional frameworks and practical realities of Uganda and Indonesia reveals four glaring legal issues or drawbacks of the constitutional rights of host communities in the extractive industry. They are: (1) Ineffective implementation of environmental rights; (2) Lack of access to information and transparency in procedures; (3) Insecurity of land tenure and forced acquisition; and (4) Marginalization in public participation and decision-making. This is further represented in a diagram below,

Figure 3. Diagramatic representation of the legal challenges



Source: Design by author

The first thing to say is that the failure of environmental rights really implicates a legal problem. Both Uganda (Article 39) and Indonesia (Article 28H(1)) have constitutional provisions establishing the right to a clean and healthy environment, yet extractive industries continue to operate in ways that include pollution, deforestation, contamination of air and water, and the destruction of ecosystems. The constitutional duties to maintain and protect environmental rights are enforced in practice, but what legal (or constitutional) effect do these obligations have on enablement or indulgence? Uganda's National Environment Act, 2019, and Indonesia's Law No. 32/2009 on Environmental Protection and Management are legislative frameworks; environmental legislation is weak. If they are funding, there is irregularity of funds, or the State government is conflicted about extractive projects for economic development. Secondly, restricted access to vital information greatly hinders the

enjoyment of the rights and ability to demand accountability for host communities.

The Constitution of Uganda provides people with the right to access information under Article 41, while Indonesia protects this right under Article 28F of its Constitution. These constitutional provisions exist to establish transparent governance systems that permit public involvement and governmental accountability, especially in mining and oil and gas operations that directly impact local communities. The two countries face ongoing difficulties that prevent their citizens from accessing essential information despite existing legal protections. Communities in Uganda and Indonesia face multiple obstacles when seeking petroleum agreements, environmental impact assessment reports, compensation frameworks, and resettlement action plans. The process of obtaining extractive industry documents suffers from government secrecy, regulatory agencies that take too long to respond, the public's lack of knowledge, and complex technical aspects of the documents. Host communities experience regular exclusion, which prevents them from taking part in important decision-making processes that impact their environmental, socio-economic, and land rights. In Uganda, communities in the Albertine Graben reportedly could not access petroleum-sharing agreements. Despite Law No. 14/2008 on access to public information in Indonesia, host communities are faced with multiple hurdles and delays to accessing documents that are key to exercising their rights or challenging environmentally destructive projects.

Thirdly, land rights and tenure insecurity are a key constitutional and socio-legal challenge for host communities. In Uganda, Article 237 gives Ugandans ownership of land, and Article 26 protects property rights, but in practice, when the Government acquires land for extractive development, communities often do not receive adequate compensation, and procedural problems arise. Indonesia has a similar situation: Article 33 vests control over natural resources in the State, limiting the sovereignty of individual and community tenure. Additionally, Indigenous communities face unique challenges, especially related to the Indonesian State's failure to recognize customary land at the local level, as required under the Agrarian Law and other applicable legislation, in part because of local governments' lack of political will. Ultimately, while claims of rights may rest on constitutional provisions, for everyone, the time, energy, and money involved in contesting the State is challenging enough; a related challenge for Indigenous communities is to actively seek recognition under laws that acknowledge their sovereign land rights. While there have been some positive developments, such as Constitutional Court Decision No. 35/PUU-X, which sought to affirm customary forest rights in Indonesia, gaps in implementation and competing interests continue to undermine tenure security and displace host communities.

Fourth, marginalization in public engagement and development processes remains a common legal and process challenge. While Uganda's Article 38 and Indonesia’s Article 28C(2), which support the right to participate in development and governance processes, clearly exist, the host community undergoes consultation processes that lead to marginalization. Within these two jurisdictions, there are statutory instruments requiring engagement with host communities (such as public hearings or planning at a village level); however, if these consultations are only tokenistic or poorly publicized, it is hard to consider them meaningful. Often, communities are unable to give prior, free, and informed consent (FPIC) and are left voiceless and excluded from decisions that affect their lives, lands, and livelihoods.

4. Conclusion

The comparative analysis of Uganda and Indonesia demonstrates that both countries possess constitutional laws that protect their host communities in extractive industries, but actual enforcement of these protections falls short. The constitutional protections for affected people in Uganda face multiple challenges, including weak institutional enforcement, inadequate compensation systems, corruption, and restricted community involvement. Indonesia provides a valuable guide to other countries because it implements efficient decentralization systems that recognize traditional land rights and support active community engagement in natural resource management. Uganda should develop its legal system through specific laws that define benefit-sharing and create better pathways for people to seek justice, and establish requirements for public disclosure of environmental and social impact assessments. Both governments need to set up separate monitoring bodies that will hold companies responsible while ensuring that local communities receive proper consultation throughout all stages of resource extraction projects. The implementation of these reforms will establish sustainable development through natural resource extraction, benefiting local communities and aligning constitutional commitments with actual practices.

The research shows that protecting community rights in the extractive industry works as the essential condition that must be met to achieve both social justice and environmental protection and economic development that lasts over time. The ongoing problems that affect Uganda and Indonesia include displacement issues, environmental damage, insufficient payment, and the denial of power to make decisions. The two nations need to implement reforms that establish free prior informed consent requirements, create fair revenue distribution methods, and establish legally binding community development contracts. Community representatives who hold

leadership positions in civil society organizations and local government need legal aid, educational initiatives, and informational resources to enable their active participation in oversight activities. The extractive companies need to treat their corporate social responsibility commitments toward local communities as mandatory duties rather than as optional commitments. The country needs greater political determination, better inter-institutional cooperation, and ongoing enforcement of constitutional safeguards to ensure that extractive operations deliver inclusive progress, human dignity, and environmental sustainability for the nation.

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