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EAST AFRICA CRUDE OIL PIPELINE (EACOP)

PROVISIONAL HRIA REPORT

Prepared by LKL International Consulting Inc.
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1. Overview of the human rights impact assessment

The human rights impact assessment (HRIA) of the East Africa Crude Oil Pipeline (EACOP) was commissioned by RSK Environment Ltd. (RSK) on behalf of Total East Africa Midstream B.V. (Total) and its EACOP project partners. The EACOP project is a 1,444 kilometer heated crude oil pipeline that leads from the upstream oil production facilities in the north of Uganda, through Tanzania to a marine terminal facility in Tanga on the Indian Ocean.

In the business context, HRIA can be defined as a process for identifying, understanding, assessing and addressing the adverse effects of a business project or activities on the human rights enjoyment of affected stakeholders such as workers and community members. Undertaking a HRIA is a proactive and strategic way of initiating human rights due diligence in line with the UN Guiding Principles on Business and Human Rights (UNGPs).[1] Human rights due diligence is an ongoing process that includes assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.[2]

The methodology for the EACOP HRIA has been designed and implemented in a manner that fulfills Total SA's General Specification on Human Rights Impact Assessment, as well as the emerging best practices for conducting HRIAs. These include: using international human rights standards as the core benchmarks and criteria for the assessment; significant engagement with affected stakeholders[3] and civil society organizations; and, an overall approach that prioritizes risk to people above and beyond potential business risks to the project.

It is important to highlight that the EACOP HRIA has been developed as a complementary process to a variety of other environmental and social due diligence processes that also serve to identify and mitigate potential impacts on affected stakeholders. These processes include the environmental, social and health impact assessments; resettlement action planning; project-induced in-migration management planning; contractor management planning; security and human rights risk assessments according to the Voluntary Principles on Security and Human Rights; and, the development of community grievance mechanisms. All of these complementary processes have involved a significant degree of stakeholder engagement by EACOP and various international and local consultants over the past months.

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[1] The UNGPs are the global standard for understanding the responsibility of business enterprises to respect human rights and are the foundation for Total's human rights commitments as set out in the Total Human Rights Guide.
[2] See: UNGP 17 and commentary.
[3] "Affected stakeholders" are the individuals or groups who are at risk of experiencing adverse impacts as a result of the project. They can also be referred to as "rights-holders." Typically, they are referred to as "project-affected populations (PAPs)" in the context of environmental and social impact assessment.

As a result of the opportunity to undertake the EACOP HRIA in a complementary fashion with these other environmental and social due diligence processes, the HRIA is quite unique in that it has hallmarks of both an integrated HRIA and a stand-alone HRIA.[4] Ultimately, the HRIA has been significantly enriched by the ability to share information with and provide input into the other environmental and social due diligence processes. In particular, the ability to provide recommendations for mitigation measures to be included in the environmental and social impact assessments has been a strategic opportunity for human rights to be mainstreamed into EACOP's management systems and regulatory commitments.

At this stage, the HRIA team is providing a summary of its findings and recommendations to date in the form of this "Provisional HRIA Report." The main objectives for providing a provisional report are to provide additional insight into human rights now that the environmental and social impact assessments have been completed, and to provide additional details about the human rights due diligence measures that can be initiated proactively in the coming months in order to avoid or mitigate the salient human rights risks that have been assessed. However, as some of the project details and environmental and social due diligence measures are still being finalized, it is premature to issue a final HRIA report at this stage. A process for developing the final HRIA will be agreed with EACOP.

2. Scope of human rights issues relevant to EACOP

The scope of potential human rights impacts of any business enterprise is defined by the International Bill of Rights, the ILO Declaration on Fundamental Principles and Rights at Work, as well as international human rights standards that apply to vulnerable groups.[5] Given EACOP's operating context, the regional human rights standards related to the African Charter on Human and Peoples Rights, as well as the national human rights standards in the Tanzanian and Ugandan constitutions and other relevant laws, must also be considered.

During the scoping phase of the HRIA, the following potential human rights impacts were identified as being relevant to EACOP based on desk-based research, an initial round of fieldwork and stakeholder engagement in Tanzania and Uganda, and a workshop with the local management team.

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[4] Integrated HRIAs refer to impact assessments that integrate human rights considerations into an environmental and social impact assessment. Stand-alone HRIAs are separate and distinct processes that focus exclusively on human rights. These distinctions are explained further in the methodology section of the main report.
[5] See UNGP 13 and Commentary.

Potential Human Rights Impacts[6]
Workers' Rights
• Non-discrimination (Articles 1, 2 and 23(2) of UDHR)
• Freedom from child labour (Articles 25(2) and 26(1) of UDHR)
• Freedom from forced labour (Articles 4 and 13(1) of the UDHR)
• Freedom of association (Articles 20 and 23(4) of the UDHR)
• Just and favourable working conditions (Article 7 of the UDHR)
• Safe and healthy working conditions (Article 7 of the UDHR)
• Contractor and suppliers' workers' rights (All of the above-mentioned rights)
Human Rights of Community Members
• Land and Resettlement (Articles 17 and 25 of the UDHR)
• Indigenous Peoples Rights (UNDRIP)
• Right to information (Article 19)
• Community safety (Article 25(1) of the UDHR)
• Community health (Article 25(1) of the UDHR)
• Water and environment (Article 25(1) of the UDHR)[7]
• Cultural rights (Article 27 of the UDHR)
• Community investment (Articles 25 and 26 of the UDHR)
Cross-Cutting Human Rights Issues[8]
• Security and human rights (Article 3 of the UDHR)
• Women's rights (Articles 1, 2 and 23(2) of UDHR)
• Access to remedies / grievance mechanisms (Applies to all human rights)

Each of these potential human rights impacts is discussed in Part Three of the Provisional HRIA Report below.

When defining the scope of the potentially relevant human rights for EACOP, it is necessary to consider impacts that EACOP may **cause** or **contribute** to, as well as impacts that may be **directly linked** to EACOP's operations through its business relationships.[9] In other words, potential human rights impacts that are connected to EACOP's business partners and supply chain are within the scope of EACOP's responsibility for human rights and thus must be considered in the HRIA.

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[6] For the purposes of this table, the potential human rights impacts are benchmarked against the Universal Declaration of Human Rights (UDHR), with the exception of indigenous peoples rights—which have been endorsed and clarified in the UN Declaration of Indigenous Peoples Rights (UNDRIP). In the discussion of these human rights issues in the main body of this report, there is further information about other human rights standards that provide additional normative content and indicators related to the potential human rights impacts.

[7] Article 25(1) of the UDHR protects the right to health of community members, which can be affected by the availability and quality of water. However, the human right to water was only recognized by the UN as a stand-alone right in 2010.

[8] For the purpose of the EACOP HRIA, cross-cutting human rights issues are defined as those with potential impacts on both workers and community members.

[9] The concepts of "cause", "contribution" and "direct linkage" are derived directly from the UNGPs. See UNGP 12 and Commentary.

For many companies, these areas of "direct linkage" represent some of the most elevated human rights risks because they are outside the control of the company. In these areas, companies are responsible to use their leverage or influence over their business partners and other relevant actors to seek to prevent or mitigate the potential human rights impacts that may occur. The following table provides a brief description of the responsibilities that a company will have depending on the different modes of involvement in human rights impacts.

Overview of Cause / Contribution / Direct Linkage[10]			
If a company is…	Causing an impact	Contributing to an impact	Linked to an impact
Then it should…	Prevent or mitigate the impact	Prevent or mitigate its contribution to the impact	
And…		Use or increase its leverage with other responsible parties to prevent or mitigate the impact	Use or increase its leverage with other responsible parties to prevent or mitigate the impact
And…	Remediate the harm of the impact	Contribute to remediating the harm of the impact to the extent of its contribution	No responsibility to remediate, but the company may choose to do so
Example	A company causes an impact when it does not pay its workers in accordance with national and international standards	A company contributes to an impact when it provides materials to public security forces that are used to harm community members	A company is linked to an impact when an activity such as ASM is undertaken on its concession without its permission

These distinctions between cause, contribution and direct linkage will be explained further in the discussion of each of the human rights issues listed above. They also inform the approach and expectations for EACOP's approach to prevention, mitigation and remediation of potential impacts.

From a business risk perspective, it is important to note that the distinctions between cause, contribution and direct linkage are often ignored when there are allegations or media stories about human rights concerns related to a project. The impacts are often blamed on the main international companies (and their investors) on the basis of "complicity" or of profiting from the mistreatment of others. This reinforces the importance of proactive human rights due diligence around potential impacts that are directly linked to EACOP even if these are outside of its direct operational control.

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[10] Table courtesy of Shift Project, Ltd.

3. EACOP's salient human rights issues

Given the broad scope of potential human rights impacts outlined above, the UNGPs and complementary guidance for companies highlight the important of prioritizing the most "salient" human rights issues for ongoing due diligence. Salience is defined by the most severe and likely potential adverse impacts on affected stakeholders.[11]

The following table summarizes the salient human rights issues for EACOP based on our current understanding of potential human rights impacts and the mitigation measures that are being developed to manage those impacts. The table also sets out the main recommendations for proactive human rights due diligence (HRDD) to further address and manage the salient human rights issues.

While reviewing the table, please note the following:

- The salient human rights issues are for the entire pipeline route, i.e. for both Uganda and Tanzania, except where otherwise specified.

- As a result of the integrated approach and collaboration between the HRIA and ESIA processes, many of the mitigation measures have been integrated into the environmental and social management plan (ESMP) and "commitment register" for EACOP. Where additional HRDD measures are recommended, this will be highlighted. Only the high-level recommendations are included in the table, with additional details provided in the relevant sections of the Provisional HRIA Report.

- At the end of the table, a pair of "human rights heat maps" have been included that plot the potential human rights impacts on a 5 x 5 matrix (at first without mitigation and then with mitigation measures) in order to visually illustrate how the salient human rights issues were prioritized based on the criteria of severity and likelihood.

- The salient human rights issues are listed below in terms of potential severity rather than upon likelihood. According to the UNGPs, severity of potential impact is the dominant criteria when prioritizing human rights risks or impacts.[12]

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[11] The criteria for salience (i.e. severity and likelihood of adverse impacts on human rights) is derived from the UNGPs.
[12] See UNGP 24 and Commentary.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
1. Public security forces • There will be interaction between EACOP and public security forces along the pipeline route and at the marine terminal in Tanga, including to enforce the marine exclusion zone (MEZ). The potential for these interactions along the pipeline route will be highest during the land acquisition (notably if there is involuntary resettlement) and construction phases, and around the MEZ during the operational phase when there will be shipping activities. • Interaction between EACOP and public security forces may result in impacts on a variety of human rights. For instance, there can be impacts on the rights to life, liberty and security of the person; the right to health; the right to freedom against arbitrary arrest and detention; the right to freedom against torture, inhuman or degrading treatment of punishment; the right to privacy; etc. While many of the potential impacts on human rights are related to community members, it important to note that EACOP and contractor workers and the members of security forces also may experience adverse human rights impacts in security-related interactions. • The most severe potential impacts would occur if force is ever used to protect	• The Voluntary Principles on Security and Human Rights (VPSHR) is the industry standard for managing the interactions between oil & gas companies and public security forces.[13] Total has a strong commitment to the VPSHR and a long experience in implementing them in its global operations. Work has begun to conduct risk assessments based on the VPSHR in Tanzania and Uganda (including with the support of the HRIA's security and human rights expert, notably in Tanzania).[14] • The main recommendation is to develop and implement a Security Management Plan in line with the VPSHR for all project components in both countries.[15] • In terms of specific aspects of an overall Security Management Plan that pertain to public security forces, the following next steps are recommended for proactive HRDD: o Finalize the recently updated VPSHR risk assessment for Tanzania and update the VPSHR risk assessment for Uganda in order to identify specific risks, mitigation measure and engagement strategies for the different public security forces that will potentially interact with EACOP.

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[13] The VPSHR also cover the interaction with private security forces. This is also considered to be an area of human rights risk for EACOP, but with lesser severity because the private security guards are not supposed to be armed and are subject to a greater degree of control by EACOP and the ECPM contractor(s). The interaction with private security forces is discussed in the main body of the Provisional HRIA Report.

[14] This work has served to identify more specific risks and opportunities related to public and private security forces. This is set out in the relevant sections of the main body of the Provisional HRIA Report.

[15] A number of recommendations related to the VPSHR have been integrated in the ESMP. See: CHSW07, CHSW26, CHSW-NEW-02, HR-NEW-33, HR-NEW-34, HR-NEW-48, TZ-GNL-NEW-02.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
EACOP's assets and workers from criminal activity or in a confrontation with community members. Even though it may be unlikely, the potential that the use of force could result in a fatality, the severity of the impact on the right to life is irreversible, which is a critical component of the definition of severity. • The human rights impacts related to public security forces are not caused by EACOP, but it may contribute to those impacts if it provides material or other resources or incentives for the public security forces to intervene on its behalf. Given that the pipeline is in the "national interest" and that the national petroleum companies of Tanzania and Uganda are project partners, there will be a strong perceived connection between EACOP and any interventions by public security forces.	o In addition to including the VPSHR in the Host Government Agreements with the governments of Tanzania and Uganda, develop formal agreements (MoUs, protocols and/or standard operating procedures) with the relevant public security forces (police, military, navy, etc.) that are aligned with the VPSHR. o Develop training materials on the VPSHR that are specific to the EACOP country and operating context which can be delivered to public (and private) security forces. • Include information about EACOP's commitment to the VPSHR and any relevant security arrangements in the information disclosure and stakeholder engagement efforts with workers and community members. • Ensure that relevant grievance mechanisms for workers and community members are explicitly mandated to receive complaints related to public (or private) security forces.
2. Community safety • The HRIA has focused primarily on the road safety aspects of community safety. Road safety is a priority given the high number of truck movements that will occur, particularly during the construction phase. • Road safety presents human rights risks for community members in terms of the right to health and, in the case of serious accidents that result in fatalities, the severity of the impact on the right to life is	• Total has a strong commitment to safety in its global operations and has long experience in managing road safety issues in countries with poor road infrastructure. Increasingly, the use of technology provides opportunities to more actively monitor road safety. • There are a significant number of proposed mitigation measures related to road safety that have been integrated into the ESMP.[16]

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[16] See Part 3, section 11 on road safety, as well as the following mitigation measures included in the ESMP:
CHSW12, CHSW13, CHSW19, CHSW 44, EPR23, INF30, INF-NEW-01, SOL15.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
irreversible. Children are particularly vulnerable to road safety impacts. In addition, the drivers themselves may have impacts in terms of the right to health, the right to life, as well as the right to safe and healthy working conditions. • As the greatest risk of road safety impacts relates to trucking contractors, EACOP will not cause these impacts; however, it may contribute to impacts if the time pressures of the construction phase lead to drivers taking additional risks (e.g. speeding, driving longer hours, etc.).	• Given the vulnerability of children to road safety impacts, it is recommended that ongoing engagement efforts include road safety campaigns targeting children. The involvement of teachers, community leaders and parents in such campaigns can increase their effectiveness. • If ever there are road accidents involving EACOP or its contractors, EACOP has a responsibility to ensure that there is an appropriate investigation and response, including learning from incidents, medical treatment of those injured and/or compensation of the families of anyone who is killed (including through insurance plans).
3. Contractor and supplier workers' rights • Workers' rights are an important component of human rights and cover a variety of specific topics including non-discrimination, freedom from child and forced labour, freedom of association, just and favourable working conditions, and safe and healthy working conditions. • The greatest risks related to workers' rights for EACOP relate to its contractors and suppliers, in part because there will be a large contractor workforce for the construction phase of the pipeline that will be under the operational control and management by a 3rd party (ECPM contractor). • EACOP will be under significant pressure from governments and communities to maximize local content requirements, which may inadvertently increase the risks of potential impacts on workers' rights	• Total has strong commitments about workers' rights across its global operations. For contractors and suppliers' workers, these are expressed in the group's Fundamental Principles on Purchasing. • Recognizing the risks related to workers' rights, a number of mitigation measures have already been integrated into the ESMP. In particular, these are focused around the development of a labour and working conditions management plan for the construction phase. • In terms of proactive HRDD related to contractor and workers' rights, the main recommendations relate to the onboarding process and ongoing collaboration with and oversight of the ECPM contractor(s) to ensure that their human resources and procurement policies and procedures align with EACOP's commitments to respect international labour standards:

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
when providing more business opportunities for local contractors or suppliers. • Currently there is increased global attention to potential impacts on child and forced labour in global supply chains. Although there is almost no risk of child or forced labour in EACOP's direct workforce, there is a risk when dealing with local contractors or suppliers. As child and forced labour are severe human rights impacts by their very nature, this serves to heighten the overall risk profile in relation to contractor and suppliers' workers' rights. • Potential impacts on the rights of contractor or supplier workers will not be caused by EACOP, but there may be situations in which it could contribute to these impacts, particularly where the time pressures related to the construction phase may result in additional risks to workers (e.g. excessive overtime to meet project milestones). • While the construction phase presents the highest risks for workers' rights, EACOP will require contractors and suppliers throughout the lifespan of the project. There are risks of workers' rights impacts related to smaller contractors and suppliers (e.g. drivers, cleaning staff, catering services, private security guards, etc.) that also require attention.	o Above and beyond including contractual provisions related to international labour standards in the ECPM contract(s) (as well as in all relevant sub-contracts), prepare a training module about workers' rights that can be rolled out to sub-contractors in collaboration with the ECPM contractor(s). o Ensure that there are effective grievance mechanisms for contractor and supplier workers and that these are actively promoted during the onboarding process. o Conduct regular inspections of the working conditions of contractor and supplier workers in collaboration with the ECPM contractor(s) and other relevant actors (e.g. government labour inspectors). These inspections should be conducted early on to identify and remediate potential human resources issues before they escalate to the level of infringements on workers' rights. • For smaller contractors and suppliers that may be used throughout the lifespan of the project, ensure that EACOP's grievance mechanism is available and accessible in instances where workers are unable to raise or resolve issues with their employers.
4. Land and resettlement • There are a wide range of potential human rights impacts related to the major land acquisition program required for the pipeline route and above ground	• EACOP is committed to conducting the land acquisition and resettlement process in accordance with relevant international social performance and human rights standards. In addition to land-related issues being a major focus of the ESIA

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
installations (camps, coating yards, pumping stations, etc.).[17] • The severity of potential impacts is high because of the length of the pipeline (over nearly 1,500 kms., the width of the corridor, and the potential that the land taken will be on a permanent basis. Moreover, there are legal uncertainties and political sensitivities related to land tenure in Tanzania and Uganda that heighten the human rights and business risks related to land acquisition by foreign investors. • Land and resettlement was the most common priority issue for the community members interviewed through the HRIA. Past experiences with government-led processes for land acquisition and resettlement for foreign investors have created significant fear and legacy issues. • Land and resettlement is also a priority issue from a project timeline perspective because land acquisition and resettlement often be one of the first interactions with communities and thus can have a determinative impact on trust and social license to operate.	process, EACOP has invested significant resources in resettlement action planning activities that are ongoing. • The main approaches to mitigation are defined in the Resettlement Policy Framework, which will lead to a more detailed Resettlement Action Plan and Livelihood Restoration Plan. A separate Resettlement Policy Framework and associated plans will be developed for Tanzania and Uganda in order to take into account the distinctive legal and social issues related to land tenure in both countries.[18] • Moreover, a number of mitigation measures related to land and resettlement have already been incorporated into the ESMP.[19] • The creation of a Land Acquisition and Resettlement Working Group between EACOP and relevant government departments and agencies in Tanzania is a positive development and can support greater alignment between different actors about roles and responsibilities for conducting land acquisition and resettlement activities in accordance with international standards.

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17 The range of potential human rights impacts includes the right to own property; right to an adequate standard of living; right to adequate housing; right to food; rights to water and sanitation; right to health; and, right to education. In addition, women, children, people with disabilities, indigenous peoples and migrants are particularly vulnerable to impacts associated with land and resettlement. As mentioned above, there may be interactions with public security forces in the context of involuntary resettlement that can lead to potentially severe impacts on human rights.

18 Currently, the work to develop the Resettlement Policy Framework and associated plans is more advanced in Tanzania, but a similar process has been initiated in Uganda.

19 See: FD-LNP-NEW-01, FD-LNP-NEW-02, HR-NEW-36, HR-NEW-37, INF01, LNP14, LNP-NEW-01, LNP-NEW-02, FD-LIV-NEW-02, HR-NEW-35, CHSW-NEW-09, SOL56, TZCHSWNEW-08, TZ-ECO-NEW-02, TZ-LNPNEW-01, TZ-LNPNEW-02.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD

• The determination of whether EACOP causes, contributes or is directly linked to human rights impacts will depend on the degree to which it has control over land acquisition and resettlement or whether the process is led by the government. To date, EACOP has made progress on working with the government (notably in Tanzania) to develop alignment of approaches to land acquisition and resettlement in accordance with international standards.	• In terms of proactive HRDD related to land and resettlement, the main areas for ongoing attention and integration into the relevant resettlement action plans and livelihood restoration plans are:
	
	  ○ Preparation of contingency procedures for situations of elevated human rights risk (e.g. refusal to participate, contested inheritance or multiple claims on land, etc.).
	
	  ○ Preparation of a comprehensive plan for vulnerable groups, including meaningful engagement during planning, implementation and monitoring.
	
	  ○ Development of a participatory monitoring plan for livelihood restoration.
	
	  ○ Promotion of the community grievance mechanism to address concerns related to land disputes, compensation and livelihood impacts, and ensuring the mechanism has the capacity to effectively resolve such issues.[20]
	
	• In addition, special attention should be given to any land acquisition that has already occurred (at MST) to assess whether any supplemental compensation or livelihood restoration is required.
	
	• As mentioned above, ensure that interactions with public security forces in

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[20] In terms of effectiveness, the relevant criteria from a human rights perspective are provided in UNGP 31.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
	the context of involuntary resettlements are governed by the VPSHR.
5. Indigenous peoples (Tanzania) • There are a number of groups in Tanzania and Uganda that meet the international criteria for recognition as indigenous peoples despite the fact that they are not recognized as such by their governments.[21] These indigenous peoples are pastoralists or hunter-gatherers, although their traditional lifestyles and livelihoods are evolving as a result of modernity, loss of lands and territories and climate change. • Based on current research and stakeholder engagement, it is clear that there will be interactions between the pipeline route and the lands or cultural heritage sites of the Maasai. In addition, there are potential interactions with other groups in Tanzania that may be recognized as indigenous peoples, notably the Barabaig.[22] Targeted stakeholder engagement has been ongoing by EACOP Community Liaison Officers (CLOs) to confirm whether the pipeline route intersects with the lands and/or cultural heritage sites of the Barabaig or other indigenous peoples groups in Tanzania. • Indigenous peoples have individual and collective human rights which include the right to free, prior and informed consent	• Total has a commitment to respect the rights of indigenous peoples and has issued a statement about indigenous peoples in its Human Rights Guide. • The topic of indigenous peoples was a focus area for the collaboration between the HRIA and ESIA teams. As a result, a number of specific mitigation measures have been incorporated into the ESMP.[24] • In terms of additional HRDD regarding indigenous peoples, the immediate priority relates to ongoing consultation and engagement to determine exactly where the pipeline intersects with the lands and/or cultural heritage sites of indigenous peoples, who are their traditional leaders and representatives in order to develop a specific consultation and engagement process that respects the spirit and intent of FPIC. • Wherever it is determined that there is an interaction between EACOP and indigenous peoples lands and/or cultural heritage sites, it is recommended that the overall approach for respecting indigenous peoples rights should be based on the following principles:

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[21] In Tanzania, there are the Akiye (aka Dorobo), Hadza (aka Hadzabe), Barabaig (aka Taturu) and Maasai. In Uganda, there are the Benet (aka Ndorobo), Batwa (aka Twa), Karamajong, Ik and Basongora.

[22] In discussions with local government representatives and community leaders, other groups have been mentioned as potential indigenous peoples, including the Burunge and Sandawe. These groups are not mentioned by the international organizations that have studied the question of indigenous peoples in Tanzania, but this does not mean that they might not self-identify as indigenous peoples and/or be recognized as such in the future.

[24] See: HR-NEW-26, HR-NEW-27, HR-NEW-28, HR-NEW-29, HR-NEW-52.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
(FPIC) with respect to the exploitation of natural resources on their lands and territories. Therefore, the potential existence of indigenous peoples along the pipeline route would increase the scope of human rights which need to be respected by EACOP.[23] • There is increasing awareness and understanding of the rights of indigenous peoples in East Africa, so proactive recognition of indigenous peoples can help avoid potential conflicts with certain groups along the pipeline route—who have had quite negative experiences with prior foreign investment projects—as well as criticisms from domestic and international civil society organizations. At the same time, explicit recognition and use of the specific term "indigenous peoples" may create tensions with EACOP's state-owned partners and government agencies from which the project needs approvals and support. Therefore, care will need to be taken about the terminology that is used to express the project's recognition of and respect for indigenous peoples rights. • To the extent that the pipeline intersects with groups that should be considered as indigenous peoples according to international standards, the primary impacts on indigenous peoples rights will be on their rights to FPIC and underlying rights related to land and cultural heritage. The determination of whether EACOP causes, contributes or is directly linked to	o Avoid using only national criteria and considerations for the recognition of specific groups as indigenous peoples. o Frame respect for indigenous peoples as part of EACOP's broader commitment to respect human rights for all stakeholders. o Build upon existing processes for stakeholder engagement and due diligence. o Consult upon what sort of agreements are desirable and feasible in the context of the EACOP project. o Be prepared to work with other parties to advance respect for indigenous peoples. o Be particularly diligent about documentation of all efforts to respect indigenous peoples rights.

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[23] Recognition of indigenous peoples (internationally recognized definitions are discussed in chapter 3) would trigger additional requirements under IFC Performance Standard 7 on Indigenous Peoples (IFC PS7), which may have consequences for future project financing if indigenous peoples are not properly identified and consulted. Furthermore, in certain circumstances (related to land, resettlement and cultural heritage), there are additional requirements to obtain FPIC in order to comply with IFC PS7.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
these impacts will depend on the degree to which it has control over land acquisition and resettlement or whether the process is led by the government.	

6. Women's rights
 	
• Given the importance of concerns about the status of women and gender equality across a number of workplace and community issues, women's rights have been included as a cross-cutting issue for the HRIA. This is to avoid that women's rights are lost as secondary considerations under a variety of issues.
 	
• The main areas of focus in relation to women's rights include:
   o Workplace discrimination;
   o Unequal and inadequate benefits;
   o Unequal rights regarding job opportunity;
   o Unequal rights regarding land and resettlement;
   o Elevated risks of harassment, sexual health impacts and gender-based violence;
   o Heightened vulnerability to social and environmental impacts.
 	
• Women's rights and gender equality are evolving in Tanzania and Uganda, but there are still cultural, social, religious, political and legal barriers to full equality. Recently, some concerns have been raised in the media about the ability of organizations focused on women's rights and reproductive health to operate in Tanzania.[25]
	• Total has strong global policies covering discrimination and harassment, which should mitigate risks when implemented through a variety of EACOP policies and procedures for related to human resources, procurement, land and resettlement, security and human rights, transportation management, community investment, etc.
	
	• The vulnerability of women has been considered through the ESIA and other due diligence processes, so there are a variety of mitigation measures that have already been developed and integrated into the ESMP, Resettlement Policy Framework and other relevant policies.[26]
	
	• In terms of additional proactive HRDD, the main recommendations relate to:
	
	   o Having a designated expert on women's rights and gender equality to ensure that both principled and practical measures are integrated into the more detailed policies and procedures (including training) that are being developed for various aspects of EACOP.
	
	   o Ensuring that internal and external grievance mechanisms are accessible for women and that are equipped to handle women's concerns in a rights-compatible way

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[25] See, for example: https://www.devex.com/news/in-an-apparent-crackdown-tanzania-government-raids-ngo-meeting-on-reproductive-rights-89394

[26] ECO-NEW-01, HR-NEW-19, HR-NEW-20, HR-NEW-25, HR-NEW-41, HR-NEW-42 and HR-NEW-44.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
• The determination of whether EACOP causes, contributes or is directly linked to impacts on women's rights will depend on the specific issue. Regardless, EACOP has an opportunity and responsibility to use its leverage and influence to send a strong message and set a positive example about respect for women's equality in the workplace and in the community.	(e.g. gender sensitive handling of sexual harassment allegations). o Adopting a zero-tolerance policy for sexual harassment by contractors, including private security forces.
7. Marine livelihoods (Tanzania) • In terms of human rights, the marine livelihood issue is very similar to those raised in relation to land and resettlement.[27] • However, it is being flagged as a separate salient human rights issue because of the specificity of how the MEZ in Tanga creates potential for particularly severe impacts on 2 fishing communities (Changoleani and Putini). In particular, these potential impacts relate to: o increased competition of fisheries now that many farmers in Putini have sold their lands and are relying exclusively on fishing; o the potential that the fish market may be inaccessible to community members because of the MEZ; o fear and apprehension within the communities that they may be involuntarily relocated by local authorities and public security forces;	• As noted above, EACOP is committed to conducting its overall land acquisition and resettlement process in accordance with relevant international social performance and human rights standards. However, when it comes to the potential livelihood and resettlement impacts on the communities affected by the MEZ, there is further due diligence to be done. In this regard, there is a broad commitment to conduct a marine livelihoods study and develop a Marine Livelihood Restoration Plan in the ESMP.[28] • In terms of proactive HRDD, the main recommendation is to ensure that the marine livelihoods study and any resulting Marine Livelihood Restoration Plan are conducted as soon as possible. As the communities affected by the MEZ may be in a bit of a "blind spot" compared with the other communities affected by the pipeline route, it is important for EACOP to ensure that any economic or physical displacement are managed in accordance with international standards. • As mentioned above, ensure that interactions with public security forces in the context of involuntary resettlements are governed by the VPSHR.

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[27] *Supra*, note 15.
[28] See: LIV-NEW-02.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
o and, cumulative impacts from other developments in the area (e.g. Chinese and Korean factories and port expansion / infrastructure projects). • Most of these impacts are caused by EACOP to the extent that the MEZ will be created for its protection and benefit. It is still to be determined whether any resettlement of these village will actually be required; if so, the determination of whether EACOP causes, contributes or is directly linked to human rights impacts will depend on the degree to which it has control over the resettlement process or whether the process is led by the local authorities.	
8. Right to information and consultation • The right to information and consultation is a specific human rights issue in relation to access to information,[29] and supports the transparent governance of extractive industries. Information disclosure and meaningful consultation are also cross-cutting indicators of respect for a variety of other human rights. • Information (or lack thereof) about EACOP, the oil & gas sector and foreign investment more broadly was one of the priority concerns of community members and civil society organization throughout the stakeholder engagement for the HRIA.	• EACOP is committed to information disclosure and consultation in accordance with international standards for human rights and social performance. It has already supported strong stakeholder engagement approaches and practices for the environmental and social due diligence, including the HRIA, and a number of important commitments have been included in the ESMP.[31] • In terms of proactive HRDD, the main recommendation relates to the development and implementation of a comprehensive and effective Stakeholder Engagement Plan.[32] In this regard, some specific approaches and actions are recommended:

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[29] The right to seek, receive and impart information is often inferred from Article 19 of the International Covenant on Civil and Political Rights. Moreover, the African Charter on Human and Peoples Rights explicitly states "every individual shall have the right to receive information" in article 9(1) of the Charter.

[31] CHSW28, CHSW37, CHSW39, CHSW-NEW-04, HR-NEW-32, LIV02, TZ-LIVNEW-01.

[32] CHSW-NEW-04.

EACOP's Salient Human Rights Issues	Main Recommendations for HRDD
• Given the length of the pipeline and the number of communities that are affected, it is a major challenge to meet the social expectations related to information and consultation in a timely manner. Moreover, information and consultation is increasingly understood as a cross-cutting human rights issue.[30] • While EACOP has initiated information disclosure and consultation activities, both through its own efforts and CLOs, as well as through the various environmental and social due diligence processes (including the HRIA), these are currently insufficient to meet social expectations given the length of the pipeline and the operational context— particularly on an ongoing basis after the initial impact assessment activities are completed. • During the HRIA research period, there have been a number of media reports about civil society organizations being harassed or intimidated in Tanzania. While these incidents were not the subject of HRIA verification, various stakeholders raised concerns about a potential chilling effect on public discourse about human rights issues. In such a context, there may be a need for EACOP to have a more proactive approach to outreach and engagement with civil society organizations as part of its ongoing human rights due diligence efforts.	o The SEP should be based on a social and human rights risk analysis; o The SEP should be supported by a system for recording and tracking the stakeholder engagement activities and commitments. o There should be regular public reporting on the implementation of the SEP and the fulfillment of commitments. • The SEP should be accompanied by a communications plan and targeted information campaigns that use local languages and a variety of media tools (radio, print, telephone, internet and social media, etc.). In the short term, there is an important opportunity to prepare targeted information campaigns related to the ESIA.

The human rights heat maps upon which these salient human rights issues were identified are reproduced on the following pages.

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[30] It should be noted that some civil society organizations (e.g. Oxfam) go even further and assert that all communities have a right to free, prior and informed consent. FPIC is discussed in the HRIA as a foundational element of respect for indigenous peoples rights, but the fact that FPIC may be asserted for all communities heightens the importance of respecting the right to information and consultation.

EACOP Human Rights Heat Map (Without Mitigation)

Legend

Severity
1 – Low scope, low scale and reversible (e.g. excessive overtime that is voluntary and infrequent)
2 – High scope, low scale and reversible (e.g. inadequate compensation)
3 – High scope, low scale and difficult to remediate (e.g. influx)
4 – High scale and difficult to remediate, regardless of scope (e.g. forced eviction or child labour)
5 – Irreversible, regardless of scope (e.g. fatality)

Likelihood
1 – Rare
2 – Unlikely
3 – Possible
4 – Likely
5 – Almost Certain

Potential impacts in italics and with an asterisk (*) are for Tanzania only.

Severity of potential impact on people →					
			Community safety	Public Security Forces and Human Rights	
	Safe and healthy working conditions Child labour Forced labour		Non-discrimination Access to remedies	Private Security Forces Community health	Land & resettlement Contractor and supplier workers *Indigenous peoples** *Marine livelihoods**
		Freedom of Association Just and favourable working conditions		Cultural rights	Women's rights Right to information and consultation
				Community investment	
			Likelihood that impacts may occur →		

EACOP Human Rights Heat Map (With Mitigation)

		Public security forces Community safety			
			Contractor and supplier workers[33]		
		Private security forces Cultural rights	Community health Access to remedies	Land & resettlement *Indigenous peoples** Women's rights *Marine livelihoods**	
Freedom of Association (EACOP) Just and favourable work (EACOP) Safe and healthy work (EACOP)	Non-discrimination (EACOP)				Right to information and consultation
	Community investment				

Severity of potential impact on people →

Likelihood that impacts may occur →

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[33] As it has been determined that there is virtually no possibility that EACOP will directly use child or forced labour, these potential impacts have been removed from the heat map; however, as they remain a potential issue in relation to contractor and supplier workers, this is one of the reasons for the elevated rating of potential severity for contractor and supplier workers' rights.

4. Overall approach to human rights due diligence

As noted above, the HRIA is a proactive and strategic way of initiating human rights due diligence in line with the UNGPs. Human rights due diligence is an ongoing process that includes assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. The following section pulls together the main recommendations from the HRIA, including those set out above in relation to EACOP's salient human rights issues, in order to present a suggested approach or "road map" for the implementing the different components of human rights due diligence according to the UNGPs.

Identification and Assessment of Human Rights Impacts.

- The HRIA is a significant first step in assessing the human rights impacts of EACOP. As mentioned above, the HRIA process has hallmarks of both an integrated impact assessment (along with the various environmental and social due diligence processes), as well as a stand-alone HRIA process. The next steps for identifying and assessing potential human rights impacts include:

  - Completion of a number of ongoing processes that are compiling information and developing mitigation plans that are relevant for additional assessment of the salient human rights issues. These include the finalization of VPSHR risk assessments for Tanzania and Uganda; completion of the resettlement action plans and livelihood restoration plans for Tanzania, Uganda and the MEZ; additional engagement and research on potential interactions with indigenous peoples; the selection of the ECPM contractor(s) and development of more detailed contractor management plans; the development of a project-induced influx management plan; and, further decision-making about the design and management of camps, transportation routes, etc. To build upon the integrated HRIA approach to date, the HRIA team can provide targeted input and advice into these ongoing processes as needed.

  - Agreement on a process for updating the Provisional HRIA and producing a Final HRIA in a manner that incorporates as much of the additional information about mitigation measures in order to further refine the assessment of salient human rights issues.[34] Moreover, the process for producing a Final HRIA should include opportunities for consultation with internal and external stakeholders to validate the final prioritization of salient human rights issues and to get feedback on proposed mitigation measures and the overall approach to human rights due diligence.

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[34] In Total SA's guidance on HRIAs, it is recommended that a Provisional HRIA be produced for the purposes of internal review prior to producing the Final HRIA report. It is also suggested that it is premature to produce a Final HRIA report until some final project decisions and developments have been completed, e.g. in relation to the land acquisition program and selection of the ECPM contractor(s).

- Recognizing that the identification and assessment of human rights impacts is an ongoing process that should be undertaken at regular intervals in a project lifecycle,[35] it is suggested that another human rights impact assessment process should be conducted towards the end of the construction phase and prior to the commencement of operations, taking into account the latest information about the project plans and feedback from affected stakeholders about impacts or concerns that are relevant to human rights. This process would involve reviewing and updating the Final HRIA and should revise the prioritization of potential human rights impacts and adapt relevant mitigation measure for the operational phase, as well as identify areas where remediation may be necessary for impacts from the construction phase.[36]

Integrating and Acting Upon Findings

- Once the HRIA and other relevant environmental and social due diligence processes have been finalized, an overall Human Rights Action Plan can be finalized for EACOP. To effectively integrate the findings, the UNGPs suggest that responsibility for addressing impacts is assigned to the appropriate level and function within the business enterprise and that internal decision-making, budget allocations and oversight processes enable effective responses to such impacts.[37] Given that EACOP's final organizational structure has not yet been finalized, it is premature to assign responsibility for follow-up actions. However, experience from other companies suggests that an internal working group or task force is often an effective vehicle for sharing responsibility and oversight among the various departments that have a role in addressing human rights.

- Another part of acting upon findings relates to using leverage to address potential impacts that are caused or contributed to by EACOP's business partners. Training and capacity-building often are effective ways to exercise leverage with business partners. Therefore, it is recommended that EACOP can proactively develop training and capacity-building strategies to help mitigate human rights risks related to different business partners. For example, training materials on the VPSHR could be prepared in anticipation of early engagement with private and public security forces, and training materials on workers' rights could be prepared to support early engagement with the ECPM contractor(s) and sub-contractors.

Tracking and Monitoring Responses

- The UNGPs state that business enterprises should track the effectiveness of their responses and actions to prevent and mitigate human rights impacts.[38] In essence, this involves developing a monitoring plan to accompany the Human Rights Action Plan suggested above. Ideally the monitoring plan will include appropriate qualitative and quantitative indicators

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[35] See: UNGP 17(c) and Commentary to UNGP 18.
[36] This recommendation has been integrated into the ESMP. See: HR-NEW-53.
[37] See UNGP 19 and Commentary.
[38] See UNGP 20 and Commentary.

and will draw upon feedback from both internal and external sources, including affected stakeholders.

- In considering the development of a monitoring plan, the potential integration into mechanisms for monitoring the ESMP implementation should be considered.

- To the extent possible, participatory monitoring processes that involve consultation with affected stakeholders and other actors (e.g. civil society organizations or National Human Rights Institutions) should also be considered.

Communication

- The final component of ongoing HRDD relates to communication. The UNGPs state that business enterprises should be prepared to communicate externally about how they are addressing human rights impacts, particularly when concerns are raised by or on behalf of affected stakeholders.[39]

- In the longer-term, EACOP may consider various forms of formal reporting about its environmental, social and human rights performance, but in the shorter-term it is recommended that EACOP begins to communicate about its human rights commitments and due diligence efforts in the following ways:

  o Include some information about the human rights aspects that have been integrated into the ESIA in forthcoming consultations or communications campaigns about the ESIA.

  o Consider publishing the Final HRIA in as transparent a manner as possible, but at a minimum publish a summary of the main findings, recommendations and agreed HRDD actions.

  o As part of the overall Stakeholder Engagement Plan for the project, develop a specific stakeholder engagement plan for local and national civil society organizations who are interested in human rights to facilitate ongoing communication and feedback on other components of human rights due diligence.

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[39] See UNGP 21 and Commentary.

Part Two: HRIA Methodology

1. Background on HRIAs

In the business context, HRIA can be defined as a process for identifying, understanding, assessing and addressing the adverse effects of a business project or activities on the human rights enjoyment of affected stakeholders such as workers and community members. Undertaking a HRIA is a proactive and strategic way of initiating human rights due diligence in line with the UN Guiding Principles on Business and Human Rights (UNGPs). Furthermore, the HRIA serves to implement Total's General Specification on Human Rights Impact Assessment (GS EP SDV 103).

Why do businesses need to assess their human rights impacts?[40]

With the endorsement of the UN Guiding Principles by the Human Rights Council in 2011, it has been firmly established that businesses have a responsibility to respect human rights, including by identifying, avoiding, mitigating and remediating the human rights impacts with which they are involved. HRIA can provide a process for businesses to understand and address such impacts. HRIA of business projects and activities can provide a structured approach through which to:
- Identify adverse human rights impacts, including understanding these from the perspectives of impacted rights-holders such as workers and community members;
- Determine measures to address any adverse human rights impacts identified (through prevention, mitigation and remediation);
- Facilitate dialogue between a business, rights-holders and other relevant parties, in particular human rights actors;
- Facilitate capacity building and learning of company stakeholders, rights-holders and others involved in the impact assessment, including through awareness raising of respective rights and responsibilities;
- Enhance the accountability of businesses through documenting the impacts that have been identified and the actions taken to address these; and,
- Build partnerships between businesses and other stakeholders to address human rights impacts, including through developing joint actions to address cumulative impacts or legacy issues.

While the majority of HRIAs of extractive industry projects have been undertaken after the commencement of operations, the EACOP HRIA is being undertaken prior to construction at the same time that an environmental, social and health impact assessment (ESIA) is being conducted, and land acquisition and resettlement planning has begun. This has provided the HRIA with an opportunity to provide proactive input into the development of the Project's management systems with a view to avoiding and mitigating potential adverse human rights impacts on

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[40] DIHR Human Rights Impact Assessment Guidance and Toolbox, Welcome and Introduction, pp. 10-11.

workers and community members, thus contributing to the social license to operate for the Project and safeguarding the reputation of TEAM BV and its project partners.

Furthermore, as many financial institutions and investors are placing increased emphasis on human rights in their screening of companies and projects, the HRIA can also assist the Project at the financing stage. The ability to demonstrate proactive human rights due diligence through the HRIA process should be particularly important if and when seeking financing from Development Finance Institutions (e.g. International Finance Corporation, European Bank for Reconstruction and Development, etc.) Export Credit Agencies, or commercial banks that adhere to the Equator Principles.

2. *International standards*

The HRIA, as an impact assessment process, helps to fulfill a number of international standards related to human rights due diligence. Where relevant, the recommendations and outputs of the HRIA will also help the Project identify supplementary international standards for the management and mitigation of specific human rights risks.

The following table sets out a variety of different international standards that the HRIA will help to fulfill. More detailed assessment of these and other international standards will be included in the full HRIA.

International standards relevant to the HRIA		
Standards	**Specific Requirements**	**Role of HRIA**
Total's human rights commitments in its Code of Conduct, Human Rights Guide and General Specification on HRIAs	As stated in the Code of Conduct, respect for Human Rights is one of Total SA's 3 priority business principles. In line with its commitment to the UN Guiding Principles on Business and Human Rights, Total SA is committed to human rights assessment processes. As stated in the Human Rights Strategic Roadmap, Total SA seeks to integrate respect for human rights into risk and impact management processes, including environmental and social baselines. A number of potential HRIA drivers are set out in section 4 of Total's General Specification on HRIAs.	• The HRIA builds upon Total's recent experience in conducting HRIAs as a platform for mitigating potential risk to people and risk to business in high-risk contexts, as well as for engagement with local and international stakeholders on complex issues. • The HRIA demonstrates commitment to Total SA's human rights standards, can help build awareness about human rights with project partners and government officials, and can help to meet stakeholder expectations about human rights due diligence in Tanzania, Uganda and internationally.
UN Guiding Principles on	Guiding Principle 17: In order to identify, prevent, mitigate and account for how they address their adverse	• The Government of France has adopted a National Action Plan that confirms its expectations that

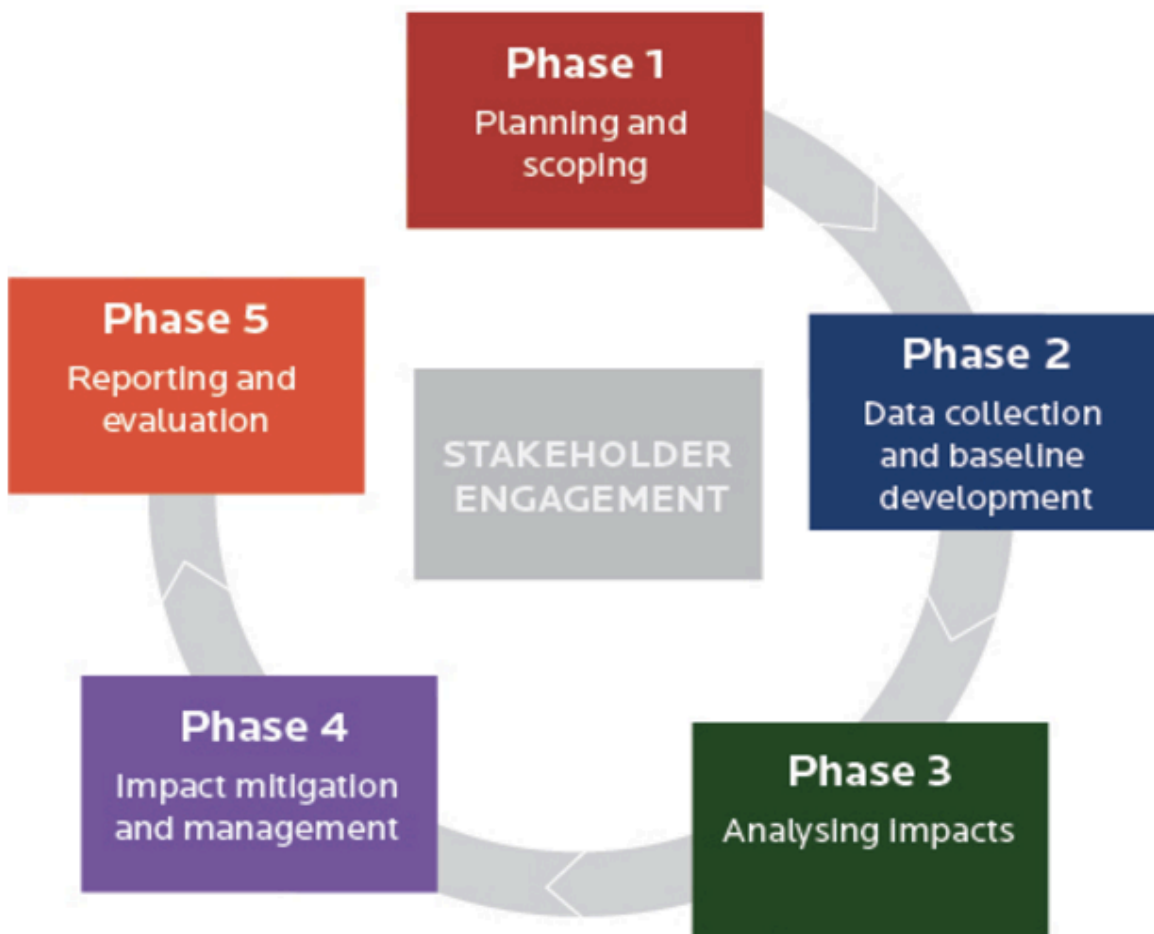| International standards relevant to the HRIA		
Standards	**Specific Requirements**	**Role of HRIA**
Business and Human Rights	human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.	French companies and their affiliates will implement the UNGPs. • Financial institutions and investors increasingly expect businesses to implement the UNGPs. • NHRIs and NGOs in Uganda and Tanzania expect businesses to implement the UNGPs. • In and of itself, conducting a HRIA sends a strong signal that the Project intends to implement the UN Guiding Principles. The HRIA will use the UNGPs as the basis for its analysis and recommendations about human rights due diligence for the Project.
IFC Environmental and Social Performance Standards	Guidance Note 1, paragraph 3: Business should respect human rights, which means to avoid infringing on the human rights of others and address adverse human rights impacts business may cause or contribute to. Each of the Performance Standards has elements related to human rights dimensions that a project may face in the course of its operations. Due diligence against these Performance Standards will enable the client to address many relevant human rights issues in its project	• Most financial institutions use the IFC Performance Standards as the key benchmark for the environmental and social conditions attached to project finance. • The HRIA should be seen as reinforcing the Project's commitment to the IFC Performance Standards; collaboration with other consultants whose work is based on the IFC Performance Standards will ensure effective integration of human rights considerations into environmental and social management plans. • Special attention will be paid in the conduct of the HRIA to the potential triggering of IFC PS7 on Indigenous Peoples.
OECD Guidelines on Multinational Enterprises	Chapter 4, Commentary, Paragraph 45: [The Guidelines] recommend that enterprises carry out human rights due diligence. The process entails assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses as well as communicating how impacts are addressed. Human rights due diligence can be included within broader	• The Government of France expects companies operating abroad to implement the OECD Guidelines. • Affected stakeholders (community groups and NGOs) use the OECD Guidelines to bring cases (Specific Instances) against companies from OECD countries; many of these cases are about human rights.

International standards relevant to the HRIA		
Standards	**Specific Requirements**	**Role of HRIA**
	enterprise risk management systems provided that it goes beyond simply identifying and managing material risks to the enterprise itself to include the risks to rights-holders. It is an on-going exercise, recognizing that human rights risks may change over time as the enterprise's operations and operating context evolve.	• If ever there is a Specific Instance, he HRIA can provide evidence to the OECD National Contact Point that the relevant human rights due diligence requirements in the OECD Guidelines have been fulfilled.
Voluntary Principles on Security and Human Rights (VPs)	The ability to accurately assess risks present in a Company's operating environment is critical to the security of personnel, local communities and assets; the success of the Company's short and long-term operations; and to the promotion and protection of human rights. In some circumstances, this is relatively simple; in others, it is important to obtain extensive background information from different sources; monitoring and adapting to changing, complex political, economic, law enforcement, military and social situations; and maintaining productive relations with local communities and government officials.	• Total SA is an official member company of the VPs and produces an annual report on its implementation of the VPs. • The EACOP security manager has experience in implementing the VPs in other high-risk country contexts. • The HRIA will include a strong focus on the VPs and will include collaborative risk assessment activities for Tanzania and Uganda to help develop a strong VPs implementation plan for the Project.
The Government of France's new law on reasonable vigilance	In March 2017, the French Constitution Court upheld a new law (Law No. 2017-399 of March 27, 2017) that impose "reasonable vigilance" requirements on companies headquartered in France and employing more than 5,000 employees in France, or headquartered in France or abroad and employing more than 10,000 employees worldwide. The new law can impose liability on French companies for failure to exercise reasonable vigilance about potential human rights abuses in their supply chains overseas.	• One of the focus areas of the HRIA is to examine the potential impacts related to EACOP's contractors and suppliers, thus contributing to reasonable vigilance requirements. • As the French law is very new, ongoing attention will be paid throughout the HRIA to the reasonable vigilance requirements as they are clarified in the coming months.

The discussion of international standards in the HRIA takes into account the evolution of Ugandan and Tanzanian law, including with respect to business and human rights. As outlined in Part 3 with the HRIA findings, there are numerous gaps between international human rights standards

and domestic laws in both countries. At the same time, there are ongoing developments in law, policy and advocacy around business and human rights that should narrow these gaps over time.

3. Overview of Methodology

The HRIA was based on the Danish Institute for Human Rights HRIA Guidance and Toolbox. The following diagram outlines the key process steps in the implementing a HRIA.

4. Overview of HRIA implementation

Phase 1: Planning and Scoping
- Kick-off meeting with RSK and Total representatives
- Assembling HRIA team, including local human rights experts in Tanzania and Uganda
- Coordination with other environmental and social due diligence teams
- Desk-top research on project and country context
- Scoping mission to Tanzania and Uganda in July 2017
- Telephone interviews with EACOP managers responsible for different project components
- Preparation of HRIA Scoping Report and HRIA Worksheets

Phase 2: Data Collection and Baseline Development
- Coordination with social baseline teams to select sites for HRIA fieldwork
- Main fieldwork along pipeline route in Tanzania and Uganda
- Targeted fieldwork in Arusha related to indigenous peoples in Tanzania
- Collaborative risk assessment on security and human rights with EACOP security manager
- Updating HRIA worksheets and providing input into social baseline studies
- Workshop with EACOP local management team to review preliminary list of salient human rights

Phase 3: Analyzing Impacts
- Updating HRIA worksheets and updating list of salient human rights
- Participation in impact assessment workshop with other environmental and social teams
- Verification mission to Tanzania and Uganda to fill information gaps
- Input into ESIA impact assessments
- Refining analysis of potential human rights impacts

Phase 4: Impact Mitigation and Management
- Review of ESIA mitigation measures and input of additional human rights measures
- Input of human rights information into Tanzania RAP
- Coordination with EACOP CLOs for additional stakeholder engagement around priority issues
- Developing more detailed description of human rights mitigation measures for HRIA
- Development of an overall roadmap for proactive human rights due diligence

Phase 5: Reporting and Evaluation
- Review and input into ESIA reports
- Drafting Provisional HRIA report
- Developing workplan for consultation and preparation of a Final HRIA report (TBD)

5. Stakeholder Engagement for HRIA

Stakeholder engagement, particularly with affected stakeholders, is one of the hallmarks of a credible HRIA process.[41] Furthermore, Total SA's HRIA guidance highlights the importance of engaging with affected stakeholders throughout the HRIA. To date, the HRIA team has engaged with 1,254 people over the course of different phases of the HRIA process.[42]
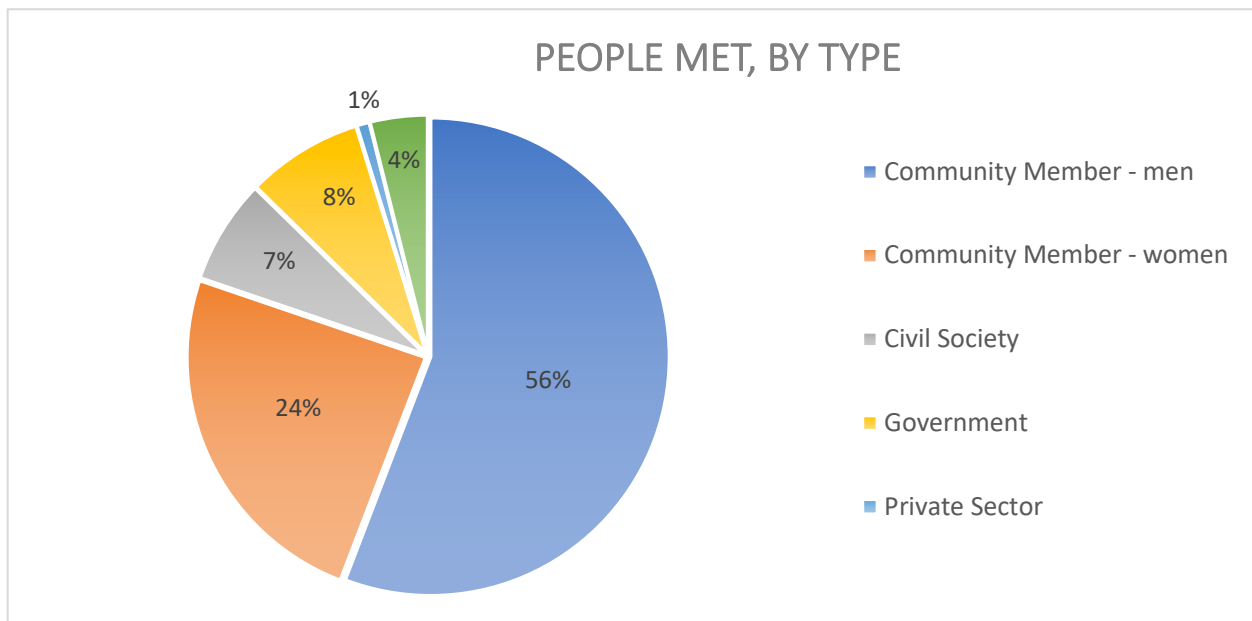

NUMBER OF PEOPLE MET, PER HRIA PHASE

SCOPING	FIELDWORK	VERIFICATION	EACOP
54	816	335	49
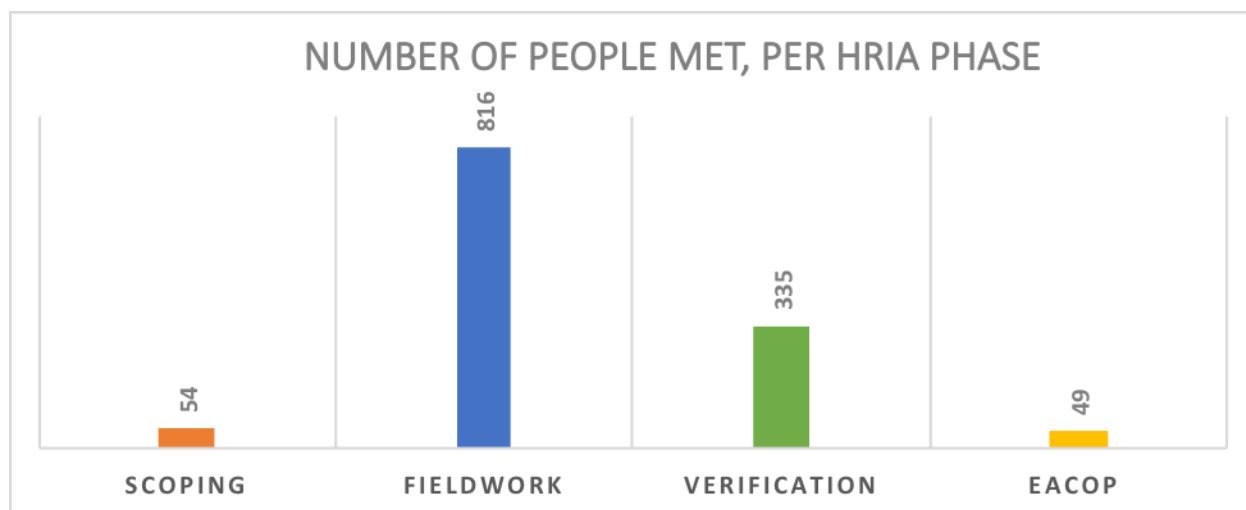
As can be seen from the following table and pie-chart, the stakeholder engagement for the HRIA has been focused mainly on community members and civil society organizations in order to prioritize the perspectives, input and concerns of affected stakeholders. Of all the people that have participated in the HRIA process to date, 1095 (approximately 77%) have been community members or civil society representatives.   This engagement was facilitated through the involvement of local human rights experts on the HRIA team, the assistance of EACOP Community Liaison Officers and the engagement with the ESIA teams.

Stakeholder Groups	People Engaged
Community Member - men	700
Community Member - women	306
Civil Society	89
Government	99
Private Sector	11
EACOP Representatives and Consultants	49

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[41] Participation of affected stakeholders (or rights-holders) is the first of the "top 10 key criteria for HRIA" in the DIHR HRIA Toolbox and Guidance. See: "Welcome and Introduction" module of the HRIA Toolbox and Guidance, p. 22, accessed at:
https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/business/hria_toolbox/introduction/welcome_and_introduction_final_may2016.pdf_223791_1_1.pdf

[42] There was extensive engagement with EACOP representatives, including other consultants conducting impact assessments, throughout all phases of the HRIA, so they have been counted separately in this graph.

PEOPLE MET, BY TYPE

- Community Member - men — 56%
- Community Member - women — 24%
- Civil Society — 7%
- Government — 8%
- Private Sector — 1%
- 4%

At the same time, it has also been important to engage with EACOP representatives, consultants conducting other impact assessment activities, and government representatives to properly understand the project design, potential impacts and mitigation measures and the regulatory requirements for the project. The interest, cooperation and support of the EACOP representatives and consultants must be acknowledged as an important factor in conducting an HRIA at an early phase of project development.

In terms of the community engagement aspect of the HRIA, it was not possible for the HRIA team to engage with all communities along the pipeline route. Therefore, a sampling approach was used whereby communities were selected in order to have an understanding of the potential impacts related to different project components (e.g. camps, pipe yards, pipeline, access roads) different community profiles in terms of their main livelihood activities and potential vulnerabilities. During the site selection phase, the HRIA team benefited from the input of the local human rights experts and the advice of the social baseline teams who had previously visited communities along the pipeline route.

The following table provides a list of the different locations where HRIA stakeholder engagement activities took place. Separate maps that show these locations for Uganda and Tanzania follow the table.

Stakeholder Engagement for HRIA – Stakeholder Engagement Locations	
Region / District	Town or Village
Tanzania	
Dar Es Salaam / Kinondoni	Dar Es Salaam
Arusha	Arusha
Kagera / Misenyi	Kyaka / Bulifani Village
Kagera / Bukoba	Kibirzi / Kamuli Village
Kagera / Muleba	Kasharunga / Runazi Village
Kagera / Muleba	Mubunda / Kisindaga Village
Geita / Chato	Chato (town)
Geita /Chato	Bukome / Mukongo Village
Geita / Chato	Buseresere / Iparamasa Village
Geita / Chato	Mbogwe / Lubeho Village
Shinyanga / Kahama	Chapulwa Village
Shinyanga / Kahama	Mwenda Kulima
Shinyanga / Kahama	Kahama
Tabora / Nzega	Nzegandogo / Undomo Village
Tabora / Nzega	Nzega town
Singida	Msisi / Ntondo Village
Singida	Ntongo/ Igauri Village
Dodoma / Chemba	Paranga/ Kalema-Balai Village
Dodoma / Chemba	Songoro/ Hamai Village
Dodoma / Chemba	Mrijo/Mrijon Chin Village
Manyara / Kiteto	Partimbo Ward
Manyara / Kiteto	Partimbo/ Kimana Village
Manyara / Kiteto	Partimbo/Nbele Hamlet
Manyara / Kiteto	Loolera/ Loolera Village
Manyara / Handeni	Sindeni/ Sindeni Village
Manyara / Handeni	Misima/Mbagwi Village
Tanga	Kuliani Village
Tanga	Changoleani / Ndaoya Street
Tanga	Changoleani / Putini Village
Tanga	Changoleani / Changoleani Village
Tanga	Kiomoni / Kiomoni Village
Uganda	
Kampala	Kampala
Rakai	Mutukula
Lwengo	Wajinja Cultural Site
Lwengo	Mbrizi
Sembabule	Sembabule - Market
Sembabule	Serinya
Gomba	Bugula
Mubende	Bucuya
Mubende	Kyenda
Mubende	Kamusenene
Buseruka	Buseruka

Stakeholder Engagement for HRIA – Stakeholder Engagement Locations	
Region / District	Town or Village
Buseruka	Kayeera Village
Buliisa	Pida A (Kawaibanda Landing Site)
Buliisa	Booma Village
Hoima	Ndaragi
Hoima	Kapapi
Hoima	Kabatindule

Map of HRIA stakeholder engagement locations - Tanzania
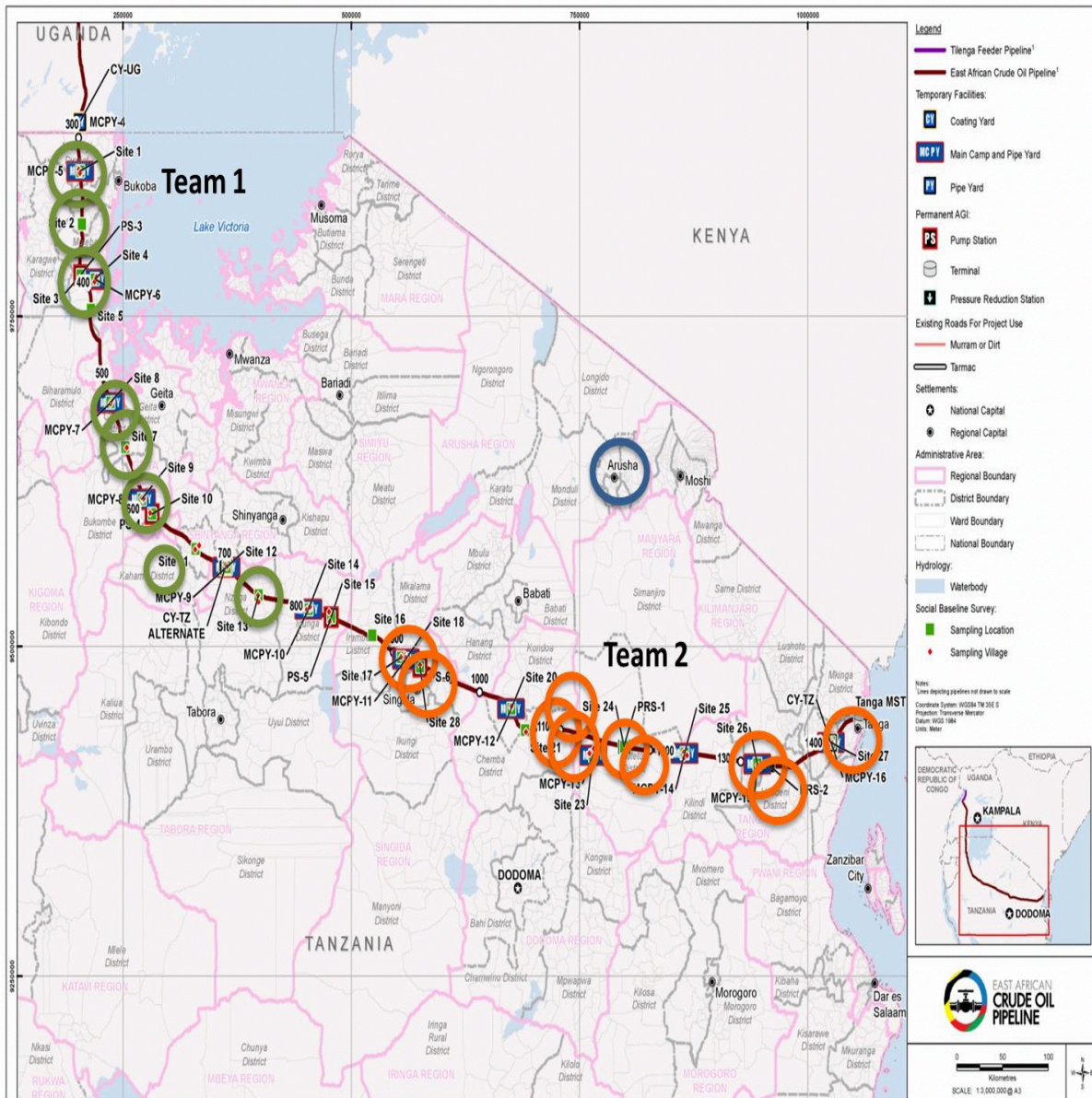
Map of Stakeholder Engagement locations – Uganda
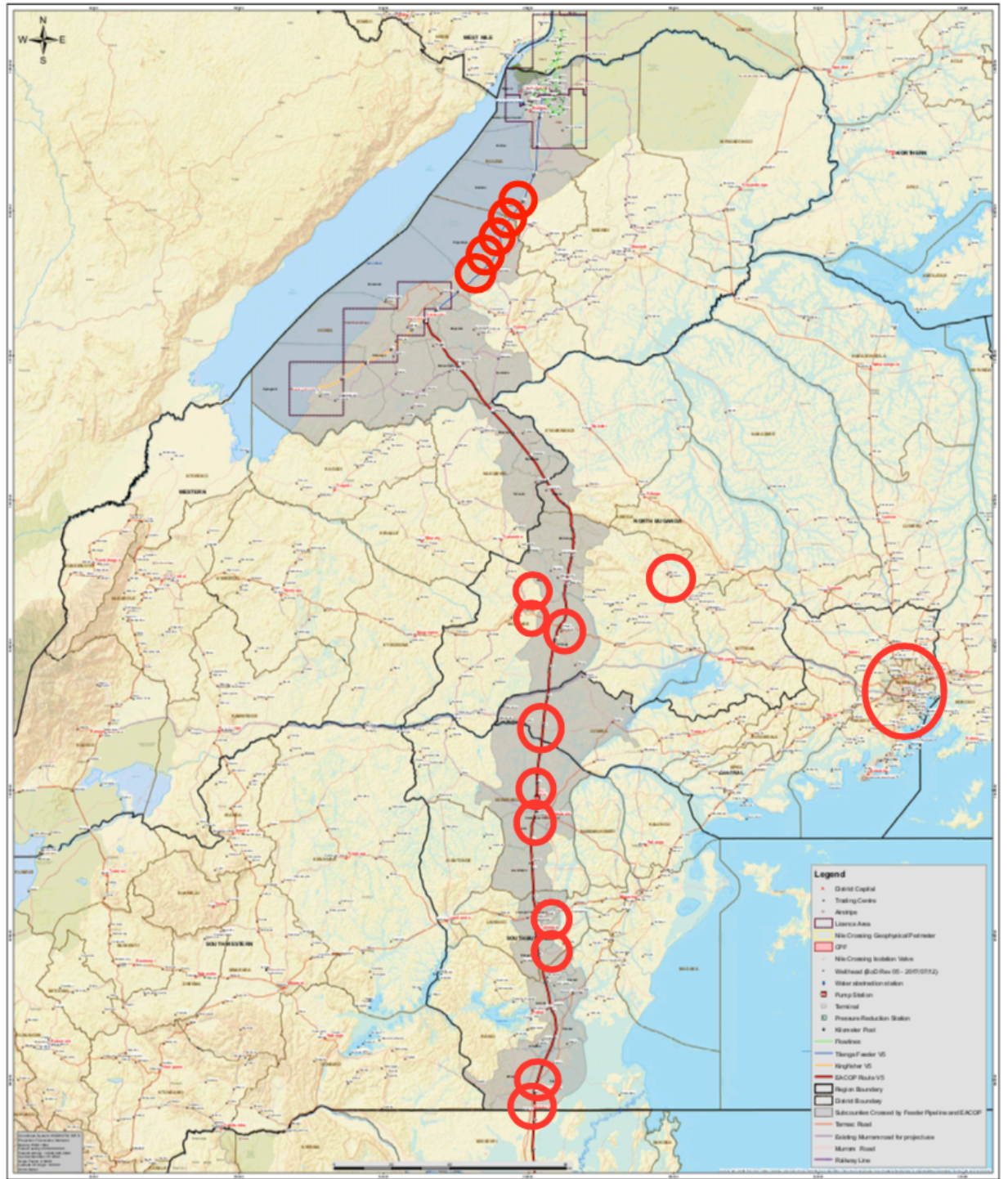
Part Three: HRIA Findings

As outlined in Part One, the scope of the HRIA includes all of the human rights issues in the following table. This part of the report provides a summary of the main findings for each of these issues below.

Potential Human Rights Impacts
Workers' Rights
1. Non-discrimination (Articles 1, 2 and 23(2) of UDHR)
2. Freedom from child labour (Articles 25(2) and 26(1) of UDHR)
3. Freedom from forced labour (Articles 4 and 13(1) of the UDHR)
4. Freedom of association (Articles 20 and 23(4) of the UDHR)
5. Just and favourable working conditions (Article 7 of the UDHR)
6. Safe and healthy working conditions (Article 7 of the UDHR)
7. Contractor and suppliers' workers' rights (All of the above-mentioned rights)
Human Rights of Community Members
8. Land and Resettlement (Articles 17 and 25 of the UDHR)
9. Indigenous Peoples Rights (UNDRIP)
10. Right to information (Article 19 of ICCPR)
11. Community safety (Article 25(1) of the UDHR)
12. Community health (Article 25(1) of the UDHR)
13. Water and environment (Article 25(1) of the UDHR)
14. Cultural rights (Article 27 of the UDHR)
15. Community investment (Articles 25 and 26 of the UDHR)
Cross-Cutting Human Rights Issues
16. Security and human rights (Article 3 of the UDHR)
17. Women's rights (Articles 1, 2 and 23(2) of UDHR)
18. Access to remedies / grievance mechanisms (Applies to all human rights)

For each of these human rights issues, the relevant sub-section contains (a) an overview of the applicable legal standards; (b) a discussion of the HRIA findings for Uganda and Tanzania; and (c) a list of the mitigation measures that are currently proposed for the project.

At the time of writing, the mitigation measures that have been developed for the ESIA—and which will be integrated into the project's commitment register and environmental and social management plan (ESMP)—are being reviewed by the project management team, so there may be some adjustments to the final wording of some mitigation measures. Therefore, the final set of mitigation measures for the ESIA will be reviewed and any required adjustments will be made during the preparation of the Final HRIA.

1. Non-discrimination

a. Standards

The right to non-discrimination provides that all human beings are free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. This applies to workplaces, where everyone must be treated the same by employers regarding hiring, pay, promotions, trainings, disciplinary measures and any other situations in the workplace. It also protects anyone from harassment based on any motive.[43] Additional international instruments were adopted regarding gender equality, in order to work towards establishing workplaces that are more equal and empowering for women who have been historically disadvantaged. Because of the reproductive role of women, some workplace policies must sometimes be adopted to allow them to conciliate their roles as mothers and workers.[44]

The ILO's instruments protect similar rights.[45]

International standards for responsible business provide that businesses must base the employment relationship on the principle of equal opportunity and fair treatment.[46]

At the regional level, the African Charter on Human and Peoples' Rights protects against discrimination based on race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status (article 2), that every individual is equal (article 3), that everyone should be able to work under equitable conditions and that equal work means equal pay (article 15). The Charter also provides that women and family must be protected and that discrimination must be eliminated (article 18). Furthermore, the Charter gives a duty to individuals to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance (article 28). The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was also adopted and provides that States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and

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[43] Universal Declaration of Human Rights, articles 1, 2, 5 and 23; International Covenant on Civil and Political Rights, articles 2, 3 and 7; International Covenant on Economic. Social and Cultural Rights, articles 2 and 3; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, articles 2(1), 4 and 10,

[44] Convention on the Elimination of All Forms of Discrimination against Women; International Covenant on Economic, Social and Cultural Rights, article 10 (2); Women Empowerment Principles (2010); Sustainable Development Goals, Goal 5; Millennium Development Goals and the Decent Work Agenda, MDG 1, MDG 3, MDG 4, MDG 5, MDG 6.

[45] ILO Convention 111 on Discrimination (Employment and Occupation); ILO Maternity Protection Convention, 2000 (No. 183); Recommendation No. 191 (2000).

[46] OECD Guidelines on Multinational Enterprises, Chapter II, General Policies, Recommendations 10,11, Chapter V, Employment and Industrial Relations, Recommendation 1, Commentary 54; International Finance Corp (IFC) Performance Standards on Social and Environmental Sustainability, Objectives, Requirements 15-17.

career advancement and other economic opportunities (article 13) and that special measures should be adopted to ensure protection and empowerment of women with disabilities (article 23). Other soft instruments are also adopted by the African Union to ensure protection and adequate development for women.[47]

At the Ugandan level, the Constitution and the Employment Act 2006 prohibit discrimination on the grounds of race, colour, sex, religion, political opinion, social standing or ethnic origin, HIV status or disability. The Uganda Human Rights Commission and the Equal Opportunities Commission are mandated to promote human rights and equality, including marginalised groups such as persons with disabilities and ethnic minorities. The Equal Opportunities Act 2007 aims to ensure affirmative action for all marginalised groups. The Persons with Disabilities Act 2006 prohibits discrimination against persons with physical or mental disabilities in employment, including hiring, promotion and compensation. These laws also encourage affirmative action to protect marginalized groups. Regarding women, the Employment Act guarantees equal pay for equal work, prohibits sexual harassment and guarantees 60 days of maternity leave at full wages. The Sexual Offences Bill 2015, which aims to reduce sexual offences and provide compensation and justice for victims is on the table since 2002. There are also some policies to increase women participation in the economic planning process such as the Uganda Women Entrepreneurship Programme (UWEP) or the National Development Plan 2015/16 – 2019/20 (NDPII). There is anti-homosexuality legislation in Uganda, which is said to encourage harassment and violence against them, while steps should be taken to combat and prevent discrimination and societal stigma.

The Constitution of Tanzania protects against discrimination (article 13) and discrimination in the workplace (articles 22 and 23). Other labour laws also protect against discrimination in the workplace, for instance the Employment and Labour Relations Act of 2004 provides that every employer will ensure that he/she promotes an equal opportunity in employment and strives to eliminate discrimination in any employment policy or practice. The People with Disability Act protects the rights of people with disabilities. Homosexuality is also prohibited in Tanzania, which poses challenges in terms of fighting discrimination against this group. The law in Tanzania prohibits discrimination and stigma based on health status of a person. There is a tripartite code of conduct instructing employers how to formulate and implement appropriate workplace policies regarding HIV/AIDS.

b. Findings

i. Uganda

Concerns raised in Uganda about discrimination in employment relate to discrimination of women, people with disabilities or illness, and individuals by brokers/middlemen and government officials who may be involved in hiring.

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[47] See also Banjul Declaration of the 59th Ordinary Session of the African Commission on Human and Peoples' Rights under the theme "Women's Rights: Our Collective Responsibility"; Declaration on Gender Equality in Africa.

Regarding women's employment, women in project-affected communities highlight that it is generally difficult for them to find work outside the home. This can be for various reasons including the heavy workload of women at home to take care of crops, children, and household duties. Many women are prohibited by their husbands to work outside the home. Women state that they are discriminated against in obtaining employment. Women may have to give sexual favours to obtain employment, to be paid once they are employed, or to obtain promotions. Women who are employed highlight that men and women often receive different salaries. Women's limited access to education and early marriage also restrict them from obtaining equal pay within the formal and informal sectors of the economy. Women workers often suffer from harassment in the workplace and gendered violence against them.

People in project-affected communities raised concerns based on past experience with previous projects about the use of middlemen. In particular, middlemen are used to find workers for projects and those middlemen withhold from workers entire salaries for months of work.
People in project-affected communities also raised concerns about discrimination in employment for persons living with HIV-AIDS.

Regarding the EACOP project, there is a strong expectation in Uganda that 'local' people should have priority and benefit from the jobs that they are able to do. People in project-affected communities raised concerns about who will be in charge of the hiring process in the communities and asked if and how government officials will be involved in local employment decisions. Some communities have expressed doubt as to the capacity of local officials (e.g. Village Chairperson) was also raised in project-affected communities about the unfair treatment by the EACOP project of local workers in comparison to expatriate workers.

Women want employment with the project but are concerned that the project will favour men over women for employment. Women are also concerned that their employment by the project might create conflict at home with their husband. There are low levels of understanding in Uganda of a non-discriminatory work culture such as with a mixed gender work-force in project-affected communities.

ii. Tanzania

Concerns raised in Tanzania around discrimination in employment are similar to those in Uganda and relate to discrimination of women, people with disabilities or illness, and individuals who are not favoured by brokers or government officials.

Regarding women's employment, women in project-affected communities highlight that it is generally difficult for them to find work outside the home. This can be for various reasons including the heavy workload of women at home to take care of crops, children, and household duties. Many women are prohibited by their husbands to work outside the home. Women state that they are discriminated against in obtaining employment. Women may have to give sexual favours to obtain employment, to be paid once they are employed, or to obtain promotions. Women who are employed highlight that men and women often receive different salaries.

Gender-based discrimination in terms of wages and legal protection in employment occurs frequently. Women comprise a disproportionate number of workers in the informal economy, are often employed in hazardous job. Women workers often suffer from harassment in the workplace, including verbal abuse, threats, and gendered violence.

People in project-affected communities raised concerns based on past experience with previous projects about the use of middlemen. In particular, middlemen are used to find workers for projects and those middlemen withhold from workers entire salaries for months of work.
People in project-affected communities also raised concerns about discrimination in employment for persons living with HIV-AIDS.

Regarding the EACOP project, there is a strong expectation in Tanzania that 'local' people should have priority and benefit from the jobs that they are able to do. People in project-affected communities raised concerns about who will be in charge of the hiring process in the communities and asked if and how government officials will be involved in local employment decisions. Some communities have expressed doubt as to the capacity of local officials (e.g. Village Chair or Executive Officer) to do this equitably and express fears of corruption, favouring the hiring of men, etc. Some concern was also raised in project-affected communities about the unfair treatment by the EACOP project of local workers in comparison to expatriate workers.

Women want employment with the project but are concerned that the project will favour men over women for employment. Women are also concerned that their employment by the project might create conflict at home with their husband. There are low levels of understanding in Tanzania of a non-discriminatory work culture such as with a mixed gender work-force in project-affected communities.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
An approved recruitment procedure will be implemented that:
• Is transparent and open to all regardless of race, political opinion, colour, creed, sexuality or gender.
• Includes a local recruitment strategy.
• Considers social and cultural sensitivities.
• Describes the employment criteria for the recruitment of professional, semiskilled and unskilled labour,
• Prohibits discrimination or harassment of job applicants.
• Includes specific non -discriminatory stipulations including:
- Applicants will not be asked questions regarding their marital status, intent to have children, or number of dependents, which is sometimes used as a method to avoid hiring

women because of fear that their duties at home will interfere with their dedication to work.
- Applicants or employees will not be required to take pregnancy tests, HIV/AIDS tests, get abortions, or sign agreements not to become pregnant.

An approved job advertisement template, including job descriptions stating the required skills, will be used to advertise vacancies. Job vacancies will be advertised in local languages in the PACs through appropriate and accessible media and on the project website.

A public awareness programme to communicate employment and training opportunities will be developed and implemented including but not limited to:
• The local recruitment strategy.
• Criteria for employment.
• The number and types of employment opportunities.
• The procedure for applying for employment.
 Information will be disseminated publicly, including via media announcements at regional and national levels (as appropriate) and public meetings in PACs.
Care will be taken to reach women and vulnerable groups if necessary through targeted meetings scheduled at times and locations that may increase women's participation.

Targets for local recruitment from PACs will be set by the project. These will be designed to meet legal requirements

A formal structure will be established (e.g. Ethics Committee), which deals with events of alleged harassment or discrimination or any other infringement of Human Rights linked to the working environment. A company representative will sit on this Ethics Committee as well.

Hiring managers from (sub) contractors will receive training regarding the company's non-discrimination policies.

Contracts will require that the (sub) contractor meets a target stipulating a minimum number of women as well as staff with disabilities or other vulnerable groups.

The project will require that all workers in similar jobs work under the same, or similar, working conditions (salary, vacation, insurance etc.).

Equal remuneration for jobs of equal value for men and women will be provided.

Ensure that benefits for spouses or dependants of employees (such as health insurance or pension schemes) are offered on a non-discriminatory basis.

2. Freedom from child labour

a. Standards

International standards are very clear: child labour is a form of exploitation that is a violation of a human right. It is the declared policy of the international community and of almost all governments to abolish child labour. While the term "child" covers all girls and boys under 18 years of age, not all under-18's must be removed from work: the basic rules under international standards distinguish what constitutes acceptable or unacceptable work for children at different ages and stages of their development. International standards provide the framework for national law to prescribe a minimum age for admission to employment or work that must not be less than the age for completing compulsory schooling, and in any case not less than 15 years. Lower ages are permitted for transitional periods – in countries where economic and educational facilities are less well-developed the minimum age for regular work generally is 14 years, and 12 years for "light work". The minimum age for hazardous work is higher, at 18 years, for all countries.[48] The ILO Conventions protect the same rights.[49]

International standards for responsible business provide that the "client will not employ children in any manner that is economically exploitative, or is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. The client will identify the presence of all persons under the age of 18. Where national laws have provisions for the employment of minors, the client will follow those laws applicable to the client. Children under the age of 18 will not be employed in hazardous work. All work of persons under the age of 18 will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work" and that companies should "contribute to the effective abolition of child labour, and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency".[50]

The African Charter on the Rights and Welfare of the Child protects numerous children's rights, including specific prohibition of child labour (article 15). The African Charter on Human and Peoples' Rights also protects the rights of children in general (article 18).

Both Uganda and Tanzania have legislations against child labour. However, the institutions mandated to ensure respects of those standards are not sufficiently funded and this hinders their

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[48] International Covenant on Economic, Social and Cultural Rights, article 10; the Convention on the Rights of the Child, article 32.

[49] ILO Minimum Age Convention No. 138; Worst Forms of Child Labour Convention No. 182; ILO Minimum Age for Admission to Employment Recommendation R146, article 3; ILO Worst Forms of Child Labour Recommendation R190.

[50] OECD Guidelines on Multinational Enterprises, Chapter V-Employment and Industrial Relations, Recommendation 1. C), Commentary 51-52; International Finance Corp (IFC) Performance Standards on Social and Environmental Sustainability, Performance Standard #2, Requirements 21 – Child Labour.

capacity to control effectively the occurrence of child labor. Furthermore, labour laws are not well known by employers and workers.[51]

b. Findings

i. Uganda

In Uganda, the HRIA fieldwork identified that child labour is prevalent in pastoralism, artisanal mining (ASM), agriculture, and family work. Child labour is especially prominent in extremely poor households in rural communities. In areas of Uganda where ASM occurs, numerous instances of school dropouts and child labour in artisanal and small-scale mining were identified. Child labour tends to be driven by the unstable and previous livelihood situations of children's families. Children who are the sole head of household are particularly vulnerable and driven by the need to generate income.

People in project-affected communities highlight that children dropping out of school is often driven by parents' lack of ability to pay school fees for private schools or for the needs of their children. This pushes families towards finding other ways to gain income.

Regarding the EACOP project, project-affected communities raised concerns about the risk of children being enticed to drop out of school to hang around project works. The largest risk appears to be child labour in small EACOP-related construction projects that are implemented by subcontractors. There is also the risk in households where a parent works for EACOP that the children start having more responsibilities in house chores and taking care of the family crops and cattle.

ii. Tanzania

In Tanzania, child labour is prevalent in the project area of impact in several sectors, including mining, agriculture (particularly seasonal labour, e.g. mango selling), construction (e.g. children carrying rocks), pastoralism, and family work. Agricultural production is predominantly household based. In project-affected communities, most households (men, women and children) engage in crop growing and rely on household members for labour. Children participate in farming when not at school. Children often assist with livestock herding and some may not be able to attend school as a result. There is also the risk in households where a parent works for EACOP that the children start having more responsibilities in house chores and taking care of the family crops and cattle.

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[51] Uganda: Employment Act 2006, Employment (Employment of Children) Regulations, 2012 (Statutory Instrument 17 of 2012); Prevention of Trafficking in Persons Act of 2009; Children Act Cap 59; Children (Amendment) Act No.19 of 2016.
Tanzania: Employment and Labour Relations Act of 2004; Laws of the Child Act of 2009.

Concerns were raised among community members in project-affected communities regarding child labour in artisanal and small-scale mining. Community members highlighted numerous examples of children dropping out of school to hang around ASM activities to look for petty employment, such as carrying or crushing rocks.

Some stakeholders in project-affected communities, particularly schoolteachers and mothers in communities where there have been more experiences of child labour, strongly emphasized their concerns around the risk of child labour in the EACOP project. These concerns relate to the risk of children being enticed to drop out of school to hang around project works, in the hopes of obtaining petty employment. The largest risk appears to be child labour in small EACOP-related construction projects that are implemented by subcontractors.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project

Mitigation measures incorporated into ESIA and proposed commitment register
Inspections of third-party quarries and borrow pits will be undertaken before use to determine regulatory compliance, and their environmental, social, and health and safety performance (e.g., complaints, employment practices – particularly use of child labour). Periodic audits will be undertaken thereafter as considered appropriate. Where required, an action plan will be implemented to raise the standards until they are acceptable to the project. All inspections, audits and proposals to achieve compliance with project standards (if necessary) will be submitted to obtain approval to use the site. Only sites that comply with project standards will be used.
As a standard clause in all contracts, no employees shall be hired, directly or indirectly, under the age of 18 years of age. It will be the responsibility of contractors and subcontractors to ensure that no children under the age of 18 are involved in their supply chain. If periodic inspections and audits identify children under the age of 18 being hired by contractors and subcontractors, this will be considered a breach of contract and the child will be removed from the workplace. Their salary may continue to be paid to them for a set period pending the putting in place an alternative solution.
As part of ongoing engagement and dissemination efforts, teachers, local authorities and others concerned about the project's child labour approach will be alerted and such concerned stakeholders will be encouraged to use the grievance mechanism in case of observations of project-related child labour incidents.

3. Freedom from forced labour

a. Standards

International standards provide a strong prohibition against forced labour, stating that everyone has the right to work in a context the freely choose or accept.[52]

The ILO has a series of Conventions prohibiting forced labour.[53] In November 2016, the Protocol of 2014 to the Forced Labour Convention entered into force. Article 2 of the new Protocol has provisions for the prevention of forced labour, including supporting due diligence by the public and private sectors. The Protocol also puts emphasis on working with employers' associations and workers associations.[54]

International standards for responsible business also provide protection against forced labour, stating that the "client will not employ forced labor, which consists of any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor – contracting arrangements. The client will not employ trafficked persons" and recommending that the client should "contribute to the elimination of all forms of forced or compulsory labour and take adequate steps to ensure that forced or compulsory labour does not exist in their operations".[55]

The African Charter on Human and Peoples' Rights provides that "Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited" (article 5).[56]

In Uganda, the Constitution also prohibits slavery, servitude and forced labour. The Prevention of Trafficking in Persons Act 2009 further prohibits all forms of trafficking with a maximum punishment of 15 years to life imprisonment. Prison labour is not considered as forced labour

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[52] Universal Declaration of Human Rights, articles 4 and 13(1); International Covenant on Social, Economic and Cultural Rights, articles 6 and 7; International Covenant on Civil and Political Rights, article 8; Convention on the Protection of the Rights of All Migrant Worker and Members of Their Families, article 11; Convention on the Elimination of All Forms of Discrimination against Women (1979), article 6.

[53] ILO Forced Labour and Servitude Convention C29, articles 2, 12 and 13; ILO Abolition of Forced Labour Convention C105; ILO Declaration on Fundamental Principles and Rights at Work, article 2.

[54] Protocol to ILO Forced Labour and Servitude Convention C29.

[55] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #2 Labour and Working Conditions and Management of Worker Relationship, Objectives, Requirement 22 (Forced Labour); OECD Guidelines on Multinational Enterprises, Chapter II, General Policies, Recommendations 10 and 11; Chapter V-Employment and Industrial Relations, Recommendations 1 c).

[56] African Charter on Human and Peoples' Rights, articles 5, 6, 12 and 15.

under Uganda's penal system and those committed to casual labour outside the prisons are entitled to their earnings.[57]

In Tanzania, the Constitution protects against forced labour, providing that every person has the right to work and that everyone is entitled to just remuneration (articles 22 and 23). The Employment and Labour Relations Act of 2004 makes it offensive to subject a person into forced labour. Section 6(2) defines forced labour to include bonded labour or any work exacted from a person under the threat of a penalty and to which that person has not consented. The Anti-trafficking in Persons Act of 2008 is also in force.

b. Findings

i. Uganda

In Uganda, prison labor is used in some public projects. However, based on the HRIA fieldwork it appears that the conditions of work are agreed upon by the prisoners and that it represents for them an opportunity of income. There is a risk that the government may use prison labor for work benefitting EACOP.

In Uganda, the following groups are vulnerable to forced labour: Batwa women; children being trafficked internally for forced labour in domestic services, agriculture and fishing; Karamojong women and children in forced domestic servitude and forced cattle-herding in Karamoja; Prisoners being overworked; Women in forced prostitution.

ii. Tanzania

The HRIA identified instances of forced labour in other sectors of employment in the EACOP project's area of impact. Children are reportedly trafficked internally from rural to urban areas for domestic work, commercial agriculture, fishing, mining, and prostitution. Refugee children are particularly vulnerable to being trafficked for work on Tanzanian farms. During discussions with project-affected communities, reports were given of parents forcing their girl children into prostitution due to the family's poverty. Reports were also heard of young people moving to areas near to large projects, such as industrial mines, to look for project-related employment. When these young people were unable to find work, they ended up in forced-labour situations, such as commercial sex work, or working in restaurants. Concerns were raised that in areas already stressed by in-migration and where these examples of forced labour can be found, such as in Kahama, EACOP-induced in-migration will worsen the situation of jobseekers coming to look for work and being vulnerable to forced labour.

In Tanzania there is also a risk that the government may use prison labor for work that may benefit the EACOP project. Government authorities do use prison labour to clean public places, such as roads and parks. In one confirmed situation in the vicinity of EACOP on site survey

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[57] See also Employment Act 2006 and its regulations.

activities, and upon learning about the situation, the project immediately intervened with relevant authorities to halt the work. The activities being undertaken did not benefit EACOP but there is a risk of such activities being linked the project.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
As part of project engagement, the Government will be requested not to use any prison labour for tasks that are, or could be associated with, project activities.
As part of supervision of contractors' worker rights, guidance for contractors will include examples of measures that heighten the risk of forced labour. For example, retention of passports or requests for deposits from employees to have access to safety protection equipment or other materials.

4. Freedom of association

a. Standards

International Standards protect the right to freedom of association and collective bargaining. The includes the rights of workers to form or join all types of association such as political parties, religious societies, sporting and other recreational clubs, non-governmental organizations and trade unions. This right shall not be restricted, except by lawful regulation necessary to protect the interests of national security, public safety, public order, public health or morals, or the protection of the rights and freedoms of others.[58]

Various ILO instruments protect the right to freedom of association and collective bargaining.[59]

International standards for responsible business provide that "in countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing without interference and to bargain collectively, the client will comply with national law. Where national law substantially restricts workers' organizations, the client will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment" and recommends that the company "respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organizations of their own choosing".[60]

The African Charter on Human and Peoples' Rights protects the right to free association.[61]

The Constitution of Uganda protects the freedom of assembly, association and expression (article 29). The Labour Unions Act 2006 and the Labour Disputes (Arbitration and Mediation) Act 2006 regulate trade unions, collective bargaining and industrial relations. Anti-union discrimination is prohibited, and it is a criminal offence for employers to interfere in workers' right to organize.[62]

The Constitution of Tanzania and other legislations protects the right to assembly, and that workers are allowed to create and join unions.[63]

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[58] Universal Declaration of Human Rights, articles 20(1) and 23(4); International Covenant on Civil and Political Rights, articles 21 and 22; International Covenant on Economic, Social and Cultural Rights, article 8;

[59] ILO Freedom of Association and Protection of the Right to Organize Convention C87, articles 2-5; ILO Right to Organize and Collective Bargaining C98, articles 1, 3 and 4; ILO Collective Bargaining Convention C154, articles 5 and 8; ILO Workers Representatives Convention C135, articles 1 and 2; Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, articles 41-43, 48-52 and 57;

[60] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #2 Labour and Working Conditions and Management of Worker Relationship, Objectives, Requirements 13-14 (Workers' Organizations); OECD Guidelines on Multinational Enterprises, Chapter II, General Policies, Recommendations 10 and 11; Chapter V-Employment and Industrial Relations, Recommendations 1, 2, 3, 7.

[61] African Charter on Human and Peoples' Rights, articles 10 and 11.

[62] See also Employment Act (2006); Employment Regulations (2011), Public Order Management Act; National Tripartite Charter on Labour Relations (2013).

[63] See also the Employment and Labour Relations Act of 2004 and the Labour Institutions Act of 2004.

b. Findings

i. Uganda

Workers in project-affected communities stated that they do not have the power to negotiate with their employers, which prevents them from working in fair conditions. There is a general lack of awareness of worker's rights and no culture of unionization or collective bargaining in Uganda. As of 2016, 3.2% of the total Ugandan labour force were part of unions (DTCIDC 2016). Many workers in project-affected communities are illiterate and the laws governing the labour sectors are difficult for them to understand or manage, which makes them vulnerable.

Trade associations exist in artisanal and small-scale mining in Uganda. For example, miners in Mubende in the project area of impact are currently trying to organize themselves because of their recent harsh treatment by the Ugandan government.

Several groups of workers are vulnerable including those who lack awareness about their rights, workers who are not members of union or members of weak ones, workers employed by companies unwilling to recognize their rights, including the right to unionize, workers employed by companies trying to prevent unions to be formed by any means possible, workers who are in a situation of weak bargaining power because of high unemployment rates, and workers without a contract or with an unclear one.

Regarding the EACOP project, there are concerns in project-affected communities that the work for EACOP will be difficult and poorly paid. Based on previous negative work experiences, workers fear they will not have any negotiating power.

ii. Tanzania

The HRIA fieldwork identified that there is a general lack of awareness of workers' rights and no culture of unionization or collective bargaining in the project area of impact. There are trade associations present in artisanal and small-scale mining however. In Tanzania as a whole, trade union density was estimated in a 2016 study to be at 2.5 % of the total labour force and 19 % of wage and salaried workers (DTCIDC 2016). The 2015 United States Annual Country Report on Human Rights Practices found that private sector employers may adopt anti-union policies or tactics despite legislation allowing unions to be established within the workforce in Tanzania.

Several groups of workers are vulnerable including those who lack awareness about their rights, workers who are not members of union or members of weak ones, workers employed by companies unwilling to recognize their rights, including the right to unionize, workers who are in a situation of weak bargaining power because of high unemployment rates, and workers without a contract or with an unclear one.

Regarding the EACOP project, discussions with national trade unions highlighted the importance of freedom of association and requested access to workers during worker orientations. Trade union rights allow that 10 members can establish a trade union branch. Discussions with workers in project-affected communities identified numerous past negative experiences with employers. As a result, workers felt that being employed in groups would help workers put forward their complaints more effectively and safely.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
The Human Resources function will organize periodic town hall-style sessions to provide information and receive labour and working conditions related feedback.
Suggested additional human rights mitigation measures
The labour and working conditions management plan will (WHSW34) will recognise workers' right to organise collective bargaining and to form trade unions.

5. *Just and favourable working conditions*

a. Standards

The right to work in just and favourable conditions is protected by international standards. These provide that States must protect the right to remuneration that provides workers with fair wages and equal remuneration for work of equal value, and that women must be guaranteed conditions of work not inferior to those enjoyed by men. Remuneration must also be enough to provide workers with a decent living for themselves and their families. Companies can have a significant impact on the enjoyment of the various rights in Article 7 in their capacity as employers.[64] The importance of decent work in achieving sustainable development is highlighted by SDG 8 which aims to "promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all".

ILO standards elaborate and bring additional precisions to the labour standards about just and favourable working conditions.[65]

International standards for responsible business provide that the organization is expected to provide workers with documented information that is clear and understandable, regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur; and suggest that organizations observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country and that employment and industrial relations standards are understood to include compensation and working-time arrangements.[66]

The African Charter on Human and Peoples' Rights provides that "every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work".[67]

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[64] Universal Declaration of Human Rights, articles 7, 23, 24 and 25; International Covenant on Economic, Social and Cultural Rights, articles 7, 10 and 11; the International Covenant on Civil and Political Rights, article 23; the Convention on the Elimination of All Discrimination Against Women, article 11; Convention on the Rights of the Child, article 5; International Committee on Economic, Social and Cultural Rights, General Comment No. 23 (2016) on the Right to just and favorable conditions of work.

[65] ILO Minimum Wage Fixing Convention C131, article 3; ILO Social Policy Convention C117, article 5; ILO Tripartite Declaration of Principles concerning Multilateral Enterprises and Social Policy, article 34; ILO Holidays with Pay (Revised) Convention C132, article 4(2); ILO Maternity Protection Convention C183, article 4; ILO Hours of Work (Industry) Conventions C1 and C14; ILO Hours of Work (Commerce and Offices) Convention C30, articles 3 and 4; ILO Weekly Rest (Commerce and Industry) Convention C106; ILO Forty-Hour Week Convention C47.

[66] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #2 Labour and Working Conditions and Management of Worker Relationship; OECD Guidelines on Multinational Enterprises, Chapter II, General Policies, Recommendations 10 and 11; Chapter V-Employment and Industrial Relations.

[67] African Charter on Human and Peoples' Rights, article 15.

The Constitution of Uganda articulates the protection of workers' rights (article 40), which includes the recognition of just and favourable conditions of work. Uganda's legislation has incorporated international standards on just working conditions.[68] The Constitution highlights social security in its National Objectives and Directive Principles of State Policy, including protection of the aged, fulfilment of general social and economic objectives and the provision of medical services. The constitution is, however, silent on matters of disability, unemployment and illness, falling short of international norms.

The Constitution of Tanzania protects the right to work and be remunerated commensurate to the work done (articles 22, 23). The majority of ILO instruments have been incorporated into Tanzanian law.[69]

b. Findings

i. Uganda

In Uganda, workers in project-affected communities and national-level stakeholders expressed concerns relating to just and favourable working conditions. Most Ugandans work in the informal sector. As a result, these workers for the most part fall outside of legislative protection and just and favourable working conditions tend to be unenforced. There is a low level of awareness of worker rights in project-affected communities. Furthermore, there are low levels of understanding of a non-discriminatory work culture such as with a mixed gender work-force.

Workers in project-affected communities highlighted that they often do not have contracts or, that contracts are verbal only, with unclear terms. Many casual labourers are hired without a written contract and are paid every day after the work is done. This situation and that of workers without formal contracts demonstrates the lack of job security that many workers have.

Workers also highlighted that they frequently work long hours or that often there are no set working hours. Workers report that they do not receive paid holidays. They do not receive sick leave from their employment when they fall ill. If they are injured on the job, little to no support is provided to them. In such cases and in cases of other employment-related grievances, such as non-payment of wages, workers report that they do not have access to remedy.

Concerns were raised about low wages received by workers and that these wages are well-below a living wage. The current minimum wage (6,000 UGX per month) was last increased in 1984. The Minimum Wages Advisory Board, set up in 2015, has suggested a new figure of 136,000 (UGX)

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[68] Employment Act (2006); Minimum Wages Advisory Boards and Wages Councils Acts (1964); Minimum Wage Statutory Instrument No. 68 (1984); Workers Compensation Act (2000); Labour Union Arbitration and Settlement Act 2006.
[69] See Employment and Labour Relations Act of 2004; Labour Institutions Act (2004); Workers Compensation Act (2009); The National Employment Policy (2008).

but this is yet to be gazetted. Workers in project-affected communities also highlighted past experiences of working for months on a project and never being paid.

Workers also told of cases of favouritism in obtaining work. Unscrupulous recruitment agencies exist in Uganda and potential workers may be asked to pay fees to 'register' their interest in being part of a workforce.

During the HRIA fieldwork, the issue of local content was frequently raised by both project-affected communities and national-level stakeholders. The concern raised is around preference given to local community members in the area where work is taking place, even if those community members do not have the required skills for the work.

Regarding the EACOP project's recruitment and employment, people in project-affected communities raised questions about the nature of the process for people to obtain jobs. This included questions about where jobs will be advertised, the application process, the qualifications needed, and what the involvement of local leaders would be. Project-affected communities and national-level stakeholders highlighted that transparency during the project recruitment process would be important, in part to be able to verify who is local and who is not, and that everyone is given equal chance to obtain employment.

Based on past working experiences, workers and community members raised concerns that the work for EACOP will be difficult and poorly paid and that workers will not have any negotiating power. Concerns were also raised that workers employed by subcontractors might not have access to the same information regarding EACOP's policy on working conditions. National-level stakeholders emphasized the importance of labour standards being enforced for the project.

ii. Tanzania

The HRIA identified several issues relating to just and favourable working conditions in Tanzania. National-level stakeholders expressed that labour rights in Tanzania are not well-institutionalized. Labour rights and issues around just and favourable working conditions are generally seen as something that is between the employer and the employee. Furthermore national-level stakeholders expressed concern about contractor management and the ability of contractors to ensure workers' rights are respected. National labour unions stressed that the education of workers about their rights will be important for the EACOP project.

Discussions with workers in project-affected communities highlighted that workers do not always have contracts, or those contracts may be poorly defined. Workers reported situations where unclear information had been provided on whether they had been employed. Workers also reported situations where the terms of work were not clear. For example, workers raised confusion around the meaning of the term casual labour and whether it implies a job is temporary. A national labour survey completed in 2012 identified that 80 % of workers did not have written contracts and, where workers did hold an employment contract, 95 % of the

documents reviewed did not contain all the labour rights provided to workers under national legislation.

A 2012 European Foundation for the Improvement of Living and Working Conditions Survey found that working hours are either very long and or very short, with those working short hours tending to be underemployed. Discussions during the HRIA with workers highlighted that workers often have long working hours. Workers also highlighted that they do not always have set working hours and they are asked to work weekends and uneven shifts. Time for worship is often not provided. Workers also reported not receiving paid holidays.

Workers also reported not receiving sick leave if they became ill or if that workers are fired if they are injured on the job. Workers do not have access to remedy in case of work-related issues such as non-payment of wages. Concerns around corruption in payment were also raised. Workers in project-affected communities told stores of only being paid 50% of their salaries when working on previous construction and infrastructure projects.

The HRIA fieldwork also identified numerous concerns, both from workers in project-affected communities and national labour unions and civil society groups, about corruption and harassment of workers. Unions warn about the risk associated with the use of brokers and middlemen who take a disproportional management fee off salaries which can affect whether workers have living wage conditions. In this regard, Total Tanzania confirmed that Total conduct the interviews with staff (e.g. drivers) itself to mitigate the risk of favoritism and discrimination, and it instructs the services provider to pay staff a specific gross wage and then pays a separate management fee to the agency. Payment to workers is tracked on a monthly basis.

Union leaders also note that workplace harassment of women is common in Tanzania. There are reports that women need to provide sexual favors to their male superiors to be able to keep their job. Workers in project-affected communities raised similar concerns and also shared concerns around worker harassment, including physical abuse and harsh disciplinary consequences such as being killed for theft.

Tanzanian labor unions stress the importance of EACOP paying a 'living wage' and note that the minimum wage for the public sector (Tsh 150,000/month) and the mining sector (Tsh 400,000/month) is are currently below any living wage standard. [70]

The proportion of the Tanzanian population who are covered by health social protection or those who have an active pension scheme is below African averages. Workers active in the informal

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[70] "Living wage" is an emerging area of human rights attention in relation to workers' right to just and favourable working conditions, as well as the right to an adequate standard of living. This is particularly important in countries where the minimum wage is very low and/or has not been regularly increased to keep pace with inflation. Currently, a number of methodologies are being developed to calculate what is an appropriate "living wage" in different countries. See, for example: https://www.ethicaltrade.org/issues/living-wage-workers/living-wage-standards

economy are also not covered by any social security scheme. There is no unemployment benefit scheme provided by the government to the population.

During the HRIA fieldwork, the issue of local content was frequently raised by both project-affected communities and national-level stakeholders. The concern raised is around preference given to local community members in the area where work is taking place, even if those community members do not have the required skills for the work. Additionally, some in project-affected communities stated there is a risk of immigrant labour from Burundian and Rwandan refugee camps coming to work for contractors for low wages and under poor conditions.

Regarding the EACOP project's recruitment and employment, people in project-affected communities raised questions about the nature of the process for people to obtain jobs. This included questions about the application process, the qualifications needed, and what the involvement of ward and village leaders would be. Project-affected communities and national-level stakeholders highlighted that transparency during the project recruitment process would be important, in part to be able to verify who is local and who is not.

c. **Mitigation**

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
As part of induction training, prior to work on site, all staff will receive training on workers' rights.
All employees will have a contract. This contract will be written in easily understandable language and will state the component parts of the job including: • salary   • working conditions   • working hours and overtime   • holidays and sick leave   • social security and compensation   • health insurance   • access to remedy.
An independent labour rights related monitoring & evaluation system will be established, possibly in collaboration with the national regulatory agencies, to ensure that policies are adhered to and national legislation is followed.
Due diligence, or screening of contractors and sub-contractors with regard to their human rights record related to labour and working conditions will be conducted.
Community Liaison Officers will hold regular meetings with primary supply chain workers to discuss any issues arising or of concern around adherence to human and labour rights. This includes a focus on harassment including the possibility of demands for sexual favours, or a financial kick-back during the recruitment process.

The Code of Behaviour that employees are required to sign will include a clause that a sexual relation that is based on power inequality will lead to instant dismissal of the senior person.
Project will specify as a standard clause, provisions related to: • Health Insurance • Medical leave • Other provisions related to medical care.
As part of the project OHSSMP, Health Design Specifications, construction camps will be designed and built to amongst other requirements: • meet international standards • accommodate the number of project personnel anticipated in alignment with IFC standards (IFC 2009) • include collective social or entertainment areas, facilities for religious observance and medical facilities • include a potable water distribution system and adequate, hygienic sanitary and washing facilities • provide adequate segregation between accommodation areas, vehicle routes, kitchen, • recreational areas, designated smoking areas and hazardous areas • include a helicopter landing area and secure fencing around the boundary.
As part of the OHSSMP, a risk-based worksite and construction camp induction training will be developed and delivered to personnel in the workforce, vendor representatives and site visitors, as appropriate.
All workers will have contracts describing conditions of work and will have the contents explained to them. This includes their legal rights under national law. Contracts will be available in workers' native languages. Contracts will state terms of employment and duration.
Pay procedures will be developed and implemented for the payment of all personnel including details of recording payments made, worker confirmation that they have received the payment and the process for workers to query pay.
All workers will be provided with a hard copy statement of pay (i.e., a pay slip or invoice) that clearly details how much they are being paid and what for. Pay details will be in English and also the national language for local workers. Workers will not be paid in cash but in bank accounts. Workers who do not have bank accounts will be assisted in opening one.
A system to monitor hours worked on the project by all workers will be established to identify and remedy any practices that lead to long working hours in excess of project requirements or national legislation.
Suggested additional human rights mitigation measures
To address the gap between the current minimum wages in Tanzania and Uganda and a "living wage", consider imposing a minimum salary requirement on contractors and sub-contractors.

6. Safe and healthy working conditions

a. Standards

International standards assert that the right to enjoy just and favourable working conditions includes the right to healthy and safe conditions of work.[71]

The ILO standards add precisions to the afore-mentioned principles and require governments to adopt, in consultation with appropriate employer and employee organizations, a national occupational health and safety (OHS) policy aimed at reducing accidents and injuries to health arising in the course of employment, and to minimize the causes of inherent workplace hazards. That policy should address, for example, the provision of adequate OHS training regarding the use and maintenance of the 'material elements of work', including workplace environment, tools, machinery and equipment. Workers must be able to remove themselves from work situations where imminent and serious health dangers are reasonably perceived, without undue consequences.[72]

International standards for responsible business provide that the "organization will provide a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client's work areas, including physical, chemical, biological, and radiological hazards, and specific threats to women. The client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards" and that "Organizations are to take adequate steps to ensure occupational health and safety in their operations". [73]

The African Charter on Human and Peoples' Rights protects the right to work. It also protects the right to health and to obtain medical care when needed, and provides for protection for the aged and the disabled. It also provides a right of peoples to have a general satisfactory environment favourable to their development.[74]

The Constitution of Tanzania protects the right to work (articles 22, 23). Under the Factories Act (1950) and Workers Compensation Act (2008), employers are required to provide welfare facilities, occupational health and safety (OHS) training and controls to their workers. The

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[71] Universal Declaration of Human Rights, article 7; International Covenant on Economic, Social and Cultural Rights, articles 6 and 7; the Convention on the Elimination of All Forms of Discrimination against Women, article 11.

[72] ILO Convention 155 Concerning Occupational Health and Safety and the Working Environment (1981), articles 4, 5 and 13; ILO Convention 161 on Occupational Health Services (1985).

[73] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #2 Labour and Working Conditions and Management of Worker Relationship, Objectives, Requirement 23 (Occupational Health and Safety); Performance Standard #1 Emergency Preparedness and Response, Requirements 20-21 (Emergency Preparedness and Response); OECD Guidelines on Multinational Enterprises, Chapter II, General Policies, Recommendations 10 and 11; Chapter V-Employment and Industrial Relations; Chapter VI, Environment, Recommendation 7.

[74] African Charter on Human and Peoples' Rights, articles 15, 16, 18 and 24.

Occupational Health and Safety Act of 2003 (OSHA Act of 2003) established under Section 5, the Occupational Health and Safety Authority (OSHA) and vests on it responsibilities to identify, register, inspect, monitor and evaluate all OHS issues in Tanzania Mainland. The OSHA is also required by the law to provide trainings, outreach, education and assistance to both employers and employees in registered workplaces. In Tanzania Mainland, the Workers' Compensation Act (2008) established the Workers' Compensation Fund (WCF), which is now fully operational, but still does not have sub-offices or staff throughout the country. The Ministries responsible for inspecting workplaces and monitoring labour rights, including health and safety, are insufficiently resourced, including both funding and human resources, to perform their mandate. Labour laws are not well known by employers and employees/workers. Failure of employers to join the Occupational Health and Safety Committee as members, which is required by law.[75]

The Constitution of Uganda also provides protection for the right to work (article 40). According to the Occupational Safety and Health Act 2006, All employers are expected to ensure that their workers are employed in a safe and conducive environment to ensure the protection of workers in the course of their duty. The OSHA also makes it the duty of every worker to take reasonable care for their health and safety and of any other person who may be affected by his act or omission. Social security schemes consist of contributory and or compulsory social insurance for formal workers. These are known as the National Social Security Fund (NSSF) and the Public Service Pension Schemes (PSPS) that cover all public servants and exclude people active in the informal sector (ILO 2018). Despite government efforts to improve safety and health of all workers in the country, limited change has occurred due to lack of regulators enforcing the Act.[76]

b. **Findings**

i. *Common Concerns*

National-level stakeholders in both Uganda and Tanzania expressed an overarching concern about the potential risks created by the pressure to deliver the project on time. Regarding occupational health and safety in particular, they expressed concern about the potential for time pressure to create transportation safety-related risks for workers. These risks could relate to the use of overtime and poor fatigue management. If pressure to deliver the project leads contractors to require drivers to work overtime or pushes drivers to unsafe driving conditions (e.g. excessive nighttime driving).

National-level stakeholders also expressed concern about the control of local contractors by EACOP and the potential for negative impacts on worker safety from weak contractor management. This cross-cutting issue relates to concerns from project-affected communities

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[75] See also Employment and Labour Relations Act (2004); HIV and AIDS (Prevention and Control) Act (2008); National Employment Policy (2008); Social Security (Regulatory Authority) Act, Cap 135 R.E 2015.

[76] See also Employment Act, 2006; Employment Regulations, 2011; National Employment Policy 2011; Labour Dispute Arbitration Settlements Act 2006.

about the provision of adequate occupational health and safety controls by employers, discussed below.

ii. Uganda

Working conditions are a concern raised in Uganda by project-affected communities and national-level stakeholders. Workers often work in unsafe and unhealthy conditions and work without access to personal protective equipment (PPE). The tools and equipment used by workers may also be of poor quality and unsafe. Employers may not have worker safety policies in place or provide safety training.

The Ministry of Gender, Labour and Social Development (MGLSD) through the Department of Occupational Safety and Health, is responsible for administration and enforcement of the Occupational Safety and Health Act 2006. A national audit on labour and working conditions undertaken by the Office of the Auditor General in 2015 reported that very few private businesses were formally registered with the MGLSD and as a result, they are not inspected for their occupational health and safety performance. A lack of adequate resources, staff, and training also contributes to few inspections being conducted. Occupational health and safety was not seen as a priority by business owners and worker supervisors. A study of construction accidents in Uganda found they often resulted in death or injury that limited the worker's ability to continue working as before. These incidents are not consistently reported by workers or employers and workers do not commonly use legal processes for remedy.

The Office of the Auditor General report also found low awareness of occupation safety and health among workers, supervisors, and senior management. Fieldwork conducted in Uganda as part of the HRIA reinforced this finding, identifying very low levels of awareness of workers' rights and occupational health and safety among project-affected communities. Small businesses in project-affected communities do not typically provide welfare or occupational safety controls. Furthermore, there is very low awareness of grievance mechanisms available to workers. Many workers do not have written contracts which can make accessing legal processes more difficult. Local workers are vulnerable because of this low awareness of rights and OHS requirements.

Despite low awareness of workers' rights, occupational safety and health was raised as a common concern by project-affected communities during HRIA fieldwork in Uganda. Community members raised concerns about the lack of insurance provided by employers or medical care in case of injury. Based on past experiences, are concerned that if they are injured during work for EACOP, the project will not provide them with medical care and will let them go.

iii. Tanzania

In Tanzania, very few workers have access to occupational health and safety services in the workplace. The Occupational Health and Safety Agency is responsible for overseeing workplace health and safety, as regulated by the Occupational Health and Safety Agency (OSHA) Act. The OSHA enforces the act and provides registration certificates and annual compliance certificates

to businesses. However, discussions with labour unions revealed the enforcement capacity of the agency is perceived as weak. This is primarily due to the lack of staff and resources available to enforce the OSHA Act and perform inspections. Additionally, concerns were raised about previous allegations of unethical practices related to payment for OSHA certificates.

National unions expressed that there is a need for companies in Tanzania to educate their workers about workers' rights and occupational health and safety. However, many companies in Tanzania have no previous exposure to health and safety standards and company leadership is perceived as poorly informed on the issue.

Discussions with workers in project-affected communities echoed this concern. Workers have low awareness of their rights, including of employers' obligations to protect their health, provide welfare facilities, or a safe working environment. Workers expressed concerns about health and safety when discussing previous work experiences, including on large construction and infrastructure projects. Workers also stated that tools and equipment were often of poor quality or unsafe. The HRIA fieldwork also found that workers did not commonly have access to protective personal equipment (PPE) or safety-related training. This was particularly noted by community members with respect to working for Chinese companies that had been contracted for infrastructure and construction projects.

The provision of welfare facilities by employers is also limited. Accommodation often lacks basic facilities and areas used for sleeping, cooking and washing are not always separated. This can lead to the spread of infection, disease and other problems caused by unhygienic areas used to prepare food. Small businesses in project-affected communities do not typically provide occupational safety controls or adequate worker welfare facilities either.

Incidents that do occur at the workplace are not consistently reported by employers or employees, and workers do not commonly use legal processes to claim their entitlement for injury. Workers reported that they are not provided with insurance or care in case they are injured while working. Levels of awareness of grievance mechanisms available to workers are very low. The local workforce is very vulnerable because of this low awareness of rights and occupational health and safety. Despite this, project-affected communities are very concerned about EACOP project health and safety. In particular, local stakeholders stressed the importance of the provision of health insurance coverage, sick leave, and medical care after incidents. They expressed concern about the provision of PPE and safety-related training by the project and its contractors.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
The pipe coating facility will be designed to abate process VOC emissions.
Malaria and other vector control management plans will be developed and executed to ensure adequate control over malaria and other vector-related conditions in camps.
As part of the project OHSSMP, develop and implement a Communicable Disease Management Plan in line with OGP guidelines (OGP, 2016) that includes Outbreak Diseases Management – to manage infectious disease outbreaks in construction camps/MCPYs and prevention of spread to PACs. These include pandemic preparedness policies and programmes to reduce the impact outbreak of disease at the local level. This should include workplace and community based plans.
A HIV/STD awareness campaign for project drivers will be undertaken to: • raise awareness and understanding among drivers about the risks of HIV and STDs • outline the associated health implications • explain the preventative measures that can be taken.
A fitness for work / pre-deployment medical screening and management will be developed and implemented to ensure: • project workforce from else where is fit to mobilise to site with no detectable communicable diseases (e.g., pulmonary TB) • that the local workforce is fit to work with no detectable communicable diseases.
As part of Camp Management Standards, menus in project facility canteens will be developed in consultation with a dietician to ensure adequate nutrition, cultural acceptability, portion size and diversity that is acceptable to all workers.
As part of the project OHSSMP, a job-specific risk assessment (RA) process will be developed to consider: • risks associated with project activities; • mitigation measures (PPE, etc.); and • knowledge and understanding of the local workforce. Based on the outcome of the RA process, appropriate management measures will be developed and implemented prior to any activities being undertaken.
As part of the OHSSMP, develop a fatigue management plan. This plan should include provisions about driving hours and avoid driving at night.
Specific classes of hazards will be identified in work areas, including physical, chemical, biological, and radiological hazards.
As part of the project OHSSMP (under Health Management Plans), ensure that vector management on all project sites (camps and construction) align with national vector control programmes and strategies.
A vaccine preventable diseases management plan will be developed and executed to prevent vaccine preventable diseases being introduced by the incoming workforce with transmission to local workforce. This includes all employees, contractors and visitors to the project.
As part of Camp Management Standards, procedures will be developed to maintain the condition of each camp and to ensure camp facilities are kept clean and hygienic.
As part of the OHSSMP, a food and water management plan will be developed and implemented to reduce the risk of water- and food-borne disease outbreaks occurring

among the workers and the associated risk of transmission to local communities. The plan will be submitted for approval.
As part of the EMP, a pest control plan will be developed for implementation on construction camps.
An occupational health and safety training programme that is culturally and linguistically appropriate, will be developed and implemented. The training programmes will be updated in accordance with changes made in scope, incident statistics and/or regulatory requirements.
PPE appropriate for the task will be provided to all workers.
Daily toolbox meetings will be held where health and safety issues will be discussed.
Suggested additional human rights mitigation measures
When the approach for transportation and logistics has been finalized, consider including measures in the relevant contracts and road safety management plans to monitor driver behaviour, including speed, hours of work and designated rest areas.

7. Contractor and suppliers' workers' rights

a. Standards

The international, regional and national standards on human rights applicable to this section are found in all of the workers' rights sections. The UN Guiding Principles on Business and Human Rights state that the corporate responsibility for human rights includes potential impacts that can be caused, contributed or directly linked to a company' operations, products and business relationships—thus potential impacts related to contractor and suppliers fall within the scope of responsibility for human rights due diligence.

International standards for responsible business have given an important number of directives regarding the responsibility of organizations in the impacts of members of their supply chains. The IFC Performance Standards on Social and Environmental Sustainability state that:

> 1. At times, the assessment and management of certain environmental and social risks and impacts may be the responsibility of the government or other third parties over which the client does not have control or influence. (…) While the client cannot control these government or third party actions, an effective ESMS should identify the different entities involved and the roles they play, the corresponding risks they present to the client, and opportunities to collaborate with these third parties in order to help achieve environmental and social outcomes that are consistent with the Performance Standards. In addition, this Performance Standard supports the use of an effective grievance mechanism that can facilitate early indication of, and prompt remediation for those who believe that they have been harmed by a client's actions."
> 9. In the event of risks and impacts in the project's area of influence resulting from a third party's actions, the client will address those risks and impacts in a manner commensurate with the client's control and influence over the third parties, and with due regard to conflict of interest.
> 10. Where the client can reasonably exercise control, the risks and impacts identification process will also consider those risks and impacts associated with primary supply chains, as defined in Performance Standard 2 (paragraphs 27–29) and Performance Standard 6 (paragraph 30).[77]

Similarly, the OECD Guidelines on Multinational Enterprises states that:

> General Policies

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[77] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #1 Assessment and Management of Environmental and Social Risks and Impacts, Objectives, Requirements 2, 9, 10; Performance Standard #2 Labor and Working Conditions, Requirements 4, 6 (Contracted Workers), 7 (Supply Chain Workers), 24-26 (Workers Engaged by Third Parties), 27-29 (Supply Chain).

A.13: In addition to addressing adverse impacts in relation to matters covered by the Guidelines, encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of responsible business conduct compatible with the Guidelines.

B.2: Engage in or support, where appropriate, private or multi-stakeholder initiatives and social dialogue on responsible supply chain management while ensuring that these initiatives take due account of their social and economic effects on developing countries and of existing internationally recognised standards.

Human Rights
3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.

b. Findings

i. Uganda

The concerns identified during the HRIA relating to workers' rights (worksheets 1-6) also apply to contractors and suppliers and their workers. As highlighted in those sections, in Uganda there is a lack of awareness among workers of their rights and of the protections that are granted to them. Additionally, discussions with workers in project-affected communities highlighted that working condition protections are often absent or lacking.

The HRIA identified that subcontracted small businesses and their employees are vulnerable. Access to remedy for workers and for small businesses may be absent.

Workers are often very much in need of earning income and it is possible that people will take work opportunities under any conditions. There is a risk that sub-contractors and suppliers may take advantage of this situation when hiring workers. There are high expectations and hopes for the EACOP project and for its contracting and employment opportunities among project-affected communities, including workers and business owners.

ii. Tanzania

The concerns identified during the HRIA relating to workers' rights (worksheets 1-6) also apply to contractors and suppliers and their workers. As highlighted in those sections, in Tanzania there is a lack of awareness among workers of their rights and of the protections that are granted to them. Additionally, discussions with workers in project-affected communities highlighted that working condition protections are often absent or lacking.

The HRIA identified that subcontracted small businesses and their employees are vulnerable. Small informal suppliers and business owners in project-affected communities highlighted

previous negative experiences where they had not been paid. For example, several examples were cited of women supplying lunch to workers on road construction projects who were not paid by the contractor. Access to remedy for small businesses in such cases is absent.

Small contractors and suppliers are vulnerable to EACOP project delays. Project delays also can affect the workers of these businesses if they need to be laid off or if they are not paid.

There are high expectations and hopes for the EACOP project and for its contracting and employment opportunities among project-affected communities, including workers and business owners.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
A health, safety and environmental audit (including labour conditions) based on company standards and national regulations will be included in the project procurement process for primary suppliers. Significant shortfalls to company standards will rule out procurement of goods and services from suppliers.
Contractor will formally inspect third-party quarry and borrow pits before use to determine regulatory compliance, and their environmental, social, and health and safety performance (e.g., complaints, employment practices – particularly use of child labour). Periodic audits will be undertaken thereafter as considered appropriate by the company. Where required, an action plan will be implemented to raise the standards until they are acceptable to the project. All inspections, audits and proposals to achieve compliance with project standards (if necessary) will be submitted to the company to obtain approval to use the site. Only sites that comply with project standards will be used.
Suggested additional human rights mitigation measures
The ESMMP should identify the different entities involved in the supply chain and the roles they play. This includes the Government as a supplier of land. The plan will identify the corresponding risks these entities present, and opportunities to collaborate with these third parties in order to help achieve environmental and social outcomes that are consistent with international standards.
The contractor will establish policies and procedures for managing and monitoring the performance of third party employers in relation to the requirements of international standards.
The company, rather than the contractor, will be responsible for community relations performance. (Sub) contractors will have their own Community Liaison Officers but these work under company directions and following the company developed engagement framework. Company CLOs serve as the bridge between the company and the contractors and will be

responsible for handling grievances, providing project information to external stakeholders as well as received community feedback regarding policies and procedures.
The contractor has a due diligence procedure to evaluate and select suppliers and sub contractors based on human rights commitment and performance.
All contractual agreements include a standard clause indicating that: • Contractors, sub-contractors and suppliers are expected to respect human rights in all areas of operation. • Each company will inform the contractor of all relevant business with other supplier/subcontractors/ associates. • Each company will promptly address issues of non-conformance if they arise. • Each company will participate in any human rights/social compliance monitoring activities organised by the company or contractor.
The company has an independent system in place to monitor the human rights/ social compliance of its suppliers, (sub) contractors and business partners through regular questionnaires and spot checks in the form of on-site visits/audits.

8. Land and Resettlement

a. Standards

The right to own property and the right to an adequate standard of living are recognised in international human rights law. The right to an adequate standard of living is further discussed in the Livelihood section. There are also UN guidelines on evictions and displacements.[78]

International standards for responsible business also provide that individuals should receive adequate compensation when deprived of their land.[79] Adequate compensation requires that displaced persons are provided with compensation for loss of assets at full replacement cost and other assistance to help them improve or at least restore their standards of living or livelihoods.[80]

The African Charter on Human and Peoples' Rights protects the right to property and provides that it may only be encroached upon in the public interest (article 14). Article 21 provides for adequate compensation in case of dispossession as well as various other economic protections.

The Constitution of Uganda states that every person has a right to own property and recognises the right to fair and adequate compensation in instances of compulsory land acquisition (article 26). Four types of tenure systems are recognised under the Constitution and the Land Act Cap 227 1998: freehold, leasehold, *mailo* (colonial) and customary tenure.

The majority of citizens hold their land under customary tenure, which applies to specific land areas that are governed by customary laws. Land under this tenure system is communally, jointly or individually owned, often without land titles and often presided over by elders, clan leaders or figures within communities. The customary land tenure system means that there is often lack of security of tenure for landowners and it typically disadvantages women. All categories of land may possess a title if they register the land at the District Land Board and it is confirmed it is the person's to register. In Uganda there are also kibanja holders or tenants by occupancy. It is recognized that if a person or family uses a land for 12 years, they gain an "interest in the land". They do not become owners or able to alienate the land, but law does require compensation for them if they must leave, as they have become rightful users.

With all land tenures, one can obtain a title of ownership. Customary tenure is still important for land ownership, with 75 percent of the land in Uganda is owned under that regime. Tensions frequently arise over the acquisition, ownership and utilisation of land due to conflicting land-use systems and the clash between modern and traditional legal practices, which may differ between ethnic groups. Customary land remains largely unrecorded, leaving customary landowners in fear that they may lose land due to lack of authentic documentation proving ownership. Furthermore, there are distinct ways for informal users to gain some rights in the land

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[78] Universal Declaration of Human Rights, article 17; UN Office of the High Commissioner for Human Rights, Basic Principles and Guidelines on Development Based Evictions and Displacements.

[79] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #5 Land Acquisition and Involuntary Resettlement, paras 1, 2, Objectives, Requirement 9 (Compensation and Benefits for Displaced Persons); OECD Guidelines for Multinational Enterprises, Chapter II, General Policies, Recommendations 2, 10, 11 and 12.

[80] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #5 Land Acquisition and Involuntary Resettlement, Objectives, Requirement 9 (Compensation and Benefits for Displaced Persons).

they live or grow crops on. With the National Land Policy of 2013, Uganda is said to have progressive policies regarding land.[81]

It is noted that in Uganda customary law in many areas acts in a way that prevents women from owning or inheriting property or controlling the produce of the land they work on. Implementation and enforcement mechanisms are lacking in progressive land policies, especially in the area of women's rights to land, as traditional customs and practices hinder access. The Ministry was reportedly overstretched in terms of capacity and resources, making it difficult to handle the disputes and conflicts over land.

The Constitution of Tanzania protects the right to property and provides for fair and adequate compensation in the case of deprivation of this right (article 24). The Constitution also gives the state the power of compulsory land acquisition where this would be in the public's interest. The land in Tanzania is vested in the president as a trustee on behalf of all citizens. Tanzanian law recognises customary land ownership. Three land categories can be distinguished:

- Village land in accordance with section 7 of the Village Land Act (Cap 114 of 1999, see also Village Land Act of 2002). Village land includes land within the boundaries of a village that is managed by a village council.

- Reserved land, which is land set aside for forests, national parks, game reserves, game controlled areas and natural reserves. Such land also includes land reserved for special purposes such as highways and public utilities.

- General land, which is land that is neither village nor reserved land and predominantly urban. Such land supports 20 % of the population.

In addition, there is hazardous land, which is land protected under Land Act (1999), and environmentally sensitive areas and habitats protected under EMA (2004). Currently 70 % of land is village land, 2 % general land and 28 % reserved land. Although general land only covers 2 % of the land, it supports 20 % of the population. The Land Acts provide the legal framework for land rights, recognise customary tenure and empower local governments to manage village land.[82]

The Tanzanian National Land Policy of 1997 observes that "under customary land law, women generally have inferior land rights relative to men, and their access to land is indirect and insecure". Despite policy and legal safeguards women still have inferior land rights, in particular with regards to customary land rights, as traditions and customs protect men's control over land.

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[81] See also Land Acquisition Act Cap 226; National Land Policy, 2013; Forest Act; Land Amendment Acts of 2001, 2004 & 2010; Registration of Titles Act Cap 230; Investment Code Act Cap 92

[82] See also Land Use Planning Act; Land Acquisition Act of 1967; Regulations of the Land Acts; Resettlement Policy Framework (2014); Land Assessment of the Value of Land Compensation Regulations 2001; Land Compensation Claims Regulations (2001); Village Land Regulations (2001); Mining Act of 2010; Investment Act of 1997; Land Registration Act, Cap 334; Range Land Act, 2009; Land Disputes Settlements Courts Act, Act No. 2 of 2002; Valuation and Valuers Registration Act, 2016; Forestry Act, 2002; National Human Settlements Development Policy, 2000; Tanzania Women and Gender Policy, 2000; Agricultural and Livestock Policy, 1997; Forest Policy (1998); Water Policy, 2002.

b. Findings

i. Uganda

The complexity of the land law in Uganda leads to very high numbers and varieties of land conflicts. Concerns were raised among both project-affected communities and national-level stakeholders that existing land related conflicts will likely be exacerbated with the arrival of compensation from EACOP. Existing conflicts relate to: boundary disputes between the holders of various rights or interests to the land; disputes between family members who have inherited land or are using distinct parts of a parent's land; and disputes arising between couples or former couples, with various marital status. There are also cases of forced and sometimes violent evictions of Kibanja holders, those customary owners or land users who have no legal claim. These evictions are by persons living in urban centers who claim to have land titles, but which may have been obtained through corruption or forgery. At present, there are numerous types of land conflicts in court. There is legal uncertainty regarding the great majority of community members' status on their land.

Concerns were expressed by both project-affected communities and national-level stakeholders about the nature of the land acquisition and compensation process, resettlement, groups that are vulnerable, and the potential for conflict. People often highlighted previous experiences, often negative, with agriculture or infrastructure projects which inform their views.

Regarding the compensation process, people in project-affected communities lack information and awareness. The engagement, consultation and negotiation with community members is seen as insufficient. People do not understand how compensation rates are calculated and rates are not sufficient to replace value of land and crops or to pay for replacement land. National-stakeholders highlighted that the government focuses on land compensation, not property. Compensation is usually in cash, which can create disturbances to local economies which are not based on cash and create social problems. People are worried that men waste the money or that they may leave the family for a second or third wife. This then leaves the woman and her children without land to grow crops, nor money to establish the family somewhere else.

People report that payment is not timely. For example, some projects have been going on for years and the compensation issues are now in court with the affected population receiving nothing. As agriculture and cattle are the main livelihood in many of the affected communities, timing is important. If the seasons are not taken into consideration, an entire harvesting season might be missed.

In every situation where a family's access to land is lost, women will be more vulnerable than men because of their dependence on the land for growing crops, their obligations towards the children and their lack of alternative access to income. People in project-affected communities report that women owners usually receive less than men for various reasons. Compensation typically goes to men in Ugandan culture.

People state that there are many opportunities for corruption by government officials. There are also numerous cases and complaints of "land grabbing" in Uganda. Based on examples given and concerns from national-level stakeholders and communities it appears to be common in many regions that people come from the urban centers and claim rights to land, sometimes legitimately but often not. Land titles are often forged or obtained through corruption. Land grabbers sometimes evict the people off the land forcibly, using violence. Another reported strategy of land grabbing in Uganda is related to village common land. Someone who has some money will collude with a village official to claim that some common lands are not in fact common, but rather belong to the individual. This individual can then claim "owner" compensation from the project proponent/government for the common land which he can share with the village official.

Access to remedy is also very challenging. Affected people can go to court to contest valuation decisions, but the court process may take years, especially if the company is trying to frustrate the process.

Given the nature of the situation in many communities and based on these past experiences, people in project-affected communities and stakeholders at the national-level raised numerous concerns and questions about the EACOP project. People want to know what they are entitled to and stressed the importance of fair rates and prompt compensation payment. People flagged the importance of considering seasonal impacts and of providing ample notice for people to purchase other land. "Give us time to get ready" was a common refrain.

EACOP should ensure that there is awareness and transparency at a local level of the details of the compensation process to avoid being cheated. It was also suggested that the government should not be involved in compensation but that the company should take the lead. The project should deal directly with owners, with the process witnessed by neighbors, to cut out any intermediaries. Mechanisms should be designed to include women in the process and make sure that they cannot be subverted by men. Both male and female names should be on forms for example. People asked whether vulnerable people like women and elderly will be provided with any support in the process, particularly in obtaining replacement land.

People are concerned about proving rights or interests in the land or how the project will deal with uncertainty about compensation. In many cases Ugandan land law is complex and will not provide clear guidelines. This was a primary concern in many communities. People also asked about how compensation will be determining in cases of clan ownership. Questions were asked about where people will be resettled to. Communities fear that they will be sent to places where nothing grows, or where the culture is so different that they could never feel part of the community. Communities may be uprooted from areas where they identify well and are expected to settle elsewhere and continue as normal. People in communities also asked about compensation for burial places and cultural sites and for disturbance from their land (disturbance to their way of life, in addition/above compensation for land, house, crops, etc.).

Community identity is very important in Ugandan culture. National-level stakeholders highlighted concerns about the effects of resettlement and land acquisition on community and family

dynamics and the social fabric of communities. If people lose access to social care and support, such as trust relationships with community elders, counselors, religious leaders, it is not compensated or accounted for. Furthermore, social amenities are not compensated. The process does not consider the effects of displacement and resettlement on social networks and identity or the potential breakdown in social culture and values. National-level stakeholders stress that women, children, people with disabilities or HIV/AIDS and ethnic minorities are vulnerable groups that must be addressed specifically.

There are concerns that people who have been resettled for previous projects will have to be resettled again. In the Mubende area, a few communities that might be impacted by EACOP have already been severely impacted by other projects. For example, in the case of the Kamusenene community, numerous members were displaced by the Kaweri coffee plantation about 15 years ago. The case has been in court and has not yet been fully resolved. The result is that many people have never received compensation for the land and houses they lost. Whether the people who have not had access to a compensation they were entitled to or not are the same that would be affected by EACOP is unclear, but the community is still angry about the Kaweri case and fears that EACOP will happen the same way. There are other examples of population having previously been resettled in other regions as well.

National-level stakeholders raised various concerns about how compensation is provided. They noted that standard practice is cash compensation rather than in-kind compensation. This increases the likelihood of people using their compensation in a non-sustainable manner. Others highlighted that providing cash to communities which do not have a cash-based economy can create social and family problems and that the best method of compensation for marginalized communities in particular is always land for land. No compensation is provided for common resources such water sources, grazing lands, fruit trees, cultural sites, etc.

It was also mentioned by people in communities during the HRIA fieldwork that in the Mubende region, some think that land grabbing has already started to occur in anticipation of EACOP compensation, but the HRIA identified no evidence of this. Community perceptions of the land acquisition process focus on the company involved, regardless of the fact that the government is typically responsible for the process.

ii. Tanzania

Land-related issues are the primary concern of project-affected communities in Tanzania and of numerous national-level stakeholders as well. Concerns were expressed about the nature of the land acquisition and compensation process, resettlement, groups that are vulnerable, and the potential for conflict. People often highlighted previous experiences, often negative, with mining or infrastructure projects which inform their views. Given the amount and extent of questions and concerns raised about land, there is a palpable sense of worry about how the EACOP project will approach the land acquisition and compensation process.

National-level stakeholders and project-affected communities provided several concerns related to the land acquisition and compensation process, including regarding consultation, modalities and the nature of compensation, and the potential problems that can arise within the process. In Tanzania, customary land rights can only be recognized by the Village Council and very few people have certificates documenting those rights. This is the source of numerous potential problems including the risk of people being left out or not compensated, and of corruption.

National-level stakeholders state that the government land acquisition process effectively leaves very little space for consultation. The engagement process is generally an announcement of steps that will be taken. This is often done in the presence of high level authorities and police or militia representatives. Project-affected communities also noted, based on their previous experiences, that there is often no engagement or consultation, nor opportunity for negotiation about any aspect of the process. People highlighted that poor access to information among communities can also increase land speculation. There is widespread lack of awareness about the provisions in the Village Land Act, including those for compensation.

People in project-affected communities explained problems in previous experiences with representation during the land acquisition and compensation process. People reported examples of where the government will deal with middlemen and cut the person with customary rights of occupancy out of the process. There were examples given of bush lawyers offering to intervene and help rights holders get more money. There were also cases noted of customary rights holders being impersonated. For example, the valuer will take a picture with someone that they are colluding with who does not have the customary rights but then gets recognized as the rights holder within the process. Culturally in Tanzania men play a dominant role in land-related issues. Women rights holders, such as widows, can be taken advantage of by officials by providing partial compensation and pocketing the rest.

The adequacy, modalities, and timing of compensation was also a focus of questions and concern among both project-affected communities and national-level stakeholders. National-level stakeholder highlighted that compensation rates are often well-below market rates because a moratorium instituted in the past has not allowed people to buy or sell land and, thus, has resulted in low rates. These government standard rates for land have proven to be too low to replace the value of land and crops or to pay for replacement land.

In addition, people in project-affected communities complained that the criteria used to calculate the compensation rates is not clear (i.e. how much people receive for what) and that they are not typically provided with a copy of the valuation form (despite this being a legal requirement). People complained of corruption as well. For example, different rates may be given to different people by the valuer. There also were reports of forgeries by having two sets of valuation forms, where valuers or officials "use pencil to complete the value on the form and then get rights holders to sign in pen." Numerous stories were told of people receiving only a portion (50-70%) of what the valuer told them they would receive and upon questioning, being told to 'take it or leave it".

National-level stakeholders raised various concerns about how compensation is provided. They noted that standard practice in Tanzania is cash compensation rather than in-kind compensation. This increases the likelihood of people using their compensation in a non-sustainable manner. Others highlighted that providing cash to communities which do not have a cash-based economy can create social and family problems and that the best method of compensation for marginalized communities in particular is always land for land. Masaai people, in discussions during the HRIA fieldwork, stated they prefer cows and land, rather than cash.

Livelihood replacement options are typically not provided as part of the government approach. No compensation is provided for common resource land either which includes pasture land, communal forests typically (other than specific village forests), water (e.g. around the Tanga jetty), and reserve land. People in project-affected communities often depend on these areas for their livelihoods. In some places, people have constructed buildings or planted crops on reserve land and these are not compensated.

The timing of the process can also reportedly be problematic. People in communities stated that previous land acquisition process have not taken agricultural seasons into consideration which causes farmers to miss an entire harvesting season. Compensation payments are also frequently delayed, and in some cases people reported it took up to two years to receive their compensation.

For those households that need to be physically resettled, there are concerns about the information provided to communities. Lack of access to information about the process or design of housing means that people are unable to give informed consent ahead of time. People cited experiences of replacement houses being built which are not culturally acceptable or appropriate. Discussing negative past experiences of resettlement from mining activities, people reported feeling rushed and pressured in the process, without time to discuss or negotiate. There were also allegations that government and company officials try to co-opt vocal people by putting them in positions of importance on RAP committees.

There are several groups which are specifically vulnerable. This includes women, land users who have built on designated reserve land, users of common resources, and land users without land title.

Women are vulnerable because culturally land is owned by men, although women can and do legally have the customary rights to land in Tanzania. Amongst some tribes, the wife "belongs" to the brother of the husband when the husband dies. This also implies that any land (or other) compensation deriving from land acquisition will go to the brother of the deceased man, rather than to the widow. This particularly relevant to the coastal region and the Kagera region. In general, assets are listed in the name of the husband; in practice this implies that the compensation for loss of these assets will also go to the man.

Land users who have built on designated reserve land are vulnerable because they are seen as "squatters." They could be compensated by the government for any crops and trees on the land

but they will not be compensated for structures. In fact, such dwellers run the risk of being asked to pay for removal of their own assets. Other users of reserve land and other common resources are vulnerable. For example, fishermen or other users (e.g. for tourism) of the water around the process jetty at Tanga may be displaced from the jetty and exclusion zone.

Indigenous People (such as the Masaai) and pastoralists who use land as communal land and for pasture are vulnerable because grass is not considered a crop and is not compensated. Hunters and gatherers who use communal forests for livelihood purposes and migrants and others who use the communal forests as a cultural/spiritual resource are vulnerable because communal lands are not compensated for. Non-indigenous land users who practice shifting cultivation practices are also vulnerable as land considered as vacant will not be compensated.

In project-affected communities there are numerous land users without certificates of customary rights of occupancy. These are people who have used plots for generations but never obtained (or previously required) certificates. Such people need to obtain support from their Village Council, which leaves them in a vulnerable position. Small scale or artisanal miners are also vulnerable if they do not have recognized land rights.

Discussions with national-level stakeholders and project-affected communities highlighted existing and potential land conflicts in areas traversed by the pipeline. There are existing incidents of conflict between: artisanal and small-scale miners and industrial mining operations; farmers and pastoralists; ASM miners and farmers. Boundary disputes between customary rights holders was often noted in project-affected communities. There can be conflict between Village Councils and those that do not get customary land title from the Council (high turnover of Village Council members means institutional memory is low.) In some areas there is also conflict between the government and tribes which claim reserve land as tribal land and between farmers who have been given customary rights by District governments over land that tribes argue is theirs. People raised the possibility that these schisms could be exacerbated due to the EACOP project as land becomes monetized. This was noted particularly for the Geita and Shinyanga Regions because of the presence of mining. There have been incidents where ethnic minorities have been evicted from their land as part of the creation of reserves or parks. In these cases, there is a risk of use of force and there have been allegations of human rights violations of residents located in National Parks.

Access to remedy regarding land issues is limited in Tanzania. People in project-affected communities report that they effectively have no meaningful access to remedy because they do not have access to remedy at a Ward and District level and Village Land Council and Ward Land Tribunal decisions are non-binding. The documentation of the compensation and land acquisition process is also reportedly very poor. This makes it both difficult to get access to remedy for the complainant as well as for companies who wish to remedy a situation retroactively based on baseline data.

Given the nature of the situation in many communities and based on these past experiences, people in project-affected communities and stakeholders at the national-level raised numerous

concerns and questions about the EACOP project. People want to know what they are entitled to and stressed the importance of fair rates and prompt compensation payment. People flagged the importance of considering seasonal impacts and of providing ample notice for people to purchase other land. "Give us time to get ready" was a common refrain.

EACOP should ensure that there is awareness and transparency at a local level of the details of the compensation process to avoid being cheated. It was also suggested that the government should not be involved in compensation but that the company should take the lead. The project should deal directly with customary rights holders, with the process witnessed by neighbors, to cut out any intermediaries. Mechanisms should be designed to include women in the process and make sure that they cannot be subverted by men. Both male and female names should be on forms for example. People asked whether vulnerable people like women and elderly will be provided with any support in the process, particularly in obtaining replacement land.

People are concerned about proving their customary rights to land. This was a primary concern in many communities. People also asked about how compensation will be determining in cases of clan ownership. Questions were asked about where people will be resettled to in places where there are land shortages. There are concerns that people who have been resettled for previous projects (e.g. an airport) will have to be resettled again. People in communities asked about compensation for burial places and for disturbance from their land (disturbance to their way of life, in addition/above compensation for land, house, crops, etc.). In mining areas, there were also questions about how land that could be used for mining would be compensated as it is considered to be more valuable.

In the area around the future MST site where government led land acquisition has taken place for a number of planned projects including EACOP, the HRIA identified that local people had several concerns about the land acquisition process. People reported that no consultation or engagement took place and that farmers were informed 3 weeks ahead of time that their land would be acquired. The land acquisition was paid for by TPA but the implementation led by Tanga City staff (supported by federal agencies). People claim that fair market value was not paid. Instead, a blanket land compensation rate per acre (2 million TSH) was applied regardless the location of the plot (e.g. beach front vs. in-land), fertility of the land, etc. Some people who had bought land ten years ago for 10 million TSH/acre received as much as those who inherited the land. Representatives of people whose land was acquired reported that they explicitly asked to see the entitlement matrix and were denied from seeing this information. On the compensation sheet, farmers were allowed to see their total compensation amount and then requested to sign. Only after they signed were they shown the composition of the compensation. Officials allegedly covered the area of the compensation sheet until the landowner signed.

Compensation was paid in cash only and people reportedly needed to obtain their own bank accounts. The compensation money was reportedly paid three days before the official inauguration of the EACOP project. Compensation was paid for land; market value for one harvest of vegetables; trees; and structures. The compensation obtained by most people was apparently too little to purchase replacement land, the price of which had gone up due to industrial activities

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in the area. People reported that during the three-week period prior to the inauguration involving the Presidents of Tanzania and Uganda, the Chongoleani Ward area saw a heavy police and intelligence presence, both to ensure safety of the inauguration (August 5 2017) but also allegedly to suppress protest by local community members over the land acquisition process. Reportedly, police removed people with banners from the area. After the inauguration, a large meeting was held in the Regional Office with government representatives and many complainants who came to discuss their complaints with the process. Government representatives stated that they believe that most people were satisfied with compensation and that the government acted exactly in accordance with the Law. Community members are still upset and say they were brushed off.

In the event EACOP determines that a Supplementary Plan is necessary for the MST site several issues have been identified. Boundary stakes have been removed, farms have been abandoned, trees have been cut, and building materials have been removed. This means that EACOP will have to rely on data from the acquiring authority – Tanzania Ports Authority – to proceed.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
The project will conduct ongoing monitoring and liaise with authorities to limit land speculation. Appropriate interventions will be developed as deemed necessary to enhance existing interventions or develop further interventions.
During regular meetings PACs will be sensitised to recent land speculation and informed of actions that can be taken.
The project will deal directly deal with those with the customary rights of occupancy to land, with the compensation process witnessed, to minimize the risk of interference by intermediaries.
The project will support Government efforts to clarify disputed land boundaries in the project area, in particular where it concerns customary right of occupancy of land.
A pre-construction entry survey area will be defined within which there is potential for vibration effects on dwellings and buildings. A pre-construction entry survey (including photographs) will record the external condition of dwellings and buildings near the right-of-way or access roads before construction. The survey will provide baseline evidence in the event of a claim for damage and will inform pre-entry agreements that will also include repair requirements. Pre-entry agreements, including repair requirements, will be agreed before work begins.
A preconstruction entry survey, including photographs, will be undertaken to document the condition of the land including immovable assets, crops and improvements required to the land before construction. The survey will: • Provide baseline evidence in the event of a claim for damage.

• Inform pre-entry agreements including: - An agreement for temporary measures to be installed (e.g., during disruption to drainage or irrigation, temporary fencing). - Reinstatement requirements. Pre-entry agreements including reinstatement requirements will be agreed before work begins.
A Resettlement Policy Framework (RPF) has been developed in Tanzania in line with the IFC Environmental Performance Standard 5, national legislation and Good Industry International Practice (GIIP). The RPF outlines procedures related to loss of assets and livelihood restoration. Resettlement Action Plans (RAP) and Livelihood Restoration Plans (LRP) will describe the modalities of identifying Project Affected People (PAP)s and the procedures related to compensation for loss of assets as well as livelihood restoration strategies.
Post resettlement monitoring of livelihood restoration measures will be implemented. Additional measures will be developed and implemented where necessary to ensure livelihoods are restored as a minimum to pre-project levels.
Post LRP monitoring of PAPs engaged in cash crop cultivation, particularly female headed households, will be implemented. Additional measures will be developed and implemented where necessary to ensure livelihoods are restored to pre-project levels.
The project will provide financial management training for PAH's.
Spouses will be consulted and present during the land surveys, entitlement briefings and compensation agreements and both spouses will sign the compensation agreements.
The project will undertake further engagement activities in the Chongoleani Peninsula to build better relations with key stakeholders and organisations to understand land conflicts and to potentially identify coordinated management approaches.
People living within Putini and Chongoleani wards (Tanzania) will be preferentially recruited for project activities undertaken in those areas. Criteria for employment will be developed and communicated to communities. Recruitment of people within these PACs will be monitored and any complaints regarding the recruitment process will be managed as per the project grievance procedure.
Suggested additional human rights mitigation measures
The socio-economic survey data informs the identification of livelihood restoration options (by providing data on current livelihoods, skills, etc.). It also forms the baseline against which monitoring of livelihood re-establishment will be done during the implementation period. A second important function of the socio-economic baseline is to identify vulnerable persons, households or groups that may require additional support or assistance during resettlement planning and implementation.
The RPF for Tanzania includes the following provisions:[83] • Clarity on eligibility categories. • Valuation methods that will be used according to each category of eligibility. • Crops Compensation Rates based on updated market rates.

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[83] It is assumed that the same principles will be applied to the RPF for Uganda to the extent permissible by law.

- Allowances will be according to the Tanzania Village Land Act. Additional allowances, which may include:
  - Replacement housing will be of an adequate standard of construction;
  - Transition Allowance;
  - Land preparation costs;
  - Multiple Livelihood Restoration Support Programmes;
  - The Project will be designing a full suite of relocation assistance and ensuring that the administrative capacity for delivery is catered for in the implementation process.
- Seasonal crops would be allowed to be harvested prior to land access whenever possible.
- People who elect for cash compensation for houses will need to demonstrate that:
  - Their spouse and dependents in the house agree with the selection of cash compensation;
  - They have arrangements in place to move to another house; and
  - They have the means to maintain or restore their livelihoods.

The RAP will also include:
- validation of all property ownership documentation
- communication of grievance process to local PACs
- stakeholder engagement activities within PACs to raise awareness about the potential risks of selling land to speculators
- specific provisions to try and ensure that cash compensation does not contribute towards gender inequality
- compensation details for economic trees, beehives and lost income.

Contingency procedures are provided for the following situations:
- Absentee land owner
- Refusal to Participate
- Land ownership that is subject to finalisation of inheritance
- Survey of Graves, Heritage and Sacred Sites
- Compensation for Occupiers of Reserved Land
- Prospecting licenses, primary mining licenses and mining licenses
- Informal mining/ ASM
- Vacant Land
- Pastoralists
- Fishing Areas and Fishers
- Multiple Claims on Land
- Dealing with Design Changes to Physical Project Footprint

The RAP will include a comprehensive vulnerabilities plan, including identification of vulnerable households, consultation with established engagement structures, identification of required assistance and defining focused measured to monitor vulnerable household during and after resettlement.

- The following methods will be used during resettlement planning and implementation to support meaningful engagement and protect the rights of vulnerable persons and groups:
- If there are minority language groups present among PAPs, ensuring that the resettlement planning and implementation teams include persons who are able to speak these languages;

- Assisting with transport of vulnerable persons to stakeholder engagement meetings, where required and appropriate;
- During disclosure of socio-economic data collected during surveys, ensuring that potentially sensitive data (e.g. the identity of households belonging to minority groups) is redacted;
- Including, as a standard agenda item in all resettlement-related consultation and meetings, a discussion on any specific measures that may be required to address the needs of vulnerable groups and women; and
- Separate consultation (in the form of individual meetings and/or focus group discussions) with vulnerable persons or groups, or with representatives of vulnerable groups (e.g. local community-based organisations or NGOs working with vulnerable groups).

The company will use its influence to include the relevant governments in tripartite resettlement agreements that clearly specify the responsibilities and commitments of all parties; for example, payment of compensation to PAPs by the Project, and the transfer of land rights to Government.

Entitlement Briefings are conducted at village level with the support of district and village authorities, and involve presenting entitlements to PAPs (including the husband and wife where appropriate) and discussion entitlement options with them. During these briefings, vulnerable PAPs will receive particular attention to ensure that they are aware of the support options that are available to them over and above compensation for losses.

Through entitlement briefings, the Project will provide appropriate support to ensure that the consequences of choices are fully understood.

The Project will plan and execute the compensation payment process in collaboration with regional and village authorities. Cash compensation due to PAPs will be paid on a rolling basis after the Agreements have been signed (within 6 months of agreements as far as possible, as per Tanzanian legislation). Where compensation cash payments are above a pre-determined limit, they will be deposited directly into the bank of the beneficiary and spouse (if married).

An evaluation of the land acquisition process at the MST site will be undertaken and a gap analysis conducted in terms of international standards. Where required, additional entitlements including livelihood restoration measures will be implemented.

The implementation of Livelihood Restoration and Assistance Programmes will involve:
- Development by the Project of a suite of projects of initiatives for livelihood restoration and support to PAPs;
- Discussions with regional and district officials, as well as NGOs and CBOs, to ascertain what existing development projects are in place that may be suitable to support livelihood restoration;
- Liaison with regional and district technical staff to assist with co-ordination and integration with existing livelihood support initiatives of livelihood development initiatives, where applicable;
- Assessing locally-based service providers who are able to provide training and post training support and monitoring on livelihood restoration initiatives;
- Engagement with PAPs to ensure they understand what implementation of their selected livelihood restoration options will involve; and

• Mobilisation of the necessary human, financial and material resources to implement livelihood restoration initiatives.
The land acquisition and compensation process (especially the time between land take and compensation payment) will take into consideration the farm season such that no affected household loses crops without compensation.
The Project will think about a flexible strategy to manage the complex reality of spousal relationships during the compensation process, including the possibility of common law partners and of multiple partners, and ensure that the persons affected by the Project are adequately identified and have fair access to compensation.
Female CLOs will hold female community group meetings to discuss the RAP process at the adequate timing to ensure women are involved in the implementation of the RAP and that their relationship status can be verified by the Project if necessary. Information about compensation and entitlements will be shared with the women during these group meetings.
The Project will create partnerships with local organisations which can provide timely information sessions in the communities about the rights of women in national land and family law during the RAP process.

9. Indigenous Peoples Rights

a. Standards

Indigenous peoples have individual and collective human rights which include the right to free, prior and informed consent (FPIC) with respect to the exploitation of natural resources on their lands and territories.

Recognition of indigenous peoples (internationally recognized definitions are discussed in chapter 3) would trigger additional requirements under IFC Performance Standard 7 on Indigenous Peoples (IFC PS7), which may have consequences for future project financing if indigenous peoples are not properly identified and consulted. Furthermore, in certain circumstances (related to land, resettlement and cultural heritage), there are additional requirements to obtain FPIC in order to comply with IFC PS7.

Source	Definition of Indigenous Peoples
Total Human Rights Guide	There is no universal definition of indigenous peoples. In fact, the international community has not adopted a formal definition, and the term is still controversial in some countries. The main criterion to identify indigenous peoples is self-identification. Several characteristics of indigenous peoples have been outlined, including by the United Nations: • Historical and geographical pre-establishment of these people within a given area of land; • Past or present experiences of marginalization and discrimination; • Cultural difference – in terms of use of a language or way of life that differs from the rest of the majority population; • Self-identification – recognising oneself and being locally recognised as such.
IFC Performance Standard 7 on Indigenous Peoples	There is no universally accepted definition of "Indigenous Peoples." Indigenous Peoples may be referred to in different countries by such terms as "Indigenous ethnic minorities," "aboriginals," "hill tribes," "minority nationalities," "scheduled tribes," "first nations," or "tribal groups." In this Performance Standard, the term "Indigenous Peoples" is used in a generic sense to refer to a distinct social and cultural group possessing the following characteristics in varying degrees: • Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; • Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; • Customary cultural, economic, social, or political institutions that are separate from those of the mainstream society or culture; or • A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

Source	Definition of Indigenous Peoples
	This Performance Standard applies to communities or groups of Indigenous Peoples who maintain a collective attachment, i.e., whose identity as a group or community is linked, to distinct habitats or ancestral territories and the natural resources therein. It may also apply to communities or groups that have lost collective attachment to distinct habitats or ancestral territories in the project area, occurring within the concerned group members' lifetime, because of forced severance, conflict, government resettlement programs, dispossession of their lands, natural disasters, or incorporation of such territories into an urban area.
African Commission on Human and Peoples Rights	The ACHPR is of the view that, a definition is not necessary or useful as there is no universally agreed definition of the term and no single definition can capture the characteristics of indigenous populations. Rather, it is much more relevant and constructive to try to bring out the main characteristics allowing the identification of the indigenous populations and communities in Africa. The concept in effect embodies the following constitutive elements or characteristics, among others: a) Self-identification; b) A special attachment to and use of their traditional land whereby their ancestral land and territory have a fundamental importance for their collective physical and cultural survival as peoples; c) A state of subjugation, marginalisation, dispossession, exclusion, or discrimination because these peoples have different cultures, ways of life or mode of production than the national hegemonic and dominant model; Moreover, in Africa, the term indigenous populations does not mean "first inhabitants" in reference to aboriginality as opposed to non-African communities or those having come from elsewhere. This peculiarity distinguishes Africa from the other Continents where native communities have been almost annihilated by non-native populations. Therefore, the ACHPR considers that any African can legitimately consider him/herself as indigene to the Continent.
ILO Convention 169	Article 1(1)(a) defines tribal peoples as having: • Culture, social organization, economic conditions and way of life different from other segments of the national population, e.g. in their ways of making a living, language, etc.; • Own traditions and customs and/or special legal recognition. Article 1(1)(b) defines indigenous peoples as having: • Historical continuity, i.e. they are pre-conquest/colonization societies; • Territorial connection (their ancestors inhabited the country or region); • Distinct social, economic, cultural and political institutions (they retain some or all of their own institutions). Article 1(2) also defines self-identification:

Source	Definition of Indigenous Peoples
	• Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply
UN Declaration on the Rights of Indigenous Peoples	The UN Declaration on the Rights of Indigenous Peoples identifies "indigenous peoples" as being the beneficiaries of the rights contained in the Declaration, without defining the term. The preamble of the Declaration, however, makes reference to certain characteristics normally attributed to indigenous peoples, such as their distinctiveness, dispossession of lands, territories and natural resources, historical and pre-colonial presence in certain territories, cultural and linguistic characteristics, and political and legal marginalization. Also, article 33, para.1, states that: Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
UN Working Definition (highly cited).[84]	A widely used working definition of "indigenous peoples" employs four criteria which may be met to varying degrees. These include: 1) priority in time, with regard to the occupation of a particular territory; 2) voluntary perpetuation of cultural distinctiveness; 3) self-identification as a distinct group; and 4) a historical or continuing experience of exclusion, marginalisation, dispossession or other forms of oppression.

From these definitions, it is important to highlight a number of convergent points:

- **Self-identification** is one of the fundamental criteria for the recognition of indigenous peoples. Self-identification will almost inevitably trump the lack of formal or legal recognition by the government if the other criteria for indigenous peoples are present.

- **Marginalization** is a criterion that appears in most definitions. However, marginalization is not in and of itself a sufficient or determinative criterion as there are many other marginalized groups who are not necessarily indigenous.[85]

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[84] Working Paper by Mrs. Erica-Irene A. Daes on the concept of "indigenous people," (UN Doc. E/CN.4/Sub.2/AC.4/1996/2) at p. 22., cited in IWGIA Working Paper 16., "Interpreting the UN Guiding Principles for Indigenous Peoples," (2014) at p. 12.

[85] On the other hand, the absence of marginalization of should not disqualify groups from being considered indigenous. This would lead to the illogical conclusion that, if the ultimate goals of recognizing indigenous peoples rights in terms of reconciliation and development were realized, then the rights-holders would lose their rights. Moreover, the Working Group of the African Commission on Human and Peoples Rights rejected the argument that the Maasai and other pastoralists should not be considered as aboriginal peoples just because they were educated and had adopted modern lifestyles.

- **Cultural difference** is a key part of most definitions, which makes sense as preservation of indigenous peoples' cultural differences is one of the overarching objectives for the recognition of their rights.

- **Connection to specific lands or territories** is also a key factor in recognizing indigenous peoples since their traditional lifestyles and livelihoods are often dependent on the land.

- **Not necessarily "first inhabitants".** Although the criteria of being a "first inhabitant" or "pre-conquest" group makes sense in some situations (e.g. colonization of indigenous peoples in the Americas), the Working Group of the African Commission on Human and Peoples Rights makes it clear that the term indigenous populations "does not mean 'first inhabitants' in reference to aboriginality as opposed to non-African communities or those having come from elsewhere."

b. Findings

i. Common Concerns

In the interviews conducted during the scoping mission and subsequent field work in Tanzania in Uganda, issues related to vulnerable groups, ethnic minorities and indigenous peoples were explored through interviews with a variety of stakeholders at the national, district, ward and community levels. In addition, targeted interviews with a series of indigenous and pastoralist organizations were undertaken in Arusha.

From these interviews—particularly with civil society organizations and representatives of indigenous peoples—it was clear that national and local stakeholders believe that there are indigenous peoples in Tanzania and Uganda. Citing the international standards and criteria for indigenous peoples, as well as some of the reports highlighted above, these stakeholders were confident and unequivocal about their belief that certain groups should be recognized as indigenous peoples. Furthermore, the specific groups cited as indigenous peoples were consistent with the groups identified in the international reports cited above (i.e. the Akiye (aka Dorobo), Hadza (aka Hadzabe), Barabaig (aka Taturu) and Maasai in Tanzania and the Benet (aka Ndorobo), Batwa (aka Twa), Karamajong and Ik in Uganda).

To varying degrees, these stakeholders were critical of the national governments for not formally recognizing indigenous peoples and implementing international standards related to indigenous peoples rights such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) or ILO Convention 169 on Indigenous and Tribal Peoples. At the same time, they did acknowledge the challenges for governments to recognize indigenous peoples in a context where all Africans are first people and where there are many ethnic groups that are vulnerable and marginalized.

Some expert stakeholders noted that popular discussions about indigenous peoples were often unproductive and politicized. Therefore, it was suggested that it is not always necessary to use

the specific terminology of "indigenous peoples" and that alternative terms such as "vulnerable ethnic groups" might be more constructive in some circumstances—particularly when dealing with government.

In sum, the feedback from the interviews with civil society organizations, academics and indigenous peoples representatives was that the recognition of indigenous peoples is a foregone conclusion, and that is was more important to discuss the substantive concerns and past experiences of indigenous people (these substantive concerns are summarized below.)

ii. Uganda

Uganda	
International Work Group for Indigenous Affairs (IWGIA), Indigenous World (2017)	• "The indigenous peoples of Uganda include the Benet, the Batwa, the Ik, the Karamojong, and the Basongora, although they are not recognised specifically as indigenous peoples by the Government of Uganda." • "Uganda has not adopted the UN Declaration on the Rights of Indigenous Peoples, and its indigenous population continue to live with impoverishment, social and political exploitation, and marginalisation."
UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Uganda (2016)	• Recommendation pertaining to the adoption of the ILO Convention 169 on Indigenous and Tribal Peoples was raised by the Government of Guatemala. • This recommendation was rejected by the Government of Uganda.

Indigenous Peoples	Desk Research	Fieldwork
Benet (aka Ndorobo, Musobishiek or Ogiek)	Given that the Benet are said to be from Eastern Uganda near Mt. Elgon bordering Kenya, there appears to be very little chance that the Benet would be impacted.	No evidence of overlap with EACOP pipeline during initial field work. Verification activities to be undertaken to confirm that there is no overlap.
Batwa (aka Twa)	At first glance, it does not appear that there is much risk of the pipeline traversing the mountainous territory described as the traditional homeland of the Batwa. However, this should be double checked since the EACOP map has few reference points in this region and may run closer to the Batwa area than it appears.	No evidence of overlap with EACOP pipeline during initial field work. Verification activities to be undertaken to confirm that there is no overlap.
Karamojong (aka Karimojong)	There does not seem to be much risk of overlap/ impact associated with the pipeline – at least not according to the EACOP map and what limited information is available on the	No evidence of overlap with EACOP pipeline during initial field work. Verification activities to be undertaken to confirm that there is no overlap.

Indigenous Peoples	Desk Research	Fieldwork
	internet. Nevertheless, the pattern of alienation from their lands by pre- and post-colonial governments suggests cause for concern regarding other IPs whose territories are closer to the project. It may also be worth asking whether, at some point in the future, there is any intent to connect this pipeline to Tullow's fields in Turkana just to the East of Karamojong territory.	
Ik	The Ik are said to have been displaced from their land to make way for Kidepo Valley National Park and now to live near the Kenyan border next to the Karamojong and the Turkana peoples. If accurate, there seems to be very low possibility of being impacted by the pipeline as shown in the EACOP map.	No evidence of overlap with EACOP pipeline during initial field work. Verification activities to be undertaken to confirm that there is no overlap.
Basongora	Of the minority ethnic tribes identified by in the Albertine region, only the Basongora is considered to be indigenous by international organizations. Notably, the International Work Group for Indigenous Affairs (IWGIA) has included the Basongora in its Indigenous World report (2018). IWGIA states that the Basongora (numbering 15,897) are a cattle-herding community living in the lowlands adjacent to Mt. Rwenzori in Western Uganda.[86]	In a review of the Tilenga social baseline, the Basongora are not listed as one of the ethnicities in the sample PACs.[87]

iii.   Tanzania

Tanzania	
African Commission on Human and Peoples Rights Working Group on Indigenous Peoples, Report of Visit to Tanzania (2013)	• Recognizes the Akiye/Dorobo, Hadzabe, Barabaig, Maasai/Ilparakuyio. • Recommends that the government takes "appropriate measures to correct the situation of indigenous peoples in the country and

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[86] IWGIA, Indigenous World (2018), p. 473.
[87] Tilenga social baseline, July 2018 draft, Table A9.4-4 - Ethnicities in the Sample PACs.

	to promote and protect their human rights for long term sustainable and peaceful development for all."
Tanzania Commission on Human Rights and Good Governance, Statement on Indigenous Peoples (2017)	• Recognizes the Hadzabe, Akiye, Barbaid/Datoga and Maasai. • Recommends that the government ensures an equitable sharing of resources such as land and other natural resources found in indigenous community areas. • Recommends that the government needs to hold consultations with indigenous communities whenever implementing development projects so as to obtain their free, prior, and informed consent.
International Work Group for Indigenous Affairs (IWGIA), Indigenous World (2017)	• "Even though Tanzania is home to 125-130 different ethnic groups, the state does not recognise the existence of indigenous peoples. The Akiye, Hadzabe, Barabaig and Maasai have organised themselves and their struggles around the concept and movement of indigenous peoples." • "Tanzania voted in favour of the UN Declaration on the Rights of Indigenous Peoples in 2007 but does not recognize the existence of any indigenous peoples in the country. Thus, there is no specific national policy or legislation on indigenous peoples."
UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: United Republic of Tanzania (2016)[88]	• Recommendations pertaining to the recognition of rights of indigenous peoples were raised by the Governments of Mexico and Cabo Verde. • The Government of Tanzania rejected the recommendations and stated that all people of African descent were indigenous.

Indigenous Peoples	Desk Research	Fieldwork
Akiye (aka Iltorobo (Maasai), Ndorobo (Kiswahili), Dorobo (English)	This tribe inhabits lands "about 150 miles south east of Olduvai Gorge," and there is at least some potential for overlap with the EACOP pipeline route.	No evidence of overlap with EACOP pipeline during initial field work. Verification activities to be undertaken to confirm that there is no overlap.
Hadza (aka Hadzabe)	It appears that the pipeline runs about 30-40 miles to the West of Hadza territory as recently as 1950. However, the area they inhabit has been drastically reduced since then. It now appears that they are roughly an additional 50 miles away.	No evidence of overlap with EACOP pipeline during initial field work. Verification activities to be undertaken to confirm that there is no overlap.
Barabaig	There appears to be significant potential for overlap between the pipeline route and the Barabaig.	No evidence of overlap with EACOP pipeline during initial field work. This group is a priority for the verification

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[88] UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: United Republic of Tanzania (14 July 2016), UN Doc. A/HRC/33/12.

Indigenous Peoples	Desk Research	Fieldwork
(aka Taturu, sub-tribe of the Datooga)		activities to ensure that there is no overlap. In subsequent verification work conducted by EACOP CLOs it appears that the pipeline may intersect with the land used by the Barabaig.
Maasai	The Maasai territory certainly would be traversed by the pipeline as depicted in the EACOP map.	Fieldwork in Tanzania confirmed the intersection between the pipeline route and the land used by the Maasai.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
Frame respect for groups that self-identify as Indigenous Peoples as part of EACOP's broader commitment to respect human rights for all stakeholders.
Build upon existing processes for stakeholder engagement and due diligence to ensure that groups that self-identify as Indigenous Peoples are included and respected within the project's overall approach for stakeholder engagement and due diligence
While the recognition of Indigenous Peoples rights necessarily entails the acknowledgment of the right to free, prior and informed consent (FPIC), there should be flexibility about what form of engagement would satisfy the requirement of FPIC.
Be particularly diligent about documentation of all efforts to respect Indigenous Peoples rights.
Use international criteria and considerations for the recognition of specific groups that may self-identify as Indigenous Peoples.
During meetings PACs will be sensitised to recent land speculation and informed of actions that can be taken.

10.Right to Information and Consultation

a. Standards

International standards provide that everyone has the right to freedom of opinion and expression; this right includes freedom to seek, receive and impart information.[89]

International standards for responsible business also provide that stakeholder engagement is the basis for building strong, constructive, and responsive relationships that are essential for the successful management of a project's environmental and social impacts, which includes disclosure and dissemination of information, consultation and participation of communities.[90] They also provide that businesses should provide relevant stakeholders with meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities.[91]

The African Charter on Human and Peoples' Rights states that "every individual has the right to receive information" (article 9).

The Ugandan Constitution 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 the privacy of any other person" (article 41).

The Tanzanian Constitution protects the right to freedom of expression which includes seeking and receiving information, and further includes "a right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society" (article 18).

b. Findings

i. Uganda

In Uganda, project-affected communities visited during the HRIA fieldwork were aware of the existence of the EACOP project but usually only at a high level. That is, people in communities had often heard of the pipeline, but did not know any more information. Project knowledge at the grassroots level in communities is low. However, the demand for information among community members is persistent and consistently high across the entire area traversed by the project.

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[89] Universal Declaration on Human Rights, article 19; International Covenant on Civil and Political Rights, article 19.
[90] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #1 Assessment and Management of Environmental and Social Risks and Impacts, Objectives, paras 25 – 36, Performance Standard #5 Land Acquisition and Involuntary Resettlement, paras 10-11, Performance Standard #8 Cultural Heritage, para 9.
[91] OECD Guidelines for Multinational Enterprises, Chapter II, General Policies, Recommendation 14.

There is low awareness within project-affected communities of rights and the law, especially labour rights, land rights and land acquisition/compensation processes, and access to remedy. Women are often not able to participate in community meetings and discussions as they are often at home doing chores or if they attend they tend not to speak up. Women-only meetings prove more open access to women where they feel comfortable participating. Other vulnerable or marginalized people suffer similar disempowerment and are often left out of village affairs, including the elderly, disabled people, people with albinism, and other marginalized groups such as people living with HIV/AIDS or who are LGBTQ.

In Uganda, community support for pipeline seems relatively high based on discussions with community members, however that support is tied to high expectations. In particular, there are very high expectations regarding the potential work offered to local communities.

Discussions with project-affected communities highlights that their experiences with previous projects has been poor. Concerns were raised, and examples given of broken promises, unmitigated impacts, inadequate or not timely compensation, and low or no information and consultation being provided in communities. Many community perceptions of the nature of the EACOP project are informed by these past experiences with oil, infrastructure, or agriculture projects. Legacy issues inform community and other stakeholder perceptions on the level of information provided to communities, the level of involvement of communities in local project-related decisions, the land acquisition process, social impacts and cultural values, effects on women, effects on resources (access to health, impact on water, quality of roads) in a resource scarce environment, labour-related rights and whether preferential treatment will be given to local people in employment opportunities. Based on previous poor experiences, community members are also concerned about property valuations and the adequacy, promptness and fairness of compensation.

People in project-affected communities reported very low trust in government authorities. Concerns were raised about corruption and the self-interest of officials. Community members raised widespread concern that officials can be bought.

Discussions with project-affected communities also highlighted that community perceptions about the benefits of the project are complex. There is also widespread concern that corruption and self-interest of public officials will reduce the benefits. Community members are also worried that the pipeline will affect the environment, and therefore their land and agriculture. Questions and concerns were raised about the potential for communities to feel no ownership over the project, which could lead to conflict or damage to pipeline by resentful people. People stated that they need to feel that the project is "theirs", which they will not be able to do if they are not sufficiently informed and consulted. There is a risk that a lack of information and engagement and very low awareness among people in communities could lead to people damaging or destroying the pipeline or facilities.

At the moment, it is felt communities are somewhat ambivalent about the project and that it is the right time to inform them before their perceptions turn negative. People in project-affected communities highlighted the importance of starting the project with a thorough plan to avoid lasting negative consequences on local people. This includes the provision of effective information and consultation of communities to provide a less antagonistic environment. People also highlighted the risk of engaging only with higher levels of government and not sufficiently engaging at the grassroots, village level. For example, issues may not be communicated to the company such as cases of land conflict or issues relating to women that may not be communicated by chairman of the village for traditional reasons, etc.

People in communities want to be informed of all aspects of the project from the onset to avoid being misled and be able to benefit from it. At the grassroots (village) level, the urge to be consulted is less apparent than the need to be informed, which is overwhelming. For example, it was reported that the while the ESIA social baseline team had met with members from communities, they were criticized for not having held sufficient information sessions to answer everyone's questions. People consistently point out the need for awareness raising and for transparency of the compensation and benefit sharing processes. Communities insist that there should be community meetings where everybody is invited so that everyone can have access to all and the same information. Some communities also mentioned that it would be helpful if at least a few persons per community were trained on the project so that the community has a local resource to go to for information.

ii. Tanzania

In Tanzania, project-affected communities visited during the HRIA fieldwork were aware of the existence of the EACOP project but usually only at a high level. That is, people in communities had often heard of the pipeline, but did not know any more information. Within communities, the level of knowledge of the project varies substantially, with those who are on village councils or who are prominent or well-connected members of the community being better informed. Project knowledge at the grassroots level in communities is low. However, the demand for information among community members is persistent and consistently high across the entire area traversed by the project.

There is low awareness within project-affected communities of rights and the law, especially labour rights, land rights and land acquisition/compensation processes, and access to remedy. For example, there is very low awareness about provisions in the Land Act for disturbance allowances, rent for temporary housing, and compensation costs which implies people are not currently having access to these funds.

Women are often not able or empowered to speak up in (or even show up to) community meetings and discussions. Women also stated that men dominate discussions or do not allow them to participate. Other vulnerable or marginalized people suffer similar disempowerment and are often left out of village affairs, including the elderly, disabled people, people with albinism, and other marginalized groups such as people living with HIV/AIDS or who are LGBTQ.

Additionally, in some tribes in Tanzania, those without property are not permitted to speak in village meetings.

In Tanzania when accessing or sharing information with communities it is very important to follow government protocol of moving through the levels of government (regional to district to ward for example). For projects like EACOP, the strict application of protocol works both ways: it is time consuming, yet it ensures smooth implementation of consultation and engagement with communities. The rigorous implementation of protocol creates a controlled environment, with the government maintaining a high degree of control over outsiders (and any opponents). It also creates the possibility of information bottlenecks. For example, if an investor or project proponent kept its engagement to the District level, there is a risk of only receiving limited information. Bad news may not make its way up from the village grassroots level to the company.

In Tanzania it is difficult to assess the genuine level of community support for the EACOP project. People in project-affected communities frequently expressed sentiments along the lines of: 'We support the project because the Government has decided.' However discussions with project-affected communities highlights that their experiences with previous projects has been poor. Concerns were raised and examples given of broken promises, unmitigated impacts, no compensation, and low or no information and consultation being provided in communities. For example, areas of Tanzania traversed by the pipeline that had more experience with mining (whether large-scale or ASM) tended to be more negative about the pipeline. Such communities had greater experience with negative project impacts and were aware of the possible effects. Discussions with these communities highlighted that they were more cautious of the project, or even sometimes bitter and resistant to the project.

Many community perceptions of the nature of the EACOP project are informed by these past experiences with road or transmission line construction or mining. Legacy issues inform community and other stakeholder perceptions on the level of information provided to communities, the level of involvement of communities in local project-related decisions, the land acquisition process, social impacts and cultural values, effects on women, effects on resources (access to health, impact on water, quality of roads) in a resource scarce environment, labour-related rights and whether preferential treatment will be given to local people in employment opportunities.

People in project-affected communities reported very low trust in government authorities, especially District-level authorities and higher. Concerns were raised about corruption and the self-interest of officials. In some villages, there are concerns about who gets invited to community meetings (e.g. that it is only those who are in support of projects), and whether people are able to speak up about the project.

Discussions with community members also highlighted that the positive benefits to communities are unclear. Questions and concerns were raised about the potential for communities to feel no ownership over the project, which could lead to conflict or damage to pipeline by resentful people. Some community members raised fears of "becoming like Nigeria."

In some areas, the Government of Tanzania has provided instructions to Districts to get prepared for EACOP which has led to the formation of District Committees. Where these processes have already been put in place, it may lead to conflict if they are difficult to reverse. Government officials also at times complained about the increased workload that EACOP will bring for them. Officials appear to be feeling pressure to make the project go smoothly and there is a burden on them to stay on top of current information.

Local officials (e.g. Ward Executive Officer) point out that they are under significant pressure from communities to provide EACOP related information. Some politicians, MPs in particular, are raising expectations (e.g. that people will get jobs) in light of the 2018 elections, which then puts pressure on Village Executive Officers (VEO) to validate these claims. However, EACOP does not provide any information that would help empower the VEOs, who are now look out of control and uninformed, or that they are hiding opportunities from people. Local officials suggested that EACOP explains the basics of how the project will be constructed, including that work will be done by machines, not by hand, and the requirements for the positions that will be available (welders etc.) to begin reducing expectations.

The lack of general information about the starting date of the project means that rumours have been spreading. These rumours are the basis on which jobseekers move to project areas. Also, the lack of information available to local authorities (WEO and VEO in particular) mean that such authorities are not able to respond to questions they receive or to dampen rumours. Instead, local authorities are perceived to be 'hiding' information, which undermines their credibility and authority.

 Communities themselves highlighted the risks of not following protocol or trying to short-cut protocol as examples were given of where outsiders were not welcome in the community. For example, there were some concerns that EACOP technical survey teams were working near to communities and not communicating directly with villagers nearby. Local officials noted that the multiple project teams already working (ESIA, geotechnical and geophysics) have raised expectations by their mere presence and that this work signals to communities that the start of construction is imminent. Discussions with people in communities also indicates the varying interpretations of the project's activities. For example, people have interpreted that information that the geotechnical teams are covering a "1km wide pipeline corridor" to mean that land take will be 1km wide. The HRIA team heard reports that a number of people have started to build speculative houses in this 1 km zone as a result.

Stakeholders are clear in their expectations of the project. Project-affected communities want to be informed of all aspects of the project form the onset to avoid being misled. Community members consistently pointed out the need for awareness raising and for transparency in the compensation and benefit sharing processes. People in communities also insist that meetings at village levels are inclusive, given concerns that local officials may try to exclude some people. The HRIA also identified that it can be difficult for people in communities to understand the materials being distributed by EACOP because of low levels of literacy, education, or familiarity with these

types of projects. Questions from project-affected communities also demonstrated that the interpretation of EACOP leaflets may not be consistent. For example, local people assume the 10,000 jobs that an EACOP leaflet says will be provided are for one district only.

People in project-affected communities are acutely aware that they lack information and perceive this to be a critical shortcoming of the project. For example, there is discussion of the project being 'done to international standards' but there is no understanding at a village level or even among district level officials about what this means. Discussions during the HRIA fieldwork identified the perception in mining areas where resettlement had taken place that international standards means international compensation rates for example. Civil society groups at the national-level raised concerns that the ESIA process, in particular the impact assessment and development of mitigations, was not transparent. The volume of awareness raising work that needs to happen within a short period of time is daunting and disproportional to current EACOP resources. Concern from civil society groups that the ESIA process (impact assessment and mitigation in particular) is not transparent.

Several concerns were raised by project-affected communities about information sharing and the consultation process around the marine service terminal (MST) in Tanga. There were reports that during the opening ceremony for the MST a heavy police and intelligence presence was brought to the area both to ensure safety of the opening ceremony in August 2017 but also to suppress protest by local community members over the land acquisition process. Reportedly, police removed people with banners from the area. Furthermore, a strong sense exists amongst Tanga farmers who have lost their land for the MST that authorities deliberately withheld information right up until the inauguration of the project to prevent any protest.

Local officials in Tanga stated that engagement around the land acquisition process was conducted according to the law. This means that people were informed rather than consulted. The lack of information and, especially, education regarding the purpose and sustainable use of compensation funds (coupled with statements by politicians that "all people will get jobs") meant that community members used the compensation (often only given for land and crops) for the construction of additional brick houses. In most cases, this money has run out well before construction was completed and the HRIA noted that only a few construction projects are occupied. This implies that former landowners lost their land, their access to a livelihood, and have no access to an improved home. Landowners near the Tanga MST are particularly upset about the tone and disrespectful approach taken by authorities during the land acquisition process. Several stated they felt humiliated, embarrassed, intimidated and bullied. Additionally, it appears that in Tanga District, the focus has been on the wards related to the MST and that the wards associated with the pipeline have received less attention regarding information sharing and consultation.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
As part of the project Occupational Health, Safety and Security Management Plan (OHSSMP), under Fitness to Work Medical Screening and Management, appropriate pre-deployment screenings will be described in the recruitment procedure and communicated during the recruitment process.
Regular meetings will be held with PAC representatives, when construction is active in their area, to update them on construction progress and to receive comments or queries. Additional meetings will be held when the need arises (e.g., discontent, conflicts, incidents). A community liaison log (meeting minutes) will be maintained detailing the content of all meetings with PACs. Where deemed necessary, information leaflets and posters will be produced in line with project stakeholder engagement plan guidelines.
Community awareness programmes will be developed and implemented in project affected communities to explain: • road safety risks and how to increase the safety of pedestrians particularly children • how to ensure their safety during construction • the measures that have been, or will be, implemented to protect their health and safety (e.g., provision of safe access).
A Stakeholder Engagement Plan will be developed and executed, identifying how the project will engage and consult with internal and external stakeholders to keep them informed about progress with the project, understand and respond to their concerns and report to them on the project's environmental and social performance.
The project will develop a campaign focused on providing realistic community expectations with regard to livelihood options and employment opportunities. This is to avoid that people make livelihood decisions based on incorrect information.
The Project will liaise with fishermen and marine users to provide information on the construction activities, the construction vessel and road transit routes, and to notify them of the construction exclusion zones and their implementation for safety reasons.
The project will undertake targeted engagement with pastoralists in Nzega and Igunga Districts to build awareness of the construction activities.
Suggested additional human rights mitigation measures
Meetings will also serve to: • communicate the measures that have been, or will be, implemented to protect their health and safety (e.g., provision of safe access); • receive comments, grievances or queries; and • provide feedback on previous grievances.
The plan will ensure that engagement with higher-risk PACs where more significant impacts are anticipated, is implemented on a more frequent basis. As well, engagement with vulnerable groups within the community will have special attention
Stakeholder consultation around water in particular should be held and the local authorities responsible, for example for water, should also be consulted so that a plan is put in place before initiating operations. Particular attention should be paid to identifying and including disenfranchised individuals in the community.

The engagement plan is based on risk analysis, stakeholder analysis and will include for each stakeholder groups: • The approach • The venue • Frequency of interaction • The objective of the engagement • Measurement of success
All engagement will be recorded, tracked and analysed in a central stakeholder engagement database management system
In addition to an engagement strategy, the project will develop a comprehensive communications plan to develop and implement information campaigns. These campaigns focus on the provision of information in a transparent manner and on a large scale: • Through the use of websites and social media • By publishing relevant policies, plans and documents on the company website • Through the use of local radio, which is a highly effective manner to reach people in the project area (e.g. by having a weekly live Q&A session) • By using phone technology to messg. Project updates • Through the use of leaflets and posters drafted in easily accessible language
The project will provide quarterly public updates on progress against the register.
Community Liaison Officers will be stationed in the entire project area and will use local key stakeholders (Ward Executive Officers, Teachers, Village Executive Officers, informal leaders) as venues to inform the wider community as well as use periodic public meetings to ensure that information reaches the grassroots population.
A community friendly non-technical summary of the ESIA will be made available Swahili.

11. Community Safety (Road Safety)

a. Standards

International standards on the right to life[92] and the right to health[93] are applicable to road safety and potential traffic accidents. The right to health is an international human rights law standard in itself, and is also a component of the right to an adequate standard of living.[94] The UN has proclaimed the 2011-2020 the International Decade of Road Safety and has developed documents to address the issue.[95]

International standards for responsible business also require that negative impacts of projects on communities should be avoided or at least minimized,[96] and for organizations to be prepared to react to emergency situations to prevent and mitigate harm to people and the environment.[97]

The African Charter on Human and Peoples' Rights protects the right to life[98] and the right to health (articles 4 and 16).[99]

The Ugandan Constitution protects the right to life (article 22). The Constitution and the National Environment Act (NEA) guarantee the right to a clean and healthy environment and obligate the state to protect the country's natural resources. Uganda has adopted the Traffic and Road Safety Laws and Regulations,[100] and various legislations on environment protection that could be applicable to spills.[101]

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[92] Universal Declaration of Human Rights, article 3; International Covenant on Civil and Political Rights, article 6.

[93] International Covenant on Economic, Social and Cultural Rights, article 12.
OHCHR, Fact Sheet on the Right to Health: http://www.ohchr.org/Documents/Publications/Factsheet31.pdf
Guidance on human rights and health from the World Health Organization:
http://www.who.int/mediacentre/factsheets/fs323/en/

[94] Universal Declaration of Human Rights, article 25.

[95] The United Nations and Road Safety: http://www.un.org/en/roadsafety/documents.shtml

[96] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard # 4 Community Health, Safety and Security, para 1, Objectives, Requirement 5 (Community Health and Safety), Requirement 6 (Infrastructure and Equipment Design and Safety), Requirement 7 (Hazardous Materials Management and Safety); OECD Guidelines on Multinational Enterprises, Chapter II General Policies, Recommendations 2, 10, 11 and 12; Chapter IV Human Rights; Chapter VI Environment.

[97] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard # 1 Emergency Preparedness and Response, Objectives, Requirements 20-21 (Emergency Preparedness and Response).

[98] African Charter on Human and Peoples' Rights, article 4.

[99] See also Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights: http://www.achpr.org/instruments/economic-social-cultural/
State Party reporting guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Tunis Reporting Guidelines): http://www.achpr.org/files/instruments/economic-social-cultural-guidelines/achpr_instr_tunis_reporting_guidelines_esc_rights_2012_eng.pdf
Pretoria Declaration on Economic, Social and Cultural Rights in Africa: http://www.achpr.org/instruments/pretoria-declaration/

[100] Traffic and Road Safety Laws and Regulations:
http://www.works.go.ug/document-category/traffic-and-road-safety-laws-regulations/

[101] National Forestry and Tree Planting Act, 2003; Wild Life Act, 1996; Water Act Cap 152; Mining Act 2003 and Regulations; National Environment (Minimum Standards For Discharge Of Effluents Into Water Or Land)

In Tanzania, various legal instruments can be applied in the context of road accidents or spills. The Constitution protects the right to life and provides that every person has a responsibility to protect the natural resources of the country.[102] The Environmental Management Act of 2004 protects the right to a clean, safe and healthy environment (article 4(1)) and explicitly prohibits discharge of any hazardous substance in the environment (section 110(1)). Tanzania has a National Road Safety Policy,[103]as well as national, regional and municipal bylaws applicable.[104] However, a lack of resources affects the effectivity of the above-mentioned policies.

b. Findings

i. Uganda

National-level stakeholders and project-affected communities are concerned about the impacts on community safety by the EACOP project. National-level stakeholders drew attention to the potential risks related to the time pressure to deliver the project on time causing road safety impacts (e.g. road accidents due to poor fatigue management.)

Road safety concerns were raised by community members during the HRIA fieldwork however it was often not the top safety concern of project-affected communities. However, road accident rates in Uganda are high, with pedestrians and cyclists considered particularly vulnerable. Project-affected communities located near the highway which stretches from the Tanzania border to Kyotera and onwards to Masaka did more regularly highlight concerns about road-related dangers. Settlements are located alongside the road and vulnerable road users (pedestrians, cyclists) are particularly sensitive to increases in the number of heavy goods vehicles. The HRIA fieldwork also identified that there is a belief among some in communities that big projects like EACOP require children to be sacrificed and that this sacrifice can happen in the form of road accidents.

ii. Tanzania

National-level stakeholders and project-affected communities are concerned about the impacts on community safety by the EACOP project. National-level stakeholders drew attention to the potential risks related to the time pressure to deliver the project on time causing road safety impacts (e.g. road accidents due to poor fatigue management and lack of local community awareness regarding road safety risk.)

Regulations No. 5/1999; The National Environment (Minimum Standards For Management Of Soil Quality) Regulations, 2001; National Environment Impact Assessment Regulations, 1998.
[102] Articles 14 and 27.
[103] Tanzania National Road Safety Policy (2009): http://mwtc.go.tz/uploads/publications/en1473317956-NATIONAL%20ROADS%20SAFETY%20POLICY.pdf
[104] See also Land Use Planning Act, Village Land Use Plans; Water Policy 2002.

Road safety concerns were raised by community members during the HRIA fieldwork however it was often not the top safety concern of project-affected communities. However, given the reliance of individuals on walking and cycling, particularly in rural areas, these groups are highly vulnerable to traffic accidents. Accident rates are high in Tanzania. Settlements are located alongside the road and vulnerable road users (pedestrians, cyclists) are particularly sensitive to increases in the number of heavy goods vehicles.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
Welded pipe sections will be capped on a daily basis to prevent entry by fauna or people.
Each section of open pipeline trench will have sloped ends or other mechanisms to help animals escape from the trench. The trench will be checked daily for wildlife; where animals are discovered, suitably qualified project staff will be dispatched to identify the safest way to remove it from the trench for both the animal and the handler. Options for safe removal will be detailed in the biodiversity management implementation plan. Animals will be removed and released into suitable habitat away from the working area, avoiding conflict with nearby communities.
The maximum length of open trench at any one time (per spread) will be defined based on: • the habitats present and potential ecological sensitivities (e.g., terrestrial commuting routes) • community safety.
Where construction crosses public roads and key junctions, and safety risk assessment has identified a risk of traffic accidents, temporary traffic control measures (flagmen, temporary traffic lights, barricades) will be employed.
Night-time driving will be by exception only.
A detailed transport and road safety management plan will be developed and implemented based on project policies, site-specific traffic risk assessments and safe driving procedures. The plan will consider but not be limited to the need for additional mitigation measures including local road upgrades, use of traffic convoys, restrictions on movement times and additional, locally focused educational programmes.[105]
A risk assessment will be conducted to identify if temporary fencing of open excavations is required in areas of elevated risk. The risk assessment will consider the location of the nearest community, the presence of grazing animals and possibility that the excavation will flood.
Vehicle movements will be restricted to defined access routes and demarcated working areas (unless in the event of an emergency). The project will obtain government consent (if required), to use roads not designated for project use.

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[105] CHSW20-23 provide additional mitigation measures

Construction marine exclusion zones will be designated and implemented in consultation with the Ports Authority and other appropriate stakeholders, with the aim of limiting disruption to other marine users and maintaining the safety of people and vessels.
A monitoring plan will be developed and implemented to ensure that environmental noise exposure levels are periodically monitored and documented. Procedures for corrective measures will be incorporated and implemented in the event of exceedances.
An emergency response plan will be prepared which clearly identifies possible emergency scenarios, sets out actions to be taken in the event of an emergency, and defines resources that will be made available to respond to an emergency event.
The access routes will be improved as required to provide safe access for the project duration.
Preference will be given to transport of pipe and other construction materials by rail to Isaka where feasible.
Local people will be discouraged from using the right-of-way as an access road during construction through signage, awareness raising and the use of communication materials
Reinstatement will be undertaken as early as practicable following completion of construction activities in any ROW section or site.
Suggested additional human rights mitigation measures
The emergency response plan also includes a community emergency response component.
Ensure that traffic awareness campaigns are adapted and particularly targeting at children.

12. Community Health

a. Standards

The right to health[106] is an international human rights law standard, and it is also a component of the right to an adequate standard of living.[107] States must take measures to prevent, treat and control diseases, reduce infant mortality and provide for the healthy development of children, improve all aspects of industrial and environmental hygiene, and to create conditions that will ensure universal access to appropriate medical services and medical attention in the event of sickness. People must have access to the underlying building blocks of good health, such as adequate nutrition, housing, safe and potable water, adequate sanitation, medical supplies, healthy working conditions and a healthy environment.

International standards for responsible business also require that negative impacts of projects on the health of the communities should be avoided or at least minimized.[108]

The African Charter on Human and Peoples' Rights provides that "every individual shall have the right to enjoy the best attainable state of physical and mental health" and that "States parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick" (article 16).

The Ugandan Constitution provides in its General social and economic objectives that the State shall take all practical measures to ensure that all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits (article XIV). Uganda has adopted the health management information system DHIS2 which has improved the health system management. Legal and policy initiatives are underway in the health sector, notably the National Health Insurance Bill which will contain protections for vulnerable groups and an E-health Policy and Strategy.

The Constitution of Tanzania does not explicitly recognize social and economic rights, including the right to health. Other legislations and policies address health issues, without granting a formal right to health.[109]

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[106] International Covenant on Economic, Social and Cultural Rights, article 12; Committee on Economic, Social and Cultural Rights, General Comment 14 on the Right to Health.
OHCHR, Fact Sheet on the Right to Health: http://www.ohchr.org/Documents/Publications/Factsheet31.pdf
Guidance on human rights and health from the World Health Organization:
http://www.who.int/mediacentre/factsheets/fs323/en/
[107] Universal Declaration of Human Rights, article 25.
[108] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard # 3 Resource Efficiency and Pollution Prevention, para 1, Objectives, Requirement 4, Requirement 9 (Water Consumption); Performance Standard # 4 Community Health, safety and Security, para 1, Objectives, Requirement 5 (Community Health and Safety); OECD Guidelines on Multinational Enterprises, Section VI (Environment) Chapter II, General Policies, Recommendations 2, 10, 11 and 12; Chapter IV. Human Rights.
[109] Public Health Act. No. 1 of 2009; National Policy Guidelines for the Health Sector Prevention and Response to Gender Based Violence 2011; National Coasted Plan of Action for Most Vulnerable Children II 2013–2017 (NCPA II)

b. Findings

i. Uganda

National-level stakeholders and project-affected communities in Uganda highlighted community health concerns relating to several aspects of the EACOP project. Concerns were raised about the health impacts of the pipeline itself, pipeline construction activities, and project-induced influx and the presence of worker camps.

People in project-affected communities expressed worry about road and construction site safety and the effects on people and animals (e.g. cattle) and about the safety implications of project-induced influx. Community members also expressed worries about the potential for project construction activities to cause damage to local infrastructure and housing for example via vibrations causing cracks in houses, schools, leading them to be unsafe.

People in project-affected communities are concerned about the effect of the pipeline itself on human and animal health. There are concerns about the potential for pipeline explosions, spills, and the effects of chemicals in pipeline coating on water sources and land used for grazing and agriculture.

Project-affected communities are also concerned about the impacts of project construction. This includes dust and air pollution from construction and traffic. People are concerned about the presence of open trenches during construction, for the hazard it presents to both human and animal safety and health.

Numerous concerns were raised about the presence of construction camps and the influx of workers into project-affected communities or areas nearby communities. This also includes the influx of truck traffic and truck drivers along existing and new roads.

Community members asked about how construction camp waste will be managed and are worried about the risk of contamination of water and land by the camps. Community members are concerned about the communities' exposure to disease as project-induced influx occurs, both of workers and others who come to the area looking for work or opportunities. People highlighted the potential for the spread of STIs and HIV/AIDS via an influx of workers, other job-seekers, and commercial sex workers. Local stakeholders noted that in some regions, HIV is already highly prevalent (e.g. notably Mutukula) and they feel that the EACOP project will most likely increase the prevalence. People are concerned about the potential for gender-based violence (rape, harassment), and impregnation of local women, particularly young girls and teenage pregnancies. Vulnerable women may also resort to prostitution, which may cause them to be ostracized after the project or contract STIs or HIV/AIDS.

Community members are worried about the potential negative social effects of the presence of construction camps and new access roads and associated potential influx of workers, truck drivers, and others who are lured by expectations of project opportunities. Community members

and local officials highlighted the potential effects on the local social fabric by the EACOP project. These included the potential for divorce and abandonment of women and families by men who are employed on the project; the engagement of young children in project activities (working or hanging around); the luring of local girls by workers into relationships; and the influence of outsiders on local behaviour (especially sexual behaviour, use of alcohol).

Both men and women in project-affected communities expressed concerns about family structures: men that they are worried about 'losing' their women; women that they are afraid of being left with children from workers. Women noted previous experiences with other construction projects where vulnerable women were attracted to workers because they feel these men will be able to provide for them, yet the women and children were later abandoned by project workers. Community members also noted that construction camps should not be located near schools and that workers need to be sensitized on appropriate behaviour and local 'ground rules'.

There is concern of pressure on existing infrastructure and health facilities as project-induced influx occurs. Community members in project-affected communities and local government officials raised concerns about the pressure put on existing over-stretched health facilities by project workers and other outsiders. There are shortages of drugs and most health centers are under-resourced. In many areas access to health facilities is poor, especially when communities are not located close to an urban center and because roads are often difficult to travel.

ii. Tanzania

National-level stakeholders and project-affected communities highlighted community health concerns relating to several aspects of the EACOP project. Concerns were raised about the health impacts of the pipeline itself, pipeline construction activities, and project-induced influx and the presence of worker camps.

People in project-affected communities expressed worry about road and construction site safety and the effects on people and animals (e.g. cattle) and about the safety implications of project-induced influx. Community members also expressed worries about the potential for project construction activities to cause damage to local infrastructure and housing for example via vibrations causing cracks in houses, schools, leading them to be unsafe. In several communities which had previously experienced local construction or infrastructure works, people noted that worksites had not been remediated after the completion of works creating safety hazards for people and animals.

People in project-affected communities are concerned about the effect of the pipeline itself on human and animal health. There are concerns about the potential for pipeline explosions, spills, and the effects of chemicals in pipeline coating on water sources and land used for grazing and agriculture.

Project-affected communities are also concerned about the impacts of project construction. This includes dust and air pollution from construction and traffic. People are concerned about the presence of open trenches during construction, for the hazard it presents to both human and animal safety and health.

Numerous concerns were raised about the presence of construction camps and the influx of workers into project-affected communities or areas nearby communities. This also includes the influx of truck traffic and truck drivers along existing and new roads. Community members asked about how construction camp waste will be managed and are worried about the risk of contamination of water and land by the camps.

Community members are concerned about the communities' exposure to disease as project-induced influx occurs, both of workers and others who come to the area looking for work or opportunities. People highlighted the potential for the spread of STIs and HIV/AIDS via an influx of workers, other job-seekers, and commercial sex workers. Given the high incidence of communicable diseases and the poor health facilities in project-affected communities, potential influx will likely increase the prevalence of communicable diseases.

People in project-affected communities are also worried about the potential for gender-based violence (rape, harassment) and the effect of outsiders on local women and girls. This includes the impregnation of local women, particularly of young girls, and the negative effects of teenage pregnancies (school dropouts, economic hardship). Examples of previous negative experiences with construction and infrastructure projects were noted where workers impregnated local women and later abandoned them.

Community members are worried about the potential negative social effects of the presence of construction camps and new access roads and associated potential influx of workers, truck drivers, and others who are lured by expectations of project opportunities. Community members and local officials highlighted the potential effects on the local social fabric by the EACOP project. These included the potential for divorce and abandonment of women and families by men who are employed on the project; young children to be tempted to hang around project activities; the luring of local girls by workers into relationships; and the influence of outsiders on local behaviour (especially sexual behaviour, use of alcohol). Community members noted that construction camps should not be located near schools and that workers need to be sensitized on appropriate behaviour and local 'ground rules'.

Despite the major concerns about the potential negative social and health effects of the construction camps, many people in project-affected communities still wish to see open, rather than closed, camps to be able to take advantage of business opportunities for selling goods and services to the camps and their workers.

In some areas, there are concerns about the potential cumulative impacts relating to the increase in disease prevalence, such as HIV/AIDS, as a spin-off impact of growing investment and commercial activity. In Tanga for example, the current growth of new industry (EACOP, new

factories) is attracting many young male jobseekers, which increases the potential cumulative impacts of influx. HIV infection rates are higher in areas which have high population mobility (Kahama, Igunga, Geita and Tanga), are locations along major transport routes with stoppage for long distance truck drivers (Kahama, Igunga, Nzega and Muleba), experience influx related to gold mining and trade (Kahama, Chato, Bukombe and Mbogwe), and in fishing communities (Geita, Muleba, Chato and Bukoba).

There is concern of pressure on existing infrastructure and health facilities as project-induced influx occurs. Community members expressed concern about the pressure put on local clean water sources by influx of outsiders. Both community members in project-affected communities and local government officials raised concerns about the pressure put on existing over-stretched health facilities by project workers and other outsiders. Access to health facilities in many locations traversed by the pipeline is poor. There are shortages of drugs in most rural facilities. Health facilities in areas that are experiencing existing influx from mining (e.g. Kahama, Katoro) are already strained and under-resourced.

Although most of Tanzania is food secure, certain districts, including Geita, Handeni, Missenyi, and Kahama, have noted that influx has resulted in food insecurity in certain communities. The majority of farmers in the project's area of impact are subsistence farmers. An increase in external demand may result in food prices increases and shortages for the more vulnerable groups, including women-headed households and elderly people.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
Site layout will be designed, where practical and feasible, to locate noisy equipment in areas further away from sensitive receptors where a risk assessment shows that there may be significant noise impacts on the sensitive receptors. Other forms of mitigation (e.g., acoustic barriers, onsite buildings, containers and other temporary construction components) may be used to reduce noise impacts.
Where there is a high potential for disturbance to people in their homes (e.g., from noise and vibration) from construction activities that will be undertaken between 7 p.m. and 7 a.m, a location-specific assessment will be completed to identify appropriate mitigation. Special consideration will be given to any highly sensitive receptors including hospitals.
Activities that generate high levels of noise and vibration will be assessed to determine potential impacts. Mitigation will be implemented where appropriate. Local residents will be notified at least 72 hours in advance before activities are undertaken that could generate levels of noise and vibration that may disturb or alarm people or animals, especially during approved 24-hour activities.[110]

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[110] ACO07, ACO12, ACO13, ACO18, ACO19, ACO-NEW01 provide additional mitigation measures.

The dust generation potential of project activities will be reviewed, considering ground and weather conditions, and the presence and sensitivity of dust receptors. Dust suppression measures will be implemented where necessary to reduce significant
impacts, including but not limited to:
- planning construction facility layout so that machinery and dust causing activities are located away from sensitive receptors
- damping down the right -of-way, stockpiles, access roads and village roads used by construction traffic during dry conditions
- sheeting vehicles carrying fine materials to help prevent dust blow and spillages.

A strict project maximum speed limit will be enforced for project vehicles using unmade tracks and the right-of-way.

At locations where there is a demonstrable need for people or animals to cross the right-of-way and access can be accommodated safely, taking into account works being undertaken in that area at the time:
- Crossing points will be provided across open trenches and welded pipes.
- Gaps will be left in soil stacks and pipe strings at strategic locations to allow free movement of people and livestock.

Local people will be consulted on the optimum location of crossing points and pastoralists informed of the access restrictions in advance, advising them to avoid cultivated areas. Trends in conflicts between crop farmers and herders in the vicinity of the project footprint will be monitored and support will be provided to local authorities to obtain a resolution in cases of conflict wherever possible.

The project will liaise with other third party developments and relevant government bodies to share information about their worker and community health management strategies, as well as information about worker movements, to ensure that they are commensurate and enable an efficient and coordinated response to any potential disease outbreak.

A PIIM management plan will be developed and implemented for the project with the aim of reducing the number of people that arrive into PACs and mitigating the impacts of PIIM that does occur.

A PIIM management plan will include:
- Monitoring effects of in -migration and demographic change.
- Monitoring relations between communities and in -migrants.
- Education of project workers and local communities on impacts related to socially unacceptable behaviours.

As part of the CHSSIMP, an agreement with the District Health Management Teams (DHMTs) will be reached including periodic meetings to discuss potential health impacts, proposed mitigation measures and longitudinal monitoring of specific key health indicators during construction. Proactive planning and coordination with DHMTs, regarding the development and implementation of community programmes will take place prior to the start of construction.

Based on the PIIM related risk assessment, the project will identify potential PIIM hotspots and work with local leaders to establish PIIM mitigation measures, and to increase the psychological 'readiness' of local communities to absorb outsiders.

Initiatives to keep light pollution to a minimum will be implemented. These include using:
- modern specification lighting at above ground installations to reduce light spill to
- surrounding areas
- daylight sensors at PRS1 and the MST where possible to prevent unnecessary lighting during the day
- low level, low-impact bollard lighting in the camp accommodation areas at the MST, where possible.

Construction camps will be designated as having "closed" status to prevent interactions between the incoming workforce and PACs and prevent the spread of communicable disease. Policies will be developed to manage transgressions within the project disciplinary procedures and structures

As part of the project Community Health, Safety and Security Management Plan (CHSSMP), develop and implement an Information Education and Communication (IEC) programme, with a focus on the local workforce, covering social conduct, e.g. gender based violence, drug and alcohol misuse. As part of the CHSSMP, explore and evaluate opportunities for supporting local development that support vulnerable groups, including gender balance.

As part of the CHSSIMP, an agreement with the Council Health Management Teams (CHMT) will be reached including periodic meetings to discuss potential health impacts, proposed mitigation measures and longitudinal monitoring of specific key health indicators during construction. Proactive planning and coordination with CHMTs, regarding the development and implementation of community programmes, will take place prior to the start of construction.

As part of the CHSSIMP, community based interventions will be developed and implemented, in cooperation with Council Health Management Teams (CHMT), which consider:
- The development and implementation of a Community Malaria Control Programme.
- The development and implementation of a Community HIV/PTB Programme.

The project will conduct ongoing monitoring of Tanganyika (Muheza district, Tanga region, Tanzania) and liaise with authorities to review social changes in the town. Appropriate interventions will be developed as deemed necessary to enhance existing interventions (as set out in PIIM management plan) or develop further interventions.

The project will conduct ongoing monitoring of Putini and Chongoleani (Tanzania) and liaise with authorities to review social changes in these PACs. Appropriate interventions will be developed as deemed necessary to enhance existing interventions (as set out in PIIM management plan) or develop further interventions.

The project will undertake joint regional in-migration planning and management activities with government authorities and other relevant partners in light of emerging urban growth and scale of in-migration in the Tanga area.

Camp design specifications will be developed to ensure adequate health facilities with sufficient capacity and capabilities are available to prevent additional pressure being placed on local and district health services.

A fitness for work / pre-deployment medical screening and management will be developed and implemented to ensure:
- project workforce from elsewhere is fit to mobilise to site with no detectable

communicable disease (e.g. pulmonary TB) • that the local workforce is fit to work with no detectable communicable diseases.
A construction camp management plan will be prepared that details the specific mitigation measures to be implemented to avoid and reduce impacts associated with the development and occupation of construction camps. These will include measures to reduce or remove community disturbance or nuisance from the camps, e.g., preventing litter, dust generation, odours and noise.
As part of the OSSMP, camp residents will have access to adequate disease preventive measures such as condoms and insecticide treated bed nets (ITN).
Suitable transport will be provided to transport camp residents to the worksites.
A medical emergency response plan will be developed and implemented to ensure that emergency cases can be dealt with without impacting on district health services.
Suggested additional human rights mitigation measures
The management plans should also include: • A plan to determine access routes • Project planning footprint (e.g. locate the administrative officer away from the project area) • Access Control to the area • Plans to handle spatial planning • Building multi-stakeholder frameworks and stakeholder capacity • Plans to strengthen service capacity; education, health, law and order, access to water and energy
Develop a plan in place (possibly through a partnership with a specialized agency) to closely monitor, and address, project effects on the social fabric and on vulnerable groups in particular. These include divorced and abandoned women/families by employed men; young children; high school girls, albino population, and others vulnerable.

13. Water and Environment

a. Standards

At the international level, the right to water is protected as a component of the right to an adequate standard of living[111] and as a component of the right to health.[112] General Comment 15 (2002) interprets the International Covenant on Economic, Social and Cultural Rights confirming the right to water in international law: the human right to water entitles everyone to sufficient, safe, acceptable, accessible and affordable water for personal and domestic uses.[113] Company activities can impact on access to water if pollution and over-use of local water supplies significantly interfere with people's enjoyment of access to water. This aspect of the right is also particularly relevant to companies that provide water services and companies that provide for the basic needs of their workforce and the surrounding community. Companies can have a positive impact on rights with respect to water through initiatives aimed at improving the accessibility and quality of water for local communities.[114]

International standards for responsible business also require that negative impacts of projects on communities should be avoided or at least minimized.[115]

The African Charter on Human and Peoples' Rights recognizes both the right to health and to an environment favorable to their development (articles and 16 and 24). [116]

The Constitution of Uganda provides the "State shall protect important natural resources, including land, water, wetlands, minerals, oil, fauna and flora on behalf of the people of Uganda" and that the "State shall take all practical measures to promote a good water management system at all levels" (articles XIII and XXI). The Constitution also protects access to clean and safe

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[111] Universal Declaration on Human Rights, article 25; International Covenant on Economic, Social and Cultural Rights, article 12.

[112] International Covenant on Economic, Social and Cultural Rights, article 12.

[113] Committee on Economic, Social and Cultural Rights, General Comment 15 (2002) on the Right to Water; UN General Assembly, Resolution 64/292, 28 July 2010.

[114] See also UN General Assembly, Resolution 64/292, 28 July 2010; UN Global Compact, Guidance for Companies on Respecting the Human Rights to Water and Sanitation: Bringing a Human Rights Lens to Corporate Water Stewardship: http://ceowatermandate.org/files/business-hrws-guidance.pdf

[115] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #1, Requirements on the Assessment and Management of Environmental and Social Risks and Impacts, Performance Standard # 3 Resource Efficiency and Pollution Prevention, para 1, Objectives, Requirement 4, Requirement 9 (Water Consumption); Performance Standard # 4 Community Health, Safety and Security, para 1, Objectives, Requirement 5 (Community Health and Safety); OECD Guidelines on Multinational Enterprises, Section VI (Environment) Chapter II, General Policies, Recommendations 2, 10, 11 and 12; Chapter IV Human Rights.

[116] See also Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights: http://www.achpr.org/instruments/economic-social-cultural/

State Party reporting guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Tunis Reporting Guidelines): http://www.achpr.org/files/instruments/economic-social-cultural-guidelines/achpr_instr_tunis_reporting_guidelines_esc_rights_2012_eng.pdf

Pretoria Declaration on Economic, Social and Cultural Rights in Africa: http://www.achpr.org/instruments/pretoria-declaration/

water as a component of social and economic rights the State should endeavor to fulfill (article XIV) and provides further protections for the environment (article XXVII). The National Environment Act (NEA) provides further protections for the environment, including water. According to the law, EIAs should be conducted prior to the development of any business operation. The extractive sector has a range of environmental issues that are assessed and monitored at various stages of the investment process. Uganda's Forest Policy of 2001 emphasizes the ecological and socio-economic importance of protecting the nation's forest resources and includes provisions for safeguard and conservation of forests.[117]

The Constitution of Tanzania provides that every person has a duty to protect the natural resources of the country (article 27). The Environmental Management Act (EMA) of 2004 protects the right to a clean, safe and healthy environment (article 4(1)) and explicitly prohibits discharge of any hazardous substance in the environment (section 110(1)). The State is implementing the Water Policy of 2002 with the goal of increasing access to clean and safe water, sanitation and hygiene by improving access to safe drinking water in urban and rural areas and sanitation facilities in households and public places. The EMA demands that developers of major projects provide an Environmental Impact Assessment (EIA) prior to commencing operations. During the preparation of an impact assessment, developers together with the National Environment Management Council (NEMC) are expected to "seek the view of any person who is likely to be affected by the project", and regulations also address topics of consultations with communities and environmental protections.[118] Despite the fact that the EMA includes numerous environmental protections, its provisions are not effectively enforced in practice.

b. Findings

i. Uganda

In Uganda, water access and water quality are crucial issues for project-affected communities in all regions visited by the HRIA fieldwork. Complaints of drought and about increasingly unpredictable weather patterns were frequently raised during discussions with national-level stakeholders and people in project-affected communities.

The latest statistics from WHO and UNICEF show that 79% of the Ugandan population have access to safe drinking water. Groundwater, in the form of boreholes or wells, is the most common source of water for households in project-affected communities. Others rely on surface water, such as lakes, rivers, dams for all their domestic needs. In trading centers which are more urban,

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[117] See also National Forestry and Tree Planting Act, 2003; Wild Life Act, 1996; Water Act Cap 152; Mining Act 2003 and Regulations; National Environment (Minimum Standards For Discharge Of Effluents Into Water Or Land) Regulations No. 5/1999; National Environment (Minimum Standards For Management Of Soil Quality) Regulations, 2001; National Environment (Noise Standards And Control) Regulations, 2003; National Environment Impact Assessment Regulations, 1998.

[118] See also Village Land Use Plans; National Environmental policy, 1997; National Forest Policy,1998; Wildlife Policy of Tanzania, 1998; The Environmental Impact Assessment and Audit Regulations, 2005.

households often have access to tap water. However, shortages are common and may last for weeks. Crop production across the districts traversed by EACOP is predominantly rain fed.

The districts of Gomba, Lwengo and Kyotera recorded the best access to safe drinking water at 87%, 72% and 63%, respectively, while Mubende, Kakumiro, Sembabule and Rakai all ranked in the bottom five with coverage below 50% (MWE 2017).

During the dry season, the water situation worsens. Many communities rely entirely on dams during dry season. Dams are filled by rain water during rain season and the water remains for months during dry season, often being shared between people and cattle. This raises potential water quality problems. In general, many households are not satisfied with the quality of water from their main source.

Access to adequate sanitation in Uganda is generally poor at just 19% (UNICEF 2015). The majority of the population in the districts traversed by EACOP have access to some form of sanitation facility, with the highest coverage recorded in Hoima (91%) followed by Mubende (84%) and Rakai (84%) (MWE 2017). Access to sanitation facilities was found to be much lower in the districts of Gomba (55%) and Kyankwanzi (59%). Pit latrines are the commonest type of sanitation facility.

People in project-affected communities raised numerous concerns about the effect of the EACOP pipeline and associated construction works on local water sources used for agriculture and drinking water. The perceived impact of the pipeline on water quality and quantity is very important. People in communities stressed that EACOP should avoid pipeline construction in water sources and wetlands. Concerns were also raised about the pipeline crossing water sources, such as rivers and creeks, and disturbing wells.

People in project-affected communities were concerned about the possible impact on dams and stressed that if any dams have to be relocated, that EACOP ensures the affected population does not find itself without a water source for a whole season. People in project-affected communities also expressed concerns about pipeline spills and the chemicals associated with the pipeline (e.g. the coating) causing contamination to water sources and grazing lands.
People in project-affected communities also raised numerous concerns about the effect of EACOP construction and worker camps on water. People also were concerned about the project's waste management and sanitation practices and were concerned about the risk of pollution and contamination. There are high expectations among project-affected communities for EACOP to help in the provision of water to communities, whether through community investment programs or the handover of camp facilities (e.g. boreholes) once construction is complete.

ii. Tanzania

National-level stakeholders and people in project-affected communities have concerns about the availability of water and the potential effects of EACOP on water. Many communities in the area traversed by EACOP have access to a community borehole or hand-pump. However, many rural

communities rely on surface water (from lakes, rivers, dams, etc.) for domestic use. The water situation worsens during the dry season when most households are cut off from their regular supply and must buy water from vendors. Agriculture is generally dependent on traditional irrigation along rivers, lakes and dams. The HRIA fieldwork identified serious water shortages in some locations and ongoing drought. Some people in communities expressed that the drought was an impact of climate change.

According to the 2015-2016 TDHS-MIS, 61% of households in Tanzania have access to an improved water source, with a large variation between urban and rural areas however. Improved drinking water sources are help prevent water contamination, and likely make water safe to drink. The more urbanised districts of Tanga City, Korogwe Town and Kahama Town have the highest level of access to safe drinking water, while the more rural districts of Chemba, Handeni, Kiteto, Kilindi and Igunga demonstrated the lowest access to these basic services. While over 70 % of communities in the districts traversed by EACOP have access to some form of sanitation facility (pit latrine being the most common), access to improved sanitation facilities were noted to be significantly lower in 79% of the project districts.

Numerous concerns were raised by people in project-affected communities about the importance of local water sources and the potential impacts of the project. Community members told of previous contamination and damage to water sources from mining and previous construction projects. People raised concern about the contamination of water sources by artisanal and small-scale mining activities. In areas visited during the HRIA fieldwork where industrial mining has occurred, there is a perception among some community members that mining has disturbed the water table and left wells dry. Community members also told of examples where the impacts of previous construction projects were not remediated, such as tree cutting and the digging of open holes, thus disturbing water sources.

People in project-affected communities raised numerous concerns about the effect of the EACOP pipeline and associated construction works on local water sources used for agriculture and drinking water. People in communities and national-level stakeholders stressed that EACOP should avoid pipeline construction in water sources and wetlands. Concerns were also raised about the pipeline crossing water sources, such as rivers and creeks, and disturbing wells. People in project-affected communities expressed concerns about pipeline spills and the chemicals associated with the pipeline (e.g. the coating) causing contamination.

People in project-affected communities also raised numerous concerns about the effect of EACOP construction and worker camps on water. Especially in resource-scare and water-stressed areas, people had major concerns about the use of local water sources by camps and workers and EACOP construction activities. People also were concerned about the project's waste management and sanitation practices and were concerned about the risk of pollution and contamination. In numerous cases, project-affected communities stated that they are hoping that any facilities built by EACOP for worker camps, such as boreholes, will be handed over to the community after use by the project.

c. **Mitigation**

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
The project will work closely with the local authorities and the water pipeline developer to identify and monitor any emerging tensions and conflict related to this impact.
The project will liaise with other third party developments and relevant government bodies to share information about their surface water treatment strategies, to ensure that they are commensurate and enable an efficient and coordinated response to any disruption to surface water.
As part of the development and implementation of site-specific water management plans (i.e., during the construction and operations phases), monitoring of community water sources and dedicated EACOP groundwater monitoring boreholes in terms of groundwater level and/or flows from hand pumps and water quality will be undertaken to ensure that negative impacts do not occur.
Other than required for watercourse crossings, construction traffic will normally not enter rivers or streams. Vehicles will cross watercourses via a bailey bridge. Vehicles will be cleaned and inspected using a predefined checklist, to prevent leaks of oil and lubricants into the watercourse.
Bathing or washing clothes, vehicles and equipment by project employees will be prohibited in watercourses.
An environmental and social evaluation of potential treated discharge locations will be undertaken as the basis for the development of measures to mitigate impacts from discharges on surface water ecology, downstream water users or terrestrial ecology. The evaluations will take into account the compliance with project environmental standards and will support applications for discharge permits. All licences and consents will be obtained before planned liquid discharges.
Water abstracted from either new or existing boreholes or surface water and the water quality and sustainability will be monitored at suitable frequencies to confirm that the supply meets permit conditions and project environmental standards and does not impact adversely on other known users.
Weekly visual monitoring and inspections will be undertaken at locations with sensitive groundwater or surface water for the prevention of spills and leaks of chemicals and fuels to ground.
Groundwater levels will be monitored once every two weeks by EACOP at all sites where groundwater abstraction occurs for the project. Monitoring will be carried out by measuring groundwater levels in EACOP's abstraction boreholes, in dedicated EACOP groundwater monitoring wells and where possible in community wells/boreholes. At each monitoring location, the depth to the groundwater level will be measured from a constant reference point on the borehole casing or the wall surrounding a community well whose elevation above sea level will be accurately surveyed at the start of the monitoring programme.

Groundwater monitoring boreholes will be located between the abstraction boreholes and the closest local water supply borehole/well and will serve as an early warning system for impact of abstraction on community water supplies. The location of the EACOP monitoring well(s) should be determined by a qualified hydrogeologist to ensure that they are installed in the correct formation and at the correct distance between EACOP's abstraction boreholes and community water points. The groundwater level data should be collected manually by using a portable, battery-operated groundwater level dip meter. All measured groundwater levels will be stored as a time series in MS Excel and converted to units of metres above sea level for reporting purposes. If the local water supplies are derogated to the extent that complaints are made by the community as a result of EACOP's abstraction then EACOP will provide alternative water supplies at a convenient location for the community that is not or is less influenced by EACOP's abstraction.

Suggested additional human rights mitigation measures
Conduct a site-specific groundwater study to determine the risk of the Project's water use through groundwater and surface water abstraction, potentially impacting on PAC water supplies.
Develop and implement site-specific water management plans as part of the EMP to avoid project water use impacting on the local population's water supply and manage the potential contamination of surface water and soil which can potentially pollute superficial ground water sources.

14.Cultural Rights

a. Standards

International standards provide that everyone has the right to participate in the cultural life of their community.[119]

International standards for responsible business also provide protection for cultural heritage, the main objectives being to protect cultural heritage from the adverse impacts of project activities, supporting its preservation and promoting the equitable sharing of benefits from the use of cultural heritage in business activities.[120] The standard applies to heritage regardless of whether it is legally protected or it has been previously disturbed. There is a focus on tangible cultural heritage but there is also a provision for intangible heritage referring to the commercialization of intangible heritage by the project proponent.

The African Charter on Human and Peoples' Rights also protects the right to participate in the cultural life of the community (article 17.2). The African Charter also recognises the importance of preserving cultural values (articles 17.3, 18.2 and 29.7) and grants group rights and protections to "peoples" (articles 19 – 22).[121]

The Ugandan Constitution provides that "every effort shall be made to integrate all the peoples of Uganda while at the same time recognising the existence of their ethnic, religious, ideological, political and cultural diversity" and that "the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them" (articles III and 32). The Uganda Human Rights Commission (UHRC) and the Equal Opportunities Commission (EOC) are mandated to promote human rights and equality, including those of minority groups. The EOC was created in 2009, under the Equal Opportunities Act 2007, to eliminate discrimination and inequalities on grounds of ethnic origin. The EOC is also mandated to take affirmative action in favour of marginalised groups. The National Action Plan also specifically provides for their protection, affirmative action, participation in decision making, empowerment, and access to education, health and water, among other things. The lack of comprehensive national legal and policy frameworks is a persistent challenge that inhibits the promotion and protection the rights of minority groups.[122]

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[119] Universal Declaration of Human Rights, article 27; International Covenant on Economic, Social and Cultural Rights, article 15; UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage;

[120] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #8; OECD Guidelines for Multinational Enterprises, Chapter II, General Polices.

[121] See also Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights: http://www.achpr.org/instruments/economic-social-cultural/

State Party reporting guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Tunis Reporting Guidelines): http://www.achpr.org/files/instruments/economic-social-cultural-guidelines/achpr_instr_tunis_reporting_guidelines_esc_rights_2012_eng.pdf

Pretoria Declaration on Economic, Social and Cultural Rights in Africa: http://www.achpr.org/instruments/pretoria-declaration/

[122] See also all land legislation mentioned in the Land and Property section.

The Tanzanian Constitution prohibits discrimination on the basis of nationality, tribe, place of origin, political opinion, colour, religion, sex or station in life (article 13). The Graves Removal Act provides for compensation of owners of graves and reburying of the remains elsewhere. The Antiquities Act, 1964, and Antiquities (Amendment) Act, 1979 afford protection to Tanzanian cultural heritage, including burial grounds and sacred sites. They require that a Heritage Impact Assessment (HIA) be undertaken for certain projects and, when required, mitigation measures should be implemented. However, there are growing conflicts between pastoralists, hunter-gatherers and farmers over limited land.

b. Findings

i. Uganda

National-level stakeholders highlighted that most investors or proponents of large-scale projects do not engage with affected communities before beginning the implementation of any work.

National-level civil society groups highlighted the importance of cultural identity in Uganda in relation to concerns about potential project-induced influx. There is a yearning within communities to maintain strong cultural identity. There are concerns that this can be threatened by influx.

The HRIA fieldwork identified that there are numerous locations within and near to project-affected communities which are considered sacred. This includes sacred sites and places for rituals. Often these are natural sites, such as trees, rocks, or water sources. In some cases, people may travel from far away or even from all over the country to visit the site (e.g. the Wajinja site in Uganda).

People in project-affected communities emphasized the cultural importance of graves. Community members stated that families typically have the graves of their ancestors since generations in the past on their land.

In Uganda, strong community values hold the social fabric together. An individual's identity is as part of a group, whether it be the clan, family or community. The interests of the group come before the interests of the individuals. Furthermore, respect for the rituals of the clan and for cultural leaders is very important. Community members are expected to respect the elders of the community and their decisions and opinions.

In project-affected communities, religion is important. Christianity is the predominant religion in the area studied by the HRIA, followed by Islam. Traditional beliefs are also practiced often in combination with Christianity and Islam.

In Uganda society, ancient traditional kingdoms, also known as cultural institutions, are an important feature. Within the project area there are three cultural institutions: the Buganda Kingdom, the Bunyoro-Kitara Kingdom, and the Kooki Chiefdom. Representatives of cultural

institutions play an active role in local communities by assisting with the development of community infrastructure, generating business opportunities, and implementing community sensitisation and awareness campaigns.

Regarding the EACOP project, people in project-affected communities expressed concerns regarding any project resettlement. Community members are worried that resettlement will cut people off from being part of the community identity. They also are worried that the situation into which they are resettled will be an area that is very different or where nobody wants to live and it will be difficult to adapt.

People in project-affected communities expressed concern about the effect of the EACOP project on burial places, graves, and sacred places. If EACOP requires any cultural sites to be moved, time will have to be provided for the cultural leaders to consult spirits as to the appropriate process for moving the sites.

Project-affected communities are also concerned about the impact of camp workers and influx on social values and community cohesion. Concerns were raised about the dress code of workers, the use of rude language, the risk of teenage pregnancies, divorce, stealing of women, etc. Community members emphasized the need to have sensitization of workers on the ground rules of the village.

ii. Tanzania

The HRIA fieldwork identified that there are numerous locations within and near to project-affected communities which are considered sacred. This includes sacred sites and places for rituals. Often these are natural sites, such as shrines, trees, rocks, or water sources (springs and wells). In some cases, people may travel from far away or even from all over the country to visit the site. People in project-affected communities highlighted that respect for graves is also very important and that grave sites are culturally valued. Community members also use the environment around communities to gather plants for medicinal and cultural purposes. Medicinal plants are collected by both women and men, primarily for subsistence purposes, although certain plants are sold locally. Public forest areas and reserve land are also often places of cultural significance because they provide access to medicinal products and sites for spiritual healing.

Community values and norms were consistently mentioned during discussions with project-affected communities as very important. This includes respect for protocol and local leadership, which requires that outsiders follow government protocol to meet with government officials and leaders before visiting an area. Respect for village norms by outsiders is also important and community members stated that this includes being neighbourly by providing help in emergencies and attending burial ceremonies; showing respect for elders and local religious values; and demonstrating culturally appropriate and religiously appropriate behaviour.

People in project-affected communities expressed concern about the effect of the EACOP project on burial places, graves, and sacred places and about people's access to sites – both those community members who live near and those who are coming from afar.

Project-affected communities are also concerned about the impact of camp workers and influx on social values and community cohesion. Concerns were raised about the dress code of workers, the use of rude language, the risk of teenage pregnancies, divorce, stealing of women, etc. Community members emphasized the need to have sensitization of workers on the ground rules of the village. In Chongoleani Ward near the Tanga Marine Service Terminal, local civil society groups highlighted the potential for cultural identity change. These stakeholders pointed out that the identity of the area will significantly change as outsiders come into the area seeking business opportunities, potentially creating resentment amongst locals.

Some project-affected communities expressed distrust of outsiders (especially 'mzungus') who enter into villages without asking permission of local leaders or without being accompanied by government officials or by EACOP CRCs or CLOs (seen as following protocol).

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
All mature baobab trees within the RoW will be retained and protected.
Borassus palms within the RoW will be retained and protected.
A strategy for tree removal and replanting will be developed. The strategy will consider: • the number of trees and species to be removed during construction • conservation value of the species to be removed • variety of species to be replanted • provenance of species used for replanting • the region -specific environmental characteristics influencing replanting success.
The pre-entry surveys will be referred to when deciding suitable locations for replanting of translocated species or species planted to compensate for those removed during construction.
To avoid construction traffic disturbing particular local events such as funeral ceremonies, community liaison officers will encourage project-affected community authorities to provide advance warning of funerals and other similar events so that movement of heavy vehicles, equipment and pipe through settlements can be avoided at these times.
A preconstruction walkover survey (PCS) of the RoW will be undertaken to collect data on location, extent and mitigation measures of known assets (tangible and intangible cultural heritage (TCH and ICH)) and to consult community leaders about ICH sites or practices not yet identified. For TCH the survey will make a record of condition of any site that may be affected

by the project including:
- a record of the nature and extent of each site, to include sites with associated ICH value
- where avoidance may be feasible, information on any restriction on access into a buffer zone around each site
- contact details for owners and relatives and users, where available, particularly for grave sites.

A report including a GIS file will be prepared that will recommend location-specific actions to be undertaken that could include:
- trial excavation to determine the nature and extent of a site
- full excavation of a site
- demarcation and signage to protect features within 50 m of the project footprint
- relocation of features such as graves following appropriate rituals by affected communities
- access constraints on project staff, equipment and vehicles
- measures to mitigate reduction of access by local population to specific features
- measures to protect features from damage by dust, noise or vibration
- watching brief during vegetation removal or topsoil stripping
- reporting of discoveries
- a schedule of sites and mitigation measures itemised above with actions to be undertaken will be prepared and will inform the cultural heritage management plan (CHMP) and any appropriate licences obtained.

Responsibilities for implementing the cultural heritage management plan (CHMP) will be agreed with the government authorities. Regular meetings and reports of progress will be given to the government authorities and agreed community leaders.

A written scheme of investigation (WSI) including site plans will be prepared for each site where an intervention is needed and appended to the cultural heritage management plan (CHMP). This WSI specifies actions, resources and durations and effectively becomes the contract for those undertaking the work. It would deal both with pre-construction and construction discoveries. Until investigation and recording in accordance with the WSI, or avoidance or management activity is completed to the satisfaction of, and as licensed by government authorities, construction may not proceed in that area.

A senior cultural heritage monitor (SCHM) will ensure that all cultural heritage protection measures defined in the cultural heritage management plan (CHMP) are implemented in advance of construction. The SCHM will be supported by a tangible cultural heritage monitor (TCHM) and an intangible cultural heritage monitor (ICHM) to evaluate the effectiveness of the cultural heritage protection measures. Contact will be maintained with communities by the ICHM with the support of community liaison officers (CLOs) to ensure that any traditional areas, graves, shrines and other features are identified, marked up, and protected or relocated or other mitigation measures agreed where required

The senior cultural heritage monitor (SCHM) and TCHM tangible cultural heritage monitor (TCHM)/ ICHM intangible cultural heritage monitor (ICHM) will conduct awareness training for all project personnel.

The senior cultural heritage monitor (SCHM) will prepare an updated chance finds protocol

(CFP) for implementation throughout the construction programme.[123]
Information on known intangible cultural heritage (ICH) receptors collected during the pre-construction surveys will be collated with other social information for the project affected communities (PACs), evaluated and integrated into the cultural heritage management plan (CHMP). This will include any information on indigenous or vulnerable people if present in PACs. Implementation of the cultural heritage management plan (CHMP) by the intangible cultural heritage monitor (ICHM) and community liaison officers (CLOs) during construction will involve: • regular liaison with community leaders and members of communities with specialist knowledge of or involvement in ICH • negotiation with these leaders on procedures to avoid impacts on specific ICH locations by company and contractor teams to minimise impacts to ICH practices • regular meetings and progress reports to government authorities and agreed community leaders. Until the recording and mitigation work is completed in areas adjacent to ICH sites or practices, construction may not proceed in that area.
An operational CHMP will be prepared. The plan will include details of all known cultural heritage features identified and managed before and during construction. The CHMP and associated data will inform any cultural heritage management measures that may be required during project operation.
Recontouring should be sympathetic and in keeping with the surrounding landscape, where this is not precluded by risk to integrity of the pipeline or erosion considerations.
Suggested additional human rights mitigation measures
Elders will be consulted prior to tree removal to determine if the tree has cultural heritage value and, if so, what additional measures need to be taken
Where trees have cultural heritage value, elders will be consulted regarding the appropriate location for relocation.
During the construction phase, the project should consider the merits of having an archaeologist present to support the avoidance of adverse impacts on cultural heritage resources and sacred sites, and for appropriately managing any chance finds.

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[123] CUH07-09 provides additional mitigation measures.

15. Community Investment and Local Content

a. Standards

The main international standards applicable to Community Investment are the right to an adequate standard of living[124], right to health[125] and right to education[126] and the right to water.[127] It has to be noted that business enterprises undertaking commitments to support and promote human rights in communities does not offset a failure to respect human rights in their operations (UN Guiding Principle 11, Commentary). There are also various Sustainable Development Goals that can be positively impacted in community investment.[128]

International standards for responsible business also require that negative impacts of projects on communities should be avoided or at least minimized.[129] Companies often invest in community development to support the communities neighbouring their projects, and they are encouraged to do it.[130] International standards also encourage investments to be Strategic, Aligned, Multi-Stakeholder Driven, Sustainable and Measurable.[131]

The African Charter on Human and Peoples' Rights protects the right to an adequate standard of living (article 21), right to health (article 16), right to education as a right of the child protected

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[124] Universal Declaration on Human Rights, article 25; International Covenant on Economic, Social and Cultural Rights, article 11.

[125] International Covenant on Economic, Social and Cultural Rights, article 12.
OHCHR, Fact Sheet on the Right to Health: http://www.ohchr.org/Documents/Publications/Factsheet31.pdf
Guidance on human rights and health from the World Health Organization: http://www.who.int/mediacentre/factsheets/fs323/en/

[126] Universal Declaration of Human Rights, article 26; International Covenant on Economic, Social and Cultural Rights, article 13; Convention on the Rights of the Child, article 28;

[127] Component of the right to an adequate standard of living: Universal Declaration on Human Rights, article 25; International Covenant on Economic, Social and Cultural Rights, article 12. Component of the right to health: International Covenant on Economic, Social and Cultural Rights, article 12; Committee on Economic, Social and Cultural Rights, General Comment 15 (2002) on the Right to Water; UN General Assembly, Resolution 64/292, 28 July 2010.

[128] SDGs 1, 2, 3, 4, 6, 8, 9. See also UN Common Understanding of a Human Rights-Based Approach to Development: http://hrbaportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies.

[129] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard # 3 Resource Efficiency and Pollution Prevention, para 1, Objectives, Requirement 4, Requirement 9 (Water Consumption); Performance Standard # 4 Community Health, Safety and Security, para 1, Objectives, Requirement 5 (Community Health and Safety); OECD Guidelines on Multinational Enterprises, Section VI (Environment) Chapter II, General Policies, Recommendations 2, 10, 11 and 12; Chapter IV Human Rights.

[130] OECD Guidelines on Multinational Enterprises, Chapter II, General Policies, Recommendations 1, 3; Commentary 5.

[131] IFC Strategic Community Investment: A Good Practice Handbook for Companies Doing Business in Emerging Markets, p. 9.

in international law (article 18.3) and right to water (article 16).[132] The African Charter on the Rights and Welfare of the Child provides further protections for the rights of children.

b. Findings

i. Uganda

In Uganda, the HRIA identified issues relating to access to electricity, water, education, and health services which can affect people's rights to an adequate standard of living and to education. Discussions with project-affected communities highlighted that access to electricity is often very limited, even in more urban trading centres, other than via the use of private solar panels. Access to water of good quality was also highlighted as a challenge as was access to health services. Several concerns were raised about poor access to drugs, especially due to the cost which is often see as prohibitive. It was also heard from women that they often struggle to find income to pay for their children's private school fees.

Community members in many regions stated that local roads are difficult to travel because of their poor condition. They noted this has an impact on the community because it can limit access to health services, the ability to conduct business, and even sometimes access to schools for children.

Project-affected communities did express high expectations and demands for the EACOP project to implement community investment projects in order to leave a legacy in the community. Examples were given of oil companies building roads elsewhere in the country (e.g. Sembabule region). Community members stressed that water, education, and health projects should be of priority (e.g. boreholes, schools, clinics). Communities expect that EACOP facilities will be handed over to the village after use by the project (e.g. camp facilities). Communities also noted that they see public access to the service road as a community benefit and expressed further expectations that other roads and shared infrastructure (e.g. for electricity) could be built.

There are also high expectations in project-affected communities with regard to the opportunities for local content. Community members expressed interested in providing food, local agricultural products, printing services, bar, etc. Women in project-affected communities noted that they try to have small informal sector business opportunities whenever possible and are interested in project opportunities as well.

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[132] See also Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights: http://www.achpr.org/instruments/economic-social-cultural/
State Party reporting guidelines for Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (Tunis Reporting Guidelines): http://www.achpr.org/files/instruments/economic-social-cultural-guidelines/achpr_instr_tunis_reporting_guidelines_esc_rights_2012_eng.pdf
Pretoria Declaration on Economic, Social and Cultural Rights in Africa: http://www.achpr.org/instruments/pretoria-declaration/

ii. Tanzania

In Tanzania, the HRIA identified issues relating to access to electricity, water, education, and health services which can affect people's rights to an adequate standard of living and to education. Access to electricity is often very limited. Access to water, particularly during drought times, was also highlighted as a challenge as was access to health services. Community members in project-affected communities also complain about the state of public buildings in the community (e.g. schools, local village office) and the lack of support from government for the construction of those buildings.

Project-affected communities express high expectations and demands for the EACOP project to implement community investment projects in order to leave a legacy in the community. Examples were given of previous company projects which provide community benefit, including small-scale mine owners who support the local construction of schools and health facilities by making a donation once a year, and of foreign Asian contractors who have transformed quarries into animal watering holes. Community member expectations relate to the provision of roads, schools, clinics, the upgrading of village offices and community buildings. People stressed that water, education, and health projects should be of priority. These expectations for projects are at a village level rather than the ward level which risks creating competition and have and have-nots between communities or within communities.

Communities expect that EACOP facilities will be handed over to the village after use by the project (e.g. camp facilities). Communities also noted that they see public access to the service road as a community benefit and expressed further expectations that other roads and shared infrastructure (e.g. for electricity) could be built. Local government officials also link concerns about influx and the associated pressure on local services to their expectations for community investment support.

There are also high expectations in project-affected communities with regard to the opportunities for local content. Community members expressed interested in providing food and local agricultural products (especially beef, chicken, eggs). Women in project-affected communities noted that they try to have small informal sector business opportunities whenever possible and are interested in project opportunities as well. There are expectations among women in communities that they will provide food and other small items to the project, based on their previous experiences with construction projects.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
A national content plan (UG)/local content plan (TZ) will be developed to maximise the purchase of goods and services from within Uganda/Tanzania. This will be contingent on whether local suppliers can offer sufficient quality and reliability and can meet project requirements. The national content plan (UG)/local content plan (TZ) will include, as appropriate, enterprise development, capacity development and ring fencing contracts.
When appropriate, on-the-job training will be provided to enable local workers to gain new or improved skills while working on the project.[133]
As part of the tendering documentations, (sub) contractors will be requested to include training components in their proposal (e.g. by including a full-time trainer on staff) as a means to increase local employment as well as increase the employability opportunities for local staff.
Suggested additional human rights mitigation measures
When a Social and Environmental Investment strategy is developed for the project, consider adopting rights-based development principles of participation of beneficiaries in the planning and implementation of specific projects; and, to the extent possible, align the objectives of the strategy with positive human rights impacts (e.g. improvement to the right to health or right to education).

16. Security and Human Rights

a. Standards

The right to life, liberty and security of person is protected in international instruments. Human rights law has as basic principles that no person shall be arbitrarily deprived of life, subjected to torture or to cruel, inhuman or degrading treatment or punishment and be deprived of their liberty and security of person.

Those rights and principles are provided for at the international level under Article 3 of the Universal Declaration of Human Rights (UDHR) and in Article 6(1), 7 and 9 of the International Covenant on Civil and Political Rights (ICCPR).

The rights to assemble and associate with others, to express an opinion, to practice a profession or a religion or to be able to move freely are also recognized at the international level and cannot provide justification for any violations on the right to life, liberty and security of person.

Guidance relevant to the protection of the right to life, liberty and security of the person in the context of business activities is further provided at the international level under the Voluntary Principles on Security and Human Rights (VPSHR), the United Nations Guiding Principles on Business and Human Rights (The "Guiding Principles"), the IFC Performance Standard 4 on community, health, safety and security, the OECD Guidelines for Multinational Enterprises[134], the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the International Code of Conduct for Private Security Service Providers (ICoCA).

The right to life, liberty and security of person is protected at the regional level under Article 4, 5 and 6 of the African Charter on Human and People's Rights (ACHPR).

As it is the case at the international level, the rights to assemble and associate with others, to express an opinion, to practice a profession or a religion or to be able to move freely is recognized in the ACHPR and thus cannot provide justification for any violations on the right to life, liberty and security of person[135].

The right to life, liberty and security of person is protected at the national level in both the 1977 Constitution of the Republic of Tanzania[136] and the 1995 Constitution of the Republic of Uganda[137]. Domestic legal protections extend to most of the humanitarian law basic principles

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[134] Chapter II, General Policies, Recommendations 10, 11 and Chapter III, Disclosure, Recommendations 3,4, Commentary 30, 31, 32, 33
[135] ACHPR, Article 8, 10, 11 and 12
[136] The 1977 Constitution of the United Republic of Tanzania, Article 13(6)(e), 14, 15 and 16
[137] The 1995 Constitution of the Republic of Uganda, Article 22, 23, 24.

and also provides rights protection regarding freedom of movement and religion that are equivalent to the international and regional levels[138].

However, in both countries, tolerated harmful traditional beliefs, self-help measures and unfollowed proper measures often impact the rights to life, liberty and security of the person. A number of challenges equally hamper the right of access to justice and equality before the law in Tanzania and in Uganda. These challenges considerably reduce the protection provided for the right to life, liberty and security of person in both constitution. These challenges include limited public awareness of the justice system, inadequate legal representation, corruption impunity and an under-resourced justice sector.

Several laws in both the Republic of Tanzania and the Republic of Uganda likewise impact the exercise of the freedom of opinions and assembly on the basis of peace and good order[139]. There have been incidents in both countries in which it was alleged that authorities used excessive force in dealing with demonstrators or those expressing their opinions. Misinterpretations of legal provisions that allow for holding assembly and demonstrations, often results in allegations of interference with these rights.

   b. **Findings**

      i. *Uganda*

The HRIA team did not perform a specific security and human rights field survey in Uganda as was performed in Tanzania. Findings on security and human rights for the Uganda portion of the EACOP project rely instead on background research and reviews of the VPSHR risk assessment performed in 2015 and the Voluntary Principles Auto Diagnostic (VPAD) performed in 2016 by the EACOP H3SE Manager.

The HRIA identified multiple areas of risk for the right to life, liberty and security of person. As it is the case for Tanzania, these risks are first associated to the behaviour of the Uganda Police Force (UPF) and the Uganda People's Defense Forces (UPDF) that may be tasked with the provision of security for the EACOP project. The severity of these risks is higher in Uganda than it is in Tanzania. Control and monitoring of UDF and UPDF forces by the government is similarly a preoccupation. Violence and discrimination against marginalized groups, such as women, children, persons with disabilities, and the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community appears more serious in Uganda than it is in Tanzania. Competency and

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[138] The 1977 Constitution of the United Republic of Tanzania, Article 17, 18 and 19 and the 1995 Constitution of the Republic of Uganda, Article 29.

[139] In Tanzania the current constitution provides for freedom of speech, but at least 17 laws encourage self-censorship and limit the ability of the media to function effectively. The most notorious and widely enforced of these laws is the 1976 Newspaper Registration Act, which empowers authorities to ban publications "in the interest of peace and good order." In Uganda it is restricted in Article 41 (1) and in Article 43. Regarding freedom of association it is restricted in Uganda under section 56 of the Penal Code and the Non-Governmental Organizations (NGO) Act of 2015.

professionalism of private security providers in Uganda do not seem to differ from Tanzania and must therefore be also taken into consideration.

Reports alleging the government of Uganda or its agents committed arbitrary or unlawful killings, including as a result of torture are rather abundant and easy to find. Media outlets, international organizations (like Human Rights Watch and Amnesty International) and many other governments bodies (like the US State Department) report these abuses continually.[140]

Beatings of detainees, arbitrary or unlawful interference with privacy, arbitrary arrests of opposition leaders, politicians, activists, demonstrators and journalists all point toward authoritarian style policing and low level of professionalism within the ranks of Uganda public security forces. Disproportionate and unjustified use of force, allegations of beatings on detained suspects and killings (politically motivated or not) also suggest wide range unprofessional behaviour and low standard of ethics among public security forces in Uganda. These reports affect virtually every security institution in the country including the Uganda Wildlife Authority (UWA) who is accused of killing seven unarmed, suspected poachers in 2016.

Under the Ministry of Internal Affairs, the UPF has primary responsibility for law enforcement. The UPDF, under the Ministry of Defence, is responsible for external security and may aid civil authorities when responding to riots or other disturbances of the peace. The Chieftaincy of Military Intelligence is legally under UPDF authority and may detain civilians suspected of rebel or terrorist activity. Other agencies with law enforcement powers include the Directorate of Counter Terrorism, Joint Intelligence Committee, and Special Forces Brigade, among others. Uganda, interestingly, developed and deployed a special Oil and Gas police Unit. The Unit was established with the specific role of ensuring that the country's oil and gas resources are adequately safeguarded and was introduced to VPSHR principles and concepts. However, in March 2018, the direction of this special unit was placed under the authority of the Directorate of Counter Terrorism who has very different procedures and no knowledge of anything closely related to the VPSHR.

Police and soldiers from Uganda fail to prevent societal violence and contribute to worsening their reputation by targeting opposition supporters. "Preventative arrests" for alleged treason and incitement of violence are common and decried by the population[141].

The Uganda Human Rights Commission (UHRC) identifies misuse of firearms, low policing capacity, declining proximity to the communities, human and logistical scarcity and poor control of police armouries (which leads to improper use of firearms and a higher number of weapons in circulation) as areas of concerns for human rights abuse by law enforcement agencies.[142] The

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[140] Uganda 2016 Human Rights Report, Country Reports on Human Rights Practices for 2016, United States Department of State, Bureau of Democracy, Human Rights and Labor.
[141] Uganda 2016 Human Rights Report, Country Reports on Human Rights Practices for 2016, United States Department of State, Bureau of Democracy, Human Rights and Labor.
[142] Uganda Human Rights Commission, 16th Annual report, 2013.

UPF ability to perform its law enforcement duties is constrained by limited resources, including low pay and lack of vehicles, equipment, and training. The number of complaints of police abuse (856 allegations of torture by police in 2016) is particularly high in regards to death in custody, mismanagement of case documentation and corrupt practices. Impunity is a serious problem often attributed to recordkeeping difficulties. The UPS claims it is unable to manage information because it lacked computers[143].

The 2009 Anticorruption Act provides criminal penalties for official corruption. Nevertheless, the government rarely implement the law effectively, and officials frequently engage in corrupt practices with impunity. Government agencies responsible for combating corruption lacked the political will, particularly vis-à-vis the highest levels of government.

Prison conditions are poor and, in some cases, life threatening. Problems include overcrowding, physical abuse of detainees by security staff and fellow inmates, inadequate food, and insufficient staff. Local human rights groups like the African Center for Treatment and Rehabilitation of Torture Victims (ACTV) and the UHRC note forced labour, absence of accommodations for persons with disabilities and detention of juvenile with adult offenders.[144] Prison authorities blame the overcrowding on the criminal justice system's inability to process cases in a timely manner.

Investigating human rights abuses is problematic in Uganda. Authorities deny local LGBTI-related organizations official status due to discriminatory laws preventing their registration. The government is often unresponsive to concerns of local and international human rights organizations, and government officials often dismiss NGO claims of human rights abuses by security forces.[145]

Rape is a serious problem throughout the country including in prisons, and the government does not effectively enforce its law. Although the government arrested, prosecuted, and convicted offenders for rape, the crimes remains seriously underreported, and police rarely investigate cases. Police lack the criminal forensic capacity to collect evidence, which hampers prosecution and conviction. Although the law mandates police training on GBV, training is often ad hoc and poorly attended.

Child abuse is a serious problem in Uganda and adolescent children are particularly vulnerable to sexual exploitation notably those entangled in and around criminal activities. The rebel Allied Democratic Forces recruit child soldiers, particularly in the east, while the Lord's Resistance Army continues to hold women and children against their will and abduct children from neighbouring countries. UPF and UPDF interventions against groups that include children is a risk as the Uganda

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[143] Uganda 2016 Human Rights Report, Country Reports on Human Rights Practices for 2016, United States Department of State, Bureau of Democracy, Human Rights and Labor.
[144] Uganda Human Rights Commission, 16th Annual report, 2013.
[145] Uganda 2016 Human Rights Report, Country Reports on Human Rights Practices for 2016, United States Department of State, Bureau of Democracy, Human Rights and Labor.

government does not have meaningful policies, strategies, and legislation in order to protect children in contact with the justice system.

Mob violence is a problem (although to a lesser extent than Tanzania) that further complicates government forces interventions. Mobs attack and kill persons suspected of robbery, killing, rape, theft, ritual sacrifice, and witchcraft, among other crimes.

37,000 persons are employed as private security guards in Uganda. With no national mechanisms regulating the profession, human rights abuse perpetrated by security guards remains a real risk. The country has already witnessed situations where private security guards have turned their guns toward the clients they are supposed to protect. Corruption, collusion and low standards of ethics are, like in Tanzania prevalent.

ii. Tanzania

The HRIA identified several areas of risk for the right to life, liberty and security of person. These risks are first associated to the behaviour of public security forces that may be tasked with the provision of security for the EACOP project. The risks also relate to the deployment of the public forces, the necessary monitoring of their activities and the type of control the government of the Republic of Tanzania exacts over them. Risks similarly relate to the interventions that public forces may conduct toward frequently vulnerable persons like children and women. Risks are also apparent in regard to the maritime security of the Tanga region and the proficiency and competence of private security providers.

Evidence of varied human rights violations perpetrated by the Republic of Tanzania police forces (TPF) including those assigned to protective duties on extractive industry projects are well documented. Although these violations are mostly related to the use of excessive force, corruption, torture and abuse of authority, we note reports of more extreme incidents like assassination attempts on opponents of the ruling party.[146] Killings by public officials without legal sanction, are prevalent in Tanzania. The Legal and Human Rights Centre (LHRC) has asserted that 246 people were killed unlawfully by the Tanzania public security forces between 2003 and 2012.[147]

Population's trust in law enforcement agencies is generally low in the Republic of Tanzania. The TPF are the first and often the only experience that communities have with the criminal justice system. The TPF, often overwhelmed, regularly rely on excessive or unnecessary force during interventions.

Tanzania is affected by dangerous and difficult issues such as mob violence, extrajudicial killings, witchcraft-related violence and high number of road accidents. The prevalence of these incidents coupled with an absence of guidelines on how peaceful demonstration can be regulated, put

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[146] Tundu Lissu case, Magufuli has been president for two years: how he's changing Tanzania, News24, 2017.
[147] A force for good, Improving the police in Kenya, Tanzania and Uganda, 2014.

pressure on the capacity of the public force to intervene appropriately. Insufficient training and absent, obsolete or unreliable basic equipment impact the capacity and the levels of professional skills among the TPF. Inadequate mobility resulting from budgetary constraints similarly hinder the police force's ability to respond to calls for assistance in a timely manner. Inadequate or improperly followed arrest procedures (often caused by insufficient supply of reference materials, including copies of laws) and insufficient ratio of police officer per capita, influence the effectiveness of the policing response and the adequate discharge of the police mandate.

The TPF does not offer to their personnel specific training on the best practices for the security of extractive industry projects. The ideas and principles conveyed in the VPSHR are unknown to both the command structure, the officers and the agents of the TPF deployed for the protection of mining and gas projects in Tanzania.

Abuse of due process, partiality and corruption often characterizes Tanzanian citizen's encounters with the TPF. Low police wages and poor living conditions ultimately create fertile grounds for corruption.[148] Officers and agents are tempted to use their position to raise their living conditions or seek favours from the higher echelons by being partial in favour of the ruling party. The budgetary constraints of the TPF impact their effectiveness in terms of management, administration, and ability to control crime. This often leads the TPF to rely on evidence tampering, intimidation, false representations, arbitrary arrests, unlawful detention and even bail refusal.

Despite recent improvements, prison conditions remain harsh and life threatening.[149] Inadequate food, overcrowding, poor sanitation, and inadequate medical care are pervasive. Despite the fact that torture is prohibited by Tanzanian law, it remains a reality in Tanzania. It is reported that police officers and prison guards abuse, threaten and otherwise mistreat civilians, suspected criminals, and prisoners.[150] The abuses most commonly involved beatings. The TPF is being known to use it to get confessions.[151] Local government officials and courts also occasionally uses caning as a punishment for both juvenile and adult offenders.

Ensuring that police officers are properly selected, regularly go through professional training, and meet appropriate proficiency standards in the use of force is a challenge under Tanzanian budgetary constraints. The disturbing reliance of the government of Tanzania on alternative groups for policing activities is an indicator of the TPF incapacity to operate effectively.[152] It also shows the government incapacity to properly vet security forces. These civilian bodies with

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[148] Tanzania 2016 Crime and Security risk report, BMI Research,

[149] Tanzania 2017 Human Rights Report, Country Reports on Human Rights Practices for 2017, United States Department of State, Bureau of Democracy, Human Rights and Labor.

[150] Tanzania 2017 Human Rights Report, Country Reports on Human Rights Practices for 2017, United States Department of State, Bureau of Democracy, Human Rights and Labor.

[151] Tanzania Human Rights Report 2014, Tanzania Mainland - Legal and Human Rights Centre (LHRC), Zanzibar - Zanzibar Legal Services Centre (ZLSC)

[152] The Police, the people, the politics : Police accountability in Tanzania, Commonwealth human rights initiative, 2006.

policing functions create confusion regarding their roles, legal powers and status and have led to vigilantism. This confusion cast doubts on the government capability to properly monitor policing activities.

Vetting mechanisms for the public security forces, although essential, is very challenging. There is no computerized data management system for human rights abuses in Tanzania. Moreover, above 60% of the Tanzanian population isn't registered.

Arbitrary or excessive use of force and discharge of firearms by police officers is rarely punished as criminal offence. Rules and regulations on the use of force and firearms aren't regularly reviewed. It is also uncommon that superior officers are held responsible if they knew, or should have known, that those under their command have resorted on unlawful use of force or abuse of power. Superiors rarely prevent, remedy or report abuse of power.[153]. Despite the occurrence of police misconduct, the current internal police system of receiving and investigating complaints and overseeing discipline is complicated, uncoordinated and inefficient. This lack of monitoring accounts to a state of practical impunity for the wrongdoings of TPF officers and agents.[154]

Currently, the Police Act vests power in the Minister of Home Affairs to direct and order the Inspector General of Police (IG) in matters of "operational control." This operational control is virtually limitless since it is not defined in the Police Act. Practically, the Minister and thus the ruling party has the capacity to influence all of the TPF operations, such as investigations or arrests. Coupled with the Minister's power to order the police to arrest and detain a person indefinitely underneath the Preventive Detention Act of 1962, one could argue that the independence of the TPF is compromised. The president, the Minister for Home Affairs, and the IG control police promotions and transfers of senior officers. This raise the probability that ultimately, police officers work to support the interests of the government in activities such as dispersing opposition and political protests.

Recent efforts deployed by the TPF to address affairs linked to gender-based violence (GBV) and violence against children are not yet proving effective. The situation even seems to worsen lately (2018) as police have reportedly started to arrest pregnant schoolgirls rather than arresting their abusers and addressing sexual violence. Meanwhile, violence against and abuse of children remain major problems throughout the country. Countrywide, cases of rape, particularly on children, is on the rise since 2016.

According to the U.S. State Department report on trafficking, Tanzania is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation. Large-scale infrastructure construction could be a destination for this trafficking. It will also certainly attract many juveniles and children, temporarily resettling along

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[153] National Human Rights Action Plan, 2013-2017, United Republic of Tanzania, Ministry of Constitutional and Legal Affairs.
[154] "Unknown Assailants": A Threat to Human Rights Tanzania Human Rights Report – 2017, Tanzania Mainland - Legal and Human Rights Centre (LHRC), Zanzibar - Zanzibar Legal Services Centre (ZLSC)

their parents working in construction camps. Without proper training and supervision of the TPF agents and officers, security arrangements may increase children's exposure to violence and risks of arrest and detention. The lack of Tanzanian specialized juvenile justice institutions and procedures and the limited knowledge and coordination among criminal justice professionals on how to handle children's cases will certainly expose unnecessarily children and juveniles to measures harmful to their psychological development. Prolonged detention of children (sometimes the results of limited availability of funds for transportation to courts) and the conditions in which they are detained expose them to human rights abuses perpetrated within detention facilities.

The TPF agents and officers only receive general training for dealing with survivors of violence, and no training related specifically to GBV. This means that women's experiences in seeking help from police may vary. Women who report to police stations are likely to be questioned to the point of harassment. The TPF agents and officers are not trained specifically on how to interact with children and juvenile offenders. Therefore, skills among law enforcement agencies related to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) should be improved. Although the Sexual Offences (Special Provisions) Act of 1998 was enacted to prevent gender-based violence (GBV) and safeguard the dignity, integrity, liberty, and security of women, people of authority, including in the TPF, reportedly continue to offer favours and special treatment in return for sexual acts.

Piracy is still a legitimate threat near the coast of Tanzania. Shipping companies which haven't complied with industry best practices are at risk. Although piracy acts are declining, attacks still occasionally occur off the coast of the country, and pirates have been known to come extremely close to shore.

As the number of piracy incidents has dropped in the past few years, other threats have emerged. The maritime sector, including commercial vessels, fishing boats, and small artisanal craft, such as dhows, enables drug traffickers, arms dealers, and those engaged in human smuggling and trafficking to travel almost undetected up and down the coastlines of Tanzania. Some of these illegal activities are conducted for purely criminal reasons. However, there is evidence of ties between criminal actors and terrorists associated with al-Qaeda or other terrorists group in Africa.

In the eventuality that an oil and gas terminal is built in the Tanga region, further development of the regional capacity for maritime security would be essential to ensure against threats to legitimate business. Preventing the re-emergence of larger-scale piracy along the coast of Tanzania, which is a possibility with the future Tanga terminal, certainly requires the continuation of counter-piracy measures, but also more naval patrols, best management practices, increased surveillance of the shores near the projected terminal and the presence of armed security personnel aboard ships.

The Tanzanian Navy capacity to combat maritime piracy is rather limited. With as few as 10 patrol/strike boats,[155] some of which are rather old and in a state of disrepair, and a fleet operational range of about only 20 nautical miles,[156] it is doubtful that the Tanzanian navy will meet the challenge of an increase shipping activity (and its associated threats) attracted by an oil and gas terminal in Tanga. It is important to consider that the Tanzanian Navy's ability to revamp an ageing equipment inventory is hampered by a limited budget. This leave Private Maritime Security Companies (PMSC) and their Privately Contracted Armed Security Personnel (PCASP), the only reliable sources to fill the gaps in the security of the Tanga region left by the Tanzanian Navy.

The construction of an oil and gas terminal in the Tanga region will impact the fishing habits of a community not necessarily used to cohabit and work in the proximity of huge tankers with increased maritime surveillance. There is no guarantee that fishermen's cooperation will be complete and that they will follow the new rules and regulations to be established. Minor confrontations are to be feared and the risk that excessive force will be used by the naval or private security forces employed will be considerable.

The Tanzanian private security sector, although booming, is rather weak in terms of professionalism and competency. The Tanzania Private Security Industry (TPSI) lacks a regulatory authority, and there is no specific national legislation, code of conduct or industry's self-regulation arrangement to govern it. After a permit is issued to a private security company, there is no authority that monitors day-to-day activities.

For complex security operations like those encountered in the extractive industry sector, contracted private security providers often need the guidance and pressure from an extractive company's professional security staff to get where they need to be. None should take for granted the capacity of the Tanzanian private security sector to fully understand on its own, the policies that an extractive company is implementing.

Private security forces in Tanzania, armed or unarmed, are just as capable of abuse as public security forces are. The security industry's recruiting standards is even lower than the one for the TPF. There is also a lesser state of discipline and inadequate training compared to public forces.

Most abuses perpetrated by private security guards in Tanzania come about because guards are put into a position in which they are confronted by situations they don't know how to handle. In those situations, fear and anger quickly take over and often lead to human rights abuses. The industry history in Tanzania shows that problems are often due to the provider organizational weaknesses. Indeed, the private security industry in Tanzania generally provides inadequate screening of their employees, poor procedures and training on top of inadequate control and supervision. That same history also shows that private security providers have been guilty of the

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[155] Tanzania People's Defence Force, Defence Web, 2018.
[156] Stewart, Patrick, Fragile States, Global threats, and international security, Oxford University Press, 2011.

full range of human rights abuses, ranging from simple physical assault to torture, rape and inappropriate use of lethal force.[157]

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
During construction, due diligence will be applied to selecting private security providers, rules of engagement will be devised and training on Voluntary Principles provided to all personnel, including public security providers. Performance will be monitored and audited periodically and remedial actions taken where necessary.
The requirements of the Voluntary Principles on Security and Human Rights will be implemented and complied with by the Project and its contractors.
Public awareness programmes for PACs will include a specific section about the security presence surrounding camps and security protocols which apply.
The Human Rights Impact Assessment has included a security and human rights expert who is working with the project's security manager to develop further strategies for implementing the Voluntary Principles on Security and Human Rights, including for the MEZ.
Key aspects of implementing the Voluntary Principles in relation to the MEZ: • Completing and updating the Voluntary Principles risk assessment in consultation with relevant stakeholders. • Developing agreements and protocols to govern the interactions between public and private security forces in the MEZ, including agreed standard operating procedures governing the use of force. • Joint training between public and private security forces that cover the Voluntary Principles. • Ongoing communication and consultation about security arrangements governing the MEZ with fisherfolk and PACs. • Ensuring that the project's community grievance mechanism is promoted with fisher folk and PACs affected by the MEZ and that is clearly communicated that it can receive complaints related to interactions with public or private security forces.
As part of the Community Security Plan, implement community patrols during the evenings to monitor and minimise night-time activity in project construction areas.
The project is developing a security management plan in line with the Voluntary Principles on Security and Human Rights and other relevant international standards to mitigate the potential impacts related to interaction between public and private security forces and fisher folk, primarily related to the MEZ.

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[157] Barrick Gold Tanzania Operations Accused of Financial and Human Rights Abuses – Executives Once Again Fail to Address Human Rights Abuses, Mining Watch Canada, 2017.

17. Women's Rights

a. Standards

Non-discrimination and equality of men and women are transversal principles that are set forth in every major international human rights treaty, with the aim of correcting the historical discrimination against women and to protect them in situations where they are vulnerable.[158] The UN Sustainable Development Goal 5 is also to achieve Gender Equality and Empower all Women and Girls.

International standards for responsible business also require that negative impacts of projects on communities should be avoided or at least minimized.[159] It is important to note that women are often a vulnerable group in communities and are therefore affected in distinct ways by projects.

The African Charter on Human and Peoples' Rights prohibits discrimination on sex and other grounds (articles 2, 3 and 15) and provides a specific protection against discrimination of women (article 18). Other instruments were also adopted by the African States to address the topic of discrimination against women.[160]

The Ugandan Constitution prohibits discrimination on the base of gender. The Uganda Human Rights Commission and the Equal Opportunities Commission are mandated to promote human rights and equality and to take affirmative action to promote equality. The Domestic Violence Act 2010 and the Penal Code Amendment Act 2007 reportedly did not protect or provide effective remedy for sexual harassment or rape. The Sexual Offences Bill seeks to consolidate all laws relating to sex offences, provide clear rules and sanctions, and therefore reduce sexual offences and provide compensation and justice for victims is being discussed since 2002 but has yet to be adopted. In order to increase participation of women in developing and implementing development plans, the Government worked with civil society organizations to increase women participation in the economic planning process such as the Uganda Women Entrepreneurship Programme (UWEP). The National Development Plan 2015/16 – 2019/20 (NDPII) provides for an increase in access to agricultural finance with specific options for women farmers in rural areas.

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[158] Universal Declaration on Human Rights, articles 1, 2 and 23(2); International Covenant on Civil and Political Rights, articles 2 and 3; International Covenant on Economic. Social and Cultural Rights, articles 2 and 3; Convention on the Elimination of All Forms of Discrimination Against Women, UN Women's Empowerment Principles (2010);

[159] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard # 3 Resource Efficiency and Pollution Prevention, para 1, Objectives, Requirement 4, Requirement 9 (Water Consumption); Performance Standard # 4 Community Health, Safety and Security, para 1, Objectives, Requirement 5 (Community Health and Safety); OECD Guidelines on Multinational Enterprises, Section VI (Environment) Chapter II, General Policies, Recommendations 2, 10, 11 and 12; Chapter IV Human Rights.

[160] Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; Banjul Declaration of the 59th Ordinary Session of the African Commission on Human and Peoples' Rights, "Women's Rights: Our Collective Responsibility"; Declaration on Gender Equality in Africa.

It is noted that in Uganda customary law in many areas acts in a way that prevents women from owning or inheriting property or controlling the produce of the land they work on. Implementation and enforcement mechanisms are lacking in progressive land policies, especially in the area of women's rights to land, as traditional customs and practices hinder access. The Ministry was reportedly overstretched in terms of capacity and resources, making it difficult to handle the disputes and conflicts over land. In Uganda, four types of marriages are recognized: customary, civil or church, Muslim and Hindu. The Customary Marriage (Registration) Act 1973 recognizes polygamy as legal in certain circumstances.

The Tanzanian Constitution prohibits discrimination on the basis of sex. The Village Land Act contains various sections (20/23/33/57) pertaining to equality of all persons and respecting women rights in land related matters. This underpins the requirement of the spouse and dependents' agreement to cash compensation (and in the entitlements decision process). The Tanzanian National Land Policy of 1997 observes that "under customary land law, women generally have inferior land rights relative to men, and their access to land is indirect and insecure". Despite policy and legal safeguards women still have inferior land rights, in particular with regards to customary land rights, as traditions and customs protect men's control over land. Women generally access land through their fathers, brothers, husbands, or other men who control the land. If they lose their connection to the male relative, either through death, divorce or migration, they can lose their land, home and means of supporting themselves and their family. Where women do have access to agricultural land, they are more likely to be allocated the smallest and least productive plots.[161]

Polygamy is recognized in Tanzania under the Law of Marriage Act of 1971. Both the legal systems of land and family law make it difficult for women in polygamous situations to claim rights to the land, as land is passed from one man to another in a patrilineal manner. Women are often only granted usufruct rights. Women in customary marriages are more vulnerable as unions celebrated in church are perceived as superior, granting more rights to women in this type of unions. The regime managing the division of assets in the event of divorce or death of the husband in polygamous unions is insufficient to protect women's access to property.[162]

b. Findings

i. Uganda

The HRIA identified several areas of risk of the discrimination of women relating to employment, land and compensation, livelihoods, health and gender-based violence, and access to information and consultation.

Women are frequently vulnerable in Uganda because of their legal marriage status, or lack of status. Traditional marriages are recognized in Ugandan law. However, people often do not

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[161] See also Penal Code; Tanzania Women and Gender Policy, 2000.
[162] Kerbina Joseph Moyo, Women's Access to Land in Tanzania, School of Architecture and Built Environment - Royal Institute of Technology (KTH), Stockholm, 2017.

register the union or do not complete the required steps to have the traditional marriage made official, perhaps for lack of knowledge of the procedure, lack of financial resources or capacity to reach the institutions. This makes women in such situations vulnerable as the protections provided by Ugandan law to married women are not provided to women who under the law are seen as "girlfriends" without official married status.

This issue is worsened by a reality of men often having multiple "wives" who may have different status. The situation can be extremely complex: the women may or may not be official wives to the man, they may or may not all live on the man's land, and they may or may not have children with the man. All of these aspects may influence the compensation process and have to be considered to fully understand who has to be compensated for the loss of the land. Women's partners may refuse to go into official marriage relationships, which prevents women from having access to marital protections in Ugandan law.

Women's limited access to education and early marriage restrict them from obtaining equal pay within the formal and informal sectors of the economy in Uganda. It is difficult for women to have access to an income, they can either sell what they grow if they can grow more than they need, or start a small shop at home. Women are usually limited to low return businesses.

Women often suffer from discrimination in employment. Women in project-affected highlighted that husbands prevent women from working outside of the home and may threaten physical retaliation or divorce if women want to work, even if the man's income is not enough for the family's needs. Opportunities for employment for women are fewer in project-affected communities. The burden of family care is also heavier on women, making it difficult to seek work outside the home. Concerns were also raised about the risk of coercion to obtain or maintain employment, with examples being given of women being required to provide sexual favours. The oil sector in Uganda has been seen as offering opportunities for men but largely leaving women out.

Inequality and discrimination regarding women's land rights and compensation were a major concern raised in Uganda both by people in project-affected communities and national-level stakeholders. The practice of customary marriages, which can be polygamous and not legally registered as discussed above, is a significant source of inequality. At the end of a customary marriage (i.e., separation or widowhood), women's land rights are upheld by their husbands and male relatives and this type of marriage does not protect women's land rights, leaving them vulnerable to losing access to land.

Women are vulnerable in land compensation processes. The custom in Uganda gives land ownership to men, where land is inherited by male children who bring their wife on the land. Even if the law now provides equal rights to women regarding land and inheritance, it has not yet translated into common practice or reality on the ground. Women in project-affected communities raised numerous concerns about the compensation process, including by highlights of previous negative experiences with past compensation processes. For example, it was stated that when oil was found in Hoima (circa 2006) and land acquisition and compensation took place,

men would get access to compensation without mentioning it to their wives. Men would then leave with the money, sometimes returning to the family but with no money left. The family was expected to move, without any possibility to find another land. Women are concerned about the risk of desertion or divorce by their husbands after receiving compensation or of the family not benefiting from the compensation in any way. Women are more dependent on the land than men are. Men are empowered and free to look for work and move to different areas or towns, while women are tied to the land, the family crops and the responsibilities towards the children.

Based on past experiences with compensation processes and other similar processes, women spoke of other concerns regarding the nature of the process. Women noted that it is useful to have a requirement for both the husband and the wife's signatures on a compensation form, but that this has been easily bypassed in the past in various processes requiring the woman's signature.

In the communities that were met during the HRIA, the proportion of women who claim they are not officially married was high. Given this issue, women raised concerns about how that will affect the EACOP compensation process. Women highlighted that it needs to be determined if the names on the form will be that of the wife or that of the "partner"; and if it is possible to adopt other criteria that are not based on marriage but on common life and the perception of community of the couple/family as being a permanent couple. In such cases, women will be less vulnerable where the man recognizes the woman as his wife. However, where a man chooses to claim the woman he may have been living with for years is not his wife, that woman can become vulnerable if she does not have any document to support her claim. It appears to be very likely that such a context of denial on part of the men will happen, based on past experiences with other projects.

The above-mentioned problem is further complicated by the possibility of multiple partners to the man who is the owner of the land. To illustrate the complexity, following is an example of events that are likely to be encountered in the compensation process, based on discussions during HRIA fieldwork. The pipeline passes through the land of A (man). A has one official wife, B. However, B has left A years ago and we may conclude that she did not intend to return. A has now been living with C (second, unofficial wife) for 8 years and they have 3 children together. When news of the compensation arrives, it is possible that B returns to claim her share of the compensation, and that A claims that he was never married to C so that the whole compensation should be his. The reality is that the person who is the most affected by the pipeline is C, who has in fact been working the most on the crops for 8 years and feeding the 3 children from those crops.

Women in project-affected communities emphasized that there needs to be a thorough process of investigating the right person to be compensated, taking into consideration the reality of the land rather than the reality "in the books" (i.e. officially registered marriages). Women in project-affected communities are vulnerable because of their low levels of education, with high levels of illiteracy and with women feeling intimidated by official processes. It is usually men who intervene publicly with entities such as the government or private projects, which is in part why

it has been possible in the past to hold the compensation processes without women being involved or aware of the process.

Women in Uganda suffer from abuse and harassment by men both domestically and outside the home, in the community. Gendered violence is present in project-affected communities and women report that there is often no recourse available, as local law enforcement may ask for bribes before acting. Women worry about the potential increase in domestic violence or the risk of desertion or divorce when their husbands earn more disposable income from employment or from the receipt of cash compensation. Women are also worried about the potential for their husbands to engage in extramarital affairs and to bring disease home.

Community members are also worried about the potential for an influx of workers and outsiders who may create conflict over local women or harass and abuse women. Community members told of previous examples where outside workers would lure and impregnate local women and girls with the promise of money and abandon them later. These women and their children were often ostracized. Teenage pregnancies often lead girls to drop out of school or be ostracized by their families and communities.

Local officials and community members are concerned about the risk of the spread of STIs and HIV/AIDS. Women are particularly vulnerable, due to high levels of gender violence and rape. Commercial sex workers and vulnerable women drawn into prostitution are also at high risk. Sex workers fear that influx will cause an increase in aggressive encounters and they will also suffer particularly from an increase in HIV/AIDS in the region.

Increases in STI and HIV/AIDS prevalence are typically observed in communities in proximity to large project infrastructure, in larger trade centres, along project access roads, and in areas near to artisanal mining activities. The availability of disposable income that sustains commercial sex activity is closely linked to the key drivers of HIV infection. Project-affected communities stressed the importance of EACOP controlling workers and providing sensitization of workers around the risks associated with extramarital affairs, having sex with local women, and STIs and HIV/AIDS.

Women's access to information and remedy in Uganda is weak. There is widespread lack of capacity to access existing remedies across all groups in Uganda and women are particularly vulnerable given their status in society and the previous issues discussed. Women in project-affected communities also noted that they do not feel as if they have a voice in village affairs and decision-making. There can be distrust that the village chairman will represent women's interests fairly.

        ii. Tanzania

The HRIA identified several areas of risk of the discrimination of women relating to employment, land and compensation, livelihoods, health and gender-based violence, and access to information and consultation.

Cultural attitudes towards women hinder their employment opportunities. Furthermore, women in Tanzania generally have a substantially lower level of education than men which is a significant barrier to obtaining higher-paid jobs. Discussions with national-level stakeholders and women in project-affected communities highlighted that women are paid less than men and experience other forms of discrimination and poor treatment when they are employed. Widespread examples were given of women having to provide sexual favours to obtain employment.

Women and men in communities described the discrimination of women by village leaders and husbands who felt that women should not work and instead should stay home and do their family chores. There was a widespread notion that women are not qualified for non-skilled labour positions and that such jobs should only be given to men. Women who are employed often experience harassment and abuse by men, including by fellow workers and husbands who may be jealous or unhappy about their wife's employment. Based on previous experiences with other projects, concerns were noted about the wives and families of male employees not seeing any of the benefits of the man's employment or they were deserted.

Despite the significant barriers and risks faced by women in employment, women in project-affected communities are hoping for EACOP-related employment and business opportunities and to be given special consideration for women in project opportunities. For example, because of the view that women cannot have non-skilled labour positions, women want to be offered opportunities to supply the project (e.g. worker lunches, eggs, basic goods).

Despite policy and legal safeguards, women have inferior land rights, in particular with regards to customary land rights, as traditions and customs protect men's control over land.
Numerous land-related concerns were raised by project affected communities, in particular regarding the vulnerability of women. Women generally access land through their fathers, brothers, husbands, or other men who control the land. Concerns were raised about the discrimination of women in compensation for customary land and whether women have access to compensation when land is in their husband's or other male relative's name. Based on previous experiences with other projects, women raised concerns about families not benefiting from compensation because women were excluded from process and husbands kept all the compensation for themselves and not for family use.

If women lose their connection to the male relative, either through death, divorce or migration, they can lose their land, home and means of supporting themselves and their family. In general, community members reported that assets are listed in the name of the husband; in practice, this implies that the compensation for loss of these assets will also go to the man. Local officials and community members stated that women landowners and elderly widows especially are vulnerable to manipulation in compensation processes or even theft of property and land. Among some tribes, the wife "belongs" to the brother of the husband in case the husband dies. This also implies that any land (or other) compensation deriving from land acquisition will go to the brother of the deceased man, rather than to the widow (particularly relevant to the coastal region and the Kagera region).

There is a high number of women in a polygamous union in Tanzania. Women with a low level of education (31%), in poorest households (29%) and living in rural areas (21 %) are the most likely to have co-wives.[163] These numbers include official unions only. The number of unofficial unions appears to be important as well, and there is a trend towards a rise of unofficial unions, especially in urban settings.[164] Polygamy affects women's access to property rights and causes conflicts among family members for access to the land. [165]

Project-affected community members, especially women, stressed the importance of including women in land compensation processes and that mechanisms are designed to make sure they can't be subverted by men.

With limited education and few other livelihood opportunities, women are often reliant on crop farming. Where women have access to agricultural land, they are more likely to be allocated the smallest and least productive plots. Women who are heads of households are mostly prevented from access to improved farming inputs or capital due to cultural norms. The insecurity of income and land tenure also increases the vulnerability of women-headed households and children to food price inflation.

Women are typically responsible for household firewood collection. When there is limited access to firewood, household meals cannot be cooked, affecting the health of family members. Access to firewood is already diminishing and women must walk long distances.

Community members noted that widows who are heads of households are often vulnerable. They are typically challenged to meet the basic needs of the household in terms of food security; shelter, welfare and ability to pay for schooling and health care.

Women dependent on other livelihoods were also highlighted as potentially vulnerable groups. Women working in artisanal and small-scale mining typically obtain fewer benefits than men in Artisanal Scale Mining (ASM) activities. Women are vulnerable because they have less access to productive capital than men and may be relying on ASM activities as a sole livelihood. Women with marine-based livelihoods also may be vulnerable, such as women who earn a subsistence livelihood from processing and sale of fish. They have limited access to other forms of livelihoods and have poor resilience against fluctuations in the supply of fish.

Local officials and people in project-affected communities raised extensive and major concerns about health impacts on women and gender-based violence. These concerns were often raised in the context of previous negative experiences with other projects such as the construction of infrastructure or mining, both industrial and ASM.

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[163] National Bureau of Statistics, 2015-16 Demographic and Health Survey and Malaria Indicator Survey, p. 4
https://www.dhsprogram.com/pubs/pdf/SR233/SR233.pdf
[164] Rachel J. Howland and Ashley Koenen, Divorce and Polygamy in Tanzania, Social Justice, Paper 15.
http://ecommons.luc.edu/social_justice/15
[165] Kerbina Joseph Moyo, Women's Access to Land in Tanzania, School of Architecture and Built Environment - Royal Institute of Technology (KTH), Stockholm, 2017.

Women in Tanzania are already very vulnerable to domestic violence, with abuse and assault common in all districts traversed by EACOP. Women worry about the potential increase in domestic violence or the risk of desertion or divorce when their husbands earn more disposable income from employment or from the receipt of cash compensation. Women are also worried about the potential for their husbands to engage in extramarital affairs and to bring disease home. Violence against women is common and substance abuse is seen as a major contributing factor to the prevalence and perceived increase in gender-based violence incidences.

Community members are also worried about the potential for an influx of workers and outsiders who may create conflict over local women or harass and abuse women. Community members told of previous examples where outside workers would lure and impregnate local women and girls with the promise of money and abandon them later. These women and their children were often ostracized. Teenage pregnancies often lead girls to drop out of school, particularly given government statements to discourage and prevent the return of young women to school after giving birth.

Local officials and community members are concerned about the risk of the spread of STIs and HIV/AIDS. Women are particularly vulnerable, due to high levels of gender violence and rape. Commercial sex workers and vulnerable women drawn into prostitution are also at high risk. Increases in STI and HIV/AIDS prevalence are typically observed in communities in proximity to large project infrastructure, in larger trade centres, along project access roads, and in areas near to artisanal mining activities. The availability of disposable income that sustains commercial sex activity is closely linked to the key drivers of HIV infection. Project-affected communities stressed the importance of EACOP controlling workers and providing sensitization of workers around the risks associated with extramarital affairs, having sex with local women, and STIs and HIV/AIDS.

Regarding access to information and the right to consultation, women in project-affected communities often are left out or are not seen to have an important voice. Women carry a large burden of responsibilities and tasks whilst having little authority and access to resources. Widows, single mothers, abandoned women and female heads of households are especially vulnerable in terms of their ability to have access to information and participate in community decision-making. An example of this vulnerability is women, often widows, who are accused of witchcraft. In one project-affected community, there was a recent case of three women beaten to death.

Women in project-affected communities are concerned that entrenched practices for land acquisition, compensation, and hiring by the government, local officials, and local contractors will mean that women will be discriminated against and limit their ability to participate in the benefits of the EACOP project.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
The project will work in partnership with district authorities or relevant organisations where available and appropriate (e.g., donors, civil society and NGOs) to strengthen positive gender relationships within communities through programmes supporting project and community identified needs (e.g., women's leadership programmes, gender based violence prevention programmes).
The project will ensure that female CLOs will be employed to facilitate easier access to the project for women. Female CLOs will hold periodic focus group discussions with female employees as well as female community groups to verify how project impacts are different for men relative to women and again to children and to solicit suggestions for improvement.
Gender-based hiring criteria will be included in tendering documents, so that it becomes part of the selection criteria for subcontractors.
Project will work in partnership with local organizations to provide support to women seeking employment with the project so that they are better able to express and understand opportunities, benefits and their rights at work.
Clean and sanitary toilet facilities and showers will be provided appropriate for both genders.
As part of the OHSSMP, special attention will be paid to the health and safety of pregnant women, disabled employees and other vulnerable workers.
PPE and safety gear will take into account gender differences and the special needs of pregnant women.
Suggested additional human rights mitigation measures
Additional human rights mitigation measures related to non-discrimination, land and resettlement and community health have been included in those sections of the report.

18. Access to Remedies

a. Standards

International standards provide that everyone has a right to an effective remedy by a competent institution when their rights are violated.[166] The responsibility for States and companies to provide grievance mechanisms for rights-holders is an integral part of the UN "Protect, Respect and Remedy" framework for business and human rights (UN Guiding Principles for Business and Human Rights).[167] The responsibility to provide grievance mechanisms is related to the human right to access to remedy.

International standards for responsible business also provide that grievance mechanisms should be provided to communities affected by project, and that it should be scaled to the risks and adverse impacts of the project.[168] Communities that have been impacted by International Finance Corporation (IFC) or Multilateral Investment Guarantee Agency (MIGA) projects can make complaints to the Compliance Advisor Ombudsman (CAO), a dispute resolution mechanism that mediates between individuals and companies. The CAO conducts investigations and provides a forum for mediation, information-sharing and facilitated dialogue.

In the African human rights system, there are two mechanisms available for remedy: the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights. The Commission accepts complaints from individuals, groups of individuals, NGOs or States. Both Uganda and Tanzania have ratified the protocol giving jurisdiction to the Court, but only Tanzania has given authorization to hear cases from individuals or NGOs. Citizens from Uganda would have to present a claim through the Commission, a State or perhaps an African Intergovernmental Organization.

In Uganda, various tribunals are competent to hear human rights cases related to business, including some specialized tribunals like the Industrial Court for labour disputes and the High Court's Land and Anti-Corruption divisions. Labour inspectors have the power to prosecute employers who violate occupational health and safety rights, and special units of the Ugandan police force are trained to address issues like forced labour and child labour. However, access to justice is a problem for reasons like incapacity to pay for legal representation, long distances to urban centers where both legal representation and courts are located, unfamiliarity with the litigation process and the technical nature of the law, widespread knowledge of common corruption of court officials, the fact that judicial decisions can be based on ethnicity and courts being under-resourced which brought on lengthy procedures. All of these reasons increase the

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[166] Universal Declaration on Human Rights, articles 7 and 8; International Covenant on Civil and Political Rights, article 2.

[167] Principles 26, 27, 29, 31. See also Shift, Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights (2014).

[168] IFC Performance Standards on Social and Environmental Sustainability, Performance Standard #1, para 35; OECD Guidelines for Multinational Enterprises, Chapter IV. Human Rights.

use of traditional conflict resolution methods. The Uganda Human Rights Commission has the jurisdiction to hear human rights cases in a quasi-judicial process and order payment of compensation or other civil legal remedies. The Equal Opportunities Commission (EOC) has the powers of court to eliminate discrimination and inequalities against marginalised persons or groups. Arbitration and conciliation take place and are governed by the Arbitration and Conciliation Act 2010.

Tanzania has a number of judicial remedy mechanisms relevant for addressing business-related human rights harms, for example labour and land tribunals. While most Tanzanian institutions providing judicial remedies are adequately mandated, there are numerous practical barriers for citizens to gain access to justice, including slow and expensive cases, lack of awareness of the remedies by the population, delays or lack of results in paying compensations when the tribunals grant it. This results in a very low number of successful cases. Tanzania also has a number of non-judicial remedy mechanisms available to victims of business-related human rights abuses, like the Commission for Human Rights and Good Governance on human rights issues and Prevention and Combatting Corruption Bureau for bribery and corruption complaints, which also suffer from lack of resources.

b. **Findings**

i. *Uganda*

In Uganda, the HRIA identified that project-affected communities have low awareness of their rights and the law. Project-affected communities have notably low awareness of labour rights, land rights and land acquisition and compensation processes, and access to remedy. Furthermore, there is a widespread and consistent lack of empowerment among people in communities to seek remedy.

In Uganda, there are different methods to seek remedy, notably the traditional clan system and the legal court system. Ugandan society is separated according to ethnic clans, and traditionally clan leaders were meant to manage conflicts inside the community as well as demands. It remains a remedy mechanism used by a lot of people to require clan leaders to decide on issues or conflicts. The Ugandan court system might provide some protection for the rights of some vulnerable groups that are not as well protected by the clan, but the court system is intimidating to people who are not literate and is often very remote for communities. There is a lack of clear avenue to obtain remedy for land-related issues in Uganda. Informal institutions such as the clan system are perceived to be more effective in rural regions than formal institutions.

Discussions with project-affected communities highlighted that all government officials who have power regarding land are perceived as corruptible. Community members are also used to bad security force behaviour with violence, threats and corruption seen as common-place or routine. This translates into fear regarding the EACOP project that people will not be considered fairly by the companies and will most likely not have access to fair compensation. People in project-affected communities highlighted previous negative experiences which have left the impression

that significant projects matter more to the government than people; that Uganda is a great country to invest in but not to live in.

This lack of trust extends to company grievance mechanisms as well. Concerns were raised about the power imbalance that exists between investors or projects such as EACOP and project-affected community members who may be illiterate or poor. Questions were raised about such inequities in negotiating power and about how remedy can be provided by the same entity which violated the person's rights. Investors are perceived to be protected by the state which can lead to a militarization of projects.

ii. Tanzania

In Tanzania, the HRIA identified that project-affected communities have low awareness of their rights and the law. Project-affected communities have notably low awareness of labour rights, land rights and land acquisition and compensation processes, and access to remedy. Furthermore, there is a widespread and consistent lack of empowerment among people in communities to seek remedy.

People in project-affected communities noted that it is difficult for people in rural communities to access remedy, as it often requires traveling to other towns in a district. Examples were also given of corruption being used to deter or diminish people's access, such as people using bribes to strategically make it more difficult for people in villages to seek remedy by pushing cases to higher levels (e.g. from ward to district).

The Tanzanian government land compensation process does not include a complaint mechanism. Concerns were also raised about the role of Village Land Councils. In issues such as boundary disputes for example they are seen to be corruptible.

Regarding access to remedy for labour rights, in Tanzania the Commission for Mediation and Arbitration (CMA) has a mandate to provide access to remedy for labour-related complaints. National labour union representatives perceive the Commission to be effective. However, they note that access to the CMA requires some basic legal understanding, which most employees lack. As a result, trade unions have been known to provide support to workers in this respect. Workers in project-affected communities reported that they do not have access to remedy for labour rights-related problems. They also raise concern and noted examples of retaliation against workers that complain.

In Tanzania, when there are conflicts between communities and conflicts with investor, very few people report seeking legal redress and going to the police. The reasons for this include a lack of confidence in police work, no police station in proximity, strong loyalty to traditional dispute settlement mechanisms, social pressure not to engage in legal tangles, and ignorance of the law. People in project-affected communities who have previous experience with industrial mining companies also reported a lack of trust in company grievance mechanisms. People state that issues have not been resolved through these channels. Concerns were also raised about the

behaviour of and sense of impunity of security forces for gross human rights violations, particularly for mining-related or political issues.

The reality is the following: lack of awareness on the channels available to them and lack of nearby justice machinery, which makes them choose administrative or political solutions rather than legal ones. The reasons for this are the following: lack of confidence in police work, no police station in proximity, strong loyalty to traditional dispute settlement mechanisms, social pressure not to engage in legal tangles, and ignorance of the law.

Regarding the EACOP project, people in project-affected communities raised concerns that land disputes or land title requests will not be fairly dealt with. These concerns are often based on negative previous experiences that communities have had with land acquisition. Access points for complaints (DED and WEO in particular) expressed frustration with land-related lack of grievance mechanism (GM) and expect to be busy when project starts.

Community members also fear that the existing context of unaccountability and impunity will inevitably leave people prone to unfair treatment and being cheated. Based on past experiences with large government-sponsored projects, community members often raised the point that insisting on receiving information or asserting their rights is a waste of time. Regional and District government officials recognize the need to support the project.

People who have been affected by the MST feel they have no access to remedy. A major sense of frustration exists among these communities as it was raised as the primary issue of concern. People feel that they have nowhere to go to seek remedy. In the weeks following in the land acquisition, farmers around the MST expressed their grievances in a meeting with government representatives. The outcome of this meeting was unsatisfactory to stakeholders who strongly felt that access to remedy was denied. Complaints mostly evolved around the arbitrary nature of calculating compensation rates, the lack of consultation and the lack of transparency regarding the compensation process.

EACOP has a grievance mechanism in place since December 2016. Based on the HRIA fieldwork, EACOP should be aware that there is a potential risk for underreporting of grievances for the following reasons. First, Ward Executive Officers may not be aware of the EACOP Grievance Mechanism or may not want to hand over grievances they see as a Government of Tanzania responsibility to handle. Secondly, it is possible that people and groups do not raise complaints out of fear of retribution, including both individuals, the media, and civil society. For example, people in project-affected communities noted during the HRIA fieldwork that the media has conducted many interviews about the project but that the resulting media stories that are reported omit any reference to the Government specifically. Community members also reported they were upset about the government led compensation process when a reputable NGO made several visits to their community, but in social media posts that followed the visits, the NGO accused EACOP rather than the Government of being responsible.

Lastly, local government officials, particularly Ward and Village Executive Officers, follow the official government messaging and are prepared to defend the project. District and Regional authorities made statements that local people should make sacrifices for the good of country and be grateful that they have received any compensation at all. This "take it or leave it" attitude was widespread in areas throughout the country traversed by the pipeline.

c. Mitigation

The following table presents the mitigation measures for this human rights topic that have been developed as part of the impact assessment process for the EACOP project.

Mitigation measures incorporated into ESIA and proposed commitment register
The project will implement a grievance procedure to provide opportunities for PACs to express grievances about the project activities. The grievance process will be communicated to all PACs.
The workers' grievance procedure will include the option to log grievances anonymously.
Ensure that the project's community grievance mechanism is promoted with PACs and that is clearly communicated that it can receive complaints related to interactions with public or private security forces.
Potentially affected landowners, land users and communities will be consulted if there is likely to be any disruption to the existing infrastructure and utility services. Feedback from communities will inform planning of the works, especially when determining the options for temporary alternatives. Necessary measures will be taken to maintain continuity and sufficient levels of water and power supply to communities.
A post-construction exit survey will be conducted covering all areas surveyed during preconstruction (and any additional land requirements during construction) to assess the condition of dwellings, roads used including bridges, drainage structures, signage, traffic management and other road infrastructure. Any actions, such as repairs, arising from the exit survey will be closed out on a timely basis to allow a prompt return to the relevant authority, village or landowner.
Grievances arising from the community in relation to maintenance activities at pumping stations (Tanzania) will be handled in accordance with the project grievance procedure and appropriate remedy applied.
Prior to construction, a project workers' grievance procedure will be implemented, which will detail the processes for recording, investigating and, where necessary, implementing corrective actions relating to complaints, including the responsibility of the contractor. The workers' grievance procedure will: • be available for use by all workers, including subcontractor workers and workers in the primary supply chain; • be displayed at visible places in all camps and work sites.
Suggested additional human rights mitigation measures
The grievance mechanism will be aligned with the United Nations Guiding Principles on Business and Human Rights.

The grievance mechanism will explicitly state the type of grievances that can be accepted and which ones will be deferred. Types of grievances can include, but not limited to: • Labour related grievances (incl. allegations of discrimination) • Compensation related disputes • Grievance related to (contractor) staff behaviour • Complaints about the behaviour of security providers • Livelihood restoration • Environmental concerns • Health and safety • Transportation and road safety • Cultural heritage • Stakeholder engagement and access to information • Social investment projects
The survey will also include any impacts on cultural resources
Provisions will be made to increase the capabilities and capacities of existing mechanisms in order to deal with expected workload, notably prior to, and during, construction
The grievance mechanism will explain: • what provisions will be made to alleviate the concern of possible retaliation • what options exist for the complainant in case the case cannot be solved directly between the company and the complainant
While contractors may have their own grievance mechanisms, all affected stakeholders (including contractor workers and community members) should have access to the EACOP grievance mechanism.
All contracts with (sub) contractors will stipulate that such entities are aware of the EACOP grievance mechanism and are obliged to cooperate with its implementation.
A dedicated person (grievance officer or CLO) shall be available to receive any grievances related to all of the project's activities. They should be based in the locations where project activities take place and proactively visit contractor camps or communities that have just received compensation for land acquisition in order to reduce obstacles for people to make use of the mechanism (roaming grievance officer or CLO).
All (sub) contractors will assign a designated resolving officer who will lead the internal investigation process if grievances pertaining to the contractor are brought forward.
The project will, on a periodic basis, publicise the main grievances on its website as well as explain what the company has done to address these grievances and avoid repeat complaints.