



PEOPLE’S TRIBUNAL FOR JUSTICE AND RECONCILIATION (PTJR)

HELD ON 16TH MAY 2023

AT

KASINYI COMMUNITY, BULIISA DISTRICT, UGANDA

BY

**THE UNDERLISTED GLOBAL “MAKE BIG POLLUTERS PAY” PARTNER
ORGANIZATIONS**

- 1. African Institute Energy Governance (AFIEGO) - UGANDA**
- 2. Centre pour la Justice Environnementale (CEJ) - TOGO**
- 3. Corporate Accountability and Public Participation Africa - NIGERIA**
- 4. GENDER CC, SA - SOUTH AFRICA**
- 5. Health of Mother Earth Foundation (HOMEF) - NIGERIA**
- 6. Kebetkache Women Development & Resource Centre - NIGERIA**
- 7. Vision for Alternative Development (VALD) – GHANA**

Background

The Make Big Polluters Pay global campaign was launched in 2019 to ensure that those largely responsible for the climate crisis are held accountable, and alternative paths are found for reparations in the face of corporate abuses, human rights violations, and destruction of the planet.

Conveners of the Make Big Polluters Pay campaign in Africa held a retreat in Uganda from the 15th - 17th of May 2023 and were hosted by the Kasenyi community in Buliisa District. This retreat included a community visit, dialogue, and a mock trial which was referred to as “The People’s Tribunal on Justice and Reconciliation.”

The People’s Tribunal was used as a platform to amplify the voices of community members, and to bring their claims of environmental and human rights infractions against them to light. The tribunal also assessed whether TotalEnergies has a case to answer, and to ensure these communities get the justice they deserve.

Key Technical terminologies

For the purposes of this tribunal and accompanying processes, the terminologies used will assume the definitions listed below

1. **Evidence:** Information including testimonies of witnesses, photographs, videos and other documents brought forward or gathered to substantiate claims made by project affected persons.
2. **Project Affected Person(s) PAP:** Individuals, groups and communities who have been negatively impacted by the activities of TotalEnergies.
3. **Panel:** A team of environmental/climate justice advocates, community representatives and selected partners of the Make Big Polluters Pay Campaign, constituted to hear presented cases of Project-affected persons and determine outcomes through a people’s verdict.
4. **Reconciliation:** A call to order leading to a retracing of steps into healing and harmony with the environment and mother Earth.
5. **Tribunal:** A mock trial and safe space presenting an opportunity for persons and communities affected by extractive activities of Transnational Corporations including TotalEnergies to present their testimonials and demands without fear or intimidation.
6. **Verdict:** Findings, submissions and recommendations of the tribunal presented upon careful consideration of the testimonies of Project-affected persons and evidences presented in support of their claims that may or may not require further investigation.

Tribunal composition

The tribunal panel was made up of Environmental activists, a lawyer and members of the community.

1. Nnimmo Bassey (M)- Nigeria (Chairperson)
2. Aderonke Ige (F) – Nigeria (Secretary)
3. Kwami Kpondzo (M) – Togo (Member)
4. Kabonesa Sophia (F) Uganda (Member)
5. Bamukuraki William (M) Uganda (Member)

Presentation of cases

The cases were presented as oral submissions by the Project-affected Persons who were all physically present.

Cases

The Tribunal received a total of 10 cases from 10 persons affected by the Tilenga Oil project, East African Crude Oil Pipeline (EACOP) and other activities of TotalEnergies in different villages of Buliisa District, Uganda.

1. CASE NO, KAS/001/16523
ASIIMWE JULIUS (M)
KASINYI VILLAGE,
NILE PARISH,
NGWEDO SUB-COUNTY
BULIISA DISTRICT
2. CASE NO KIS/001/16523
KIGWABYA JACKSON (M)
KISANSYA WEST VILLAGE
BULIISA DISTRICT
3. CASE NO. KAS/002/06/13
BYENSI ROBERT (M)
KIGWERA SOUTH WEST VILLAGE
KIGWERA PARISH
BULIISA DISTRICT
4. CASE NO. KAS/002/16523
THOLITH EMMANUAEL (M)

KASINYI VILLAGE
NILE PARISH
NGWEDO SUB-COUNTY
BULIISA DISTRICT

5. CASE NO. AVO/001/16523.
LEUNIA OKELLA ITHO (F)
AVOGERA VILLAGE
AVOGERA PARISH
NGWEDO SUB-COUNTY
BULIISA DISTRICT,

6. CASE NO. KAS/003/160528
NYAKATO MAGREAT (F)
KASINYI VILLAGE
NILE PARISH
NGWEDO SUB-COUNTY
BULIISA DISTRICT

7. CASE NO. KIR/001/160523
BARIKENDA FRED (M)
KIRAMA VILLAGE
KIRAMA PARISH
KIGWERA SUB- COUNTY
BULIISA DISTRICT

8. KIY/001/16523
AYEBAZIBWE CHRISTINE (F)
KIYERE VILLAGE
KIRAMA PARISH
KIGWERA SUBCOUNTY
BULIISA DISTRICT

9. CASE NO. KGO/001/160523
NYAMAHUNGE BEATRICE (F)
KIGOYA VILLAGE,
KIGOYA PARISH,
BULIISA SUB-COUNTY
BULIISA DISTRICT

10. CASE NO. NGW/009/160523
OLOYA EDGAR (M)
BULIISA DISTRICT

Accused Transnational Corporation

TotalEnergies

Proceedings

The People's Tribunal for Climate Justice and Reconciliation held its session on May 16, 2023 in Kasenyi community, Busiila district of Uganda.

- I. 10 Witnesses were called.
- II. All 10 witnesses were persons affected by fossil extraction and preliminary exploration activities of TotalEnergies called the Tilenga project.

SUMMARY OF CASES

1. ASIIMWE JULIUS, 58 YEARS, MALE, OF KASINYI VILLAGE, NILE PARISH, NGWEDO SUB-COUNTY IN BULIISA DISTRICT, CASE NO KAS/001/16523.

Not so long ago, TotalEnergies came into our village to carry out oil exploration and extraction activities and we were happy to receive them because we hoped to benefit socially and economically from their presence and activities.

TotalEnergies and government of Uganda then requested for our land which we then gave up because we trusted our government to act in our best interest, we gave up land that was handed down to us by our ancestors.

Loss and Damage suffered

- i) My house that I lived in was demolished but I was never compensated for it because TotalEnergies assessed it and found it not worthy of compensation.
- ii) My farmland was taken, and when I told TotalEnergies that I needed in-kind compensation in form of land and not money, I was made to sign a Memorandum of Understanding (MOU), but was also evicted immediately without any land being given to me.

- iii) TotalEnergies also wants to take my land that was developed with a commercial building on it and when I objected to monetary compensation in favor of a piece of land developed with a commercial building, I was threatened with a law suit. I have recently received a letter from TotalEnergies giving me 30 days' notice to vacate yet I have not been compensated.
- iv) I have also lost 3 acres of crops that were destroyed by water that flows from TotalEnergies' Central Processing Facility every time it rains and I have been assured by TotalEnergies officials that they will not compensate me for damage which is caused by rain.

Evidence Adduced

- i) Grievance form
- ii) Exit consent form
- iii) Acknowledgement of receipt form
- iv) Letter from TotalEnergies dated 27th March 2023 acknowledging the PAP's request for in-kind compensation instead of monetary compensation.
- v) Land owners' compensation agreement.

Prayers

- i) I want our community to benefit from oil activities as much as the government, TotalEnergies and other international oil companies.
- ii) I want adequate compensation for all that I have lost because of the actions of TotalEnergies.

2. KIGWABYA JACKSON, 65 YEARS, MALE, OF KISANSYA WEST VILLAGE, KISANSYA PARISH, KIGWERA SUB-COUNTY IN BULIISA DISTRICT, CASE NO KIS/001/16523

I had never experienced Kamokore valley being flooded in my lifetime until May of 2021, after oil companies set up their facilities in a way that disrupted the natural flow of water. There is water that collects in the TotalEnergies Central Processing Facility which flows and floods our homes and farmlands causing serious damage. We have requested TotalEnergies to construct bridges to prevent these floods but nothing has been done till now.

Loss and Damage suffered

- i) Floods swept away my livestock which comprised of ten (10) cows, fifteen (15) goats and countless chickens.
- ii) My pit latrine and urinary shelter were destroyed by floods.

- iii) My passion fruit plants were destroyed in floods.
- iv) My house was also submerged in the flood.

Prayers

- i) I need adequate compensation for my losses.
- ii) TotalEnergies should take preventive measures against the floods that is being caused as a result of their activities.

3. BYENSI ROBERT, 35-YEARS, MALE, OF KIGWERA SOUTH WEST VILLAGE, KIGWERA PARISH, KIGWERA SUB-COUNTY IN BULIISA DISTRICT, CASE NO. KAS/002/06/13

Water that flows from the Central Processing Facility and floods our land is very dirty, muddy and destructive. Recently, we rescued four (4) of my sister's children from being swept away by the floods. As a result, we now live in fear of rain which had in the past been considered a blessing to us as a community that survives solely on farming.

Loss and Damage suffered

- i) Floods destroyed a quarter of an acre of my sweet potatoes.
- ii) Floods destroyed 140 of my musizi trees.
- iii) When it floods, the community borehole gets submerged in water and is inaccessible.

Prayers

- i) I seek adequate compensation for my losses.
- ii) TotalEnergies should construct a bridge to avoid these floods.

4. THOLITH EMMANUAEL, MALE, OF KASINYI VILLAGE, NILE PARISH, NGWEDO SUB-COUNTY IN BULIISA DISTRICT, CASE NO. KAS/002/16523

TotalEnergies has not shown us any neighborly behavior, it has instead subjected us to dust, floods and sound pollution.

Loss and Damage suffered

- i) Floods have destroyed my one (1) acre of watermelon plants, eighty (80) neem trees, One hundred and thirty-five (135) moringa trees, Four hundred and eighty-six (486) pine trees and tomato plants.
- ii) My fence was also demolished by the floods.

Prayer

- i) I want adequate compensation for the losses I have suffered.

5. LEUNIA OKELLA ITHO, FEMALE, OF AVOGERA VILLAGE, AVOGERA PARISH, NGWEDO SUB-COUNTY IN BULIISA DISTRICT, CASE NO. AVO/001/16523.

My husband and I opened up a joint account for purposes of compensation for our land which was taken by TotalEnergies, he then took up with another woman and squandered most of the money we were paid leaving me in a desperate situation. This scenario has happened to many other women in our community.

Loss and Damage suffered

- i) In 2019, an assessment was done in my absence but my cassava plants were not made part of the assessment, when I complained I was advised to first take the compensation they were offering and that my cassava plants would be compensated for later. I was later told that my land has now been placed under orphan land but have never received any compensation since then.

Prayer

- i) Adequate compensation for the loss I have suffered.

6. NYAKATO MAGREAT, FEMALE, OF KASINYI VILLAGE, NILE PARISH, NGWEDO SUB-COUNTY IN BULIISA DISTRICT, CASE NO. KAS/003/160528

I am a single mother with children of school going age. TotalEnergies took my 6 acres of land and we objected to the amount of compensation we were being given, Hon. Minister for lands came to our community with many soldiers who were carrying guns and most of us accepted the compensation amount of UGX 3,500,000 (Three million and five hundred thousand shillings) per acre which we had earlier rejected out of fear. Total then gave me a small one bedroomed house on a small plot of land despite my large family.

Loss and Damage suffered

- i) Loss of livelihood since I no longer have land to cultivate for sustenance
- ii) My children have dropped out of school because I can no longer raise money for school fees.
- iii) My land was taken for very little compensation.

Evidence adduced

- i) Tribunal made a locus visit to PAP's home
- ii) Allegations regarding the circumstances of the Hon. Minister's visit were corroborated by 4 other witnesses before the tribunal.

Prayers

- i) I seek for adequate compensation for my land that was taken.

7. BARIKENDA FRED, MALE, OF KIRAMA VILLAGE, KIRAMA PARISH, KIGWERA SUB- COUNTY IN BULIISA DISTRICT, CASE NO. KIR/001/160523.

TotalEnergies agreed with me that they were going to construct a house elsewhere and resettle me in it so they can take over my land for their activities. Shortly after that I was put on pressure to vacate the land but I objected to this because I have nowhere to go. TotalEnergies then fenced up my home and brought trucks which cleared all my garden and the areas surrounding my home and to date I have not yet been resettled.

Loss and Damage suffered

- i) I lost my pigs and cattle as a result of hunger when my home was fenced by TotalEnergies.

Evidence adduced

- i) Tribunal made a locus visit to the PAP's home
- ii) Photographs of dead livestock
- iii) Correspondences with TotalEnergies.

Prayers

- i) Adequate compensation for the livestock I lost.

8. AYEBAZIBWE CHRISTINE, FEMALE, OF KIRAMA VILLAGE, KIRAMA PARISH, KIGWERA SUB-COUNTY IN BULIISA DISTRICT, CASE NO. KIG/001/160523

When TotalEnergies first took my land, my property was assessed and I was told I would receive 20 million (Twenty Million Shillings) but later on, I only received 6 million (Six Million Shillings) with no house and yet other people were given houses.

Loss and Damage suffered

- i) I lost 2 (two) houses.
- ii) I lost 50 (fifty) neem trees and 30 (thirty) pumpkin plants which have not been compensated for.
- iii) I lost maize, watermelon and pumpkin which I had planted on my grandfather's land near the central processing facility as a result of the floods.

Prayers

- i) I want adequate compensation for the property I have lost as a result of TotalEnergies' activities.

9. NYAMAGUNGE BEATRICE, FEMALE, OF KIGOYA VILLAGE, KIGOYA PARISH IN BULIISA DISTRICT CASE NO. KIG/002/160523

TotalEnergies first told us they wanted land measuring 30 (Thirty) meters wide for the pipeline and a buffer zone of 30 meters of both sides of it. However, when they demarcated, we found out that we were only 7 (Seven) meters away from the demarcated area. We then complained to TotalEnergies but their response was that we are in the 200 (Two hundred) meter buffer zone and further, we shall not be compensated or resettled.

Loss and Damage suffered

- i) Land
- ii) Livelihood

Evidence adduced

- i) Forms

10. OLOYA EDGAR, 44 YEARS, MALE, OF BULIISA DISTRICT CASE NO. NGW/009/160523

I am a typical farmer. On 18 February 2018 when the oil project started TOTAL consultant, called Atacama found me in the garden where he had dug very many crops which helped him pay fees for his children. They said this day it is a cutoff date and that they considered his land to now be government land.

They come and assessed the land where I had water melon, cassava among other crops which I used to sell and pay school fees.

The assessment was not done to his satisfaction because they did not count each watermelon head

Loss and Damage suffered

- i) Undervaluation of crops for purposes of compensation
- ii) Loss of livelihood
- iii) Children have dropped out of school due to lack of school fees.

Prayers

- i) Adequate compensation for my losses.

Summary of the Emerging claims

- I.TotalEnergies came into the community to carry out oil exploration and extraction activities around the year 2017 in Buliisa District which include villages such as Kasinyi, Kigoya, Kirama, Kiyere, Kigwera among others.
- II.TotalEnergies and its contractors commenced site preparation activities for the Industrial Area in Kasinyi village, located in Ngwedo Sub-County, Buliisa District.
- III.The site preparation activities included bush clearing, fencing and other activities.
- IV.The site preparation and accompanying activities were carried out at the expense of the community people, predominantly farmers, who are the original land owners.
- V.By virtue of the activities of TotalEnergies, the communities of Kasinyi, Kigoya, Kirama, Kiyere, Kigwera among others have now been displaced.
- VI.TotalEnergies, through its agents prepared agreement forms and approached land owners to sign for the purpose of yielding over their properties.
- VII.The affected persons were also presented with consent forms, property/Assets Inventory forms, and notice to handover possession.
- VIII.Some of the displaced persons claimed they were reluctant to sign the agreement.
- IX.Some project-affected persons who were reluctant to sign the agreement eventually signed due to feelings of intimidation, caused by the presence of armed men.
- X.Some project-affected persons who signed as couples were made to open joint accounts for compensation which led to family conflicts.
- XI.Some of the displaced persons were poorly compensated.
- XII.Some of the displaced persons were not compensated at all.
- XIII.TotalEnergies fenced off premises of some community members, resulting into isolation, loss of livelihood and insecurity.
- XIV.Some community members claim to have developed health complications as a result of the dust generated from the company's activities such as clearing, grading and leveling the acquired land.

- XV. Community members have continued to experience loss of livelihoods since their farm land was taken away and the little that was left is not enough to sustain their farming practices which was their source of livelihood.
- XVI. Some project-affected persons testified that local buildings have begun to experience cracks, following the use of heavy machines.
- XVII. Some community members have refused to vacate their land and homes without being fully compensated beforehand.
- XVIII. Community members claim waste water from the Central Processing Facility (CPF) pollutes and floods the community and their farmlands.
- XIX. Many children and wards of project-affected persons have dropped out of school, which they say is due to loss of livelihoods and disruption.
- XX. Crude oil pipelines are passed through properties of community.

Observations

Against the backdrop of activities of Total Energies in communities of Uganda, chief of which is the construction of a Central Processing Facility (CPF) and construction of pipelines in furtherance of its oil exploration and extractive activities being major projects of the corporation commenced in the year 2018.

Based on witnesses' testimonies and evidences adduced, the People's Tribunal (hereinafter referred to as 'The Tribunal') makes the following observations:

- I. TotalEnergies laid the foundation of its actions, particularly the Tilenga and EACOP projects on brazen impunity common to transnational corporations on the shores of Africa.
- II. The Tribunal became a channel of expression and platform for the otherwise silenced communities and project-affected persons to feel heard on their agony, abuses and violations they have suffered and continue to suffer in the hands of TotalEnergies.
- III. Among other things, the Tribunal gives visibility to the plight of the community and specifically to persons affected by the actions of TotalEnergies. These are real humans with names, faces and realities that must not be ignored.

- IV. TotalEnergies has a case to answer, as to the role the company, government and relevant agencies play in enabling these activities; TotalEnergies must answer as to whether it is placing corporate interests over and above the individual rights and collective interests of its citizens, without adequately regulating its activities in the communities.
- V. Several project-affected women shared testimonies of alleged gender-based injustices, intimidation, abuse, insecurity and harassment as a result of this project.
- VI. Presented cases by ten persons directly affected by the activities of TotalEnergies offered primary and secondary evidences on the socio-environmental, trauma-related, displacement and gender impacts caused by extractivism and violations of nature in the communities of Buliisa District, Uganda.

THE VERDICT

After careful consideration of cases presented, the Tribunal unanimously agrees as follows:

- I. Land and its accompaniments belong to people and communities, and they are to be managed in manners that meet their needs without compromising the dignity either of people, communities or nature. This ought to be the fine balance on which decent existence should be based.
- II. That various violations of rights registered in the 10 cases presented by the project-affected persons are instances of systemic and systematic repression, undue influence, degradation of quality of life of communities and peoples who appear helpless in the face of a system that has failed and is still failing to protect them.
- III. The tribunal concludes that there is in fact, a case to answer by TotalEnergies impacting the affected persons' right to human dignity.
- IV. That TotalEnergies is in breach of Article 26 of the Constitution of Uganda which upholds the human right protecting from the deprivation of property.
- V. That the barest minimum of compliance has not been met by TotalEnergies in situating dangerous facilities within acceptable perimeters of homes, farmlands and public facilities.

- VI. That TotalEnergies is in breach of ILO Convention 169, which requires **free, prior and informed** consultation and consent of potential persons to be affected by the project. In the presented cases, location, type, size, quality and other specifications of alternative houses provided for the affected person (in the few cases where they were relocated) were without adequate consultation or input of the affected persons. The Tribunal made locus-in-quo visits to those locations in the course of the hearing.
- VII. The Tribunal condemns the alleged use of force and harassment tactics on community members, through whose testimonies, have glaringly suffered gender-based discrimination, harassment and trauma.
- VIII. The Tribunal condemns weaponisation of power, financial resource, close ties to the state and its authorities, militarization and other forms of violence in relation to the people, their communities and lands.
- IX. The Tribunal finds that the construction of TotalEnergies' Central Processing Facility and pipelines is as close as about seven meters to an affected person's property. This is not only offensive but deeply dangerous to the lives, health and wellbeing of the people, their communities and nature around them.
- X. The Tribunal unanimously agrees that projects such as the Tilenga project have direct consequences such as ecological damage, land grabbing, corruption, corporate capture and greenwashing.
- XI. The Tribunal finds that there is an urgent need by TotalEnergies to respect people's dignity and rights especially those of local communities that have been affected by their activities and make immediate remedies for the avoidance of further actions, both collective and individual.
- XII. The tribunal calls for a formal investigation over the source of water that is flooding the communities' properties including farm lands.

Recommendations

On the strength of the evidence gathered, realities of real people, their communities and livelihoods, beyond the 10 persons who are only a fraction of many affected lives and those currently under the threat of future attacks, the tribunal makes the following recommendations:

- I. That adequate, free, prior and informed consultations always be made as a preliminary step in any community where a transnational corporation wishes to carry out operations, with full disclosure of motives, plans and possible consequences of those plans.
- II. That TotalEnergies is compelled to urgently map out actions to respect the full rights of the peoples to a safe environment to improve their lives, safeguard their health and culture in consultation with communities and civil society.
- III. That government should continuously be on the side of its people, protecting and safeguarding them from preying corporation, as opposed to putting corporate interest ahead of the collective good of its people and environment.
- IV. That a healing and reconciliation process be commenced without delay to reconcile the affected communities, people and other beings to nature.
- V. That feminists and women's rights organizations take up specific cases of affected women in the communities whose peculiar cases make them more vulnerable.
- VI. That TotalEnergies set up a Women's Development Program to rehabilitate women affected by the project.
- VII. That TotalEnergies set up a program of children and students whose education was disrupted as a result of the project.
- VIII. That relevant government agencies, including the Ugandan Human Rights Commission investigate and assess these community's claims for the purpose of reparation and restitution.
- IX. There is need for a constant community sensitization by all parties involved even on seemingly obvious actions like the presence of armed persons within a community.

Conclusion

The partners of the Make Big Polluters Pay (MBPP) Global Campaign, both listed and not listed in this verdict will continue to track situations of the affected persons and communities, with necessary amplification and other viable measures, in the event that the plights of the people are ignored. This is in line with the “Make Big Polluters Pay” (MBPP) campaign’s mission to put an end to corporate impunity and violations of rights of peoples and the environment.