

**LEGAL AND REGULATORY FRAMEWORK FOR OIL AND GAS EXPLORATION AND PRODUCTION IN UGANDA: “LESSONS LEARNED AND FUTURE PERSPECTIVES”**

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**UGANDA CHRISTIAN  
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**DECLARATION**

I, Akello Rebecca, hereby declare that this dissertation is my work and it has not been submitted before to any other institution of higher learning for fulfilment of any academic award.

Signed.....

AKELLO REBECCA

Date.....

**APPROVAL**

I certify that this Dissertation was done under my guidance and satisfies the partial fulfillment of the requirements of the award of the Master of Laws Degree (LL.M) in Oil and Gas.

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**DEDICATION:**

To my dear parents, Mr. Obore Samson and Mrs. Florence Obore,

With boundless gratitude and overflowing love, I dedicate this thesis to you. From the earliest days of my childhood to the culmination of this master's level journey, your unwavering support, guidance, and sacrifices have been the cornerstone of my success. You have been my pillars of strength, always believing in me even when I doubted myself, and your endless encouragement has propelled me forward, shaping me into the person I am today.

Mom and Dad, your unconditional love and ceaseless prayers have been my guiding light through every challenge and triumph. Your selfless dedication to my education, providing not just materially but also emotionally and spiritually, have instilled in me values of perseverance, diligence, and faith. I am profoundly grateful for the countless sacrifices you have made to ensure that I have every opportunity to pursue my dreams and aspirations.

As I embarked on this academic endeavour, I carried with me the wisdom, values, and love that you have imparted upon me. Your belief in my potential has fuelled my determination to reach for the stars, and I am eternally thankful for your unwavering belief in me.

In dedication to you both, I am reminded of the words: "Train up a child in the way he should go, and when he is old he will not depart from it" (Proverbs 22:6). Your guidance and nurturing have laid the foundation for my journey, and I am forever grateful for the love and faith you have bestowed upon me.

With deepest appreciation and love,

AKELLO REBECCA

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## LIST OF ACRONYMS

Access to Information - ATI

China National Offshore Oil Corporation - CNOOC Uganda

Extractive Industry Transparency Initiative - EITI.

International Court of Justice (ICJ)

International Oil Company - IOC

Ministry of Energy and Mineral Development - MEMD

National Oil and Gas Policy - NOGP

Petroleum Authority Uganda - PAU

Production Sharing Agreement - PSA

Uganda National Oil Company UNOC

## **ABSTRACT**

The discovery of significant oil reserves in Uganda's Albertine Graben region in 2006 presents a tremendous opportunity for economic growth and energy security in Uganda. However, the success of the oil and gas industry hinges on a robust legal and regulatory framework that ensures responsible and sustainable resource extraction. This study provides an analysis of Uganda's evolving legal landscape concerning oil and gas activities, drawing insights from past experiences and projecting future perspectives.

The examination begins with a historical overview, tracing the development of Uganda's oil and gas sector and analysing key legislative measures, regulatory institutions, and policy initiatives. It assesses the effectiveness of existing frameworks in governing exploration, extraction, and revenue management, while also addressing implementation challenges and gaps. By examining the experiences and challenges faced by Uganda in establishing this framework, valuable lessons can be learned to better prepare the nation for emerging trends, technological advancements, and environmental concerns.

On the basis of the legal and regulatory regime, Uganda can draw from the experiences of nations that have more mature legal and regulatory frameworks and adopt best practices from them. Through comparative analysis and case studies, this study elucidates the lessons derived from Uganda's regulatory journey in the oil and gas sector.

In addition, through identifying the successes and shortcomings of the existing framework, stakeholders can gain insights to enhance its effectiveness and make recommendations for laws and regulation going forward. Furthermore, this study explores the future trajectory of Uganda's oil and gas industry, considering emerging trends, technological advancements, and global energy dynamics.

Through anticipating future challenges and aligning with international best practices, Uganda can position itself as a responsible and attractive destination for oil and gas investments and at the same time be in a position of safeguarding environmental integrity and promoting socio-economic development.

## **1.0 CHAPTER ONE:**

### **1.1 Introduction**

The exploration and production of oil and gas resources play a pivotal role in Uganda's economic development and energy security. Over the years, Uganda has witnessed significant progress in its oil and gas sector, attracting both domestic and international investors. However, the success of this industry relies heavily on a robust legal and regulatory framework that ensures responsible and sustainable exploration and production activities.

The legal and regulatory framework for oil and gas exploration and production in Uganda has evolved considerably since the discovery of significant hydrocarbon reserves in the Albertine Graben region in 2006. With the potential to transform the country's economic landscape, it became crucial for Uganda to develop an effective framework that balances the interests of investors, local communities, and environmental conservation.

This paper aimed to explore the lessons learned from Uganda's journey in establishing its legal and regulatory framework for oil and gas exploration and production. It will delve into the key components of the framework, examining the legislative, contractual, and regulatory aspects that govern the industry. Furthermore, it will analyze the challenges faced, the steps taken to address them, and the resulting impact on the sector.

Additionally, this paper will shed light on the future perspectives of Uganda's oil and gas industry, highlighting potential areas of improvement and adaptation. It will assess the country's readiness to face emerging challenges, such as technological advancements, environmental concerns, and evolving global energy trends. By considering the experiences of other nations like Ghana, Nigeria and United States of America, with mature oil and gas industries, Uganda can gain valuable insights to shape its future strategies and policies.

Understanding the legal and regulatory framework for oil and gas exploration and production in Uganda is crucial for stakeholders, including government officials, industry players, investors, and local communities. It provides a foundation for

responsible resource extraction, ensures environmental protection, promotes transparency, and maximizes the socio-economic benefits for the nation.

As Uganda continues to advance its oil and gas sector, it is essential to learn from past experiences, both positive and negative, to build a sustainable future. By critically evaluating the existing framework and exploring future perspectives, Uganda can navigate the complex challenges of the industry, foster long-term development, and contribute to its national aspirations.

## **1.2 Background to the Study:**

Uganda, located in East Africa, is a landlocked country with immense potential in the oil and gas sector. The discovery of significant oil reserves in the Albertine Graben region in 2006 marked a turning point for the country, offering a promising opportunity for economic growth, job creation, and energy independence. However, the development of the oil and gas industry requires a well-defined legal and regulatory framework to ensure responsible exploration, production, and management of these valuable resources.

In the early stages of Uganda's oil and gas sector development, there were limited legal and regulatory structures in place to govern the industry. Recognizing the need for a robust framework, the government embarked on a series of efforts to establish appropriate laws, policies, and institutions to effectively regulate the sector. This included the enactment of the Petroleum (Exploration, Development, and Production) Act, 2013, which formed the cornerstone of the legal framework for the industry.

The development of Uganda's legal and regulatory framework for oil and gas exploration and production has been a complex and evolving process. It involved various stakeholders, including government agencies, international oil companies, local communities, and civil society organizations. The aim was to strike a delicate balance between attracting foreign investment, safeguarding the environment, protecting the rights of affected communities, and maximizing the benefits for the nation.

Throughout this journey, Uganda faced numerous challenges such as lack of transparency, corruption, lack of community participation and learned valuable lessons. One key challenge was the need for effective regulation and oversight to prevent the resource curse phenomenon, where countries rich in natural resources often experience corruption, conflict, and economic instability. Uganda sought to implement transparent and accountable practices to avoid such pitfalls.

Another challenge was ensuring the inclusion of local communities in decision-making processes and benefiting from the oil and gas activities. Uganda recognized the importance of social and environmental considerations, leading to the establishment of mechanisms for community engagement, corporate social responsibility initiatives, and environmental impact assessments.

Furthermore, technological advancements and evolving global energy trends also posed challenges for Uganda's oil and gas industry. As the world transitions towards cleaner and more sustainable energy sources, Uganda needed to adapt its framework to address environmental concerns, reduce greenhouse gas emissions, and promote renewable energy alternatives.

The future perspectives of Uganda's oil and gas sector are crucial to assess. It is important to evaluate the country's readiness to embrace emerging technologies, enhance local content participation, promote regional cooperation, and align with international best practices. By learning from the experiences of other countries and engaging in continuous policy evaluation and revision, Uganda can position itself as a responsible and attractive destination for oil and gas investments.

In light of the above, this study aims to analyze the legal and regulatory framework for oil and gas exploration and production in Uganda, focusing on the lessons learned from past experiences and the future perspectives for the industry. By critically examining the existing framework and considering the evolving challenges and opportunities, this study seeks to provide valuable insights for policymakers, industry stakeholders, and the broader community in Uganda. Ultimately, it aims to contribute to the sustainable development and effective management of Uganda's oil and gas resources for the benefit of future generations.

### **1.3 Problem Statement:**

The problem at hand is the need to evaluate and enhance the legal and regulatory framework for oil and gas exploration and production in Uganda, with a focus on identifying specific lessons learned and addressing key challenges and opportunities for the future. Despite progress in establishing the framework, there are persisting issues such as inadequate transparency, limited community involvement, and potential environmental risks that require targeted solutions. Furthermore, the industry faces emerging challenges related to evolving energy trends, technological advancements, and the imperative to transition towards cleaner and more sustainable practices. To ensure responsible resource extraction, maximize socio-economic benefits, and mitigate potential risks, it is essential to refine and strengthen Uganda's legal and regulatory framework for oil and gas exploration and production.

### **1.4 Objectives of the Study**

#### **1.4.1 General Objective:**

The general objective of this study is to assess and improve the legal and regulatory framework for oil and gas exploration and production in Uganda, focusing on lessons learned and future perspectives, in order to ensure responsible and sustainable development of the sector.

#### **1.5 Specific Objectives**

1. Conduct a comprehensive legal analysis of the existing laws and regulations governing oil and gas exploration and production in Uganda, including the Petroleum (Exploration, Development, and Production) Act, to identify their strengths, weaknesses, and areas for improvement.
2. Evaluate the efficacy of the current legal and regulatory framework in addressing the challenges faced by Uganda's oil and gas sector, such as inadequate transparency, limited community involvement, and potential environmental risks. Assess the extent to which the framework promotes responsible resource extraction and sustainable development.

3. Conduct a comparative analysis of the legal and regulatory frameworks for oil and gas exploration and production in other jurisdictions, particularly those with mature oil and gas industries, to identify best practices, lessons learned, and innovative approaches that could be applied to enhance Uganda's framework.

4. Based on the findings from the legal analysis, evaluation of efficacy, and comparative analysis, provide actionable recommendations for strengthening and improving the legal and regulatory framework for oil and gas exploration and production in Uganda. These recommendations should address issues of transparency, community engagement, environmental protection, and alignment with emerging global energy trends.

5. Summarize the findings of the study, draw conclusions on the strengths and weaknesses of Uganda's legal and regulatory framework, and provide insights into the future perspectives of the oil and gas sector in the country. Emphasize the importance of continuous evaluation and adaptation of the framework to ensure responsible and sustainable development.

#### **1.6 Research Questions:**

1. What are the key legal provisions and regulations governing oil and gas exploration and production in Uganda, as outlined in the Petroleum (Exploration, Development, and Production) Act and other relevant legislation?

2. How effective is the current legal and regulatory framework in addressing the challenges faced by Uganda's oil and gas sector, such as transparency, community involvement, and environmental risks?

3. What lessons can be learned from the experiences of other jurisdictions like Ghana, Nigeria and United States of America with mature oil and gas industries, particularly in terms of legal and regulatory frameworks, to enhance Uganda's framework?

4. What specific improvements can be recommended for Uganda's legal and regulatory framework to ensure responsible and sustainable oil and gas exploration

and production? How can transparency, community engagement, and environmental protection be enhanced?

5. What are the implications and future perspectives for Uganda's oil and gas sector based on the findings of the study? How can the legal and regulatory framework adapt to emerging global energy trends and technological advancements?

### **1.7 Significance of the Study.**

This study holds significant importance as it aims to provide valuable insights and recommendations to enhance the legal and regulatory framework for oil and gas exploration and production in Uganda. By conducting a thorough analysis of the existing laws, evaluating their efficacy, comparing with other jurisdictions, and offering concrete findings and recommendations, this study contributes to the responsible and sustainable development of the oil and gas sector. It addresses key challenges such as transparency, community engagement, and environmental protection, while considering emerging trends and technological advancements. The outcomes of this study will inform policy decisions, guide industry practices, and promote the effective management of Uganda's oil and gas resources for the benefit of the nation and its stakeholders.

### **1.8 Scope of the Study**

1. Time Scope: This study will primarily focus on the legal and regulatory framework for oil and gas exploration and production in Uganda up until the present time. It will consider the evolution of the framework since the discovery of significant hydrocarbon reserves in the Albertine Graben region in 2006. The study will also examine any recent amendments or updates to the relevant legislation and regulations.

2. Geographical Scope: The geographical scope of this study is centered on Uganda, with a specific focus on the oil-rich Albertine Graben region. The analysis will consider the legal and regulatory framework applicable to oil and gas exploration and production activities within this region. However, insights from other jurisdictions with mature oil and gas industries may be drawn upon for comparative analysis and best practices.

3. Other Considerations: In addition to the legal and regulatory aspects, this study will also take into account the socio-economic and environmental dimensions of oil and gas exploration and production in Uganda. It will explore the impact of the legal framework on local communities, environmental conservation efforts, and the overall sustainable development of the country's oil and gas resources. Furthermore, the study will consider emerging challenges and opportunities, such as technological advancements, global energy trends, and the transition to cleaner energy sources.

It is important to note that this study will not delve into the technical aspects of oil and gas exploration and production, but rather focus on the legal and regulatory framework surrounding these activities in Uganda.

### **1.9 Theoretical framework.**

The theoretical framework employed in this study is crucial for providing a structured lens through which to analyze and interpret the complex dynamics inherent in the global oil industry, particularly the relationships between major multinational oil companies (oil majors), independent players, and the legal and regulatory frameworks that govern their operations. Theoretical frameworks serve as conceptual scaffolding, offering a systematic approach to understanding and explaining phenomena. In the context of this study, theories such as Institutional Theory can shed light on how legal and regulatory structures shape the behavior of oil companies, guiding their interactions and responses to environmental, social, and economic factors.

Moreover, Resource Curse Theory provides insights into the challenges and opportunities associated with countries rich in natural resources, offering a perspective on the potential pitfalls and benefits of oil exploration and production. Transaction Cost Economics, on the other hand, can contribute to understanding the economic considerations and risks involved in the relationships between oil majors, Independents, and other stakeholders in the industry.

Grounding the study in a theoretical framework, makes it possible to draw meaningful comparisons, identify patterns, and develop a comprehensive understanding of the global oil industry's functioning. The chosen theoretical

perspectives facilitate a nuanced exploration of issues such as governance, risk management, and the role of smaller players, contributing to a well-rounded and informed analysis. This theoretical foundation not only guides the research process but also ensures that the findings are theoretically grounded and applicable beyond the immediate context, contributing to the broader discourse on global oil industry dynamics.

1. **Institutional Theory:** Institutional theory posits that institutions, including legal and regulatory frameworks, shape and influence the behavior and actions of individuals and organizations. This theory emphasizes the importance of formal and informal rules, norms, and practices in governing the oil and gas industry. Authors such as DiMaggio and Powell (1983) and Scott (2001) have extensively discussed institutional theory and its application to the study of legal and regulatory frameworks.

2. **Stakeholder Theory:** Stakeholder theory emphasizes the importance of considering the interests and perspectives of various stakeholders, including government, industry, local communities, and environmental groups, in the design and implementation of legal and regulatory frameworks. This theory recognizes that the effectiveness of the framework depends on the engagement and participation of all relevant stakeholders. Freeman (1984) and Mitchell et al. (1997) have contributed significantly to the development of stakeholder theory.

3. **Governance Theory:** Governance theory focuses on the mechanisms and processes through which decisions are made and resources are managed. It emphasizes the need for transparent, accountable, and inclusive governance structures and practices in the oil and gas sector. The work of Bovens et al. (2008), Rhodes (1997), and Mayntz (2003) provides insights into governance theory and its relevance to the study of legal and regulatory frameworks.

4. **Environmental Governance Theory:** Environmental governance theory emphasizes the integration of environmental concerns into the decision-making processes and regulations governing the oil and gas sector. It highlights the importance of sustainability, ecological integrity, and the protection of natural resources. Authors

such as Young (2002) and Gupta and Pahl-Wostl (2013) have explored the principles and practices of environmental governance and its applicability to the oil and gas industry.

5. Comparative Institutional Analysis: Comparative institutional analysis involves comparing the legal and regulatory frameworks of different countries or regions to identify variations, similarities, and best practices. This approach helps to understand the contextual factors that influence the effectiveness of legal frameworks and can inform the enhancement of Uganda's framework. Authors such as Hall and Soskice (2001) and Thelen and Mahoney (2010) have contributed to the development of comparative institutional analysis.

These theoretical frameworks provide a lens through which to analyze and understand the legal and regulatory framework for oil and gas exploration and production in Uganda. By drawing upon these theories and the works of the relevant authors, this study can examine the institutional, stakeholder, governance, and environmental dimensions of the framework and generate insights for its improvement hence the reason why I will majorly use it.

### **1.10 Conceptual framework**

The conceptual framework for this study centers on comprehending the intricate dynamics between major multinational oil companies (oil majors) and independent players within the legal and regulatory frameworks governing the global oil industry. It involves categorizing and characterizing these entities, exploring the nuances of legal and regulatory structures impacting their operations, and evaluating the financial dynamics and risk management strategies they employ. Additionally, the framework delves into the role of "wildcatters" and venture capital in the industry, examining how global operations impact local communities. By incorporating case studies and comparative insights, the framework aims to extract lessons learned and anticipate future trends. Environmental and social considerations, stakeholder engagement, and recommendations for industry sustainability form integral components of this conceptual framework, contributing to a holistic understanding

of the coexistence and collaboration of oil majors and Independents in a continually evolving regulatory landscape.

### **1.11 Adopting a theoretical framework**

Adopting a theoretical framework for the study on "Legal and Regulatory Framework for Oil and Gas Exploration in Uganda: Lessons Learnt and Future Perspectives" offers several advantages over a purely conceptual framework. Here's a justification for this choice:

1. **Analytical Depth:** Theoretical frameworks provide a robust analytical lens through which to interpret and understand complex phenomena. In the case of oil and gas exploration, theories from disciplines such as political science, economics, and law can offer nuanced insights into the underlying drivers, power dynamics, and economic incentives shaping regulatory frameworks.
2. **Contextualization:** Theoretical frameworks allow researchers to situate their study within broader theoretical perspectives and scholarly debates. By drawing on established theories, such as regulatory capture theory or institutional economics, researchers can contextualize their analysis within existing bodies of knowledge, facilitating a deeper understanding of the dynamics at play.
3. **Comparative Analysis:** Theoretical frameworks enable researchers to conduct comparative analyses across different contexts and jurisdictions. By applying theoretical perspectives from diverse disciplines, researchers can systematically compare regulatory approaches, identify commonalities, and discern variations, thereby enriching the analysis and generating more robust findings.
4. **Predictive Power:** Theoretical frameworks often offer predictive power by providing insights into potential outcomes and implications of different policy interventions or regulatory regimes. By grounding the study in established theories, researchers can make informed predictions about the likely effects of regulatory changes or future developments in the oil and gas sector.
5. **Interdisciplinary Insights:** Given the multidimensional nature of the topic, an interdisciplinary theoretical framework can offer valuable interdisciplinary insights.

By integrating theories from multiple disciplines, such as law, economics, environmental science, and political science, researchers can develop a more holistic understanding of the complex interactions between legal, economic, environmental, and social factors shaping oil and gas regulation.

In summary, adopting a theoretical framework for the study on the legal and regulatory framework for oil and gas exploration in Uganda enhances the analytical depth, contextualization, comparative analysis, predictive power, and interdisciplinary insights of the research, thereby contributing to a more rigorous and comprehensive understanding of the topic.

### **1.12 Chapter Breakdown:**

Chapter one commences with the introduction to this study which provides a comprehensive overview, beginning with the background to the study, which sets the context for examining the legal and regulatory framework for oil and gas exploration in Uganda.

Chapter Two of the study delves into the literature review, which serves as a critical foundation for understanding the legal and regulatory framework for oil and gas exploration in Uganda.

Chapter Three focuses on the methodology employed in this study to investigate the legal and regulatory framework for oil and gas exploration in Uganda. The research approach is delineated, highlighting the rationale behind the selection of qualitative methods to delve into the intricacies of regulatory processes and stakeholder perspectives.

Chapter Four delves into the analysis of the legal framework governing oil and gas exploration and production in Uganda, providing a comprehensive overview of relevant laws, regulations, and policies. The chapter examines the foundational legal instruments that establish the framework for the sector and the institutional architecture overseeing the sector.

Chapter Five conducts a comparative analysis of the legal and regulatory frameworks for oil and gas exploration and production in Uganda in comparison to other

jurisdictions. Drawing on insights from international experiences and best practices, this chapter examines how different countries have approached the governance of their oil and gas sectors.

Chapter Six presents the findings derived from the analysis conducted in the preceding chapters, offering insights into the effectiveness and implications of the legal and regulatory framework for oil and gas exploration in Uganda. Through qualitative data analysis, key themes, patterns, and discrepancies within the existing framework are identified and discussed. These findings are contextualized within the broader socio-economic and environmental landscape of Uganda's oil and gas sector, highlighting both challenges and opportunities for improvement.

## **2.0 CHAPTER TWO: LITERATURE REVIEW.**

### **Introduction**

This section will highlight key authors and works that provide insights into various aspects of legal and regulatory framework for oil and gas exploration and production, what lessons can and have been learned and future perspectives in respect of Uganda.

### **2.1 Literature Review:**

Kiiza, John (2019). "Oil and Gas Governance: Lessons from Uganda's Experience." In this book, Kiiza critically examines the legal and regulatory framework for oil and gas exploration and production in Uganda. He highlights the challenges and gaps, including issues of transparency, accountability, and limited community participation. However, the book lacks a comparative analysis with other jurisdictions, which is essential to identify best practices and potential solutions.

Adding to the study: To address this gap, a comparative analysis of legal and regulatory frameworks from other countries, such as Norway, Ghana, and Canada, should be incorporated. By examining the strengths and weaknesses of these frameworks, valuable insights can be gained to propose recommendations for enhancing Uganda's framework.

Tumuhimbise, Gilbert (2020). "Environmental Regulation of the Oil and Gas Sector in Uganda: Lessons and Challenges." Tumuhimbise's article primarily focuses on the environmental aspects of the legal framework governing Uganda's oil and gas sector. He discusses the need for robust regulations to mitigate environmental risks. However, the article lacks extensive coverage of community engagement and transparency aspects of the framework.

Adding to the study: In addition to the environmental dimension, a thorough analysis of community engagement and transparency aspects of Uganda's legal framework should be conducted. This will provide a comprehensive understanding of the strengths and weaknesses of the existing framework and guide recommendations for improvement.

Kibikyo, Margaret (2018). "Governance and Accountability in Uganda's Oil and Gas Sector." Kibikyo explores governance and accountability issues in Uganda's oil and gas sector, emphasizing the importance of transparency and effective regulatory mechanisms. However, the book lacks a comprehensive analysis of the legal provisions and their implementation.

Adding to the study: Complementing Kibikyo's work, a detailed legal analysis of the relevant laws and regulations should be conducted. By evaluating the efficacy of these legal provisions, insights into their practical implementation can be gained, identifying any gaps or areas for improvement.

Sseruyange, Derrick (2017). "Comparative Analysis of Legal and Regulatory Frameworks for Oil and Gas Exploration and Production." Sseruyange's article provides a comparative analysis of legal frameworks in different countries, although it does not specifically focus on Uganda. It fails to address the specific challenges and opportunities faced by Uganda's oil and gas sector.

Adding to the study: Building upon Sseruyange's work, a country-specific analysis should be conducted, delving into Uganda's unique context, challenges, and opportunities. By synthesizing the lessons learned from other jurisdictions with the specific needs of Uganda, targeted recommendations for enhancing the legal and regulatory framework can be proposed.

In this literature review, the works of Kiiza (2019), Tumuhimbise (2020), Kibikyo (2018), and Sseruyange (2017) have been cited, each contributing to the understanding of Uganda's legal and regulatory framework for oil and gas exploration and production. The review identifies the strengths and limitations of the existing literature and suggests areas for further exploration and analysis in the intended study. The review also suggests areas for further exploration, including a comparative analysis, social and economic impacts, stakeholder engagement, and context-specific considerations.

Ross, Michael L. (2012). "The Oil Curse: How Petroleum Wealth Shapes the Development of Nations." Ross's book explores the phenomenon known as the "resource curse" and its implications for countries rich in natural resources like oil

and gas. The resource curse refers to the paradoxical correlation between resource wealth and underdevelopment. Ross argues that weak governance, corruption, and mismanagement are often associated with resource-rich countries, leading to negative socio-economic outcomes.

Adding to the study: Incorporating the resource curse perspective in the analysis will help assess whether Uganda's legal and regulatory framework effectively addresses the challenges associated with resource wealth. It will provide insights into how governance mechanisms can mitigate the potential negative consequences and promote sustainable development in the oil and gas sector.

Bleischwitz, Raimund et al. (2018). "Governance of the Nexus: From Buzzwords to Business." This book focuses on the governance of the water-energy-food nexus, which is particularly relevant in the context of oil and gas exploration and production. The nexus approach emphasizes the interconnectedness of these sectors and the need for integrated governance frameworks to manage their interactions sustainably.

Adding to the study: Considering the water-energy-food nexus within the legal and regulatory framework analysis will provide a comprehensive perspective on resource management. Examining how the framework addresses the interdependencies and potential conflicts between these sectors will contribute to a more holistic understanding of its effectiveness.

Brinkerhoff, Derick W. (2015). "Governance Challenges in Extractive Industries: A Practitioner's Perspective." Brinkerhoff's book offers practical insights into the governance challenges faced by countries in managing extractive industries, including oil and gas. The book highlights issues related to revenue management, corruption, and the effective implementation of policies and regulations.

Adding to the study: Drawing on Brinkerhoff's practitioner perspective will provide practical guidance for addressing governance challenges in Uganda's oil and gas sector. This includes exploring strategies for effective revenue management, combating corruption, and strengthening the implementation and enforcement of regulations.

By incorporating insights from Ross, Bleischwitz, and Brinkerhoff, the literature review expands the analysis to include the resource curse, the water-energy-food nexus, and practical governance challenges in the oil and gas sector. These additional perspectives enrich the understanding of the legal and regulatory framework in Uganda, its implications for development, and potential avenues for improvement.

## **2.2 An analysis of legal and regulatory framework for oil and gas exploration and production in Uganda: lessons learned and future perspectives:**

The announcement of commercially viable oil reserves in the Albertine Graben, Western Uganda, marked a transformative moment for the nation's economic landscape in 2006 (Veit, Excell & Zomer, 2011). Fast forward to 2014/2015, and Uganda boasts twenty-one oil and gas discoveries, with an estimated accumulation of 6.5 billion barrels of oil equivalent, of which 1.4 billion barrels are deemed recoverable. Amid these promising figures, the gas reserves stand at an estimated 672 billion cubic feet, comprising 499 billion barrels of non-associated gas and 173 billion barrels of associated gas (MEMD, 2015). Despite this abundance, less than 40% of the potential petroleum production area in Albertine Graben has undergone exploration (MEMD, 2017, PEPD, 2017), suggesting a considerable untapped potential.

The anticipation of oil production driving increased government revenue and fostering development in Uganda has prompted a critical examination of governance frameworks to avoid the pitfalls witnessed in other oil-rich nations (Kiiza, Bategeka & Ssewanyana, 2011). President Yoweri Museveni, recognizing the importance of prudent oil resource management, affirms the government's commitment to learning from others' experiences (cited in Veit, Excell & Zomer, 2011). This chapter embarks on an analysis of the governance institutions and practices shaping oil and gas resource exploitation in Uganda, aiming to unravel their implications for national development. It navigates the challenges faced in implementing institutions designed for effective resource management, emphasizing the influence of the political economy context on governance objectives.

Embarking on an exploration of Uganda's legal and regulatory landscape in the realm of oil and gas, this analysis delves into the intricacies shaping the industry's trajectory. Through a critical lens, it is aimed to unravel the lessons derived from existing legal frameworks and regulatory practices, envisioning a future that aligns with both national imperatives and global best practices.

### **Setting the Context:**

In the dynamic arena of oil and gas exploration and production, the regulatory framework plays a pivotal role in defining the industry's course. This analysis endeavors to dissect Uganda's legal foundations governing this sector, shedding light on the evolution, challenges faced, and the potential pathways for future enhancement.

### **Lessons from the Past:**

The retrospective lens is focused on gleaning insights from past experiences within Uganda's oil and gas sector. By scrutinizing the lessons learned, pitfalls encountered, and successes achieved, the aim is to inform the present discourse on legal and regulatory frameworks. This historical analysis serves as a compass, guiding us toward informed decision-making for the future.

### **Future Perspectives and Aspirations:**

Looking ahead, we navigate through the possibilities and potential trajectories that could shape Uganda's oil and gas sector. The analysis extends beyond current realities, envisioning a future where the legal and regulatory landscape evolves in tandem with the dynamic nature of the industry. Future perspectives consider sustainability, adaptability, and the integration of global best practices.

### **Holistic Exploration of Legal Dimensions:**

This analysis spans various facets of the legal and regulatory framework, encapsulating aspects such as environmental considerations, risk management, corporate responsibility, and transparency measures. By adopting a holistic

approach, the aim is to offer comprehensive insights that contribute to the ongoing discourse on refining and fortifying Uganda's regulatory foundations.

### **Global Context and Best Practices:**

Recognizing that the oil and gas industry operates on an international scale, this analysis places Uganda within a global context. Insights gleaned from international best practices serve as valuable benchmarks, allowing Uganda to benchmark its regulatory framework against global standards. This comparative perspective enriches the analysis with diverse experiences and innovative approaches.

### **Towards Informed Decision-Making:**

The ultimate goal of this exploration is to contribute to an informed decision-making process. By critically assessing the existing legal and regulatory landscape, the aspiration is to offer actionable recommendations that foster a regulatory environment conducive to sustainable development, environmental stewardship, and societal well-being.

On embarking on this analysis of Uganda's legal and regulatory framework for oil and gas exploration and production, the anticipation is a journey that illuminates the past, informs the present, and charts a course towards a future aligned with the nation's aspirations and global benchmarks.

### **2.3 Contextualising the Resource Curse and Governance Debates:**

The discourse surrounding oil governance is situated within the broader context of global debates on the resource curse phenomenon. Notable studies link resource-rich countries to the resource curse, with manifestations such as the 'Dutch disease' and economic volatility (Sachs and Warner, 1997, 2011; Ross, 2001). This analysis, informed by influential studies, scrutinizes how governance institutions contribute to or mitigate the resource curse, particularly focusing on Uganda's unique context.

Contextualising the Resource Curse and Governance Debates within the framework of the study on "Legal and Regulatory Framework for Oil and Gas Exploration in Uganda: Lessons Learnt and Future Perspectives" is essential for understanding the complexities of oil governance and its implications for Uganda's development

trajectory. The discourse surrounding oil governance is deeply entrenched within the broader global debates on the resource curse phenomenon, which posits that resource-rich countries often fail to achieve sustainable development due to various economic, social, and political challenges associated with the abundance of natural resources.

In the context of Uganda, which is on the verge of significant oil and gas development, understanding the dynamics of the resource curse and its relationship with governance institutions becomes paramount. Notable studies, such as those by Sachs and Warner (1997, 2011) and Ross (2001), have identified patterns of economic volatility, rent-seeking behavior, corruption, and institutional weaknesses in resource-rich countries, commonly referred to as the 'resource curse.' The 'Dutch disease,' characterized by adverse effects on non-resource sectors due to appreciation of the exchange rate, is another manifestation of the resource curse phenomenon that warrants attention.

This analysis, informed by influential studies on the resource curse, aims to scrutinize how governance institutions in Uganda contribute to or mitigate the resource curse dynamics, particularly in the context of its emerging oil and gas sector. By examining the legal and regulatory framework governing oil and gas exploration in Uganda, the study seeks to understand how governance mechanisms can shape outcomes in terms of economic development, environmental sustainability, social equity, and political stability.

The unique context of Uganda, with its history of political instability, weak institutions, and socio-economic challenges, adds complexity to the governance debates surrounding oil and gas exploration. Therefore, it is imperative to assess how the legal and regulatory framework addresses issues such as transparency, accountability, revenue management, environmental protection, and community participation. By critically analyzing the strengths and weaknesses of existing governance institutions, the study aims to identify potential avenues for reform and improvement, drawing on lessons learned from both domestic and international experiences.

In conclusion, contextualising the Resource Curse and Governance Debates within the framework of the study provides a theoretical lens through which to examine the interplay between governance institutions and the resource curse phenomenon in Uganda's emerging oil and gas sector. By addressing governance challenges proactively and promoting effective regulatory frameworks, Uganda can mitigate the risks associated with the resource curse and harness its natural resource wealth for sustainable development and inclusive growth.

#### **2.4 Lessons from Successful Resource Management Models:**

Drawing inspiration from resource-rich nations that have successfully navigated sustainable growth, such as Australia, Canada, Norway, and Sweden, as highlighted by Karabegović (2009), this analysis emphasizes the pivotal role of institutional quality in determining the fate of natural resource wealth. Contrary to viewing natural resources solely as drivers of economic growth, the discourse shifts towards acknowledging that the quality of institutions fundamentally shapes whether resource abundance becomes a blessing or a curse, as emphasized by Frankel (2010). In this context, the quality of governance institutions transcends being merely an intervening variable; it emerges as a decisive factor influencing economic outcomes and the overall trajectory of resource-rich economies. These nations have demonstrated that robust institutions, characterized by transparency, accountability, rule of law, and effective resource management, are instrumental in harnessing the potential benefits of natural resources while mitigating the risks associated with the resource curse phenomenon. By drawing lessons from these success stories, Uganda can enhance its governance mechanisms to ensure that its emerging oil and gas sector contributes to sustainable development, social welfare, and long-term prosperity.

#### **2.5 Uganda's Current Oil Resource Management Framework:**

With a historical backdrop and drawing lessons from successful models, the analysis delves into Uganda's current oil resource management framework. By scrutinizing its fitness for purpose, parallels are drawn with proven governance systems, exemplified by countries like Norway and Botswana. As Uganda endeavors to harness its oil wealth responsibly, the subsequent sections of the analysis focus on evaluating

the existing governance framework, identifying challenges, and proposing reform measures to maximize the benefits of oil wealth for the nation's development. The historical context underscores the importance of learning from both successes and failures in oil governance, highlighting the need for Uganda to adopt effective institutional mechanisms to avoid the pitfalls associated with the resource curse phenomenon. By comparing its governance framework with those of Norway and Botswana, known for their prudent management of natural resources, Uganda can glean valuable insights into best practices and areas for improvement. The evaluation of Uganda's governance framework encompasses aspects such as transparency, accountability, revenue management, environmental protection, and community engagement, aiming to assess its effectiveness in ensuring sustainable and equitable development.

Through this analysis, reform measures are proposed to address identified gaps and enhance the governance framework's efficacy. Recommendations may include strengthening regulatory institutions, enacting robust legal frameworks, enhancing transparency and accountability mechanisms, fostering community participation, and diversifying the economy to reduce dependency on oil revenues. By aligning its governance practices with proven models and implementing targeted reforms, Uganda can position itself to effectively manage its oil wealth for the benefit of current and future generations, while avoiding the resource curse trap that has plagued many resource-rich nations.

## **2.6 Conclusion:**

In conclusion, this study aimed to investigate the legal and regulatory framework for oil and gas exploration and production in Uganda, focusing on lessons learned and future perspectives. The literature review has highlighted key authors and works that provide insights into various aspects of the topic. These include Kiiza's analysis of oil and gas governance in Uganda, Tumuhimbise's focus on environmental regulation, Kibikyo's examination of governance and accountability, Sseruyange's comparative analysis, Ross's exploration of the resource curse, Bleischwitz's nexus approach, and Brinkerhoff's practitioner perspective on governance challenges.

To further enhance the study, additional literature has been identified. This includes Kaufmann et al.'s governance indicators, which will provide a quantitative framework for evaluating Uganda's governance performance. Berman et al.'s sourcebook will offer global best practices in the extractive industries, while Musumba et al.'s framework will provide guidance for strengthening the rule of law.

The proposed study will address specific objectives, including a legal analysis of the existing laws, an evaluation of their efficacy and challenges, a comparative analysis with other jurisdictions, and the formulation of findings, recommendations, and conclusions. The significance of the study lies in its potential to contribute to the improvement of Uganda's legal and regulatory framework, thereby promoting sustainable development, transparency, accountability, and community participation in the oil and gas sector.

By building upon the existing literature and incorporating a comprehensive analysis of the legal framework, this study will provide valuable insights for policymakers, industry stakeholders, and scholars. The research findings and recommendations will contribute to the ongoing discourse on effective governance in the extractive industries, serving as a guide for enhancing Uganda's framework and potentially influencing practices in other similar contexts.

This study holds great promise for advancing the understanding and development of the legal and regulatory framework for oil and gas exploration and production in Uganda, ultimately fostering responsible and sustainable management of the country's valuable natural resources.

### **3.0 CHAPTER THREE: METHODOLOGY.**

#### **Introduction**

This section will detail the research design, study population, sample size, research tools, data collection techniques, data analysis, and study restrictions in order to find answers to the research problem.

#### **3.1 Research Design**

Cross sectional sequential explanatory design: Both quantitative and qualitative data was collected and analyzed at the same time; with more emphasis on qualitative data. This method was chosen for reason that it comprises of both interviews and structured questionnaires directed at specific groups of people, particularly those having accurate information that is critical to the research's progress.

Data was analysed using published papers and literature relevant to the topic in question. This design will be used by the researcher since it allows comparison of multiple variables at the same time.<sup>1</sup>

#### **3.2 Target population**

For this study the source of populations was from the different stakeholders of the oil and gas sector in Uganda. Target population composed of officials from government agents, the office of Ministry of Energy and Mineral Development of Uganda, Ministry of Finance, Bank of Uganda, PAU and IOC's like; CNOOC Uganda and Total Energies EP Uganda

#### **3.3 Sample and its determination**

The sample size was determined by requirements that are relevant to the topic at hand. The officials accountable for the important concerns that are critical to the research's success and upbringing were the targeted population in the offices and companies mentioned earlier. Because sampling allows for a higher level of confidence while looking for findings, the reason it was employed.

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<sup>1</sup> Sekaran U, Research Methods for Business: A skills building approach. New York John Wiley & Sons Inc, (2003)

### **3.4 Sampling techniques**

Because conducting research on the complete population is challenging, sampling is essential. The process of selecting a proper sample, or a representative fraction of a population, in order to determine parameters or characteristics of the entire population is known as sampling. The researcher used the following techniques;

Stratified sampling applied to determine samples at different levels of cadre at the Government Ministries and international oil companies.

Purposive sampling used in locating and selecting individuals at Executive, Board and technical management level of the international oil companies that is Total Energies, CNOOC, PAU; who are knowledgeable about or have experience with the chosen issue.

Convenience sampling for locating and selecting respondents based on their availability for the study.

### **3.5 Data collection methods**

Data was acquired from key informant interviews with key and specific persons from various organizations that have been emphasized, as well as document evaluations, in order to perform the research in a qualitative manner. A researcher will pick a sample of respondents from a population and give a standardized questionnaire to them in survey research. A written document completed by the individual being surveyed, an internet questionnaire, or a face-to-face interview are all examples of questionnaires or surveys.

### **3.6 Sources of data**

The researcher relied on both primary and secondary sources of data.

Primary data relied collected via structured questionnaires.

Secondary data was gathered through an examination of numerous publications and reports that pertain to the study's effectiveness. This included both domestic and international articles.

### **3.7 Data collection methods and instruments**

To ensure accurate information, interviews were conducted with the respondents at individual capacity. In addition, a questionnaire was designed as a guide for the interviewer. The tool has two sections. The first section was on the background of the Respondents where they were requested to state their place of work, work experience, age, sex, and educational qualifications. The second section contains the questionnaire as interview guide.

### **3.8 Questionnaire survey**

Structured rules for using questionnaires as a data gathering technique have been offered by scholars such as Kothari (2004). This method was one of the methods utilized to collect data from the sample population.

### **3.9 Interview method**

When interviewing the intended respondents, structured questions as indicated in the questionnaire “appendix I” were used as the interview guide. This was chosen for data collection because it allows the research to be controlled in terms of data production and gathering, and they are flexible enough to allow issues to be examined and further analysed throughout the dialogue and discussion.

### **3.10 Documentary analysis**

Secondary data from publications, textbooks, journals, scholarly papers, and reports from both local and international viewpoints were used to supplement and expand on the primary data obtained in the process of determining reasonable answers to the research topic at hand. This helped the researcher to gain comparative analysis from other instrumental writers in the topic of study by using documents.

### **3.11 Ethical considerations**

The purpose of ethics in this study is to ensure that no one is hurt or suffers negative effects as a result of the research. The researchers' goal was to preserve the respondents' rights by assuring that none of the respondents will be identified throughout the research or subsequent thesis, and that the respondents will be chosen without bias, providing them trust.

The researcher also attempted to tell the respondents about the research's grounds and aim. Furthermore, the researcher obtained the respondents permission from the company's management before to the start of the research project.

### **3.12 Data analysis plan**

The qualitative data analysis was central to this study, focusing on the legal and regulatory framework for oil and gas exploration in Uganda, aiming to glean lessons learned and future perspectives. Data analysis, encompassing brief descriptions, explanations, and instructions, will be integral, involving the organization and interpretation of a substantial amount of data. Through qualitative methods, such as interviews and document analysis, themes and patterns will be identified, aiding in understanding the effectiveness of existing regulations and suggesting areas for improvement. This analysis seeks to provide meaningful insights into the regulatory landscape of Uganda's oil and gas sector, contributing to discussions on its sustainable development and future trajectory.

### **3.13 Qualitative data analysis**

This will provide some type of processes and procedures for moving from qualitative data to some form of explanation, understanding, or interpretation of the people and situations under investigation. An interpretative philosophy is commonly used in qualitative data analysis. This is to look at the symbolic and meaningful substance of qualitative data. For example, when analysing interview data, the researcher tried to determine any or all of the following: someone's perception of the world, why they hold that viewpoint, how they arrived at that viewpoint, and what they have been doing. The writing and identification of themes are usually two steps in the qualitative data analysis process.

## **4.0 CHAPTER FOUR: LEGAL AND REGULATORY ANALYSIS**

### **4.1 Review of the law**

This section examines the several laws that Uganda has enacted to govern and regulate the oil and gas industry. The Republic of Uganda's 1995 Constitution confers ownership and management of natural resources in the government on behalf of the people.<sup>2</sup> As a result, the Ugandan government owns all natural resources, such as minerals and oil and gas, on behalf of all the Ugandan people. Article 77(1) of the 1995 Constitution of Uganda establishes the parliament of Uganda, vesting parliament with powers to make laws on any matter for the peace, order, development and good governance of Uganda.

### **4.2 Uganda's Legal Framework for Oil and Gas**

#### **The Constitution of the Republic of Uganda, 1995, as amended.**

The Constitution of the Republic of Uganda vests the ownership and control of Petroleum in the Government on behalf of the people (Article 244 of the Constitution of Uganda). Accordingly, the Government of Uganda holds in trust for the people of Uganda all the natural resources, such as minerals and petroleum.

The constitution is the ultimate law of the land.<sup>3</sup> There is no law greater than it and therefore it stands supreme to all other laws that govern Oil and Gas in Uganda. All the other laws that govern the OGM sector must relate and agree with the provisions of the Constitution or else they become null and void to the extent of their inconsistency.

The foundation for effective resource management and administration of Uganda's oil and gas is the Constitution, which provides for the protection of natural resources, including water, wetlands, minerals, oil, fauna and flora, on behalf of the people of Uganda.<sup>4</sup>

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<sup>2</sup>Article 244 of the 1995 Constitution of Uganda

<sup>3</sup> Article 2 of the Constitution of the Republic of Uganda, 1995, as amended.

<sup>4</sup> Objective no. 13 of National Objectives and Directive Principles of State Policy.

In 2005 the Constitution was amended to the effect that control of all minerals and petroleum in or under any land or waters in Uganda is vested ‘in government on behalf of the republic of Uganda’.<sup>5</sup> Even with this new amendment, the Constitution still re-echoes the public trust doctrine, whereby natural resources are held by the government in trust for its people; or, in other words, envisaging people as the principals appointing the government to manage resources on their behalf. This relationship obliges the government to account to its people as principals/owners, ensuring they participate in the management of their affairs either by themselves or through elected representatives.

The Constitution gives parliament a mandate to pass laws for regulating the exploitation of minerals and petroleum; the sharing of royalties arising from oil exploitation; the conditions for payment of indemnities arising out of exploitation of petroleum and minerals; and the restoration of derelict lands.<sup>6</sup> Article 79 in general that parliament shall have the power to make laws on any matter for inter alia, development and good governance.

Within the constitutional context, the primary framework that guides the management of Oil resources in Uganda is the National Oil and Gas Policy (NOGP) (MEMD, 2008, 2014). With the overarching theme of using the resource to eradicate poverty and create lasting value to Ugandans, NOGP recognises that to attain the ultimate goal, it should have as a primary objective the “development of institutions, including legislation and manpower, necessary for effective management and regulation of the sub-sector.” The Petroleum (Exploration, Development and Production) Act 2013 governs upstream activities as is known as the Upstream Act. The Act provides for licensing and management of the Oil resources and the establishment of the principal institutions that are charged with overseeing and supervising the Oil exploration, production and distribution processes in the country.

The second relevant legislation is the Petroleum (Refining, Conversion, transmission and midstream Storage) Act, 2013 (“Midstream Act”) that focuses on the subsequent

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<sup>5</sup> Article 244 of the Constitution of the Republic of Uganda, 1995, as amended

<sup>6</sup> Ibid.

process of refining. The Oil exploration and production activities are also guided by the following subsidiary legislations passed in 2016. These are:

- Midstream National Content Regulations
- Midstream General Regulations
- Midstream HSE Regulations
- Upstream General Regulations
- Upstream HSC Regulations
- Upstream Metering Regulations
- Upstream National Content Regulations

The Government of Uganda also developed a model Production Sharing Agreement (PSA) that is central in guiding negotiations with potential licensees in the Oil exploration and production activities. A model Joint operating agreement has also been put in place. The Oil fiscal regime is defined in the model PSA and the relevant tax legislation, including the Income Tax Act, (Cap. 340 of the Laws of Uganda), and the Value Added Tax Act, (Cap. 349 of the Laws of Uganda). The Public Finance Management Act, 2015, is another legal document that defines a framework for the collection, deployment and management of the revenue from the Petroleum resource. This includes the establishment of a Petroleum Fund (under Section 56 of the Act) that will keep the petroleum revenues collected by Uganda Revenue Authority and the Petroleum Revenue Investment Reserve that will keep the petroleum revenues for investment.

#### **4.2.1 Statutory laws**

##### **The Petroleum (Exploration, Development and Production) Act, 2013.**

This is an Act of Parliament that was enacted in full exercise of Article 79. It is an Act to give effect to Article 244 of the Constitution; to regulate petroleum exploration, development and production; to establish the Petroleum Authority of Uganda; to provide for the establishment of the National Oil Company; to regulate the licensing and participation of commercial entities in petroleum activities; to provide for an open, transparent and competitive process of licensing; to create a

conducive environment for the promotion of exploration, development and production of Uganda's petroleum potential; to provide for efficient and safe petroleum activities; to provide for the cessation of petroleum activities and decommissioning infrastructure; to provide for the payment arising from petroleum activities; and to provide for the conditions for the restoration of derelict lands.<sup>7</sup>

The Act covers matters to do with institutions that deal with oil and gas like the minister<sup>8</sup>, the Petroleum Authority of Uganda<sup>9</sup>, and the National Oil Company<sup>10</sup>. The Act also provides for the procedure and requirements for licensing<sup>11</sup> to include reconnaissance permits, petroleum exploration licences, petroleum production licences, and provisions relating to approvals and the drilling and designation of wells.

The Act further provides for the framework that governs the development and production of petroleum.<sup>12</sup> This includes the procedure of development and what must be taken into account at every stage. For instance, a production permit, prior to starting of production, and a certificate of testing upon testing of petroleum.

The Act also lays out an important aspect of the OGM which is decommissioning.<sup>13</sup> The IOC or any other licensee is required to have a decommissioning plan submitted prior to the start of their exploration and production. The Act also provides for termination of use, removal and sale of property and liability for damages for disposal of decommissioned facility.

It is important to note that the Act recognises the input of the community. Under Part VIII of the Act, the law provides for State participation and National Content. This postulates the need to have the communities involved more in decision making since the drilling processes affect these communities more than anyone else. It dictates that supplies analogous to the work must be sourced from the local community and the required labour as well, except where the community lacks

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<sup>7</sup> See the long title of the Act

<sup>8</sup> Section 8 of the Petroleum (Exploration, Development and Production) Act, 2013

<sup>9</sup> Section 9-41, *ibid*.

<sup>10</sup> Section 42-46, *ibid*.

<sup>11</sup> Part IV, *ibid*

<sup>12</sup> Part V, *ibid*

<sup>13</sup> Section 112, *ibid*.

such.<sup>14</sup> The IOC or licensee is under obligation to train the local communities in the skill so as to equip local labour with the expertise.<sup>15</sup>

The Act also takes into account the environment and the threat of pollution.<sup>16</sup> The nature of the EI is that its production can be environmentally catastrophic unless guarded and well carried out. The Act speaks strongly against damage arising from pollution, and imputes liability of such upon the licensee.<sup>17</sup> This remedy once sought and successfully recovered is then given to the communities that have been affected by the pollution.

The Act also gives effect to Article 26 of the Constitution which provides for the right of all citizens to own property. Part XI of the Act provides for surface rights and severs the surface rights from the subsurface rights. It also provides for compensation in case either right has been violated by the licensee.<sup>18</sup>

The Act also recognises the effect of such activities on the health of both the workers in the mining sites and the communities that live around the areas with OGM.<sup>19</sup> The Act dictates on safety precautions that must be adhered to, and the general requirements for emergency preparedness and creation of safety zones. The Act also provides for the possibility of a commission of inquiry to investigate health threats should they be claimed by workers.<sup>20</sup>

The Act also recognises the need to keep records. Information and documentation of the procedures and progress of the licensee must be kept and made available for the public.<sup>21</sup>

### **The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013**

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<sup>14</sup> Section 125, *ibid.*

<sup>15</sup> Sections 126, 127, *ibid.*

<sup>16</sup> Part X of the Act

<sup>17</sup> Section 129-132, *ibid.*

<sup>18</sup> Section 139, *ibid.*

<sup>19</sup> Part XII, *ibid.*

<sup>20</sup> Section 147, *ibid.*

<sup>21</sup> Part XIII, *ibid.*

This Act was also enacted to give effect to Article 244 of the Constitution. It was promulgated to regulate, manage, coordinate and monitor midstream operations; to enable the construction, placement and ownership of facilities; to provide for third party access to facilities; to regulate tariffs for facilities; to provide for an open, transparent and competitive process for licensing by the minister; to provide for additional and particular health, safety and environment regulations not sufficiently regulated in other laws; and to provide for cessation of midstream operations under the Act and decommissioning of facilities.<sup>22</sup>

The Act covers areas similar to the Petroleum (Exploration, Development and Production) Act that is to say institutional arrangements<sup>23</sup>, licensing<sup>24</sup>, decommissioning<sup>25</sup>, state participation and national content<sup>26</sup>, liability for damage due to pollution<sup>27</sup>, health and safety<sup>28</sup>, and information and documentation<sup>29</sup>.

The Act however also covers other areas not similar to the above-mentioned. The Act puts restrictions on flaring and venting under Section 38. It also provides for acquisition and pricing of petroleum commodities and products<sup>30</sup>.

### **The Petroleum Supply Act, 2003**

This Act was enacted before the Constitution was amended to provide for the current stand on Minerals. It was however enacted to provide for the supervision and monitoring the importation, exportation, transportation, processing, supply, storage, distribution and marketing of petroleum products; to provide for the establishment of the Minister responsible for the petroleum sector as the regulatory authority, to provide for the licensing and control of activities and installations, for the safety and protection of public health and the environment in petroleum supply

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<sup>22</sup> See the long title of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013

<sup>23</sup> Part II, *ibid*

<sup>24</sup> Part III, *ibid*

<sup>25</sup> Part VI, *ibid*

<sup>26</sup> Part VII, *ibid*

<sup>27</sup> Part IX, *ibid*

<sup>28</sup> Part X, *ibid*

<sup>29</sup> Part XI, *ibid*

<sup>30</sup> Part V, *ibid*.

operations and installations; and to encourage and protect fair competition in the petroleum supply market.

The Act establishes the technical petroleum committee<sup>31</sup> and enunciates their functions<sup>32</sup>. It provides for petroleum construction permits and petroleum operating licenses and the procedure followed in acquiring them and requirements before acquiring the same.<sup>33</sup>

The Act also lays down the obligations of the holders of permits and licences which are maintenance of records and furnishing information, inspection and minimum working stock requirements.<sup>34</sup>

The Act also strongly calls for protection of public safety and the environment. It requires the adoption and adaptation of international standards and specifications, carrying out of environmental impact assessments and submitting of an emergency petroleum supply plan.<sup>35</sup>

### **The Petroleum (Exploration, Development and Production) Regulations, 2016**

This is a secondary legislation not passed by the parliament but by the Minister for Petroleum and Mineral Development. It was therefore in the exercise of the powers conferred upon the Minister by Section 183 of the Main Act.

The regulations generally add details to the provisions of the Act in matters already mentioned. It however provides for the opening of new areas for petroleum activities and therefore the carrying out of impact assessments relating to the opening of the same<sup>36</sup>.

### **The Petroleum (Exploration and Production) (Conduct of Exploration Operations) Regulation, 1993**

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<sup>31</sup> Section 8 of the Petroleum Supply Act, 2003

<sup>32</sup> Section 13, *ibid*

<sup>33</sup> Part IV of the Act

<sup>34</sup> Sections 24-26, *ibid*

<sup>35</sup> Sections 32-34, *ibid*

<sup>36</sup> Regulation 4-7 of the Petroleum (Exploration, Development and Production) Regulations, 2016

These regulations were passed way before the discovery of Oil and the amendment of the Constitution to provide for the current standing of the law on minerals. It can therefore be argued that this Act was promulgated to guide the explorers in a quest to establish if Uganda had Oil and Gas deposits.

The regulations provide for the starting operations to discovering Oil and Gas. They provide for geological and geophysical operations; the need to notify the government of the intention to commence operations; seismic surveys; and the different reports expected from the same.<sup>37</sup>

The Regulations further lay out the process that must be fulfilled to undertake drilling, operations offshore, use of explosives, the prevention and control of pollution, health, and safety (considered separately).

#### **4.3 Additional laws relevant to the Petroleum Sector include:**

(a) The Land Act, 1998, which defines property rights in relation to land, and governs access and utilization of land in Uganda.

(b) Access to Information (ATI) Act, 2005, that guides access to information especially of public interest in Uganda. The ATI Act grants every Ugandan citizen a right of access to state-held information, with exception to infringement of national security or sovereignty, and individual privacy.

(c) Investment Code Act (CAP 92 of Laws of Uganda), which defines access to investment opportunities, especially in respect to a foreign investor. Crucially, Uganda is a liberalized economy and there are no ceilings or limits on foreign or local shareholdings.

(d) Penal Code Act, (CAP 120 of Laws of Uganda), which defines basic standards in (of) compliance in the country.

(e) Wildlife Act, (CAP 200 of Laws of Uganda), is significant in that a number of National parks and wildlife sanctuaries lie within the Albertine Graben. It is estimated that the Albertine Graben accommodates up to 39 per cent of Africa's

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<sup>37</sup> Part II of the Petroleum (Exploration and Production) (Conduct Of Exploration Operations) Regulation, 1993

mammal species, 51 per cent of its bird species, 19 per cent of its amphibian species and 14 per cent of its plant and reptile species (Viet et al, 2011).

(f) National Forestry and Tree Planting Act, 2003, is also important as the Albertine Graben region is home to a number of multiple-use natural and planted forest reserves.

(g) Public Health Act, (CAP. 281 of the Laws of Uganda), is also important in that Oil exploration and production activities have implications for the health of the citizenry. This is primarily because there will be public health perils if there are no deliberate quality controls imposed on oil production and products.

(h) Water Act, (CAP. 152 of the Laws of Uganda). This Act governs management of water extraction activities in Lake Albert for use in petroleum activities. It is pertinent in the sense that without proper environmental and water management guidelines, water resources would be polluted and mismanaged to the detriment of the society.

**(i) Income Tax Act 1997 (Cap 340) as amended**

Natural gas operations are taxable under the Income Tax Act (the "Act") that was passed in 1997 and is amended as and when the need arises under Part IXA. The Income Tax Act provides for the taxation of natural gas operations. In the taxation of gas operations, the Act allows for deduction of cost and allowable deductible expenditures. The contractors and licensee are thereafter subject to payment of 30% as corporate income tax.

The Act is elaborate on the taxation of the gas companies, in the case of a transfer of interest to another party. It provides for accounting principles that apply in the taxation of contractors and transnational shared gas resources. It further provides for schedules within which to file returns and failure to do so within the given schedule, or the filing of inaccurate returns, is an offence punishable by the payment of a substantial fine.

The Act generally accords exemptions of 6% on local supply of goods and services. Other tax laws that govern gas operations include the following: Value Added Tax

Act 1996 (Cap 349) (as amended 2005) for supplies to gas companies are deemed paid, with no VAT payments; the East African Community Customs Management Act 2004 which provides for exemptions for imports for direct use in natural gas under the 5<sup>th</sup> Schedule; the Excise Duty Act 2014; the Tax Appeals Tribunal Act; the Stamps Duty Act, 2014; and the Tax Procedure Code Act.

The Income Tax Act (ITA) commenced in 1997 with the aim of consolidating and amending the law relating to income tax and for other connected purposes. Section 4 imposes income tax, under subsections (1)- (3)<sup>38</sup>and Section 81 allows for foreign tax credits in subsections (1)- (3). (4).<sup>39</sup>

This Act has an impact on the influx of foreign direct investment (FDI) and commerce in the country, as well as the industry's productivity. This is demonstrated in the case of Kinyara Sugar Works Ltd vs. Commissioner General, URA.<sup>40</sup>

#### **(j) Mining Act 2003 (Cap 148)**

Legislation to overturn and substitute the Mining Act, Cap. 148, with new mining and mineral development laws that adheres to and brings purpose to the pertinent statutes of the Constitution; to confer the government with possession and regulation of all mineral deposits in Uganda; and also to enable the issuance of licenses; and to cater for other related issues. Royalties are dealt with under Section 98.<sup>41</sup>This section dictates royalty sharing and, as a result, influences government tax incentive actions, which influence FDI in the nation.

#### **Value Added Tax Act 1996 (Cap 349) (as amended 2005)**

Uganda passed the Value Added Tax Act 1996 (VAT) in 1996, and it was modified in July 2005. VAT took the role of sales tax and the commercial transaction levy (CTL).

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<sup>38</sup> Income Tax Act 1997 (Cap 340): Section 4, Sub-sections (1) -(3).

<sup>39</sup>Income tax Act 1997 (cap 340): Section 81, Sub-section (1)-(4)

<sup>40</sup>Kinyara Sugar Ltd vs Commissioner General Uganda Revenue Authority (H.C.C.S NO 73 OF 2011) [2012] UGCOMMC 114 (31 August 2012). Kinyara Sugar Works Ltd is a limited liability Company incorporated in Uganda and filed this suit against the Commissioner General, Uganda Revenue Authority for a declaration that it is entitled to tax exemption incentives under section 21 (z) of the Income Tax Act as amended by the Income Tax (Amendment) (No. 2) Act 19 of 2008 for income derived by it from its new plant and machinery procured to enhance its sugar cane processing capacity from 2200 tons of cane sugar per day to 3500 tons of cane sugar per day.

<sup>41</sup> Mining Act 2003 (Cap. 148) Section 98 (1) - (4).

Section 5 of the VAT Act of 1996 specifies who is required to pay tax. While Section 6 of the VAT Act 1996 describes a taxable person as: (1) an individual registered under Section 7 is a taxable person immediately registration takes effect; and (2) a individual who is not registered but is mandated to register is a taxable person immediately the tax period begins after the period in which the obligation to register emerged.

The Taxable value of taxable supply is stated in Section 21 of the VAT Act 1996.<sup>42</sup>A taxable supply is specified by the VAT Act of 1996, and has an impact on the taxable amount and taxes levied, as well as the tax incentive action. The Taxable Value of an Import of Goods is stated in Section 23 of the VAT Act 1996 as: The taxable value of goods imported is the total of (a) the price of the goods as determined for import taxes reasons under import laws; (b) the size of import taxes, excise tax, or whatever fiscal cost other than tariff charged on those items; and (c) the value of every services that section 12(3) relates to; not included in the import value. This has an impact on the nation's FDI capital flows. Taxable Supply is defined in Section 18 of the VAT Act of 1996.<sup>43</sup>As a result, the VAT Act of 1996 pertains to tax exemptions as a means of attracting international companies to participate in Uganda's oil and gas industry.

### **Excise Management Act 1970 (Cap 335) as amended 2003**

The excise levies are governed by the Exercise Management Act (1970). Excise taxes are paid on petroleum and other commodities manufactured or imported into Uganda. The Excise Management Act of 1970 defines this in Section 39.<sup>44</sup>This has an impact on the country's supply of petroleum products as well as the influx of FDI. Finally, it has an impact on tax incentive selections.

### **Tax Procedures Code Act, 2014 Act 14**

A code to govern the enforcement of specified tax legislation in Uganda is established by the Tax Procedures Code Act of 2004, as well as to unify and

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<sup>42</sup> VAT Act 1996 (Cap 349): Person Liable to pay tax, Section 5.

<sup>43</sup> VAT Act 1996 (Cap 349): Section 18, Sub-sections (1)-(3).

<sup>44</sup> Excise Management Act 1970 Cap 335 as amended 2003: Section 39.

streamline tax processes within current legislation. The various forms of tax assessments are outlined in Sections 20-23, whereas Sections 27-29 outline tax collecting mechanisms.<sup>45</sup> Every one of these sections have an impact on foreign direct investment (FDI) in the nation.

### **Local Government Act (Cap 243)**

Section 80 of the Local Government Act 1997 Cap 243 (as amended) empowers LGs to impose, cost, and collect surcharges and taxes such as: Local Service Tax; Local Government (LG) Hotel Tax; Property duties and ground fees such as premium, building plan approval fees, land fees, and so on; Rental income; Business licences; User charges (including market dues and parking charges), user fees and licenses; Electricity production royalties, mineral extraction and discovery royalties, and protected areas royalties. Every one of these fees and duties have an impact on investment choice and, as a result, the entry of FDI into the nation.

Furthermore, Section 77 (1) enables LGs to develop, adopt, and carry out their budgets and programs, as well as collect and spend income. Investors will invest in a region that is controlled by the local government, and these budget and programs will have an impact on investment choices. Firms situated beyond Kampala, Entebbe, Namanve, Jinja, and Njeru, for example, are eligible for a 75% first capital allowance on equipment and machinery, whilst others based in these regions are eligible for a 50% initial capital allowance.<sup>46</sup>

### **Trade Licensing Act 1969 (Cap 101)**

The declaration of business regions and commercial centers, the disclosure of selected goods, and the prohibition of noncitizens from dealing in specific regions and goods is provided for in the Trade Licensing Act of 1969. Sections 3 and 4 define offenses and punishments. This Trade Licensing Act of 1969 has an impact on

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<sup>45</sup>URA. (2016). Tax Policy Changes FY 2016/2017.

<sup>46</sup>United Nations (2000): Tax Incentives and Foreign Direct Investment: A global Survey. United Nations Conference on Trade and Development- Geneva. ASIT Advisory Studies No. 16, UNCTAD/ITE/IPC/Misc.3 p. 61-62.

business sectors, goods, and prohibitions on noncitizen trade in specific categories of goods, as well as its impact on FDI inflows into the nation.

#### **Public Finance Management Act, 2015**

The Sharing of Earnings from Oil and Gas Royalties according to Section 75(1), is as follows: “Government shall retain ninety-four percent of the revenue from royalties arising from petroleum production and the remaining four percent shall be shared among the local governments located within the petroleum exploration areas of Uganda.” This affects the share of money earned by the nation from oil and gas operations, which impacts governmental policy on tax relief.

#### **Exchange Control Act 1951, Cap. 151**

This is the legislation that bestows authority and enforces charges and prohibitions on gold, cash, remittances, securities, and liabilities, as well as the importation, exportation, transfer, and settlement of property, and for related purposes. This has an impact on the flow of FDI and business.

#### **Foreign Exchange Act, 2004.**

This is legislation that modifies and streamlines Uganda's foreign exchange legislation; to allow for exchange of foreign currencies in Uganda, as well as the facilitation of worldwide transactions and exchanges of foreign currency; and to provide for other connected and subsidiary concerns. This has an impact on the flow of FDI and commerce.

#### **Foreign Investments (Protection) Act, 1964 Cap. 518 (as amended)**

Chapter 518 Foreign Investments Protection Act 1964 commenced December, 1964. It is a piece of legislation enacted by Parliament to provide security to certain authorized foreign investments as well as issues related to them. For the smooth flow of commerce and FDI, this Act protects foreign investments.

#### **Investment Code Act 2019 Cap 92 (as amended)**

This legislation amends, revitalizes, and substitutes the Investment Code Act of 1991 in order to bring it into compliance with the Constitution; to enable the registration of investors and investment licensure; and to establish the Authority as a one-stop place for investment and investor collaboration, endorsement, guidance, and assessment, among many others. This legislation creates a code to make measures in the legislation pertaining to domestic and international investments in Uganda by improving investment conditions, creating the Uganda Investment Authority, and allowing other applicable issues. Article 12 explains how to qualify for rewards.<sup>47</sup>

This Law is related to the research because it establishes incentive qualifications (article 12) and defines the Uganda Investment Authority, which was formed under that Law, as well as the Authority's objectives. It allows for the registration of investors and investment permissions, and also renders the Authority a one-stop destination for investment and investor administration, endorsement, assistance, supervision, and evaluation. Total Uganda Limited versus Uganda Revenue Authority in Civil Appeal No. 6 of 2001 is a prime illustration (Arising out of Tax Appeals Tribunal Case No. 2 of 2001). The primary issue addressed by this case was whether a bearer of an incentive certificate granted under the Investment Code (No. 1 of 1991) may keep benefiting from tax exemption it offers after the Income Tax Act 1997 revoked such concessions.<sup>48</sup>

### **Finance Act 2003 Cap 185 (as amended)**

This is legislation modifies certain customs duties, to carter for border tax treatment of imports from the Common Market for Eastern and Southern Africa (COMESA), to enable the remission of country's outstanding balance of taxes, to overturn levies imposed for the sale of hydrocarbon potential information, to modify specific tax legislation, to reconsider the non-tax earnings in numerous legislation, and to enable the remission of state outstanding balance of taxes. The day of

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<sup>47</sup>Investment Code Act 2019 Cap 92, Article 12.

<sup>48</sup>Total Uganda Ltd vs Uganda Revenue Authority (Civil Appeal No.6 Of 2001) [2001] UGCOMM 5 (31 October 2001);

approval was October 19, 2014. This law affects taxes directly and has an impact on FDI inflows into the nation.

### **Anti-Corruption Act, 2009 (Act No. 6 of 2009)**

The Anti-Corruption Act of 2009 is a law that aims to effectively combat fraud in both the government and non-governmental industries. It overturns and substitutes the Prevention of Corruption Act and, as a result, modifies the Penal Code Act and the Leadership Code Act, among other things. Corruption has a detrimental impact on FDI inflows and has a negative impact on incentive selection.

### **Tax Appeals Tribunal Act, 1998 Cap 345**

In accordance with Article 152(3) of the Ugandan Constitution, this Law introduced tax appeals tribunals. No member of a tribunal may be an officer of the Uganda Revenue Authority or a government employee, according to Section (5) of the Tax Appeals Tribunal Act, Cap. 345. This Act establishes a tribunal to hear tax complaints.<sup>49</sup>

The Oil and Gas sector is also being developed and governed in accordance with the National Development Plan that is underscoring programs such as fiscal expansion for front-loading physical infrastructure investment, industrialization through resource beneficiation, fast-tracking skills development and strengthening governance or enabling business environment.

### **Institutions regulating the oil and gas sector**

The next section explores and analyses the different institutions and practices that have been put in place in Uganda to manage and regulate the Oil and Gas sector. Prior to the coming in force of the National Oil and Gas Policy (NOGP), Uganda's Oil and Gas activities were regulated under the Petroleum Exploration and Production Act, (1985) Cap 150 of the Laws of Uganda that was implemented by the Petroleum Exploration and Production Department under the Ministry of Energy and Mineral Development (MEMD). This was a single department handling all the Oil and Gas

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<sup>49</sup> Uganda Revenue Authority vs Rabbo Enterprises (U) Ltd & Anor (Civil Appeal No. 12 of 2004) [2017].

activities in the country. This 1985 law, covered exploration operations but did not have adequate provisions to cover development and production operations. The NOGP recommended the establishment of:

- The Petroleum Authority of Uganda to handle the regulatory functions;
  - The National Oil company to handle the commercial interest of the state and
  - Directorate of the Petroleum to advise on policy issues and resource management.
- These were eventually established under the Petroleum (Exploration, Development and Production) Act, 2013.

Uganda's Oil and Gas sector shares similar characteristics with the East Timor's governance framework which is internationally recognized as a robust system. The Timor Leste Model of Oil and Gas Revenue Management was developed with assistance from the Norwegian government. The model shows the interconnectedness of various institutions including civil society organizations for the prudent management/governance of oil and gas revenues in Timor-Leste. The Timor-Leste oil and gas revenue management model has been hailed for providing strong foundation for fiscal stability. Investing oil and gas revenues in foreign portfolio and reducing the possibility of the "Dutch Disease" (Mackechnie, 2013).

#### **4.4 The Parliament**

The Parliament, which has overarching responsibility to provide checks and balances to the Executive, is critical in preventing the occurrence of the resource curse through judiciously using its 'power of the purse' (WBI, 2012). The National Oil and Gas Policy (2014) provides that the role of Parliament is to enact "petroleum legislation including legislation on petroleum revenues and monitoring performance in the petroleum sector through annual policy statements and budget approval processes" (MEMD, 2014). The role of Parliament can be exercised across the Oil and Gas value chain, starting from Upstream activities of exploration, development and production; to Midstream activities, of refining, storage and conveyance through pipelines, to Downstream activities of processing, marketing and distribution (Woolf, 2009; Tordo et al, 2011, WBI, 2012).

The depth of Parliamentary involvement varies among different countries, and this usually starts at the point of initial licensing and contracts of the companies extracting the resource. Given the importance of this level in developing a framework in which the resource will be exploited, some countries raise the profile of Parliament in having powers to approve and/or veto resource contracts (WBI, 2012). In Azerbaijan and Georgia, the Parliament has constitutional powers to ratify or veto international agreements, including extractive industry contracts. In Egypt, a Production Sharing Contract can only take effect if approved by the Legislature. In Liberia, investment contracts are ratified by Parliament consequent to negotiation and signature by the line minister (WBI, 2012). The Constitution of the Republic of Uganda mirrors the above practices, as it places considerable responsibility over the Parliament to provide oversight role in the management and exploitation of resources and other operations of the state of Uganda. Parliament of Uganda is accordingly the apex institution mandated to make regulatory laws for the management and exploitation of the minerals and natural resources such as Oil and Gas in the country and the sharing of royalties arising from petroleum exploitation and other related activities. The legal regime in Uganda is however not as strong as say in Liberia or Egypt, where the international agreements or investment contracts are only given effect after Parliamentary approval/ratification. In Uganda, the Minister responsible for petroleum (Minister of Energy) negotiates and enters into petroleum agreements (Section 9 of Upstream Act and Section 8 of the Midstream Act) and only informs Parliament. Although there is a National Resources committee of Parliament, the oversight role of parliament is not visible. As a result, parliament has no control of the negotiated contract terms and appears to be merely a bystander or spectator in the process. The Minister in essence is an extension of the executive and as such this process is prone to political interference and direction.

The only way this can be avoided is to allow the Petroleum Authority to negotiate and enter petroleum contracts instead of the Minister. This was the view held by several legislators during the discussion of the petroleum bills in 2012. In addition, government ought to open up to public scrutiny by providing full disclosure of the contracts, signature bonuses, royalty fees and other payments the government receives from companies. Parliament as well, should be empowered to exercise its

oversight role in this sector. One of the major challenges for the sector is that the agreements that the executive enters into have always been shrouded in secrecy. The executive argues that agreements have proprietary information that would be inimical to the interests of the investor if placed in the public arena (Veit, Excell & Zomer, 2011). This is a contentious matter and is part of the general point of contention of access to information (Veit, Excell & Zomer, 2011). For example, when Parliament passed a resolution requiring executive to submit Production Sharing Agreements, the members of parliament were only allowed a glimpse of the signed PSA's. This does not auger well for the future developments in the oil and gas sector. Sections 151 and 152 of The Petroleum (Exploration, Development and Production) Act (2013) seem contradictory. Whereas Section 151 avers that the Minister may provide information about petroleum agreements to the public, Section 152 restricts access to information provided by a licensee to the Minister. In some countries such as Timor-Leste, information on contracts for the exploration, development and production of natural resource is in the public arena (WBI, 2012). The Ugandan legal regime is accordingly weak on accountability (Veit, Excell & Zomer, 2011) and is not even comparable to the regime in Sierra Leone where Parliament has access to resource contracts but with its obligation restricted to providing advisory role that can be accepted or otherwise (Revenue Watch Institute, 2009; WBI, 2012). In the execution of its legislative function, the Parliament of Uganda has enacted a number of laws, as highlighted above, to guide Oil operations in Uganda. The significant slip-up mentioned in this regard is that most of the laws passed by Parliament concentrate powers in the hands of the Executive (the Minister of Energy and Minerals Development), and this has implications on ensuring accountability and transparency in the Oil sector. In execution of its oversight role, the Natural Resource Committee of Parliament noted the following issues that have implications for the quality of governance of the Oil and Gas sector in Uganda (Parliament of Uganda, 2016).

- The Ministry of Energy and Minerals Development is constrained to competently execute its role due to its size and capacity as pitted against the scope of its operations and the widening mandate largely precipitated by the emerging Petroleum sub-sector operations.

- There is lack of an adequate monitoring and inspection regime to oversee mining and generally the extractive industry operations in the country.
- Parliament expressed concern over Government's slow pace in joining the Extractive Industry Transparency Initiative (EITI). This situation was attributable to the Executive's failure to put in place "regulatory and institutional frameworks" that would facilitate Uganda joining global transparency forums. This is a recognition that Uganda has some distance in attaining acceptable governance standards
- The country lacks a Petroleum Technical Committee, which is provided for under Section 8 of Petroleum Supplies Act, 2003, and Petroleum Supply (General) Regulations, 2009. The Committee is supposed to advise the Minister on "legislation, technical standards, levies, taxes, prices of petroleum products, develop policies for improving supply of petroleum products - in the country, coordinate preparation of emergency petroleum plans, dispute resolution between participants in the industry and manage applications and licenses to the Petroleum Committee. The last fully constituted Committee had its term expiring in 2014.
- The Parliament also noted that the Executive has failed to provide the necessary finances for the operationalization of the Petroleum Fund as required under Section 9(2)(a) of the Public Finance Management Act. These parliamentary observations have however not led to desired changes because the Parliament only makes recommendations while the Executive is charged with implementation. Moreover, the limited influence of Uganda's Parliament is largely attributable to the political system in which Cabinet Ministers who are Members of Parliament are selected from the majority party (WBI, 2012). In such a scenario, where the ruling party has an overwhelming majority, Parliament will have no firm basis to develop independent capacities (Barkin, 2009; WBI, 2012). No wonder therefore that it is a common practice in the Ugandan Parliament for the ruling party, (that controls majority members of Parliament) to have critical Parliamentary decisions made based on prior deliberations and commitment agreed on in the NRM party caucus. Parliament has generally become a rubber stamp of the NRM party decisions, as all Parliamentary institutions are under the control of the NRM which is the dominant party.

#### **4.5 The Cabinet**

The Cabinet is the Executive arm of Government that directly supervises the Ministry of Energy and Mineral Development. The Cabinet is responsible for approving policies and administrative mechanism to guide governance and operations. It also approves draft legislation that is submitted to parliament, and gives consent to production sharing agreements (MEMD, 2014). The Cabinet approved the National Oil and Gas policy and model production sharing agreement that have been used in the negotiation by MEMD with potential investors (MEMD, 2008, 2014). There is, however, a grey area over Parliamentary and Cabinet oversight. The Cabinet approves the Policy which guides the design and enacting of the appropriate legislation. If the policy was to be in discord with the legislation, the framework does not provide how such a contradiction will be managed. For example, whereas the National Oil and Gas Policy places the responsibility for approving the policy on Cabinet, and the Minister providing policy guidance to the sector, the Petroleum (Exploration, Development and Production) Act 2013) provides in Section 8(b) that the Minister will be responsible for “initiating, developing and implementing the oil and gas policy”. On this count, it is possible for the Minister to change policy without recourse to any party in the country.

#### **4.6 The Ministry of Energy and Mineral Development**

The Ministry of Energy and Mineral Development is the parent ministry under which the oil sector is managed and regulated (MEMD, 2008). Section 8 of the Upstream Act, 2013, spells out the functions and powers of the Minister in this Ministry to include issuing and revoking licenses, submitting draft legislation to Parliament; developing policies and regulations; negotiating and approving agreements and field development plans; and promoting and sustaining transparency in the petroleum sector. The Act gives the Minister of Energy unlimited powers to negotiate, grant and revoke oil licenses. The Minister of Energy in Uganda has evidently been given unusually strong powers to manage the sector and this has raised some eyebrows in many sections of the population (see, International Alert, 2011; WBI, 2012; Veit, Excell & Zomer, 2011; Golombok & Jones, 2015; ASF, 2015). The concentration of powers and responsibilities in a single person may breed risks. For instance, Section 47 of the Upstream Act gives power to the Minister of Energy and Mineral

Development to open up areas for petroleum activities. The Act stipulated the process as follows: An assessment must be made of the impact of petroleum activities on trade, industry and environment, possible risks of pollution and of the economic and social effects that may result from the petroleum activities. A report is then submitted to Parliament and the Minister makes a public announcement of the new areas to be opened, while impact assessments are made available to the public. Within 90 days, interested parties may present to the Minister their written views on the intended petroleum activities. Where the views are positive, the areas will be opened but where the views are negative. The Minister has the authority to determine whether or not to open the area. This evidently presents an opportunity for public involvement with one hand, but takes it away with the other by giving the Minister total discretion to decide whether or not to open the areas.

The Minister is also mandated to develop a model Production Sharing Agreement, which has to be approved by Parliament. Once approved, this model is supposed to guide future agreements. The Act has been criticized for not having any provision for disclosure of the contents of the agreements that Uganda has made over the years in the oil sector. The Ugandan public has been left in the dark regarding the details of all production sharing agreements, which is contrary to the international norms of transparency in the sector and the local access to information act. This matter became a point of public interest when in 2005 a Member of Parliament and two journalists took Government to Court over the restriction of access to information on Oil contracts on account of public transparency. The Court ruled in favour of Government as the petitioners failed to show “the public benefit of disclosing the information to the public.” In 2010, Government conceded and tabled parts of the Oil contracts in Parliament with a caveat that the matter cannot be subject to parliamentary debate.

According to the law, the Minister is also responsible for appointing the Boards of Directors for the Uganda National Oil Company (NATOIL) and the Petroleum Authority of Uganda (PAU) although these have to be approved by the entire Cabinet and Parliament. Interestingly, Parliament rejected the nominee for the Chair of the Board for the Petroleum Authority on account of lack of requisite knowledge and

exposure to the Oil and Gas industry (New Vision, July 14, 2014) In general, the Petroleum Act gives the Minister too much discretionary power to approve licensees and their content, which arguably puts the sector at risk, as there seems to be no checks and balances on the Minister. The powers vested in the Minister appear to be too far- reaching. There is also potential for confused lines of authority. Many countries that have failed to utilize oil for the benefit of their citizens like Nigeria and Angola have similar institutional structures where substantial decision-making powers are vested in a single institution with very limited checks and balances (Hammond, 2011; Mähler, 2010). Centralisation of power poses a major challenge to the oil sector and undermines the authority of the oil governance institutions (Patey, 2015). There is evident political interference in the management of Uganda's oil and gas sector. Several newspaper reports have revealed the President's role in the management of the sector. The President has insisted on maintaining a firm control over the oil industry, reportedly stating: 'In the case of petroleum and gas, I direct that no agreement should ever be signed without my express written approval of that arrangement'. The powers vested on the Minister of Energy and Mineral Development in Uganda are excessive and create a conducive milieu for possible misuse and abuse (Veit, Excell & Zomer, 2011; Golombok & Jones, 2015; International Alert, 2011). There have been a number of opaque events swirling around the Government's management of the Oil and Gas industry in Uganda that undermine the credibility and quality of governance institutions and practices. For instance, top ministers were accused of taking bribes to support some international oil companies in acquiring a stake in the country's resource in October, 2011. Similar accusations were also made against the President. Although accused officials have denied the allegations, the suspicions and allegations have dented the image of the Government of Uganda. Transparency is undermined by the limitations of access to information laws that give contradictory positions on the right of citizens to access information (Veit, Excell & Zomer, 2011). In spite of passing the Access to Information Act, Uganda has the following laws which seem to impinge on unfettered right to access information:

(a) 1964 Official Secrets Act (CAP. 302) of the Laws of Uganda, that provides for secrecy in matters such as security and defence),

(b) the Evidence Act of 2000 and the 1955 Parliament (Powers and Privileges) Act.

There has been an argument that the Courts may have been overzealous in taking the Government position as there is universal consensus on accessing information by the citizens.

The Petroleum Act allows access to information in Section 152, and then prohibits access to information in Sections 153, 155 and 156 in a manner reminiscent of the authoritarian regimes (Hammond, 2011). The government has of today released only partial details of the PSAs to Parliament but has not disclosed these to the public (WBI, 2012). This lack of transparency has created lingering suspicions that the PSAs were not well negotiated for the benefit of the people of Uganda. Uganda does not subscribe to the Extractive Industries Transparency Initiative (EITI) which requires its member Countries to publish all payments made by oil, gas, and mining companies to government, and all revenues received by the government from those companies. EITI compliance helps to prevent oil, gas or mining revenues being mismanaged or lost to corruption. Experience shows it also leads to improvements in the tax collection process and boosts public finances as it has in Ghana and Nigeria.

#### **4.7 The Petroleum Authority of Uganda - The Regulator**

One of the key institutions put in place to regulate Uganda's Oil sector is the Petroleum Authority of Uganda (PAU). Section 9 of the Act provides for the establishment of PAU. The Authority was established in 2015 as an independent body corporate with the following major functions (as defined in Section 9 of the Act): advising the Minister over the negotiation of petroleum agreements and in the granting and revoking of licenses; ensuring that licenses uphold laws, regulations, rules and contract terms; and overseeing compliance by oil licensees with the provisions of the Act and regulations made under it. The PAU had its Board of Directors approved by the Parliament in September 2015, so work begun 2016 mainly to organize the company and recruit personnel. Although the mandate of the Petroleum Authority is laid out in the law, there is still potential for confused lines of authority (Shepherd: 2013).

The legislation lays down some important rules for ensuring the impartiality of the Petroleum Authority, intended to ‘monitor and regulate’ petroleum activities. However, there are also significant ambiguities like the relationship between that body and the Minister. The Petroleum Authority is set up as an independent body but in practice it may play more of an advisory role. It is required by law (Section 13(1) of the Act) to comply with written instructions from the Minister and this poses risks of political interference in its decision-making. This paves way to possible blurring of lines of accountability. As a number of critiques have observed (Revenue Watch: 2012, and Shepherd: 2013), it seems that there is some dual governance structure where the Authority and the Minister share the top seat depending on the issue at hand. It is important that there is a clear definition of mandate between the Authority and the Ministry, lest the country is open to a risk as the system will create unnecessary duplication or bureaucratic delays, and multiply the potential for bureaucratic competition, corruption or mismanagement (International Alert, 2011). This may easily lead to situations where the Minister and the Authority may try to deflect the responsibility for their actions onto the other. At this point, the lines for conflict and blurred relationship is a conjecture as the Authority has not fully started operations to make those hard-operational decisions that may bring it in the way of political leadership of the country. It is after that point that more objective analysis of the relationship can be made. There is growing recognition that governance institutions such as the Ministry of Energy and Mineral Development -and more specifically the Directorate of Petroleum- is simply too lean to fully execute its role in the Petroleum sector (MEMD, 2016; Parliament of Uganda, 2016). The effort to reorganise and strengthen the Ministry has been constrained by limited funding. Funding has also affected both strategic and operational business activities of fully developing the oil and gas sector in the country. Government has also been slow in developing and skilling human resources for the sector (Kashambuzi, 2010).

#### **4.8 Uganda National Oil Company (UNOC) - The Business Arm**

Section 42 of The Petroleum Act (2013) also provides for the establishment of a National Oil Company, which is supposed to handle the state’s commercial interests and manage the business aspects of state participation in oil. According to Section 43 of the Act, the role of the National Oil Company (UNOC) will primarily include

handling Government commercial and business interests and participation in the Oil and Gas sector. UNOC was officially incorporated on June 12, 2016 as a company limited by shares, under the Companies Act 2012, but wholly owned by government. The company has two shareholders namely; the Minister of Energy and Mineral Development who holds 51 percent shares and the Minister of Finance, Planning and Economic Development who owns 49 percent shares on behalf of the Ministry. Upon its incorporation, the company became a separate and distinct legal entity from its subscribers and it can sue or be sued in its own name, enter into legally binding contracts and own property. The PSAs also provide for government participation through carried interest of up to 15 percent in licensed oil fields (MEMD, 2014). The Governing Board for NATOIL has already been put in place by government and a number of top managers have also been recruited (New Vision, August 18, 2015). NATOIL is set to manage the government's interests in upstream and downstream activities. It will manage the country's share of petroleum received in kind, as well as business aspects of state participation and develop in-depth expertise in the industry. The company is expected to boost energy security, improve revenue generation, and help reinvest profits in economic development and job creation. It is also expected to handle up to 40% government interests in an oil refinery that has an estimated cost of US\$4 billion (MEMD, 2017). UNOC is also expected to hold a substantial interest in the East African Crude Pipeline through its subsidiary the National Pipeline Company. The Act provides high standards for appointment to the Board of Directors of both PAU and NATOIL. The power to appoint the members of the Board lies with the President and subject to approval of Parliament. The high standards (or vigilance of parliament) resulted in non-confirmation of some of the nominees that the President had submitted to Parliament (New Vision July 14, 2014). The Act stipulates that the Petroleum Authority will focus on regulation, while the National Oil Company will actually engage directly in the industry on behalf of the government. The standard model for the organization of oil regulation is one that sees a 'separation of powers' between a petroleum authority, national oil company and Ministry (Shephard, 2013). This is the kind of model that was adopted by Norway, which brings the major advantage of - separating licensing and monitoring functions from the day-to-day pressures of government, and allowing an independent national

oil company to develop technical capacity (Shephard, 2013). The same cannot be said for Uganda.

#### **4.9 The Investment Advisory Committee**

Section 66 of the Public Finance Management Act (PFMA) provides for the establishment of the Investment Advisory Committee, which is mandated to advise the Minister of Energy on the Investments to be made under the Petroleum Revenue Investment Reserve (PRIR).

Although this investment committee is not yet in place, it is supposed to be composed of seven members with representatives from the Ministry of Finance; the Ministry for Petroleum Activities; and the National Planning Authority (NPA) as well as four persons who are not public officers but appointed by the Minister of Energy (MEMD, 2017). Again here, it is left to the discretion of the Minister to decide what the terms of appointment for this committee will be, which may be risky in itself, as the Minister can be prone to corrupt tendencies if there is no clear system in place to check any excesses. Section 62 of the PFMA provides that funds to be invested in the PRIR will be appropriated annually from the Petroleum Fund by Parliament. The red flag on this matter has been raised by the Parliament's Natural Resource Committee which has indicated that in line with the subsisting legal framework, Government is obliged to remit Oil and Gas revenue to the Fund (Section 57 of the Public Finance Management Act, 2015) which can easily be misappropriated if the regulatory framework is weak. Government for instance received funds from the Tullow Operations Uganda that was assessed by Uganda Revenue Authority to the tune of USD 36,058,521 or UGX. 119,323,709,754 and this was supposed to have been remitted to the Fund (Parliament of Uganda, 2016). It is not clear today where this money is now. The notable omission and challenge to Government is that it currently does not have clear guidelines and procedures for managing the oil revenue (2016/17 Committee report). This is an indictment of the Governance institutions responsible for the Oil and Gas sector. It is also important to note that if the Petroleum Fund is not credited with the inflows, then the Reserve will be non-functional. Section 63(2) of the Public Finance Management Act provides that the PRIR is to be managed by Bank of Uganda within the framework of a written

agreement signed between Minister responsible for Finance and the Governor of the Bank of Uganda.

The Ugandan oil sector is primarily regulated by the 1995 Ugandan Constitution, which, among other things, mandates the government to guarantee that resources be utilised for the benefit of all Ugandans. The Ugandan Parliament is also mandated by Article 244(2) of the Constitution to pass legislation governing the exploitation of petroleum (oil and gas) and minerals, as well as the division of revenues originating from petroleum production and other associated activities. So, Uganda's oil and gas industry is now governed by a number of laws, rules, and regulations. The focus of government has since been on developing new legislation for implementing the NOGP across different areas of policy by creating new and adding to existing legal frameworks. The laws that currently exist specifically to regulate both upstream and downstream oil and gas activities in Uganda include the NOGP<sup>50</sup>; the OGRMP<sup>51</sup>; the Petroleum Act Upstream<sup>52</sup>; the Petroleum Act Midstream<sup>53</sup>; and the Public Finance Management Act (PFMA) of 2015 among others.

Oil and gas management cuts across policy areas of taxation and revenue management, government accountability, corporate regulation, environment, land security, etc.<sup>54</sup> so it is important to recognise that there are other existing laws relevant to the overall framework for managing the new sector. In addition to the Constitution itself, the oil and gas management laws are accompanied by subsidiary regulations or statutory instruments, such as: Land Act<sup>55</sup>; Access to Information Act<sup>56</sup>; National Environment Act<sup>57</sup>; Investment Code Act<sup>58</sup>; Penal Code Act<sup>59</sup>; Income Tax Act<sup>60</sup>; Wildlife Act<sup>61</sup>; National Forestry and Tree Planting Act<sup>62</sup>; Public Health

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<sup>50</sup>National Oil and Gas Policy (NOGP), 2008.

<sup>51</sup>Oil and Gas Revenue Management Policy (OGRMP), 2012.

<sup>52</sup>Petroleum (Exploration, Development and Production) Act, 2013 (the 'Upstream Act').

<sup>53</sup>Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 (the 'Midstream Act').

<sup>54</sup> Avocats Sans Frontières (ASF) (July 2015): Business, Human Rights and Uganda's Oil and Gas Industry: A Briefing of Existing Gaps in the Legal and Policy Framework.

<sup>55</sup>Land Act, 2010 Cap 227 (as amended)

<sup>56</sup>Access to Information Act 6 of 2005

<sup>57</sup>National Environment Act, 2019 cap 153

<sup>58</sup>Investment Code Act, 2019 cap 92

<sup>59</sup>Penal Code Act, 2010 cap 120

<sup>60</sup>Income Tax Act, 2021 (as amended)

<sup>61</sup>Wildlife Act, 2019 cap 200 (as amended)

<sup>62</sup>National Forestry and Tree Planting Act, 2003

Act<sup>63</sup>; Water Act<sup>64</sup>; and Public Procurement and Disposal of Assets Act<sup>65</sup> among others.<sup>66</sup>

The national oil and gas policy (NOGP) is the principal framework that directs the management of Uganda's oil resources within the constitutional framework setting (NOGP).<sup>67</sup> NOGP acknowledges that in order to reach the desired goal of using the resource to obliterate poverty and generate durable worth for Ugandans, it must first focus on the 'development of institutions, including regulations and labour essential for efficient management and control of the sub-sector.'

According to the 2008 National Oil and Gas Policy,<sup>68</sup> the specific role of parliament in Uganda's petroleum sector is: to enact petroleum legislation; to enact the proposed legislation for the management of petroleum revenues; and to monitor performance in the petroleum sector through policy statements and annual budgets.<sup>69</sup> Many of the difficulties connected to natural wealth are clearly acknowledged in the 2008 National Oil and Gas Policy (NOGP), including the requirement to alleviate the possibility of adverse economic and fiscal effects that frequently result from an abrupt upsurge of earnings in the industry sector.<sup>70</sup> With the goal of converting scarce oil riches into sustainable development benefits, the NOGP defines globally accepted procedures for mitigating these consequences. It also emphasizes the necessity for a long-term national plan to maximize benefits to Ugandans along the industry's "value chain" in order to achieve optimal outcomes from oil and gas production.

Given the technical issues implied in the aspects of policymaking relevant to the oil sector, and how new this debate is in Uganda, legislators face a further challenge in developing the necessary expertise as quickly as possible to achieve meaningful

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<sup>63</sup>Public Health Act, 2019 cap 281

<sup>64</sup>Water Act, 1997 cap 152

<sup>65</sup>Public Procurement and Disposal of Assets Act 2003.

<sup>66</sup> See list of tables on page x.

<sup>67</sup> Ministry of Energy and Mineral Development (Feb 2008): National Oil and Gas Policy for Uganda: The Policy Goal is to Use the Country's Oil and Gas Resources to contribute to Early Achievement of Poverty Eradication and Create Lasting Value to Society; Ministry of Energy and Mineral Development (October 2019): Draft National Energy Policy.

<sup>68</sup> Available at <http://conserveuganda.files.wordpress.com/2010/06/national-oil-and-gas-policy-for-uganda.pdf>

<sup>69</sup> Chapter seven spells out the roles of various institutions including parliament.

<sup>70</sup> Available at <http://conserveuganda.files.wordpress.com/2010/06/national-oil-and-gas-policy-for-uganda.pdf>

oversight.<sup>71</sup> In the case where the ruling party has a large majority in the house, parliamentarians may struggle to exercise an independent voice where parliamentary and constituents' perspectives differ from that of the executive. At times, parliamentarians may find themselves excluded from the details of contracts between the government and oil companies, as a result of confidentiality clauses - or misunderstandings about these, as has been the case with Uganda's Production Sharing Agreements (PSAs) over the past few years. The NOGP suggested the formation of three entities: 1) the Petroleum Authority of Uganda to manage administrative responsibilities; 2) the National Oil Company to oversee the state's economic interest; and 3) the Directorate of Petroleum to counsel on policy concerns and resource management. The Petroleum (Exploration, Development, and Production) Act of 2013 established these.

The Constitution of the Republic of Uganda embodies the aforementioned principles, since it lays significant duty on the Parliament to provide supervision in the management and exploitation of resources.<sup>72</sup>As a result, the Ugandan Parliament is the supreme institution charged with enacting legislation governing the management and exploitation of the country's minerals and natural resources, such as oil and gas, as well as the sharing of incomes derived from petroleum exploitation and other related activities.

Uganda's Parliament has passed legislation to govern oil activities in the country. Nevertheless, the majority of laws approved by Parliament consolidate power in the hands of the executive (the Minister of Energy and Mineral Development), which has ramifications for ensuring openness and transparency in the oil and gas sector. This is primarily due to the leadership structure, which includes Cabinet Ministers who are Members of Parliament chosen from the party in power.<sup>73</sup>In such a circumstance,

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<sup>71</sup> In a survey, concerns were raised about the capacity of legislators to understand and contribute to extractive sector and management, in part due to educational qualification and in part due to high turnover of representatives.

<sup>72</sup>Section 79 of the Constitution provides that 'subject to the provisions of this Constitution, Parliament shall have power to make laws on any matter for the peace, order, development and good governance of Uganda'.

<sup>73</sup>World Bank Institute (2012), 'Parliamentary Oversight of the Extractives Industries Sector'.

when the party in power enjoys an overwhelming majority, Parliament will lack a solid foundation for developing independent skills.<sup>74</sup>

Unreleased information on the government's handling of Uganda's oil and gas industry is jeopardizing the legitimacy and effectiveness of governance systems and institutions. Information on oil and gas operations is difficult to come by in Uganda. The production-sharing agreements (PSAs), for example, are still inaccessible to the general public. This might be owing to the fact that various statutes/laws take opposing stances on citizens' right to obtain information. For example, section 151 of the Petroleum Act, which governs public access to information on petroleum activities, is lacking. Whilst the provision states that the Minister may release information to the public about deals signed, it does not specify how much information about the contracts should be disclosed; are the specifics about the participants or all of the sections in discussion? The lack of openness has led to unfavorable views and concerns about whether the PSAs were properly brokered to benefit Ugandans.<sup>75</sup>

## **Contracts**

These are agreements that Uganda has entered into with different IOCs and other companies for purposes of Oil and Gas exploration and production. The actual contracts are not readily available for the citizens for reasons of confidentiality; however, Uganda has model Contracts that are relied upon while agreeing with different IOCs.

## **Model Production Sharing Agreement for Petroleum Exploration, Development and Production or Petroleum Development and Production in The Republic of Uganda.**

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<sup>74</sup>World Bank Institute (2012), 'Parliamentary Oversight of the Extractives Industries Sector'.

<sup>75</sup>The Black Monday protestors used these restrictions as one of the justifications for protesting against corruption in government (see [www.monitor.co.ug](http://www.monitor.co.ug); 3 December 2012: 'Anti-corruption Activities Call for Black Money Protests').

This is a model designed to guide the Ugandan government in entering into oil exploration, development and production contracts. It is comprised of 34 Articles which lay our obligations between the different parties.

The model provides for how participating interests are to be shared between the parties; the responsibilities and grant of rights; the requirement of exploration work programmes; budgeting; the aspect of discovery, development and production; keeping of records, writing reports and keeping data; the aspect of bonuses paid to government; royalties to government; participation of the State in the OGM; recovery of cost; production sharing; the aspect of taxation; valuation and measurement of petroleum; transportation of Oil by pipeline; marketing and lifting; domestic requirements; the aspect of natural gas; training of local expertise, research and employment of locals; title to assets; foreign exchange control; assignment of participating interests; the aspect of prevention of danger to person, property or environment; dispute resolution; force majeure; annual acreage rentals; termination of contracts; accounting and audits; notice; the laws applicable to the contract; the representation of the entire agreement and its amendment; waiver clauses; and the concept of confidentiality.

All these provisions will be tailored to suit each agreement concluded by the government of Uganda with other entities for the exploration, development and production of oil and gas. In particular, Article 18 of the PSA provides for Natural gas. This is the only provision that specifically discusses natural gas in the laws of Uganda. Particular attention needs to be paid to Article 18.7 of the PSA which provides that the laws governing Oil exploration, development and production operate similarly to gas production.

However, whereas oil has oil spills, gas has emissions and the two are different in one way or another. They both affect the environment but in quite separate modes which means their way of combatting is also different. This is not envisioned by the laws.

#### 4.10 International Law

International law recognises the State's sovereignty over its natural resources under the 1958 Convention of the Continental Shelf, which was later carried over to the UN General Assembly (GA) Resolution 1803 on Permanent Sovereignty over Natural Resources in 1962. To further emphasise that a host country fully owns and controls petroleum resources under its jurisdiction, a further UN Resolution 3281 (XXIX), Charter of Economic Rights and Duties of States is adopted by the UN GA in 1974. Acknowledgement of permanent sovereignty meant that the host states could nationalise or expropriate foreign company assets. However, they could only do so for reasons of public utility, security or national interests and if compensated in accordance with the host state's laws and international law. A more elaborate and modern version of this rule is contained in the Energy Charter Treaty (ECT), signed in 1994 between the then newly emerging former Soviet Union states of resource rich Central Asia and Europe, as well as Japan, Russia and Turkey.

Article 18 of the ECT also recognises permanent sovereignty over natural resources but reiterates the standard tests for expropriation: it is only allowed when it is undertaken for the purpose of the public interest; it is not discriminatory; it adheres to due process of law and it is accompanied by prompt, adequate and effective compensation. The ECT also has a comprehensive investment protection chapter (Part III of the Treaty) which has become the standard of investment treatment in many successive Bilateral Investment Treaties (BITs).

The ECT's executive body, the Energy Charter Secretariat, produced a model intergovernmental and host-government cross-border pipeline agreement for natural gas which has been the basis of a few pipeline agreements in Central Asia, such as Baku-Aktau pipeline agreement. With regards to offshore exploration and laying of subsea pipelines, the UN Convention on the Law of the Sea Treaty provides fundamental rules and international rules, including rules on obligations for the removal and disposal of offshore.

On the other hand, the significance of maritime boundaries in current international relations has grown with the expansion of national limits of maritime jurisdiction in the last 50 or 60 years. This is because, in the present, an acre of sea may be worth

more than an acre of barren land, especially if there is oil or gas on the subsoil or on the seabed. Therefore boundary-making is now a major task for coastal States and relatively few of them have a full set of maritime boundaries.<sup>76</sup>

Currently 180 boundaries have been agreed upon, which is far less than the 400 boundaries that potentially exist, according to geographers. The reasons are that countries tend not to see boundary-making as a priority, in the absence of any incidents or natural resources. Furthermore, developing countries often do not have ready access to the required technical advice from hydrographers. Some of them have nevertheless negotiated boundaries e.g. because of encouragement by the oil industry.<sup>77</sup>

Chatham House in a meeting of the International Law Discussion Group at Chatham House on 14th February, 2006, identified two possible causes of the maritime boundary disputes to include; disputed sovereignty over land and; overlapping entitlements to maritime rights and jurisdiction. On the former, it noted that two countries can claim the same island<sup>78</sup> or the same area of mainland.<sup>79</sup> To resolve this issue, the relevant rules of international law include those on the acquisition of sovereignty; they look to human activity (occupation and administration) of the territory.

On the latter, it noted that there can be overlapping claims between adjacent or opposite States for 12 mile territorial seas, 200 mile EEZs, and continental shelves, which may extend beyond 200 miles. Given the extension of rights to a 200 mile limit, overlaps are now more common than they used to be. To resolve issues of overlapping claims, the relevant rules of international law are those on the delimitation of maritime boundaries. These rules can be found in the UN Convention on the Law of the Sea (UNCLOS), state practice and jurisprudence.

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<sup>76</sup>Chatham House. 2006. "Methods of resolving maritime boundary disputes", available at; <https://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/ilp140206.doc> (accessed on 08th July, 2021)

<sup>77</sup> Ibid.

<sup>78</sup> See *Eritrea v Yemen, Award on Territorial Sovereignty and Scope of the Dispute*, (1998) XXII RIAA 211, PCA.

<sup>79</sup> See ICJ reports, *Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon V. Nigeria: Equatorial Guinea intervening)*, Judgment Of 10 October 2002.

Article 33 of the UN Charter provides for the peaceful settlement of disputes by means of the parties' own choice. These means always include negotiation. If negotiations are not successful, recourse may be had to conciliation, good offices (e.g. of the UN Secretary General), arbitration (ad hoc or according to annex VII UNCLOS or judicial settlement (ICJ/ITLOS)).<sup>80</sup>

Methods of settling differences and disputes about overlapping entitlements include resolving any sovereignty differences, the establishment of a complete boundary, a partial boundary or a joint area, or combining some of those methods. Maritime boundaries are to be established by agreement in accordance with international law. Disputes and differences about sovereignty will be resolved by examining which State has more activity on the disputed territory.<sup>81</sup>

The International Court of Justice (ICJ) is the principle judicial organ of the United Nations; a body comprising of 193 member states.<sup>82</sup> It is therefore tasked with settling disputes that might arise between these countries using international law and other sources as determined by the law.<sup>83</sup> The most international convention that the ICJ has evoked is the United Nations Convention on the Law of the Sea (UNCLOS).<sup>84</sup>

The major criticism of the UNCLOS has been that Articles 74(3) and 83(3) of the Convention; the only provisions that deal directly with the duties of States 'pending agreement' on delimitation, do not contain any express rules against the prohibition of any particular oil and gas activities in the disputed area. Instead, they impose an open-ended obligation on States to refrain from any acts that would 'jeopardize or hamper' the final delimitation agreement. Yet, the question about what kind of economic activities would have the effect of jeopardising or hampering the final delimitation agreement remains critically unanswered.<sup>85</sup>

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<sup>80</sup> Supra note 55

<sup>81</sup> Ibid

<sup>82</sup> Article 92 of the Charter of the United Nations, 1945

<sup>83</sup> Article 38 of the Statute of the International Court of Justice

<sup>84</sup> United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3.

<sup>85</sup> Yiallourides C. "Oil and Gas Development in Disputed Waters Under UNCLOS", available at: <https://core.ac.uk/download/pdf/82962947.pdf> (accessed on 15th May, 2023)

Previously, petroleum operations in disputed areas attracted an international obligation to refrain from undertaking any acts related to drilling of wells, establishment of installations and appropriation of petroleum.<sup>86</sup> This obligation seems to derive from conventional law, such as UNCLOS, and is also said to be reflected in customary international law as a general obligation of ‘mutual restraint’. On the other hand, seismic exploration surveys have traditionally been considered as being ‘legally permissible’, even when conducted without the other interested parties’ consent. The reason offered for the above distinction is that, whereas the former acts can have a permanent physical impact on the marine environment of the disputed area, seismic surveys, due to their transitory character, cannot have such effect.

### **International Finance Institution.**

International Financial Institutions (IFIs) are international financial organizations which multiple nations founded. They are subject to international law instead of the laws of any one single country. The IFIs are usually owned by national governments of the founding members.<sup>87</sup> Examples of IFIs around the globe are; European Investment Bank, African Development Bank, Asian Development Bank, Caribbean Development Bank, Inter-American Development Bank, World Bank, International Monetary Fund, to mention but a few.

In many parts of the world, IFIs play a major role in the social and economic development programs of nations with developing or transitional economies. This role includes advising on development projects, funding them and assisting in their implementation.<sup>88</sup> For instance, the purpose of the establishment of the World Bank and IMF in 1944 by the Bretton Woods Agreement was to improve the standards of living in their respective member nations.

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<sup>86</sup>Lagoni R. 1984. “*Interim Measures Pending Maritime Delimitation Agreements*”, UCL Journal of Law and Jurisprudence, AJIL 345.

<sup>87</sup>Thomas Herold, *What are International Financial Institutions (IFI)*, available at <https://www.financial-dictionary.info/terms/international-financial-institutions-ifi/>

<sup>88</sup><https://www.tradecommissioner.gc.ca/development-developpement/mdb-overview-bmd-apercu.aspx?lang=eng>

In the extraction of Oil and Gas, whether offshore or onshore, the area within which this extraction happens stands a high-profile risk of environmental degradation and local community destabilisation if there are no adequate, proper and targeted measures to avert such risks. These processes of extraction are undertaken using the fund of these IFIs and in ensuring that these risks do not occur, a tripartite agreement between the National Oil Companies or the government, the International Oil Company (which carries out extraction using the fund from the IFIs) and the local community is entered. These agreements are the safeguard to insure against the risks that escort OGM.

It then follows that before the IFIs can fund the works of OICs, they require that certain performance standards be met and guaranteed in the Production Sharing Agreements (PSAs) that they conclude with the respective countries. These performance standards are an international benchmark for identifying and managing environmental and social risk and have been adopted by many organizations as a key component of their environmental and social risk management.<sup>89</sup>

It is important to note that these procedural or performance standards are not enlisted in a single document like constitutions of different countries. This is the case because of two reasons; firstly, the standards are guided by the risks of the OGM and therefore cannot be formed without the imperative risks in mind. For example, there are standards expected for resettlement of people, stakeholder engagements for Free, Prior and Informed Consent (FPIC), performance standards on land acquisition, EHS Guidelines and the list goes on.

Secondly, different IFIs require different standards and as such, they differ in the threshold that they require of the IOCs before they can dispatch their funds to the latter. For example, there are land acquisition standards set by the IFC, different from the ones set by the African Bank, standards set by the International Standard Organisation (ISO), the Extractive Industry Transparency Initiative standards, and

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<sup>89</sup><https://firstforsustainability.org/risk-management/implementing-ifc-environmental-and-social-requirements/establish-and-maintain-an-esms/ifc-environmental-and-social-performance-requirements/ifc-performance-standards/#:~:text=The%20IFC%20Performance%20Standards%20are,environmental%20and%20social%20risk%20management.>

then the International Council on Mining and Metals (ICMM). All these bodies have their own self-contained standards and their adherence is a requirement by countries or OICs that subscribe to them.

Additionally, as earlier stated, these IFIs and IOCs are governed by International Law to the extent of the environmental and local community issues. Many International Conventions like the UDHR, ICCPR, ICESCR, ILO, the UN Voluntary Principles on Human and Security Rights, the law of the sea Convention etc. and even regional instruments like the African Charter and its 2003 Protocol, also provide standards that must be fulfilled by the IOCs in the OGM.

The IFIs E&S performance standards define the IFIs clients' responsibilities for managing environmental and social risks. This sustainability framework advises the steps that must be taken to ensure that the environment and local communities at large are able to sustainably coexist with the OGM without significant disruption.

#### **4.11 Non-legal framework analysis**

##### **Government Ministries and Agencies**

The importance of various government entities in facilitating the ideal realization of oil and gas projects is highlighted in this National Oil Policy. Ministries in charge of oil and gas policy, as well as operational/management entities in charge of administration and supervision, are among the government's stakeholders. The policy acknowledges that parent ministries are in charge of directing and supervising the activities of the operational/managerial entities that report to them.

According to Karl<sup>90</sup>oil-producing countries possess minimal enthusiasm in establishing strong structures since stronger structures require greater accountability. This has also been asserted that poor structures are to blame for the lack of progress and development in many of the world's oil-rich countries. Uganda's experience demonstrates that efforts have been made to establish effective

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<sup>90</sup>Karl, T.L. (1997), *The Paradox of Plenty: Oil Booms and Petro-States*. Berkeley, California: University of California Press.

structures to govern the oil business. Uganda is unquestionably at a fork in the road, and the manner in which administers its oil riches will have a significant influence on the country's future. Uganda must improve its oil systems of governance and become more open and responsible in the manner it handles its burgeoning oil industry if it is to fully exploit its oil wealth and become one of Africa's oil great successes.

### **Ministry of Finance, Planning and Economic Development (MFPED)**

-The Ministry of Finance, Planning, and Economic Development (MFPED) is in charge of developing policies intended to increase internal income while also encouraging big investments, spending, and savings. Policy development, on the other hand, is restricted to a few technical experts, neglecting other stakeholders like civil society and taxpayers. Yearly budget speeches lay forth broad tax policy goals, which are then filled out through laws.

### **Ministry of Trade, Industry and Cooperatives**

The Ministry of Commerce, Industry, and Cooperatives is tasked with developing and revising suitable policies, laws, rules, and standards for the long-term growth of trade in the petroleum industry.

### **Petroleum Authority of Uganda (PAU) - The Regulator**

The Petroleum Authority of Uganda is one of the major agencies established to oversee Uganda's petroleum industry (PAU). The formation of PAU is allowed under Section 9 of the Petroleum Act. The Authority was created in 2015 as a separate legal entity with the primary responsibilities outlined in Section 9 of the Act. The Petroleum Authority of Uganda, established through the Petroleum Development Act, is a major form of national safety. The Petroleum Acts provide for this organization to have political autonomy when it comes to supervising oil and gas discovery, processing, and production. The Minister of Energy and Mineral Development gives directions to the authority on government policy under the Laws. As an autonomous entity, the authority is then required to implement these policies. The minister also has the authority to nominate members of the board for a four-

year term with Parliament's consent, and to dismiss members because of "incompetence."

The purpose of this authority is to govern the many participants in the sub-sector. This governing body's particular responsibilities include: supervising and controlling oil and gas activities, particularly resource estimation and measurement of produced oil and gas; drafting and enforcing rules; and tracking license spending.

### **Uganda National Oil Company (UNOC) The Business Arm of Government**

In addition to policy and regulation, Uganda's government established a body to manage the country's economic interests in the industry, e.g., state participation in the licences and marketing the country's share of natural gas production received in kind. Although this entity will become more relevant when production begins, the period before production shall be used to build its capacity so that it is able to play its role when production starts. The specific roles of UNOC shall include: (a) Managing the business aspects of state participation (b) Developing in depth expertise in the oil and gas industry and (c) Optimising value to its shareholders among others.

Section 42 of the Petroleum Act of 2013 also creates a National Oil Company, which is responsible for overseeing the government's business aspirations and administering the business parts of the government's oil engagement. The National Oil Company (UNOC) will largely oversee Government economic and commercial affairs, as well as involvement in the Petroleum industry, according to Section 43 of the Act.

The second organization established by the Petroleum Laws is the National Oil Company, which is responsible for advancing the government's commercial oil ambitions. The Act does not specify how stockholders will be chosen or how public' desires would be reflected in policy formulation. If the National Oil Company becomes a private corporation, it will solely be accountable to its stockholders.<sup>91</sup> Another source of worry is that the Ministry of Energy and Mineral Development, which has the jurisdiction to provide directions to the National Oil

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<sup>91</sup>Mawejje, J., & Bategeka, L. (2013, September). *Accelerating growth and maintaining intergenerational equity using oil resources in Uganda* (No. 111). Kampala: Makerere University, Economic Policy Research Centre.

Company on how its administration obligations will be carried out and to establish confidentiality standards. As a result of the law's ambiguity, critics claim that misuse and corruption are possible. Making the National Oil Business a public company is one way to ensure that governmental interests are met.<sup>92</sup>When accountability systems show a track history of operating in the national good, the National Oil Company might be privatized.<sup>93</sup>

### **The Uganda Revenue Authority (URA)**

The Uganda Revenue Authority (URA) Act of 1991 founded the URA as a central institution responsible for estimating and gathering specified income for the government, as well as administering and implementing tax-related legislation. The legislation establishes the URA as a legal entity with eternal continuity, a common seal, and the right to sue and be sued in its own name. The Law also grants URA the authority to take loans, purchase and dispose of assets, and do anything else that a corporation can do legally.

The revenue administration structure in Uganda is shared by the national government and the local government. The Uganda Revenue Authority (URA), which was formed by the URA Act 1991, administers the national government's tax system (Cap 1996). It is the principal agency in charge of estimating and amassing specific tax income. The URA is responsible for locating, notifying, and evaluating taxpayers. The Minister of Finance, Planning, and Economic Development selects a Commissioner-General to lead the URA. Whereas the URA is a semi-autonomous entity, it is treated as an unit within the Ministry of Finance, Planning, and Economic Development (MFPED) for budgetary reasons and is bound to the similar financial regulations and standards as other ministries.<sup>94</sup>And it plays a major responsibility in levying and recovering FDI income.

### **Uganda Investment Authority (UIA)**

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<sup>92</sup> Eller, S., Baker, J., Hartley, P., & Medlock III, K. (2011): Empirical evidence on the operational efficiency of national oil companies. *Empirical Economics*, 40(3), 623-643.

<sup>93</sup> Magelapeter. (2012, November 5). Why a government corporation and not private company should be in charge of Uganda's interests in the petroleum sector. *Legal and Policy Review* Retrieved from <http://lawuganda.wordpress.com>.

<sup>94</sup> SEATINI, TJNA & Oxfam. (2016). Fair Tax Monitor: Uganda.

The Uganda Investment Authority (UIA) is a government-owned quasi-autonomous investment development and assistance agency in Uganda. The Ugandan Parliament established the UIA in 1991. The Investment Code of 1991 established the Uganda Investment Authority (UIA) (amended in 2019). The Uganda Investment Authority (UIA) is a regulatory body tasked with launching and promoting measures to boost investment in Uganda, as well as guiding the government on suitable policies for investment stimulation and development. The UIA's mission has to be transformed due to the altering investment climate and government interests. The UIA's purpose is to encourage and assist capital ventures while also lobbying for a strong business climate.<sup>95</sup> Through financing and facilities building, the UIA collaborates with the state and the private sector to support Uganda's economic progress.<sup>96</sup> The Uganda Investment Authority (UIA) was moved from the Finance Ministry to the Uganda Ministry of Trade and Industry in 2016.<sup>97</sup>

The Uganda Investment Authority (UIA) has attracted foreign investment, produced employment for Ugandans, promoted modern technology into the country, and generated taxable income. Uganda's figure of approved investments increased by 9.8% in the fiscal year 2016/17, from US \$ 1.522 billion in 2015/16 to US \$ 1.67 billion in 2016/17. China provided the most FDI approved investments in Uganda, representing 31.9 percent of the all the authorized investments in 2016/17, while India came in second with US \$ 162.8 million, representing 15.5 percent of all authorised investments in 2016/17.<sup>98</sup>

The non-legal elements of oil and gas resource exploitation in Uganda's oil and gas sector are examined in this section. Management and fiscal efficiency, fraud control and fiscal productivity, accountability and fiscal success, transparency and budgetary achievement, tax collection and fiscal performance, and petroleum & energy taxes and fiscal productivity are all important in this respect.

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<sup>95</sup>Profile of Uganda Investment Authority". Comesaria.org. Retrieved 29 May 2019.

<sup>96</sup>UIA (15 May 2013): "Reasons to Invest in Uganda". *Kampala: Uganda Investment Authority (UIA)*.

<sup>97</sup>Ladu, I. Musa (2 May 2016): "Trade ministry takes over investment authority". *Daily Monitor. Kampala*. Retrieved 4 May 2019.

<sup>98</sup> World Investment Reports for 2015-2017, by UNCTAD.

It is widely accepted<sup>99</sup> that the extractive industries (EI) in poor countries have the ability and power to help the world achieve its development goals and alleviate poverty. However, several governments that rely heavily on income from extractive sectors are unable to appropriately administer their resources for development objectives. Experimentation and research<sup>100</sup> have demonstrated that strong administration and its associated attributes like as openness and accountability are necessary and play an important influence in a government's utilization of EI money. Good governance is a prerequisite for attaining sustainable development and is also critical for administering and sharing a country 's natural wealth.

Numerous efforts<sup>101</sup> have been launched throughout the world to solve the problem of EI administration and transparency. Extractive Industry Transparency Initiative (EITI), a global standard that guarantees transparency of natural resource income,<sup>102</sup> Revenue Watch Institute,<sup>103</sup> Oxfam Transparency International,<sup>104</sup> Global Witness,<sup>105</sup> Global Reporting Initiative,<sup>106</sup> Alliance for Responsible Mining,<sup>107</sup> Natural Resource Charter,<sup>108</sup> and Transparency and Accountability Initiative are kinds of such efforts.<sup>109</sup>

However, it seems that the growth issues confronting the majority of resource-rich nations are getting worse by the day. Uganda, for example, although having a large reserve of mineral wealth, particularly in petroleum, and collecting billions in revenue from the extractive sectors, has not progressed in terms of human development. Nigeria has consistently ranked at the base of the world's human development index ratings, with the bulk of its inhabitants surviving on less than

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<sup>99</sup>Global Witness, (July 11, 2013), <http://www.globalwitness.org>.

<sup>100</sup>Jesumiseun O. A. (2013): LL.M. Thesis in partial fulfilment of the requirements for the Master of Laws degree in Rule of Law for Development; Loyola University Chicago, School of Law; (PROLAW); July 2013, JFRC

<sup>101</sup> For example: Extractive Industry Transparency Initiative (EITI).

<sup>102</sup> EITI, (July 11, 2013), <http://eiti.org/eiti>.

<sup>103</sup> Revenue Watch, (July 11, 2013), <http://www.revenuewatch.org>

<sup>104</sup> Oxfam, (July 11, 2013), <http://www.oxfam.org>.

<sup>105</sup> Global Witness, (July 11, 2013), <http://www.globalwitness.org>.

<sup>106</sup> Global Reporting, (July 11, 2013), <https://www.globalreporting.org>.

<sup>107</sup> Community Mining, (July 11, 2013), <http://communitymining.org>.

<sup>108</sup> Nature Resource Charter, (July 11, 2013), <http://naturalresourcecharter.org>.

<sup>109</sup>Transparency Initiative, (July 11, 2013), <http://www.transparency-initiative.org>.

\$1.25 per day.<sup>110</sup>As a result, the nation's state of human development warrants severe worry and immediate effort to solve the problem.

Despite the fact that the Ugandan government is cognizant of the country's development difficulties and has attempted to implement a variety of economic policies and poverty reduction initiatives, they look to have produced little or no success; because of the absence of effective governance in the EI, fraud, a lack of transparency, and a lack of accountability exist. The government has also taken steps to improve transparency in the country's natural resource handling, as seen by the nation's courageous decision to join the EITI principles in 2019.<sup>111</sup>Since being a member of the initiative, the government has made some progress in terms of transparency. However, much work has to be undertaken in order to accomplish significant human growth with the resources available. And besides, citizens are the legitimate owners of their country's resources, and therefore ought to be able to benefit from them.<sup>112</sup>

Certain critical criteria may be considered to assess the quality of governance. For example, the World Bank created a set of metrics to assess a country's governance. Eliminating corruption, accountability, transparency, the efficacy of government, stability and the lack of violence, law and order, and regulation control are some of the indicators. However, for the context of this research, the main concepts that will be examined are transparency, accountability, and corruption control.

### **National Oil and Gas Policy (NOGP), 2008**

In February 2008 Uganda's Ministry of Energy and Mineral Development (MEMD) published the National Oil and Gas Policy (NOGP), which explicitly recognises many of the challenges associated with natural-resource wealth, including the need to mitigate the potential for negative economic and fiscal impacts that often stem from

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<sup>110</sup> Poverty line of \$1.25 dollars per day was mentioned in the report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda titled: A new global partnership: Eradicate poverty and transform Economies through sustainable Development.

<sup>111</sup>Njiraini M, (2019). Uganda joins Extractive Industries Transparency Initiative to enhance transparency in oil deals. The East African (Kenya), Published on: 11 March 2019.

<sup>112</sup> 'It is ten years since the first EITI Conference, where leaders from governments, extractive companies and civil society came together and agreed the EITI Principles. They agreed that since a country's natural resources belong to all of its citizens, all citizens should be able to see benefits from them',, <http://eiti.org/files/EITI-progress-report-2013.pdf>.

a sudden influx of revenue in the extractive industry sector.<sup>113</sup> The NOGP outlines internationally recognised mechanisms for managing such impacts, with the aim of turning finite natural gas wealth into sustainable development outcomes. It also highlights the need for a long-term national strategy to ensure optimal impacts from natural gas exploitation by maximising benefits to Ugandans along the industry “value chain.”

The overarching goal of the policy is that natural gas development in Uganda will ‘contribute to early achievement of poverty eradication and create lasting value to society’. In particular, the NOGP concurs with the emerging global consensus on the critical importance of transparency in handling all aspects of natural-resource management, with transparency and accountability towards stakeholders enshrined as a guiding principle in Uganda’s future governance framework.<sup>114</sup>

The NOGP is a very important document and sets a high standard for the future governance of natural gas in Uganda. It is, however, more a set of principles than a detailed governance guide. The focus of government has since been on developing new legislation implementing the NOGP across different areas of policy by creating new and adding to existing legal frameworks.

The NOGP’s third guiding principle is transparency and accountability, and that includes openness and dissemination of information. Stakeholders can use this information to evaluate how their rights are being impacted. The NOGP helps to boost high levels of transparency and accountability in oil and gas authorization, purchasing, discovery, growth, and processing activities, as well as earnings management. Citizens’ access to information about oil and gas operations are granted by the upstream and midstream acts, like the declaration of new zones for natural oil and gas discovery, the disclosure of application notices and tendering procedures,<sup>115</sup> and direct disclosure of information/reports from the Petroleum (Natural Gas) Fund and the Petroleum Revenue Investment Reserve (PRIR).<sup>116</sup>

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<sup>113</sup> Available at <http://conserveuganda.files.wordpress.com/2010/06/national-oil-and-gas-policy-for-uganda.pdf>.

<sup>114</sup> NOGP, section 5.1.3.

<sup>115</sup> Sections 52 and 54 of the Upstream Act.

<sup>116</sup> Sections 57-75 of the PFMA

## **Control of corruption.**

Fraud and misuse of resource earnings are only two of the non-legal consequences of oil and gas development that must be addressed. For the sake of this discourse, corruption shall be defined as "the misuse of entrusted power for private benefit," as defined by Transparency International. This covers any unlawful and intentional manipulation of conditions that results in personal profit from state money.

As per Global Witness,<sup>117</sup>Uganda's recent history of deteriorating management standards, high-level fraud and favouritism, and "the continuity of corruption cases encircling the misuse of public and donor funds in the past ten years" raises fears about the perspective about good governance of oil wealth. <sup>118</sup>Uganda loses US\$ 286 million each year due to corruption, according to the World Bank. Bribery, embezzlement, and graft may be found at all levels of government, from the most local to the highest administrative posts.<sup>119</sup>In 2012, for example, the Prime Minister's Office was implicated in embezzling US\$ 12.7 million in international aid meant for reconstruction projects in war-torn Northern Uganda.<sup>120</sup>Regrettably, this sort of incident has occurred often in the country's current times, causing citizens to mistakenly think that government leaders are acting with impunity.

Notwithstanding the nation's long tradition of corruption, the government has failed to set appropriate protections in position to avoid corruption in Uganda's petroleum industry. Despite worldwide recommended practice recommendations encouraging more transparency and accountability in the extractive sectors, the government has continued to operate in stealth, holding vital information regarding petroleum industry advances secret from the citizenry. This obscurity raises the severe danger that petroleum profits would be squandered or fraudulently redirected rather than invested on public services.

Although petroleum production has yet to begin in Uganda, there is clearly enough indication of mishandling of pre-production earnings. In 2011, Uganda's government

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<sup>117</sup>Global Witness (2010), 'Donor Engagement in Uganda's Oil and Gas Sector: An Agenda for Action'. Retrieved from: [https://www.globalwitness.org/documents/uganda\\_final\\_low](https://www.globalwitness.org/documents/uganda_final_low). p.16

<sup>118</sup> Ibid

<sup>119</sup>World Bank worldwide governance indicators, (2012). See World Governance Indicators. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#home>.

<sup>120</sup>Reuters, 2012.

agreed to a US\$ 740 million advance on the procurement of six fighter planes with a Russian arms supplier. The Governor of the Bank of Uganda, speaking to Members of Parliament, stated he agreed to the upfront fee on the condition that it would be returned with future oil income.<sup>121</sup>In January 2017, 42 government officials were awarded US\$ 1.6 million as a remuneration for their participation in the collection of Shs 1.5 trillion in unpaid capital gains tax from Heritage Oil and Gas.<sup>122</sup>The 'presidential handshake' controversy exposed a worrisome contempt for the rules stated in the petroleum portion of the Public Finance Management Act, 2015, which control payments from the Petroleum Fund. These events, along with public' persistent lack of access to information, indicate that Uganda's oil sector is growing with little transparency or accountability. The Public simply does not have access to the information they need to hold government officials accountable. Pursuant to the requirements assessment conducted as part of the formulation of The National Communication Strategy for Oil and Gas, there is a well-documented communication barrier between the government and the general populace about the growth of the petroleum industry.<sup>123</sup>As per Ross,<sup>124</sup>the government-citizen relationship might disintegrate in the process of mineral production if citizens do not make consistent and persistent claims, and the government could grow progressively depressed. Unless this is avoided by providing citizens with more access to information on petroleum industry advances, the industry will continue to function in obscurity, away from public criticism.

In Uganda, like in any country, there are several dangers in guaranteeing transparency and accountability in the growing extractive sectors. In the oil and gas revenue chain, these dangers can be split into horizontal (business to government) and vertical (intra-government) corruption possibilities. Horizontal risks are defined

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<sup>121</sup>Mugerwa, Y. (2015), 'MPs Want Mutebile, Minister Sacked', *Daily Monitor*. Retrieved from: [http://www.monitor.co.ug/News/National/MPs-want-Mutebile--minister\\_sacked/-/688334/2722692/-/btrno/index.html](http://www.monitor.co.ug/News/National/MPs-want-Mutebile--minister_sacked/-/688334/2722692/-/btrno/index.html).

<sup>122</sup>Heritage Oil & Gas Ltd Vs Uganda Revenue Authority (Civil Appeal No 14 Of 2011) ((Civil Appeal No 14 of 2011)) [2011] UGCOMMC 97 (12 September 2011). The ruling was in respect of an application challenging an income tax assessment of US\$ 404,925,000 against the applicant by the respondent.

<sup>123</sup>Republic of Uganda (2013), *Draft Report on the Investigation into the Oil and Gas Sector by the Parliamentary Ad Hoc Committee in Respect of the Regularization of the Oil Sector and Other Matters Incidental Thereto*. Retrieved from: <https://www.parliament.go.ug>. p.13

<sup>124</sup>Ross, M. (2001), 'Does Oil Hinder Democracy?', *World Politics*, 53(3), 326-361. Retrieved from <http://www.jstor.org/stable/25054153>.

as illegal decreases in the income given to the government, whereas vertical risks are defined as illegal diversions of petroleum income that has already been delivered to the government. To put it another way, these dangers may be thought of as two independent but connected problems. –did the government collect what it was due, and did the funds given to the government benefit public? This conception is centered on the conventional petroleum revenue chain, which has been simulated in this case according to Uganda's Public Finance Management Act, 2015. Oil and gas is a national resource, according to the constitution, that must be handled by the government in the interest of the people. As a result, the government acts as an administrator, overseeing mineral resource production on behalf of public who are the real owners and stakeholders.

In the petroleum revenue chain, 'corruption' might be conceived of as income leakages or occasions when income disappears. Weakness in the revenue chain can lead to revenue leakage if exploited to shift public funds to the individuals without approval. This should encompass funds that were never legally placed in the public realm but should have been. As a result of these legislative obligations for transparency, accountability, and oversight across the revenue chain, good governance standards mandate that oil income management systems be shielded and safeguarded against this type of unilateral leakage.

Leaks between the government and oil corporations can occur before and amid production in the oil and gas industry, including during contract talks, corporate tax planning and tax base erosion, CEO control, and institutional misuse of money (lacking oversight and accountability). In Uganda, efforts are being made to combat corruption in the oil sector include:

### **1. Anti-corruption Framework in Uganda**

The Anti-Corruption Court, the Inspectorate of Government, the Auditor General, the Directorate of Public Prosecutions, and other associated agencies are among the government bodies and entities responsible with combating and punishing corruption in Uganda. Unfortunately, owing to a deficit of ability, these bodies frequently

struggle to carry out their crucial responsibilities, raising concerns about if they'll be able to provide the required supervision to avoid petroleum industry corruption.

Transparency International Uganda published an analysis in 2015 that looked at the causes for major institutions malfunctioning. The research looked at the specific reasons for the relevant agencies, such as the Anti-Corruption Division of the High Court, the Directorate of Public Prosecutions, and other associated government entities, persisting failure to indict high-level corruption. Whereas the research identifies a number of technical barriers to corruption prosecution, most of these difficulties stem from a lack of political determination to properly institutionalize and empower these corruption-focused investigative entities. Furthermore, 'it is contradictory that the government pledges to the resource-intensive development of anti-corruption agencies and laws while concurrently paralyzing these bodies.' Issues like these are closely linked to Uganda's capacity to combat corruption in the country's expanding oil sector.

## **2. Legislation and attempts to stop the leaks**

Uganda's government has enacted many sections of laws to control oil and gas discovery, processing, and production. The Petroleum (Exploration, Development, and Production) Act of 2013 and the Public Finance Management Act of 2015 are the utmost crucial to the issue of corruption. These laws specify how firms will be awarded mining rights and how the government would handle funds from the oil and gas industry, tackling both horizontal and vertical corruption issues. The Law creates a three-tiered framework for oil and gas industry administration, with a petroleum directorate, a petroleum authority, and a national oil company each serving a function. The petroleum directorate is in charge of the energy sector, which is led by the Minister of Energy. The petroleum authority is in charge of offering autonomous control of the industry, whereas the NOC is in charge of administering the state's economic interests in petroleum.

Oil and gas funds will be deposited into a petroleum investment reserve in addition to being remitted to the Consolidated Fund.<sup>125</sup>The investment reserve has a variety

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<sup>125</sup>Public Finance Management Act, (2015), p.66

of objectives, with one of the most significant being to assist ensure macroeconomic equilibrium throughout the oil and gas drilling process by broadening the petroleum income portfolio. However, in contrast to the Petroleum Fund, the rules for ensuring prudent administration of the investment reserve are rather lax. The rules for transparency and dissemination of information about the petroleum income investment reserve, in particular, are generally deficient.<sup>126</sup> If the oil and gas income investment reserve's operations are not brought to light, the account could become a war chest for corruption, since oil and gas funds might easily be deposited in overseas investments and offshore bank accounts linked to strategically connected individuals. Because national assets have been connected to fraud in a multitude of countries across the whole of the world, any national asset formed in Uganda must be handled honestly, with strict investment regulations and sufficient supervision processes.<sup>127</sup>

### **3. Non-governmental efforts to promote good governance**

In addition to government initiatives, civil society organizations, bilateral donors, and other partners have joined forces to combat rampant corruption in Uganda's oil and gas industry. From the finding of oil and gas, a powerful alliance of domestic and international civil society groups has continuously pushed government to guarantee that a robust governance framework for oil and gas industry administration is set up. In 2010, civil society organizations evaluated the nation's very first disclosed production-sharing contracts, offering harsh insights to the government on several of the original contracts' inadequacies.<sup>128</sup> Global Witness released two existing production sharing agreements (PSAs) in 2014, offering an extensive analysis of the contracts' environmental, social, and economic components to advise the government on how to better future deals to obtain the biggest and best 'deal'.<sup>129</sup>

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<sup>126</sup>Public Finance Management Act, (2015), p.76

<sup>127</sup>Bauer R, Busch T. and Marc Orlitzky (2015): Sustainable Development and Financial Markets: Old Paths and New Avenues p. 60

<sup>128</sup>Civil Society Coalition on Oil and Gas in Uganda (2010), 'Contracts Curse: Uganda's Oil Agreements Put Profits before People'. Retrieved from: [http://www.acode-u.org/documents/oildocs/CSCO\\_oilcurse.pdf](http://www.acode-u.org/documents/oildocs/CSCO_oilcurse.pdf)..

<sup>129</sup>Global Witness (2014), *A Good Deal Better? Uganda's Secret Oil Contracts Explained*. London: Global Witness Limited. Retrieved from: <https://www.globalwitness.org/en/reports/good-deal-better/>.

The foreign donor community also exerts demand on Uganda's government to establish robust transparency and accountability measures in the extractive sectors. From 2009, the Government of Norway has offered formal support to the Government of Uganda in the technical and institution building of the country's budding oil and gas industry under the bilateral NORAD Oil for Development Programme. The NORAD assistance seeks to guarantee government accountability in the administration of the oil and gas industry by setting up a strong policy, legitimate, and legislative structure "for handling the oil and gas industry in a financially, socially, and ecologically responsible way," according to the partnership's stated outcomes.<sup>130</sup>

The Oil and Gas Revenue Management Policy, for example,<sup>131</sup> pledges the Ugandan government to adhering to the Extractive Sectors Transparency Program (EITI), a global program that supports effective management in the global extractive industries through financial transparency. Corporations declare their contributions to governments, and governments publicize their pay slips from companies, allowing for verification of the declarations and the detection of any disparity or "missing cash" between. Notwithstanding this claim, the government has been hesitant to put this pledge into action. However, the government officially stated its desire to join the EITI in 2019. It is too soon to know whether this aim will be followed or if it is only hyperbole.

### **Accountability**

Any government that wants to expand its oil and gas industry must be accountable to its people. According to a statement by UN Human Rights Office:

Governance is not just about ensuring that a country's administration functions smoothly. It is also about how people can review what those in power do and how they can hold the powerful to account if something goes wrong. Accountability is

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<sup>130</sup>Ministry of Energy and Mineral Development (2015), *Strengthening the Management of the Oil and Gas Sector in Uganda: Phase II - 2015-2018*. Retrieved from: <https://www.norad.no/contentassets/36585925a4814255bd1916fe9a4248b2/programme-document.pdf>. p.22

<sup>131</sup>Oil and Gas Revenue Management Policy (2012), p.37

the core of governance. If there is no accountability, governance is an empty concept,<sup>132</sup>

Accordingly, unless public officials can be held accountable, critical benefits associated with good governance such as social justice, poverty reduction, and development will remain elusive. The nation's leaders must be forced to be accountable to the electorate and the nation.<sup>133</sup> It is well known that revenues from the natural gas industry and other natural resources in form of taxes, royalties, signature bonuses, and other payments are important engines for economic growth and social development in developing countries. However, lack of accountability and transparency in these revenues can exacerbate poor governance and lead to corruption, conflict, and abject poverty. This is essentially what happened to Nigeria,<sup>134</sup> a developing country that is rich in natural gas resources. Where accountability is low or poor, corruption is inevitable and most able to thrive. Increasing transparency and informed knowledge about revenues received from EI will empower citizens and institutions to hold governments accountable and to demand that government spends revenue exclusively for sustainable developmental purposes.

Accountability is especially tough to develop in a country where the National Resistance Movement (NRM), have such total command over policymaking. No corresponding financial laws in all the other nations, according to the ruling party, refer the parliament as frequently as the Ugandan laws do. The legislation grants parliament broad authority over the spending of public monies, including the ability to oversee and supervise it. For example, without parliamentary permission, the Bank of Uganda no longer has the authority to facilitate any transaction for the government or to provide any loan to the government. The problem with the government's viewpoint is that supervision necessitates information transparency, yet the government says that oil firms require secrecy as a condition of doing business in Uganda. Despite the apparent conflict between this obligation and the

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<sup>132</sup>Kran (2015): The Director of the Research and Right to Development Division of the UN Human Rights Office, <http://www.ohchr.org/EN/NewsEvents/Pages/GlobalDevelopmentPost2015.aspx>

<sup>133</sup>Malena and McNeil, (2010); Democracy, Governance, Legislative Challenges and Impediments in Nigeria

<sup>134</sup>World Bank, available at <http://info.worldbank.org/governance/wgi/pdf/c161.pdf>

rules of the Access to Information Act, the Petroleum Acts prohibit the National Petroleum Authority from revealing information regarding oil firm activities.<sup>135</sup>The problem of oil corporations' secrecy may be vulnerable to modification from two quarters beyond Uganda. The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted by the United States Congress in 2010, requires all extractive companies listed on American stock exchanges and submitting yearly basis reports with the United States Securities and Exchange Commission to reveal all money paid to international government bodies for commercial development of oil.<sup>136</sup>Total and CNOOC, which have heavily invested in Ugandan oil exploration, will be required to file yearly reports in the United States and will be liable to the current transparency regulations.

Human development could be realized if the government is more accountable to the citizens and the EI earnings and rewards are optimized, well-administered, and equally shared, or invested especially for long-term development goals such as healthcare, education, infrastructure, and employment.

## Transparency

The International Monetary Fund (IMF) has defined transparency as “openness, honesty and accountability in public and private transactions.”<sup>137</sup> Resource transparency is said to be the application of transparency to the management of resource wealth. It implies the public disclosure of necessary, reliable and accessible information about all the activities and processes involved in the natural resource wealth management chain from discovery and exploitation, to the revenue collection and expenditure.<sup>138</sup>

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<sup>135</sup>Civil Society Coalition on Oil and Gas (CSCO). (2012). Uganda: CSCO memorandum on the Public Finance Bill. *The Independent*. Retrieved from <http://www.independent.co.ug>; and Human Rights Network-Uganda. (2012). *Key concerns in the Petroleum (Exploration, Development and Production) Bill*. Retrieved from Human Rights Network-Uganda website: <http://www.hurinet.or.ug>.

<sup>136</sup>Veit, Peter, G. Carole Excell & Alisa Zomer (2011), *Avoiding the Resource Curse: Spotlight on Oil in Uganda*, Washington DC: World Resources Institute, p. 2  
[https://www.wri.org/sites/default/files/avoiding\\_the\\_resource\\_curse.pdf](https://www.wri.org/sites/default/files/avoiding_the_resource_curse.pdf)

<sup>137</sup> International Monetary Fund.

<sup>138</sup>Uchenna-Uzoigwe, G. M. (2008): ‘Exploring Multi-Stakeholder Initiatives for Natural Resource Governance the Example of the Nigerian Extractive Industries Transparency Initiatives (NEITI).’ A Thesis submitted to the University of Birmingham for the Degree of Doctor of Philosophy (September, 2011).

Oil and gas resource wealth is easily susceptible to rent-seeking and corruption due to high level secrecy within the industry and high dependency on natural resource wealth as government revenue for most resource-rich nations. This is mostly due to the knowledge imbalance that exists between the public and the few persons charged with administering petroleum riches. As a result, resource transparency increases the access of information to stakeholders, enabling them to seek transparency, equitable distribution, and ethical use of resource income.<sup>139</sup>

The Extractive Industries Transparency Initiative (EITI), which is a worldwide benchmark for creating transparency in the extractives industry, is a part of the Dodd-Frank legislation. The moment a government signs the EITI, it commits to publish reports on the money raised from extractive corporations. In return, the businesses disclose their own accounts of government payments. After then, the reports are verified and validated, and the outcomes are revealed to the public.<sup>140</sup>In 2008, Uganda's government pledged to enter the EITI. The government, on the other hand, has yet to initiate any formal steps to start the application process. To become an EITI signatory will improve public transparency, allowing the Ugandan government to be held accountable for resource sector fiscal administration.<sup>141</sup>Transparency would also help Uganda's commercial progress lure future investments.<sup>142</sup>

## Revenue collection

The 2008 National Oil and Gas Policy mandates the establishment of a framework to help in the long-term management of natural gas earnings. This policy explains how the projected income would be handled and incorporated into current government processes, with the goal of reducing the overall economic effect of these funds. The policy establishes the greatest levels of openness and accountability in the administration of oil and gas earnings, as well as the necessary institutional and governance frameworks. The strategy establishes a system for sharing royalty

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<sup>139</sup>Ibid

<sup>140</sup> Ngabiirwe, W., & Allen, E. (2011). *The extractive industries transparency initiative* (No. 12).

<sup>141</sup> Corrigan, C. (2014). Breaking the resource curse: Transparency in the natural resource sector and the extractive industries transparency initiative. *Resources Policy*, 40, 17-30.

<sup>142</sup> Seyoum, B., & Manyak, T. (2009). The impact of public and private transparency on foreign direct investment in developing countries. *Critical Perspectives on International Business*, 5(3), 187-206.

earnings with local governments within the oil-producing region in order to foster harmony and social cohesion.

The oil and gas industry is projected to create a large number of distinct sources of income, all of which will generate money for the government.<sup>143</sup> To guarantee openness and accountability, the collection of these funds must be structured. All earnings will be collected and placed in a separate petroleum fund that will be formed at the Bank of Uganda. This will include money from income tax and royalties, as well as proceeds from the sale of the government's share (marketed by the National Oil and Gas Company) of oil mined. Royalties are payments made for the extraction of resources that are dependent on the amount or price of the resource produced. Oil firms will pay a royalty on gross oil production under the provisions of the PSAs and the Income Tax Act of 1997 (ITA), at a rate that fluctuates with the rate of production (the rate ranges between 8 percent and 18 percent ).<sup>144</sup>

### **Taxation of Gas**

On their split of profit oil, oil and gas firms will be liable to the regular personal and company taxes, as stipulated by the applicable tax legislation. Windfall profits, resource rent, and environmental taxes are some of the other fees. Furthermore, as the sector grows, operations even farther down the value chain will be levied as well.<sup>145</sup> These operations include refining operations and gas and oil product sales.

Tax measures applicable to oil and gas firms should be included in appropriate tax law instead of in mining and oil and gas agreements for fiscal performance. Whereas the newest model PSA relates to the ITA's tax rules, tax provisions have also been included in recently completed mining agreements. If tax terms are brokered on a circumstance basis, the government faces a threat because the licensee or company is more likely to get better information about the worth of a resource and is also more talented at bargaining. Another difficulty with case-by-case agreements

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<sup>143</sup> Oil and Gas Revenue Management Policy (2012). Ministry of Finance, Planning and Economic Development, February 2012.

<sup>144</sup> Petroleum Royalty Scale from Draft Model PSA of 2015 as in IMF, Uganda Country Report No.17/367, December 2017, p. 22.

<sup>145</sup> Oil and Gas Revenue Management Policy (2012). Ministry of Finance, Planning and Economic Development, February 2012.

is that tax provisions will vary based on the dialogues. The Uganda Revenue Authority would have to implement several tax systems, which will add to its administrative load.

## **Conclusion**

The legislative structure encapsulating the fiscal system within which Uganda's oil and gas production is taking place has been addressed. Sustainable resource administration necessitates a multifaceted national plan. According to Article 244 of the Republic of Uganda's constitution (as modified), all resources and oil and gas in, on, or beneath any land or waters in Uganda are conferred with in government on behalf of the citizens of Uganda. The National Oil and Gas Policy is the principal policy that guides the administration of Uganda's oil and gas within the constitutional setting (NOGP). Given the overriding purpose of utilizing the resource to alleviate poverty and provide long-term value to Citizens, NOGP acknowledges that the establishment of structures, including legislation and personnel, essential for efficient administration and control of the sub-sector, should be a central objective. The petroleum fund for oil and gas production was established under the oil and gas Revenue Management Policy of 2012 and the Public Management Act of 2015.

Oil and gas production has a number of non-legal considerations. These include problems that come with managing large amounts of money from mineral wealth. These issues are mostly macroeconomic, fiscal, and governance-related. Countries that have utilized natural resource income to develop their communities have followed best business practices in oil and gas revenue administration all across the world. Six elements of gas and oil production have been explored under the subjects of management, corruption control, accountability, transparency, revenue collection, and oil and gas taxes. When dealing with these issues, Uganda must adhere to some essential standards, such as the Extractive Industry Transparency Initiative (EITI), an international benchmark that promotes transparency of earnings from mineral wealth. Despite anti-corruption laws in place, Uganda continues to confront the difficulties of corruption, that may be described as "the misuse of entrusted authority for personal benefits" according to Transparency International. Natural resource wealth is easily susceptible to rent-seeking and corruption due to

high level secrecy within the industry and high dependency on natural resource wealth as government revenue for most resource-rich nations. This occurs mostly because of information asymmetry that exists between the people and the few individuals saddled with the responsibility to manage natural resource wealth. As a result, resource transparency increases the access to information to stakeholders, enabling them to seek accountability, equitable distribution, and ethical use of resource money.

## **5.0 CHAPTER FIVE: Introduction to Comparative Analysis of Legal and Regulatory Framework for Oil and Gas Exploration and Production in Uganda: Lessons Learned and Future Perspectives:**

Exploring the intricacies of global oil and gas exploration unveils the critical importance of robust legal and regulatory frameworks. This introduction sets the stage for a comprehensive examination, offering tailored recommendations to strengthen and advance Uganda's existing legal and regulatory structures. The focus revolves around a comparative analysis, delving into the lessons learned from the risk management practices employed by International Oil Companies (IOCs) both in Uganda and across diverse jurisdictions.

### **Placing Uganda in a Global Context:**

Recognizing the international scale of the oil and gas industry, this analysis acknowledges that effective risk management transcends national boundaries. By embarking on a comparative journey, we aim to unravel how IOCs navigate risk not only in Uganda but also in varied global settings. This contextualization positions Uganda within the broader international landscape, drawing insights from global best practices to shape its regulatory evolution.

### **Importance of Comparative Analysis:**

At the heart of this exploration lies the understanding that risk management strategies are influenced by jurisdiction-specific dynamics. The incorporation of a comparative analysis seeks to uncover patterns, variations, and innovative approaches adopted by IOCs in diverse regulatory environments. The ultimate objective is to distill valuable lessons that can enrich Uganda's legal and regulatory framework, fostering resilience and adaptability.

### **Holistic Focus on Legal and Regulatory Dimensions:**

The recommendations presented encompass multiple facets of legal and regulatory frameworks, with a particular emphasis on risk management. This inclusive approach spans environmental health and safety compliance, corporate social responsibility, and transparency measures. Through a comparative lens, these proposed

enhancements align not only with Uganda's distinctive context but also draw inspiration from successful global practices.

#### Revealing Global Risk Management Strategies:

Navigating through the comparative analysis reveals a tapestry of risk management practices employed by IOCs in both Uganda and other jurisdictions. Beyond merely examining challenges, this exploration seeks to spotlight opportunities, innovative solutions, and the potential for cross-cultural exchange of ideas. The goal is to elevate Uganda's regulatory framework to international standards.

#### Forging a Unified Vision for Uganda:

The culmination of this comparative analysis aspires to contribute to the creation of a unified vision for Uganda's oil and gas sector. This vision not only addresses domestic imperatives but seamlessly aligns with global expectations. By leveraging insights from diverse jurisdictions, Uganda has a unique opportunity to craft regulations that harmonize economic development with the preservation of environmental integrity and societal well-being.

In conclusion Embarking on this comparative analysis journey within the broader context of enhancing legal and regulatory frameworks, the objective is clear—to weave a narrative of resilience, adaptability, and foresight. Embracing global perspectives on risk management positions Uganda to responsibly harness its oil and gas potential, emerging as a beacon of best practices in a sector that transcends geographical boundaries.

### **5.1 Introduction to the Landscape of Global Oil Companies: A Comparative Overview of Oil Majors and Independents in the Context of Legal and Regulatory Frameworks:**

Renowned globally, big oil multinationals such as Chevron, Total, BP, Shell, and ExxonMobil are synonymous with the oil industry, not only involved in oil production but also in refining and retailing petroleum across the world. While these giants dominate the sector, akin to a Premier League in the industry, there are also numerous smaller companies contributing directly to exploration, production, and

various specialized services. This chapter examines the intricacies of the global oil landscape, distinguishing between the high-profile "oil majors" and the smaller, yet significant, "Independents," against the backdrop of legal and regulatory frameworks.

#### The Premier League of Oil Majors:

At the zenith of the oil industry's Premier League are globally recognized giants, extending their operations across upstream, midstream, and downstream activities—from exploration to retailing. Names like Brazil's Petrobras, China's Petrochina, CNOOC, and Russia's Lukoil and Gazprom, although less familiar on a global scale, are gaining prominence beyond their home countries. This analysis explores the evolution of these major players, often referred to as "oil majors," who play a comprehensive role in the oil business.

#### The Less Famous Yet Significant Players:

Beyond the limelight, there exist sizeable players like Italy's ENI and Spain's Repsol, contributing significantly to the global oil landscape. These companies, though less famous, hold strategic importance in the industry's dynamics. The chapter delves into their operations, emphasizing their impact on the overall global oil framework.

#### Independents and Wildcatters:

Situated below the oil majors are hundreds of smaller yet considerable players, mainly focusing on exploration and processing. Tullow Oil PLC and Neptune Oil (owned by Tower Resources) are examples of such entities. Commonly referred to as "Independents," these players navigate the industry with a distinct approach, taking on both financial risks and opportunities. The chapter explores the role of these Independents, shedding light on their contribution to the oil sector.

#### Financial Dynamics and Risk Mitigation:

A critical aspect of this exploration is the financial landscape of these companies. While successful ventures yield substantial profits, unsuccessful endeavors, especially in high-risk areas like Uganda, can leave smaller players with significant

debts. The chapter examines the financial dynamics, risk mitigation strategies, and the role of "wildcatters" who, through venture capital, embark on prospecting in challenging regions.

In navigating this comparative overview of oil majors and Independents, the subsequent sections will explore how these players interact within the legal and regulatory frameworks, drawing attention to the distinctive challenges and opportunities they face in different jurisdictions, with a focus on the lessons learned and future perspectives for the industry.

## **5.2 International Oil Companies**

### **5.2.1 The China National Offshore Oil Corporation**

(CNOOC) was established by China's State Council (cabinet) in 1982, to serve as the Chinese partner of international oil companies exploring and extracting oil and gas in Chinese waters. The corporation and its numerous subsidiaries have grown steadily and strongly, to become one of the world's largest "integrated" oil companies, working in all aspects of the industry, from upstream exploration, to refining, processing, storage and retailing. In 1994, the CNOOC made its first venture overseas, joining the U.S. Company, ARCO, in a project in Indonesian waters. In 2002, it expanded its Indonesian operations by buying the interests of the Spanish company, Repsol.<sup>146</sup>

The same year, CNOOC bought into upstream production off the coast of Australia. In 2005 it began to operate in Vietnam and Burma. The following year, it moved beyond Asia, starting operations in offshore Nigeria. It has since also begun production in Iraq (2010) and the U.S.A. CNOOC is a "state-owned company" in that the Chinese state owns a controlling stake in it. However, in 2001 it was listed on the New York and Hong Kong stock exchanges, and shares in the company are owned by private and institutional investors across the world. In 2010, CNOOC reported revenues of 354.8 billion Chinese yuan (US\$ 56 billion) and profits of 97.7 billion

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<sup>146</sup>Kirk, H ; World Resource Institute: A case study of China's Investment in Uganda .pg 23

yuan. (US\$ 15.4 billion) According to a case study of china's investment in Uganda's oil and gas sector environmental and community risks can harm a business.

CNOOC International is one of the largest oil and gas companies in Uganda's energy sector and owns one-third interests in each of Exploration Areas (EA) EA1/1A, EA2 and Kingfisher. Our partners are Total E&P Uganda (33.3%) and Tullow Oil (33.3%). CNOOC International operates the Kingfisher production license. These blocks, located in the Lake Albert Rift Basin, are in one of the most promising basins for oil and gas resources in Africa. In 2016, development and production licenses for eight oil fields in the EA 1 and EA 2 blocks were issued by the government. In 2017, the front-end engineering design (FEED) of the blocks was initiated and the intergovernmental agreement for an oil pipeline was signed and the FEED was completed.

CNOOC International also completed the FEED for ground construction and drilling on block EA 3A in 2017. It is argued that the risks involved by China's investment in Uganda include; Reputational risks for example international and local media criticism, Legal risks for example company enters long, costly litigation. Construction and operational risks for example local conflict slows operation, Host government risks for example government withdraws permits and license. Political risks JSO for example National opposition to the company prevents future business opportunities and Financial Risks for example companies loose access to finance.

Accordingly there are some tools to improve risk management Some important tools include:

- Environmental and social impact assessments- to identify risks of the project
- Strategic environmental assessments- to understand the impacts on a broader ecosystem (beyond artificial boundaries of specific oil blocks)
- Community engagement- to build mutual trust with communities living near the project
- Grievance mechanisms- to provide communities with a way to raise concerns directly with the company
- Disclosure of information- to avoid rumors and promote understanding.

### 5.2.2 Total

It was incorporated in 1924, when it was known as the French Petroleum Company. Within two decades it had become an "integrated" company, involved in exploration, production, refining and marketing of oil and gas products. After World War II it began extensive operations in French colonies in Africa-notably Algeria and the Gulf of Guinea-where it remains a major oil player. In 1999 Total took over Petrofina (originally, the Belgian Petroleum Company), which, earlier in the '90s, had briefly held an exploration license in Uganda. The following year Total also took over its rival French company, Elf Aquitaine. Today, Total has operations in more than 130 countries, and is one of the world's "super major" energy companies. It engages in all aspects of the petroleum industry, including petrochemicals and fertilizers for industrial and consumer markets.

It also has interests in the coal mining and power generation sectors, including renewable energies, notably solar-photovoltaic power. Total is an important player in East Africa's Great Lakes region. In addition to its recently acquired interests in Uganda, it has stakes in exploration and production in Kenya, Tanzania and the Democratic Republic of Congo. In 2010 the company reported revenues of 159 billion Euros (US\$ 209 billion) and profits of 10.6 billion Euros (US\$ 13.9 billion). Total is listed on the Paris and New York stock exchanges. By working closely to a broad variety of customers - producers and consumers of oil and gas, financial institutions involved in energy and oil financing as well as investment funds.<sup>147</sup>

Total Energies EP Uganda is working with CNOOC Uganda and Uganda National Oil Company (UNOC) through a Joint Venture Partnership in which the Companies hold 56.67%, 28.33% and 15% respectively in the upstream development of Uganda's Lake Albert oil resources. The upstream project comprises the Tilenga project operated by Total Energies EP Uganda, and the Kingfisher project operated by CNOOC Uganda. The Tilenga project is located in Buliisa and Nwoya districts and will produce 190,000 bopd (at peak). The project covers 6 fields with over 400 wells to be drilled

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<sup>147</sup><http://www.totsa.com/pub/risk/about.php?rub=3> accessed on June 30, 2023

on 31 well pads in line with the company's commitment to limit social, environment and biodiversity impacts.

Other main project installations include a Central Processing Facility, flow lines, lake water abstraction facility, a feeder line and construction camps and support bases. Some of the Lake Albert resources will be transported through a 1,443km East African Crude Oil Pipeline (EACOP) from Kabaale, Hoima in Uganda to the Chongoleani Peninsula near Tanga port in Tanzania for export to the international market. The pipeline has the capacity of transporting 216,000bopd and is operated by EACOP Ltd whose shareholders are Total Energies East Africa Midstream (62%), UNOC (15%), CNOOC (8%) and the Tanzania Petroleum Development Corporation (TPDC) (15%). Total Energies EP Uganda is committed to undertaking the Tilenga project in accordance with national regulations, the UN Guiding Principles on Business and Human Rights and the IFC Performance Standards. On 28th May 2021, Total, the parent company of Total Energies EP Uganda changed its name to Total Energies as part of its strategy and journey to becoming a broad energy company that is committed to producing and providing more affordable, reliable, and clean customer solutions.

It has indeed been successful in setting up a variety of risk management systems in client-specific contexts that are currently used by Risk Managers for day-to-day risk follow-up and operational hedging decisions. A recent example of risks faced by such companies working in the oil and gas sector especially offshore drilling operations is that of Total's Elgin platform off the coast of Aberdeen, which was reported to be leaking methane gas and oil. Total, the operator of the Elgin platform 140 miles east of Aberdeen, confirmed that in addition to a growing methane gas "cloud", a 4.8sq km sheen of oil "condensates" had covered the surface of the water near the platform. But the company played down risks of major marine or air pollution. Marine pollution specialist and honorary research fellow at the University of Liverpool, Martin Preston said that from an environmental standpoint, both greenhouse gas emissions and local fish deaths were a concern. "The methane release represents a very significant explosion hazard, and of course methane is a potent greenhouse gas. The gas in this field is 'sour gas' - i.e. it contains hydrogen

sulphide which is very poisonous to humans and aquatic life- so localized risks to marine life are likely. The hydrogen sulphide content of the current release is unclear at present. Localized fish kills cannot be ruled out. "In risk management by Total, the oil is either coming from the drilling mud or from the well head because there is always some oil in natural gas reservoirs. This is a spill that can be managed by mechanical methods as soon as the danger of explosion due to the emitted methane gas is dealt with.<sup>148</sup>The twin Elgin and Franklin gas fields, discovered in 1991, are in a geologically complex area of the North Sea around 5km deep below the sea bed. Average daily production is around 230,000 barrels of oil equivalent. Two connected platforms are used by Total, one of which is reserved for drilling, the other for separating the oils and gases which are sent directly through a BP-operated pipeline to Kinneil in Scotland and Bacton in Norfolk.

With effective risk management viewed as an intrinsic part of good corporate governance, companies have to demonstrate that they are taking a sophisticated attitude to risk and fully understand their insurance needs. At the same time, developments in the energy insurance industry mean oil and gas companies are facing increasing risks. The energy insurance market has seen a substantial increase in asset values over this period. Meanwhile, many operate in very testing environments.

### **5.3 A comparative analysis of legal framework in different Countries**

Project risk management in the oil and gas industry involves the identification, assessment, and prioritization of risks through coordination and economic application of resources in minimizing, monitoring and controlling the probability consequences of unfortunate events that hopefully, will maximize the success of a project in addition to environmental sustainability.<sup>149</sup> The following countries have done the following practices to this effect. It should be noted that the oil and gas operations and the risk management strategies considered below are countries with offshore operations unlike Uganda which has just realized the viability of the

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<sup>148</sup>Report by John Vidal environmental guardian.co.uk Wednesday 28<sup>th</sup> march 2014 14.01 BST 70

<sup>149</sup>Isaac Christopher Lubogo, the Law of Oil And Gas in Uganda, First Edition 2021, Jescho Publishing House <https://www.lubogo.org> accessed on June 30, 2023

resource which is onshore (located on the shores of Lake Albert) and is yet to start production but operations are ongoing.

#### **5.4 A Comparative Analysis of the Regulatory Frame Work of Uganda and Ghana**

Uganda just like Ghana has oil deposits that are being developed and as such, Ghana adopted the Petroleum (exploration, Development and production) (health, safety and environment Regulations 2017 which legal instrument provides for safety and regulation 10(1) requires the operator to prepare and submit a safety case to the commission before the commencement of an operation of a petroleum facility which shall ensure the management system and enhance health and safety performance in compliance with the relevant enactments. Under regulation 51(1), a contractor, subcontractor, licensee, the corporation or any other person engaged in petroleum activity is required to ensure that a passive fire protection is designed to ensure that in event of a fire load, it provides efficient fire resistance to the relevant structures and equipment with regards to the load capacity, integrity and insulation properties.<sup>150</sup>

A fire load according to the law means the maximum degree a fire system is designed to handle or accommodate; and passive fire protection means a group of systems that compartmentalizes structures and equipment through the use of fire resistant related walls or floors. The regulations also provide for fire divisions where the operator/contactor is required to ensure that the main area on a petroleum facility is separated by a fire wall that has the capacity to withstand the designed fire load and explosion load, and at least satisfies the fire rating standards if exposed to hydrocarbon fires.<sup>151</sup> The above regulations are similar with Uganda's Petroleum (exploration, Development and production) (health, safety and environment Regulations 2016 and both emphasize fire and health safety. However, in both countries educational campaigns and sensitization on safety are recommended for workers to understand the relevance of risk management in a bid to reduce the bad

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<sup>150</sup>Regulation 51(1)

<sup>151</sup>Regulation 52(1a)

attitude of workers towards risk management<sup>152</sup> and these have been proven to be highly effective in ensuring environmental health and safety during and after the operations in Ghana's oil refinery project. The governments have very good fire safety laws but they have a duty to make sure that such laws are brought to the attention of the workers and fully enforced which will help to achieve maximum efficiency in ensuring fire safety.

In light of the above, it can be concluded that there are accidents like fire and explosions which are the major accidents in the petroleum industry that come as a result of combustible gasses that come as a result of the reaction of air and mostly during the process of drilling. These are usually caused by negligent or improperly trained workers are the cause of fire accidents in the petroleum industry and combustible gasses that come as a result of the reaction of air. There are also several risk management strategies that have been put in place to prevent and control fire hazards for example, removal of all combustibles from the area before conducting hot work, training workers on how they can prevent and control fire outbreaks and employing people with the right expertise in the oil and gas industry and putting in place laws like the Occupational Safety and Health Act 2006. However, the implementation of these has been a challenge due to lack of enough resources both skilled workers and financial plus the weak implementation of the law which need to be critically analyzed by the stakeholders.

Furthermore, from the study findings, it can be concluded that there are several risk management strategies that have been put in place to prevent and control fire hazards for example, removal of all combustibles from the area before conducting hot work, training workers on how they can prevent and control fire outbreaks and employing people with the right expertise in the oil and gas industry, putting in place fire controlling tools like fire extinguishers in all corners of the companies, putting in place fire watches who can always sound an alarm when there are fire outbreaks, improvising personal protective equipment's for all their employees so that they do

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<sup>152</sup>Osabutey, D, Obro- Adibo, G, Agbodohu, and Kumi, P. Analysis of Risk Management Practices in the Oil and Gas Industry in Ghana. *European Journal of Business and Management* [www.iiste.org](http://www.iiste.org) ISSN 2222-1905 (Paper) ISSN 2222-2839 (Online) Vol.5, No.29, 2013

not get injuries in case fire accidents happen and offering effective monitoring by hiring people to always keep a watch and 3sometimes even outsource companies that are specialized in prevention and control of fire outbreaks in the petroleum industry among others.

There is a legal framework that has been put in place by the government of Uganda for example the Occupational Health Act, No. 9, 2006 which requires registration of work places, inspection and monitoring of OSH activities at workplaces, education, training and creating awareness through dissemination of information on occupational safety and health among workers, employers and the general public all intended to reduce cases like those of fire outbreaks/ accidents in the petroleum industry. However, it was noted that these laws have been effective to a low extent because most of the petroleum companies do not follow these laws ignorant about the laws by the workers and low implementation of the laws by the government.

#### **5.4.1 Canada**

There are also several safety concerns discovered by *Verma, Johnson and Maclean* who undertook research on the benzene and total hydrogen exposures in the upstream petroleum oil and gas industry.<sup>153</sup> The study was based on the Canadian oil and gas industry and total of 1547 air samples taken by oil companies in various sectors were evaluated and the outcome of the research can be generalized for the whole oil and gas industry around the world. For instance, it was discovered that the percentage of samples are over the occupational exposure limit (OEL) of 3.2 mg/m<sup>3</sup> or one part per million for benzene for personal long-term samples range from 0 to 0.7% in the different sector, and area long-term samples range from 0 to 13%.<sup>195</sup> The findings assist to establish a precaution to the global oil and gas industry that certain operations such as glycol dehydrators should be carefully monitored and there should also be based monitoring program along with the traditional long and short-term personal exposure sampling.

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<sup>153</sup>Verma DK et al, Benzene and Total Hydrocarbon Exposures in the Upstream Petroleum Oil and Gas Industry. AIHAJ.2000 Mar-Aril;61(2):255-63

### 5.4.2 United States of America

There have also been various ongoing projects and organization trying to reduce the rate of emission. For instance, in the United States of America, the Obama administration had engaged in different steps to reduce the harmful emissions into the environment such as: the international climate negotiations, the clean energy ministerial, climate and clean air coalition, Montreal protocol, and APEC summit.<sup>154</sup>The governments have done things like: legislative restrictions on coastal oil drilling, which have kept valuable oil reserves undeveloped; creation of a far-reaching air regulatory system prior to the Federal Clean Air Act and establishment of statewide appliance and building efficiency standards.

### 5.4.3 Nigeria

In Nigeria, the Federal Ministry of environment initiated a program called the “clean energy initiative” as part of African strategy on voluntary emission reduction, and program implementing Clean Development Mechanism (CDM).<sup>155</sup> Considering a case study of the Tema Oil Refinery (TOR), recommendations were made that Casual workers and contract workers engaged by TOR had to go through thorough training in risk management prior to their engagement as it became necessary because the management saw no need to spend scarce resources on casual workers who were always blamed for failing to observe basic safety rules in the refinery. Educational campaigns on safety were also recommended for workers to understand the relevance of risk management in a bid to reduce the bad attitude of workers towards risk management and these proved to be highly effective in ensuring environmental health and safety during and after the operations in the country’s oil refinery project.

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<sup>154</sup>F. AdejohOgwu, S. Badamasuiy, and C. Joseph. Environmental Risk Assessment of Petroleum Industry in Nigeria International Journal of Scientific Research and Innovative Technology ISSN: 2313-3759 Vol. 2 No. 4; April 2015.

<sup>155</sup>F. Adejoh Ogwu, S. Badamasuiy, and C. Joseph. Environmental Risk Assessment of Petroleum Industry in Nigeria International Journal of Scientific Research and Innovative Technology ISSN: 2313-3759 Vol. 2 No. 4; April 2015

## **6.0 CHAPTER SIX: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS**

### **6.1 Summary of findings**

This study is grounded in the exploration of the following research questions, with a central focus on unraveling the intricacies of "Legal and Regulatory Framework for Oil and Gas Exploration and Production in Uganda: Lessons Learned and Future Perspectives."

Research Questions:

#### **1. Examination of Legal Instruments:**

- What are the significant international, regional, and national legal instruments shaping the legal and regulatory framework for oil and gas exploration and production in Uganda?

#### **2. Compliance with Legal and Regulatory Standards:**

- To what extent have oil companies, regulatory institutions, and the Government adhered to the legal and regulatory standards governing oil and gas exploration and production in Uganda?

#### **3. Comparative Analysis of Legal Frameworks:**

- How does Uganda's legal and regulatory framework for oil and gas exploration and production compare with those of other jurisdictions and international best practices?

#### **4. Recommendations for Framework Enhancement:**

- What recommendations and mechanisms can be proposed to enhance and strengthen the legal and regulatory framework for oil and gas exploration and production in Uganda, considering lessons learned and future perspectives?

By addressing these specific research questions, this study endeavors to provide a comprehensive understanding of the legal and regulatory landscape surrounding oil and gas exploration and production in Uganda. It aims to assess compliance levels, conduct a comparative analysis with global standards, and offer practical recommendations for fortifying and advancing the legal and regulatory framework in this critical sector.

## **6.2 The findings were as follows:**

### Summary of Findings

The present study sought to comprehensively investigate the legal and regulatory framework governing oil and gas exploration and production in Uganda, with a focus on extracting valuable lessons and identifying future perspectives. Through an exhaustive examination of existing laws, regulations, and industry practices, several key findings emerged, shedding light on the strengths, weaknesses, and opportunities inherent in Uganda's current approach to managing its burgeoning oil and gas sector.

#### 1. Regulatory Landscape and Institutional Framework

The research underscores the complexity of the regulatory landscape in Uganda, encompassing a multitude of statutes, policies, and institutional bodies. While the existence of a comprehensive legal framework is acknowledged, there are notable challenges in terms of overlapping jurisdictions and regulatory fragmentation. The findings emphasize the need for streamlining these regulatory processes to enhance efficiency and reduce bureaucratic hurdles.

#### 2. Lessons Learned from International Jurisdictions

Drawing insights from international jurisdictions with well-established oil and gas industries, the thesis highlights the importance of incorporating best practices into Uganda's regulatory framework. Key lessons include the establishment of an independent regulatory body, proactive engagement with stakeholders, and the implementation of robust environmental and social impact assessment measures. The research underscores the significance of a flexible legal framework that can adapt to evolving industry standards.

#### 3. Environmental and Social Considerations

An in-depth analysis of the environmental and social aspects of oil and gas exploration revealed both strengths and areas for improvement. The study underscores the necessity of stringent environmental regulations and proactive community engagement. Lessons from past projects globally underscore the critical

role of incorporating sustainable practices to mitigate adverse impacts on ecosystems and local communities.

#### 4. Contractual Agreements and Revenue Management

The examination of contractual agreements between the government and industry players revealed potential vulnerabilities and opportunities for optimization. The findings emphasize the importance of transparent and equitable revenue-sharing mechanisms, as well as the need for comprehensive fiscal policies to ensure the fair distribution of oil and gas revenues for the benefit of the nation.

#### 5. Future Perspectives and Recommendations

In projecting future perspectives, the study advocates for a dynamic regulatory framework that anticipates industry changes and technological advancements. Recommendations include legislative amendments to address identified gaps, capacity-building initiatives for regulatory bodies, and continuous stakeholder engagement to foster a collaborative approach. The research envisions a resilient legal framework that can adapt to evolving global energy dynamics while safeguarding Uganda's national interests.

In conclusion, the findings of this thesis contribute to the ongoing discourse on the legal and regulatory framework for oil and gas exploration and production in Uganda. By synthesizing lessons learned from international experiences and identifying areas for improvement, the study provides a foundation for informed policy decisions and strategic planning to ensure the sustainable development of Uganda's oil and gas sector.

This summary aims to encapsulate the key findings of the thesis in a professional and comprehensive manner.

In the imminent prospect of commencing commercial oil and gas production in Uganda, projected to commence by 2020, the discovery of substantial oil deposits, estimated at 3.5 billion barrels, has propelled the nation into the midstream stage of the oil industry. This developmental stage encompasses crucial aspects such as

production, storage, distribution, and marketing. The ongoing focus revolves around the construction of essential structures and facilities, primarily a refinery, essential for facilitating commercial production.

Within the sphere of this research, it has become evident that the oil and gas exploration and production processes in Uganda entail a spectrum of activities, each carrying implications for compliance with environmental health and safety laws. These activities span exploration surveying, exploration drilling, appraisal, development and production, transportation, storage, site decommissioning, and rehabilitation. Failing to manage these processes within a framework that upholds environmental law compliance could expose Uganda to the risks of an environmental curse.

Specifically, these activities pose risks such as occupational injuries and diseases, health and safety hazards arising from the absence of adequate protective gear for workers in the oil fields, atmospheric and air pollution, soil and terrestrial pollution, degradation of the aquatic environment, human, socio-economic, and cultural impacts, as well as ecological interferences and emergencies like oil spills.

The research also established that Uganda possesses a robust policy and legislative framework for environmental health and safety law compliance. Enforcing this framework could lead to effective risk management in an environmentally healthy and safe oil and gas sector. The existing framework comprises a matrix of international and regional binding and non-binding instruments that Uganda has ratified, alongside national enactments. While some laws and regulations, especially those pertaining to environmental health and safety standards, may require refinement for greater efficacy, the current legal regime is deemed sufficient as a starting point.

Moreover, a dedicated court has been established to address environmental concerns, ensuring their expeditious resolution. In light of these findings, recommendations will be presented to advocate for structural, legal, and

institutional changes aimed at ensuring effective compliance with environmental health and safety standards, thereby fostering a secure and environmentally sound oil and gas sector in Uganda.

Currently, the performance of stakeholders in terms of compliance with environmental health and safety risk management laws falls short of desirable standards. Despite notable initiatives such as the formulation of the Environmental Sensitivity Atlas for the Albertine Graben, the Albertine Graben Monitoring Plan, and the conduct of Environmental Impact Assessments (EIA) and Strategic Environmental Assessments (SEA), significant shortcomings persist. Efforts to provide basic necessities for workers in the oil and gas industry, particularly those within oil rigs, have been made; however, substantial gaps remain.

The government's sluggishness in enacting new laws and regulations or updating existing ones is identified as a key weakness. Implementation challenges with EIAs and enforcement of occupational safety and health standards are evident, with reports from operators facing substantial criticism. The proposed multi-sectorial monitoring system faces operational challenges due to a lack of clarity regarding duties and responsibilities, particularly between central government sectors and local governments. Additionally, companies have not yet published their waste management plans, posing a potential future threat to environmental health and safety in Uganda's oil and gas industry.

There is a pressing need for legislation providing liability for damage arising from environmental health and safety noncompliance. Companies must be held accountable for their actions. Current upstream and midstream laws (Section 130 and Section 58 (1)) lack provisions for compensating victims of pollution or losses resulting from poor management of petroleum operations, particularly the unforeseeable long-term damages on the environment and human health. While Section 131 appears to legalize pollution if caused with a license, the draft National Environment Management Bill, currently under review, presents clearer provisions. Clause 100 of the draft bill asserts that anyone, including legal entities, causing

environmental pollution is strictly liable for the resulting damage to human health or the environment, regardless of fault.

Harmonizing the upstream legal provisions on pollution control with the primary legislation on environmental management is imperative for effective enforcement of existing laws on risk management. This harmonization would ensure that the legal framework supports the principles of environmental protection and risk mitigation in Uganda's oil and gas sector.

In the context of the overarching theme, "Legal and Regulatory Framework for Oil and Gas Exploration and Production in Uganda: Lessons Learned and Future Perspectives," the current evaluation of stakeholder performance reveals critical shortcomings in environmental health and safety risk management law compliance.

### **6.3 Observations:**

#### **1. Initiatives and Progress:**

Despite some commendable efforts, such as the development of the Environmental Sensitivity Atlas for the Albertine Graben, the Albertine Graben Monitoring Plan, and the execution of Environmental Impact Assessments (EIA) and Strategic Environmental Assessments (SEA), significant gaps persist in ensuring a safe and healthy working environment, especially for those within oil rigs.

#### **2. Governmental Weaknesses:**

The government's sluggishness in enacting new laws and updating existing regulations poses a notable obstacle to effective risk management within the oil and gas sector. This deficiency hampers the sector's ability to adapt swiftly to emerging challenges and standards.

#### **3. Implementation Challenges:**

Implementation hurdles are evident in the enforcement of EIAs and occupational safety and health standards. Reports prepared by operators face substantial criticism, reflecting a gap between regulatory intent and practical execution.

#### **4. Monitoring System Challenges:**

The proposed multi-sectorial monitoring system encounters operational challenges, mainly due to a lack of clarity in defining duties and responsibilities, particularly between central government sectors and local governments. This ambiguity could impede the effective oversight of environmental health and safety compliance.

#### 5. Waste Management Plans:

Notably, companies have yet to publish their waste management plans, indicating a potential future threat to environmental health and safety standards within Uganda's oil and gas industry. This absence of comprehensive waste management strategies is an area requiring immediate attention.

#### 6. Liability Framework Deficiencies:

The absence of legislation providing liability for damage resulting from environmental health and safety noncompliance is a notable gap. The current legal framework lacks provisions for compensating victims of pollution and losses resulting from inadequate management of petroleum operations.

#### 7. Harmonization of Legal Provisions:

While current laws on pollution control lack clarity and alignment with environmental management principles, the draft National Environment Management Bill presents a more comprehensive approach, emphasizing strict liability for entities causing environmental pollution, irrespective of fault. Harmonizing these provisions is essential for the effective enforcement of risk management laws.

#### Recommendations:

Moving forward, recommendations will be articulated to address these identified shortcomings, ensuring that Uganda's legal and regulatory framework for oil and gas exploration and production aligns more effectively with environmental health and safety standards, thus facilitating a secure and sustainable future for the industry.

#### Conclusion

In the context of the designated topic, "Legal and Regulatory Framework for Oil and Gas Exploration and Production in Uganda: Lessons Learned and Future Perspectives," the existing oil activities in Uganda represent a significant stride toward development. Recognizing oil as a valuable resource capable of creating

enduring value for the Ugandan people, it is imperative to acknowledge that improper management of this resource can potentially transform it from a blessing to a curse.

#### **6.4 Research Findings:**

##### **1. Environmental Health and Safety Compliance Deficiency:**

The research concludes that the oil sector in Uganda currently lacks environmental health and safety risk management law compliance. This deficiency is attributed to the failure to meet established standards.

##### **2. Critique of Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA):**

The conducted EIA has faced criticism for its inadequate understanding of the problem and insufficient public participation. Furthermore, it lacks area-specific EIAs for critical zones such as Lake Albert. The SEA has similarly been faulted for not covering the entire Albertine Graben.

##### **3. Audit Plans and Risk Management Standards:**

Audit plans for the oil sector are notably absent, and the existing risk management standards within the law are considered outdated, necessitating a comprehensive review.

##### **4. Weak Implementation of Monitoring Plans:**

Although a monitoring plan is in place, its implementation is weak. Suggestions include the need for a law to enforce the National Oil and Gas Policy of 2008. The concentration of monitoring responsibilities in the central government, particularly through NEMA and other agencies, neglects the involvement of local governments, notably District Environmental Health and Safety Officers who operate at the grassroots level. These agencies are reported to be both understaffed and inadequately funded.

##### **5. General Weakness in Enacted Laws:**

The laws enacted for oil and gas activities exhibit general weaknesses, further undermining the effectiveness of the regulatory framework.

##### **6. Non-Compliance by Companies:**

Companies operating in Uganda's oil and gas sector have largely failed to comply with international health and safety risk standards. This failure often necessitates substantial investments by local service providers to upgrade their systems to meet international requirements.

#### 7. Pollution Complaints and Regional Impact:

Incidents of pollution, particularly affecting land and water, have been reported, with crude oil escaping containment into neighboring lands, rendering them unsuitable for agriculture. Such complaints are particularly prominent in the Bunyoro Region, where active exploration and production activities are ongoing.

#### 8. Community Impact and Stakeholder Involvement:

The inadequate involvement of local communities and the weak public participation observed in the environmental assessments highlight the need for a more inclusive and participatory approach. Future perspectives should emphasize mechanisms that ensure local communities are active stakeholders in decision-making processes.

#### 9. Revisiting Monitoring and Enforcement Mechanisms:

The identified weaknesses in the monitoring and enforcement mechanisms, along with the concentration of authority at the central government level, underscore the necessity for revisiting and strengthening the regulatory structure. Efforts should be made to empower local agencies and officers actively engaged at the community level to ensure effective oversight.

#### 10. Legal Reforms and Strengthening Compliance:

Given the outdated risk management standards and deficiencies in existing laws, future perspectives must prioritize legal reforms. Updating and fortifying the legal framework will enhance compliance, providing a solid foundation for sustainable oil and gas exploration and production.

#### 11. Capacity Building and Funding:

The understaffing and poor funding of monitoring agencies call for strategic capacity-building initiatives and increased financial support. Adequate resources are essential to enable these agencies, especially at the local level, to fulfill their crucial roles in environmental health and safety oversight.

#### 12. Industry Responsibility and Best Practices:

As companies operating in the oil and gas sector play a pivotal role, future perspectives should encourage a paradigm shift towards responsible and sustainable practices. Collaborative efforts between the government, industry stakeholders, and local communities can establish a framework for responsible resource extraction, minimizing environmental impact and promoting community well-being.

#### 13. Investment in Safety Measures:

The failure of companies to meet international health and safety standards necessitates increased investments in safety measures. Health and safety courses, emergency first aid, fire training, and other relevant programs should be mandated to ensure the well-being of workers and minimize the risk of accidents.

#### 14. Public Awareness and Advocacy:

Strengthening public awareness and advocacy on environmental health and safety issues is crucial. Informed and engaged communities can act as vigilant partners, holding both companies and regulatory bodies accountable for adherence to standards and regulations.

### **Conclusion:**

In conclusion, the identified challenges in Uganda's oil and gas sector present both lessons learned and opportunities for future perspectives. By addressing these issues comprehensively, Uganda can transform its oil and gas industry into a sustainable and responsible driver of economic development, avoiding the pitfalls of environmental degradation and social discord often associated with resource extraction. The recommendations arising from this analysis can serve as a roadmap for enhancing the legal and regulatory framework, ensuring that lessons learned pave the way for a more resilient and ethically managed oil and gas sector in Uganda. In the context of the designated topic, "Legal and Regulatory Framework for Oil and Gas Exploration and Production in Uganda: Lessons Learned and Future Perspectives," the following analysis underscores the imperative for a comprehensive reassessment and fortification of Uganda's legal and regulatory framework in the oil and gas sector. The lessons drawn from identified challenges serve as a foundation for shaping future perspectives, guiding the formulation of

effective policies and regulations conducive to sustainable and responsible development within the sector.

## **6.6 Key Challenges and Future Considerations:**

### **1. Occupational Safety and Health Concerns:**

The Occupational Safety and Health Act of 2006, designed to protect workers from hazardous conditions, faces significant challenges in enforcement within the oil and gas industry. Weak implementation, evidenced by the disregard for protective wear provisions, has led to an increase in occupational injuries and hazards.

### **2. Institutional Framework and Local Capacity Building:**

The institutional framework overseeing safety standards lacks efficacy, contributing to weak enforcement. Efforts are underway to enhance local training capacity, aiming to employ more Ugandan trainers and strengthen the practical compliance of safety and health standards within the industry.

### **3. Inadequate Fines and Pollution Management:**

The fines prescribed for environmental violations are deemed insufficient, allowing recognizable pollution in the Albertine Graben. A lack of clear waste management plans from oil and gas companies exacerbates environmental health and safety concerns.

### **4. Transparency and Accountability:**

Transparency and accountability standards outlined in the National Oil and Gas Policy (NOGP) have not been fully realized. Publicly disclosing Production Sharing Agreements (PSAs) and ensuring accountability for signature bonuses remain unfulfilled commitments.

### **5. Legal Lacunas and International Standards:**

Legal frameworks exhibit gaps, lacking provisions for liability during upstream and midstream stages. Uganda's non-membership in the Extractive Industries Transparency Initiative (EITI) raises concerns, with issues such as accountability for signature bonuses and communication gaps remaining unaddressed.

### **6. Public Awareness and Information Deficiency:**

Communication gaps persist, leaving the public uninformed about crucial aspects, such as the timing of oil production, refinery and pipeline plans, beneficiaries of oil

revenues, and traditional authority roles. Lack of information contributes to public discontent and hinders informed decision-making.

#### 7. Ongoing Environmental and Safety Risks:

Despite ongoing exploration and production, environmental health and safety risks persist, including occupational injuries, diseases, pollution, and ecological threats. Effective implementation of Environmental Impact Assessment (EIA) principles remains a challenge.

#### 8. Collaborative Efforts and Integrated Approach:

Addressing these challenges necessitates commitment from licensed companies and a deep understanding by the Ugandan government of the potential impact on local communities. Collaborative efforts between industry and government should prioritize cost-effective and environmentally healthy and safe petroleum sector operations.

#### 9. Systematic Integration of Environmental Health and Safety:

Envisaging a risk management system that systematically integrates environmental health and safety considerations into business decisions is crucial. This approach emphasizes prevention techniques, waste reduction, and evaluating alternatives with a focus on minimizing environmental impact.

#### 10. The Need for Sound Management Systems:

Sound management systems, encompassing legal frameworks and effective regulations, are essential to navigate risks associated with oil exploration. This requires not only compliance with international standards but also a proactive approach to environmental protection and community well-being.

### **6.7 Conclusion and Forward Outlook:**

In conclusion, the outlined challenges in Uganda's oil and gas sector necessitate a concerted effort to strengthen the legal and regulatory framework. The identified lessons learned provide a roadmap for crafting policies and regulations that will foster responsible and sustainable development. As Uganda navigates its path in the oil industry, the commitment to sound management systems, robust legal frameworks, and adherence to international standards will be pivotal in shaping a future where economic development aligns with environmental health and safety.

## **6.8 Recommendations**

### **Introduction to Recommendations for Enhancing Legal and Regulatory Framework:**

In the dynamic landscape of oil and gas exploration and production, the effectiveness of legal and regulatory frameworks plays a pivotal role in shaping the trajectory of a nation's energy sector. As Uganda stands on the threshold of significant developments in its oil and gas industry, the need for a robust and adaptive regulatory framework becomes increasingly apparent. This introduction delves into a comprehensive set of recommendations aimed at fortifying and advancing the legal and regulatory structures governing oil and gas activities in Uganda. The discovery of substantial oil deposits in Uganda has ushered in a new era of possibilities and challenges. With the promise of economic growth and energy self-sufficiency, there arises a parallel imperative to safeguard the environment, ensure public health and safety, and foster responsible resource exploitation. The existing legal and regulatory frameworks form the cornerstone of this endeavor, providing the parameters within which oil and gas operations unfold.

### **Contextualising the Need:**

Uganda's oil and gas sector, poised for commercial production, demands a nuanced and adaptive legal landscape that not only addresses current challenges but anticipates and mitigates future risks. This necessitates a meticulous examination of existing frameworks, identification of gaps, and the formulation of recommendations that align with global best practices and lessons learned from comparable jurisdictions.

### **Key Focus Areas:**

The recommendations outlined herein encompass diverse facets of the legal and regulatory spectrum. From environmental health and safety compliance to corporate social responsibility, the emphasis is on creating a comprehensive framework that not only regulates but also fosters sustainable and responsible practices. Additionally, attention is given to collaborative mechanisms, international standards compliance, and the vital role of continuous monitoring and evaluation.

#### Rationale for Recommendations:

The urgency to enhance legal and regulatory frameworks is underlined by the potential consequences of inadequate oversight. Risks ranging from environmental degradation to occupational hazards underscore the imperative to fortify the legal structures that govern oil and gas activities. The proposed recommendations seek not only to address current challenges but to create a forward-looking framework that accommodates the evolving nature of the industry.

#### Roadmap for Sustainable Development:

At its core, these recommendations envision a roadmap for Uganda's oil and gas sector that aligns with principles of sustainability, transparency, and accountability. By enhancing legal and regulatory frameworks, Uganda has the opportunity to not only capitalize on its oil wealth but to do so in a manner that ensures lasting benefits for its citizens, protects the environment, and upholds international standards of best practice.

#### Conclusion:

As Uganda navigates the complex terrain of oil and gas exploration and production, the recommendations presented herein serve as a guiding compass. By reinforcing the legal and regulatory foundations, Uganda can position itself for responsible and sustainable development in the realm of energy resources, setting a precedent for nations seeking to balance economic prosperity with environmental stewardship and societal well-being.

### **6.9 Recommendations for Enhancing Legal and Regulatory Framework:**

#### a) Strengthening Legal and Institutional Frameworks:

- Enhance risk management compliance by adopting a proactive legal framework.
- Amend the Petroleum (Exploration, Development and Production) Act, 2013 to increase fines for non-compliance to act as a deterrent.
- Publicly disclose risk assessments of petroleum activities, ensuring transparency in potential impacts on trade, industry, and health and safety.

- Consider constitutional amendments to eliminate suspicions regarding benefits of petroleum, fostering public trust.

b) Joining Extractive Industries Transparency Initiative (EITI):

- Advocate for Uganda's participation in EITI to enhance transparency in oil and gas activities.

- Establish the Oil and Petroleum Uganda Association to oversee and regulate activities within Uganda.

- Implement an enforcement policy, appointing inspectors to ensure health and safety legislation compliance.

c) Human Rights-Centric Legal Framework:

- Develop a legal and policy framework ensuring the exploitation of natural resources respects human rights, especially workers' rights.

- Demand a review of Upstream and Midstream laws to make them human rights compliant during budget reviews.

- Mandate public disclosure of contracts and environmental impact assessments for accountability.

d) Safe and Healthy Working Conditions:

- Authorize and enforce standards developed under the Act to ensure safe and healthy working conditions.

- Support states in their efforts to guarantee safe working conditions.

- Invest in research, information, education, and training for occupational safety and health.

e) Waste Management Planning:

- Develop a waste management plan addressing solid and liquid waste streams.

- Incorporate recycling strategies during all project phases.

- Minimize solid and liquid waste generation through drilling and recovery systems.

f) Corporate Social Responsibility (CSR):

- Ensure oil and gas companies practice CSR, contributing to community well-being.

- Encourage activities like tree planting, provision of safe working gear, health clinics, and emergency plans.

- Promote biodiversity offsets through CSR to protect plant and animal life in communities.

g) Environmental Health and Safety Sound Technology:

- Utilize efficient and environmentally sound technology in oil and gas operations.
- Adopt technology that minimizes pollution, uses resources sustainably, and recycles waste.
- Implement processes and product technologies that align with environmental health and safety values.

h) Air Quality Monitoring Systems:

- Implement air quality monitoring systems to mitigate risks from oil and gas production.
- Address fugitive dust, air releases, and process emissions during siting and design phases.

i) Environmental Health and Safety Training and Awareness:

- Provide comprehensive training and awareness programs for potentially affected individuals.
- Train enforcement bodies to effectively implement environmental health and safety standards.
- Ensure employment opportunities for trained individuals in the oil and gas industry.

j) Identification of Potential Risks:

- Systematically identify environmental health and safety hazards arising from oil and gas activities.
- Conduct Health, Safety, and Environmental Impact Assessments (HSEIA) for existing, new, or altered projects.
- Take quick and effective measures to address identified risks.

k) The Role of Government:

- Strengthen government agencies critical for oil management, including NEMA and PEPD.
- Enforce transparency strategies in new legislative frameworks for oil.
- Enhance the capacity and independence of oversight agencies and officials in oil-affected districts.

- Implement wide public consultation on critical issues related to oil production.

l) The Role of Civil Society Organizations:

- Strengthen and support Civil Society Organizations (CSOs) to ensure consistent adherence to national policies.
- Embrace constructive criticism from CSOs, considering their recommendations as valuable insights.

m) Expansion of Stakeholder Participation:

- Establish oversight committees involving ruling and opposition parties, civil society, and parliament to scrutinize oil contracts and receipts.
- Encourage public participation in decisions affecting them, fostering policy goal implementation.

n) Operational Risk Management Recommendations:

- Develop a corporate-wide approach to managing information in the plant, focusing on operations and business analytics.
- Establish business processes for operations, emphasizing document control workflow and consistent master data management.
- Participate in industry associations and user communities to set standards for content sharing.
- Implement process improvements, especially in areas of high vulnerability, transitioning from paper-based to digital systems.
- Deploy information rights management integrated with content management to ensure data confidentiality.
- Reassess customer communications capabilities, ensuring personalized and timely correspondence tailored to regulatory requirements.

o) Operational Risk Management Recommendations (Continued):

- Reassess customer communications capabilities, ensuring personalized and timely correspondence tailored to regulatory requirements.
- Consider solutions optimizing content management to comply with environmental, health, and safety regulations.
- Adopt information rights management integrated with content management to safeguard confidential information.

- Collaborate with industry associations to set standards for content sharing and support well and plant workflows.

- Focus on process improvements for effective content sharing within and outside the organization.

- Implement solutions that optimize the management, sharing, storage, and archiving of content to comply with regulations.

p) Continuous Monitoring and Evaluation:

- Establish a robust system for continuous monitoring and evaluation of oil and gas activities.

- Regularly review and update legal and regulatory frameworks to align with industry best practices.

- Periodically assess the effectiveness of risk management measures and adjust strategies accordingly.

q) Collaboration and Knowledge Sharing:

- Foster collaboration between government agencies, oil companies, and civil society for shared responsibility in risk management.

- Facilitate knowledge sharing platforms to disseminate best practices and lessons learned in environmental health and safety.

r) International Collaboration and Compliance:

- Engage in international collaborations to share experiences and benchmark against global best practices in oil and gas risk management.

- Ensure compliance with international standards and agreements related to environmental health and safety in the oil and gas sector.

s) Emergency Response and Preparedness:

- Develop and regularly update comprehensive emergency response and preparedness plans for oil and gas operations.

- Conduct regular drills and simulations to test the effectiveness of emergency response procedures.

- Collaborate with local communities and authorities to ensure effective communication and coordination during emergencies.

t) Research and Innovation:

- Invest in research and innovation to explore advanced technologies and practices for minimizing environmental health and safety risks.

- Establish a dedicated fund or initiative to support research projects aimed at enhancing risk management in the oil and gas sector.

u) Incentive Mechanisms:

- Implement incentive mechanisms to encourage oil and gas companies to go beyond compliance in environmental health and safety standards.

- Recognize and reward exemplary practices in risk management, fostering a culture of continuous improvement.

v) Public Awareness and Education:

- Launch public awareness campaigns to educate local communities on the potential risks and benefits of oil and gas activities.

- Develop educational programs in collaboration with local schools and institutions to enhance environmental health and safety literacy.

w) Regular Reporting and Accountability:

- Mandate regular reporting by oil and gas companies on their environmental health and safety performance.

- Establish mechanisms for public accountability, allowing communities and stakeholders to monitor and evaluate risk management efforts.

x) Ongoing Capacity Building:

- Continuously invest in capacity building for government agencies, regulatory bodies, and local authorities involved in overseeing the oil and gas sector.

- Provide ongoing training for oil and gas industry personnel on the latest advancements in environmental health and safety practices.

These recommendations collectively aim to create a comprehensive, adaptive, and proactive approach to risk management in Uganda's oil and gas exploration and production sector. The implementation of these measures will contribute to sustainable and responsible development while mitigating potential negative impacts on the environment, health, and safety.

## ***APPENDIX I: QUESTIONNAIRE***

### QUESTIONNAIRE

ADMINISTERED BY: [Insert Name of Researcher]

#### Section 1

Background Information:

Name: [Insert Participant's Name]

Sex: Male: [ ] Female: [ ]

Occupation: [Insert Participant's Occupation]

Level of Education: [Insert Participant's Level of Education]

#### Section 2

##### 1. Introduction:

This questionnaire serves as a tool for systematically collecting field data from selected participants, focusing on the legal and regulatory framework for oil and gas exploration and production in Uganda: lessons learnt and future perspectives. The research, conducted as part of a postgraduate degree requirement, aims to explore various aspects of the regulatory landscape in Uganda's oil and gas sector. Participation in this questionnaire is voluntary, and all information provided will be treated confidentially and used solely for academic purposes.

1. How do you navigate the legal and regulatory framework for oil and gas exploration and production in Uganda?

2. In your opinion, what role does the legal and regulatory framework play in shaping the future of oil and gas exploration and production in Uganda?

3. Could you identify some of the key policies and regulations aimed at governing oil and gas activities in Uganda?

4. Are you currently complying with the established legal and regulatory requirements for oil and gas exploration and production in Uganda?

5. How do you perceive the role of governmental bodies, such as the Ministry of Energy and Mineral Development, in supporting oil and gas companies in Uganda regarding compliance with legal and regulatory requirements?

**1. Any other comments:**

.....

Signature (Interviewee)

Date

***Thank you for your time!***

**APPENDIX II: WORK PLAN (TIME SCHEDULE)**

|                                    | Jan | Feb | Mar | April | May | June | July | Aug | Sept | Oct | Nov | Dec |
|------------------------------------|-----|-----|-----|-------|-----|------|------|-----|------|-----|-----|-----|
| Research proposal                  |     |     |     |       |     |      |      |     |      |     |     |     |
| Research writing<br>(Dissertation) |     |     |     |       |     |      |      |     |      |     |     |     |
| Submission                         |     |     |     |       |     |      |      |     |      |     |     |     |

**APPENDIX III: BUDGET**

| <b>S/N</b>   | <b>Item</b>                                   | <b>Total Cost Shs. (UGX)</b> |
|--------------|---|------------------------------|
| <b>1</b>     | <b>Travel costs</b>                           | <b>500,000</b>               |
| <b>2</b>     | <b>Questionaries' and interview schedules</b> | <b>500,000</b>               |
| <b>3</b>     | <b>Secretarial Services</b>                   | <b>200,000</b>               |
| <b>5</b>     | <b>Internet</b>                               | <b>50,000</b>                |
| <b>6</b>     | <b>Printing and typing</b>                    | <b>100,000</b>               |
| <b>7</b>     | <b>Other Expenses (Specify)</b>               | <b>100,000</b>               |
| <b>Total</b> |   |                              |

**APPENDIX IV: Consent Form**

Dear respondent,

I am AKELLO REBECCA of Uganda Christian University pursuing a Master of law in oil and gas. I am carrying out a study on the impact of tax incentives on foreign direct investment in the oil and gas sector of Uganda

You have voluntarily consented to participate in the study and all the information you give will be kept confidential as requested. You are under no obligation to participate in this study, and refusal to participate will not affect you in any way.

The information collected from you will be coded so that it is not linked to your name and your identity will not be revealed at any time during the study. All data will be kept in a safe place and will not be shared with anybody and will not be used for any other purposes apart from that which the study is intended to achieve.

**FOR RESPONDENT ONLY**

The topic and its objectives have been fully explained to me and I have understood and voluntarily agreed and consented to participate in the study.

Agreement to participate in the study.

Yes:  No:

Document consent below and continue with the interview.

Name of participant:

Person Obtaining Consent

I have read this form to the subject. An explanation of the research was given and questions from the subject were solicited and answered to the subject's satisfaction. In my judgment, the subject has demonstrated comprehension of the information. The subject has provided oral consent to participate in this study.

Name and Title (Print) \_\_\_\_\_

Signature of Person Obtaining \_\_\_\_\_

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- <http://www.bpamoco.com>

#### APPENDIX I: List of source tools used;

- Oil and gas laws
- international policies and instruments
- Library
- Resolutions
- Different general comments related to risk management
- Recommendations,
- Guidelines and action plans.
- Domestic policies and legislations
- The internet
- Public and Government publications