

**EVALUATING THE EFFICACY OF UGANDA'S LAW ON DECOMMISSIONING
IN THE OIL AND GAS SECTOR.**

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M21M23/001

**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN PARTIAL
FULFULMENT OF THE REQUIREMENT FOR THE AWARD OF MASTER OF
LAWS IN OIL AND GAS LAW AT THE INSTITUTE OF PETROLEUM STUDIES
KAMPALA IN AFFLIATION TO UCU.**

JUNE 2022

Declaration

I hereby declare that this research study has never been presented for any academic award in any Institution or University. All sources used in this research study have been rightfully acknowledged.

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Approval

I acknowledge that this proposal titled: “Evaluating the Efficacy of Uganda’s Law on Decommissioning in The Oil and Gas Sector.,” has been under my supervision and is ready for submission.

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NAME of Supervisor

Date

Dedication

I wish to dedicate this work to my beautiful family and also to my supervisor for his guidance and supervision that has helped me accomplish this long arduous journey.

May God bless those individuals.

Acknowledgements

I acknowledge the contribution of all the respondents and all the people I consulted in the course of this research – many thanks.

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CHAPTER ONE

INTRODUCTION TO THE STUDY

1.1 Introduction

This chapter covered the background of the study, the objectives, the statement of the problem, scope and significance of the study and the synopsis. Decommissioning is the removal of industrial installations and any associated structures that have reached the end of their useful lives in a specific industry, followed by the restoration of the industrial site to its original state.

In the case of offshore activities, decommissioning may entail leaving infrastructure or facilities in place, or dismantling, removing, or sinking disused facilities. Whatever choice is chosen, it will usually take into account environmental factors, personnel safety, and other users of the water or land, the decision's reputational impact, and cost concerns. When an offshore oil installation reaches the end of its useful life and no revenue can be generated from the field, it is decommissioned.

According to Testa, the following fact "must be kept in mind as decommissioning financing and security regimes are anticipated and finally implemented."¹ As a result, various scholars agree that a host government must handle the finance of such decommissioning as soon as possible, preferably through the issuance of financial securities. The term "financial security" refers to methods that ensure that funds for decommissioning are available.

There are various steps to the decommissioning process. Wells securing activities are initiated initially in the oil and gas sector, notably in the offshore industry, and then the structures and pipes linking the platform to the treatment ground centres are removed. Such activities must be carried out with utmost caution, and they necessitate both expert staff and sophisticated techniques in order to minimize negative environmental consequences. Following the removal stage, suitable locations for the storage of non-usable items are identified, as well as the final processing of potentially polluting products such as metallic and plastic wrecks, combustible fluids, and so on.

¹ D Testa, 'Dealing with Decommissioning Costs of Offshore Oil and Gas Field Installations: An Appraisal of Existing Regimes' (2014) 12(1) OGEL 12.

The costs of decommissioning are difficult to estimate since they are dependent on a variety of variables such as the installation type, site geomorphology, whether to dismantle the installation partially or totally, market conditions, the presence of key employees, and so on.²

In terms of installation, the quality of the working area as a whole, with a particular focus on weather conditions, plays a significant impact. Decommissioning in the United Kingdom's North Area, for example, is greatly influenced by the remoteness and severity of the environment. As a result, most removal activities take place during the summer. Furthermore, because the latter may have been the result of a continuous overlaying procedure over the years, removal can be more difficult than installation.

As a result, sophisticated resources and proper planning are required to address the primary decommissioning issues, which include costs and safety, from both a corporate and environmental standpoint. The decommissioning process in the oil and gas industry is controlled by a diverse set of international, national, and regional legal sources, some of which are in conflict with one another and are in the process of being forged and developed.

The main legal international principles governing decommissioning are found in the following legal sources: 1958 Geneva Convention on the Continental Shelf; 1982 United Nations Convention on the Law of the Sea (UNCLOS); Non-binding International Maritime Organization Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone; and The OSPAR Convention (coupled with the OSCOM Guidelines, as adopted).

The foregoing sources all share the current, heated argument over whether abandoned or disused installations and structures must be completely dismantled (Art. 5.5 of the Geneva Convention and the OSPAR Convention) or if partial removal is permitted (Art. 60.3 of the UNCLOS Convention).

Leaving aside differing interpretations of the text of the above-mentioned clauses, the fact that not all States who are signatories to the Geneva Convention have ratified the UNCLOS is the reason why no definite decision has yet been taken.

² Francesco V.A., 2016. An Overview On The Decommissioning Process In The Oil And Gas Sector. [online] available at; <https://www.lexology.com/library/detail.aspx?g=06ad2b58-2646-4cbf-9c5f-f5de60145a41> (accessed on January 21st, 2022)

This stance has created a heated debate about whether the last convention has attained the character of customary international law, which refers to a clear and unequivocal practice by the majority of ratifying states that reflects a sense of legal duty.

Should this be the case, the Geneva Convention would be considered superseded, and full implementation of the partial removal principle would be ensured, implying, on the one hand, that part of the not removed installations could be reused for other purposes, and, on the other hand, that the interests listed in Art. 60.3 of the UNCLOS Convention (safety of navigation, fishing, and marine environment protection) would be fully and actively pursued.³

Because decommissioning mostly affects off-shore plants, the argument has taken on an international tone. This lack of clarity affects the predictability that should be provided in order to attract investments and fully harness the current bullish trend in the decommissioning business. With such a heated argument in the global aspect of decommissioning, this paper sought to establish Uganda's stand and depth on the same concept.

1.2 Background of the Study.

Oil, gas, and natural resource riches are abundant in emerging countries, accounting for a significant portion of GDP, export earnings, government income, and employment. Its economic and social transformation potential is obvious for any country that can harness it. Converting these non-renewable natural resources into capital can help a country go from poverty to at least middle-income status in a single generation, allowing its population to enjoy a better quality of life.

Uganda's oil and gas sector dates back to the 1920s, with the first commercial finding occurring in 2006. The Ugandan Ministry of Energy and Mineral Development estimated that the country has 6.5 billion barrels of oil. At least 1.4-1.7 billion barrels of oil are believed to be recoverable, according to estimates.⁴ The Albertine Graben holds the majority of this oil reservoir. Over 1.1 billion barrels of oil deposits are found in the Albertine Graben, mainly in

³ R. Higgins, "Abandonment of energy sites and structures" [1993] 6 J. En. & Nat. Res L. 8.

⁴ Felix Njini and Fred Ojinmbo, 'Tullow, Total Uganda Oil Exports may Delay on Infrastructure' (2016) <http://www.worldoil.com/news/2016/11/14/tullow-total-uganda-oil-exports-may-delay-on-infrastructure> accessed January 20th, 2022.

Lake Albert, Africa's seventh largest lake, which borders Uganda and Congo. This oil deposit is located both on and off the coast. According to some scholars, Uganda's oil reserves are "poised to firmly place Uganda among... oil producers in Africa" by both African and global criteria. On August 20, 2016, the government approved Tullow Uganda Operations Pty. Ltd, Total Ltd, and China National Offshore Oil Corp oil production licenses to begin production in Lake Albert.⁵

In the late 1990s, oil drilling began in Uganda's share of the Lake Albert basin, and large offshore discoveries were made for the first time in 2006. Recent ideas for oil extraction and production in the area have sparked worry about the potential impact of such activities on the maritime ecosystem, particularly future derelict oil sites. The Ugandan Petroleum (Exploration, Development, and Production) Act 2013 gives the government ownership of petroleum and the authority to grant oil company licenses. It also imposes a need on such licensees to set aside monies for the decommissioning of decommissioned oil installations.

A facility is decommissioned when it approaches the end of its economic life and will no longer be used to extract oil and/or natural gas. Decommissioning is a common procedure that occurs throughout the lifecycle of a well, both onshore and offshore. Decommissioning entails safely turning down the well and properly disposing of the infrastructure that supported the project's production phase.

Decommissioning is carried out in a safe and environmentally responsible manner, and may entail removing all equipment from the location, or only partially removing equipment if systems are in place to ensure that any remaining equipment complies with all legal requirements.

Decommissioning oil facilities entails restoring the operational site to as close to its former state as feasible while maintaining the highest level of safety. The choice to shut down an installation when it is unavoidable at the conclusion of the economic production of its reserves is so critical. Both the operator and the relevant State are involved. Many investigations and actions have been conducted in the past to verify the need for a decommissioning operation.

⁵ Elias Biryabarema, 'Uganda gives Tullow Oil, Total Production Licences' (August 30, 2016) <http://www.reuters.com/article/us-uganda-oil-idUSKCN115104> accessed January 20th 2022 .

A decommissioning project takes several years to complete and necessitates the mobilization of substantial logistical, financial, and administrative resources. The project begins with feasibility studies to investigate potential solutions that could eventually lead to the site's recycling.

The first step in a decommissioning effort is for the responsible parties to examine the entire installation. They can create standards and validate operation costs during this audit phase. This is done in conjunction with a review of local rules and an environmental impact evaluation in order to determine the final scope of the work to be done with the authorities. Apart from finding new ways to repurpose the facilities, decommissioning can sometimes be more environmentally damaging than existing solutions, thus each case must be examined separately.

They begin the operational phase by permanently cementing and fully sealing the well. Then they clean all of the facilities that were utilized in the process, as well as remove any hydrocarbons that may have contaminated the environment. This phase can take several months to complete. Finally, they arrive at the most spectacular stage: the platform's removal. All installations are transported on land for final treatment, which includes either reuse or recycling in accordance with environmental regulations.

1.3 Problem Statement

The development of offshore oil deposits was a benefit to Uganda in a variety of ways. Uganda's oil reserves, including offshore, are projected to be worth up to \$50 billion dollars, according to Tullow.⁶ Furthermore, international oil corporations operating in Uganda have employed a small number of Ugandans, and additional employment is projected to be generated. These oil firms are also obligated to train capacity in key sectors in the oil and gas sector as part of their corporate social responsibility under the various production sharing agreements under which they operate.⁷

⁶ Reuters Ltd, 'UPDATE 2-Uganda Ups Oil Reserves Estimate by 85 pct, finds Natural Gas' (July 1, 2015) <http://www.reuters.com/article/uganda-oil-idUSL5N0QZ1EW20140829> accessed January 20th, 2022.

⁷ The government is required to train Ugandans in oil and gas related courses under Article 21 of the Model Production Sharing Agreement implemented in Uganda. They must also deposit funds with the government for the training of government employees.

The benefits of oil derived from offshore exploration, on the other hand, cannot obscure the detrimental environmental consequences that such offshore oil activities in Lake Albert may have. Offshore oil activities, from exploration to production halt, unquestionably pollute the environment if not adequately controlled.⁸ The contamination that can result from a decommissioned offshore site after production has ceased is one example. According to some authors, Lake Albert is one of the world's most biodiverse lakes.

This is due to the fact that it is home to a wide range of aquatic vegetation and fauna. If the offshore oil infrastructure that was repaired in Lake Albert are not properly maintained, hazardous substances could leak into the lake, killing aquatic life. Furthermore, the presence of abandoned offshore installations may represent a risk to lawful lake users. As a result, it is necessary to guarantee that such abandoned installations are properly cared for when production ceases.⁹

The essential clauses of the Law are examined in this article, and it is argued that they cannot guarantee the availability of sufficient funding for the decommissioning of future offshore sites in Lake Albert. Furthermore, it is contended that the Act's clauses on petroleum ownership suggest that the government would be responsible for funding any decommissioning in the future. Finally, this study reviews other legal frameworks on decommissioning from various jurisdictions in order to demonstrate how lessons from other jurisdictions might be used to fill in the gaps in Ugandan law.

1.4 Objectives of the Study

1.4.1 General Objective

The main aim of this study is to evaluate the laws of Uganda on decommissioning in the Oil and Gas Sector.

1.4.2 Specific Objectives

In order to achieve the main objective, the specific objectives of the study was;

⁸ Jeom Kee Paik and Anil Kumar Thayamballi, *Ship-Shaped Offshore Installations: Design, Building, and Operation* (Cambridge University Press 2007) 456.

⁹ Lake Albert borders Republic of Congo and Uganda, as such is a route within which indigens of both country travel for trade and other purposes. See Ugandan Civil Society, 'Civil Society Coalition on Oil in Uganda', 20 <http://platformlondon.org/wp-content/uploads/2012/01/Contracts-Curse-Uganda-Platform-CSCO.pdf> accessed January 20th, 2022.

1. To evaluate the laws that provisions of the Petroleum (Exploration, Development and Production) Act, 2013 on decommissioning.
2. To examine the challenges that may be faced by Uganda if the legal framework is not stepped up.
3. To make recommendations for ensuring that the gap between Uganda's laws and other jurisdictions is bridged

1.5 Research questions

The study answered the following research questions.

1. What provisions does the Petroleum (Exploration, Development and Production) Act, 2013 give on decommissioning?
2. What challenges may be faced by Uganda if the legal framework is not stepped up?
3. What recommendations can be made to help in bridging the gap between the standards of Ugandan laws on decommissioning laws and other jurisdictions?

1.6 Purpose of the study

The purpose of this study was to evaluate the laws that govern decommissioning in Uganda. The process of restoring the environment back to its former state is very vital for the sustainable utilization of the land where the oil extraction once took place. This process is so important that it is normally required to set aside decommissioning funds before even beginning the drilling. This paper therefore weighs in on whether the laws of Uganda sufficiently ensure that the land was restored as much as practicable to its former state.

1.7 Justification of the study.

The concept of oil and gas may not be new to the world but it is certainly novel to Uganda. The resource has reached the stage where it could potentially alleviate the economic shortfalls of the country or drown it further and have significant negative impact on the environment.

This therefore requires all knowledge and advise in order to maximise the resource while minimising the negative effect. This paper adds to the voice of the many on how this can be achieved for the benefit of Uganda and the generations to come.

1.8 Significance of the study

The discovery of a valuable resource such as oil or gas is a one-way ticket. Because it is a finite resource, it will not be available indefinitely, whether it is used effectively or not. As a result, how Uganda uses this resource will determine whether it grows or declines. As a result, this study issues a clear warning to the country about what needs to be done in order to fully profit from the resource, as well as how to avoid the resource's potential negative consequences.

1.9 Scope of the study

1.9.1 Content scope

The content of this study encompassed the laws that govern the Oil and gas sector in Uganda. It also entails the international laws, policies and practices in the oil and gas sector. There is also literature referred to concerning the oil and gas sector, specifically on decommissioning in the sector. The content also covers a comparison from other jurisdictions concerning decommissioning in the oil and gas sector.

1.9.2 Time scope

This research took four months to complete. The material examined, on the other hand, dates from the late 1800s, when oil was first discovered, and includes all subsequent literature on the use, development, and status of the OGM sector around the world. A special focus was placed on newly generated material on Uganda's OGM sector, which began in 2009 and continues to this day.

1.9.3 Geographical Scope

This research looked at the majority of countries that have oil and gas as a resource, with a special focus on Uganda and its discovery. Tanzania was considered because it just inked contracts with Uganda for the sector's development. Uganda is in eastern Africa, bordered on the north by South Sudan, on the east by Kenya, on the south by Tanzania, on the west by Rwanda, and on the west by the Democratic Republic of Congo. Uganda's geographical coordinates are 1.3733oN, 32.2903oE.

1.10 Chapter synopsis

Chapter one of this paper entails the proposal of the research. Chapter two will analyse the literature available for review, whereas chapter three will cover the methodology. Chapter four will assess the legal framework that governs decommissioning in Uganda. Chapter five will assess the challenges that may be faced by Uganda if the legal framework is not stepped up. Chapter six will make a comparison of Uganda's laws on decommissioning with other jurisdictions and finally, chapter seven will make recommendations for ensuring that the gap between Uganda's laws and other jurisdictions is bridged.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

The objective of this chapter was to review and critique the existing literature on oil and gas decommissioning. On the basis of the study goals, the literature has been reviewed. This chapter also discussed the research gaps in the legal framework that the study aimed to fill. Domestic laws, international treaties and conventions, case law, textbooks, law journals, publications, working papers, and Internet websites were used to review the literature. The debate that follows was largely influenced by this material.

2.2 Literature

- a. J. Komugisa; N. Chinwa Ole; "Ugandan Legal Framework on Decommissioning Fund: Is There an Achilles Heel, and Can Lessons from the UK Help?" OGEL 2 (2018), www.ogel.org URL: www.ogel.org/article.asp?key=3753**

The writers opine that in the late 1990s, oil drilling began in Uganda's share of the Lake Albert basin, and large offshore discoveries were made for the first time in 2006. Recent ideas for oil extraction and production in the area have sparked worry about the potential impact of such activities on the maritime ecosystem, particularly future derelict oil sites. The Ugandan Petroleum (Exploration, Development, and Production) Act 2013 gives the government ownership of petroleum and the authority to grant oil company licenses. It also imposes a need on such licensees to set aside monies for the decommissioning of decommissioned oil installations.

The essential clauses of the Act are examined in this article, and it is argued that they cannot guarantee the availability of sufficient funding for the decommissioning of future offshore sites in Lake Albert. Furthermore, it is contended that the Act's clauses on petroleum ownership suggest that the government would be responsible for funding any decommissioning in the future. Finally, this study examines the UK legal framework for decommissioning in order to demonstrate how lessons from it could be used to fill in the holes in Uganda's Petroleum Act.

This article begins by asking if Uganda's legal structure is appropriate and extensive enough to ensure the availability of sufficient money for the decommissioning of potential offshore sites in Lake Albert. The Ugandan Petroleum Act is investigated in order to answer this question, and it is discovered that it sets a decommissioning fund as the only alternative for decommissioning financial stability. The three triggers for the payment of money into the Ugandan decommissioning fund are: (a) fifty percent of the aggregate recoverable reserves as determined in an approved development plan and any subsequent reappraisal of such initial recoverable reserves; (b) five years before the license expires; or (c) on issuance of notice of surrender. The decommissioning fund was widely praised as the most secure method of decommissioning.

Regardless, an argument is made that the protections are insufficient and insufficiently comprehensive to insulate the government from bearing some or all of the expenses of decommissioning. It is stated that the fund realized at the conclusion of the expected recovery period, once production has reached 50%, may not be sufficient to cover the cost of such decommissioning. Second, five years may not be long enough to gather enough finances for decommissioning. In the case of the third trigger, there is also the danger that the funds earned during the one-year incubation period between the submission of a surrender application and the actual surrender of a license will not be adequate to meet the real cost of decommissioning.

The implications of these flaws are considered in the context of government control of offshore installations. It has been proved that the Ugandan government may be held liable for the decommissioning costs in the future. The legislative framework for decommissioning in the United Kingdom is analyzed, and lessons are offered for importation to fill the deficiencies in the Ugandan structure. They argue that Uganda aspires to avoid the mistakes made by other African petroleum producers, who began with poor government. Thankfully, Uganda's oil sector is still in its infancy. As a result, implementing these recommendations would go a long way toward ensuring effective oil sector governance in Uganda.

- b. Francesco V.A., 2016. An Overview On The Decommissioning Process In The Oil And Gas Sector. [online] available at; <https://www.lexology.com/library/detail.aspx?g=06ad2b58-2646-4cbf-9c5f-f5de60145a41> (accessed on January 21st, 2022)**

The author begins by providing a definition of what decommissioning is. He opines that decommissioning is the removal of industrial installations and any relevant structures that have reached the end of their productive life in a specific industry, followed by the restoration of the industrial site to its previous status.

He explains the several stages of decommissioning. Wells securing activities are initiated initially in the oil and gas sector, notably in the offshore industry, and then the structures and pipes linking the platform to the treatment ground centres are removed. Such operations must be carried out with considerable caution and necessitate both specialist staff and sophisticated techniques in order to minimize negative environmental consequences. Following the removal stage, suitable locations for the storage of non-usable items are identified, as well as the final processing of potentially polluting products such as metallic and plastic wrecks, combustible fluids, and so on.

The costs of decommissioning are difficult to estimate since they are dependent on a variety of variables such as the installation type, site geomorphology, whether to dismantle the installation partially or totally, market conditions, the presence of key employees, and so on.

The writer goes on to discuss the international legal framework that governs the aspect of decommissioning. He notes that the international standard, even when not agreed upon, differs from the national laws concerning decommissioning. He then goes on to explore the laws that govern the decommissioning in the UK.

The writer then considers the concept of human rights. Apart from any obvious consideration for the hazardous nature of their activities and the care with which any relevant information is handled, IOCs and NOCs (and, more broadly, oil and gas operators) show limited sensitivity in disclosing the extent of their commitment to reducing the impact of their activities on the environment and human life in their decommissioning activities. This situation can be due to these corporations' constant struggle to strike a balance between their environmental duties and their shareholders' (and, at times, states') desire for profit.

On the other hand, it is true that poor decommissioning performance poses a significant risk to the companies involved as well as the entire oil and gas industry, both in terms of direct and indirect economic losses (in fact, listed companies' shares may experience sharp drops in value, and reputational damage may jeopardize current and future orders in their pipelines).

As a result, oil and gas firms have become more active in recent years in paying close attention to international legislation addressing the protection and care of human rights. Legal sources such as the International Bill of Human Rights (along with the Universal Declaration of Human Rights), the International Labour Organization's (ILO) 1998 Declaration on Fundamental Rights and Principles at Work, the United Nations Guiding Principles on Business and Human Rights, the United Nations Global Compact Principles and Voluntary Principles on Security and Human Rights are frequently mentioned on their websites as inspirational sources and are frequently introduced as clauses in contrition.

The author concludes by arguing that States must guarantee human rights, ensuring that they are respected even by multinational corporations, and putting in place internal legal remedies aimed at allowing individuals to confront abuses and accomplishing their goals, including through monetary compensation. If States and international organizations work hard enough, a new age for the global population will emerge shortly, one in which economic development will finally be on par with dignity, well-being, and welfare.

c. Boschee, Pam, 2012. Decommissioning Challenges in the Gulf of Mexico, Oil and Gas Facilities, Vol.1; Iss. 2.

The writers take a case study of the Mexican Gulf and analyse the challenges that were faced in decommissioning.

One of the challenges in decommissioning planning is incomplete data. They were dealing with fields that had been sold several times in the Gulf of Mexico. There was a lot of data that had gone lost over time. Another issue with the statistics is that with the industry's staff reductions in the mid-1980s, the quality of record-keeping declined.

The likelihood of assets not being created or operated in accordance with the acquiring company's style increases with asset purchase. They were dealing with situations that were ill-defined and not theirs to begin with.

d. A. Scarborough, Bull, Milton S.Love, 2019. Worldwide oil and gas platform decommissioning: A review of practices and reefing options, Ocean & Coastal Management, Volume 168, 1 February 2019, Pages 274-306

California is considering whether to totally remove an oil and gas production station from the seafloor or leave the underwater jacket as a reef, as a number of offshore platforms in both state and federal waters are nearing the end of their useful lives. Laws mandate that a platform be completely dismantled when it reaches the end of its useful life, unless the submerged jacket piece be used as a reef under state sponsorship. Because of the long-term fate of fish and invertebrate populations beneath platforms, the jacket part of platforms has been reefed rather than removed at the time of decommissioning.

Artificial reefs have been built and used for millennia, and they are made from a wide range of materials. The history of platform reefing may be traced back to the mid-twentieth century, when generic artificial reefs were created to give both fishing possibilities and increased fisheries productivity for a growing US population. After the oil and gas sector constructed thousands of standing platforms in the Gulf of Mexico, which had become popular fishing locations, the trend toward reefing platforms at the end of their lifespan began.

Rig-to-Reefs was made possible by the National Fishing Enhancement Act and the National Artificial Reef Plan that followed. Reefing platforms in the Gulf of Mexico is a common process that is used all around the world. Reefing decommissioned platforms has been debated for years, and many years of scientific research beneath California platforms has resulted in a California State statute that now enables the subject to be considered. When contemplating the reefing option, this document outlines the history, practices, published science, and available information. This document is intended to inform the general public, policymakers, and regulators about impending decisions.

- e. **B. Sommerab, A.M. Fowler et al, 2019. Decommissioning of offshore oil and gas structures – Environmental opportunities and challenges, Science of The Total Environment, Volume 658, 25 March 2019, Pages 973-981.**

Thousands of offshore oil and gas structures are nearing the end of their useful lives around the world, but the authors' knowledge of the environmental consequences of various decommissioning procedures is lacking. Decommissioning consequences have been limited in the past due to a constrained set of criteria, which has limited decommissioning alternatives in most places. The authors provide a general overview of decommissioning's

environmental effects, analyze case studies, and explain analytical methodologies that can help them better comprehend ecological dynamics on oil and gas structures.

The authors discover that ecosystem functions and services grow with structure age and vary by geographical context, implying that decommissioning decisions must be made in an ecosystem-based manner that takes into account the structure's larger habitat and biodiversity values. The possibility of unpredictable and sub-optimal decommissioning decisions was reduced if regulators align their decommissioning assessment priorities and how they are evaluated. Finally, the range of decommissioning solutions available must be increased to improve the environmental results of decommissioning across the many ecosystems where platforms are located.

f. V. Parentea, D. Ferreirab et al, 2006. Offshore decommissioning issues: Deductibility and transferability, Energy Policy, Volume 34, Issue 15, October 2006, Pages 1992-2001.

Most producer countries are facing a new problem in dealing with the decommissioning of petroleum infrastructure. It's only rational to assume that industry has far more expertise constructing platforms than destroying them. Even though numerous and various attempts are underway to establish worldwide "best practices" standards in this sector, countries continue to have considerable discretionary power in the regulation of decommissioning activities within their state's jurisdiction.

The writers provide a general overview of the debate, focusing primarily on two contentious issues. The first examines whether decommissioning expenses can be deducted ex-ante, notwithstanding the fact that they are an ex-post expense. The second point of contention is the assignment of decommissioning responsibilities in the event that exploration and production rights are transferred to new lessees during the project's lifetime. Finally, the research develops insights into these topics by using concepts typically used in project financing as well as structures commonly utilized in pension fund organization.

g. A.M. Fowlera, P.I. Macreadie et al, 2014. A multi-criteria decision approach to decommissioning of offshore oil and gas infrastructure, Ocean & Coastal Management, Volume 87, January 2014, Pages 20-29.

Thousands of offshore oil and gas structures throughout the world are nearing the end of their useful lives and will need to be decommissioned over the next decade. Many countries have blanket rules demanding the removal of old structures, although this option is unlikely to produce the best environmental, sociological, and economic consequences in all cases. The authors advise that countries adopt a flexible strategy that permits decommissioning choices to be chosen on a case-by-case basis from a wide range of possibilities (including 'rigs-to-reefs' options). They describe a multi-criteria decision-making process (Multi-criteria Approval, MA) for analysing and comparing potential decommissioning solutions based on major selection factors such as environmental, economical, socioeconomic, and health and safety concerns.

The MA method organizes the decision problem, forces explicit trade-off consideration, and incorporates stakeholder groups directly in the decision-making process. Major decommissioning possibilities are identified, and a basic list of selection criteria is provided for use in the MA decision process. To address knowledge gaps about decommissioning's environmental implications, they propose that expert opinion be factored into the MA approach until more evidence becomes available. They conducted a brief trial of the MA decision approach in southern California to demonstrate its applicability to a difficult and contentious decommissioning scenario.

For this case, the analysis revealed that the choice of "leave in place intact" will likely deliver the best environmental consequences in the event of eventual decommissioning. In summary, the MA approach will allow for the simultaneous and public assessment of the environmental, social, and economic implications of decommissioning decisions.

h. West, S. 2014-07-30. The Decommissioning of Offshore Oil and Gas Installations and Structures in Nigeria and South Africa in the context of international best practices. University of Cape Town.

This study aims to compare the rules governing the decommissioning of offshore oil and gas installations and structures in Nigeria and South Africa to international best practices exemplified by Norway's and the United Kingdom's regimes. The extent to which these countries have met their international commitments is also taken into account, given that

governments' freedom to draft laws relevant to the continental shelf and exclusive economic zone is constrained by their international obligations.

- i. B. Anifowose, D.M. Lawler et al, 2016. A systematic quality assessment of Environmental Impact Statements in the oil and gas industry, Science of The Total Environment, Volume 572, 1 December 2016, Pages 570-585**

Oil and gas resources are extremely important to the world economy. Hydrocarbon exploitation initiatives, on the other hand, can have substantial environmental consequences. Despite the fact that several Environmental Impact Statements (EISs) have been produced to identify and mitigate such effects, no study has specifically assessed the quality of EISs for both onshore and offshore oil and gas projects, using tested assumptions. This work develops a modified Lee and Colley evaluation model to assess the quality of 19 sampled oil and gas project EISs generated in Nigeria between 1998 and 2008. Project Description and Communication of Results are the primary areas of strength, according to the data.

Environmental Impact Prediction and Project Decommissioning, on the other hand, were two significant topics that needed to be addressed. However, according to Mann-Whitney tests, there is no evidence that the quality of EISs for the latter period (2004–2008) is higher than for the earlier period (1998–2004). The authors propose that a systematic examination of the quality of submitted/approved EISs be created on a regular basis (every 3–5 years) to track trends in EIS quality and identify strong and weak areas. This would aid in the continuous improvement of both the EIA processes and the EISs produced as a result of technical engineering initiatives.

Such studies have the ability to shed light on some of the underlying issues with oil and gas exploration, production, and transportation, as well as their environmental consequences. This proposed adjustment was beneficial both domestically and internationally, particularly in the expanding exploration and exploitation of unconventional hydrocarbon resources.

- j. S. Esterhuysen, M. Avenant, et al, 2016. A review of biophysical and socio-economic effects of unconventional oil and gas extraction – Implications for South Africa, Journal of Environmental Management, Volume 184, Part 2, 15 December 2016, Pages 419-430**

Unconventional oil and gas (UOG) production will have cumulative effects that will most likely occur on a regional scale, emphasizing the significance of strategic decision-making and management methods. In a water-scarce country like South Africa, responsible management of potential consequences is critical, as opposed to countries where more water is available for UOG extraction. This page covers the biophysical and socioeconomic effects of UOG extraction in the context of South Africa, as well as how these complex effects interact. Policy and governance structures that are relevant to managing these implications are also highlighted.

2.3 Theoretical literature review.

The findings and analysis of this study was based on the principal-agent theory. The theory of the principal-agent The essential tenet of the principal-agent theory, according to Chiappori and Salanie, as quoted by Basheka, is that the agent must have a clear grasp of the principal's needs and the ability to meet those demands competently. The principal must keep a careful eye on the agents' performance and devise reward mechanisms that encourage the desired results. Indeed, when a procurement contract is clearly specified and organized, it is simple for the principal and agents to meet each other's needs in an efficient manner, resulting in timely contract execution.

With a case firm or government as the principal and contractors, service providers, or suppliers as agents, the principal-agent theory can be proudly applied to this study. The theory is relevant to the research because it emphasizes the importance of strong contractual and negotiation requirements and specifications, as well as an objective process for monitoring the feasibility of oil and gas projects. When contract requirements, team roles and duties, and KPIs are clearly specified, it was simple for the principal and agents to meet each other's demands in an efficient manner, resulting in timely contract execution at the predetermined performance level.¹⁰

¹⁰ Oluka, P & Basheka C, Determinants and constraints to effective procurement contract management in Uganda, a practitioner's perspective 2012

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This section detailed 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.

3.2 Research Design

This study was based on a qualitative design, which comprised 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 also analyzed using published papers and literature relevant to the topic in question. This design was used by the researcher since it allows them to compare multiple variables at the same time.¹¹

3.3 Target population.

This study was carried out in the different stakeholders of the oil and gas sector in Uganda. The research was conducted by certain organizations and ministries in Uganda that are responsible for policymaking and whose policies have an impact on the country's political well-being and, as a result, on relevant projects such as those that require project financing.

The target population is intended to be specific to the Ministry of Energy and Mineral Development of Uganda, as oil and gas projects fall under this ministry, the Ministry of Finance, as some of the approval personnel for the financing of these projects fall under this ministry, the Bank of Uganda, as a key strategist to ensure that the money accessed for the projects is repaid, and the Parliament of Uganda, as the legislative arm of the country where policies are enacted.

More importantly, this study will centre on the people living around the areas affected by the operations of the oil and gas sector. These are central to the research since their rights vis a vis the exploitation of the resource was most exposed. It was also concerned with the

¹¹ Sekaran U, Research Methods for Business: A skills building approach. New York John Wiley & Sons Inc, (2003)

International Oil Companies that are in charge of carrying out the exploration and exploitation of the resource.

3.4 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 was the targeted population in the organizations mentioned earlier. Because sampling allows for a higher level of confidence while looking for findings, it was used.

3.5 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. In order to conduct this study, purposeful sampling was employed as a sample technique.

It tries to classify information that is useful to a more in-depth investigation. It also entails locating and selecting individuals who are knowledgeable about or have experience with the chosen issue. In addition, convenience sampling was used in the study. This sampling method entails locating and selecting respondents based on their availability for the study. Convenience sampling is a method for obtaining a representative sample.

3.6 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.

3.7 Sources of data

The researcher intends to rely on both primary and secondary sources of data.

3.7.1 Primary data

This was collected via structured questionnaires, which will necessitate the administration of the survey.

3.7.2 Secondary data

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

3.8 Data collection methods and instruments.

3.8.1 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.

3.8.2 Interview method

When interviewing the intended respondents, structured questions will serve as the interview guide. Interviews are important for data collection because they allow 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 analyzed throughout the dialogue and discussion.

3.8.3 Documentary analysis

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

3.9 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 was identified throughout the research or subsequent

thesis, and that the respondents was chosen without bias, providing them trust. By getting an introductory letter from Uganda Christian University's academic registrar, the researcher will also attempt to tell the respondents about the research's grounds and aim. Furthermore, the researcher was able to advise the respondents that permission from the company's management was obtained before to the start of the research project.

3.10 Data analysis plan

The qualitative data analysis was used in the study. This will entail and contain brief descriptions, explanations, or instructions, as well as the use of prose tables. This type of descriptive information, on the other hand, was delivered in the form of prose or even lists in an essay. The process of giving order, structure, and meaning to a large amount of data is known as data analysis. The goal of data analysis is to obtain relevant and usable information. The analysis can be used to describe and summarize data, find correlations between variables, compare variables, find differences between variables, and predict outcomes.

3.11 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 will try 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.

CHAPTER FOUR

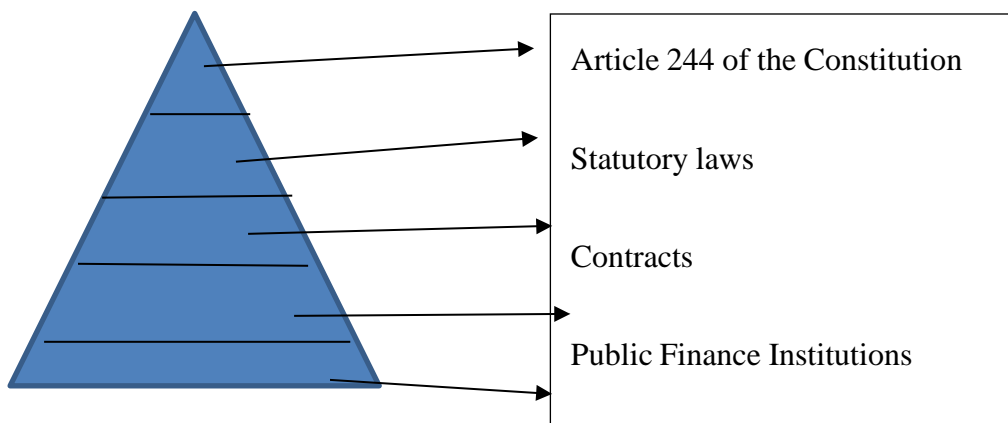
THE LEGAL FRAMEWORK GOVERNING DECOMMISSIONING IN UGANDA.

4.1 Introduction.

This research examines the numerous laws and practices that make up Uganda's legal framework for decommissioning in the oil and gas sector. The constitution, as well as primary and secondary legislation, are all part of this. It also includes international law and recommendations designed specifically for the oil and gas industry.

4.2 The regulatory framework in Uganda.

The Constitution of Uganda governs Uganda's regulatory structure. The succeeding laws adopted by the parliament and the relevant minister are based on the Constitution. The contracts that bind the IOCs, the government, and the NOC come next. Then there's public finance, and finally international law.



4.2.1 The Constitution of the Republic of Uganda, 1995, as amended.

The supreme law of the land is the constitution.¹² There is no law that supersedes it; hence it takes precedence over all other laws governing oil and gas in Uganda. All other legislation governing the OGM sector must relate to and accord with the Constitution's provisions, or they were declared null and void to the degree of their discrepancy.

¹² Article 2 of the Constitution of the Republic of Uganda, 1995, as amended

The Constitution, which protects natural resources such as water, wetlands, minerals, oil, fauna, and flora on behalf of Uganda's people, is the bedrock for successful resource management and administration of Uganda's oil and gas.¹³

Control of all minerals and petroleum in or beneath any land or seas in Uganda is vested 'in government on behalf of the republic of Uganda', according to a 2005 amendment to the Constitution.¹⁴ Even with this new amendment, the Constitution retains the public trust doctrine, which states that natural resources are held in trust for the people by the government; or, in other words, that people are the principals appointing the government to manage resources on their behalf by the government. This connection requires the government to account to its citizens as principals/owners, ensuring that they are involved in the management of their affairs either directly or through elected officials.

The Constitution empowers parliament to make legislation governing the extraction of minerals and petroleum, the distribution of royalties derived from oil exploitation, the payment of indemnities resulting from petroleum and mineral exploitation, and the repair of derelict lands.¹⁵ Article 79 states that parliament has the ability to establish laws on any subject for the purposes of development and good government, among other things.

4.2.2 Statutory legislation.

The Petroleum (Exploration, Development, and Production) Act of 2013 regulates all oil operations, including those associated with offshore drilling.¹⁶ The law gives the government ownership of all petroleum in Ugandan waterways, stating that "the whole property in, and control over, petroleum in its natural condition in, on, or under any... waters in Uganda is vested in the Government on behalf of the Republic of Uganda."¹⁷

As a result, it makes it illegal to meddle with petroleum in Ugandan waterways, which includes the Ugandan portion of Lake Albert, without the government's permission, permit,

¹³ Objective no. 13 of National Objectives and Directive Principles of State Policy.

¹⁴ Article 244 of the Constitution of the Republic of Uganda, 1995, as amended

¹⁵ Ibid

¹⁶ International Business Publication, *Uganda: Business Law Handbook* (Global Publications 2013) 225

¹⁷ The Petroleum (Exploration, Development and Production) Act, 2013, Section 4(1)

or license.¹⁸ The Act gives the Minister of Energy and Mineral Development broad authority to provide such authorizations in the form of licenses or permits for offshore petroleum operations in Uganda.¹⁹ He has the authority to revoke such authorization under specified circumstances and to approve a licensee's voluntary surrender of any such license. The Minister also has the authority to issue policies and regulations governing all aspects of offshore oil and gas operations, including decommissioning.²⁰

The Act establishes the 'Petroleum Authority of Uganda,' a legal organization with the authority to regulate and enforce the Act's provisions as well as all other laws pertaining to the industry.²¹ 'The Authority's duty is to oversee and regulate petroleum exploration, development, and production in Uganda,' it says. It has the authority to ensure that licensees comply with the provisions of this Act and its Regulations, as well as other Ugandan laws and the terms of the production sharing agreements.²²

As a result, the Petroleum Authority must verify that a licensee follows relevant rules, the Act's provisions, and any other decommissioning legislation. It also has the authority to review and monitor "the end of petroleum activity and decommissioning," including offshore. In respect to the Authority's functions, the Minister may issue written instructions to it.²³

The Act establishes a variety of licenses and permits that the Minister can issue with the Petroleum Authority's approval. It includes a reconnaissance permit, as well as exploration and production permits. In this context, a reconnaissance permit is a non-exclusive permission granted by the Minister to a person to conduct preliminary appraisal or geological activities, primarily to determine the presence of oil in Ugandan seas. It grants the permit holder this privilege for an eighteen-month term from the date of issuing.²⁴ The Minister issues an oil exploration license to a person, allowing them to conduct exploratory activities in Ugandan waters for the aim of discovering petroleum.

¹⁸ Ibid, section 5(1) and (2)

¹⁹ Ibid, section 8(a)

²⁰ Ibid, section 8(b). Government of Uganda, Energy Policy of Uganda 2012, 7-12.

²¹ The Act confers on the Petroleum Authority a corporate personhood meaning that it can sue and be sued. See the Petroleum Act, s.9(2).

²² Supra note 13, Section 10 (2)(i)

²³ Ibid, Sections 10(2)(f) & 13(1)

²⁴ The Petroleum Act, section 2(2).

The Minister issues a production sharing agreement or any other agreement to the party after the application for a license is granted. The Minister is responsible for selecting a licensee through a competitive bidding procedure that has been approved by the Ugandan Cabinet, which is led by the President.²⁵ Regardless, the Minister, in collaboration with the Petroleum Authority, has the authority to accept an application for an exploration license outside of a formal bidding process. An exploration licence is valid for two years and can be renewed for another two years.²⁶

In this context, a Petroleum Production License is the Minister's authorization to an oil company to do all activities related to recovering and evacuating oil from a Ugandan offshore oil deposit.²⁷ Upon declaration of interest, it is usually issued to the former holder of an offshore exploration licence in connection to the particular field involved. If there is no such interest, the Minister has the authority to issue the production license to another enterprise. This could be done through a private application from a specific oil company or a competitive bidding process.²⁸

In any scenario, the former exploration licence holder or applicant is normally asked to present a field development plan as part of the indication of interest or application.²⁹ This field development plan must provide extensive information on how such offshore oil installations was decommissioned.³⁰ The production license is generally valid for twenty years, but it can be extended for additional five years.³¹

With the approval of the Petroleum Authority, the licensee is required to submit a decommissioning plan within four years of receiving a license or two years before the offshore oil facility becomes redundant, whichever comes first.³² If the licensee voluntarily surrenders his or her license, the application must be submitted at least two years before the

²⁵ Ibid, section 70(1)

²⁶ The Petroleum (Exploration, Development and Production) Act, 2013, sections 53(1) & 61(a)

²⁷ Ibid, section 61(b).

²⁸ Ibid, sections 2(1) & 69(4)

²⁹ Ibid, section 71(1)(b)

³⁰ Ibid, section 77(3)(o)

³¹ Ibid, section 80(6)

³² Ibid, section 112(1) and (2)

licensee surrenders his or her license. The preferred option for decommissioning is intended to be included in the decommissioning plan, which could be reuse, removal fully or partially, or abandonment.³³

The Petroleum Authority will provide a direction to the licensee or owner of the offshore oil facility (where there is a transfer of ownership) based on this plan on how and when it was carried out.³⁴ According to the Act, the licensee and owner of an offshore facility must ensure that the Petroleum Authority's directive is followed.³⁵

It establishes a decommissioning fund that was utilized to carry out the plan for the decommissioning of offshore oil facilities.³⁶ The Petroleum Authority will decide the cost that was charged every calendar quarter to pay a percentage of the expected future cost of decommissioning of facilities that was placed in the fund³⁷. The licensee is responsible for recovering such decommissioning costs, subject to any cost recovery limitations imposed by petroleum agreements or regulations.³⁸ The Act delegates fund management to a body comprised of government and licensee representatives. Subsequent rules promulgated under the Act will determine the ratio of such representation.³⁹

The payment of money into the fund is triggered by three different ways. 'Payment into the fund shall commence from the calendar quarter in which- (a) petroleum production has reached fifty percent of the aggregate recoverable reserves as determined in an approved development plan and any subsequent reappraisal of such initial recoverable reserves; (b) five years before the license expires; or (c) on notice of surrender,' according to the Act.⁴⁰ The licensee and the owner of the facilities (where the licensee is no longer the licensee) must

³³ Ibid, section 112(3)

³⁴ Ibid, section 112(1) and section 115(1)

³⁵ Ibid, section 115(4) and (5)

³⁶ Ibid, section 113(2)

³⁷ Ibid, section 113(4)

³⁸ Ibid, section 113(5)

³⁹ Ibid, section 113(8)

⁴⁰ Ibid, section 113(3)

reimburse the cost and expenditures if the money in the fund is insufficient to cover the plan's implementation.⁴¹

The provision for the creation of a fund as the single choice for decommissioning security is laudable because it is often regarded as the most secure financial security. The third-party guarantee and a parent company guarantee are two other sorts of decommissioning security methods. A third-party guarantee is a promise from a financial organization, such as a bank or an insurance company, that they will fund decommissioning on a specific day. Even though certain oil-producing countries still allow it as a decommissioning security option, it is frequently overlooked because the institution '...may be unable to provide the cash at a later date.'⁴² When a parent business agrees to cover decommissioning if the licensee defaults, this is known as a parent company guarantee. 'Future events may degrade the creditworthiness of even oil giants... [and] this alternative is not popular with governments,' it is claimed. In compared to other security systems, the decommissioning fund is regarded as "the safest and most dependable security mechanism" because it guarantees the availability of funds for decommissioning.

4.2.3 Contracts

These are agreements Uganda has made with various IOCs and other firms for the exploration and production of oil and gas. For reasons of confidentiality, the actual contracts are not widely available to citizens; nonetheless, Uganda has model contracts that are used while negotiating with other IOCs.

4.2.4 Model Production Sharing Agreement for Petroleum Exploration, Development And Production Or Petroleum Development And Production In The Republic Of Uganda.

This is a model that will help the Ugandan government enter into contracts for oil exploration, development, and production. It is made up of 34 articles that spell out our responsibilities to one another.

⁴¹ Ibid, section 113(6)

⁴² Mark Saunder and Nabarno Nathanson; 'Abandonment Agreements' in Martyn R. David (ed) in *Upstream Oil and Gas Agreements: With Precedents* (Sweet & Maxwell 1996) 235

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 of these clauses was adjusted to the government of Uganda's agreements with other entities for petroleum exploration, development, and production.

4.2.5 International law.

Under the 1958 Continental Shelf Convention, which was later carried over to the UN General Assembly (GA) Resolution 1803 on Permanent Sovereignty over Natural Resources in 1962, international law recognizes a state's sovereignty over its natural resources. A supplementary UN Resolution 3281 (XXIX), Charter of Economic Rights and Duties of States, was approved by the UN General Assembly in 1974 to emphasize that a host country completely owns and controls petroleum resources under its jurisdiction. Because the host countries acknowledged permanent sovereignty, they were able to nationalize or expropriate foreign firm assets. They could only do so if they were compensated in conformity with the host state's laws and international law and for grounds of public usefulness, security, or national interests. The Energy Charter Treaty (ECT), agreed in 1994 between the then-newly emerging former Soviet Union republics of resource-rich Central Asia and Europe, as well as Japan, Russia, and Turkey, has a more complex and modern version of this norm.

Article 18 of the ECT recognizes permanent sovereignty over natural resources, but reiterates the standard expropriation tests: it can only be done in the public interest; it cannot be discriminatory; it must follow due process of law; and it must be accompanied by prompt,

adequate, and effective compensation. The ECT also includes a thorough investment protection component (Part III of the Treaty), which has been the norm for investment treatment in a number of subsequent Bilateral Investment Treaties (BITs).

The Energy Charter Secretariat, the ECT's executive body, established a model intergovernmental and host-government cross-border pipeline agreement for natural gas, which has served as the foundation for a few pipeline deals in Central Asia, including the Baku-Aktau pipeline agreement. The UN Convention on the Law of the Sea Treaty offers fundamental norms and international rules for offshore exploration and the laying of subsea pipelines, including rules on offshore removal and disposal obligations.

The importance of marine boundaries in present international relations, on the other hand, has expanded in tandem with the extension of national maritime jurisdictional boundaries in the previous 50 or 60 years. This is because, at the moment, an acre of sea could be worth more than an acre of barren land, particularly if there is oil or gas beneath the surface or beneath the seabed. As a result, establishing maritime boundaries has become a major problem for coastal states, and just a few of them have a complete set.⁴³

According to geographers, just 180 limits have been agreed upon so far, much fewer than the 400 possible bounds. The reasons for this are that, in the absence of any incidents or natural resources, countries do not view boundary-making as a priority. Furthermore, underdeveloped countries frequently lack ready access to the professional guidance that hydrographers are expected to provide. Despite this, some of them have negotiated borders, for example, due to the oil industry's support.⁴⁴

Chatham House recognized two possible reasons of maritime boundary disputes during a meeting of the International Law Discussion Group on February 14, 2006: contested sovereignty over land and overlapping entitlements to maritime rights and jurisdiction. It was highlighted in the former that two countries can claim the same island or a portion of the

⁴³ 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 15th January, 2022)

⁴⁴ Ibid

mainland.⁴⁵ The applicable norms of international law, such as those on the acquisition of sovereignty, look to human action (occupation and administration) of the area to determine this problem.

On the latter, it was highlighted that there may be overlapping claims for 12-mile territorial waters, 200-mile EEZs, and continental shelf that could stretch beyond 200 miles between nearby or opposing States. Overlaps are more common now than they used to be, thanks to the extension of rights to a 200-mile limit. The relevant norms of international law for resolving overlapping claims are those on maritime boundary delimitation. The United Nations Convention on the Law of the Sea (UNCLOS), as well as national practice and jurisprudence, contain these regulations.

Article 33 of the UN Charter calls for the peaceful resolution of disputes through procedures chosen by the parties. Negotiation is always a part of these methods. If negotiations fail, conciliation, good offices (e.g., the UN Secretary General), arbitration (ad hoc or according to UNCLOS Annex VII), or judicial settlement (ICJ/ITLOS) may be used.

Resolving any sovereignty discrepancies, establishing a complete boundary, a partial boundary, or a shared territory, or combining some of those ways are all options for resolving conflicts and disputes over overlapping entitlements. In accordance with international law, maritime boundaries must be created by agreement. Disputes and disagreements over sovereignty was settled by determining which state has the most activity on the contested region.

The International Court of Justice (ICJ) is the United Nations' principal judicial organ, consisting of 193 member nations.⁴⁶ As a result, it has the responsibility of resolving any issues that may develop between these countries utilizing international law and other sources

⁴⁵ See *Eritrea v Yemen, Award on Territorial Sovereignty and Scope of the Dispute*, (1998) XXII RIAA 211, PCA.

⁴⁶ Article 92 of the Charter of the United Nations, 1945

as established by the law.⁴⁷ The United Nations Convention on the Law of the Sea is the most international convention invoked by the ICJ (UNCLOS).⁴⁸

The main criticism of the UNCLOS has been that Articles 74(3) and 83(3) of the Convention, which are the only provisions that deal directly with the obligations of States "pending agreement" on delimitation, do not contain any express rules prohibiting the prohibition of any specific oil and gas activities in the disputed area. Instead, they place an open-ended commitment on States to refrain from any actions that could threaten or obstruct the eventual delimitation agreement. However, the question of what types of economic activities would jeopardize or obstruct the ultimate delimitation agreement remains unanswered.⁴⁹

Previously, any actions linked to digging wells, erecting installations, or appropriating petroleum in contested territories were subject to an international responsibility to refrain from doing so.⁵⁰ This requirement appears to stem from traditional law, such as the UNCLOS, and is also represented in customary international law as a broad obligation of 'mutual restraint.' Seismic exploration surveys, on the other hand, have long been regarded 'legally legitimate,' even when done without the approval of other interested parties. The explanation given for the distinction is that, whilst the former activities can have a long-term physical influence on the disputed area's marine ecosystem, seismic surveys, due to their transient nature, cannot.

Case law from before the 1982 Convention, such as the North Sea Delimitation Cases of 1969, the Aegean Sea Case of 1976, and the Fisheries Jurisdiction Case of 1974, provided justification for such a theory that tends to stray from contemporary international law.

Given that UNCLOS only went into effect in 1994, the most, if not all, of these cases were decided under the 1958 Continental Shelf Convention.⁵¹ However, there were no rules or

⁴⁷ Article 38 of the Statute of the International Court of Justice

⁴⁸ United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3.

⁴⁹ Yiallourides C. "Oil and Gas Development in Disputed Waters Under UNCLOS", available at; <https://core.ac.uk/download/pdf/82962947.pdf> (accessed on 15th January, 2022)

⁵⁰ Lagoni R. 1984. "*Interim Measures Pending Maritime Delimitation Agreements*", UCL Journal of Law and Jurisprudence, AJIL 345.

⁵¹ Convention on the Continental Shelf (adopted 29 April 1958, entered into force 10 June 1964) 499 UNTS 311

procedures in the 1958 Convention dealing with the rights and obligations of States pending delimitation. Such measures, such as Articles 74(3) and 83(3), were not introduced until the 1982 Convention, which was 24 years later.

Currently, all coastal States are entitled to a continental shelf region extending at least 200 nautical miles (nm) from their coastline baselines, over which they have sovereign rights to explore and use their subsea natural resources under both conventional and customary international law. These rights are ipso facto and ab initio in the sense that they do not require any specific legal acts or declarations to be enacted.⁵²

Similarly, all coastal States are entitled to an Exclusive Economic Zone (EEZ) extending up to 200 nautical miles from their coastlines, over which they have sovereign rights to explore and exploit their offshore natural resources, though this zone applies to both non-living and living resources, such as oil and gas, as well as fisheries.⁵³

If a State's continental shelf or EEZ rights overlap with those of another State, a marine delimitation process must be undertaken to identify where the dividing line between the two entitlements rests.⁵⁴

This framework establishes a key distinction between the right to a certain maritime area and the delimitation of that region between two or more adjacent or opposing coastal States.⁵⁵ On the one hand, delimitation is in question or becomes necessary only when overlapping claims occur; on the other hand, the inherent nature of a coastal State's sovereign rights over its continental shelf means that this maritime area belongs to the State regardless of whether it has been delimited previously or not.⁵⁶

As a result, the International Court of Justice (ICJ) decided in the Libya/Malta case that the issues of continental shelf entitlement on the one hand and continental shelf delimitation on

⁵² David M. 1999. "Joint Development of Common Offshore Oil and Gas Deposits: "Mere" State Practice or Customary International Law?", *AJIL* 771, 775.

⁵³ Article 57, UNCLOS

⁵⁴ Douglas MJ & Philip MS. 1988. "Ocean Boundary Making: Regional Issues and Developments" Croom Helm, p. 17

⁵⁵ Daniel PO (ed). 1982. *The International Law of the Sea*, Clarendon Press, Vol. 1, pp.691-692

⁵⁶ Churchill R. & Ulfstein G. *Marine Management in Disputed Areas: The Case of the Barents Sea*, Routledge, p.86.

the other are not only separate but also complimentary. Indeed, the delimitation procedure cannot be used to circumvent or negate each state's general right to its section of the continental shelf under international law. As a result, maritime delimitation is used to establish a dividing line between areas that already belong to one or both of the affected States, rather than determining a State's right to a continental shelf and/or an EEZ.

As a result, if a maritime boundary dispute is brought before the ICJ, the court was guided by the foregoing technique in determining the amount of each party's claim.

As a result, international law governs various elements of the oil and gas industry. Starting with the crucial aspects of onshore and offshore oil, as well as dispute resolution and the remainder of the topics addressed above.

4.3 Conclusion.

As shown above, the oil and gas industry has built a well-structured and detailed legal framework throughout time. This study examines this paradigm in the context of Uganda; its applicability, efficacy, and assurance.

CHAPTER FIVE

CHALLENGES LIKELY TO BE FACED IF THE LEGAL FRAMEWORK IS NOT HARMONIZED.

5.1 Introduction.

This chapter discussed the challenges that Uganda has faced or may face if the level of the legislation governing decommissioning in the country is not standardised. Uganda has been dubbed Africa's "hottest inland exploration frontier" by the oil business press. Exploration is underway across the Albertine Rift in Uganda, with five of the nine oil-prospecting blocks established by the government now being assigned to corporations for exploration.

According to current estimations, the country's oil potential from the three blocks that have been drilled so far is roughly 2.5 billion barrels of recoverable reserves. According to some estimates, Uganda's Albertine Graben could hold more than 6 billion barrels of oil, putting Uganda among Africa's top oil producers. Given the volatility of oil prices, estimating Uganda's likely oil revenues is difficult. However, assuming production goes smoothly, Uganda's budget is anticipated to reap a significant windfall, potentially tripling the country's revenue base within six to ten years.

This increase in national income provides Uganda with a once-in-a-lifetime opportunity to alleviate poverty, promote broad-based development, and raise living standards across the country. However, international history shows that resource-rich developing countries frequently have difficulties in turning natural wealth into peace and prosperity. The "resource curse" has received a lot of attention. When developing countries grow overly reliant on oil and minerals, they face a slew of political, economic, and social problems.

On the one hand, a close examination of the conditions governing the payment of money into the fund would reveal its shortcomings in terms of ensuring the availability of sufficient funds for decommissioning. As previously stated, the Act mandates that payments into the decommissioning fund begin when any of the following events occurs: (a) when petroleum production reaches fifty percent of the aggregate recoverable reserves as determined in an

approved development plan, and any subsequent reappraisal of such initial recoverable reserves; (b) five years before the license expires; or (c) when notice of surrender is issued.⁵⁷

5.2 Where petroleum production has reached 50% of total recoverable reserves

In practice, where payment into the fund is triggered by "output reaching fifty percent of expected reserve recovery," the Petroleum Authority would begin withdrawing the fund from the licensee based on an estimated decommissioning cost given in the plan.⁵⁸ The deduction will continue until the full decommissioning cost has been collected or the offshore field has been fully recovered.

In the first case, the fund generated at the end of the expected recovery in the offshore oil field may not be sufficient to meet the costs of decommissioning. It is frequent, according to Lagenkamp, for "estimates of recoverable petroleum to fail to capture reality."⁵⁹ As a result, it's probable that the expected revenue from the field has changed significantly, making it impossible to recoup the total decommissioning cost from the remaining 50% of recoverable oil in the field. Similarly, it is not uncommon for the predicted decommissioning costs in the decommissioning plan to fluctuate prior to decommissioning due to factors such as inflation.⁶⁰ 'Host States will tend to be apprehensive of the trigger mechanism scenario (given also the danger of inaccurate estimations),' Testa predicts. As a result, it's possible that the fifty percent of recoverable oil in the approved offshore oil field in Lake Albert, Uganda, won't be enough to pay for decommissioning.

Furthermore, it might be argued that the Petroleum Authority's discretionary power means that a modification of the cost could be requested if the anticipated cost no longer reflects reality. The Petroleum Authority has the authority to "demand a new or altered decommissioning plan" at its discretion.⁶¹ The licensee, on the other hand, is required by law to 'update the decommissioning plan... as requested by the Authority, within a reasonable

⁵⁷ Section 113(3)

⁵⁸ E Okello, 'Comparative Study of the United Kingdom and Uganda's Decommissioning Legal Regimes on Oil and Gas installations: The Extent to which Uganda can adopt or benefit from it', LLM Dissertation, University of Birmingham, 2013, 40-44.

⁵⁹ D.R. Langenkamp, 'Comments on the Draft Uganda Petroleum Bill 2010' (2010)8(4) OGEL 5.

⁶⁰ D O Salawu, 'Bringing the House Down: Decommissioning Issues in Nigeria's Upstream Oil and Gas Sector' (2013)12(4) OGEL 11.

⁶¹ The Petroleum Act, section 112(5).

time limit stipulated in the request.' When the predicted cost does not reflect reality, the Petroleum Authority might use this discretionary power to propose a change to the decommissioning plan.⁶² As a result, the issue of a lack of such funding for decommissioning would be avoided.

On the one hand, the likelihood of the aforementioned occurring is remote, given that the Petroleum Authority has the necessary competence to determine whether the predicted decommissioning cost was sufficient to cover the decommissioning cost on a regular basis. According to a survey conducted by Uganda's Ministry of Energy and Mineral Development, "Uganda scores low when evaluating basic prerequisites for capacity building in the oil business."⁶³ In addition, Uganda's National Oil and Gas Policy admits that the Petroleum Authority has sufficient capacity in topics related to petroleum activities, notably offshore.⁶⁴ Given the required requirement for capacity-building by oil firms in Uganda as part of their corporate social responsibility and national content obligations, this could change. However, evidence from African oil-producing countries with older offshore oil businesses suggests that such provisions cannot be guaranteed to be implemented by a competent regulator. As a result, there is no certainty that the Petroleum Authority will have the necessary competence to review and rule on the sufficiency of such estimated decommissioning costs on a regular basis.

Unfortunately, the licensee is not obligated to change the estimated decommissioning cost if it is insufficient to support the decommissioning. A licensee is required to revise the decommissioning plan 'whenever the projected manner or costs of carrying out the decommissioning work have changed considerably as a result of new techniques for the work becoming available,'⁶⁵ aside from when the Petroleum Authority requests it. This means that the licensee is not obligated to seek such a modification in every other situation, such as when a global drop in oil prices impacts the sufficiency of the predicted decommissioning cost.

⁶² N.M. Lomonaco, 'How to Finance Decommissioning in The Offshore Petroleum Industry? The Role and Importance of Decommissioning Funds' (2013) CEPMLP Annual Review - CAR Volume 16.

⁶³ Ministry of Energy and Mineral Development, 'Enhancing National Participation in the Oil and Gas Industry in Uganda' (2011) VII <http://www.eisourcebook.org/cms/Feb%202014/Uganda,%20Enhancing%20National%20Petroleum%20Participation.pdf> accessed 14 January 2022.

⁶⁴ The National Oil and Gas Policy for Uganda 2008, 54.

⁶⁵ The Petroleum Act 112 (6) (b).

As a result, there is no certainty that sufficient cash was obtained for the decommissioning of oil infrastructure in Lake Albert if payments to the fund begin after the field has recovered 50% of its value.

5.3 Five years before the license expires

The Act stipulates that if the recovery rate does not reach fifty percent but the license expires within five years, money was paid into the decommissioning fund.⁶⁶ Given that a production licence has a twenty-year life period, the fact that recovery has not reached fifty percent five years before the license expires could indicate that the recoverable oil was underestimated. 'The estimation of reserves is intrinsically imprecise since, regardless of the mathematical method utilized, data was restricted, it will not be feasible to precisely quantify all required factors, and numerous assumptions was required,'⁶⁷ Mcglade says. As a result, it's probable that the recoverable oil is smaller than expected in such a situation.⁶⁸ As a result, there's a chance that whatever decommissioning fund is obtained from the remaining recoverable oil in the reserves won't be enough to cover the entire cost of decommissioning.

5.4 When a Notice of Surrender is Issued

A holder of a petroleum production license can surrender their license at any time during the term of the license by submitting an application to the Minister of Energy for a certificate of surrender a year in advance of the surrender.⁶⁹ The license is cancelled when the Minister issues a certificate of surrender.⁷⁰ The licensee is released from any liability arising from the offshore field after the date of surrender as a result of such cancellation.⁷¹ Surrendering a license, on the other hand, "does not impact any liability incurred previous to the surrender." If payment to the decommissioning fund was not triggered before the surrender, it was

⁶⁶ Ibid

⁶⁷ C E Mcglade 'A Review of the Uncertainties in Estimates of Global Oil Resources' (2012) 47 Energy 264 ; Shepherd M, 'Factors Influencing Recovery From Oil and Gas Fields' in Shepherd M(eds), *Oil Field Production Geology* (AAPG Memoirs 2009) 37.

⁶⁸ Vladimir Alvarado and Eduardo Manrique, 'Enhanced Oil Recovery: An Update Review' (2010)3 Energies 1526

⁶⁹ The Petroleum Act, section 89(1)(b).

⁷⁰ Ibid, section 89(3)

⁷¹ Ibid, section 89(7)

activated upon receipt of the notification to surrender application.⁷² This means that payment must be made within a year of surrendering the license.

5.5 Can the Liability Provision compensate for the Decommissioning Fund's gaps?

'Where the decommissioning fund is insufficient to cover the implementation of the decommissioning plan, the licensee, and where applicable, the owner of the facilities, shall reimburse the costs and expenses,' according to the law.⁷³ As previously noted, the licensee's decommissioning responsibilities continue even after the license has expired or been terminated. This means that even after the license or interest has expired, the licensee or owner of the facilities (in the event of a transfer of the license or ownership of such facility) is responsible for the remaining decommissioning expenditures. As a result, one could argue that the government can use this provision to petition a court for an order requiring the licensee or owner of the facilities to pay the remaining decommissioning costs.

On the one hand, the licensee may not have enough property in Uganda to allow the decision to be enforced. There's no guarantee that a licensee or owner who hasn't paid the full cost of decommissioning will voluntarily comply with a Ugandan court decision. If the licensee or owner of the facilities fails to comply, the government will have to enforce the judgment against the licensee's or owner's property.⁷⁴ All of the international oil corporations with petroleum licenses in Uganda are foreign firms. As a result, the assets they own in Uganda are anticipated to be sufficient to carry out their petroleum operations in Uganda. As a result, there is a possibility that the levy of execution of judgment was ineffective in covering the remaining decommissioning costs. In relation to Nigeria, both the contractor and the guarantor corporate entity may not have resources or property within the Nigerian jurisdiction, so removing the possibility of recovering such decommissioning costs through a judicial judgment.

Furthermore, the Ugandan government cannot rely on future relationships with such licensees to finance the remaining costs of decommissioning. According to Testa, in a country with large oil reserves, foreign oil firms want to keep strong connections with the government,

⁷² Ibid, section 113(3)(c)

⁷³ Ibid, section 113(6)

⁷⁴ Elau Emmanuel, 'Enforcement of civil judgements –responsible law enforcement authorities, Procedural obstacles and current issues in Uganda' (2016) 3 Librairie Africaine d'Etudes Juridiques 92.

even when decommissioning, in order to secure further licensing opportunities.⁷⁵ In this situation, a licensee would want to pay the remaining decommissioning costs because it may still have other existing licenses in the country that could be revoked, or it may still want to secure another interest, in which case being in the good graces of the government becomes very important.

Unfortunately, the Ugandan situation is unique, as "the oil deposits in Uganda are anticipated to deplete in the next 40 years, which means that the oil corporations' activities will come to an end." This estimate is based on the current rate of production license grants.⁷⁶ Without excluding the possibility of additional oil discoveries, this would mean that by the time of decommissioning, all feasible licenses would have been issued and production would be nearing its end. As a result, the Ugandan government may not be able to leverage future ties to ensure that a licensee or owner of a plant pays for the remaining costs of decommissioning.

5.6 Consequences of a Potential Failure of the Petroleum Act's Decommissioning Fund Provisions

The Petroleum Act does not guarantee that adequate funding was available for the decommissioning of offshore assets in Lake Albert. The Petroleum Act gives the government complete ownership of petroleum in Ugandan waterways.⁷⁷ The privilege granted to licensees or permission holders is merely a deviation from this ownership.⁷⁸ As a result, if the licensee or owner of the offshore facilities in Lake Albert loses interest, ownership will revert to the government, which was responsible for funding decommissioning.

'A licensee shall keep the Government indemnified against all actions, claims, and demands that may be brought or made against the Government by reason of anything done by the

⁷⁵ Peter Cameron, 'Tackling the Decommissioning Problem' (1999) 14(2) *Natural Resources & Environment* 122.

⁷⁶ Maurice Eneanu, 'Oil decommissioning plan will save our environment' (2012) <http://www.monitor.co.ug/OpEd/Commentary/Oil-decommissioning-plan-will-save-ourevironment/689364-610762-sgro24z/index.html> accessed 17 January 2022

⁷⁷ Anne G. Wallace, 'Natural Resource Ownership and Use Rights Under Civil, Islamic, and Customary Legal System' (2016) https://law.wm.edu/academics/intellectuallife/researchcenters/postconflictjustice/documents/Wallace_naturalresource%20Ownership.pdf accessed 17 January 2022.

⁷⁸ Alidri Agatha, 'Traditional Wisdom in Land Use and Resource Management Among the Lugbara of Uganda: A Historical Perspective' (2016)1 *SAGE* 12.

licensee in the exercise or purported exercise of the licensee's rights under this Act or the license,' according to the Act. In this case, the term "indemnified" was not defined in the Act.⁷⁹ Some authors, however, understand this to suggest that the licensee is required to carry insurance that will indemnify the government in the event of third-party responsibility.⁸⁰

As a result, it's likely that the Minister would demand proof of insurance from oil corporations even before they begin their operations. This insurance covers them against third-party responsibility. The problem with the preceding assumption is that, because such insurance is not expressly provided for in the Petroleum Act, there is no certainty that the Minister would insist on it. 'Because PSAs that have been signed by the government are not available to the public, we are unable to speak with clarity on how frequently such guarantees are requested,' Mckenna said. Similarly, there is no guarantee that insurance institutions was able to give funds at a later date that is not less than twenty years after the insurance was taken out. As a result, the Ugandan government may find itself in a position where it must bear the complete or partial cost of decommissioning offshore sites in Ugandan Lake Albert.

CHAPTER SIX

FINDINGS, RECOMMENDATIONS AND CONCLUSION

6.1 Introduction.

This chapter summarizes the findings of the research on the above-mentioned thesis. It describes the researcher's observations, results, and discoveries during the course of the investigation. It also made recommendations for removing the fear of external factors and instilling confidence in the laws in place.

⁷⁹ The Petroleum Act, section 181

⁸⁰ Mckenna Group, 'Conducting oil and gas activities in Uganda' (2016) 5. <https://cms.law/en/content/download/279335/6964336/version/1/file/Conducting%20Oil%20%26%20Gas%20Activities%20-%20Uganda.PDF> accessed 17 January 2022.

6.2 Summary findings

6.2.1 Positive findings

The researcher was able to extract a number of findings from the study in respect to Uganda's legal framework in the Oil and Gas sector. The study also discovered new information about the international structure that governs oil and gas, as well as how the two interact.

First and foremost, the researcher noted that Uganda's oil and gas rules are well-defined. Upstream, midstream, and downstream are the three stages of the oil and gas production process. Ugandan laws attempt to offer and accommodate for all of these stages through statute law, and it is well-developed to consider most of the essential aspects of oil and gas, such as pollution and decommissioning, to name a few.

Second, the Ugandan laws controlling oil and gas have an amazing structure. The constitution, which is the supreme law of the land, is at the very top. The parliament and relevant ministers then passed a slew of laws to oversee the sector's functioning. Uganda has prepared sample agreements that prospective contractual parties can consult for guidance on what terms are favourable and acceptable to the government as well as the population. The IFIs have also established a structure before they can fund oil corporations to collect minerals. Finally, there is the issue of international law as it pertains to oil and gas.

6.2.2 Potential threats

Despite the fact that Uganda has much to be proud of, the researcher worries that the threats are slightly greater. According to the findings of the study, if the appropriate steps are not taken, Ugandans may face difficulties.

To begin with, the fear of a resource curse is becoming increasingly real. As the researcher previously stated, a resource curse occurs when a country fails to benefit from its abundant natural resources due to a variety of factors, as the researcher will explain momentarily. The resource curse was come the ultimate scourge for Uganda's economy as a result of this mismanagement. We stand a good possibility of never benefiting from the resource if the country chooses to take on more debt based on the belief that the oil reserves will readily pay off. When a non-renewable resource is mismanaged indefinitely, the country was in a worse situation than when it was discovered.

The phrase "Dutch sickness" was popularized by The Economist magazine in 1977 when it examined a situation in the Netherlands following the discovery of enormous natural gas supplies in the North Sea in 1959. The value of the Dutch guilder rose dramatically as a result of the sudden wealth and enormous oil exports, making Dutch exports of all non-oil products less competitive on the global market. Unemployment increased from 1.1 percent to 5.1 percent, while capital investment fell.

The term "Dutch sickness" has become popular in economic circles to describe the paradoxical scenario in which seemingly good news, such as the discovery of enormous oil reserves, has a negative influence on a country's overall economy.

The name comes from the discovery of oil, hence this impact is typically associated with oil and gas discoveries. Uganda has the potential to make the proper judgments so that it does not follow the same road as the rest of the world.

Another immediate threat to the oil and gas sector's growth is corruption. Uganda is well-known for having anti-corruption legislation, and this is undeniable. However, there is a question about how this law was implemented. Corruption and embezzlement of cash intended for various communities have plagued Uganda in the past. As a result, with the amount of money that the oil and gas sector is capable of bringing to the economy, there is no assurance that this money would ever help Ugandans if the terrible spirit of corruption continues to haunt the country's leaders.

Illicit Financial Flows (IFFs) pose a threat. Illicit Financial Flows (IFFs) are defined by the Organization for Economic Cooperation and Development (OECD) as a combination of strategies and practices aimed at shifting financial capital out of a country in violation of national and international laws. This term encompasses all methods and procedures, whether they are merely illegal or not. With corruption looming, it's possible that money embezzled from the oil and gas sector may be transported to nations with tax havens in order to avoid paying taxes to the taxing authority.

It is vital to emphasize that Uganda's weak political institutions and lack of political will play a significant role in illicit cash outflows. In the absence of strong political will, most of the behaviours that promote IFFs thrive, such as tax evasion, transfer pricing, and drug use, to name a few.

The law is currently under fear of being poorly implemented. Uganda has excellent laws that are extensive and well-structured, as previously said. However, earlier attempts to execute this law have failed miserably. The rule of law is not a value prized in Ugandan politics, and as a result, there is concern that the implementation of oil and gas regulations would follow suit. The difference is that this blunder will harm the population and the ecosystem now, as well as for many years to come.

The other danger is inefficient budgeting. There has been a lot of criticism in the recent past about how Uganda has allocated its resources in the face of severe difficulties. If not addressed, poor budgeting might provide fertile ground for the oil curse or the Dutch illness. Budgeting for this sector should be properly thought out, given that it has the potential to fund the entire country's budget in the coming years.

The dissemination of knowledge to citizens is another hazard. In a social compact, the leaders who have been granted the mandate owe transparency and knowledge to the population. Citizens should be able to comprehend what is happening in the oil and gas industry. It's vital to stress that this shouldn't just be about releasing technical reports that only a few informed folks can understand. To guarantee that the communities understand and react to the information, it must be delivered effectively. Participation in the making of some decisions will increase trust in the leaders.

Long-term strategic planning is critical, and if it is not taken into account, there is a risk of not getting the most out of the resource. The country must be able to forecast the potential benefits of various businesses and determine what is best for the country. This will essentially rescue the country from disastrous judgments and ensure the sector's future prosperity.

There is also a risk that the decommissioning fund was used for purposes other than those for which it was created. It is a requirement that this money be set aside prior to the start of oil drilling to ensure that the licensee cleans up after themselves. This money is passed up to the authorities. If Uganda decides to utilize this money for other purposes and it is not present when decommissioning time comes, it will have a variety of repercussions on the ecosystem and the population who was using the area once the oil drilling is completed.

There is also concern that the majority of the work done so far has been done without the agreement of the community. This permission should never be based on promises that aren't

kept. It must be free, prior, and informed consent, which means that the licensee must first tell the local communities of what was done so that they can freely assent. Compensation is another issue that must be rigorously adhered to. It must be completed prior to the land being taken over.

6.3 Conclusion.

The blessing of having a valuable resource like oil and gas must be cherished and exploited carefully for future generations' benefit. There have been numerous instances around the world where countries who have been gifted with oil have become the least developed as a result of the curse that comes with it. Uganda must be prepared to carry out all of the rules it has enacted to the letter in order to ensure that our country's development is sustainable.

6.4 Recommendations

Resource-dependent countries with low socioeconomic development frequently don't get the most out of their natural resource richness. These countries are experiencing weak economic growth and have become embroiled in violent conflicts in some situations. Chad, the Democratic Republic of Congo, Guinea, and Mauritania, for example, have the lowest per capita income in the world, with natural exports accounting for nearly 90% of total exports. Unaccountable and mismanaged institutions, combined with the discovery of natural wealth, are thought to be the root cause of economic failure and conflict. Some empirical data reveals a strong link between natural resource dependency and economic growth, which is often referred to as the "resource curse."

It is easier for governments to retain secrecy regarding extractive earnings and expenditures when voters lack a sense of public ownership of state revenues. Furthermore, citizens have little control over the flow of revenue and expenditure when the extraction corporation pays taxes directly to the state. This lack of transparency and ownership over resource revenue creates a lack of accountability and encourages illegal money transfers out of the extractives business.

Apart from mandating public disclosure, several multi-stakeholder initiatives should be established to encourage public disclosure of information. These initiatives should aim to create platforms for debate and empower civil society organizations to use the information

and engage with the government for improved transparency and accountability, and ultimately improved development outcomes.

In theory, legislators can assist in the governance of extractive industries in a variety of ways, including ensuring public disclosure of extraction contracts, monitoring compliance with contracts and laws, amending and ratifying legislation on extractive sector management, monitoring the performance of government agencies responsible for extractive sector management, and informing and managing constituent expectations as well as representing constituents' interdependencies.

Furthermore, as the amount of publicly available data on extractive sectors grows, the media's role in making sense of it, particularly investigative journalism, is being increasingly recognized as a critical component of the emerging transparency and accountability agenda.

Lack of transparency and accountability, combined with Illicit Financial Flows, results in the loss of much-needed resources for public initiatives and crucial investments, such as in this time of worldwide pandemic. For developing countries such as those in the East African region, this can amount to millions of dollars in lost or foregone tax revenues that could have been collected and used to support sustainable economic growth, job creation, poverty reduction, and climate change mitigation, among other things. With billions of dollars anticipated to be illegally transferred out of developing nations each year, countries' efforts to mobilize additional domestic resources in order to reach globally approved SDGs are hampered. As a result, openness should be stressed in order to keep the monies that are now being lost in the extractives sector.

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