

**CORPORATE SOCIAL RESPONSIBILITY PRACTICES BY OIL AND  
GAS COMPANIES IN UGANDA: A FACTOR ANALYSIS.**

**BY**

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**DECLARATION**

I, **BIWAGA STELLA MARIE**, hereby declare that this dissertation is original. I further declare that this work has not been submitted for award of a degree or any other academic qualification and or award in any university.

Signed: .....

**BIWAGA STELLA MARIE**

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Submitted with my consent

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## **DEDICATION**

This thesis is dedicated to my parents Albert Harry Cingtho (R.I.P), Doris Venturina Alier – Cingtho (R.I.P), Mrs. Florence K - Mugasha, sisters, brothers, nephews, nieces, partner and my friends especially -the Energized Group, for without them I would not have believed I could come this far, nor would I have had the persistence to go the distance.

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## ACRONYMS AND ABBREVIATIONS

Bnbls	Billion Barrels
CHIS	Community Health Insurance Scheme
CNOOC	China National Offshore Oil Corporation
CSI	Corporate Social Investments
CSR	Corporate Social Responsibility
EIA	Environmental Impact Assessments
EITI	Extractive Industries Transparency Initiative
GDP	Gross Domestic Product
GEITI	Ghana Extractive Industries Transparency Initiative
GNPC	Ghana National Petroleum Corporation
GNPCL	Ghana National Petroleum Corporation Law,
GRI	Global Reporting Initiative
IEA	International Energy Agency
IOC	International Oil Company
MEMD	Ministry of Energy and Mineral Development
MNCs	Multinational Corporations
MNIs	Multinational Institutions
NCDMB	Nigerian Content Development and Monitoring Board
NCS	Norwegian Coastal Shelf
NEITI	Nigeria Extractive Industries Transparency Initiative
NEMA	National Environment Management Authority
NGP	National Gas Policy
NMA	Norwegian Maritime Authority
NNPC	Nigeria National Petroleum Corporation
NOSDRA	National Oil Spill Detection and Response Agency
NPA	National Petroleum Authority
NPP	Nigerian Petroleum Policy
PEPD	Petroleum Exploration and Production Department



PFMA	Public Finance Management Act
PSA	Petroleum Safety Authority
PWYP	Publish What You Pay
RBC	River Boat Clinic
SDFI	State's Direct Financial Interest
SEA	Strategic Environment Assessment
SME	Small and Medium Enterprises
SNEPCo	Shell Nigeria Exploration and Production Company
SNG	Shell Nigeria Gas
SPDC	Shell Petroleum Development Company
STEM	Science, Technology, Engineering and Mathematics
TEP	Total E&P Uganda
TUOP	Tullow Uganda Operations Pty Limited
UNEP	United Nations Environmental Programme

## ABSTRACT

The Albertine Rift area is ecologically rich and recognized globally as a biodiversity hotspot with a variety of birds, mammals, amphibians and reptiles accommodated in protected areas such as forest reserves, wildlife reserves and national parks.<sup>1</sup> The soils in the Albertine Rift are highly permeable and fragile with low resilience when exposed to agents of soil degradation including cushioning against oil spills. The advent of petroleum activities has been described by UNESCO as incompatible with the Albertine Rift, also home to a quarter of the World 's mountain gorillas.<sup>2</sup> It is evident that petroleum related concerns are generally increasing over the years, with business leading and closely followed by societal interest that largely focuses on welfare. It is worth noting that although the focus on environmental concerns is currently low in importance, they remain key determinants of sustainable development of the oil and gas sector world over.

Along with the oil comes a high sense of expectation among the citizens of Uganda, especially in the communities where oil exploration is undertaken. In total so far there are five international oil companies have been issued with exploration licenses, three of which also have production licences. The five companies are; Total E & P Uganda, Tullow Uganda Operations Pty Limited, China National Offshore Oil Corporation (CNOOC), Amrou Energy and Oranto. Three of the five companies with production licenses are; Total E & P Uganda, Tullow Uganda Operations Pty Limited and China National Offshore Oil Corporation (CNOOC). In order not to experience the detrimental incidents that come along with exploration and production of oil and gas, the Government of Uganda along with the International Oil Companies have a role to play. In view of this, this study is a ***FACTOR ANALYSIS OF CORPORATE SOCIAL RESPONSIBILITY (CSR) PRACTICES BY OIL AND GAS COMPANIES IN UGANDA***. The analysis includes an assessment of the Corporate Social Responsibility policies and practices in Uganda by the different oil and gas companies. Relevant literature relating to Corporate Social Responsibility was also undertaken and has contributed

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<sup>1</sup> National Environment Management Authority (NEMA) (2010), *Environmental Sensitivity Atlas for the Albertine Graben*. Kampala: NEMA.(2012), *The Environmental Monitoring Plan for the Albertine Graben 2012–2017*. Kampala: Republic of Uganda.

<sup>2</sup> The New Vision (2015, 15 March), *‘Gorillas vs Oil: DR Congo Seeking Way to Explore at Virunga Park, 2015’*. [https://www.newvision.co.ug/new\\_vision/news/1322371/gorillas-vs-oil-dr-congo-seeking-explore-virunga-park](https://www.newvision.co.ug/new_vision/news/1322371/gorillas-vs-oil-dr-congo-seeking-explore-virunga-park) accessed 5 January 2020.

to the analysis of the study findings. Practices across countries like Ghana, Nigeria and Norway for comparison purposes were also undertaken, analysis of which was achieved through the use of content analysis and secondary data within the interpretivist research paradigm. The results indicate that, although Uganda has established petroleum related institutions, policies, laws and regulations as well as obtained membership with EITI, there is need for sector specific Corporate Social Responsibility policies and guidelines as a critical aspect of corporate governance and sustainable development.

**Keywords:** *Corporate Social Responsibility, Corporate Sustainability, Disclosure, Economic Development, Environment, Globalization, Health and Safety, Local content, Voluntary nature of CSR, Petroleum Sector, Sustainable Development.*

## CHAPTER ONE: INTRODUCTION

### 1.1 Background to the study

Corporate Social Responsibility has emerged as a business approach for addressing the social and environmental impact of company activities. The World Bank defines CSR as –the commitment of business to contribute to sustainable development working with employees, their families, local communities, and society at large to improve their quality of life that are both good for business and good for development. Hence, the concept of CSR has gradually taken root in the business environment. This has been attributed to the fact that companies have become aware that by engaging in social responsibilities, they can have a social license to operate and to also maintain competitive advantage over their counterparts which in turn benefits the organization in the long run. As supported by the Chatham House, good governance is a key element for sustainable development, absence of which may arguably be the reason some resource rich countries are getting minimal benefits from exploiting existing resources such as oil. Implying that, instead of the oil resource activating economic and social development, it has led to a mismatch of the natural resource and economic development, otherwise known as the –resource curse. In a bid to address the so called –resource curse, Chatham House developed a framework of good governance for the national petroleum sector which attributes include; transparency and accountability. Good governance has therefore been observed by Chatham House as a foundation for good CSR policies and practices. Being a capital-intensive industry that is largely dependent on a finite resource, the oil and gas industry should have sustainability at the heart of its policies and operations.

Acknowledging the overwhelming influence of Multi-national Companies and the effect of corporate globalization<sup>3</sup> in the absence of an authoritative international regulatory instrument to control multi-national companies and the weakness of the existing national laws, CSR has become an important concept used in strengthening corporate relations. CSR is seen as self-regulatory codes which some consider as substitute for regulation.<sup>4</sup> This has become very important not only because of the insufficiency of the existing national regulatory framework, but the inability of the government to fully respond to the societal demands for socio-economic development, which has inadvertently shifted the

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<sup>3</sup> Tamara Straus (2005) –Study Finds Rise in Corporate Power

<sup>4</sup> Christian Aid (2004) –Behind the Mask - the Real Face of Corporate Social Responsibility

pressure to the multi-national companies.<sup>5</sup> It is important to note that multi-national companies and foreign direct investments have had positive impact in transforming local economies and supporting socio-economic development of developing countries through creating jobs, capacity building and infrastructural development.<sup>6</sup> These positive impacts are achieved through the auspices of CSR. However, CSR in recent times has played different roles in corporate relations depending on the motivational force behind it. For example, it could arise as a result of public pressure on the corporations due to human rights abuses and environmental pollution.<sup>7</sup> On the other hand, it could also be a genuine effort by businesses to demonstrate their commitments and goodwill towards the society on which their business operations depend.

The European Union's Green paper on CSR defined it as 'a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis'.<sup>8</sup> Considering the dominance of the West in influencing the CSR agenda, the contemporary CSR movement could, arguably, be largely founded on Anglo-American priorities, philosophies and values.<sup>9</sup> Characteristic of other business concepts, CSR is on its way to globalization, particularly through Multinational Corporations (MNCs) and Multinational Institutions (MNIs). This can be attributed to the consistency of the CSR construct at a global level. In this regard, there is a growing literature on the meaning and practice of CSR across cultures and national boundaries.<sup>10</sup> A shared aspect in most studies, proposes that meaning and practice of CSR is socio- culturally embedded.

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<sup>5</sup> Olanrewaju U (2014) –Corporate Social Responsibility of Corporations to Host Communities

<sup>6</sup> Uwem E. Ite (2004) Multinationals and Corporate Social Responsibility in Developing Countries: A Case Study of Nigeria.

<sup>7</sup> Ibid.

<sup>8</sup> Ahmed Musa, Yahaya Yusuf, Louise McArdle and Gbemisola Banjoko. Corporate social responsibility in Nigeria's oil and gas industry: the perspective of the industry, *Int. J. Process Management and Benchmarking*, Vol. 3, No. 2, 2013

<sup>9</sup> Kemp, M. (2001). Corporate social responsibility in Indonesia: quixotic dream or confident expectation? *Technology, Business & Society*, [Programme Paper No.6]. Geneva, Switzerland: United Nations Research Institute for Social Development; Chapple, W. and Moon, J. (2005). Corporate social responsibility (CSR) in Asia: a seven-country study of CSR web site reporting. *Business & Society*, 44(4):415-439; Fig, D. (2005). Manufacturing amnesia: corporate social responsibility in South Africa. *International affairs* 81(3):559:617

<sup>10</sup> Orpen, C. (2000). The attitudes of united states and South African managers to corporate social responsibility. *Journal of Business Ethics*, 6(2):89-96; Langlois, C. C. and Schlegelmilch, B. B. (1990). Do corporate codes of ethics reflect national character? Evidence from Europe and the United States. *Journal of International Business Studies*, 21 (4): 519-539; Bennett, R. (1998). Corporate philanthropy in France, Germany and the UK: International comparisons of commercial orientation towards company giving in European nations. *International Marketing Review*, 15(6):458-475; Quazi, A. M.

As argued by Frynas,<sup>11</sup> the oil and gas sector is among the leading industries at the forefront of CSR. This may be due to the highly visible negative outcomes of daily operations for example environmental degradation, oil spillage and pollution that may lead to protests by the indigenous people and civil society groups. This was witnessed during Shell ‘s Niger Delta oil spill that led to unrest and the pollution of water in Nigeria ‘s Ogoni land region.<sup>12</sup> Therefore, companies ought to consider the needs of the host communities and act accordingly in order to avoid civil unrest and disturbances that may subsequently disrupt operations.

Oil and gas reserves in Ghana were discovered in 2007 and the country began to extract these resources in 2010. With subsequent discoveries the country has come to realize its long-time hope of boosting its socio-economic development with proceeds from oil and gas. However, the oil sector globally has not helped to boost local economic development in producing countries, especially developing countries. In Nigeria, oil production dates back to 1909 with the search for crude oil spearheaded by the Nigerian Bitumen Company, a private entity led by an American engineer, John Simon Bergheim.<sup>13</sup>

Despite the existence of oil in Nigeria for a long time, it should be noted that to date, there are no laws expressly mandating Multi-national Companies to carry out their business operations in a specific ethical or socially responsible manner. In Nigeria, CSR is often regulated by \_corporate codes of conduct, voluntary social reporting and community development projects ‘within the communities where Multi-national Companies operate.<sup>14</sup>

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and O’Brien, D. (2000). An empirical test of a cross national model of corporate social responsibility. *Journal of Business Ethics* 25:33-51

<sup>11</sup> Jędrzej George Frynas. October 2009. Corporate Social Responsibility in the Oil and Gas Sector. [Online article]. *Journal of World Energy Law & Business* 2(3), 178-195. [https://www.researchgate.net/publication/247577729\\_Corporate\\_social\\_responsibility\\_in\\_the\\_oil\\_and\\_gas\\_sector](https://www.researchgate.net/publication/247577729_Corporate_social_responsibility_in_the_oil_and_gas_sector) accessed 10 February 2020

<sup>12</sup> The guardian, Thursday 7 November 2013 :Shell made false claims about Niger Delta oil pollution <http://www.theguardian.com/global-development/2013/nov/07/shell-oil-niger-delta-pollution-amnesty>

<sup>13</sup> Dele Ogun (2018) Nigeria Oil and Gas: An Introduction and Outlook <https://www.oilandgasiq.com/market-outlook/news/nigeria-oil-and-gas-an-introduction-and-outlook> accessed 4 March 2020.

<sup>14</sup> Jose Mario B. Maximiano (2007) –A Strategic Approach (SIA) to Institutionalizing CSR.¶

In contrast, countries such as Norway who have had petroleum operations for over 40 years, since the mid-1960s are often cited as a best practice specimen,<sup>15</sup> whose enterprises (both public and private) have advanced in integrating CSR into their business strategies and daily operations. This may be attributed to Norway 's national CSR guidelines for companies both in the petroleum and non- petroleum sector. Therefore, this study analyses the CSR policies and practices in the petroleum sectors in Ghana, Nigeria, Norway and Uganda.

## **1.2 Statement of the problem**

The nature of the oil and gas industry demands that it be proactive and socially responsible in addition to operating in an ethical and environmentally friendly manner. The aims of this study is to analyze the factors that influence oil and gas companies operating in the Albertine Graben to implement CSR as part of their operations as well as the practices/interventions.

Currently, the oil and gas industry believe that CSR is not of high importance while at the same time it is also contended that CSR is taking root and becoming a global issue and in some countries been made a legal requirement. The oil and gas industry needs to keep an eye on CSR trends such as globalization as well as oil and gas companies having undue influence on societies. However, how is CSR implemented in the different countries given the nature of the sector and the dangers to both life, flora and fauna. The dangers of the industry include oil spills, collapse of ridges, flaring of oil and gas, out bursts, blow outs, collapse of wells, disposal of waste, transportation and storage of crude and gas, collapse of plugged and abandoned wells. This therefore gives rise to the question of the interaction and relationship between the oil and gas companies and the communities and how the companies give back to the communities/country or how do the communities benefit from the oil and gas companies. Are these interactions and engagements regulated or left to the discretion of the oil and gas companies. Every company will have CSR as part of its business because building relationships is so much easier if you understand people '. As CSR implementation is becoming more common practice amongst companies, it is valuable to understand the underlying factors involved. The study thus examines the factors influencing oil and gas company choices to implement CSR practices in their operations.

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<sup>15</sup> THURBER, M.C., HULTS, D.R., and HELLER, P.R.P., 2011. *Exporting the "Norwegian Model": The effect of administrative design on oil sector performance*. Energy Policy Journal 39 pp.5366-5378-962396.; BELLONA, 2004. *Stadig Økende Interessent for SRI Investeringer*. [http://www.bellona.no/norwegian\\_import\\_area/oekonomi/kapital/fou/32492](http://www.bellona.no/norwegian_import_area/oekonomi/kapital/fou/32492). accessed 10 February 2020; VATNE, E., 2007. *Regional distribution of employment among petro-related supply and service providers in Norway*. Vol. 22.

### **1.3 General objectives of the study**

The aim of the study is to investigate the current state of CSR in Uganda 's Oil and Gas industry and the factors that motivate companies to engage in CSR. Country comparisons of CSR practices have also been undertaken from Ghana, Nigeria and Norway.

#### **1.3.1 Specific objectives**

The specific research objectives of this study include:

1. To evaluate the legal framework of CSR in Uganda
2. To analyze factors influencing oil and gas companies in Uganda to engage in CSR practices,
3. To undertake country comparisons on CSR practices in Ghana, Nigeria, Norway and Uganda.
4. To make recommendations for consideration by Uganda

#### **1.4 Research questions**

1. What is the legal framework relating to CSR in Uganda 's oil and gas sector.
2. What factors influence oil and gas companies to undertake CSR practices in Uganda.
3. What CSR interventions do oil and gas companies in Ghana, Nigeria and Norway implement.
4. What recommendations can be made to Uganda for consideration?

#### **1.5 Justification of the Study**

This study intends to examine the factors that influence the choices made by oil and gas companies to implement CSR activities in their operations in Uganda. It will also draw on the experiences of oil and gas companies in other countries such as Ghana, Nigeria and Norway. There is literature and findings that have demonstrated that the choices made are dependent on various factors and based on the different schools of thought that advocate for CSR practices in the oil and gas sector. The underlying factors influencing CSR implementation are many, how they interact and their relative importance is an interesting and relevant matter for scholars. CSR can foster socio-economic and environmental benefits by reducing the negative externalities from business activities on people and environment while simultaneously contributing to solve crosscutting societal and environmental problems on a local and global scale. Hence, the justifications of the study are discussed below:

- i. Uganda is seen and considered as an emerging oil and gas country and therefore expertise in the sector is yet to be further developed across the value chain. As such there is a lot that Uganda can



learn from the more developed oil and gas economies and this includes CSR in terms of policies, laws, regulations, frameworks and practices.

- ii. Literature relating to CSR benchmarks by Uganda is limited save for direct support that has been offered by the Norwegian government to the government of Uganda through the Ministry of Energy and Mineral Development through the Oil for Development grant and study scholarships. Bulk of the literature relates to the impact of CSR on the communities, stakeholder engagement, and CSR initiatives by the different oil and gas companies.
- iii. The research shall contribute to the existing literature relating to the concept of CSR in Uganda's petroleum sector.

As a student of Masters of Law (Oil and Gas), the concept of CSR is of central importance as it is directly linked with the wider scope of solving integrated social and environmental issues touching the oil and gas sector. More so, seek to understand the conditions that oil and gas companies assume in relation to social responsibility as contributors to sustainable development.

### **1.6 Scope of the study**

This study shall concentrate on the factors that influence the choices made by oil and gas companies to implement CSR practices/interventions in their operations in Uganda. The study shall cover aspects of legal frameworks relating to CSR, motivating factors for oil and gas companies to engage in CSR practices, CSR practices/interventions by the selected companies from Ghana, Nigeria, Norway and Uganda.

### **1.7 Methodology**

Literature on CSR practices in Ghana, Nigeria, Norway and Uganda has been reviewed and analyzed for purposes of this research. For the first objective, a study of policies and practices relating to CSR in Uganda was undertaken. While for the second objective, a detailed review and analysis of company annual reports and policies relating to CSR, government databases and the relevant literature was also undertaken. The purpose for the country comparisons was to ascertain whether there are any lessons that Uganda could learn from Ghana, Nigeria and Norway. Ultimately, recommendations were made based on the findings of the study.

### **1.8 Research design**

The interpretivism paradigm influenced the study design which required in-depth examination, review and content analysis of secondary qualitative data from the different sources including website

information, previous research works, journals, newspaper articles, company documents, parliamentary reports and text books. Similarly, by observing internet websites that often contain bulk of the collected primary data such as websites of the different oil and gas companies, state ministries, departments and agencies were also put to use.

Nine oil and gas companies were selected and studied that is; Ghana National Petroleum Corporation (GNPC) and Kosmos Energy from Ghana; Royal Dutch shell and Chevron Nigeria from Nigeria; Equinor formerly Statoil and Eni Norge from Norway and Tullow Uganda Operations Pty Limited (TUOP), Total E&P Uganda (TEP) and CNOOC Uganda Limited from Uganda which are some of the oil and gas companies operating in said countries. It should be noted that while some are national oil companies, others are international oil companies for which the researcher sought to have a blend and fair representation of the sector. It should further be noted that the number of years that each oil and gas company selected has been in existence also varies.

Company websites, annual reports and disclosures as well as CSR reports were observed and analyzed to inform the strategies, nature and status of CSR practices in the oil and gas sectors of Ghana, Nigeria, Norway and Uganda. This was followed by a gap analysis in order to point out the discrepancies between the CSR practices in Ghana, Nigeria, Norway and Uganda. This culminated into recommendations on how Uganda can address some of the shortcomings, challenges and existing gaps. Data triangulation which involves the use of different sources of information was also applied to enhance the validity of the research.

### **1.9 Limitation/anticipated challenges**

Most oil and gas companies do not readily publish their CSR and annual reports including financials which constituted the researcher's main source information hence, the methodology was limited by the assumption that the various reports and literature would be readily available as well as the assumption that what is reported is what is actually on ground which at times is not the case. This is because oil and gas companies are fond of reporting what the public anticipates so as to keep a good image especially on matters of socio-economic nature. However, this was mitigated by checking for consistency and updated information. Additionally, the inherent limitations in the reports will affect the research findings. Lastly, considering the stage at which Uganda's petroleum sector is at, the

research and literature pertaining to CSR in the sector is limited and if not then there has been slow response to the need for further studies and research on the concept.

### **1.10 The Structure of the study**

The research has been organized into five chapters.

**Chapter One** Consists of the introduction which gives the background to the study, Statement of the problem, objectives of the study, Research questions, Justification of the Study, Scope of the study, Methodology including the Research design, Theoretical framework on Corporate Social Responsibility and Limitation/anticipated challenges

**Chapter Two** explores the literature which is available and has been written about the research topic. The chapter includes a brief about the Concept of CSR, Applicable CSR Theories to the study, a detailed encounter of CSR in the oil and gas sector including; Legal Frameworks in the Oil and Gas Sector, Factors influencing CSR Practices, the Business case for CSR Practices.

**Chapter Three** focuses on the different countries and how CSR is implemented. The different aspects of Legal Frameworks, CSR Guidelines, Local Content, Environment, Health and Safety and Disclosure. The chapter further looks at the CSR Practices by the Oil and Gas Companies in the selected countries. Ghana National Petroleum Corporation (GNPC), Kosmos Energy, Royal Dutch Shell Nigeria, Chevron Nigeria Limited, Equinor ASA, Eni Norge (Eni Norway), CNOOC Uganda Ltd., TULLOW Uganda and TOTAL E&P Uganda.

**Chapter Four** presents an analysis of the findings in the previous chapter. These include; Uganda's CSR Legal Framework and Factors influencing CSR by oil and gas companies in Uganda.

**Chapter Five** concludes the study with recommendations for further study as well as recommendations that can be implemented by Uganda to harness and better her oil and gas sector.

## CHAPTER TWO: LITERATURE REVIEW

### 2.1 Introduction

The preceding chapter introduced the study giving its background, aims, objectives and justification, theoretical framework and also introduced the concept of CSR highlighting its background. The objective of this chapter is to review relevant literature relating to the concept of CSR with specific reference to the oil and gas sector. In a bid to acquire a clear understanding of the petroleum sectors in Ghana, Nigeria, Norway and Uganda it is imperative that existing literature is obtained, reviewed and analyzed. Analysis of the said literature thus generates debate of CSR guidelines, policies and practices across the globe. This will in turn form the center of the analysis in chapter four to establish whether Uganda could learn from the Norwegian and Ghanaian CSR guidelines, policies and practices.

### 2.2 The Concept of CSR

The concept of CSR implies that companies have moral, ethical, and philanthropic responsibilities in addition to their responsibilities to earn a fair return for investors and comply with the law. A traditional view of the company suggests that its primary, if not sole, responsibility is to its owners, or stockholders. However, CSR requires companies to adopt a broader view of its responsibilities that includes not only stockholders, but many other constituencies as well, including employees, suppliers, customers, the local community and governments, environmental groups, and other special interest groups. Collectively, the various groups affected by the actions of a company are called "stakeholders." CSR is related to, but not identical with, business ethics. While CSR encompasses the economic, legal, ethical, and discretionary responsibilities of a company, business ethics usually focuses on the moral judgments and behavior of individuals and groups within companies.

Carroll and Buchholtz's four-part definition of CSR makes explicit the multi-faceted nature of social responsibility.<sup>16</sup> The *economic responsibilities* cited in the definition refer to society's expectation that companies will produce goods and services that are needed and desired by customers and sell those goods and services at a reasonable price.

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<sup>16</sup> Archie B. Carroll and Mark S. Schwartz, CORPORATE SOCIAL RESPONSIBILITY: A THREE-DOMAIN APPROACH, 2003. *Business Ethics Quarterly*, Volume 13, Issue 4. ISSN 1052-150X. pp. 503–530

Companies are expected to be efficient, profitable, and to keep shareholder interests in mind. The legal responsibilities relate to the expectation that companies will comply with the laws set down by society to govern competition in the marketplace. Companies have thousands of legal responsibilities governing almost every aspect of their operations, including consumer and product laws, environmental laws, and employment laws. The ethical responsibilities concern societal expectations that go beyond the law, such as the expectation that companies will conduct their affairs in a fair and just way. This means that companies are expected to do more than just comply with the law, but also make proactive efforts to anticipate and meet the norms of society even if those norms are not formally enacted in law. Finally, the discretionary responsibilities of companies refer to society's expectation that companies be good citizens. This may involve such things as philanthropic support of programs benefiting a community or the nation. It may also involve donating employee expertise and time to worthy causes.

When talking about returns, especially in a context of energy projects, the concept of CSR has to be considered. –CSR is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.<sup>17</sup> Despite this commitment and the will to give something in return for the impact of the company on the surrounding communities, the concept of CSR has been criticized on various aspects. One of the main critiques is regarding its lack of adaptability to the context.<sup>18</sup> Thus, even if the CSR agenda aims to shape the activities according to the needs of the people in different regions, it seems that those ideas remain only on paper. Furthermore, it is interesting to point out that the programs are always set on the principles leading the company and not on the real needs of the people involved.

Interpretation of the concept has been one of the arguments against CSR. Several CSR discussions and debates have arisen and resulted in two divergent interpretations of the concept. In the U.S.A., CSR is usually considered a synonym for corporate charity.<sup>19</sup> In Europe, CSR tends to be more open and

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<sup>17</sup> Richard Holme., and Phil Watts., 2000, *Corporate Social Responsibility: Making Good Business Sense*, World Business Council For Sustainable Development. P10

<sup>18</sup> Pugliese F (2014). Corporate Social Responsibility And Local Perceptions: A Case Study In Western Ghana

<sup>19</sup> Porter, M. E., & Kramer, M. R. (2003). The competitive advantage of corporate philanthropy *Harvard Business Review on Corporate Responsibility*. Boston: Harvard Business School Press.; Smith, C. (2003). The new corporate philanthropy *Harvard Business Review on Corporate Responsibility*. Boston: Harvard Business School Press.

flexible, encompassing, in general, environmental and social aspects, and thus CSR tends to be less controversial.<sup>20</sup>

Similarly, the numerous CSR definitions have resulted in several critiques, such as: difficult to demonstrate its positive correlation to the ‘\_bottom line’;<sup>21</sup> difficult to evaluate performance against the issues required by CSR;<sup>22</sup> considered a solution for world problems;<sup>23</sup> confusing due to the large number of definitions and interpretations;<sup>24</sup> equated with corporate charity;<sup>25</sup> engaged in only by profitable companies;<sup>26</sup> not well defined;<sup>27</sup> focused only on social issues, *i.e.* not explicitly mentioning the environment in the CSR term;<sup>28</sup> and, in general, focused on strategy and management.<sup>29</sup>

It has also been observed that profit maximization is the primary purpose of business, and to have any other purpose is not socially responsible.<sup>30</sup> To have anything other than a profit maximizing goal is to sabotage the market mechanism and distort the allocation of resources. Generally, then, it is contrary

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<sup>20</sup> C.E.C. (2001). Promoting a European framework for Corporate Social Responsibility. Brussels: Commission of the European Communities.; C.E.C. (2002). Corporate social responsibility: A business contribution to sustainable development (pp. 24): Commission of the European Communities.

<sup>21</sup> Langer, M. E., & Schön, A. (2003). Enhancing Corporate Sustainability. A framework based evaluation tools for sustainable development. Vienna: Forschungsschwerpunkt Nachhaltigkeit und Umweltmanagement, Wirtschaftsuniversität Wien.

<sup>22</sup> Avi-Yonah, R. S. (2005). The cyclical transformations of the corporate form: A historical perspective of corporate social responsibility (pp. 45). Michigan: University of Michigan.

<sup>23</sup> Van Marrewijk, M., & Hardjono, T. W. (2003). European corporate sustainability framework for managing complexity and corporate transformation. *Journal of Business Ethics*, 44(2/3), 121.

<sup>24</sup> Lozano, R. (2009). *Orchestrating Organisational Change for Corporate Sustainability. Strategies to overcome resistance to change and to facilitate institutionalization*. PhD Doctoral thesis, Cardiff University, Cardiff.

<sup>25</sup> Smith, C. (2003). The new corporate philanthropy *Harvard Business Review on Corporate Responsibility*. Boston: Harvard Business School Press.

<sup>26</sup> Laffer, A. B., Coors, A., & Winegarden, W. (2004). Does corporate social responsibility enhance business profitability?

<sup>27</sup> Frankental, P. (2001). Corporate social responsibility - a PR invention? *Corporate Communications: An International Journal*, 6(1), 18-23.; Frederick, W. C. (1994). From CSR1 to CSR2. *Business and Society*, 33(2), 150-164.; Welford, R. (2005). Corporate Social Responsibility in Europe, North America and Asia. 2004 Survey Results. *Journal of Corporate Citizenship*, 17, 33-52.

<sup>28</sup> Fukukawa, K., & Moon, J. (2004). A Japanese model of Corporate Social Responsibility? *Journal of Corporate Citizenship*, 16, 45-59.; Willard, B. (2002). *The Sustainability Advantage*. Gabriola Island, Canada: New Society Publishers.

<sup>29</sup> Lozano, R. (2012). Towards better embedding sustainability into companies' systems: An analysis of voluntary corporate initiatives. *Journal of Cleaner Production*, 25(25), 14-26.

<sup>30</sup> Scott S Cowen, Linda B Ferreri and Lee David Parker (1987) The impact of corporate characteristics on social responsibility disclosure: A typology and frequency-based analysis *Accounting, Organizations and Society*

to the basic function of business to become involved in social matters. It should not be forgotten that business is an economic institution, not a social one, and its only responsibility is to manage efficiently within the law<sup>31</sup>. The corporation would be irresponsible if it did not pursue profits and operate in the well-organized market. Business corporations are responsible to the shareholders and, in effect, have no authority to operate in the social area. When a corporation becomes involved in social matters, there is a question of legitimacy<sup>32</sup>. Even if corporations are sufficiently competent and powerful to bring about social changes in matters considered beyond the range of their immediate involvement, there is a real question as to whether such endeavors are appropriate. It is therefore often argued that managers should let shareholders decide whether or not they wish to become involved in social issues.

According to Frynas, oil and gas companies have expressed various criticisms resulting in three main views: –CSR is a waste of time; CSR is about managing perceptions and making people inside and outside the company feel good about themselves; CSR is a red herring in terms of development projects<sup>33</sup>.

In the African context, the second view pointed out by Frynas is that even when the companies include CSR onto their agenda, the selected projects do not necessarily lead to achievement of the goals of improving the quality of life of the society. Such as, the requirement to employ residents from the host communities. This has been attributed to the fact that the quality of work required is usually not suitable for untrained people who are often from the local communities. According to Jenkins, –foreign investors often require more skilled workers, which imply that often the residents around the projects who are also often poor are not the main beneficiaries. However, there may be benefits where the foreign companies provide training to its workers, particularly if those workers acquire skills which can raise their earning potential, but training also tends to be concentrated on the higher strata of the labour force, again bypassing the poor<sup>34</sup>.

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<sup>31</sup> David Hackston and Markus J. Milne (1996) Some Determinants of Social and Environmental Disclosure in New Zealand Companies.

<sup>32</sup> Rose L Watts., and Jerold L Zimmerman., (1986), Positive Accounting Theory, Prentice Hall, Englewood Cliffs, New Jersey. The Accounting Review. Vol. 65. No. 1 January 1990 pp.131-156.

<sup>33</sup> Jędrzej George Frynas., 2005. The False Development Promise Of Corporate Social Responsibility: Evidence From Multinational Oil Companies, In *International Affairs*, 582.

<sup>34</sup> Rhys Jenkins., 2005, Globalization, Corporate Social Responsibility and Poverty, In *International Affairs*, Vol. 81, Issue 3, Pp. 532.

Although not everyone agrees,<sup>35</sup> many studies have suggested that genuine CSR can earn a business positive reputation, social capital and possibly enhanced competitiveness,<sup>36</sup> just as social irresponsibility can result in bad reputation and financial losses for the business. It should therefore be noted that CSR, when appreciated as a business strategy as opposed to an approach for public relations and marketing or showing case, can harness business and lead to growth in the long run despite the costs involved which include social legitimacy and acceptance by the community. CSR plays an important role in assisting companies reduce external and competitive pressures and indeed become more competitive while, fulfilling external obligations such as meeting stakeholder's demand and complying with regulations.<sup>37</sup> CSR has social, environmental and economic benefits, much like the triple bottom line of sustainability.<sup>38</sup>

Companies that fail to integrate CSR initiatives into their business practices leave themselves open to negative stakeholder perceptions.<sup>39</sup> Oil and gas companies are consistently named among those least trusted by the public. The importance of oil, complexity of the oil business, large capital outlays for extraction projects, rewarding profits in the case of successful fields, and environmental risks all play a role in the public's critical view of the industry. It is therefore important that oil and gas companies seek ways to bridge the perception gap between them and their stakeholders.<sup>40</sup>

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<sup>35</sup> Henderson, D. (2001) *Misguided Virtue: False Notions of Corporate Social Responsibility*, Institute of Economic Affairs, Westminster, London.

<sup>36</sup> Ubius, U. and Alas, R. (2012) 'The impact of corporate social responsibility on the innovation climate', *Engineering Economics*, Vol. 23, No. 3, pp.310–318; Assiouras, I., Ozgen, O. and Skourtis, G. (2013) 'The impact of corporate social responsibility in food industry in product-harm crises', *British Food Journal*, Vol. 115, No. 1, pp.108–123.

<sup>37</sup> Klein, J. and Dawar, N. (2004) 'Corporate social responsibility and consumers' attributions and brand evaluations in a product-harm crisis', *International Journal of Research in Marketing*, Vol. 21, No. 3, pp.203–217.

<sup>38</sup> Charitoudi, G., Giannarakis, G. and Lazarides, T.G. (2011) 'Corporate social responsibility performance in periods of financial crisis', *European Journal of Scientific Research*, Vol. 63, No. 3, pp.447–455; Gopalakrishnan, K., Yusuf, Y., Musa, A., Abubakar, T. and Ambursa, H.M. (2012) 'Sustainable supply chain management: a case study of British Aerospace (BAe) Systems', *International Journal of Production Economics*, Vol. 140, No. 1, pp.193–203.

<sup>39</sup> Spangler, I.S. and Pompper, D. (2011) 'Corporate social responsibility and the oil industry: theory and perspective fuel a longitudinal view', *Public Relations Review*, Vol. 37, No. 3, pp.217–225.

<sup>40</sup> Ibid.



### 2.3 CSR in the Oil and Gas Sector

The oil and gas companies have been among the players that have championed CSR, this is partly attributed to the negative effects of day-to-day operations, which include exploration drills, oil spills, as well as activism, advocacy and in some instances protests by environmentalists, civil-society groups and host communities. To oil and gas companies, CSR not only means averting possible criticism, but also reaping business benefits. Shell's former Chief Executive, Jeroen van der Veer, described it as a "genuine source of differentiation from our competitors".<sup>41</sup>

Warhurst and Mitchell, further argue that there is relentless pressure for oil and gas companies, to exercise transparency and accountability and to make public their reports on their social-economic and environmental performance.<sup>42</sup> However, other scholars have differed from this school of thought. They on the other hand observe that maximizing profits using the oil and gas resource is the only social responsibility of any company. The validation for this, is that they remit revenue to the host governments who should in-turn use it for the benefit of all including the host communities.

It is therefore critical to highlight some of the factors influencing CSR to which Frynas does provide a few and they include; competitive advantage, manage external pressures, ensure a stable working environment and to keep the company employees satisfied.<sup>43</sup> He further alludes to the fact that the above factors dent development projects and concludes that the key motivation for most oil and gas companies is the business factor.

In relation to the environment, Frynas observes the potential of negative environmental impacts is high citing oil spills and natural gas emissions often during the exploration and production phases which are

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<sup>41</sup> Are oil companies acting responsibly yet? Professor Jędrzej George Frynas from Middlesex University Business School writes. February 2010 <https://www.petroleum-economist.com/articles/corporate/company-profiles/2010/oil-industrys-increasing-focus-on-csr> accessed 10 March 2020.

<sup>42</sup> WARHURST, A. and MITCHELL, A., 2000. *Corporate social responsibility and the case of Summitville mine*. Research Policy, Vol. 26, pp. 91-102.

<sup>43</sup> Jędrzej George Frynas., 2005. *The false developmental promise of CSR: evidence from multinational oil companies*. International Affairs 81(3), 581-598.

augmented by the locations in which these hydrocarbons are found.<sup>44</sup> These are often environmentally sensitive and ecologically vulnerable like lakes, rain forests, rift valleys and national parks.

Frynas further avers that oil and gas companies have undertaken to provide detailed environmental reports as a part of their obligation towards the environmental protection and impact. Similarly, Cho and Patten observe that oil and gas companies facing environmental challenges are induced to use disclosure as a means to address the social-economic and political pressures which they may be exposed to.<sup>45</sup>

## **2.4 Applicable CSR Theories**

In spite of the contrary views, CSR in the oil and gas sector has and continues to gain drive and some of the applicable theories include; stakeholder, corporate citizenship and corporate social performance.

### **2.4.1 Corporate Citizenship Theory**

The renewed concern is expounded by the corporate citizenship framework which refers to corporate citizenship as a method used under the integrative and political theories, a view supported by Wood and Lodgson.<sup>46</sup> The theory has further been expanded by the King Code of Governance by observing that responsible corporate citizenship implies an ethical relationship of responsibility between the company and the society in which it operates. As responsible corporate citizens of the societies in which they do business, companies have, apart from rights, also legal and moral obligations in respect of their economic, social and natural environments.<sup>47</sup> As a responsible corporate citizen, the company should protect, enhance and invest in the wellbeing of the economy, society and the natural environment. Three views have been fronted:<sup>48</sup> the limited view which is used in relation to defined responsibilities assumed towards the host communities; the CSR equivalent view, which is relatively common; corporate citizenship view that is comprehensive to include all the above views and looks at

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<sup>44</sup> Jędrzej George Frynas., 2009. *Corporate Social Responsibility in the Oil and Gas Sector*. Journal of World Energy Law & Business 2(3), pp.178-195.8.

<sup>45</sup> CHO, C.H., and PATTEN, D.M., 2007. *The role of environmental disclosures as tools of legitimacy*. A research note Accounting, Organizations and Society, 32 (7/8), pp. 639–647.

<sup>46</sup> WOOD, D. J., and LODGSON, J. M., 2002. *Business citizenship: From individuals to organizations*. Business Ethics Quarterly, Ruffin Series, 3, 59-94.

<sup>47</sup> King Code of Governance Principles' (King III).2009. Institute of Directors, South Africa.

<sup>48</sup> MATTEN, D. and MOON, J., 2004. *Implicit' and 'Explicit' CSR: A conceptual framework for under-standing CSR in Europe*. Paper presented at the 20th EGOS Colloquium, 1-3 July 2004, Ljubljana.

corporate citizenship as a way for corporations to fill the gap where government fails to provide or contribute to the livelihoods of the citizens.

### **2.4.2 Corporate Social Performance Theory**

Bowen<sup>49</sup> is considered the father of this theory, who in his work represented social responsibility as an obligation of businessmen to make decisions and act in a way that is desirable and upholds the objectives and values of society. Bowen's work was complemented by Carroll<sup>50</sup> who proposed a model of corporate social performance comprised of three elements; a rudimentary social responsibility definition; a list of issues to which social responsibility applies and a requirement of response to societal issues.

He likewise emphasized the fact that a social responsibility definition must represent the economic, legal, ethical and optional performance categories of a business if it is to address all the duties a business has to the society in which it operates. Furthermore, Wartrick and Cochran stretched Carroll's approach by observing that social responsibility doctrines, the issues management policy and the social awareness process form the base of corporate social participation. The model includes; CSR principles articulated in terms of individual, organizational and institutional; corporate social responsiveness processes, and finally outcomes of corporate behavior.

### **2.4.3 Stakeholder Theory**

The key objective of any organization/entity is to maximize shareholder value through profit maximization which indirectly takes into account all persons that are either positively or negatively affected by the organization/entity's operations. As such, it is unfair to limit stakeholders down to only shareholders. According to the stakeholder theory which is held by many to be the foundation of CSR, a stakeholder is a group or an individual that is either harmed or benefits from the actions and decisions taken by corporate bodies.<sup>51</sup> They also emphasized the fact that stakeholder acknowledgments should be based on their interest in the organization/entity irrespective of an organization/entity's interest in them.

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<sup>49</sup> Bowen, H. R. (1953). *Social Responsibilities of the Businessman*. New York: Harper and Row.

<sup>50</sup> Archie B. Carroll., 1979. *A three dimensional model of corporate social responsibility performance*. *Academy of Management Review* 4, 497-505.

<sup>51</sup> Edward R Freeman., 1998. *A stakeholder theory of the modern corporation*. In Pincus, L. B. (Ed.), *Perspectives in business ethics*, McGraw-Hill, Singapore, pp. 171-181.

Equally, Clarkson refers to primary stakeholders as those whose participation is paramount for the survival of an organization/entity as a going concern for shareholders, investors, employees, customers and suppliers whereas secondary stakeholders as those who affect or are affected by an organization/entity but are neither key for its survival nor engaged in the daily operations.<sup>52</sup> The stakeholder theory also emphasizes the prominence of –stakeholder management and –stakeholder engagement in terms of effective cooperation as a key component of a firm’s financial performance.<sup>53</sup> Very often the main concern surrounding the stakeholder theory is whether the stakeholder analysis motivates corporations to be responsible to all stakeholders.

## **2.5 CSR and Development.**

The nature of oil and gas operations comprises many interactions between the oil and gas companies and the host communities during exploration and production, which has led to the need for oil and gas companies to invest in the development and improvement of such communities.

Similarly, government ministries, agencies and departments such as U.S. Agency for International Development and inter-governmental organizations like the World Bank have in recent years made claims about the positive role that CSR could play in contributing to international development goals such as poverty alleviation and health improvements.<sup>54</sup> As such oil and gas companies are significantly investing in development projects such as hospitals, schools and micro-credit schemes. Similar schools of thought observe that corporate social investments in their present form have low chances of nurturing genuine local community development in practice. This is due to the fact that such initiatives range from sporadic financial contributions to schools and hospitals to the construction of varying projects such as water collection points, health facilities, schools, markets.

While some initiatives exhibit limited –social strategy such as a single donation to a health facility, other initiatives exhibit high levels of integration with the company’s operations such as skills training and development that eventually enables members of the host community find employment in the oil

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<sup>52</sup> CLARKSON, M. B. E., 1995. *A Stakeholder Framework for Analyzing and Evaluating Corporate Social Performance*. Academy of Management Review, Vol. 20 No. 1, pp. 92-117.

<sup>53</sup> ZADEK, S., PRUZNAN, P. and EVANS, R., 1997. *Building Corporate Accountability: Emerging Practices in Social and Ethical Accounting, Auditing and Reporting*. London.

<sup>54</sup> R Jenkins, ‘Globalization, Corporate Social Responsibility and Poverty’ (2005) 81 *International Affairs* 3, 525-540.

and gas sector.<sup>55</sup> Most oil and gas companies are often content when they invest in CSR initiatives and term this as contributing to –developmentl.<sup>56</sup> One must also remember that the beneficiaries of oil and gas company funded projects often have no alternative sources of support, particularly in developing economies where the government has fallen short in its development role.

## 2.6 CSR and Environment

Environmental concerns and risks of oil and gas operations are often amplified because oil and gas deposits that are often located near areas of high biological diversity and high ecological vulnerability, such as rain forests, mangroves and protected national parks.<sup>57</sup> Oil and gas operations involve numerous potentially negative environmental effects, particularly during exploration and production, including land clearance, seismic studies, well drilling and testing, oil spills and natural gas emissions.<sup>58</sup>

However, environmental issues have relatively recently assumed an important mien of CSR. Recycling wastes, pollution control, green initiatives, and the efficient use of energy and resources are all incorporated into the environmental aspect of CSR.<sup>59</sup> Support for the environment should not be voluntary but an essential piece of business process. In response to the same, oil and gas companies now pay attention to environmental concerns while at the same time undertake environmental studies and provide extensive environmental reports. Undeniably, several comparative global studies have demonstrated that environmental reporting amongst oil and gas companies is more extensive compared to other sectors such as agriculture and manufacturing, although this can be partly attributed to the impact the sector has on the environment. In addition, a high percentage of oil and gas

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<sup>55</sup> JB Wells, M Perish and L Guimaraes, ‘Can oil and gas companies extend best operating practices to community development assistance programs?’ (Paper presented at SPE Asia Pacific Oil and Gas Conference and Exhibition, 17-19 April, at Jakarta, Indonesia, 2001).

<sup>56</sup> A Gelb et al., *Oil Windfalls: Blessing or curse* (New York: Oxford University Press, 1988); JD Sachs and AM Warner, ‘The Big Push, Natural Resource Booms and Growth’ (1999) 59 *Journal of Development Economics* 1, 43-76.

<sup>57</sup> D Austin and A Sauer, ‘Changing Oil: Emerging Environmental Risks and Shareholder Value in the Oil and Gas Industry’ (Washington, DC: World Resources Institute, 2002).

<sup>58</sup> RB Clark (ed), *The long-term effects of oil pollution on marine populations, communities and ecosystems* (London: Royal Society, 1982); J Estrada, K Tangen and HO Bergesen, *Environmental Challenges Confronting the Oil Industry* (New York: Wiley, 1997); S White, ‘Oil pollution: Clearing up the myths’ (2002) 15 *Geography Review* 5, 16-20.

<sup>59</sup> Krumwiede, D., Hacket, A.M., Tokle, J. and Vokurka, R.J. (2012) ‘The practice of corporate social responsibility in different countries: a study of firms in Canada, Hungary, Italy, Lebanon, Taiwan and the United States’, *International Journal of Management*, Vol. 29, No. 1, pp.89–402.

companies use third party verification of their environmental reports, compared with companies in other sectors.

According to the 2005 survey of CSR reporting by the consultancy firm KPMG, sixteen out of twenty oil and gas companies listed among the 250 largest corporations in the world reported on corporate responsibility issues, which represented a significant increase from 58% to 80% between 2002 and 2005.<sup>60</sup> To demonstrate how seriously oil and gas companies have engaged on environmental issues, Brazil's Petrobras, South Africa's Sasol and Hungary's MOL have sophisticated reporting mechanisms and environmental management systems. While, the Chinese oil company CNOOC and the Malaysian oil company Petronas not only have underdeveloped reporting mechanisms but also do not seem to address a number of important environmental issues in their operations.<sup>61</sup> The potential of CSR for addressing environmental issues can be explained by the convergence of environmental and business interests whereby both the companies and the environment can benefit.

Environmental improvements such as new oil pipelines, improved forms of combustion or new production processes require similar engineering and managerial skills to those needed by oil companies in their commercial day-to-day operations, for instance, increasing production levels or reducing production costs.<sup>62</sup> Therefore, environmental reporting as an aspect of CSR has become a common practice for many companies, especially those in the oil and gas industry.

## **2.7 CSR and Governance.**

Sir Adrian Cadbury,<sup>63</sup> observed that –*Corporate Governance and CSR aim at aligning as nearly as possible the interests of individuals, corporations and society.*” Several petroleum economies are faced with the likelihood of encountering the –resource curse‖ often characterized by mismanagement, political and military conflict.<sup>64</sup> It is therefore critical to ensure that good governance and accountability are adhered to if a country is to avoid the ‘resource curse’ yet this remains a big

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<sup>60</sup> KPMG, ‘International Survey of Corporate Responsibility Reporting’ (Amsterdam: University of Amsterdam and KPMG Global Sustainability Services, 2005).

<sup>61</sup> The International Tanker Owners Pollution Federation website at [www.itopf.com](http://www.itopf.com) accessed 27 February 2020.

<sup>62</sup> Jędrzej George Frynas, ‘The False Developmental Promise of Corporate Social Responsibility: Evidence from Multinational Oil Companies’ (2005) 81 *International Affairs* 3, 581-598.

<sup>63</sup> (Sir Adrian Cadbury) in ‘Global Corporate Governance Forum’, World Bank, 2000)

<sup>64</sup> SACHS, J.D. and Warner, A.M., 2001. *Natural Resources and Economic Development: The Curse of Natural Resources*. *European Economic Review* 45, 827-838.

challenge for many oil producing economies most of which are the developing countries. In most developed economies, the effects of the resource curse were minimized as a result of economy diversification and judicious government policies. As such countries such as Botswana, Chile, and Malaysia have not only been able to beat the –resource curse<sup>65</sup> but have achieved high economic growth.<sup>65</sup>

Previously oil and gas companies were reluctant to embrace and engage in macro- level governance because they believed and assumed governance issues are a preserve of the host government. However, this has changed and companies are appreciating the fact that they are critical stakeholders in governance strengthening.<sup>66</sup> This standpoint has been embraced and appreciated by multinational oil and gas companies such as Shell, BP and Equinor. BP in Azerbaijan has gone further to co-operate with the government to address governance shortcomings by providing expert advisory on the management of the country’s state oil fund and oil revenues.<sup>67</sup>

Similarly oil and gas revenue transparency has also gained prominence as an initiative to enhance governance in resource-rich countries by the different stakeholders ranging from policy makers, multinational oil and gas companies and non-governmental organizations. The most recent development is the linkage between CSR, Corporate Governance and Sustainability Reporting. King II strongly recommends companies to implement the practice of sustainability reporting as a core aspect of corporate governance.

## **2.8 CSR and Host Communities**

Oil and gas operations involve numerous interactions between companies and local communities. This has resulted in demands on oil companies to invest in the development of these communities. State-owned companies such as Venezuela's PdV, Saudi Aramco and Russia's Gazprom spend billions of

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<sup>65</sup> M Sarraf and M Jiwanji, ‘Beating the resource curse: The case of Botswana’ (Washington DC: The World Bank, 2001); DE Hojman, ‘The political economy of Chile's fast economic growth: An Olsonian interpretation’ (2002) 111 *Public Choice* 1/2, 155-178

<sup>66</sup> Jędrzej George Frynas., 2005. *The false developmental promise of CSR: evidence from multinational oil companies*. *International Affairs* 81(3), 581-598.

<sup>67</sup> Quoted in LH Gulbrandsen and A Moe, ‘BP in Azerbaijan: A test case of the potential and limits of the CSR agenda?’ (2007) 28 *Third World Quarterly* 4, 813-830 at 819.

dollars on community investments.<sup>68</sup> Needless to say most CSR initiatives range from occasional financial donations to schools, hospitals, construction of bore holes, health centers and skills training. However, unlike environmental reporting, reporting on investments in the local community is weak.

This can be attributed to the belief that community investments are often undertaken to improve external perceptions, to keep government officials and employees happy or to gain local support for oil and gas operations. There have been some projects with clear benefits for the community, but there have been more projects with questionable benefits.

Though it should also be noted that most CSR reports by companies provide information on how much they have spent on education or philanthropic activities or how many local stakeholders participated in a project, but they provide no measures of how effectively the money was spent. And there is evidence that many community projects have been badly planned and are ineffective. While, treating community investments from a technical and managerial perspective which is often the case may lead firms to speed up discussions with local communities in order to achieve an immediate goal rather than patiently to build relations with the community and spend long periods discussing the causes of problems.

## **2.9 Legal Frameworks in the Oil and Gas Sector**

The oil and gas sector across the globe has seen a number of legal regimes and frameworks as the sector continued to evolve. The third governance regime that emerged from oil-consuming nations through the creation of the International Energy Agency (IEA) was meant to ensure the security of supply and reasonable pricing.<sup>69</sup> This basically has been the way oil governance regimes were established and more recently, and especially for many developing countries extracting oil, and given the opacity and perceived widespread corruption along the value chain of other natural resource extractions, the governance framework underpinning the Extractive Industries Transparency Initiative

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<sup>68</sup> Are oil companies acting responsibly yet? Professor Jędrzej George Frynas from Middlesex University Business School writes. February 2010 <https://www.petroleum-economist.com/articles/corporate/company-profiles/2010/oil-industry-increasing-focus-on-csr> accessed 10 March 2020.

<sup>69</sup> Mommer, B. (2000), *The Governance of International Oil: The Changing Rules of the Game*. Oxford Institute for Energy Studies Working Papers WPM 26. Retrieved from the Oxford Institute for Energy Studies website: <https://www.oxfordenergy.org/publications/the-governance-of-international-oil-the-changing-rules-of-the-game/?v=d3dcf429c679> accessed 12 March 2020.



(EITI) is mostly relied upon. The initiative is a global effort to end the culture of opacity in the generation and use of extractive revenues and to ensure that resource extraction contributes to national development and poverty reduction. This framework encourages public disclosure of company payments and government receipts of extractive revenues as well as the demand for accountability in terms of how the revenues are used. The framework also requires countries publicly to disclose information on revenue management and expenditures, information on contracts and licenses as well as the establishment of a legally mandated open contracting regime. This framework is supported by the Natural Resources Charter, which is organized around 12 core precepts offering guidance on key decisions governments face, beginning with whether or not to extract resources and ending with how generated revenues can produce maximum good for citizens. For many African countries, there is the African Mining Vision (AMV),<sup>70</sup> which imposes an obligation on all African Union member States to align their governance arrangements and approaches to the management of their natural resources to a set of prescribed principles in line with international best practices as well as to the lessons drawn from the continent's century old experience in mining. This focus affords the natural resource dependent African States the opportunity to integrate their natural resources into the rest of the national economy, and through that make a critical and sustainable paradigm shift from the enclave nature of resource extraction.

## **2.10 Factors influencing CSR Practices.**

The concept of CSR has been driven mainly by large corporations, with some complementary efforts by SMEs and co-operatives.<sup>71</sup> CSR is being driven by many factors,<sup>72</sup> such as climate and population changes, and economic factors.<sup>73</sup> The factors are broadly divided into: (1) External, which according

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<sup>70</sup> The Africa Mining Vision was adopted by Heads of State at the February 2009 AU summit following the October 2008 meeting of African Ministers responsible for Mineral Resources Development.

<sup>71</sup> C.E.C. (2001). Promoting a European framework for Corporate Social Responsibility. Brussels: Commission of the European Communities.; C.E.C. (2002). Corporate social responsibility: A business contribution to sustainable development (pp. 24): Commission of the European Communities.; Farmer, R. N., & Hogue, W. D. (1973). *Corporate Social Responsibility*. USA: Science Research Associate.

<sup>72</sup> Hopkins, M. J. D. (2002). Sustainability in the internal operations of companies. *Corporate Environmental Strategy*, 9(2), 1-11.; Oskarsson, K., & Von Malmborg, F. (2005). Integrated Management Systems as a Corporate Response to Sustainable Development. *Corporate Social Responsibility and Environmental Management*, 12, 121-128.

<sup>73</sup> Cannon, T. (1994). Corporate responsibility. A textbook on business ethics, governance, environment: roles and responsibilities.

to DeSimone & Popoff<sup>74</sup> tend to result in reactive measures, being less likely to help move towards Sustainability, and (2) Internal, which are more proactive.

External to the corporation, or extra-mural, national policies have played an important role in driving CSR. For example, the proactive measures of some European Union countries, such as the French government requiring all corporations listed on the French Stock Exchange to report on CSR issues.<sup>75</sup> In Japan CSR is driven by social action under administrative guidance, imperatives in Japanese society, business leadership, government, and universities.<sup>76</sup> Other external drivers are NGOs and stakeholder pressure.<sup>77</sup> As it can be observed, CSR is being fostered by representatives of the three societal dimensions (civil society, corporations, and government).

Internally, or intra-mural, one of the main drivers in large corporations has been ethical leadership.<sup>78</sup> Other internal drivers include: risk management and protection of business reputation,<sup>79</sup> improvements in economic values,<sup>80</sup> and enhancements in corporate image.<sup>81</sup> Some of the most characteristic motivations for corporations to engage in CSR are divided into Internal motivations (dealing with processes inside the corporation); and External motivations (relations with external stakeholders). Fukukawa & Moon<sup>82</sup> indicate that latterly, motivations have shifted from internal concerns to more global and external ones.

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<sup>74</sup> DeSimone, L. D., & Popoff, F. (2000). *Eco-Efficiency. The Business Link to Sustainable Development*: MIT Press.

<sup>75</sup> MacLeod, S., & Lewis, D. (2004). Transnational Corporations. Power, Influence and Responsibility. *Global Social Policy*, 4(1), 77-98.

<sup>76</sup> Fukukawa, K., & Moon, J. (2004). A Japanese model of Corporate Social Responsibility? *Journal of Corporate Citizenship*, 16, 45-59.

<sup>77</sup> Frehs, J. (2003). *Corporate social responsibility: Lessons learned*: Natural Resources Canada.; Zadek, S. (1999). Stalking sustainability. *GMI*, 26, 1-11.

<sup>78</sup> Szekely, F., & Knirsch, M. (2005). Responsible Leadership and Corporate Social Responsibility: Metrics for Sustainable Performance. *European Management Journal*, 23(6), 628-647.

<sup>79</sup> Lantos, G. (2001). The boundaries of strategic corporate social responsibility. *Journal of Consumer Marketing*, 18(7), 595-630.

<sup>80</sup> C.E.C. (2001). Promoting a European framework for Corporate Social Responsibility. Brussels: Commission of the European Communities.; Archie B. Carroll. (1999). Corporate Social Responsibility: Evolution of a Definitional Construct. *Business Society*, 38(3), 268-295.; Lantos, G. (2001). The boundaries of strategic corporate social responsibility. *Journal of Consumer Marketing*, 18(7), 595-630.

<sup>81</sup> Frehs, J. (2003). *Corporate social responsibility: Lessons learned*: Natural Resources Canada.

<sup>82</sup> Fukukawa, K., & Moon, J. (2004). A Japanese model of Corporate Social Responsibility? *Journal of Corporate Citizenship*, 16, 45-59.

While on a detailed scale, Maignan and Ralston<sup>83</sup> conceptualized CSR and identified three principles of motivations behind CSR as follows.

- i. **“Value-driven CSR:** CSR is presented as being part of the company’s culture, or as an expression of its core values.¶
- ii. **“Performance-driven CSR:** CSR is introduced as a part of the firm’s economic mission, as an instrument to improve its financial performance and competitive posture.¶
- iii. **“Stakeholder-driven CSR:** CSR is presented as a response to the pressure and scrutiny of one or more stakeholder groups.¶

### Internal and external motivations to engage in CSR

<i>Internal motivations</i>	<i>External motivations</i>
<ul style="list-style-type: none"> <li>• Attract and retain employees.</li> <li>• Help improve trust within the company, <i>i.e.</i> stronger employee motivation and commitment.</li> <li>• Have a more compliant workforce.</li> <li>• Increase employee productivity.</li> <li>• Help to increase product quality.</li> <li>• Help boost innovation and innovative practices.</li> <li>• Help manage risks, intangible assets, and internal processes.</li> <li>• Improve performance and generate more profits and growth.</li> <li>• Reduce costs while improving process efficiencies and reducing waste</li> </ul>	<ul style="list-style-type: none"> <li>• Avoid fines and penalties.</li> <li>• Help improve trust outside the company, <i>i.e.</i> with business partners, suppliers, consumers, and others.</li> <li>• A belief that corporations must earn their ‘_licence to operate’.</li> <li>• Meet and exceed stakeholder expectations.</li> <li>• Behave ethically.</li> <li>• Improve relations with regulators and ease access to permits.</li> <li>• Improve access to markets and customers.</li> <li>• Improve customer satisfaction.</li> <li>• Help to restore trust in corporations.</li> <li>• Help enhance corporate and brand reputation.</li> <li>• Reduce or eliminate pressures from NGOs</li> </ul>

Sources: C.E.C., 2001, 2002; Frankental, 2001; Frehs, 2003; Fukukawa & Moon, 2004; Laffer, Coors, & Winegarden, 2004; Lantos, 2001

<sup>83</sup> Maignan, I, and Ralston, D, 2002. Corporate Social Responsibility in Europe and the U.S.: Insights from Businesses’ Self-presentations, *Journal of International Business Studies*, 33, 3, pp. 497-514

## 2.11 Conclusion

The literature points to the fact that over the years, CSR has not only gained prominence but also incorporated and adopted multiple dimensions that must be seen to cater for the interest of the company, host communities, nation and the world as a whole. Although not everyone agrees,<sup>84</sup> many studies have suggested that genuine CSR can earn a business positive reputation, social capital and possibly enhanced competitiveness,<sup>85</sup> just as social irresponsibility can result in bad reputation and financial losses for the business. CSR, when directed as a business strategy, instead of being seen as altruism or an instrument of public relations, has been shown to advantage organizations greatly in the long run even though it might have some significant initial and recurrent costs.<sup>86</sup> The long-term benefits of CSR include greater social legitimacy and a better society. It plays an important role in assisting businesses to fulfil external obligations such as meeting stakeholder's demand and complying with regulations.<sup>87</sup> CSR has social, environmental and economic benefits, much like the triple bottom line of sustainability.<sup>88</sup>

Oil and gas companies are consistently named among those least trusted by the public. The importance of oil, complexity of the oil business, large capital outlays for extraction projects, rewarding profits in the case of successful fields, and environmental risks all play a role in the public's critical view of the industry. It is therefore important that oil and gas companies seek ways to bridge the perception gap between them and their stakeholders.<sup>89</sup>

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<sup>84</sup> Henderson, D. (2001) *Misguided Virtue: False Notions of Corporate Social Responsibility*, Institute of Economic Affairs, Westminster, London.

<sup>85</sup> Ubius, U. and Alas, R. (2012) 'The impact of corporate social responsibility on the innovation climate', *Engineering Economics*, Vol. 23, No. 3, pp.310–318; Assiouras, I., Ozgen, O. and Skourtis, G. (2013) 'The impact of corporate social responsibility in food industry in product-harm crises', *British Food Journal*, Vol. 115, No. 1, pp.108–123.

<sup>86</sup> Ahmed Musa, Yahaya Yusuf, Louise McArdle and Gbemisola Banjoko. Corporate social responsibility in Nigeria's oil and gas industry: the perspective of the industry, *Int. J. Process Management and Benchmarking*, Vol. 3, No. 2, 2013

<sup>87</sup> Klein, J. and Dawar, N. (2004) 'Corporate social responsibility and consumers' attributions and brand evaluations in a product-harm crisis', *International Journal of Research in Marketing*, Vol. 21, No. 3, pp.203–217.

<sup>88</sup> Charitoudi, G., Giannarakis, G. and Lazarides, T.G. (2011) 'Corporate social responsibility performance in periods of financial crisis', *European Journal of Scientific Research*, Vol. 63, No. 3, pp.447–455; Gopalakrishnan, K., Yusuf, Y., Musa, A., Abubakar, T. and Ambursa, H.M. (2012) 'Sustainable supply chain management: a case study of British Aerospace (BAe) Systems', *International Journal of Production Economics*, Vol. 140, No. 1, pp.193–203.

<sup>89</sup> Ibid.

## CHAPTER THREE: COUNTRY COMPARISONS

### 3.1 Introduction

The extractive industry is one of the most important industries that foster economic growth around the world, in both developed and developing countries.<sup>90</sup> Yet their activities are always seen in a negative light. This is due to the undesirable consequences of mineral extraction on the host communities of the minerals, an issue that is of particular interest and concern to the general public and governments.<sup>91</sup>

### 3.2 GHANA

The oil industry in Ghana is not completely new, as production has been taking place since the 1980s, albeit on a limited scale.<sup>92</sup> The major stakeholders in the oil fields of Ghana are Tullow, Kosmos, Anadarko, Petro SA, ENI and the Ghana National Petroleum Corporation. Ghana's total proven oil reserve base, as at the end of 2015, was assessed at 1,247.5 million barrels of oil, comprising 898 million barrels of oil and 2,024 billion cubic feet of proven gas reserves.<sup>93</sup>

Ghana became part of the community of oil producing countries in 2010 by commissioning the Jubilee Oil Field operations, located in Deep Water Tano and West Cape Three Points blocks, about 60 km offshore Ghana and 130 km south-west of Takoradi, the regional capital of the Western Region.<sup>94</sup> With the discovery and exploitation of oil reserves in Ghana in the Jubilee Field, there was a lot of euphoria which characterized Ghanaian reactions about the prospect of oil projects in the area. For International Oil Companies to be able to manage these reactions from Ghanaian populace, they have to be able to lay out CSR programmes, at the dawn of oil production through social investments

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<sup>90</sup> Valor, C. (2005) 'Corporate social responsibility and corporate citizenship: towards corporate accountability', *Business and Society Review*, Vol. 110, No. 2, pp.191–212.

<sup>91</sup> McDonald, S. and Young, S. (2012) 'Cross-sector collaboration shaping corporate social responsibility best practice within the mining industry', *Journal of Cleaner Production*, Vol. 37, pp.54–67.

<sup>92</sup> Public Interest and Accountability Committee (PIAC) (2011), *Report on Revenue Management*. <http://www.piacghana.org/portal/5/25/piac-reports> accessed 20 March 2020.

<sup>93</sup> Ghana National Petroleum Corporation (GNPC) (2016), 'Report to the PIAC on the Utilization of 2014 Share of Jubilee Crude Oil Revenue'. Accra, Ghana: Ghana National Petroleum Corporation (GNPC).

<sup>94</sup> Agyei, G., Gordon, J., Erasmus, A., and Yakubu, I., (2012). Oil industry activities in Ghana: Community perceptions and sustainable solutions. *Research Journal of Environmental and Earth Sciences*, vol.4, no.5: pp. 583 – 596.

in the communities to improve economic, social and environmental standards.<sup>95</sup> The operations of IOCs directly or indirectly affect the lives of the people living in the host communities and the lack of effective social investment in the communities of which IOCs operate can stir up agitations among the local population of the community.

### **3.2.1 Legal Framework**

The oil governance regime of Ghana has been described as a hybrid version; the people and government of Ghana own the oil, while international oil companies are doing the extraction, based on an agreement ratified in the Constitution of Ghana.<sup>96</sup> Accordingly, the governance regime that guides the entire process focuses on two sub-sectors: the upstream and the downstream. The upstream sub-sector ensures the effective management of oil resources of the country and accelerates the exploitation and development of new hydrocarbon resources for the overall benefit and welfare of Ghanaians, present and future. The downstream sub-sector is to rehabilitate and expand petroleum refining, storage, distribution and marketing infrastructure as well as ensure fair distribution of petroleum products to all parts of the country and reduce the heavy burden of oil imports on the country's economy by accelerating the exploitation of indigenous hydrocarbon resources.<sup>97</sup>

The critical laws that govern the oil and gas sector of Ghana include; The Ghana National Petroleum Corporation Law, 1983 which established GNPC as the National Oil Company, The Petroleum (Exploration and Production) Act 2016, The Petroleum Revenue Management (Amendment) Act, 2015, The Petroleum Commissions Act, 2011 (Act 821) and The Petroleum (Local Content and Local Participation) Regulations, 2013.

It should further be noted that the Government of Ghana is signatory to the following international conventions that respectively define the rights and responsibilities of nations with respect to their use of the world's oceans, establish measures for dealing with pollution and for cooperation in the protection, management and development of the marine and coastal environment in the Atlantic Ocean: United Nations Convention on the Law of the Sea; International Convention on Oil Pollution

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<sup>95</sup> Addei, I., Addei, C., and Broni-Bediako, E., (2010). The oil and gas find at cape three points-expectations of the people in neighboring communities. In *first biennial UMAT international conference on mining and mineral processing. Expanding the frontiers of mining technology. Tarkwa, Ghana* (pp. 1-12).

<sup>96</sup> Peter Quartey and Emmanuel Abbey (2020) Oil Wealth and Development in Uganda and Beyond: Ghana's Oil Governance Regime: Challenges and Policies

<sup>97</sup> Ibid.

Preparedness, Response and Co-operation ; Abidjan Convention Similarly, in Ghana key institutions have been established as part of the governance structure for the oil and gas sector. The key institution responsible for the upstream sub-sector is the Ghana National Petroleum Corporation ; while, the National Petroleum Authority regulates the downstream sub-sector. Others include: the Ministry of Energy and Petroleum, the Ministry of Finance, the Bank of Ghana, the Parliament of Ghana, the Petroleum Commission, the Environmental Protection Agency, the State Enterprise Commission, the Public Interest Accountability Committee, the Auditor General and Ghana Gas.

### **3.2.2 CSR Guidelines**

A National Corporate Social Responsibility Policy was launched on 25th October, 2018 by the Minister for Trade and Industry. The goal of the policy is to promote the optimization of the socio-economic and environmental impact of investments and activities of businesses, the public sector, civil society, traditional authorities and other stakeholders towards the sustainable development of Ghana.<sup>98</sup>

The policy development process is underpinned by seven principles namely: Accountability; Transparency; Ethical Behavior; Respect for Stakeholder; Interests; Respect for the Rule of Law principles, Respect for International Norms of Behavior and Respect for Human Rights. This has come a long way to address earlier concerns relating to how Ghanaian companies can promote CSR in the face of public concerns about the political, economic, social and environmental impact of the activities of corporations in societies in which they operate. The policy alongside a variety of policies, laws, practices, initiatives, government policies, such as the Ghana Land Policy document bear directly on CSR. Similarly, a number of international conventions that Ghana has ratified are also applicable, and have a bearing on CSR. In the long run this will address the concerns by companies seeking to meet their corporate social responsibilities but are not sure as to whether they are doing what they should be doing and are unclear as to the exact parameters of CSR.

### **3.2.3 Local Content**

Ever since 2007, Ghana's government has been developing strategies to both take advantage of the oil find and attempt to escape the resource curse. One such strategy was the policy and legislative development on local content and local participation in all facets of the oil and gas industry. To this

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<sup>98</sup> [www.gnpcghana.com](http://www.gnpcghana.com) accessed 20 March 2020

effect, in 2010, a coherent policy was developed to regulate the nascent oil and gas industry. This aimed to ensure that Ghanaian citizens participated in the ownership of businesses in the oil and gas industry by giving priority in employment, in the award of oil blocks, oil field licenses, and oil extraction licenses, and in all oil and gas projects for which contracts were awarded. To ensure the effective implementation of the policy, legislation Petroleum Local Content and Local Participation in Petroleum Activities Regulations was passed in 2013 by the Parliament of Ghana. In both the legislation and policy, local content refers to the use of Ghanaian local expertise, goods and services, people, businesses, and financing in oil and gas activities.

The regulation and policy not only aimed to maximize value-addition and job-creation in the petroleum sector through the use of local content; they also acted as a mechanism for the coordination, transparent monitoring, and governance of Ghanaian content. While local content policies and legislation have the potential to stimulate broad-based economic development, which is necessary to alleviate poverty, achieve prosperity, and ensure sustainable economic and social outcomes in Ghana's oil and gas sector, their use has often achieved mixed results in many extractive developing countries.

The Ghana government can focus on policies that maximize the use of local expertise, goods and services, as these will translate to the creation of jobs for people and an increase and retain oil extraction benefits within Ghana. The sad reality, however, is that, offshore oil extraction activities reduces the major economic activity in the communities rendering indigenes of such communities to become poorer due to the high cost of living. Claver observes that, despite a government commitment to use proceeds and benefits from oil companies and stakeholders in Ghana to improve the livelihood of Ghanaians, the opinions and perception of the local people seem to be in discordance as they claim to have been made poorer in their communities. However, the country can benefit fully from its oil resources if proper regulatory frameworks and policies are put in place.<sup>99</sup>

### **3.2.4 Environment**

In terms of the environment impacts, the Ghanaian government enforces a mandatory Environmental Impact Assessment policy, which is performed by all extracting companies. However, the exploration and production of oil comes with negative consequences on the environment. It is difficult to

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<sup>99</sup> Claver, V. G. (2014, October). Oil extractive emerging industries operating in Ghana and its consequences for the local population and environment. [http://www.aefjn.org/tl\\_files/aefjn-files/CSR/Oil](http://www.aefjn.org/tl_files/aefjn-files/CSR/Oil) accessed 20 March 2020.



adequately assess and control the negative environmental degradation nevertheless, the overall impact of oil exploration in Ghana is insignificant.<sup>100</sup>

### **3.2.5 Disclosure**

The Ghana Extractive Industries Transparency Initiative (GEITI), established after the launch of the Extractive Industries Transparency Initiative (EITI) by the Prime Minister of the UK at the World Summit on Sustainable Development in September 2002 has as its core principles transparency and accountability. It serves as an avenue for promoting CSR in the extractive industry.<sup>101</sup> However, the GEITI does not seek to address social and environmental concerns as well as human right abuses by companies, which come across to many CSOs and NGOs operating in the area as the fundamentals of the CSR concept. It is evident from the above that CSR in Ghana has just started with large scale multinational companies especially those operating in the extractive industry leading the path. The concept in Ghana has become synonymous to the mining industry where there appear to be more environmental and human rights concerns, with a lot more interest groups calling for ethical, social and environmental responsibility from companies operating in the area.

### **3.3 NIGERIA.**

In 2010, the proven oil reserves of Nigeria were put at 36 billion barrels. This reserve, which is one of the biggest in the world, is estimated to last for 46 years. Nigeria's low sulphur oil is very much in high demand in North America and European markets.<sup>102</sup> Most of the extractive activities of the oil and gas industry presently take place in the Niger Delta region.<sup>103</sup> The attention of the public in the extractive industry has predominantly revolved around the impact of mineral exploitation on the local and global environments, but especially on the host communities.

It has been assumed by the public and governments that CSR could be deployed as a voluntary soft

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<sup>100</sup> Ibid.

<sup>101</sup> Kwesi Amponsah-Tawiah, Corporate Social Responsibility in Ghana. *International Journal of Business and Social Science* Vol. 2 No. 17 [www.ijbssnet.com](http://www.ijbssnet.com) accessed 20 March 2020

<sup>102</sup> KPMG Professional Services (2014), *Nigeria's Oil and Gas Industry Brief*. Lagos: KPMG.

<sup>103</sup> Amadi, B.O. and Abdullah, H. (2012) \_Poverty alleviation through corporate social responsibility in Niger Delta, Nigeria\_, *Asian Social Science*, Vol. 8, No. 4, pp.57–67.

law instrument to curb the negative effects of mineral exploration.<sup>104</sup> Nigeria makes an interesting case to explore the meaning and practice of CSR for many reasons. Nigeria is the most populous black-country in the world and is influential both within sub Saharan Africa and in the global economy not least in the proven capability of her internal events to destabilize the global oil market. In fact, incessant political unrests within the country are not unconnected to the social and environmental concerns that lie at the heart of CSR debate.

Problems of poverty in the midst of plenty, environmental negligence and bureau-political corruption implicate both the behaviour of the Nigerian government and those of multinational oil companies in particular. There have been a number of studies on CSR in Nigeria, most of which have, mainly, focused on multinational firms and less on indigenous firms.<sup>105</sup>

All companies operating in Nigeria pay a share of their profits into the government's education fund for rehabilitation, restoration and consolidation of educational infrastructure in Nigeria. The Nigerian state is either unwilling or lacks the capacity to be the major driver of CSR and CSR initiatives in Nigeria do not appear to be part of a corporate strategy to pre-empt regulation. In Nigeria, there is not a legal requirement for corporate social accountability reporting, unlike in some other countries.<sup>106</sup>

Yet, based on our literature survey and field interviews, CSR consciousness and practices seem to be advancing in Nigeria with strong impetus and trajectory that have been characteristic of the stronger economies of, for instance, China and South Africa. Another reason that might explain the blossoming of CSR in Nigeria is the role that the civil society is playing. The Nigerian state is challenged by issues of effectiveness and transparency.

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<sup>104</sup> Makinen, J. and Kourula, A. (2012) 'Pluralism in political corporate social responsibility', *Business Ethics Quarterly*, Vol. 22, No. 4, pp.649–678.; Kogg, B. and Mont, O. (2012) 'Environmental and social responsibility in supply chains: the practice of choice and inter-organizational management', *Ecological Economics*, Vol. 86, pp.154–163.; Walker, K. and Wan, F. (2012) 'The harm of symbolic actions and green-washing: corporate actions and communications on environmental performance and their financial implications', *Journal of Business Ethics*, Vol. 109, No. 2, pp.227–242.

<sup>105</sup> Ite, U.E. (2004) 'Multinationals and corporate social responsibility in developing countries: a case study of Nigeria', *Corporate Social Responsibility and Environmental Management*, Vol. 11, No. 1, pp.1–11.; Jedrzej George Frynas. (2000) *Oil in Nigeria: Conflict and Litigation Between Oil Companies and Village Communities*, LIT Verlag and Transaction Publishers, New Jersey.;

<sup>106</sup> Ndhlovu, T.P. (2011) 'Corporate social responsibility and corporate social investment: the South African case', *Journal of African Business*, Vol. 12, No. 1, pp.72–92.

However, in spite of these realities, the country is a liberal democracy with a vibrant press and civil society. The civil society in Nigeria has been in the forefront of exertions for state and democratic reforms. Although these struggles have often focused on ethnic, regional and communal agitations, they also engage in spheres other than democratization. The Nigerian oil and gas industry claims that it adopts and implements international CSR guidelines and standards but with major adaptations to the local Nigerian context.

The success of CSR in Nigeria will depend, ultimately, on the participation and support of the institutions of the state, in effect the availability of an enabling environment for CSR. An enabling environment is a policy environment that encourages or mandates business activity to minimize environmental and/or social costs and impacts while at the same time maintaining or maximizing economic gains.

### **3.3.1 Legal framework**

The legal framework regulating the oil and gas sector in Nigeria covers a broad range of legislation. The bedrock of the legislation is the Constitution of the Federal Republic of Nigeria, which vests ownership of mineral resources, including oil and gas, exclusively in the federal government<sup>107</sup> and further confers on the federal government exclusive powers to make laws and regulations for the governance of the industry.<sup>108</sup> Key legislation includes: the Petroleum Act, the Petroleum Profits Tax Act and the Nigerian National Petroleum Corporation Act.

In 2017, the Federal Executive Council approved the Nigerian Petroleum Policy (NPP) and the National Gas Policy (NGP). The overarching objectives of the NPP and the NGP is to set policy goals, strategies and an implementation plan for the introduction of an appropriate institutional, legal, regulatory and commercial framework to resolve the barriers currently affecting the petroleum sector and attract investment into the gas sector respectively. A third policy yet to be approved is the National Petroleum Fiscal Policy, which aims to provide a fiscal framework for Nigeria's oil and gas industry.

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<sup>107</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended, CFRN) Section 44(3). See further, Petroleum Act, Cap P10, Laws of the Federation of Nigeria (LFN) 2004, Section 1(1).

<sup>108</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended, CFRN), Item 39, Second Schedule, Part 1.

The Federal Ministry of Petroleum Resources has the primary responsibility for policy direction and exercises supervisory oversight over the industry. The Minister of Petroleum Resources (the Minister) issues regulations, guidelines and directives pursuant to the Petroleum Act and other enabling laws.<sup>109</sup> The Department of Petroleum Resources (DPR) is responsible for the day-to-day monitoring of the petroleum industry and for supervising all petroleum industry operations. Other regulators and agencies include: the Federal Ministry of the Environment (FME), NNPC, the NCDMB (Nigerian Content Development and Monitoring Board) and the National Oil Spill Detection and Response Agency (NOSDRA).

### **3.3.2 CSR in Nigeria.**

There are no laws expressly mandating MNCs to carry out their business operations in a specific ethical or socially responsible manner in Nigeria; CSR is often regulated by corporate codes of conduct, voluntary social reporting and community development projects<sup>110</sup> within the communities where they operate.

In Nigeria, academics such as Edoho and others have argued that the CSR process in Nigeria is not far reaching or deeply entrenched.<sup>111</sup> Arguably, despite the adoption of various CSR mechanisms by oil companies in Nigeria, the oil-producing communities –have received a proportionately low amount of benefit compared to the high social and environmental costs of extractive activities.<sup>112</sup>

Notwithstanding the minimal contributions of CSR to oil producing communities in the Niger Delta, many communities still suffer from various ills including gas flaring, oil spillage and violence amongst

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<sup>109</sup> Petroleum Act, Sections 8 and 9.

<sup>110</sup> Jose Mario B. Maximiano (2007) –A Strategic Approach (SIA) to Institutionalizing CSR.∥

<sup>111</sup> Edoho, F. M. (2008). Oil transnational corporations: Corporate social responsibility and environmental sustainability. *Corporate Social Responsibility and Environmental Management* 15(4), 210-222.

<sup>112</sup> Lisk, F., Besada, H., & Martin, P. (2013). *Regulating extraction in the global South: Towards a framework for accountability*. Background Research Paper submitted to the High Level Panel on the Post-2015 Development Agenda. [http://www.post2015hlp.org/wp-content/uploads/2013/06/Lisk-Besada-Martin\\_Regulating-Extraction-in-the-Global-South-Towards-a-Framework-for-Accountability- FINALFINAL.pdf](http://www.post2015hlp.org/wp-content/uploads/2013/06/Lisk-Besada-Martin_Regulating-Extraction-in-the-Global-South-Towards-a-Framework-for-Accountability- FINALFINAL.pdf) accessed 20 March 2020

others. On the other hand, Idemudia and Ite support CSR initiatives, arguing that CSR is making tremendous progress in the area of local community initiatives in Nigeria.<sup>113</sup>

To further elucidate these assertions, Eweje illustrates that it is becoming increasingly apparent to oil companies that pollution prevention pays while pollution does not and under pressure from stakeholder groups, oil companies now routinely incorporate environmental impact assessments into their corporate strategy.<sup>114</sup>

CSR in Nigeria is culture specific and affected by the local context. Thus, CSR in Nigeria is product of historical and cultural influences.<sup>115</sup> Culture can be defined as –shared motives, values, beliefs, identities, and interpretations or meaning of significant events that result from common experiences of members of collectives that are transmitted across generations. <sup>116</sup> As a furtherance of this, philanthropy is seen to be a cultural driver for CSR activities in Nigeria.

### **3.3.3 CSR Guidelines.**

A more explicit attempt towards establishing legal framework was the proposed Corporate Social Responsibility Commission Bill by the Nigerian National Assembly in March 2008, with further attempt in 2012.<sup>117</sup> This bill is intended to inter alia, establish the Corporate Social Responsibility Commission, which shall have the primary functions of formulating, implementing policies and reliefs to host communities who would have suffered some physical or environmental degradation arising from activities of companies operating within these communities.<sup>118</sup> The bill also sought to mandatorily compel all incorporated companies in Nigeria to set aside about 3% (CSR Utilization Charge) of their annual gross profits for CSR programmes, failure of which would attract sanctions.<sup>119</sup>

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<sup>113</sup> Idemudia, U., & Ite, U. (2006). Corporate-community relations in Nigeria's oil industry: Challenges and imperatives. *Corporate Social Responsibility and Environmental Management*, 13(4), 194-206.

<sup>114</sup> Eweje, G. (2006). Environmental costs and responsibilities resulting from oil exploitation in developing countries: The case of the Niger Delta of Nigeria. *Journal of Business Ethics*, 69(1), 27-56.

<sup>115</sup> Idemudia, U., & Ite, U. (2006). Corporate-community relations in Nigeria's oil industry: Challenges and imperatives. *Corporate Social Responsibility and Environmental Management*, 13(4), 194-206.

<sup>116</sup> House, R., Javidan, M., Hanges, P., & Dorfman, P. (2002). Understanding cultures and implicit leadership theories across the globe: An introduction to project GLOBE. *Journal of World Business*, 37(1), 3-10.

<sup>117</sup> UK Companies Act (2006).

<sup>118</sup> Criminal Code Act of Nigeria (2004).

<sup>119</sup> National Environmental Standards and Regulations Enforcement Agencies Act (2007).

This bill is yet to transmogrify into a law which makes it only important to the extent that it answers our second research question as to whether CSR is amenable to any form of regulation.<sup>120</sup>

Attempts have been made by NDDC to provide an enabling environment for CSR in the Niger Delta region of Nigeria but the results are mixed.<sup>121</sup> As mentioned earlier, good governance is essential for engendering a sound institutional framework and an enabling environment for CSR in Nigeria.

### **3.3.4 Local Content.**

With the coming into force of the Nigerian Oil and Gas Industry Content Development Act 2010, new responsibilities was placed on IOCs to ensure the inclusion of –local content‖ in their project plans with minimum content requirements that have been approved for each project during bids.<sup>122</sup> This Act has far-reaching implications for the oil and gas sector because section 1 states that it ‘\_shall apply to all matters pertaining to Nigerian content in respect of all operations or transactions carried out in or connected with the Nigerian oil and gas industry’. The inclusion of a requirement to submit an annual Employment and Training Plan showing ‘\_anticipated skill shortages in the Nigerian labour force’ is an attempt to influence the developmental goals of the Nigerian government through this scheme.<sup>123</sup>

The Tertiary Education Trust Fund Act 2011 and the Nigeria Oil and Gas Development Act 2010 also known as the ‘\_local content Act 2010’ are examples of legislation that are forcing CSR practices however, not by using the explicit nomenclature of ‘\_CSR’.

### **3.3.5 Environment.**

Environmental protection is enshrined in the Constitution of the Federal Republic of Nigeria. States have the duty to protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria in accordance with the constitution.<sup>124</sup>

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<sup>120</sup> Corporate Social Responsibility Bill (2014).

<sup>121</sup> Ite, U.E. (2007a) ‘\_Changing times and strategies: Shell’s contribution to sustainable community development in the Niger Delta, Nigeria’, *Sustainable Development*, Vol. 15, No. 1, pp.1–14.

<sup>122</sup> See section 7 and 11 of the Nigerian Oil and Gas Industry Development Act 2010 respectively

<sup>123</sup> Section 29(a)(ii) Nigerian Oil and Gas Industry Development Act 2010

<sup>124</sup> Section 20 of the Constitution of the Federal Republic of Nigeria, 1999. [http://web.parliament.go.th/parcy/sapa\\_db/cons\\_doc/constitutions/data/Nigeria/Constitution%20of%20the%20Federal%20Republic%20of%20Nigeria.htm](http://web.parliament.go.th/parcy/sapa_db/cons_doc/constitutions/data/Nigeria/Constitution%20of%20the%20Federal%20Republic%20of%20Nigeria.htm) accessed 20 March 2020.

The emergence of global environmental rights movements and their interconnection with local communities helped to amplify the voices of the communities in the Niger Delta in the 1980s. One result of this phenomenon was the rise of environmental rights groups in Nigeria, starting with the establishment of the Environmental Rights Action (ERA).

The growing incidence of oil spillage and the weakness of existing institutions further led to the establishment of various agencies aimed at addressing environmental concerns such as the National Oil Spills Detection Agency (NOSDRA), The Nigerian Maritime Administrative and Safety Agency and the Nigerian National Petroleum Corporation.<sup>125</sup> Nigeria is a member to various international Conventions that are concerned with environmental protection, among which the Convention on Biological Diversity- is an international instrument dedicated to preserving our delicate biodiversity. Furthermore, Nigeria has signed and ratified various multilateral treaties and Protocols and has taken various policy steps over the years such as formulating a National Biosafety framework<sup>126</sup>and enacting various domestic environmental laws in alignment with international environmental standards. The environmental laws and policies enacted in Nigeria include; the Environmental Impact Assessment Act, the Land Use Act, Hydrocarbon Oil Refineries Act, Oil Pipelines Act, Petroleum Act, Petroleum Products and Distribution (Management Board)Act, Harmful Waste (Special Criminal Provisions) Act and the Niger-Delta Development Commission (NDDC) Act.<sup>127</sup> These laws and many more make up the legal framework which is concerned with environmental protection in the oil and gas sector. But it's saddening to note that despite the multiplicity of laws, obtaining a simple injunction against an oil company from A Nigerian Court has remained a herculean task as they are never granted in most cases.<sup>128</sup> In *Irou v Shell BP*<sup>129</sup> the Judge refused to grant an injunction in favour of the plaintiff whose land, fish pond and creek were polluted by oil spillage caused by Shell-BP on the grounds that, — To grant an order...would amount to asking the Defendant ( Shell-BP) to stop operating in the Area...|| The Judge ruled that nothing should be done to disrupt the activities of the defendants as they provide

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<sup>125</sup> K K Ezeibe page 43

<sup>126</sup> — Nigeria National Biosafety frameworks|(2005) *Federal Ministry of Environment* <http://www.unep.org/biosafety/files/NGNBFrep.pdf> accessed 20 March 2020

<sup>127</sup> — A synopsis of Laws and regulations on the Environment in Nigerial(2011) *Environmental Law Research Institute* <http://www.elri-ng.org/newsandrelease2.html> accessed 20 March 2020

<sup>128</sup> Jdrzej George Frynas; Legal Change in Africa; Evidence from Oil-related Litigation in Nigeria (1999) *Journal of African Law Vol 43 no 2 School of Oriental and African Studies Pg 122* <http://www.jstor.org/stable/3085547?seq=2> accessed 20 March 2020

<sup>129</sup> Unreported Suit number W/89/91 in the Warri High Court.

the main source of the nation's revenue.<sup>130</sup> Another example is the case of *Chinda v Shell BP*,<sup>131</sup> where the Plaintiff's action for an injunction against the Defendant on gas flaring was also rejected on the grounds that he made –a needlessly wide demand. These cases typify a preference for preservation of the economic interests of the oil companies as against the preservation of the environment.

### 3.3.6 Disclosure.

The Nigerian government is a signatory to some international agreements that espouse the philosophy of CSR activities. A prime example is the Extractive Industries Transparency Initiative (EITI). The EITI sets a global standard for transparency in oil, gas and mining.<sup>133</sup> It aims at promoting transparency and accountability in payments made by extractive corporations to government and government agents.<sup>134</sup> In 2003 Nigeria was the first African country to sign up for the EITI,<sup>135</sup> and in Nigeria the initiative is called NEITI (Nigeria Extractive Industries Transparency Initiative) and it has been domesticated into Nigerian law. A number of oil MNCs that have signed up to this include Chevron Group, BG Group, Shell, Equinor, Total, CNOOC (China) and ONGC (India) amongst others.<sup>136</sup> The EITI Board designated Nigeria as EITI Compliant on 1 March 2011.

In furtherance of its objectives, the NEITI has carried out regular audits of the Nigerian extractive sector. The aim of such regular audits is to reconcile the amounts the companies pay to the federal government and the amount the government states it gets from the companies.<sup>137</sup> Since the inception of NEITI in Nigeria, three phases of audits have been conducted and they were all in the oil and gas

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<sup>130</sup> Jędrzej George Frynas (1999) *Journal of African Law Vol 43 no 2 School of Oriental and African Studies* Pg 122

<sup>131</sup> (1974) 2 RSLR 1

<sup>132</sup> Jędrzej George Frynas (1999) *Journal of African Law Vol 43 no 2 School of Oriental and African Studies* Pg 123

<sup>133</sup> <http://eiti.org/node/22>, (EITI website) accessed 20 March 2020

<sup>134</sup> <http://eiti.org/node/22>, (EITI website) accessed 20 March 2020

<sup>135</sup> Nigeria CRR, op, clr., p. 234.

<sup>136</sup> <http://eiti.org/Nigeria>, (NEITI website) accessed 20 March 2020

<sup>137</sup> <http://eiti.org/Nigeria>, (NEITI website) accessed 20 March 2020



sector.<sup>138</sup> The period covered by the various audits included first audit was for the period 1999-2004, the second audit was in respect of 2005 and the third audit covered the years 2009-2011.

The first audit report was the first ever financial and physical analysis of tax receipts or payments by the oil MNCs operating in the Nigerian oil and gas industry and it covered the period between 1999 and 2004. The report alluded to the discrepancies in the amount of money paid by the oil companies and the amount the government said it received amounting to \$300 million.<sup>139</sup> This amount was subsequently reconciled to about \$6 million, in other words, unaccounted for.<sup>140</sup> Thus, political pressure was applied by the Nigerian government on the NEITI board to reconcile the differences in the payment receipts or amounts declared.

In August 2007, the second NEITI Report highlighted numerous issues that call for urgent attention and action by all stakeholders. Part of the report states thus: NEITI will ensure that the benefits due to the Nigerian government, agencies and above all the people of Nigeria, from the industry duly accrue to them, in accordance with the principles of transparency, accountability, and sustainable development... NEITI will facilitate this process of remediation, working in collaboration with all stakeholders.<sup>141</sup>

Furthermore, the Nigerian government promotes CSR impliedly through the National Economic Empowerment and Development Strategy (NEEDS) and the Nigerian National Planning Commission. The private sector is expected to play a major role in updating the strategy. The private sector is expected to create jobs, enhance productivity, quality of life and be more socially responsible with regards to the activities in Nigeria. Thus, MNCs are expected to contribute their own quota to the corporate, economic and social development of Nigeria. Nigeria is also part of the International

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<sup>138</sup> Ten years of NEITI reports [http://www.neiti.org.ng/sites \(...\)](http://www.neiti.org.ng/sites (...)) accessed 20 March 2020

<sup>139</sup> Idemudia, U. (2009). The quest for the effective use of natural resources revenue in Africa: Beyond transparency and the need for compatible cultural democracy in Nigeria. *Africa Today*, 56(2), 3-24.

<sup>140</sup> Ibid.

<sup>141</sup> <http://eiti.org/Nigeria>, accessed 20 March 2020

Standards Organization National Committee on Social Responsibility ISO26000<sup>142</sup> (which was approved and launched in November 2010) and the Global Compact Network.<sup>143</sup>

However, the Nigerian government has been blamed for the parlous state of the regulatory framework with regards to MNCs. Idemudia posits that the structural and systemic deficiencies inherent in CSR practices limit the effectiveness of CSR as a vehicle for conflict prevention and reduction in the Niger Delta.<sup>144</sup> Nigeria is said to a ‘rentier state’.<sup>145</sup> Thus, the nature of the Nigerian economy and problems of the Nigerian state, in addition to the contested nature of CSR have prevented the Nigerian government from providing an enabling environment for CSR, which together with oil companies’ failures, undermine the possibility of corporate social development in the Niger Delta.<sup>146</sup> One way of remedying the inherent deficiencies in CSR practices in Nigeria is that CSR should be seen as a useful framework within which new ways of collaboration and partnerships among corporations, government, and civil society can be established, creating innovative mechanisms for addressing existing governance deficits.<sup>147</sup>

### 3.4 NORWAY.

Exploration for hydro carbons in Norway started mid-1960s although the first field was developed in 1971. As a result of the vast experience, Norway has been one of the major producers of oil and gas worldwide with production rates being roughly 3.0 million barrels per day in the early years of the

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<sup>142</sup> International Standards Organization website at [http://www.iso.org/iso/pressrelease.htm?refid=Ref12 \(...\)](http://www.iso.org/iso/pressrelease.htm?refid=Ref12) accessed 20 March 2020

<sup>143</sup> Global Compact Nigeria Network website [https://www.unglobalcompact.org/NetworksAroundTheWorld/local\\_network\\_sheet/NG.html](https://www.unglobalcompact.org/NetworksAroundTheWorld/local_network_sheet/NG.html) accessed 20 March 2020

<sup>144</sup> Idemudia, U. (2010a). Rethinking the role of corporate social responsibility in the Nigerian oil conflict: The limits of CSR. *Journal of International Development*, 22(7), 833-845.

<sup>145</sup> Omeje, K. C. (2006). *High stakes and stakeholders: Oil conflict and security in Nigeria*. Aldershot: Ashgate.; Idemudia, U. (2010b). Corporate social responsibility and the rentier Nigerian state: Rethinking the role of government and the possibility of corporate social development in the Niger Delta. *Canadian Journal of Development Studies*, 30(1-2), 131- 153.

<sup>146</sup> Idemudia, U. (2010b). Corporate social responsibility and the rentier Nigerian state: Rethinking the role of government and the possibility of corporate social development in the Niger Delta. *Canadian Journal of Development Studies*, 30(1-2), 131-153.

<sup>147</sup> Ibid.

century.<sup>148</sup> Currently, Norway has a fully established locally based oil company, Equinor with comprehensive documented operational skills and policies. Equinor is a domestic giant specializing in offshore petroleum activities and has an ambition of increasing total daily production to over 2.5 million barrels.<sup>149</sup>

On top of the above, Norway has also developed local industrial competences to provide offshore petroleum activities with goods and services in a broad sense. This development can partly be attributed to Norway's advantageous geographic proximity and the competitiveness of the industrial competence of the local supply and service providers on the international scene.<sup>150</sup> Additionally, Norway is greatly involved in CSR initiatives.<sup>151</sup>

### 3.4.1 Legal Framework

The main statute relevant for petroleum activities is the Petroleum Act No. 72 of 29 November 1996 (the Petroleum Act) while the more detailed rules are set out in various regulations.<sup>152</sup> The Petroleum Taxation Act No. 35 of 13 June 1975 (the Petroleum Taxation Act) is also considered a core statute governing taxation of exploration, production and extraction of sub-sea petroleum deposits. The Petroleum Act provides the general legal basis for petroleum activities on the NCS.

The Norwegian state participates directly in the petroleum activities through the State's Direct Financial Interest (SDFI) managed by the wholly state-owned company Petoro AS (Petoro). While the main governmental offices responsible for petroleum activities on the NCS are the MPE, the Ministry

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<sup>148</sup> HEUM, P., 2008. *Local content development- experiences from oil and gas experiences in Norway*. Institute for research in economics and business administration, Bergen.

<sup>149</sup> New production on the Norwegian shelf <http://www.statoil.com/en/ouroperations/futurevolumes/pages/default.aspx> accessed 20 March 2020

<sup>150</sup> VATNE, E., 2007. *Regional distribution of employment among petro-related supply and service providers in Norway*. Vol. 22.

<sup>151</sup> BELLONA, 2004. *Stadig Økende Interesser for SRI Investeringer*. [http://www.bellona.no/norwegian\\_import\\_area/oekonomi/kapital/fou/32492](http://www.bellona.no/norwegian_import_area/oekonomi/kapital/fou/32492) accessed 20 March 2020

<sup>152</sup> Yngve Bustnesli, *The Oil and Gas Law Review - Edition 7, Norway*, 2019. <https://thelawreviews.co.uk/edition/the-oil-and-gas-law-review-edition-7/1210093/norway> accessed 25 March 2020

of Finance (MoF), the Ministry of Labour and Social Affairs, the Ministry of Climate and Environment, and the Ministry of Trade, Industry and Fisheries.<sup>153</sup>

The Petroleum Safety Authority (PSA), The Norwegian Environment Agency, The Norwegian Coastal Administration and The Norwegian Maritime Authority (NMA) are all administrative and supervisory bodies involved in the petroleum activities.

### **3.4.2 CSR in Norway.**

In Norway, CSR implies that businesses are expected to assume responsibility for their impact on people, the environment, and the communities and societies in which they operate. The Government expects all Norwegian businesses to exercise CSR, whether they are state-owned or privately owned, and whether their activities are in Norway or abroad.<sup>154</sup> Enterprises in which the state has an ownership share are expected to systematically practice CSR and be leaders in this area in their respective fields.

The Government believes that exercising CSR is important for safeguarding shareholder value, and expects all companies in which the state has an ownership share to act ethically. In a bid to ensure this, the Government has both general and more specific expectations relating to CSR. Norway's national CSR priorities revolve around: Exercising CSR in the government's own activities, including in state-owned companies and investments, and procurement policies; Conveying society's expectations to Norwegian companies through knowledge sharing on CSR; and, Developing and influencing the framework for CSR, both nationally and internationally. All companies operating abroad are expected to meet both Norwegian and local regulation in the country in which they are operating (Ministry of Foreign Affairs, 2009). While the specific expectations are in four core areas: climate change and the environment, human rights, workers' rights and anti-corruption. Hence, the Norwegian government premises its policy on the key international standards for CSR: [the OECD Guidelines for Multinational](#)

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<sup>153</sup> Ibid.

<sup>154</sup> <https://www.regjeringen.no/en/topics/foreign-affairs/business-cooperation-abroad/innsikt/csr/id2076260/> accessed 8 March 2020

[Enterprises](#), [the UN Guiding Principles on Business and Human Rights](#), and [the UN Global Compact](#).<sup>155</sup>

Similarly, transparency and disclosure are key to the development of CSR. Large enterprises are required under Section 3-3c of the Accounting Act to report on their CSR activities. Therefore, public disclosure requirements are increasingly regulated. In Norway, Kompakt is the Government's consultative body on matters relating to CSR.

### **3.4.3 CSR Guidelines.**

There are a number of Norwegian legislations that regulate CSR related aspects. Some of aspects incorporated into Norway's CSR agenda and in Norwegian law for decades include; worker's rights, working conditions and environmental issues.<sup>156</sup> It should be noted that although the culture of CSR is embedded in Norwegian activities and the Government strongly supports socially responsible principles, most of Norway's regulatory instruments for CSR are voluntary.

On 1 June 2013, newly-passed regulation on sustainability reporting came into force in Norway. The Norwegian government passed the legislation in April 2013, requiring large companies to provide information on how they integrate social responsibility into their business strategies.<sup>157</sup> This represents an important milestone in the regulation of corporate transparency. It has been observed that the policy be based on the 'Report or Explain' principle; that companies should report their sustainability performance or explain. The GRI Guidelines provide for the establishment of a comprehensive CSR reporting framework that is to be widely used around the world. While the GRI's Framework, provides that companies that already publicly report CSR information based on the UN Global Compact principles or GRI's Guidelines should be exempt from this obligation. The Norwegian government considers transparency and sustainability disclosure as instrumental in building and

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<sup>155</sup> Ibid.

<sup>156</sup> Ditlev-Simonsen, C.D., Von Weltzien Hoivik, H., and Ihlen, Ø. (2015) The historical development of corporate social responsibility in Norway. In Idowu, S, Schmidpeter, R and Fifka, MS (eds.) *Corporate Social Responsibility in Europe*, pp. 177-196. Springer International Publishing.

<sup>157</sup> Regulating for a more sustainable future: New Norwegian CSR regulation 2013 entered into force, <https://www.globalreporting.org/information/news-and-press-center/Pages/Regulating-for-a-more-sustainable-future-New-Norwegian-CSR-regulation-entered-into-force.aspx> accessed 8 March 2020

increasing trust between society and companies. The government also acknowledges corporate transparency as an important means for stakeholders to understand the impact of companies' operations, and their management strategies.<sup>158</sup>

The key drivers for CSR and sustainability reporting in Norway are based on respect for human rights, and the acknowledgement of the need to address environmental concerns and combat corruption. Thus, Norway has proven itself as a leader in the field of CSR policy, showing that responsibility for sustainability is shared between business and the state. In 2009, the government launched its first national White Paper on CSR. The paper placed CSR firmly in the context of global sustainability challenges and clarified the roles and responsibilities of government, civil society, and the private sector when it comes to reporting sustainability performance. The Paper also explains how GRI's Guidelines can be used to fulfill companies' responsibilities for transparent disclosure on key sustainability issues. The regulation on sustainability reporting is the latest example of Norway's long-standing commitment to CSR policy and regulation, which points the way for the rest of the world to follow suit and build on global sustainability frameworks like those of the UN Global Compact's and GRI's.

#### **3.4.4 Local Content.**

Local content has become very contemporary with most countries passing laws to make it mandatory for all stakeholders especially in the extractive industry. A case in point is Norway which is believed to be one of the leading countries regarding promotion of local content. However the question of whether it's necessary to have a local content policy or scheme still remains. Scholars like Amegahand Heum believe that local content is the only way a country can maximally benefit from its petroleum resource.<sup>159</sup> This is because local content facilitates development of local economies and industries and also helps build local capacity and skills as well as the creation of a competitive supplierbase.

Norway has developed internationally competitive local industrial competence to serve offshore oil and gas activities to the level of 80% in relation to maintenance and operations when measured

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<sup>158</sup> Ibid.

<sup>159</sup> AMEGAH, I. S., 2012. *Regulation of the petroleum industry; a tale from the North sea-Norway.*; HEUM. P., 2008. *Local content development- experiences from oil and gas experiences in Norway.* Institute for research in economics and business administration, Bergen.

according to value added and about 50-60% in relation to investments for developing new petroleum fields. In addition, 3.5% of the total Norwegian economy and 5% of the private sector in Norway are employed by supply and service providers in the petroleum industry.<sup>160</sup> However, it should be noted that the level of local content development is not measured by the degree of domestic employment.

Furthermore, Norway has established policies and policy instruments to enhance local content. This is in a bid to enable Norwegian based companies to operate as full-scale oil companies thereby spreading the knowledge on domestic industrial capacities and competences in both the foreign and Norwegian oil companies. Additionally, foreign oil companies operating in Norway are required to set up fully operational subsidiaries in Norway and are encouraged to recruit Norwegians.

The above discussion indicates that Norway has succeeded in building internationally competitive industrial competences and capabilities in the upstream oil and gas industry. This success is referred to by some experts and academics as the –Ideal Norwegian Model. However, it is unrealistic to assume that there is one –reliable guideline as to how countries should organize their operations in order to guarantee success in the petroleum sector.

### **3.4.5 Environment.**

Although the petroleum industry is one of the prime sources of greenhouse gas and acidifying chemical emissions in Norway, discharges to the environment are low due to high environmental regulation. Right from 1973, the Norwegian government required all petroleum companies to annually submit reports highlighting environmental conditions in the areas being explored.<sup>161</sup>

Norway has an environment agency (Norwegian Environment Agency) which through the petroleum health, safety and environment regulations monitors and restricts pollution, use of harmful chemicals. It also requires companies to develop new technology that minimizes discharges.

Additionally, the country has a Pollution Control Act which is a framework law that protects the environment from pollution irrespective of the source although it provides for exceptions for example

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<sup>160</sup> HEUM. P., 2008. *Local content development- experiences from oil and gas experiences in Norway*. Institute for research in economics and business administration, Bergen.

<sup>161</sup> GRAY. J. S., BAKKE, T, BECK, H. J. and NILSSEN, I., 1999. *Managing the Environmental Effects of the Norwegian Oil and Gas Industry: From Conflict to Consensus*. Marine Pollution Bulletin, Vol. 38, Pp 525–530

the transport sector. It is based on the principal that all pollution is prohibited if not backed by a permit or regulation. Consequently, corporations operating in Norway have high regard for environmental protection a case in point being its very own National Oil Company Equinor which has gone an extra mile to develop technologies for carbon capture.<sup>162</sup>

### **3.4.6 Health and Safety.**

Just like other oil producing countries, Norway considers health and safety an important issue in its offshore oil and gas activities since the working environment is potentially dangerous and involves fire and explosion related risks resulting from the flammable substances used in oil production.<sup>163</sup>

Consequently, in 2004, The Petroleum Safety Authority (PSA) was established as an independent, governmental supervisory body, partitioned from the Norwegian Petroleum Directorate. The PSA is the Norwegian governmental supervisory authority under the Norwegian Ministry of Labour and Social Inclusion and has regulatory responsibility for safety, emergency preparedness and the working environment in petroleum-industry activities in Norway, both on land and offshore. Broadly put the duty of the Petroleum Safety Authority Norway is to ensure that petroleum activities are conducted prudently as regards health, environment and safety. The ministry has issued the following guidelines for how the PSA should carry out its tasks.

Follow-up shall be system-oriented and risk-based. This follow-up must be in addition to, and not instead of, the follow-up which the industry carries out for its own part. There shall be a balanced consideration between the PSA's role as a high risk/technological supervisory body and as a labour inspection authority. Participation and cooperation between the parties are important principles and integral preconditions for the activities of the Petroleum Safety Authority Norway.

In 2005, the PSA was made part of the Coexistence Group II working group, a joint project of the Norwegian government, the Institute of Marine Research, the Norwegian Fishermen's Association, the Norwegian Foundation for Nature Research and the Norwegian Oil Industry Association. Coexistence Group II's mission is to explore the feasibility of coexistence between the fishing and petroleum

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<sup>162</sup> HENRIKSEN, E.D., 2012. *Managing environmental risks in the Norwegian offshore oil and gas business.*

<sup>163</sup> Gardner, R., 2003. *Overview and characteristics of some occupational exposures and health risks on offshore oil and gas installations.* Annals of Occupational Hygiene, vol.47, pp. 201–210



industries in Norwegian waters. The PSA also coordinates supervisory responsibility with Norway's national Health Examination Survey (HES).<sup>164</sup>

Through the numerous interventions relating to health and safety, it is believed that personnel must be prompted to act in the safest possible way if accidents in the oil and gas industry are to be reduced. Therefore it is very important to analyze the driving forces behind human behaviors and increase employee participation since it creates a favorable environment for the employees to become an essential part of their work thereby promoting creativity and productivity.<sup>165</sup>

### 3.4.7 Disclosure.

Although it is done on a voluntary basis, CSR disclosure is becoming more prevalent among companies with more disclosure expected in countries with higher levels of democracy and regulations, investor protection, higher quality regulations and more press freedom<sup>166</sup> which Norway conforms to. During the international conference on CSR held in Oslo on the 13th-14th of November 2012, the Norwegian Foreign Minister Espen Barth Eide pointed out the need for corporations to disclose CSR information in order to meet the heightened public expectations of greater transparency.<sup>167</sup> Additionally, in 1998, the government established a requirement for companies to include gender equality and environmental issues in the directors' reports. Further still, in April 2013, the Norwegian government passed a legislation requiring all large companies to disclose the way they integrate their social responsibilities into their business strategies.<sup>168</sup>

According to Bellona, companies in Norway are continuously disclosing social and environmental information because of the growing interest in socially responsible investments.<sup>169</sup> Another force behind CSR disclosures in Norway is the National Environmental and Social Reporting Awards. These were established in 1994 with the aim of strengthening non-financial reporting in Norway.

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<sup>164</sup> HOVDEN, J., LIE, T., KARLSEN, J.E. and ALTEREN, B., 2008. *The safety representative under pressure. A study of occupational health and safety management in the Norwegian oil and gas industry.* Safety Science 46, 493–509.

<sup>165</sup> AMEGAH, I. S., 2012. *Regulation of the petroleum industry; a tale from the North sea-Norway.*

<sup>166</sup> MARQUES, A., 2013. *CSR disclosures: predispositions and consequences.* Newzeland

<sup>167</sup> Northern disclosure: Norway announces aim to legislate for sustainability reporting <https://www.globalreporting.org/information/news-and-press-center/Pages/Northern-disclosure-Norway-becomes-the-fourth-Nordic-country-to-legislate-for-sustainability-reporting-.aspx> accessed 8 March 2020

<sup>168</sup> Global CSR disclosure <http://hausercenter.org/iri/about/global-csr-disclosure-requirements> accessed 8 March 2020

<sup>169</sup> BELLONA, 2004. *Stadig Økende Interesser for SRI Investeringer.* [http://www.bellona.no/norwegian\\_import\\_area/oekonomi/kapital/fou/32492](http://www.bellona.no/norwegian_import_area/oekonomi/kapital/fou/32492) accessed 8 March 2020

However, according to Vormedal and Ruud, the impact of these awards on CSR disclosures has been questioned due to the limited media attention they have received.<sup>170</sup>

Further still, Norway maintains memberships with international bodies that advocate for transparency through disclosures. These include; Publish What You Pay (PWYP) and the Extractive industries Transparency Initiative (EITI). The EITI is a voluntary alliance between governments, countries and civil society groups working together to promote international standards for revenue transparency at the local level. Its provisions require companies to report the payments made to governments and the governments to equally disclose the payments received from the companies. On the other hand, PWYP encourages governments to oblige extractive companies to publish their payments to host governments on top of doing a country by country analysis of payments for each project. Their campaign has prompted countries like Norway to pass a legislation requiring country by country analysis for all their extractive companies.

### **3.5 UGANDA.**

In 2006 commercially viable quantities of oil and gas were announced in Uganda. Uganda has also been described by the World Bank as the hottest inland exploration frontier in the world and the country to watch in the oil and gas space, due to the commercial discovery of an estimated 6.5 billion barrels of oil, 1.4 billion of which are recoverable.<sup>171</sup> A total of five international oil companies have been granted exploration licences for the Albertine Graben three of which are holders of production licences to wit Total E & P Uganda, Tullow Uganda Operations Pty Limited and China National Offshore Oil Corporation (CNOOC).

It was estimated that the revenue from the country's oil reserves when production starts would be about US\$ 2 billion per year, or around 12 per cent of GDP,<sup>172</sup> although later estimates downgraded

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<sup>170</sup> VORMEDAL, I. and RUUD, A., 2006. *Sustainability Reporting in Norway – an Assessment of Performance in the Context of Legal Demands and Socio-Political Drivers*. John Wiley & Sons, Ltd and ERP Environment.

<sup>171</sup> The World Bank (2015), *Leveraging Oil and Gas Industry for the Development of a Competitive Private Sector in Uganda*. Washington, DC: World Bank Group.

<sup>172</sup> Vokes, R. (2012), 'The Politics of Oil in Uganda', *African Affairs*, 101(443), 303–314. <https://academic.oup.com/afraf/article/111/443/303/17334> accessed 8 March 2020

this potential by one third, citing price volatility.<sup>173</sup> Such oil quantities, if properly managed, can put Uganda on the world list of oil-producing and exporting countries with a real opportunity of fuelling the transition from a poor to a middle-income and perhaps even high-income country.<sup>174</sup> However, this is a role that has to be played collectively by all the state and non-state actors including the international oil companies. Furthermore the need to ensure that the revenues from the oil and gas sector are used for infrastructure development and not financing of budgets and recurrent expenditure. The oil value chain is divided into three sub-sectors namely, upstream, middle stream and downstream.<sup>175</sup>

### **3.5.1 Legal Framework**

The National Oil and Gas Policy of Uganda 2008 is the overall guiding document for the oil and gas sector of Uganda. Following the discovery of commercial quantities of oil in Uganda, there was need to ensure efficient and effective utilization of the resource in order to create prolonged benefits to the country. Consequently, the government saw the need for a more comprehensive National Oil and Gas Policy than had been provided for in the Energy Policy of 2002. This was achieved through a vast consultation with the different government institutions and a review of various oil companies' petroleum policies among others which led to the formulation of the National Oil and Gas Policy 2008.<sup>176</sup>

The Petroleum (Exploration, Development and Production) Act 2013,<sup>177</sup> vests all the property in, and the control of, petroleum in its natural condition in the government on behalf of the Republic.<sup>178</sup> The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 (PRCTMS); This Act is the first of its kind in East Africa ahead of the construction of the first refinery in Uganda. The

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<sup>173</sup> Patey, L. (2015), 'Oil in Uganda: Hard Bargaining and Complex Politics in East Africa'. *OIES Working Paper No. 60*. <https://doi.org/10.26889/9781784670405> accessed 8 March 2020.

<sup>174</sup> Badru Bukenya and Jaqueline Nakaiza (2020) *Oil Wealth and Development in Uganda and Beyond: Closed but Ordered: How the Political Settlement Shapes Uganda's Deals with International Oil Companies*

<sup>175</sup> The World Bank (2015), *Leveraging Oil and Gas Industry for the Development of a Competitive Private Sector in Uganda*. Washington, DC: World Bank Group.

<sup>176</sup> PEPD <http://www.petroleum.go.ug/page.php?k=regpolicies&id=1>

<sup>177</sup> Act No. 3 of 2013.

<sup>178</sup> Section 4 (1).

Act establishes a legal framework for the governance of petroleum activities to ensure maximum benefits for all the citizens and operationalizes the 2008 National Oil and Gas Policy.<sup>179</sup>

National Environment Management Act (NEMA); The 1995 constitution of Uganda provided for the conservation and management of the environment and natural resources as well as the right to a clean and healthy environment (Article 39). This saw the establishment of the National Environment Act which provides for sustainable environmental management and NEMA as an institution mandated to coordinate, monitor and supervise environment related activities across all sectors.<sup>180</sup> NEMA 's primary functions include; liaising with all organizations operating in the country on environment related issues, coordinating with the policy committee in the formulation of environmental policies, standards and guidelines; promotion of public awareness through educating people formally and informally about environmental issues and execution of environmental audits on all activities likely to have an impact on the environment.<sup>181</sup> However, the above mentioned functions are not tailored to the oil and gas industry.

### **3.5.2 CSR in Uganda.**

CSR activities in Uganda can be traced back to the 1950s when the communal values of the African traditional societies were being upheld. Communities engaged in developmental activities such as building schools, hospitals and roads. Large local businesses also engaged in charitable donations to social causes. However, from the 1970s, there was a shift from the philanthropy based CSR to one that was —stakeholder engagement|| oriented.<sup>182</sup>

CSR has come a long way in Uganda and there is an increase in the number of domestic companies in Uganda that have developed interest as well as been engaged in CSR initiatives. Though not formal or institutionalized, there is increased interest in CSR which is commonly associated with philanthropy or

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<sup>179</sup> PEPD <http://www.petroleum.go.ug/page.php?k=regacts&id=5> accessed 8 March 2020

<sup>180</sup> AKELLO, C.E., 2007. *Environmental Regulation in Uganda: Successes and Challenges*, Environment and Development Journal. p. 20, <http://www.lead-journal.org/content/07020.pdf> accessed 8 March 2020

<sup>181</sup> The National Environment Act <http://www.opm.go.ug/assets/media/resources/263/NATIONAL%20ENVIRONMENTAL%20ACT.pdf> accessed 8 March 2020

<sup>182</sup> VISSER, W., and N. TOLHURST., 2010. *The world guide to CSR: A country-by-country analysis of corporate sustainability and responsibility*. Ogdensburg, NY: Greenleaf.

charity, i.e. through corporate social investment in education, health, sports development, the environment, and other community services. From African culture there is a traditional focus on giving back to society and community empowerment. Therefore, various local businesses are trying to demonstrate their ability to make a significant difference in the Ugandan society and improve the overall quality of life.<sup>183</sup> Needless to say the CSR benchmarks commonly used in developed countries are largely absent in Uganda. These include CSR codes, standards, management systems and reports. Nevertheless, there exists some resemblance of formal CSR practices in Uganda. These are usually undertaken by large, high profile national and multinational companies, especially those with recognized international brands or those aspiring to a global status. These include international energy companies such as Royal Dutch Shell Plc, Total, Tullow Oil Plc, international banks like DFCU Bank and Standard Chartered Bank Ltd, agricultural companies like Kakira Sugar Ltd.

### **3.5.3 CSR Guidelines.**

The absence of both general and specific CSR guidelines or policies that are meant to direct or to give a definitive direction to CSR initiatives of companies has hindered the realization of CSR benefits. However, the Companies Act provides the primary framework for governance of companies and introduced a code of corporate governance that is voluntary for private companies and mandatory for new public companies.<sup>184</sup> ‘\_Comply or else’ is where corporate governance standards are enshrined in legal enforceable instruments, with legal penalties for non-compliance, while ‘\_comply or explain’ provides guidelines that contain best practices on particular corporate governance issues such as treatment of shareholders, transparency and accountability. Corporate governance may sound a preserve for the big corporations in the private sector, but that is a misnomer because the principles also apply to non-governmental organizations, family-owned enterprises and public sector bodies among others.<sup>185</sup>

In pursuit of achieving optimum benefits from the commercial petroleum discoveries made in 2006, the government of Uganda passed the Petroleum Exploration, Development and Production Act of 2013 with the intention of operationalizing the Oil and gas policy of 2008. However, this law does not

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<sup>183</sup> David Katamba, Bernedine Bos and Anne-Marie Slaa,(2016) Country scan: CSR in Uganda

<sup>184</sup> Act 2012

<sup>185</sup> Alison Dillon Kibirige and Winifred Tarinyeba Kiryabwire. APRM Best Practices in Corporate Governance

have comprehensive CSR provisions, for example it does not list any standards or guidelines and regulations covering percentages, amounts and the areas for CSR expenditure.

Some objectives of The National Oil and Gas Policy of Uganda 2008 directly address CSR and these include; ensuring optimum national participation in the petroleum activities, supporting and maintaining the development of national skills and expertise and ensuring that petroleum activities are carried out in a manner that promotes environmental conservation.<sup>186</sup>

#### **3.5.4 Local Content.**

The goal of the National Content Policy 2017 for the petroleum sub-sector in Uganda is to promote the competitiveness of Ugandan labor and enterprises in the oil and gas industry and associated sectors of the economy.<sup>187</sup> This policy further outlines the context of the petroleum sector and presents a vision for how Ugandan participation in the sector will be developed in the short, medium and longer term. The policy describes the current related policy framework, the legislative and institutional context and the role of the different Government institutions in national content development. Objectives 7 & 8 of the NOGP are reflected in both the upstream and midstream laws such that, while applying for a license, the application must contain a statement on how the applicant intends to employ and train Ugandan citizens.<sup>188</sup>

Part VIII of the Petroleum (Exploration, Development and Production) Act, 2013 provides for National Content. Specifically section 125 stipulates the provision of goods and services by Uganda entrepreneurs. While section 126 of the Petroleum (Exploration, Development and Production) Act, 2013 provides for the training and employment of Ugandans. Training and technology transfer as part of national content is provided for in section 127 and shall include scholarships and other financial support for the education of Ugandans employed by the licensee.

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<sup>186</sup> National oil and gas policy <http://www.petroleum.go.ug/uploads/NATIONAL%20OIL%20AND%20GAS%20POLICY%20FOR%20UGANDA.pdf> accessed 8 March 2020

<sup>187</sup> Magoma F.N, Angom M, -State of Oil and Gas in Uganda( 2017) <http://www.mmaks.co.ug/articles/2017/07/31/state-oil-and-gas-uganda-2017> accessed 8 March 2020

<sup>188</sup> Sections 56(3)(f) of the Upstream Act and 10(6)(s) of the Midstream Act.

The National Content Policy also defines –National Content as the value added or created in the Ugandan economy through the employment of Ugandan workers and the use of goods produced or available in Uganda and services provided by Ugandan citizens and enterprises. National content therefore refers to the share of labour, services and goods for the petroleum sector being provided from within the country and constitutes the added value to Uganda from these activities.

Further, the report on local content<sup>189</sup> prepared by the Ministry of Energy and Mineral Development of Uganda highlights the fact that foreign-owned companies present grounds for training and capacity building for the locals and therefore there is need to keep track of the number of Ugandans employed by such firms. It also points out the need to ascertain the positions held by the locals in these companies since the country uses the level of employment of Ugandan citizens in foreign-owned companies as a way of measuring national value added.

Notably, the promotion of local content in Uganda’s oil and gas industry not only involves developing local skills, transferring knowledge, using local manpower and local manufacturing and building a competitive local supplier base, but also establishing comprehensive well thought out policy measures in order to guarantee integration of local enterprises into the petroleum sector. The 2012 Oil and Gas Revenue Management Policy of Uganda<sup>190</sup> emphasizes that Uganda should sustain a comprehensive perspective and ensure proper enforcement of national content policies as well as management of public spending to promote local content and avoid damaging development opportunities. An estimated 996 Ugandan-owned companies prospected in 2018 to provide oil-related services by registering with the Petroleum Authority’s National Supplier Database for the oil and gas sector, a register of service providers in the oil and gas sector.<sup>191</sup> It is also estimated that the sector will create

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<sup>189</sup> MEMD, (2011), Enhancing national participation in the oil and gas industry in Uganda  
<http://www.eisourcebook.org/cms/Feb%202014/Uganda,%20Enhancing%20National%20Petroleum%20Participation.pdf>  
accessed 8 March 2020

<sup>190</sup> MOFPED, (2012), Oil and Gas revenue management policy  
[http://www.acode-u.org/documents/oildocs/Oil\\_Revenue\\_Mgt\\_Policy.pdf](http://www.acode-u.org/documents/oildocs/Oil_Revenue_Mgt_Policy.pdf) accessed 8 March 2020

<sup>191</sup> Musisi, F. (2018, 31 August), ‘Firms Scramble to Cash in on Oil Cash’, *Daily Monitor*.  
<https://www.monitor.co.ug/News/National/Firms-scramble-cash-in-oil-cash/688334-4736932-lmcjanz/index.html>  
accessed 8 March 2020; M. Kyeyune (2019, 3 April), ‘Government Raids Oil Fund to Finance Budget’, *Daily Monitor*.  
<https://www.monitor.co.ug/News/National/Government-oil-fund-finance-budget-Semakula-Mutebile/688334-5053972-cq27o1/index.html> accessed 8 March 2020

150,000 jobs at peak oil production, and 30,000 at the start of production, which is expected to occur in 2022 based on revised forecasts.<sup>192</sup>

### **3.5.5 Environment.**

Although oil development has great potential in terms of benefits, it is also characterized by serious environmental risks as already witnessed in the existing oil zones from the Gulf of Mexico to the Niger delta. The Albertine Rift area is biodiversity rich and recognized globally as a biodiversity hotspot with a variety of birds, mammals, amphibians and reptiles accommodated in protected areas such as forest reserves, community wildlife reserves, wildlife reserves and national parks.<sup>193</sup> It is evident that petroleum related issues are generally increasing over the years, with business issues leading and closely followed by societal interest that largely focuses on welfare. It is noteworthy that although the focus on environmental issues is currently low in importance they remain key determinants of sustainable development of the oil and gas sector.<sup>194</sup> Furthermore, local communities who depend on an environment which faces possible contamination by oil activities. This as well presents a concern about the absence of context-specific environmental safeguards as it is believed that the current institutions and enforcement mechanisms are incapable of preventing environmental damage or even responding to a crisis in case it happened.<sup>195</sup>

As such, it is vital for the legislative bodies of Uganda to put in place laws and regulations that will ensure minimization of risks. The regulatory framework coupled with the current effort by companies to undertake environment initiatives in relation to climate change, land use and bio-diversity will promote environment conservation. In addition, Katamba and Gisch-Boie note that politics and the

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<sup>192</sup> URN (2018, 20 December), ‘Uganda’s First Oil Production Now Pushed to 2022’, *The Observer*. <https://observer.ug/news/headlines/59510-uganda-s-first-oil-production-now-pushed-to-2022> accessed 8 March 2020, ‘Uganda’s Petroleum Fund not Growing’, *The Independent*. <https://www.independent.co.ug/ugandas-petroleum-fund-not-growing/>. accessed 8 March 2020

<sup>193</sup> National Environment Management Authority (NEMA) (2010), *Environmental Sensitivity Atlas for the Albertine Graben*. Kampala: NEMA. ——— (2012), *The Environmental Monitoring Plan for the Albertine Graben 2012–2017*. Kampala: Republic of Uganda.

<sup>194</sup> Moses Isabirye (2020) Oil Wealth and Development in Uganda and Beyond: Environmental Sustainability: An Afterthought or a Key Objective for Uganda’s Oil Sector?

<sup>195</sup> KIIZA, J., LAWRENCE, B. and SARAH, S., 2011. *Righting resource-curse wrongs in Uganda: the case of oil discovery and the management of popular expectations*. Economic policy research Centre.



various practices of companies have made it hard for NEMA to enforce its mandate thus affecting sustainability of company operations from an environmental point of view.<sup>196</sup>

### **3.5.6 Health and Safety.**

Since oil and gas activities are highly risky and dangerous to people, it is important to protect both the employees and the communities living near the production sites through the establishment of environmental, health and safety regulations and procedures. Uganda is no exception to this given its thriving petroleum activities that are becoming popular among the citizens by the day, which in effect are increasing the country's exposure to health and safety risks on top of amplifying the expectations among the citizens.<sup>197</sup>

One of the key objectives of The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 (PRCTMS); is to supplement the health, safety and environment regulations that are insufficiently covered in other laws in the petroleum sector.<sup>198</sup> Furthermore, health and safety risks are provided for in the Occupational Safety and Health Act in 2006<sup>199</sup> with a purpose of regulating health and safety standards and ensuring the welfare and relevant training of employees in order to keep them abreast with the latest developments regarding health and safety in the all sectors to which the oil and gas sector are no exception.

Additionally, due to the possible danger oil exploration activities may pose to human safety and the environment, section 18(1) of the Petroleum Exploration, Development and Production Act of 2013 requires all oil companies to monitor and control the release of dangerous substances into the environment. The companies are expected to use equipment and apparatus to test all substances that are likely to be a danger to flora and fauna both on land and in water and only be released into the environment when they have been rendered safe and there should be a record of the full monitoring

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<sup>196</sup> KATAMBA, D. & GISCH-BOIE, S., 2008. *CSR in Uganda: Perceptions, approaches and needs of companies*. Kampala, UCCRI,DED

<sup>197</sup> KASIMBAZI, E., 2008. *Legal and environmental dimensions of oil exploration in Uganda*. Faculty of law, Makerere University, Kampala, Uganda.

<sup>198</sup> The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 <http://www.petroleum.go.ug/uploads/9.%20The%20Petroleum%20%28Refining%20Conversion%20Transimission%20and%20Midstream%20Storage%29%20Act%20No%20%204%20of%202013.pdf> accessed 8 March 2020

<sup>199</sup> Occupational Health and Safety Act of 2006 <http://www.ilo.org/dyn/travail/docs/1822/Occupational%20Safety%20and%20Health%20Act.pdf> accessed 8 March 2020

process as well. Further, the National Oil and Gas Policy 2008 also tackles health and safety issues as evidenced in one of its objectives which is to ensure that the necessary health and safety guidelines, including provision of protective equipment where deemed necessary are implemented by all oil and gas companies and their contractors and subcontractors. It also makes provisions for protection of all employees and other stakeholders against activities that may cause harm to their health and the provision of a safe working environment.

### **3.5.7 Disclosure.**

Although disclosure of CSR information is believed to be voluntary, Barnett<sup>200</sup> and Mackey et al <sup>201</sup> argue that companies disclose CSR information for various reasons; (i) to conform to the expectations of society thereby securing continued access to resources (ii) to avail capital market participants with additional information to help them reliably and accurately assess a company's financial prospects (iii) to maintain a good public image as well as good relations with the public especially those companies operating in environmentally sensitive industries such as the petroleum industry. Since transparency and disclosure go hand in hand, Yao et al<sup>202</sup> encourage host countries and the oil companies to ensure regular access to information about petroleum activities for both the public and the various regulatory institutions for example amount of oil produced, revenue raised from the petroleum activities as well as the results of the environmental impact assessments. This is because they view transparency as a cornerstone of effective and efficient management of the oil and gas industry.

Guiding Principle 3 of the NOGP is about transparency and accountability which entails openness and access to information.<sup>203</sup> The NOGP seeks to promote high standards of transparency and accountability in licensing, procurement, exploration, development and production operations, as well as in the management of revenues from oil and gas. Both the Upstream and Midstream Acts allow for public access to information relating to petroleum activities such as the announcement of new areas for petroleum exploration, the publication of application notices and bidding processes,<sup>204</sup> and access to

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<sup>200</sup> BARNETT, M.L., 2007. *Stakeholder Influence Capacity and the Variability of Financial Returns to Corporate Social Responsibility*. *Academy of Management Review*, 32(3), 794-816.

<sup>201</sup> MACKEY, A., et al., 2007. *Corporate Social Responsibility and Firm Performance: Investor Preference and Corporate Strategies*. *Academy of Management Journal*, 32(3), 817-835.

<sup>202</sup> YAO, S., et al., 2011. *Determinants of Social responsibility disclosure by Chinese firms*. China policy institute. Wollaton Road, Nottingham.

<sup>203</sup> Uganda NOGP 2008

<sup>204</sup> Sections 52 and 54 of the Upstream Act.

some information/reports from the Petroleum Fund and the Petroleum Revenue Investment Reserve (PRIR).<sup>205</sup>

In 2005, the Government of Uganda enacted the Access to information Act which clearly stipulates the requirement for all petroleum companies to disclose information relating to their agreements, licenses and any amendments, if any for both valid and terminated licenses and field development plans among others. However, this Act is criticized by some scholars like Kenneth Kakuru<sup>206</sup> who argue that the Act somewhat discourages disclosure due to a clause therein that requires members of the public to pay a prescribed amount to gain access to the information. They therefore conclude that the Act does not grant the right of access to information. Additionally, despite the importance of transparency and disclosure, some documentation and agreements relating to oil and gas activities and initiatives for a long time were not made available to the public. Similarly, under section 151 of the Upstream Act, it is provided that the Minister may make available to the public details of all agreements and licences or approved field development plans upon payment of a prescribed fee. While, Section 153 goes on to prohibit the disclosure of information furnished or in a report submitted by a licensee, to any person who is not a minister or an officer in the public service except with the consent of the licensee.

### **3.6 CSR Practices by the Oil and Gas Companies**

#### **3.6.1 Ghana**

##### **3.6.1.1 Ghana National Petroleum Corporation (GNPC).<sup>207</sup>**

GNPC is Ghana's national oil company established in 1983 to support the government's objective of providing an adequate and reliable supply of petroleum products and reducing the country's dependence on crude oil imports, through the development of the country's own petroleum resources.

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<sup>205</sup> Sections 57–75 of the PFMA.

<sup>206</sup> Kenneth Kakuru, Access to information in Uganda <http://www.greenwatch.or.ug/files/downloads/Access%20to%20information%20in%20%20Uganda-1.pdf> accessed 8 March 2020

<sup>207</sup> Adnan Adams Mohammed., GNPC's CSR activities... Is It Worth It? (Part 1) January 4, 2020 <https://ghanaianvoiceonline.com/gnpcs-csr-activities-is-it-worth-it-part-1/> accessed 4 April 2020

GNPC is a partner in all petroleum agreements in Ghana and the national gas sector aggregator in Ghana.

The ‘GNPC Foundation’ has since 2017 replaced the ‘GNPC Oil and Gas Learning Foundation’ established in 2012. The new foundation is registered as a company limited by guarantee, with a sole purpose of administering the corporation’s social investment strategy and programmes. The new GNPC Foundation has a broader scope and mandate for Corporate Social Investments (CSI), based on three key thematic areas of support to stakeholder communities. These are: Education and Training; Economic Empowerment; and Environment and Social Amenities.

Some of the CSR activities implemented by GNPC include;

- i. Funding the National Reconstructive Plastic Surgery and Burns Centre of the Korle-bu Teaching Hospital, Ghana, West Africa. GNPC is funding the National Reconstructive Plastic Surgery and Burns Centre of the Korle-bu Teaching Hospital, Ghana, West Africa. When completed it will be an ultra-modern Intensive Care Unit (ICU) and High Dependency Unit (HDU) which will increase rate of survival from below 40% to about 80%.
- ii. Construction of Sickle Cell Treatment and Training Centre – Kumasi. GNPC is constructing a Sickle Cell Treatment and Training Centre – Kumasi. This facility is a functional building for educational, testing, counseling, clinical, psychosocial, and research programmes in sickle cell disease and its related conditions throughout Ghana.
- iii. Construction for the Accident and Emergency Unit at the Jomoro District Hospital. In the Western Region, GNPC is funding the construction for the Accident and Emergency Unit at the Jomoro District Hospital.
- iv. 3-storey Midwifery Block for Nursing and Midwifery Training College, Efia Nkwanta, Sekondi. There is an on-going Construction of last Floor of 3-storey Midwifery Block for Nursing and Midwifery Training College, Efia Nkwanta, Sekondi.
- v. GNPC also established Jubilee Technical Training Center (JTTC) at Takoradi Polytechnic, in the central region to improve technical education in the oil and gas industry

### **3.6.1.2 Kosmos Energy.<sup>208</sup>**

Kosmos Energy was founded with the goal of creating value for all of our stakeholders: investors, employees, and the governments and citizens of our host countries. We recognize that creating steady, long-term returns can only be achieved by advancing the societies in which we work.

- i. Social Investment Projects. Social investment on youth entrepreneurship through the Kosmos Innovation Center and small community-level projects. In 2018, the Jubilee and TEN social investment projects focused on three themes: local agribusiness and enterprise development, environmental stewardship, and education in Science, Technology, Engineering and Mathematics (STEM).
- ii. Clean Drinking Water for Ghanaians. Kosmos has supported clean drinking water projects in Ghana for the last seven years. We first worked with the Safe Water Network to build water filtration systems for over 28,000 people from twenty villages in the Western Region. The overall program includes construction of water purification facilities, training of operators from local communities, and implementation of a monitoring program to ensure sustainability. In addition, the organization provides sanitation and hygiene education to further improve health outcomes for the villagers using the new clean water systems.
- iii. Kosmos Innovation Center. Creating the Kosmos Innovation Center, an exciting initiative that mentors young entrepreneurs in Ghana and helps them start and scale small businesses focused on addressing under-served needs in agriculture. The program provides seed funding and technical assistance to winners of the annual AgriTech Challenge competition.

## **3.6.2 Nigeria**

### **3.6.2.1 Royal Dutch Shell Nigeria.<sup>209</sup>**

Shell Companies in Nigeria work with government, communities and civil society to fund and implement social programmes that have a lasting impact on people's lives in the Niger Delta and Nigeria as whole. Some of these investments are mandated by federal legislation, such as requiring all

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<sup>208</sup> Kosmos Energy, 2018 CORPORATE RESPONSIBILITY REPORT

<sup>209</sup> Shell Nigeria Social Investment <https://www.shell.com.ng/media/nigeria-reports-and-publications-briefing-notes/social-investment.html> accessed 2 April 2020

oil and gas producing companies in Nigeria to contribute funds from their annual budgets to the Niger Delta Development Commission, which undertakes sustainable development projects in the Niger Delta.

#### **i. Enterprise Development**

***Shell LiveWIRE in Ogoniland:*** LiveWIRE was extended to Ogoniland in 2014, with the objective of raising living standards and reducing crude oil theft through the promotion of sustainable alternative livelihoods. Supporting Ogoni youths in sustainable alternative livelihoods is in line with one of the recommendations of the 2011 United Nations Environmental Programme (UNEP) Report for the restoration of the Ogoni environment.

#### **ii. Education**

Shell Companies in Nigeria have a long history of supporting education through scholarships and other initiatives. Since inception in the 1950s, the Shell scholarship scheme has supported several thousands of –Shell Scholars|| many of whom are among today’s captains of industry, thought leaders, traditional rulers, and officials of various arms of government.

***Cradle-to-Career Scholarships:*** Both the SPDC JV and the SNEPCo continue to invest in the Cradle-to-Career scholarship programme, which pays for children from rural communities to attend some of the country’s top secondary schools.

***Shell Nigeria Gas (SNG):*** SNG recognizes that education is a critical need for communities in its areas of operations and is currently constructing a block of five classrooms and a water system for the Ilogbo-Asowo Community High School, the only public school situated in Ilogbo, Ogun State.

***University Scholarships:*** A lack of world class research institutions and limited access to technology are key challenges in enabling Nigerians and Nigerian companies to play an even greater role in the oil and gas value chain. Therefore, Shell Companies in Nigeria, through scholarships and partnerships with universities, focus on promoting educational advancement and the pursuit of academic excellence for Nigerians.

***Centres of Excellence:*** To promote the emergence of industry ready graduates at university level, Shell Companies in Nigeria also invest in specific initiatives at Nigerian universities. To this end, the SPDC JV is collaborating with two universities to support two centres of excellence: University of Benin: Geosciences and Petroleum Engineering and Rivers State University of Science and Technology: Marine and Offshore Engineering

### **iii. Road Safety**

***Collaboration between Shell Nigeria Gas and Federal Road Safety Corps:*** In 2018, SNG continued to demonstrate its commitment to road safety in Ogun State by collaborating with the Federal Road Safety Corps (FRSC) to launch the Ogun Gateway Road Safety Strategy from 2017 – 2030. The initiative, which is in line with the UN Decade of Action Declaration for Road Safety, is expected to drive the long-term plan of road safety management in Ogun State.

***Training of firefighters in Ogun and Abia State:*** SNG held hydrocarbon trainings for firefighters from Ogun State Service and Abia State Fire Service and firefighting equipment to further strengthen the capability of the service.

### **iv. Community Health**

Shell Companies in Nigeria have supported community health projects and programmes in the Niger Delta and other parts of Nigeria since the 1980s, with equipment and pharmaceutical donations, emergency care and screening services. This includes cancer care as well as health systems strengthening initiatives, health financing programs, maintenance of hospitals and public health interventions in HIV/AIDS and malaria control.

***Health-In-Motion community care programme and Community Health Insurance Scheme (CHIS):*** The Community Health Insurance Scheme (CHIS), which was established in 2010 in partnership with the Rivers State Government, is an SPDC JV flagship project that delivers affordable integrated health care to beneficiaries. Clients in the scheme pay an annual premium which is well below the usual cost of treatment - equivalent to \$30 per annum (N10,000<sup>26</sup>) - a figure which has not changed in the last five years. The CHIS package covers about 95% of the people's health care needs (primary and

secondary care). Co-payment for specific services have been expanded to include child birth, seizure disorders, diabetic and ophthalmic care.

***Centre for Cancer Care National Hospital, Abuja:*** In 2018, a best in class LiNAC Radiotherapy machine was installed that enhanced the skills of health workers to deliver quality assured cancer treatment at the Centre for Cancer Care National Hospital, Abuja.

***Medical Emergency Response Improvement Program, Lagos State:*** Through the Lagos Medical Emergency Response Improvement Program, SNEPCo improved the skills of nearly 90 medical staff on First Aid, Basic Life Support and Advanced Cardiovascular treatment.

#### **v. Humanitarian Assistance**

***Internally displaced persons north east Nigeria:*** In 2017, SNEPCo and employees from Shell Companies in Nigeria contributed \$1.1 million (N333.33 million<sup>27</sup>) to Family Health International (FHI 360), a global relief agency to provide humanitarian assistance to internally displaced persons (IDPs) in north east Nigeria. More than 50,000 in Dikwa local government area of Borno State benefited from a broad range of activities cutting across health, protection, water, sanitation, hygiene and nutrition services. The integrated nature of services provided was a key factor in the successful containment of a cholera outbreak in Dikwa late in the year. Separately, Shell Group contributed approximately \$2 million (N606.06 million<sup>28</sup>) to Mercy Corps, another global relief agency, to provide emergency humanitarian assistance to 1,000 vulnerable families, also in Dikwa, Borno State.

They won the 'Best Company in Climate Action' award for Afam VI Power Plant's combined cycle gas turbine technology at the 12th edition of The Sustainability, Enterprise and Responsibility Awards (SERA)-Corporate Social Responsibility (CSR) Awards. This technology significantly contributes to the reduction of greenhouse gas emissions, eliminating over 500,000 tons of CO2 emissions/ year.



### **3.6.2.2 Chevron Nigeria Limited.<sup>210</sup>**

In over five decades of operations in Nigeria, Chevron has continued to distinguish itself by conducting business in a socially and environmentally responsible manner; respecting the laws, and contributing to the socio-economic development of the communities where we work.

#### **Social investments**

Chevron adds significant value to Nigeria by supporting improved access to health care, education and socio-economic development opportunities

***Mass deworming and Roll back malaria:*** in 2017 NNPC and Chevron carried out its annual Roll Back Malaria programme in Yenagoa, Bayelsa State, in partnership with the State Ministry of Health and the National Malaria Elimination Programme (NMEP). The four-month programme focused on Environmental Sanitation, Community Awareness, Prevention and Capacity Building.

***HIV/AIDS campaign:*** In 2016, Chevron announced an additional \$1.4 million in funding to support the second phase of the Prevention of Mother-to-Child Transmission (PMTCT) project known as PROMOT II in Bayelsa State. Led by Pact Nigeria in partnership with Community Based Organizations (CBOs) and Chevron, the primary goal of the project is educating and mobilizing the population in targeted communities to reduce mother-to-child transmission of HIV. PROMOT II focuses on healthcare seeking behaviors amongst women of reproductive age, particularly those living with HIV.

***River boat clinic:*** In 2017, over 49,808 community members benefitted from the River Boat Clinic (RBC) services and improved access to health care. The RBC is a mobile clinic that serves communities located along the creeks and islets in the Escravos areas of the Western Niger Delta where there is no access to health care. Under this programme, the Delta State government provides the medical personnel while NNPC and Chevron provide the boat and medical supplies.

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<sup>210</sup> Chevron in Nigeria, 2017 Corporate Responsibility Report.

***Scholarships for the visually impaired and physically challenged:*** These scholarships are for the visually impaired and physically challenged who are indigenes of states where Chevron operates.

***Agbami medical and engineering professionals scholarship:*** In 2017, Star Deepwater Petroleum Limited, a Chevron company, and its parties in the Agbami field, added 235 scholarships to the pool of high-performing university students to this program which commenced in 2009. In 2017, 2,334 beneficiaries graduated from their various universities.

***Support for STEM education:*** To encourage the teaching and learning of the science, technology, engineering and mathematics (STEM)

***Global Memorandum of Understanding (GMOU):*** In 2005, Chevron introduced the Global Memorandum of Understanding (GMOU) a multi-stakeholder participatory partnership model for community engagement and community development to address community needs near our areas of operation. Working through Regional Development Committees (RDCs), the GMOU gives communities greater roles in management of their development.

***Support for local businesses:*** Chevron continues to help secure a productive future for Nigerians by providing economic empowerment initiatives to start up and support local businesses. We recognize that skills acquisition is the bedrock of job creation.

***Training and capacity building:*** Star Ultra Deep Petroleum Limited (a Chevron company) and its partners in the OML 140 asset trained 55 young persons from 12 local Government Areas of Rivers State in technical vocations such as welding and fabrication, fashion and design, automobile works, plumbing, and computer repairs. The training also focused on agriculture-based skills acquisition in fish, snail and poultry farming.

### 3.6.3 Norway

#### 3.6.3.1 Equinor ASA.<sup>211</sup>

Formerly Statoil, has grown up along with the emergence of the Norwegian oil and gas industry, and dating back to the late 1960s. Today, we are evolving into a broad energy major, with a significant and growing renewables business. Formed in 1972 as the Norwegian State Oil Company, Statoil, and listed on the Oslo and New York stock exchanges in 2001. The Norwegian state retains a 67% share of the company. In May 2018, the company name changed to Equinor.

- i. A large portion of sponsorships, donations and social investments is allocated to capacity building within Science, Technology, Engineering and Mathematics (STEM), through partnerships with academic institutions and support to science centers.
- ii. Through –Our Heroes of Tomorrow‖ programme, children and youth are given the opportunity to develop their talents within the areas of sports, culture and education. In 2019, corporate sponsorships spend was USD 19.2 million.
- iii. Teach First Norway is a two-year development programme for newly-educated talents holding a science degree. The programme was established 10 years ago as a partnership between the Oslo Education Agency, the University of Oslo and Equinor. Teach First Norway is working with talented M.Sc. graduates to become effective and inspiring teachers and leaders. Teach First candidates teach STEM subjects at selected schools in Oslo. At the same time, they receive formal teaching education (PPU) and leadership training.
- iv. Equinor Technology Ventures supports small and medium enterprises (SMEs) with exciting new technologies in oil and energy and in turn, helps Equinor be the world’s most carbon-efficient oil and gas producer with a developing renewable business.

#### 3.6.3.2 Eni Norge (Eni Norway).<sup>212</sup>

Eni’s distinctive mark has always been its willingness to meet the development needs of the Countries in which it operates, collaborating on a regular basis with local authorities and stakeholders. For this to

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<sup>211</sup> Equinor, 2019 Sustainability Report

<sup>212</sup> Eni Annual Report 2018

happen, Eni has adopted a systematic and applicable approach at all stages of the business in all operating contexts. Eni's cooperation model has three directions:

- i. Community investment: initiatives include: development of agricultural projects, micro-enterprise, micro-credit or infrastructure projects, and education, water access and through health protection, such as the strengthening of public health services and awareness-raising and empowerment activities of the beneficiary populations.
- ii. Public Private Partnership: in keeping with the 2015 Addis Ababa agreement –Financing for development, Eni has started collaborations with development cooperation organizations to pool resources not only in economic terms but also in terms of skills, know-how and experience. Specifically, in 2018 Eni established public-private partnerships with the United Nations Development Programme (UNDP) to contribute to sustainable development and promote the achievement of the SDGs, in particular universal access to energy by 2030, actions to combat climate change and the protection, restoration and sustainable use of the earth's ecosystem and with the Food and Agricultural Organization (FAO) for access to clean and safe water in Nigeria.
- iii. Monitoring and evaluation of the direct, indirect and induced effects of Eni's presence at local level: to measure the impacts and benefits of its initiatives and amplify their effects, in collaboration with the Polytechnic of Milan, Eni has developed two tools: the ELCE (Eni Local Content Evaluation) Model and the Eni Impact Tool. Another tool for relations with local communities is the Stakeholder Management System for mapping, managing and monitoring relations with its stakeholders in the Countries where it operates and managing grievances at all stages of the business to ensure that all stakeholder suggestions are taken into account, to provide adequate responses and to prevent potential risk factors.
- iv. Eni Norge has developed a plan to involve stakeholders in the north of the Country in parallel with the development of the Goliath Project. The Goliath project involves a direct investment of 28 billion Norwegian crowns, which will directly benefit the local and regional economy.
- v. Eni works together with the indigenous Sami population and the fishing community, to create a virtuous circle of a social and economic nature at a local, regional and national level. Special attention has been paid to information, with particular regard to employment and local content. One of the main interests of Eni Norge is to get in touch with the workers and suppliers in the

region. Attract talent and promote training and development, through cooperation with networks and organizations like PetroArctic, Lofoten and Vesterålen Petro.

### **3.6.4 Uganda**

#### **3.6.4.1 CNOOC Uganda Ltd.<sup>213</sup>**

- i. In June 2012, CNOOC Uganda Ltd donated to two hospitals that were always short of medicines in Ntoroko Province a total of 85 million Ugandan shillings (approximately USD35,000) worth of medicines to alleviate the province's cholera epidemic.
- ii. It also organized an inspection of the mud waste and drilling disposal in the Paara Appraisal Area operated by TOTAL, and consolidated an *HSE inspection report for the Uganda*.
- iii. In January 2013, CNOOC Uganda Ltd donated blankets, fishing nets, rice and flour to dozens of hardest-hit households to help them get back to their normal lives as soon as possible, when the country's Buhuka community suffered a fierce rainstorm 2012 and 2013, CNOOC Uganda Ltd and the Bunyoro Kingdom, Uganda co-organized the –CNOOC Bunyoro Amasaza Cup football match.
- iv. In response to concerns among stakeholders over the possible wider spread of HIV and other epidemics across communities due to the new influx of floating population, CNOOC Uganda Ltd, with the support of the local government, engaged local NGOs to hold publicity activities on the testing, prevention and treatment of HIV in villages surrounding districts where it operates.

#### **3.6.4.2 TULLOW Uganda;**

- i. In May 2010, against very strong competition, Tullow Uganda's Kaiso-Tonya Programme won the award for Most Sustainable and Scalable Community Investment. This award recognises 'best in class' community investment projects in East Africa.<sup>214</sup>
- ii. Other projects include, Buliisa Health Center IV, building of boreholes and primary schools.<sup>215</sup>

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<sup>213</sup> CNOOC 2012-2013 Social Responsibility Report

<sup>214</sup> Tullow Oil Plc, 2009 Corporate Responsibility Report. Building Africa's leading responsible independent oil company

<sup>215</sup> Haggai Matsiko, Corporate Social Responsibility: Filling the gap in service delivery, 2013 <https://www.oilinuganda.org/features/infrastructure/3281.html> accessed 10 March 2020

### 3.6.4.3 TOTAL E&P Uganda

- i. **Total scholarships to counter the challenge of finding enough skilled talent in a new oil sector.**<sup>216</sup> Since the beginning of its exploration activities in Uganda in 2012, Total E&P Uganda has offered local and international scholarships in order to empower local talent with skills required in the oil and gas industry.

*Scholarships to Counter the challenge of unskilled human resources:* Since the launch of the Oil & Gas scholarship, numerous beneficiaries have graduated with Masters from internationally recognized education institutions to include the French Petroleum Institute in France, Imperial College of London, the University of Aberdeen UK, and the Institute of Petroleum Studies Nigeria. Furthermore, was the launch of vocational training programmes for youth to support the national skilling initiative and additional only-girls scholarships aimed at improving girl child education.

*Developing local content and capacity building:* Total supports local content and capacity building in its various forms to include recruitment, integration, training, development and career assessment. We believe that the key to developing a sustainable expert workforce is by contributing to the development of the knowledge base of our host countries and more broadly, the growth of its human capital.

- ii. **Total pioneering technologies in exploring oil in Murchison Falls National Park.**<sup>217</sup> In 2012, Total E&P Uganda accepted the challenge of working in Uganda's largest protected area - the Murchison Falls National Park. Using environmentally friendly technology and proven capability in developing oil resources in sensitive areas, hence create a project that shows how oil, environment and tourism can co-exist harmoniously. Employing 3D cable-less seismic technology for the first time on shore in Africa places Uganda at the forefront of using innovative technology in exploration. Hence, minimising impact on environment and biodiversity. The park covers a

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<sup>216</sup> <https://ug.total.com/total-uganda/better-energy-projects-uganda/total-scholarships-counter-challenge-finding-enough-skilled-talent-new-oil-sector> accessed 4 April 2020

<sup>217</sup> <https://ug.total.com/total-uganda/better-energy-projects-uganda/total-pioneering-technologies-exploring-oil-murchison-falls-national-park> accessed 4 April 2020

Ramsar site, a key bird area. 451 bird species are present ranging from the rare Shoe-bill stork to the Dwarf kingfisher and Goliath Heron. The park contains 76 species of mammals as well as Uganda's largest population of the Nile crocodile. It is home to the largest protected population of Rothschild's giraffes. It is also home to a recovering population of 950 elephants.

***Partnering in conservation:*** In our efforts to protect the environment and biodiversity, Total E&P Uganda are working together with various conservation organizations including partnership with the government through the National Environmental Management Authority (NEMA) and the Uganda Wildlife Authority (UWA).

- iii. **Total Uganda offering young graduates an opportunity to gain International experience.**<sup>218</sup> Total Uganda Limited under the AMO Young Graduate Programme initiative is giving young graduates with technical, business and finance backgrounds an opportunity to acquire skills required in the oil and gas industry.
- iv. **Total partners to revamp the oil and gas section of the Uganda Museum to improve information access.**<sup>219</sup> Total E&P Uganda together with Joint Venture Partners, CNOOC Uganda Limited, and Tullow Uganda Operations PTY unveiled the revamped oil and gas section at the Uganda Museum. Officiated on 25 June by the Minister of Energy, Hon Eng. Irene Muloni, the project is aimed at educating and increasing awareness of the oil and gas industry to various stakeholders and the general public.
- v. **An education programme to develop local capacity and talent in the oil sector.**<sup>220</sup> The Total Professeurs Associés (TPA) programme, a not-for-profit association established in July 2001, Total is actively helping to meet these challenges by increasing access to applied knowledge in Uganda's nascent oil industry.

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<sup>218</sup> <https://ug.total.com/total-uganda/better-energy-projects-uganda/total-uganda-offering-young-graduates-opportunity-gain-international-experience> accessed 4 April 2020

<sup>219</sup> <https://ug.total.com/total-partners-revamp-oil-and-gas-section-uganda-museum-improve-information-access> accessed 4 April 2020

<sup>220</sup> <https://ug.total.com/education-programme-develop-local-capacity-and-talent-oil-sector> accessed 4 April 2020

***Building national content through education:*** Over the years, Total's activities ensures that it supports education and access to it. Total's education commitment is based on three main areas: Contributing to education, Anticipating future human resources needs by prioritising the use of local talent and Building networks of partners working in the education sector. Started in Uganda in 2012, Total E&P Uganda has so far supported 12 different oil and gas related courses at Kyambogo University, Makerere University Business School and Makerere University under the Total Professeurs Associés (TPA) programme.

- vi. **Awango: Improving access to renewable energy for low income communities in Uganda.**<sup>221</sup> The Total Access to Solar project was launched in Uganda in 2013 as a social business by Total group under the brand *AWANGO* by Total. It aims to address the lighting needs of off-grid populations in rural areas by making safe, affordable, durable, and environmentally sustainable lighting available to the masses.

***Improving access to renewable energy for economic development:*** Total in Uganda introduced Awango by Total to offer affordable, reliable solar lighting and phone charging solutions. Awango solar lamps proved to be more cost effective in that you don't need paraffin but just sunshine to charge the solar lamps in Dei fishing village in Panyimur sub county, Nebbi district. To date, nearly 80,000 lamps have been distributed in Uganda.

### **3.7 Conclusion.**

The section gave a background of CSR practices in the oil and gas industry and also gave an analysis of CSR practices in Ghana, Nigeria, Norway and Uganda. From the review, it can be seen that petroleum companies are increasingly embracing CSR due to the nature of petroleum activities that are characterized by negative environmental impacts and high expectations from both the host governments and communities. Suffice to say CSR is steadily gaining momentum and the oil and gas companies are showing positivity towards embracing CSR as part of their business strategies. Governments on the other hand are either deliberating taking proactive measures to regulate, develop guideline or adopt international CSR guideline a move that must be commended.

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<sup>221</sup> <https://ug.total.com/awango-improving-access-renewable-energy-low-income-communities-uganda> accessed 4 April 2020



## **CHAPTER FOUR: ANALYSIS OF FINDINGS.**

### **4.1 Introduction.**

It is critical to analyze the different aspects relating to CSR. This includes the legal and regulatory frameworks, initiatives and practices of Ghana, Nigeria, Norway and Uganda so as to determine whether or not Uganda could learn from the experiences of the Ghanaian, Nigerian and Norwegian petroleum sectors. The data used for this research comprises of CSR annual reports, publications and websites of; Ghana National Petroleum Corporation (GNPC) and Kosmos Energy from Ghana; Royal Dutch shell and Chevron Nigeria from Nigeria; Equinor formerly Statoil and Eni Norge from Norway and Tullow Uganda Operations Pty Limited (TUOP), Total E&P Uganda (TEP) and CNOOC Uganda Limited from Uganda. The research also includes disclosures which were obtained from the respective companies' websites. Respective laws such as the Petroleum (Exploration, Development and Production) Act 2013, National Environment Act, the 1996 Petroleum Act No. 72 of Norway, Greenhouse Gas Emission Trading Act, the Sales Tax Act, Pollution Control Act and the Carbon dioxide Tax Act were also reviewed. Additionally, data was collected from websites of government ministries, departments and agencies including; Ministry of Energy and Mineral Development of Uganda, health and safety related data from the Petroleum Authority of Uganda, Petroleum Safety Authority of Norway, Norwegian Petroleum Directorate and the Petroleum Exploration and Production Department of Uganda, National Environment Management Authority of Uganda and the Office of the Auditor General of Uganda. Hence, the information was used together with the existing relevant literature on the topic to support the research findings.

### **4.2 Analysis of Findings.**

In order to attain the research objectives, an analysis of the CSR initiatives, policies and practices in the petroleum sectors of Ghana, Nigeria, Norway and Uganda is critical. Hence, using content analysis, this chapter puts forth an analysis of the findings with the objective of ascertaining whether Uganda could learn from the Ghanaian, Nigerian and Norwegian CSR initiatives, policies and practices.

#### **4.2.1 Uganda's CSR Legal Framework.**

The Legal, Regulatory as well as Institutional Framework of the National Oil and Gas Policy of Uganda 2008 operationalizes the Oil and Gas Policy by providing for, among others, the laws, regulations, guidelines and institutions that will implement the objectives of the policy. While the

policy does not make specific mention of CSR. It provides for; managing the impact of an emerging oil and gas sub sector on, among others, the country's governance system, the economy, the environment and subsequently human development. Furthermore, Transparency and Accountability; Protection of the Environment and Biodiversity; and Capacity and Institutional Building are mentioned as some of the policy principles. Objective 7 and 8 of the policy is to ensure optimum national participation in oil and gas activities and lays emphasis on the need to ensure optimum national participation in oil and gas activities and support to the development and maintenance of national skills and expertise as key strategies in achieving National Content.

Additionally, there are supplementary laws upon the sector relies to ensure that aspects of CSR and the antecedent facets are implemented. These include; The Petroleum (Exploration, Development and Production) Act 2013 (PEDP) under which laws institutions such as the Petroleum Authority of Uganda and the Uganda National Oil Company were established. The act further spells out the mandates of the said institutions respectively.<sup>222</sup> The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 (PRCTMS). One of its key objectives is to supplement the health, safety and environment regulations that are insufficiently covered in other laws in the petroleum sector.<sup>223</sup> National Environment Management Act (NEMA) and the institution which is mandated to coordinate, monitor and supervise environment related activities across all sectors. Some of the functions include; liaising with all organizations operating in the country on environment related issues, coordinating with the policy committee in the formulation of environmental policies, standards and guidelines; promotion of public awareness through educating people formally and informally about environmental issues and execution of environmental audits on all activities likely to have an impact on the environment.<sup>224</sup>

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<sup>222</sup> Petroleum (Exploration, Development and Production) Act 2013  
<http://www.petroleum.go.ug/uploads/Petroleum%20%28EDP%29%20Act%202013.pdf> accessed 8 March 2020

<sup>223</sup> The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013  
<http://www.petroleum.go.ug/uploads/9.%20The%20Petroleum%20%28Refining%20Conversion%20Transimission%20and%20Midstream%20Storage%29%20Act%20No%20%204%20of%202013.pdf> accessed 8 March 2020

<sup>224</sup> The National Environment Act  
<http://www.opm.go.ug/assets/media/resources/263/NATIONAL%20ENVIROMENTAL%20ACT.pdf> accessed 8 March 2020

In the absence of an institution to spearhead issues relating to CSR in Uganda, CSR remains a voluntary undertaking by companies and are motivated by different and divergent factors. However, there is the Uganda Chapter for Corporate Social Responsibility Initiatives Ltd (UCCSRI) which comprises of members from different disciplines and these have championed CSR in the private sector. The members include; Living Earth Uganda (LEU), The Institute of Corporate Governance of Uganda (ICGU), Lucky Family Business, Ltd™ (LFB™), Uganda Manufacturers Association (UMA), Netherlands-Uganda Trade and Investment Platform (NUTIP), Uganda National Bureau of Standards (UNBS) and B-Space. These have continued to; to strengthen the CSR ethical and moral conduct in Uganda; promote CSR Innovations in all areas of business; provide high-end CSR philanthropic advice and to promote sustainable development issues in Uganda.

#### **4.2.2 Factors influencing CSR by oil and gas companies in Uganda.**

An insightful study by Christian Aid identifies six factors behind the promotion of CSR by corporate organizations. These are public pressure and media expose, attracting investors, enhancing good public relationship, engaging campaigners such as civil societies, obtaining social license and meeting of international and local regulation.<sup>225</sup> In addition, studies by Lewis suggested that society values, new business opportunities, reduced regulatory interventions, customer satisfaction, firms' reputation, and better stakeholder relationship are acting as different driving forces that are motivating business firms for the implementation of CSR initiatives.<sup>226</sup>

According to George Jędrzej Frynas, business organizations engaging in CSR activities which center on social investments can gain –competitive advantage over their competitors with less social engagement in ways that reduce cost and increase their market share.<sup>227</sup> To some scholars like Fragouli and Danyi the importance of CSR is not in doubt. One of the driving force of CSR by most oil companies is to appease host communities (i.e. managing expectations) in order to strengthen their relationship. This appeasement usually leads to a reduction in business-community conflicts and the disruption of business operations, thus enabling the firms to maintain or increase their corporate

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<sup>225</sup> Christian, A., (2004). Behind the mask: The real face of corporate social responsibility. *Christian Aid, London*.

<sup>226</sup> Lewis, S., (2003). Reputation and corporate responsibility. *Journal of Communication Management*, vol.7, no.4: pp. 356-366.

<sup>227</sup> Jędrzej George Frynas., (2005). False developmental promise of corporate social responsibility: Evidence from multinational oil corporations. *International Affairs*, vol.81, no.3: pp. 584.

performance in terms of output, revenues and profit.<sup>228</sup> Frynas argues that this profit motive in CSR is in line with stakeholder theory, which states that companies —will listen primarily to those stakeholders who pose the greatest threat to their operations<sup>229</sup> Further, CSR initiatives enables business organization to secure their –social license to operate<sup>230</sup> in the society.

One major driver influencing the promotion of CSR is to embrace responsibility for the company's actions and encourage a positive impact through its activities on the environment, clients, employees, communities, stakeholders and all other members of the public.<sup>231</sup> Eweje Gabriel states that communities want social development projects that provides hope of a stable and prosperous future.<sup>232</sup> In view of this, oil companies have embraced development initiatives primarily in order to demonstrate that they are socially responsible. From the results, both companies embark on CSR activities for various reasons. These are economic opportunities, community relations, management of expectations and corporate values.

From the available literature and analysis of the different activities / initiatives by the ten selected oil and gas companies, suffice to say that the factor that influence companies to engage in CSR can be categorized into; community, environment, people, investors and customers.

**Community;** Demonstrate our giving hand to the communities we live in and which we operate business-wise, improve the quality of life of the communities, acquire the goodwill of the people around us, which is key to a successful business, contribute lasting benefits to society through consideration of environment, ethical and economic concerns, maintain a good relationship with the community, while fostering business development, social relevance, sharing with the community, uplifting living standards, improve health (especially of the infected and affected with HIV/AIDS and

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<sup>228</sup> Fragouli, E., and Danyi, A. Y., (2015). Promoting local acceptability of international oil companies through corporate social responsibility: The case of tullow oil in Ghana. *Financial Risk and Management reviews*, vol.1, no.1: pp. 38-39.

<sup>229</sup> Jędrzej George Frynas., (2005). False developmental promise of corporate social responsibility: Evidence from multinational oil corporations. *International Affairs*, vol.81, no.3: p. 589.

<sup>230</sup> Hohnen, P., and Potts, J., (2007). *Corporate social responsibility: An implementation guide for business*. International institute for sustainable development= Institut international du développement durable.

<sup>231</sup> Nadaf, Y. B. R., and Nadaf, S. M., (2014). Corporate social responsibility: Issues, challenges and strategies for India firms. *Journal of Business and Management*, vol. 16, Iss 5: pp. 51-56.

<sup>232</sup> Eweje, G.,(2007) "Multinational oil companies' CSR initiatives in Nigeria: The scepticism of stakeholders in host communities", *Managerial Law*, vol. 49 no.(5/6): pp. 218 – 235.

other killer diseases) and measure success of our company based on the impact we have on the communities where we operate.

**Environment;** Environmental conservation has stood out as a factor of influence in CSR related literature and practices. This is evident due to the fact that most of the operations are in environmentally sensitive areas and as such places duty of care upon the oil and gas companies which is also reinforced by the host communities. Tree planting has been one of the outstanding initiatives/interventions used by the corporations to address environment related issues. Recognizing the need for and maintaining a clean environment for sustainable economic growth is seen as important.

**People;** this has been implemented through interventions that seek to better the lives of the host communities ranging from social events to skills building for both the host communities and employees of the oil and gas communities. This further stretches to health, water and sanitation interventions as shown by oil and gas companies in the construction of boreholes, health centers, schools, places of worship and community centers. While for the employees, build life skills and stimulating critical thinking that provides a solid foundation for business growth and sustainability has formed part of the CSR strategies of some of the oil and gas companies. Hence, contribute to our company's internal development.

Needless to say, **investors** and **customers** are also considered as factors that influence CSR since the ultimate goal for any company is to maximize profits. Though financial profitability and increased competitiveness are not directly cited as motivators /drivers, but should be considered to play a vital part in motivating companies to engage in CSR. Attracting customers, improve marketing, enhancement of corporate image, customer loyalty maintenance, and customer approval all come into play when CSR initiatives are undertaken/implemented. The long-term survival of the business and profit maximization remains the ultimate goal for any company.

It can therefore be deduced that the majority of factors/drivers/influencers mentioned relate to community aspects, which is again a strong indication that companies define CSR mainly in terms of

-giving-back-to community. It appears that philanthropic motivation and keeping the license to operate go hand in hand.

However, it has been noted that a competitive minded approach to social investment has its own pitfalls, and as the international debate on CSR becomes more sophisticated, NGOs and others have begun to scrutinize the content and impact of social investment programmes more rigorously, and to ask more difficult questions about their relevance to the overall impact of companies' operations.<sup>233</sup> Common complaints that companies give with one hand, while taking away with the other, or are inconsistent across business areas, or insincere in their rhetoric about community development, need to be taken seriously if the gains to be made through social investment programmes are to be realized.<sup>234</sup> And when social investment programmes themselves become a source of conflict or competition within communities, as has been seen most markedly in Nigeria, companies may, in effect, undermine the security of their own operations.<sup>235</sup> Competition over resources of any kind is inevitable in resource scarce contexts: managing social investments in such a way that they do not fuel competition or enable it to become violent should be a priority.

#### **4.2.3 Country Comparisons.**

While the findings from the various CSR dimensions including local content, Health and safety, environment and disclosures as implemented by Ghana, Nigeria, Norway and Uganda were presented in the previous section. This section presents the gaps that were identified during the presentation of the various dimensions between Ghana, Nigeria, Norway and Uganda.

In relation to CSR guidelines, Norway has established a comprehensive document on CSR that points out the various ways companies can integrate environment protection, human rights, and anti-corruption strategies and other issues into CSR activities by the various actors. However, although these guidelines are generic in nature, petroleum companies are expected to comply and apply them as they carry on with their operations. The Norwegian government has also set up a consultative body on

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<sup>233</sup> International alert, Conflict-Sensitive Business Practice: Guidance for Extractive Industries. March 2005. Flashpoint Issue 5, Social Investment. [https://www.international-alert.org/sites/default/files/Economy\\_2005\\_CSBPGuidanceForExtractives\\_All\\_EN\\_v2013.pdf](https://www.international-alert.org/sites/default/files/Economy_2005_CSBPGuidanceForExtractives_All_EN_v2013.pdf) accessed 20 March 2020

<sup>234</sup> International Institute for Sustainable Development, communities and livelihoods page. [www.iisd.org](http://www.iisd.org)

<sup>235</sup> World Bank, Oil and Gas Sector Issues and Policy, social and economic impact page. [www.worldbank.org/ogmc/wbogpolicysocioeconomic.htm](http://www.worldbank.org/ogmc/wbogpolicysocioeconomic.htm)

matters relating to CSR in addition to institutions, laws and regulations such as; Petro Artic supplier association, Petroleum Safety Authority, Equinor and the Norwegian Petroleum Directorate. This is not the same for Ghana, Nigeria and Uganda where CSR activities are inspired and determined by the oil and gas companies as opposed to national guidelines. However, it should be noted that there is deliberate move by the three countries to formalize CSR in the oil and gas sector and tremendous steps have been undertaken.

While there are country specific provisions for local content promotion including laws and policies, there is deliberate Government Obligations in support of the Companies' Program in Ghana, Nigeria and Uganda which is not the case in Norway, despite local content in Norway being highly regulated.

Relating to disclosure all four countries are members of EITI however the challenge remains with implementation of the requirements for full disclosure and publication of all information pertaining to the sector. This remains a big challenge for Ghana, Nigeria and Uganda which is not the case for Norway. This is demonstrated through the public display of the funds deposited in the Petroleum Reserve Fund. However it should be noted that in some countries oil and gas companies have taken initiative to abide by either national or international guidelines relating to disclosure. Kosmos energy that has operations in Ghana was the first U.S oil and gas company to disclose project level payments to governments despite not being legally obligated to do so. All petroleum agreements with host governments are available on their website at [www.kosmosenergy.com](http://www.kosmosenergy.com)<sup>236</sup>

Health and safety has been identified as one of the critical facets during the research however it should be noted that unlike Ghana, Nigeria and Uganda, Norway has gone a step further in ensuring that the health and safety aspects of the oil and gas sector are regulated. This Norway has done by establishing a regulatory body - Petroleum Safety Authority that is charged with ensuring safe operations in the oil and gas industry.

Unlike Norway that has sector specific laws on environment, including a data base called -Environmental Web where petroleum companies directly publish environmental information relating to emissions and discharges to the sea, the research findings indicate that Ghana, Nigeria and

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<sup>236</sup> Kosmos Energy, 2018 CORPORATE RESPONSIBILITY REPORT

Uganda rely on the national environmental laws to regulate environmental aspects of their respective oil and gas sectors. The Norwegian website is accessed by all operators on the Norwegian continental shelf and the general public as well.

While the Government of Uganda should honour its commitment to join the EITI and make it an open policy to publish all the contracts on the ministry's website, the Solicitor General observed in the case of *Charles Mwanguhya Mpagi & Angelo Izama v. The Attorney General* case<sup>237</sup> in which two journalists sought copies of agreements made between the Government of Uganda and various companies involved in prospecting for and the exploitation of oil<sup>238</sup> that the agreements could not be accessed due to a confidentiality clause prohibiting their disclosure. It is therefore incumbent on the International Oil Companies to publicly demonstrate their willingness to disclose the information they have by publishing their reports.<sup>239</sup> This would go a long way in addressing challenges relating to disclosure.

Although the Norwegian model is by far the most recommended for many developing countries because of its reliance on separated functions, the development literature cautions in a general sense that governance strategies that work well in countries with mature institutions may be ill-suited to countries lacking certain institutions' endowments.<sup>240</sup> Those who issue these cautions are quick to mention the examples of countries like Malaysia, Saudi Arabia and Angola that have performed creditably well in the absence of separated functions. It is therefore incumbent upon Uganda to develop a model that will best suit, harness and address her oil and gas sector. Suffice to say Norway has been of great help in guiding Uganda as she develops a model for her oil and gas sector.

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<sup>237</sup> Miscellaneous Case No. 751 of 2009.

<sup>238</sup> The analysis in the following paragraphs is taken from Africa Freedom of Information Centre, *Analysis of the Court Ruling in Charles Mwanguhya Mpagi and Angelo Izama vs. Attorney General (Miscellaneous Cause No. 751 of 2009) against the Framework of the Uganda Access to Information Act, 2005 and International Access to Information Standards*, <http://www.right2info.org/cases/r2i-charles-mwanguhya-mpagi-and-izama-angelo-v.-attorney-general>. accessed 8 March 2020

<sup>239</sup> Avocats Sans Frontières (2015), *Business, Human Rights and Uganda's Oil and Gas industry: A Briefing of Existing Gaps in the Legal and Policy Framework*. Kampala: ASF.

<sup>240</sup> Rodrik, D. (2008), 'Second-best Institutions', *American Economic Review*, 98(2), 100–104.; Moore, M. and J. Putzel (1999), 'Thinking Strategically about Politics and Poverty'. *IDS Working Paper 101*. Brighton, UK: Institute of Development Studies (IDS). <https://www.ids.ac.uk/files/Wp101.pdf>. accessed 8 March 2020



Relating to CSR in Uganda, all three oil and gas companies ie CNOOC, TOTAL E&P and Tullow Oil openly acknowledge the notion of CSR. CNOOC and TOTAL E&P have codified CSR principles, although the nature and sources of those principles differ. On its global website, CNOOC states that it is committed to building a safe workplace for employees and providing quality products and services to the market in a safe, efficient and environment-friendly way, and thus continues to contribute to the sustainable social development and the environmental protection.<sup>241</sup> These commitments are elaborated upon in its Health, Safety and Environment Handbook.<sup>242</sup> CNOOC also states that as part of its policy to pursue the harmonious development of people, the company, the society and the environment.<sup>243</sup> Although CNOOC accepts the notion of CSR, its principles are not based directly on human rights.<sup>244</sup>

TOTAL E&P's corporate principles fall into two broad categories. The first is a set of internal principles which the holding company has prescribed for all subsidiaries around the world to abide by. The second is a corporate code of conduct that makes specific mention of human rights. Not only does the code commit the company to respect all applicable national and international laws and norms,<sup>245</sup> the human rights norms it refers to are seemingly broad, ranging from employee rights, to the rights of communities, environmental rights, property rights and human security-related rights.<sup>246</sup> TOTAL E&P is also a member of the IPIECA, the global oil and gas industry association for environmental and social issues.

It is unclear whether Tullow Oil has a specific code of conduct. If it has, its website does not have it. However, the company produces annual reports on how its work impacts on health and safety, the environment, social investment and employment. In these reports is a clear acknowledgement of CSR, although that there is no explicit reference to human rights. With regard to the 2015 Annual Report,

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<sup>241</sup> CNOOC QHSE, <http://www.cnooc.com.cn/col/col6441/index.html> accessed 8 March 2020.

<sup>242</sup> <http://www.cnooc.com.cn/data/skins/english/hsehandbook.pdf> accessed 8 March 2020.

<sup>243</sup> CNOOC Corporate citizenship, <http://www.cnooc.com.cn/col/col6461/index.html> accessed 8 March 2020.

<sup>244</sup> CNOOC Community building, <http://www.cnooc.com.cn/col/col6461/index.html> accessed 8 March 2020.

<sup>245</sup> Total Code of Conduct, 8.

<sup>246</sup> Total Code of Conduct, 12–13.

Tullow Oil refers to what it has done in Ghana and Kenya, but does not provide specific details on what it has done in Uganda.<sup>247</sup>

Many studies have documented how oil exploitation is associated with negative social and environmental impacts.<sup>248</sup> The Uganda 2013 Strategic Environmental Assessment (SEA) of Oil and Gas Activities in the Albertine Graben observed that the discovery of oil and gas resources presented great socio-economic prospects for the Albertine Graben and the country at large, but it also noted that the area is of high ecological and biodiversity significance. This presents various challenges for environmental protection.<sup>249</sup> At the same time people in developing countries like Uganda depend on the surrounding environment for their daily livelihoods.<sup>250</sup> It is therefore critical that environmental concerns, laws and regulations specific to the sector are fast tracked and put in place. The oil companies in Uganda (CNOOC, Total and Tullow) finished the exploration phase and are now heading into development, which will consequently lead to the production of Ugandan oil resources by 2020,<sup>251</sup> which has been postponed again to 2022.<sup>252</sup>

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<sup>247</sup> Tullow Oil PLC ‘2015 Corporate social responsibility report: Creating a shared prosperity’, [http://www.tullowoil.com/Media/docs/default-source/5\\_sustainability/tullow-oil-2015-corporate-responsibility-report.pdf?sfvrsn=2](http://www.tullowoil.com/Media/docs/default-source/5_sustainability/tullow-oil-2015-corporate-responsibility-report.pdf?sfvrsn=2) accessed 8 March 2020.

<sup>248</sup> Aristide, M., and M. Moundigbaye (2017), ‘Oil and Regional Development in Chad: Assessment of the Impact of the Doba Oil Project on Poverty in the Host Region’, *African Development Review*, 29(1), 42–55; Eggert, R. (2001), *Mining and Economic Sustainability: National Economies and Local Communities*, MMSD Report No. 19. London: International Institute for Environment and Development. <http://pubs.iied.org/pdfs/G00952.pdf>. accessed 8 March 2020; Ogwang, T., F. Vanclay and A. Van den Assem (2018), ‘Impacts of the Oil Boom on the Lives of People Living in the Albertine Graben Region of Uganda’, *Extractive Industry & Society*, 5(1), 98–103. <https://doi.org/10.1016/j.exis.2017.12.015>. accessed 8 March 2020; Söderholm, P., and N. Svahn (2015), ‘Mining, Regional Development and Benefit-sharing in Developed Countries’, *Resources Policy*, 45(1), 78–91.

<sup>249</sup> Ministry of Energy and Mineral Development (2013), *Strategic Environmental Assessment (SEA) of Oil and Gas Activities in the Albertine Graben*. Kampala: Government of Uganda.; Tumusiime, D.M., J. Mawejje and P. Byakagaba (2016), ‘Discovery of Oil: Community Perceptions and Expectations in Uganda’s Albertine Region’, *Journal of Sustainable Development*, No. 6.

<sup>250</sup> Schwarte, C. (2008), *Public Participation and Oil Exploitation in Uganda*. London: International Institute for Environment and Development.

<sup>251</sup> Ministry of Energy and Mineral Development (2017), ‘Statement by the Minister of Energy and Mineral Development at the Signing of the Intergovernmental Agreement Between the Republic of Uganda and the United Republic of Tanzania for the East African Crude Oil Pipeline (EACOP) Project 26 May 2017’. <https://www.jamiiforums.com/attachments/349505503-uganda-minister-statementoniga-signing-may-2017-memd-final2-pdf.514981/>. accessed 8 March 2020

<sup>252</sup> The Independent (2018, 20 December), ‘—First Oil Date Moves to 2022 – Minister Muloni’, *The Independent*. <https://www.independent.co.ug/uganda-now-to-get-first-oil-by-2022-minister-muloni/>. accessed 8 March 2020

When Ghana began its major oil operations in 2010, the country did not immediately have a comprehensive legal framework for the oil industry. However, they were quick to develop a robust regulatory regime including policies, laws and regulations on local content. Ghana's governance regime has also been cited as being non-compliant with some key provisions in the country's legislative instruments for the oil sector. A report by the Ghana Extractive Industries Transparency Initiative (GHEITI) suggested that there was no standard format for reporting crude oil lifting for the year 2014.<sup>253</sup>

#### **4.3 Conclusion.**

From the available literature, most of the CSR actives implemented by oil and gas companies are centered around water, health, sanitation, education, skills training and sports with little attention to environment and safety.

CSR in the oil and gas sector in Uganda like world over needs to be given the due attention by the oil and gas companies given the different facets and dimensions but importantly because the oil and gas companies are well positioned to make significant contributions to development and the welfare of natives through CSR projects and activities. Additionally, the Petroleum Act of Uganda does not highlight the kind of CSR activities corporations should engage in as well as the applicable boundaries in the definition of CSR activities.

The discretion is left to the oil and gas company to determine which and what activities or initiatives they would wish to undertake or implement as part of their CSR. Nonetheless, it should be noted that though not penned down, the Petroleum Authority of Uganda indirectly regulates CSR initiatives by the various oil and gas companies through work programmes and budgets that are submitted to the authority for approval.

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<sup>253</sup> Ghana Extractive Industries Transparency Initiative (GHEITI) (2015), '2014 Annual Activity Report', Accra, Ghana: GHEITI Secretariat, Ministry of Finance. [www.gheiti.gov.gh/site/index.php](http://www.gheiti.gov.gh/site/index.php) accessed 8 March 2020

## **CHAPTER FIVE: CONCLUSION AND RECOMMENDATION.**

### **5.1 Summary of the Study.**

This study was designed to investigate the current state of CSR activities in Uganda's Oil and Gas industry, with a view of determining whether there were any lessons the country could learn from Ghana, Nigeria and Norway. The objectives included;

1. To evaluate the legal framework of CSR in Uganda
2. To analyze factors influencing oil and gas companies in Uganda to engage in CSR practices,
3. Undertake country comparisons – Ghana, Nigeria, Norway and Uganda.

The introduction presented the background to the study, aim and objectives, justification and finally the structure. The background emphasized good governance as an integral part of CSR which is in line with the good governance framework developed by the Chatham House. Further still, the study is divided into five chapters; the introduction, literature review, CSR in the oil and gas industry, presentation and analysis of findings and the conclusion and recommendations respectively. Further, a review of the relevant literature concerning the concept of CSR, its evolution, the applicable theories as well as its dimensions was done. It was revealed that CSR and its associated business practices are not new and have evolved over the years. CSR is not only divided into various dimensions; disclosure, economic development, local content, environment, Health and safety, but also surrounded by different views as to what constitutes the meaning, motivation, benefits and practices. However, despite the mounting attempts by academics to define CSR, there is currently no out rightly stated definition. Nonetheless, it has grown from a marginalized notion to a complex and multi-faceted concept that is increasingly the basis of today's corporate decision making

In a bid to obtain a clear understanding of the petroleum sectors in Ghana, Nigeria, Norway and Uganda, the subsequent chapter reviewed and analyzed the existing literature relating to CSR. This ignited a discussion of the CSR policies and practices in the oil and gas industries of the various countries, thus forming the basis of the analysis in chapter four. The review revealed that oil companies are increasingly compelled to engage in CSR activities so as to maintain a good public image and to also comply with the regulations of the host communities being that CSR is highly regulated of recent. Thus, the research findings reflect the factors that drive oil and gas companies in

the respective countries to undertake CSR interventions as well as a more elevated level of awareness and acceptance of CSR among companies especially since their operations have significant impacts on the communities and environment in which they operate.

Chapter four presented a discussion and an analysis of the findings on the CSR policies and practices in Ghana, Nigeria, Norway and Uganda. It was found that Ghana, Nigeria and Norway all have petroleum experiences of over 30 years however, its only Norway that has comprehensive and sufficient petroleum laws and regulations in addition to national CSR guidelines although they are generic in nature. Consequently, Norway is considered by many as a -benchmark specimen.¶ Meanwhile, Uganda made her first commercial discovery in 2006, so her petroleum sector is still at infancy with limited experience. Additionally, Ghana, Nigeria and Uganda do not have official National CSR Guidelines. However, the ability to adopt and apply the international guidelines by Ghana, Nigeria and Uganda is a positive move. Nonetheless, the researcher investigated the current state of CSR practices in Uganda's oil and gas industry. The results indeed provide a noteworthy signal as it is evident that there is a lot Uganda could learn from the Norwegian CSR policies and practices in the oil and gas industry. For example, having a fully established legal and regulatory frameworks relating to CSR practices, setting up institutions to govern and monitor CSR activities such as a Petroleum Safety Authority, drafting environmental laws and regulations specific to the petroleum industry. The study also highlighted the importance of CSR guidelines and policies in addition to efficient monitoring and control by the responsible bodies.

## **5.2 Recommendations.**

Basing on the research findings and conclusions, a number of recommendations are hereby put forth for adoption to progress Uganda's CSR framework including initiatives, policies and practices;

1. The need to develop Ugandan CSR policies and guidelines that are specific to the oil and gas industry as this will encourage and compel petroleum companies to engage in CSR activities that are purpose driven. It is evident that while the companies make mention of CSR in their corporate and strategic documents the implementation is lacking. CSR must be regulated and the companies required to comply as is the case with national content. The initiatives should form part of the work programmes that must be approved by PAU.

2. It is therefore of paramount importance to develop a national CSR framework and strategy if CSR is to contribute to sustainable development. The framework should provide for a tier system where different companies are required to undertake CSR initiatives within their tier. The tier should be dependent on the size of the company and sector. From the literature all 3 IOCs operating in Uganda having varying CSR initiatives across the different countries where they operate and undertake different CSR initiatives.
3. Uganda should consider implementing prototypes of the OECD Anti-Bribery Convention and the UK's Extractive Industries Transparency Initiative. For instance, the Anti-Bribery Convention is a central international mechanism that many advanced countries have developed to prosecute payments from multinational investors to public officials in developing countries.<sup>254</sup> This will go a long way to address corruption related incidents should they occur.
4. The Government of Uganda should domesticate the EITI guidelines and make them binding through legislation, undertake a national audit of conditions necessary for the successful implementation of the EITI, and amend the PFMA to create individual liability.
5. Total, CNOOC and Tullow, are currently not required by domestic law to disclose information regarding the payments they make to the Government.<sup>255</sup> Therefore any form of disclosure is compelled by foreign law to which they subscribe. The Wall Street Reform (Dodd-Frank) Act is binding on Total and CNOOC to disclose information on payments made to the Government of Uganda by way of an annual report to the Securities and Exchange Commission of the US Government. While, Tullow has, in the past, voluntarily disclosed payment information in line with mandatory European Union (EU) standards.<sup>256</sup> It is therefore important to ensure that such requirement is embedded in Ugandan laws.

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<sup>254</sup> Moran, T. (2006), \_How Multinational Investors Evade Developed Country Laws. *Center for Global Development Working Paper No. 79*. Washington, DC: Center for Global Development, Georgetown University. <http://dx.doi.org/10.2139/ssrn.984044> accessed 8 March 2020

<sup>255</sup> Veit, P., C. Excell and A. Zomer (2011), \_Avoiding the Resource Curse: Spotlight on Oil in Uganda'. *WRI Working Paper*. <https://www.wri.org/publication/avoiding-resource-curse> accessed 8 March 2020

<sup>256</sup> Global Witness (2015a), \_How Compliant is Uganda with the Key Requirements of the Extractive Industries Transparency Index (EITI)?'; (2015b), \_Blessing or Curse?'. <https://www.globalwitness.org/en/campaigns/uganda/blessing-or-curse/>. accessed 8 March 2020

### **5.3 Recommendation for further research.**

1. The extent of corporations investment in environmental initiatives beyond pollution prevention, including recycling and other aspects of waste reduction; and how the industry's CSR initiatives impact themes like workplace health and safety, process control, and total quality management.
2. There is also a need to conduct longitudinal case studies at specific CSR sites to assess the evolution, dynamics and impacts of specific CSR projects and the lessons that such projects encompass to similar CSR initiatives. This will provide a new perspective to evaluating the success of CSR projects and enable the development of templates for the realization of CSR engagements.

### **5.4 Conclusion.**

Norway's good CSR policies and practices are attributed to its vast petroleum experience since it has been in the business for over 40 years. Contrary, having made her first commercial discovery in 2006, Uganda is yet to develop CSR policies and guidelines. From the analysis and literature review, it is evident that indeed Uganda has a lot to learn from Norway with regard to policies, regulations, laws and institutional frameworks relating to CSR practices. For instance; developing CSR policies and guidelines, drafting regulations for the enacted petroleum laws, clear and specific local content clauses within the petroleum laws and establishing a Petroleum Safety Authority. Norway has fully established petroleum laws, regulations and institutions and engaged in CSR initiatives on a large scale which has further propelled the sector and country as a whole. Despite the limitations in its legal framework and governance institutions, Uganda appears to be relatively better prepared compared to earlier African oil-producing countries. However, perfection in the legal and regulatory framework can only evolve from practice and experimentation over time based on a culture of learning. Therefore it is important that Uganda continues to benchmark with the different countries to pick up the good practices, laws and policies as well as learn from other countries what not to do.

## **TABLE OF LEGISLATION.**

### **CONVENTIONS AND TREATIES.**

Convention on Biological Diversity

International Convention on Oil Pollution Preparedness, Response and Co-operation Convention

OECD Anti-Bribery Convention

United Nations Convention on the Law of the Sea;

### **POLICIES.**

National Oil and Gas Policy for Uganda, 2008

National Content Policy for the Petroleum subsector in Uganda, 2017

Oil and Gas Revenue Management Policy for Uganda, 2012

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Nigeria Extractives Industries Transparency Initiative Act.



Nigerian Oil and Gas Industry Development Act 2010

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Petroleum Act, Cap P10,

Petroleum (Exploration, Development and Production) Act 2013. Uganda

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