

**AN ANALYSIS OF THE EFFICACY OF THE LEGAL FRAMEWORK ON
EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE IN
UGANDA'S OIL AND GAS INDUSTRY.**

BY

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M20M23/013

**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN PARTIAL
FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF A MASTER OF
LAWS IN OIL & GAS AT THE INSTITUTE OF PETROLUUM STUDIES KAMPALA
IN AFFLIATION TO UCU.**

AUGUST, 2021

DECLARATION

I, Godfrey Oundo, declare that this dissertation is my own original work, acknowledged and that it has not been presented and will not be presented to any other University/ institution for similar or any other degree award.

Sign.....

Date.....

APPROVAL

ABSTRACT

The resource of Oil and Gas has over the years proven to be a blessing to countries that have harnessed its potential to their advantage. It has also proven itself to be a catastrophe to the countries that mismanaged it and this has made it a feared resource. Uganda recently discovered this treasure, or should the researcher say, this damnation. The ball is in her hands to decide how to benefit from the oil and gas in the Albertine region. Historically, all who have discovered oil have laid plans in form of guidelines and laws to govern the process of utilizing it. This process became so efficient that countries started organizing themselves at international level, to prevent catastrophes like the deep-water horizon oil spill from ever occurring again. This birthed the Extractive Industries Transparency Initiative (EITI) which sought to create a mechanism of sustainable use of the resource without causing damage to communities. Uganda recently joined this fraternity and therefore must follow the code that EITI stands for. The question however is; Is Uganda legally and organizationally ready to accept this responsibility? Or has she already made damages that cannot be atoned by joining the EITI?, then recommendations herein would suffice to put the resource to better use for the benefit of all the citizenry present and future.

DEDICATION

This research work is dedicated to my family members who have stood by my side in times of difficulty.

ACKNOWLEDGEMENT

I would like to thank Isaac Christopher Lubogo (PhD) who devoted his time to supervise this piece of work. Writing this thesis would have been extremely difficult and all most impossible without his valuable time, advice and positive criticism my sincere appreciation also goes to the Training Committee of the Office of the Director of Public Prosecutions who sponsored me for the entire course. It must be emphasized, however, that I bear full responsibility for any weakness of this thesis. Lastly, but by no means the least, am extremely grateful to my family for their support and endurance.

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CHAPTER ONE: INTRODUCTION.

1.1. Introduction

This chapter covered the background of the Extractive Industries Transparency Initiative (EITI) and its standards. It also focused the objectives of the study, the statement of the problem, the scope of the study, the significance of the study and literature review.

Extractive Industries Transparency Initiative (EITI) is a global standard for the good governance of oil, gas and mineral resources. The EITI Standard requires disclosure of information along the extractive industry value chain from the point of extraction, to how the revenues make their way through the government and how they benefit the public. This includes the process by which licenses and contracts are allocated and registered, who the beneficial owners of those operations are, what the fiscal and legal arrangements are, how much is produced, how much is paid by companies and received by government, where the revenue is allocated, and its contribution to the economy, including employment.

The primary objective of the EITI is to increase transparency over payments and revenues in the extractives sector in countries that are dependent on these resources. In pursuit of this objective, a diverse group of countries, extractives companies and civil society organizations attending the Lancaster House Conference in London in 2003, agreed to a Statement of Principles to increase transparency over payments and revenues in the extractives sector. These came to be known as the EITI Principles. These Principles are the cornerstone of the EITI. These principles, when signed by a government of a country in which extractives are exploited, constitute National Commitment of that country. The signed-up governments pledge to uphold these 12 commitments. Uganda has since subscribed to these principles as a registered member country.

The EITI Board approved Uganda's application to join the EITI, making it the EITI's 54th member country in the world and the 26th in Africa. Uganda's commitment to join the EITI was first made in the 2008 National Oil and Gas Policy and then reiterated in the updated 2012 Oil and Gas Revenue Management Policy. Participation in the EITI is also identified in the 2019-2024 Domestic Resource Mobilisation Strategy. In January 2019, the Ugandan

Government approved the decision to present a candidature application, which was submitted in July 2020.¹

Participation in the EITI is identified in the Government of Uganda's 2012 Oil and Gas Revenue Management Policy as an action that will help create lasting value from oil and gas revenues. Proven reserves of over six billion barrels of crude oil have been identified in Uganda, of which 1.4 billion is currently deemed to be recoverable. Total and China National Offshore Oil Corporation (CNOOC) are active in the region and share an interest in license areas in the Lake Albert development project. If managed responsibly, expected oil revenues can contribute to national development plans such as infrastructure and social services.²

This thesis therefore sought to examine how effective the application of legal framework governing the EITI in Uganda's OGM sector was going forward. This study also examined the deficiencies that the Ugandan laws poses to effectively implement the requirements of EITI and recommended how some of these disparities can be harmonized.

1.2. History and Background of the Problem.

Oil, Gas, and mineral resource wealth is widespread among developing states, where it frequently accounts for a large share of gross domestic product, export earnings, government revenues, and jobs. Its potential for economic and social transformation is evident for any country capable of harnessing it, done effectively, in a single generation converting these non-renewable natural resources into capital to allow a country to transition from poverty to at least middle-income status and enable its citizens to enjoy a better quality of life.

For low-income countries dependent on aid, a policy shift toward the extractive industries (EIs) offers the prospect of an economy more diverse than one defined by subsistence agriculture. It can help lead the way towards a balanced budget, a reduction in foreign debt, savings, and an opportunity to develop new industries. For countries emerging from serious conflict or severe economic misfortune, such a shift offers the prospect of a fresh start. It is not surprising that the number of countries seeking to use oil, gas, and mining resources to undergird social transformation is increasing significantly. No fewer than 81 countries now have economies

¹ EITI, August 2020. Uganda Joins the EITI, [online] available at: <https://eiti.org/news/uganda-joins-eiti> (accessed on 18th June, 2021)

² Ibid

driven by these resources, and almost 80 percent of them have per capita income below the global average—the incentive for their efforts.

Yet EI is a sector that has aroused far more controversy than most and that raises many cautionary flags to newcomers. Contrary to expectations, a significant feature of natural resource development is that over half of the economies it has driven are not catching up. Since 1995 they have failed to match the global unweighted average per capita growth rate. Even among those economies that have experienced long-term, above average economic growth, it can be argued that they have not always enhanced prosperity in the wider sense: growth in productivity, resilience, and connectivity, for example. For many years EIs' relationship to sustainability has been questioned. In a fair number of cases these industries have brought a surge of activity and investment that has triggered high expectations, only to disappoint, as the benefits are retained by a few and the costs are borne by many. They have been called a "resource curse." Development of the country in which the operations take place may not necessarily follow large-scale investment, at least not in the sense that investment generates long-term development impacts. In some cases, the country may even become worse off, depending on the human development indicators used, particularly environment-related indicators. This has led some to conclude that the discovery and development of oil, gas, and minerals is not a blessing at all or even a source of opportunities to accelerate economic and social development.

In the late 1990s and early 2000s, there was an expanding library of academic literature around the resource curse by such acolytes as Jeffrey Sachs, Joseph Stiglitz, Terry Lynn Karl and Paul Collier detailing how the huge potential benefits of oil, gas and mining were not being realised and were associated with increased poverty, conflict and corruption. The problem went beyond just the well-known economic phenomenon of 'Dutch Disease' by which natural resource wealth made other export sectors uncompetitive. Other common effects were around capturing the revenues by elites, stunting the development of tax systems to capture revenue from non-extractive sectors, exacerbated regional and community tensions. These writings outlined out the complexities of extractive resource governance: bidding, exploration, licenses, contracts, operations, revenues, supply chains, local content, transit, services, allocations, and spending. They noted environmental, social and political concerns, and each outlined remedies for addressing the curse, often noting that no single action would be capable of tackling all of these

challenges. However, the literature was clear; transparency and dialogue had to be part of the starting point.

These academic analyses were followed by more and more journalistic pieces and a growing campaign by Global Witness, Human Rights Watch, Oxfam America, other civil society organisations. International financier George Soros established a “Revenue Watch” programme under his Open Society Initiative to investigate the flow of funds from oil companies to governments in the Caspian region. The NGOs were stepping up their enforcement of corporate social responsibility rhetoric and were looking for a law for companies to report their payments to developing countries.

The civil society campaign slogan of “Publish What You Pay” (PWYP) was drawn from a Global Witness report, “A Crude Awakening”. Launched in December 1999, it focused on the opaque mismanagement of oil in Angola. The report had concluded by calling on the operating companies to adopt “a policy of full transparency [in] Angola and in other countries with similar problems of lack of transparency and government accountability”.

Responding to the campaign in February 2001, oil behemoth BP published the signature bonus of USD 111 million it paid to the Angolan government for an offshore license. It committed to publish more. This sparked a strong reaction from Angola. In his 2010 memoir, “Beyond Business”, Lord John Browne, the then Chief Executive Officer of BP, recalled how he received a cold letter from the head of the Angolan national oil company, Sonangol, stating that, “[I]t was with great surprise, and some disbelief, that we found out through the press that your company has been disclosing information about oil-related activities in Angola”. The backlash and threats from the Angola government, led Lord Browne to conclude “clearly a unilateral approach, where one company or one country was under pressure to ‘publish what you pay’ was not workable”.

The oil companies argued for a shift away from company reporting, as sought by PWYP and others, to reporting by governments, in order to reduce conflict with host governments and put contracts at risk. If company reporting was to be required, they wanted a global effort to level the playing field that required all companies in a country to disclose.

The Government of the United Kingdom; the Cabinet Office, the Department for International Development, the Treasury, the Foreign Office, and the Department of Trade and Industry - was listening both to the PWYP campaign and to the oil companies. They saw the opportunity to develop an initiative built on the notion of equal transparency from the governments and the companies.

1.3. Problem Statement

Investment in the extractive industry (EI) sectors (oil, gas, and mining) presents challenges to policy makers. They arise at the policy design and legal framework stage and are evident in subsequent stages; the management and allocation of revenues and, ultimately, the sustainable development of these resources.

Investment in the EI sectors (oil, gas, and mining) has features that present challenges to policy makers. Effective management in the public interest requires recognition of both the common and the unique features of EIs in the design of sector policies and institutions. However, it also involves strategic decisions about the kind of company or pattern of companies that is best suited to achieving the kind of overall policy goal held by a host country. More challenging still, it involves a recognition that periodically these industries have to transform themselves to become more profitable at lower price levels, making attraction of investment into any region or country a harder task.

It's within this frame work that the researcher sought to analyse and resolve how best the present legal regime could help to ensure an efficacious extractive industries transparency initiative in Uganda's oil and gas industry.

1.4. Purpose of the Study

The purpose of the study was to examine the efficacy of the legal framework of the EITI in the OGM sector with a special attention to Uganda. Given that the EITI is an entity for countries that are endowed with this resource, how are their guidelines implemented, upheld or respected in those countries? This study sought to lay out these guidelines and standards and juxtapose the same with the legal regime that manages the OGM sector in Uganda.

In essence, this study sought to shed light on the disparities between the legal framework of the EITI and the legal framework governing OGM in Uganda. It further suggested measures that can effectively patch these differences for a healthy harmony that can sustain the economy of Uganda with the right sustainable utilization of the resources.

1.5. Significance of the Study

Discovery of a resource like Oil and Gas is a one-way ticket. It is a depleting resource and therefore, whether used properly or otherwise, it will not be available forever. Therefore, how Uganda utilizes this resource will be definitive in its growth or its downfall. This study therefore strongly warns the country on what must be done in order to fully benefit from the resource, to build other sustainable sectors that the country can rely on once the Oil and Gas is depleted.

1.6. Justification of the Study

The discovery of bankable amounts of Oil and Gas in the Albertine region could potentially be a ticket for Uganda's economy to achieve middle income status and even sustain the population of the country. It could also prove to be a curse that damns Uganda to bigger income inequalities in the country and far-reaching environmental effects.

The genesis of institutions like the EITI was to prevent the latter from affecting countries that are blessed with such resources and as such, this study was instructive on how best Uganda can tap into the practices and rules of EITI to enjoy the dividends from its OGM sector and not be damned to the curse that comes with mismanagement of the resource.

1.7. General Objective

The main aim of the study examined whether the EITI framework and mechanism would harness Uganda's present legal regime in ensuring effective development of the oil and gas industry.

1.8. Specific Objectives

In order to achieve that aim above, the objectives of the study were premised on the following;

1. To evaluate the efficacy of Uganda's legal framework that governs the exploration, development and production of Oil and Gas.
2. To examine the challenges faced by Uganda in harmonizing its legal framework with the mechanisms presented by the EITI.
3. To Make recommendations for ensuring that the gap between Uganda's legal framework and the EITI mechanism is bridged.

1.9. Research Questions

The study answered the following research questions;

- 1: How efficacious is the Uganda's legal framework governing the exploration, development and production of Oil and Gas?
- 2: What challenges is Uganda facing in harmonizing its legal framework with the mechanisms presented by the EITI?
- 3: What recommendations can be made to ensure that the gap created between the two frameworks is bridged?

1.10. Scope of the Study

1.10.1. Content Scope

The content of this study encompassed the laws that govern the OGM sector in Uganda. It also entailed the EITI rules and principles established towards OGM and other literature that has been developed out of research, experience and projection of how this resource has been treated all around the world. It also covered the interaction of this sector with other sectors like the communities from where it is discovered, the different governments that own this resource and the International Oil Companies (IOCs) that help to extract this resource for the benefit of the different countries.

1.10.2. Time Scope

This study was undertaken in a period of 4 months. However, the material analysed dated as far back as late 1800s when Oil was first discovered and all the literature that has followed since regarding the use, development and status of the OGM sector around the world. Special attention was put to recently developed literature on Uganda's OGM sector which sprouted around 2009 to date.

1.10.3. Geographical Scope

This study focused on most of the countries that have Oil and Gas as a resource with specific attention to Uganda and its discovery of the same. Tanzania was considered since it recently signed contracts with Uganda, regarding the development of the sector. Uganda is located in the eastern part of Africa, bordered by South Sudan in the north, Kenya in the east, Tanzania in the south, Rwanda in the South West and the Democratic Republic of Congo in the West. The geographical coordinates of Uganda are 1.3733°N, 32.2903°E.

1.11. Chapter Synopsis

Chapter one of this paper entails the introductory part of the study including the background of the research topic, statement of the problem, general and specific objectives, research questions, significance, purpose and justification of the study.

Chapter two analyses the literature available for review on the topic of study. Consequently, establishing the presently existing body of knowledge on the legal framework that governs OGM in Uganda and EITI.

Chapter three highlights the methodology that was used in the course of the research.

Chapter four assessed the challenges faced in bridging the gap between the two legal frameworks.

Finally, chapter five gives the research findings and recommendations.

CHAPTER TWO: LITERATURE REVIEW

2.0. Introduction

This chapter purposely reviews and provides a critique of the available literature concerning oil and gas on different aspects like its processes, the pros and cons and the politics that play out during times of Oil and Gas production. The literature has been reviewed on the basis of the study objectives. This chapter further presents the identified research gaps in legal framework which the study intended to address. The literature reviewed was from Domestic laws, International Treaties & Conventions, Case law, Textbooks, Law journals, Publications, working papers, and Internet websites Much of this literature guided the discussion that follows shortly below.

2.1. Summary of Literature reviewed

Peter D. Cameron et al, in the Sourcebook for Understanding the Extractive Industries³, the authors note that all too frequently, development outcomes in the EI sector are less potent and less beneficial than expected. Indeed, the outcomes can become highly damaging to the resource-rich state. Resource-rich developing states typically underperform economically relative to non-resource-rich peers. They score badly against critical human development indicators, experience environmental degradation, and see more than their fair share of social and political instability and violent conflict. Taken together, factors such as these have led some to describe the outcomes as the resource curse or the paradox of plenty

The authors also review some of the dominant thinking about the opportunities and challenges of resource-led development and explain in detail the approach of the book. It charts the emergence of the “development model,” which sees positive outcomes from EI activity if certain conditions are fulfilled. It also provides a summary of the main themes in a very extensive and rich body of literature, in ways that might benefit those unfamiliar with it or who are unable to access much of it.

Current thinking on the interaction between natural resource policy and development policy is still evolving in the light of research and lessons from practice. The end of the long boom from

³ Peter D. Cameron and Micheal C. Stanley, 2017. Oil, Gas and Mining: A Sourcebook for Understanding the Extractive Industries, World Bank Group, 1818 H Street NW, Washington, DC 20433, [online] available at; <https://documents1.worldbank.org/curated/en/222451496911224999/pdf/115792-PUB-PUBLIC-PUBDATE-6-6-17.pdf> (accessed on 19th June, 2021)

around 2003 to 2012–13 has triggered rethinking and fresh analysis. Further insights and policy recommendations can be expected. Changing perspectives on mining over the past 15 years have significantly shifted the focus from large-scale, capital-intensive mining operations to the mining sector as a whole, including artisanal and small-scale mining, in assessments of sustainable futures. Other examples of changing perspectives include diverse efforts at integration of extractive industry investments into local communities and the regional economy. These efforts include, for example, the design of local benefit policies on procurement and “resources-for-infrastructure” deals championed by investors from various countries, including, notably, China.

For the various governmental and nongovernmental bodies now seeking to influence or shape their domestic extractive industries, familiarity with the themes in this body of research can be useful. They inform, sometimes only implicitly; virtually all of the contemporary discussion on policies for resource-led development. In effect, they set the parameters within which the initial strategic decision is made whether or not to engage in development through extraction. They also inform the design and choice of specific operational techniques and instruments, such as decisions on the kind and scope of rights allocated to investors, the way in which they are awarded, and the appropriate schemes for sharing benefits among public and private parties. Their impact on our understanding of good practice has influenced the approach taken by the authors of the Book.

The authors postulate that investment in the extractive industry (EI) sectors (oil, gas, and mining) presents challenges to policy makers. They arise at the policy design and legal framework stage and are evident in subsequent stages; the management and allocation of revenues and, ultimately, the sustainable development of these resources. Some, perhaps many of these features are common to all three sectors, such as the extraction of resources from under the ground or the seabed, their exhaustibility, or their exposure to a high degree of price volatility. Others are unique to each sector. For example, oil and gas development are alike at the upstream stage (exploration and production), but natural gas takes on distinct characteristics in its transportation and distribution phases.

From a commercial point of view, oil is riskier to find than the mineral deposits typically sought by mining companies, but once oil is found in commercial quantities, the risk is reduced relative to the commercial risk of producing minerals from mining. (Note, however, that this does not

apply to environmental risk.) Gas is different again, with its risk profile requiring a complex, expensive infrastructure and a detailed contractual regime to support development. Effective management in the public interest requires recognition of both the common and the unique features of EI in the design of policies and institutions.

The authors examine the fundamental characteristics of EI sector investment, from a perspective that gives priority to public policy making and the design of appropriate institutional arrangements in the public sector. They identify the common features and the key differences among EI sectors and in their investment dynamics. They focus on the relationships that governments have or seek to have with investors in the EI sector rather than on how governments themselves can respond to the challenges and opportunities of natural resource-led development. Some features of the investor-state relationship are relatively constant over time, while others are more dynamic, such as the structure of the industry. It has experienced significant change and become more complex in recent years, due in part to companies from emerging markets making strategic investments aimed at securing future supplies of energy and minerals.

According to Michael L. Ross⁴, in his paper “the oil curse and how Petroleum wealth shapes the Development of Nations”, Countries that are rich in petroleum have less democracy, less economic stability, and more frequent civil wars than countries without oil. What explains this oil curse? And can it be fixed? In this groundbreaking analysis the author looks at how developing nations are shaped by their mineral wealth--and how they can turn oil from a curse into a blessing.

The author further traces the oil curse to the upheaval of the 1970s, when oil prices soared and governments across the developing world seized control of their countries' oil industries. Before nationalization, the oil-rich countries looked much like the rest of the world; today, they are 50 percent more likely to be ruled by autocrats--and twice as likely to descend into civil war--than countries without oil.

The Oil Curse shows why oil wealth typically creates less economic growth than it should; why it produces jobs for men but not women; and why it creates more problems in poor states

⁴ Michael L. Ross, 2012. *The oil curse: How Petroleum wealth shapes the Development of Nations*, Princeton University Press

than in rich ones. It also warns that the global thirst for petroleum is causing companies to drill in increasingly poor nations, which could further spread the oil curse.

This landmark book explains why good geology often leads to bad governance, and how this can be changed.

Another important piece of literature that was reviewed is *A Modern History of Petroleum*.⁵ The politics of oil revolves around its price and the reliability of its suppliers. In turn, many international conflicts in the world today are rooted in these politics. Not surprisingly: the price of oil is managed by a cartel-OPEC-some of whose member governments are deeply hostile to the United States and other major importers of oil. And OPEC controls nearly two-thirds of the world's oil reserves. Ironically, the United States and many others, especially non-OPEC producers of energy, have come to rely on OPEC to set prices that encourage the development of high-cost oil elsewhere, and thus promote some diversity of supply.

Fundamental to any understanding of the politics of the contemporary world is an understanding of the politics and most recent history of petroleum. Francisco Parra, drawing on his long and varied experience in international oil, sets out the events that have shaped the industry over the past fifty years - the displacement of coal as the world's prime fuel; the tight control of international oil by the seven major oil companies (all US or British), monopolizing production in the Middle East and Venezuela; the rise of OPEC and the ousting of the companies in a bitter struggle in which the companies were abandoned by their home governments; how the world was hypnotized for more than a decade by the delusion of impending depletion; and the political turbulence that has led to wars in the Middle East, to US sanctions on Iran, Iraq, and Libya, and, most recently, to the invasion of Iraq.

After a surge in non-OPEC oil production in the 1980s and 1990s, dependence on the Middle East is increasing and OPEC's control over price is volatile. Parra asks whether this enduring predicament-that holds the threat of political conditions being attached to the supply of oil-can be managed by the "West", to avert successive and deepening crises in the pricing and supply of oil and in the world at large.

⁵ Francisco Parra, 2004. *Oil Politics: A modern History of Petroleum*, 1st edn, I. B. Tauris & Co Ltd, 6 Salem Road, London W2 4BU, 175 Fifth Avenue, New York NY 10010.

Inkpen & Moffett,⁶ in their paper “The Global Oil & Gas Industry: Management, Strategy and Finance, Penwell Corp” have written a nontechnical book to help readers with technical backgrounds better understand the business of oil and gas. They describe and analyze the global oil and gas industry, focusing on its strategic, financial, and business aspects and addressing a wide range of topics organized around the oil and gas industry value chain, starting with exploration and ending with products sold to consumers.

The Global Oil & Gas Industry is a single source for anyone interested in how the business of the world's largest industry actually works: business executives, students, government officials and regulators, professionals working in the industry, and the general public.

Arthur B, et al,⁷ assert in their paper “Escaping the Oil Curse and Making Poverty History: A Review of the Oil and Gas Policy and Legal Framework for Uganda” that over time, common features have emerged of the oil curse which include *inter alia*: increased chances of conflict in a country; the tendency for the real exchange rate to become overly appreciated; exposing the country to volatility, especially in commodity prices, with the attendant adverse impact on growth; environmental costs: Oil operations damage the environment and have adverse effects on the livelihoods of the communities around the production areas; the cash economy created by oil undermines those trying to work for longer-term and more sustainable development initiatives. People become disinterested in anything that does not deliver instant cash, with agriculture and industry as the prime casualties. The growth of oil cash culture thus undermines real and sustainable development.

Political scientist Terry Lynn Karl⁸ explains why in the midst of two massive oil booms in the 1970s, oil-exporting governments as different as Venezuela, Iran, Nigeria, Algeria, and Indonesia chose common development paths and suffered similarly disappointing outcomes. Karl contends that oil countries, while seemingly disparate, are characterized by similar social classes and patterns of collective action.

⁶ Inkpen & Moffett, 2011. The Global Oil & Gas Industry: Management, Strategy and Finance, Penwell Corp.

⁷ Arthur B, et al, 2006. Escaping the Oil Curse and Making Poverty History: A Review of the Oil and Gas Policy and Legal Framework for Uganda, ACODE, Kampala, Policy Research Series No. 20

⁸ Terry Lynn Karl, 1997. Paradox of Plenty: Oil Booms and Petro-States, University of California Press, Studies in International Political Economy Series.

Isabel F., et al.⁹, in “Human Rights in the Extractive Industries: Transparency, Participation, Resistance” addresses key challenges and conflicts arising in extractive industries (mining, oil drilling) concerning the human rights of workers, their families, local communities and other stakeholders. Further, it analyses various instruments that have sought to mitigate human rights violations by defining transparency-related obligations and participation rights. These include the Extractive Industries Transparency Initiative, disclosure requirements, and free, prior and informed consent (FPIC). The book critically assesses these instruments, demonstrating that, in some cases, they produce unwanted effects. Furthermore, it highlights the importance of resistance to extractive industry projects as a response to human rights violations, and discusses how transparency, participation and resistance are interconnected.

Anthony Bebbington¹⁰, in “Social Conflict, Economic Development and Extractive Industry: Evidence from South America”, highlights that the extraction of minerals, oil and gas has a long and ambiguous history in development processes – in North America, Europe, Latin America and Australasia. Extraction has yielded wealth, regional identities and in some cases capital for industrialization. In other cases, its main heritages have been social conflict, environmental damage and underperforming national economies.

As the extractive economy has entered another boom period over the last decade, not least in Latin America, the countries in which this boom is occurring are challenged to interpret this ambiguity. Will the extractive industry yield, for them, economic development, or will its main gifts be ones of conflict, degradation and unequal forms of growth. This book speaks directly to this question and to the different ways in which Latin American countries are responding to the challenge of extractive industry. The contributors are a mixture of geographers, economists, political scientists, development experts and anthropologists, who all draw on sustained field work in the region.

By digging deep into both national and local experiences with extractive industry they demonstrate the ways in which it transforms economies, societies, politics and environments. They pay particular attention to the social conflict that extraction consistently produces, and

⁹ Isabel F., et al., 2019. Human Rights in the Extractive Industries: Transparency, Participation, Resistance, 1st ed, Springer International Publishing, Interdisciplinary Studies in Human Rights Series No. 3

¹⁰ Anthony Bebbington, ed., 2011. Social Conflict, Economic Development and Extractive Industry: Evidence from South America, Routledge, Routledge ISS Studies in Rural Livelihoods.

they ask how far this conflict might usher in political and institutional changes that could lead to a more productive relationship between extraction and development.

They also ask whether the existence of left-of-centre governments in the region changes the relationships between extractive industry and development. The book makes clear the immense difficulties that countries and regional societies face in harnessing extractive industry for the collective good. For the most part the findings question the wisdom of the development model that many countries in the region have taken up and which emphasizes the productive roles of mining and hydrocarbon industries. The book should be of interest to students and researchers of Development Studies, Geography, Politics and Political Economy, as well as Anthropology.

Damilola S. Olawuyi,¹¹ in his book, “Extractives Industry Law in Africa,” provides a systematic examination of the legal, fiscal and institutional frameworks for the commercial development of petroleum and solid mineral resources in Africa. First, it considers the values, assumptions, and guiding principles underpinning legislation and governance in Africa’s extractive sector. It then provides detailed and comparative evaluations of regulatory frameworks, pricing, local content, procurement, sales, and contractual arrangements across African extractive industries.

Further, the book assesses how questions of business and human rights risks, accountability, corporate social responsibility, waste and pollution control, environmental justice, and participatory development have been addressed to date, and how they could be addressed better in the future. It enhances the understanding of the geography, sources and scope of extractive resources in Africa, the book explains how corporations can effectively identify, mitigate and prevent legal and business risks when investing in African extractive industries.

Lastly, it discusses the innovative legal strategies and tools needed to achieve a sustainable and rights-based extractive industry. Written in a user-friendly style, the book offers a valuable resource for corporations, investors, environmental and human rights administrators, advocates, policymakers, judges, international negotiators, government officials and consultants who advise on, or are interested in, petroleum and solid mineral investments in Africa. It also offers students and researchers an authoritative guidebook to the current state of extractive industry laws and institutions in Africa. Numerous examples of how international legal norms could be used to help revitalize the underlying legal and fiscal regimes in African

¹¹ Damilola S. Olawuyi, 2018. *Extractives Industry Law in Africa*, 1st ed., Springer International Publishing.

extractive industries – to make them more robust, accountable, sustainable and rights-based – round out the coverage

Lori Leonard & Siba N. (eds)¹², in “Governance in the Extractive Industries: Power, Cultural Politics and Regulation,” emphasize that greater understanding of the forms and consequences of investment and disinvestment in the extractive industries is required as a result of capitalist expansion, recent declines in global commodity prices, and claims that extractive sector projects, especially in the global south, are poverty reduction projects. This book explores emergent forms of governance in mining and extractive industry projects around the world.

The editors examine efforts to govern extractive activities across multiple political scales, through intermediaries, instruments, technologies, discourses, and infrastructures. The contributions analyse how multiple micro-processes of rule reverberate through societies to shape the material conditions of everyday life but also politics, social relations, and subjectivities in extractive economies. Detailed case studies are included from Africa (Chad, Nigeria, Rwanda, and São Tomé and Príncipe), Latin America (Bolivia, Ecuador, and Peru), and the UN Climate Conference.

Humphreys, et al,¹³ in “Escaping the resource curse”, elaborates that the wealth derived from natural resources can have a tremendous impact on the economics and politics of producing countries. In the last quarter century, we have seen the surprising and sobering consequences of this wealth, producing what is now known as the "resource curse." Countries with large endowments of natural resources, such as oil and gas, often do worse than their poorer neighbors. Their resource wealth frequently leads to lower growth rates, greater volatility, more corruption, and, in extreme cases, devastating civil wars.

In this volume, leading economists, lawyers, and political scientists address the fundamental channels generated by this wealth and examine the major decisions a country must make when faced with an abundance of a natural resource. They identify such problems as asymmetric bargaining power, limited access to information, the failure to engage in long-term planning, weak institutional structures, and missing mechanisms of accountability. They also provide a series of solutions, including recommendations for contracting with oil companies and

¹² Lori Leonard & Siba N. (eds)¹², 2017. Governance in the Extractive Industries: Power, Cultural Politics and Regulation, Routledge

¹³ Humphreys, et al, (eds), 2007. Escaping the resource curse, Columbia University Press, Initiative for policy dialogue Series.

allocating revenue; guidelines for negotiators; models for optimal auctions; and strategies to strengthen state-society linkages and public accountability.

The contributors show that solutions to the resource curse do exist; yet, institutional innovations are necessary to align the incentives of key domestic and international actors, and this requires fundamental political changes and much greater levels of transparency than currently exist. It is becoming increasingly clear that past policies have not provided the benefits they promised. Escaping the Resource Curse lays out a path for radically improving the management of the world's natural resources.

According to **Gallegos R**,¹⁴ beneath Venezuelan soil lies an ocean of crude—the world's largest reserves—an oil patch that shaped the nature of the global energy business. Unfortunately, a dysfunctional anti-American, leftist government controls this vast resource and has used its wealth to foster voter support, ultimately wreaking economic havoc.

Crude Nation reveals the ways in which this mismanagement has led to Venezuela's economic ruin and turned the country into a cautionary tale for the world. Raúl Gallegos, a former Caracas-based oil correspondent, paints a picture both vivid and analytical of the country's economic decline, the government's foolhardy economic policies, and the wrecked lives of Venezuelans.

Without transparency, the Venezuelan government uses oil money to subsidize life for its citizens in myriad unsustainable ways, while regulating nearly every aspect of day-to-day existence in Venezuela. This has created a paradox in which citizens can fill up the tanks of their SUVs for less than one American dollar while simultaneously enduring nationwide shortages of staples such as milk, sugar, and toilet paper. Gallegos's insightful analysis shows how mismanagement has ruined Venezuela again and again over the past century and lays out how Venezuelans can begin to fix their country, a nation that can play an important role in the global energy industry.

¹⁴ Gallegos R, 2016. *Crude Nation: How Oil Riches Ruined Venezuela*, Potomac Books

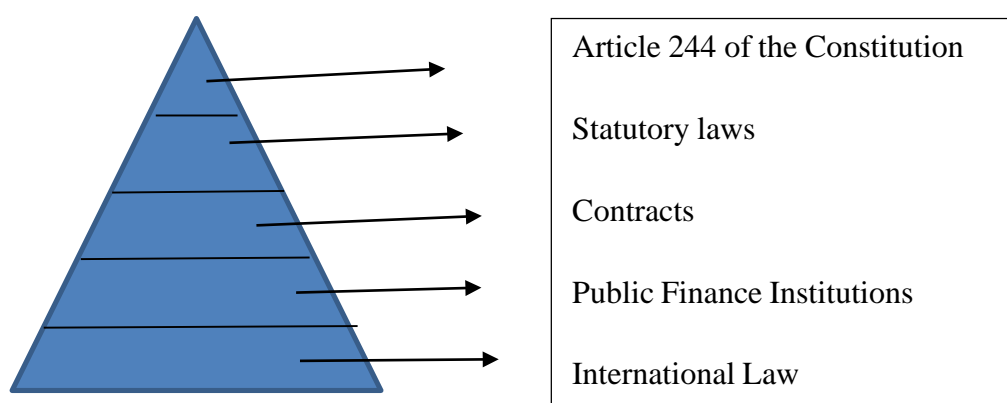
2.2.THE LEGAL FRAMEWORK GOVERNING OIL, GAS AND MINING IN UGANDA.

2.2.1. Introduction.

This study focused on the various laws and practices that form the legal framework governing the extractives industry in Uganda. This ranges from the constitution, to the primary and secondary legislation. It also covered international law and guidelines developed for purposes of OGM. This study also examined the framework of the EITI and drew comparisons to the former.

2.2.2. The Legal and regulatory Framework in Uganda.

The legal and regulatory framework in Uganda is headed by the Constitution. From the Constitution, the subsequent laws as enacted by the parliament and the relevant minister follow. After this is the contracts that bind the IOCs, the government and the NOC. Then the public finance Institution and lastly International Law.



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

The Constitution is the supreme law of the land.¹⁵ All the other laws that govern the OGM sector must relate and agree with the provisions of the Constitution or else they become null and void to the extent of their inconsistency.

The foundation for effective resource management and administration of Uganda's oil and gas is the Constitution, which provides for the protection of natural resources, including water, wetlands, minerals, oil, fauna and flora, on behalf of the people of Uganda.¹⁶

¹⁵ Article 2 of the Constitution of the Republic of Uganda, 1995, as amended.

¹⁶ Objective no. 13 of National Objectives and Directive Principles of State Policy.

In 2005 the Constitution was amended to the effect that control of all minerals and petroleum in or under any land or waters in Uganda is vested ‘in government on behalf of the republic of Uganda’.¹⁷ Even with this new amendment, the Constitution still re-echoes the public trust doctrine, whereby natural resources are held by the government in trust for its people; or, in other words, envisaging people as the principals appointing the government to manage resources on their behalf. This relationship obliges the government to account to its people as principals/owners, ensuring they participate in the management of their affairs either by themselves or through elected representatives.

The Constitution gives parliament a mandate to pass laws for regulating the exploitation of minerals and petroleum; the sharing of royalties arising from oil exploitation; the conditions for payment of indemnities arising out of exploitation of petroleum and minerals; and the restoration of derelict lands.¹⁸ Article 79 in general that parliament shall have the power to make laws on any matter for inter alia, development and good governance.

2.2.4. Statutory laws

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

This is an Act of Parliament that was enacted in full exercise of Article 79. It is an Act to give effect to Article 244 of the Constitution; to regulate petroleum exploration, development and production; to establish the Petroleum Authority of Uganda; to provide for the establishment of the National Oil Company; to regulate the licensing and participation of commercial entities in petroleum activities; to provide for an open, transparent and competitive process of licensing; to create a conducive environment for the promotion of exploration, development and production of Uganda’s petroleum potential; to provide for efficient and safe petroleum activities; to provide for the cessation of petroleum activities and decommissioning infrastructure; to provide for the payment arising from petroleum activities; and to provide for the conditions for the restoration of derelict lands.¹⁹

The Act covers matters to do with institutions that deal with oil and gas like the minister²⁰, the Petroleum Authority of Uganda²¹, and the National Oil Company²² (NOC). The Act also

¹⁷ Article 244 of the Constitution of the Republic of Uganda, 1995, as amended

¹⁸ Ibid.

¹⁹ See the long title of the Act

²⁰ Section 8 of the Petroleum (Exploration, Development and Production) Act, 2013

²¹ Section 9-41, *ibid.*

²² Section 42-46, *ibid.*

provides for the procedure and requirements for licensing²³ to include reconnaissance permits, petroleum exploration licences, petroleum production licences, and provisions relating to approvals and the drilling and designation of wells.

The Act further provides for the framework that governs the development and production of petroleum.²⁴ This includes the procedure of development and what must be taken into account at every stage. For instance, a production permit, prior to starting of production, and a certificate of testing upon testing of petroleum.

The Act also lays out an important aspect of the OGM which is decommissioning.²⁵ The IOC or any other licensee is required to have a decommissioning plan submitted prior to the start of their exploration and production. The Act also provides for termination of use, removal and sale of property and liability for damages for disposal of decommissioned facility.

It is important to note that the Act recognises the input of the community. Under Part VIII of the Act, the law provides for State participation and National Content. This postulates the need to have the communities involved more in decision making since the drilling processes affect these communities more than anyone else. It dictates that supplies analogous to the work must be sourced from the local community and the required labour as well, except where the community lacks such.²⁶ The IOC or licensee is under obligation to train the local communities in the skill so as to equip local labour with the expertise.²⁷

The Act also takes into account the environment and the threat of pollution.²⁸ The nature of the EI is that its production can be environmentally catastrophic unless guarded and well carried out. The Act speaks strongly against damage arising from pollution, and imputes liability of such upon the licensee.²⁹ This remedy once sought and successfully recovered is then given to the communities that have been affected by the pollution.

The Act also gives effect to Article 26 of the Constitution which provides for the right of all citizens to own property. Part XI of the Act provides for surface rights and severs the surface

²³ Part IV, *ibid*

²⁴ Part V, *ibid*

²⁵ Section 112, *ibid*.

²⁶ Section 125, *ibid*.

²⁷ Sections 126, 127, *ibid*.

²⁸ Part X of the Act

²⁹ Section 129-132, *ibid*

rights from the subsurface rights. It also provides for compensation in case either right has been violated by the licensee.³⁰

The Act also recognises the effect of such activities on the health of both the workers in the mining sites and the communities that live around the areas with OGM.³¹ The Act dictates on safety precautions that must be adhered to, and the general requirements for emergency preparedness and creation of safety zones. The Act also provides for the possibility of a commission of inquiry to investigate health threats should they be claimed by workers.³²

The Act also recognises the need to keep records. Information and documentation of the procedures and progress of the licensee must be kept and made available for the public.³³

ii. The Petroleum (Refining, Conversion, Transmission And Midstream Storage) Act, 2013

This Act was also enacted to give effect to Article 244 of the Constitution. it was promulgated to regulate, manage, coordinate and monitor midstream operations; to enable the construction, placement and ownership of facilities; to provide for third party access to facilities; to regulate tariffs for facilities; to provide for an open, transparent and competitive process for licensing by the minister; to provide for additional and particular health, safety and environment regulations not sufficiently regulated in other laws; and to provide for cessation of midstream operations under the Act and decommissioning of facilities.³⁴

The Act covers areas similar to the Petroleum (Exploration, Development and Production) Act that is to say institutional arrangements³⁵, licensing³⁶, decommissioning³⁷, state participation and national content³⁸, liability for damage due to pollution³⁹, health and safety⁴⁰, and information and documentation⁴¹.

³⁰ Section 139, *ibid*

³¹ Part XII, *ibid*

³² Section 147, *ibid*

³³ Part XIII, *ibid*

³⁴ See the long title of the Petroleum (Refining, Conversion, Transmission And Midstream Storage) Act, 2013

³⁵ Part II, *ibid*

³⁶ Part III, *ibid*

³⁷ Part VI, *ibid*

³⁸ Part VII, *ibid*

³⁹ Part IX, *ibid*

⁴⁰ Part X, *ibid*

⁴¹ Part XI, *ibid*

The Act however also covers other areas not similar to the above-mentioned. The Act puts restrictions on flaring and venting under Section 38. It also provides for acquisition and pricing of petroleum commodities and products⁴².

iii. The Petroleum Supply Act, 2003

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

The Act establishes the technical petroleum committee⁴³ and enunciates their functions⁴⁴. It provides for petroleum construction permits and petroleum operating licenses and the procedure followed in acquiring them and requirements before acquiring the same.⁴⁵

The Act also lays down the obligations of the holders of permits and licences which are maintenance of records and furnishing information, inspection and minimum working stock requirements.⁴⁶

The Act also strongly calls for protection of public safety and the environment. It requires the adoption and adaptation of international standards and specifications, carrying out of environmental impact assessments and submitting of an emergency petroleum supply plan.⁴⁷

iv. The Petroleum (Exploration, Development And Production) Regulations, 2016

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

⁴² Part V, *ibid*.

⁴³ Section 8 of the Petroleum Supply Act, 2003

⁴⁴ Section 13, *ibid*

⁴⁵ Part IV of the Act

⁴⁶ Sections 24-26, *ibid*

⁴⁷ Sections 32-34, *ibid*

The regulations generally add details to the provisions of the Act in matters already mentioned. It however provides for the opening of new areas for petroleum activities and therefore the carrying out of impact assessments relating to the opening of the same⁴⁸.

v. The Petroleum (Exploration And Production) (Conduct Of Exploration Operations) Regulation, 1993

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

The regulations provide for the starting operations to discovering Oil and Gas. They provide for geological and geophysical operations; the need to notify the government of the intention to commence operations; seismic surveys; and the different reports expected from the same.⁴⁹

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

2.2.5. Contracts

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

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

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

The model provides for how participating interests are to be shared between the parties; the responsibilities and grant of rights; the requirement of exploration work programmes; budgeting; the aspect of discovery, development and production; keeping of records, writing

⁴⁸ Regulation 4-7 of the Petroleum (Exploration, Development And Production) Regulations, 2016

⁴⁹ Part II of the Petroleum (Exploration And Production) (Conduct Of Exploration Operations) Regulation, 1993

reports and keeping data; the aspect of bonuses paid to government; royalties to government; participation of the State in the OGM; recovery of cost; production sharing; the aspect of taxation; valuation and measurement of petroleum; transportation of Oil by pipeline; marketing and lifting; domestic requirements; the aspect of natural gas; training of local expertise, research and employment of locals; title to assets; foreign exchange control; assignment of participating interests; the aspect of prevention of danger to person, property or environment; dispute resolution; force majeure; annual acreage rentals; termination of contracts; accounting and audits; notice; the laws applicable to the contract; the representation of the entire agreement and its amendment; waiver clauses; and the concept of confidentiality.

All these provisions will be tailored to suit each agreement concluded by the government of Uganda with other entities for the exploration, development and production of petroleum.

2.2.6. Public Finance Institutions.

International Financial Institutions (IFIs) are international financial organizations which multiple nations founded. They are subject to international law instead of the laws of any one single country. The IFIs are usually owned by national governments of the founding members.⁵⁰ Examples of IFIs around the globe are; European Investment Bank, African Development Bank, Asian Development Bank, Caribbean Development Bank, Inter-American Development Bank, World Bank, International Monetary Fund, to mention but a few.

In many parts of the world, IFIs play a major role in the social and economic development programs of nations with developing or transitional economies. This role includes advising on development projects, funding them and assisting in their implementation.⁵¹ For instance, the purpose of the establishment of the World Bank and IMF in 1944 by the Bretton Woods Agreement was to improve the standards of living in their respective member nations.⁵²

In the extraction of Oil and Gas, whether offshore or onshore, the area within which this extraction happens stands a high-profile risk of environmental degradation and local community destabilisation if there are no adequate, proper and targeted measures to avert such risks. These processes of extraction are undertaken using the fund of these IFIs and in ensuring that these risks do not occur, a tripartite agreement between the National Oil Companies or the

⁵⁰ Thomas Herold, What are International Financial Institutions (IFI)?, available at <https://www.financialdictionary.info/terms/international-financial-institutions-ifi/>

⁵¹ <https://www.tradecommissioner.gc.ca/development-developpement/mdb-overview-bmd-apercu.aspx?lang=eng>

⁵² Supra note 38

government, the International Oil Company (which carries out extraction using the fund from the IFIs) and the local community is entered. These agreements are the safeguard to insure against the risks that escort OGM.

It then follows that before the IFIs can fund the works of OICs, they require that certain performance standards be met and guaranteed in the Production Sharing Agreements (PSAs) that they conclude with the respective countries. These performance standards are an international benchmark for identifying and managing environmental and social risk and have been adopted by many organizations as a key component of their environmental and social risk management.⁵³

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

Secondly, different IFIs require different standards and as such, they differ in the threshold that they require of the IOCs before they can dispatch their funds to the latter. For example, there are land acquisition standards set by the IFC, different from the ones set by the African Bank, standards set by the International Standard Organisation (ISO), the Extractive Industry Transparency Initiative standards, and then the International Council on Mining and Metals (ICMM). All these bodies have their own self-contained standards and their adherence is a requirement by countries or OICs that subscribe to them.

Additionally, as earlier stated, these IFIs and IOCs are governed by International Law to the extent of the environmental and local community issues. Many International Conventions like the UDHR, ICCPR, ICESCR, ILO, the UN Voluntary Principles on Human and Security Rights, the law of the sea Convention etc. and even regional instruments like the African

⁵³ <https://firstforsustainability.org/risk-management/implementing-ifc-environmental-and-social-requirements/establish-and-maintain-an-esms/ifc-environmental-and-social-performance-requirements/ifc-performance-standards/#:~:text=The%20IFC%20Performance%20Standards%20are,environmental%20and%20social%20risk%20management.>

Charter and its 2003 Protocol, also provide standards that must be fulfilled by the IOCs in the OGM.

This part of the paper will therefore discuss the performance standards as laid down by various IFIs and international law with a particular interest in standards set by the International Financial Corporation (IFC), a member of the World Bank group. The motivation behind this consideration is because the IFC performance standards have been adopted and followed by many IOCs in their operations over the years, but also, because these performance standards are detailed and by the far the most readily available for purposes of research and study.

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

The 2012 edition of IFC's E&S sustainability framework lists eight (8) policies and standards which guide all IOCs under IFC effective 1st January 2012.⁵⁴ Performance Standard 1 establishes the importance of (i) integrated assessment to identify the environmental and social impacts, risks, and opportunities of projects; (ii) effective community engagement through disclosure of project-related information and consultation with local communities on matters that directly affect them; and (iii) the IOCs management of environmental and social performance throughout the life of the project.

Performance Standard 2 up to 8 establish objectives and requirements to avoid, minimize, and where residual impacts remain, to compensate/offset for risks and impacts to workers, affected communities, and the environment. These standards have therefore been used in this paper to discuss the E&S performance standards given by public and private IFIs to IOCs.

Assessment and Management of Environmental and Social Risks and Impacts

Paragraph 5 of Standard one provides thus;

“The client [IOC], in coordination with other responsible government agencies and third parties as appropriate, will conduct a process of environmental and social assessment, and establish and maintain an ESMS appropriate to the nature and scale of the project and commensurate with the level of its environmental and social risks and impacts. The ESMS

⁵⁴ https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards/

*will incorporate the following elements: (i) policy; (ii) identification of risks and impacts; (iii) management programs; (iv) organizational capacity and competency; (v) emergency preparedness and response; (vi) stakeholder engagement; and (vii) monitoring and review.*⁵⁵

The starting point is the recognition of the tripartite agreement that the IOC must enter into. The standard provides that the IOC must coordinate with government agencies (which may be the NOCs) and third parties (which are the local communities affected) to conduct an environmental and social assessment. It is therefore important to note that the agreement must at all stages involve the parties concerned or else the IOC stands to violate this Standard.

The next stage is that this assessment must produce a tailor-made ESMS that is appropriate and suitable for the given intended extraction. An ESMS helps IOCs integrate plans and standards into their core operations—so they can anticipate environmental and social risks posed by their extraction activities and avoid, minimize, and compensate for such impacts as necessary.⁵⁶ This ESMS must then be compared with the already laid down standards until all the gaps are closed and the threshold is either met or even surpassed. In order to meet this threshold, the ESMS required by this Performance Standard comprises the seven (7) elements deemed to be necessary to effectively “plan, do, check, act” with regard to the environmental and social outcomes addressed by Performance Standards 2 through 8. In this way it can be seen to be similar to accepted international frameworks for quality and environmental management systems, such as **ISO 9001 and 14001**.⁵⁷

This standard is fundamental to the IFIs because the existence of an ESMS is a guarantee that the associated environmental and social risks have been insured, minimised or avoided by the IOCs. It is important to the IOCs because it is a way of obtaining FPIC from the local communities and is an indicator of a successful negotiation. It is also important to the local community because it serves as a contract breach of which entitles them to hold the IOC liable. The governments also find it important because in many jurisdictions, they hold these resources

⁵⁵ https://www.ifc.org/wps/wcm/connect/c02c2e86-e6cd-4b55-95a2-b3395d204279/IFC_Performance_Standards.pdf?MOD=AJPERES&CVID=ktjHBzk

⁵⁶ https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps1

⁵⁷ International Finance Corporation: Performance Standards on Environmental and Social Sustainability, January 1, 2012, available at; https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/performance-standards (accessed April 12, 2021)

in trust for the nation⁵⁸ and as such, an effective ESMS is a form of accountability to the citizens of the nation.

Free, Prior and Informed Consent (FPIC)

The IFC Performance Standards (PS) incorporate free, prior, and informed consent in circumstances in which indigenous peoples are affected. IOCs must undertake to conform to the PS by obtaining FPIC from affected communities of indigenous peoples on “project design, implementation, and expected outcomes”.⁵⁹ Previously, free, prior and informed *consultation* (and not consent) was sought.

The requirements for FPIC to be realised include project activities that are concerned with extraction located on or require commercial use of natural resources on lands subject to traditional ownership and/or under customary use by indigenous peoples; require relocation of indigenous peoples from traditional or customary lands; or involve commercial use of indigenous peoples’ cultural resources.⁶⁰

Consequentially, these measures in the long run, improve public confidence that extractive companies will practice FPIC⁶¹ in their relations with communities, and also enable the growth of attention on the potential impacts extractive projects can have on indigenous peoples.⁶²

Stakeholder Engagement

Stakeholder engagement is the process by which IOCs communicate and get to know their stakeholders. By getting to know them, the IOCs are able to better understand what they want, when they want it, how engaged they are and how the IOCs’ plans and actions will affect their goals. Furthermore, they can improve their communication and rethinking their strategies and operations, having long-term benefits such as brand reputation or first mover advantage. Stakeholder Engagement is recognized as a fundamental accountability mechanism since it obliges IOCs to involve stakeholders in identifying, understanding and responding to

⁵⁸ For example in Uganda, Article 244 of the Constitution of the Republic of Uganda, 1995, as amended provides that land which contains minerals and petroleum is vested in the government of Uganda on behalf of the Republic of Uganda.

⁵⁹ Performance Standard 7, Para 11, of the IFC E&S Performance Standards, 2012

⁶⁰ PS 7 Paras 13 to 17

⁶¹ Monkey Forest’s article on FPIC in the July 2011 issue of Mining, People and the Environment, available at: <http://www.monkey-forest.net/news/articles44.php> (accessed April 14, 2021)

⁶² Monkey Forest’s recent analysis of the growing focus on the rights of indigenous peoples, available at: <http://www.monkey-forest.net/news/articles45.php> (accessed April 14, 2021)

sustainability issues and concerns, and to report, explain and answer to stakeholders for decisions, actions, and performance.

The IFC's PS require stakeholder engagement to go beyond affected communities to other spheres of interest, as well as requiring external communications to facilitate a dialog with all stakeholders.⁶³ A stakeholder framework is required, even if not all stakeholders are identified.⁶⁴ In practical terms, this requires projects to devote more resources to external communications and to start the stakeholder-engagement process earlier than before the promulgation of these performance standards. This in the long run supports current best developing practice and establishes a culture or practice that one of the first things assessors will always look at when doing a review of how IOCs and their projects conform to the PS is the stakeholder framework.

Resettlement

The nature of OGM is that it requires eviction of peoples living above or around the vicinity of the natural resource. This is because the process of extraction involves explosives and sophisticated machinery that does not favour settlement. Additionally, these people usually own the land rights and as such, this right stands to be violated if something is not done. As a result, IOCs must find a way of resettling the people in new areas where they will not be affected by the drilling or mining process and where their property rights will not seem to be infringed upon.

The IFC PS has however increased focus on people without formal property rights.⁶⁵ Though most resettlement projects recognize formal property rights after the resettlement process, the concept of recognizing people with no property rights is often not intuitive to projects or to corporate organizations with limited resettlement experience. This new threshold by the IFC better communicates the concept. Similarly, the added objective of avoiding forced evictions is a big statement, as this concept is sometimes lost on managers with little recent resettlement experience. Finally, the proposed completion audit helps IOCs meet implementation targets for their resettlement plans.⁶⁶

⁶³ PS 1 Para 26

⁶⁴ PS 1 Para 30

⁶⁵ Performance Standard 5

⁶⁶ Ibid

2.2.7. International Law

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

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

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

On the other hand, the significance of maritime boundaries in current international relations has grown with the expansion of national limits of maritime jurisdiction in the last 50 or 60 years. This is because, in the present, an acre of sea may be worth more than an acre of barren land, especially if there is oil or gas on the subsoil or on the seabed. Therefore boundary-making

is now a major task for coastal States and relatively few of them have a full set of maritime boundaries.⁶⁷

Currently 180 boundaries have been agreed upon, which is far less than the 400 boundaries that potentially exist, according to geographers. The reasons are that countries tend not to see boundary-making as a priority, in the absence of any incidents or natural resources. Furthermore, developing countries often do not have ready access to the required technical advice from hydrographers. Some of them have nevertheless negotiated boundaries e.g. because of encouragement by the oil industry.⁶⁸

Chatham House⁶⁹ in a meeting of the International Law Discussion Group at Chatham House on 14th February, 2006, identified two possible causes of the maritime boundary disputes to include; disputed sovereignty over land and; overlapping entitlements to maritime rights and jurisdiction. On the former, it noted that two countries can claim the same island⁷⁰ or the same area of mainland.⁷¹ To resolve this issue, the relevant rules of international law include those on the acquisition of sovereignty; they look to human activity (occupation and administration) of the territory.

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

Article 33 of the UN Charter provides for the peaceful settlement of disputes by means of the parties' own choice. These means always include negotiation. If negotiations are not successful, recourse may be had to conciliation, good offices (e.g. of the UN Secretary

⁶⁷ Chatham House. 2006. "Methods of resolving maritime boundary disputes", available at: <https://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/ilp140206.doc> (accessed on 15th May, 2021)

⁶⁸ Ibid.

⁶⁹ Supra note 55

⁷⁰ See *Eritrea v Yemen*, Award on Territorial Sovereignty and Scope of the Dispute, (1998) XXII RIAA 211, PCA.

⁷¹ See ICJ reports, Case Concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon V. Nigeria: Equatorial Guinea intervening), Judgment Of 10 October 2002.

General), arbitration (ad hoc or according to annex VII UNCLOS or judicial settlement (ICJ/ITLOS)).⁷²

Methods of settling differences and disputes about overlapping entitlements include resolving any sovereignty differences, the establishment of a complete boundary, a partial boundary or a joint area, or combining some of those methods. Maritime boundaries are to be established by agreement in accordance with international law. Disputes and differences about sovereignty will be resolved by examining which State has more activity on the disputed territory.⁷³

The International Court of Justice (ICJ) is the principle judicial organ of the United Nations; a body comprising of 193 member states.⁷⁴ It is therefore tasked with settling disputes that might arise between these countries using international law and other sources as determined by the law.⁷⁵ The most international convention that the ICJ has evoked is the United Nations Convention on the Law of the Sea (UNCLOS).⁷⁶

The major criticism of the UNCLOS has been that Articles 74(3) and 83(3) of the Convention; the only provisions that deal directly with the duties of States ‘pending agreement’ on delimitation, do not contain any express rules against the prohibition of any particular oil and gas activities in the disputed area. Instead, they impose an open-ended obligation on States to refrain from any acts that would ‘jeopardize or hamper’ the final delimitation agreement. Yet, the question about what kind of economic activities would have the effect of jeopardising or hampering the final delimitation agreement remains critically unanswered.⁷⁷

Previously, petroleum operations in disputed areas attracted an international obligation to refrain from undertaking any acts related to drilling of wells, establishment of installations and appropriation of petroleum.⁷⁸ This obligation seems to derive from conventional law, such as UNCLOS, and is also said to be reflected in customary international law as a general obligation of ‘mutual restraint’. On the other hand, seismic exploration surveys have traditionally been considered as being ‘legally permissible’, even when conducted without the other interested

⁷² Supra note 55

⁷³ Ibid

⁷⁴ Article 92 of the Charter of the United Nations, 1945

⁷⁵ Article 38 of the Statute of the International Court of Justice

⁷⁶ United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3.

⁷⁷ Yiallourides C. “Oil and Gas Development in Disputed Waters Under UNCLOS”, available at; <https://core.ac.uk/download/pdf/82962947.pdf> (accessed on 15th May, 2021)

⁷⁸ Lagoni R. 1984. “Interim Measures Pending Maritime Delimitation Agreements”, UCL Journal of Law and Jurisprudence, AJIL 345.

parties' consent. The reason offered for the above distinction is that, whereas the former acts can have a permanent physical impact on the marine environment of the disputed area, seismic surveys, due to their transitory character, cannot have such effect.

The justification for such a principle that tends to deviate from current international law is that it was gotten from case law that predated the 1982 Convention, such as the *North Sea Delimitation Cases of 1969*,⁷⁹ the *Aegean Sea Case of 1976*,⁸⁰ and the *Fisheries Jurisdiction Case of 1974*.⁸¹

Given that UNCLOS only came into force in 1994, it follows that most, if not all, of these cases had been adjudicated on the basis of the 1958 Continental Shelf Convention.⁸² However, the 1958 Convention did not contain any rules or provisions dealing with the rights and obligations of States pending delimitation. Such provisions in the form of Articles 74(3) and 83(3), for example, were only introduced by the 1982 Convention: that is, 24 years later.

Presently, under both conventional⁸³ and customary⁸⁴ international law, all coastal States are entitled to a continental shelf area, extending to at least 200 nautical miles (nm) from their coastal baselines, over which they enjoy sovereign rights for the purpose of exploring and exploiting their subsea natural resources. These rights exist ipso facto and ab initio in the sense that no special legal acts or declarations need to be performed for such rights to be enacted.⁸⁵

Likewise, all coastal States are entitled to an Exclusive Economic Zone (EEZ)⁸⁶ extending up to 200nm from the coastal baselines over which they also enjoy sovereign rights for the purpose of exploring and exploiting their offshore natural resources, though this zone applies both to non-living, such as oil and gas, and living resources, such as fisheries.⁸⁷

⁷⁹ North Sea Continental Shelf Cases (Germany/Denmark; Germany/Netherlands) (Judgment) [1969] ICJ Rep 3

⁸⁰ Aegean Sea Continental Shelf (Greece/Turkey) (Interim Measures) [1976] ICJ Rep 3

⁸¹ Fisheries Jurisdiction Case (United Kingdom/Iceland) (Merits) [1974] ICJ Rep 3.

⁸² Convention on the Continental Shelf (adopted 29 April 1958, entered into force 10 June 1964) 499 UNTS 311

⁸³ Articles 76 and 77, UNCLOS

⁸⁴ Continental Shelf Case (Libya/Malta) [1985] ICJ Rep 15 para 39.

⁸⁵ David M. 1999. "Joint Development of Common Offshore Oil and Gas Deposits: "Mere" State Practice or Customary International Law?", AJIL 771, 775.

⁸⁶ Article 57, UNCLOS

⁸⁷ Ibid. See also, David JA. 1987. "The Exclusive Economic Zone in International Law" Clarendon Press, pp. 54- 61.

In the event that a State's right of a continental shelf or EEZ overlaps with that of another State, the process of maritime delimitation must be initiated as a means to determine where the dividing line between the two entitlements lies.⁸⁸

This definitional framework gives rise to an important distinction: the entitlement to a certain maritime area and the delimitation of that area between two, or more, adjacent or opposite coastal States.⁸⁹ On the one hand, delimitation is in issue or becomes necessary only once overlapping claims have occurred and on the other hand, the inherent nature of a coastal State's sovereign rights over its continental shelf means that this maritime area appertains to the State, regardless of whether it has been previously delimited or not.⁹⁰

Therefore, the International Court of Justice (ICJ) has resolved in its *Libya/Malta judgement*, that the questions of entitlement to continental shelf, on the one hand, and of delimitation of continental shelf on the other, are not only distinct but are also complementary.⁹¹ Indeed, the process of delimitation, cannot constitute, or derogate from, the general entitlement under international law of each state to its portion of the continental shelf. Accordingly, maritime delimitation is not used to determine what a State's entitlement to a continental shelf, and/or an EEZ is, but rather to draw a dividing line between areas which already appertain to one or other of the States affected.

It is therefore settled now that should a maritime boundary dispute be brought before the ICJ, the above methodology will guide the court in establishing the extent of each party to the dispute.

It follows that international law governs different aspects of Oil and Gas. Starting with the important aspect of onshore and offshore oil, dispute settlement and the rest as above discussed.

2.3. The EITI Legal Framework

The EITI is the global standard for the good governance of oil, gas and mineral resources. When implemented by a country, the EITI ensures transparency and accountability about how a country's natural resources are governed. This ranges from how the rights are issued, to how the resources are monetised, to how they benefit the citizens and the economy. The Standard

⁸⁸ Douglas MJ & Philip MS. 1988. "Ocean Boundary Making: Regional Issues and Developments" Croom Helm, p. 17

⁸⁹ Daniel PO (ed). 1982. "The International Law of the Sea", Clarendon Press, Vol. 1, pp.691-692

⁹⁰ Churchill R. & Ulfstein G. "Marine Management in Disputed Areas: The Case of the Barents Sea", Routledge, p.86.

⁹¹ Supra note 72, Paras 27 & 28

is composed of two parts. Part I deals with the implementation of the Standard and part II deals with the governance and management of the international EITI.⁹²

What is now known as the EITI evolved from the first statement of the EITI Principles agreed at the Lancaster House Conference in June 2003. Today, the EITI Standard contain these and all the requirements for implementing the EITI. These beliefs and aims are endorsed by all EITI stakeholders.⁹³

The EITI Principles provide the cornerstone of the initiative. They are: We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.

1. We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interest of their national development.
2. We recognise that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.
3. We recognise that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.
4. We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
5. We recognise that achievement of greater transparency must be set in the context of respect for contracts and laws.
6. We recognise the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
7. We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.

⁹² <https://eiti.org/standard/overview>

⁹³ <https://eiti.org/document/eiti-principles>

8. We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business.
9. We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.
10. We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
11. In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors and non-governmental organisations.

Section 3 of the EITI Standard provides for requirements that must be adhered to by countries implementing the EITI. The EITI Requirements are minimum requirements and implementing countries are encouraged to go beyond them where stakeholders agree that this is appropriate. Stakeholders are encouraged to consult additional guidance materials on how to best ensure that the requirements are met. They include an oversight by the multi-stakeholder group which is constituted of the government, the IOC, the Civil society, a multi-stakeholder group and a plan for extraction. Secondly, a legal and institutional framework, including allocation of contracts and licenses. There must be exploration and production of Oil and Gas; comprehensive disclosure of taxes and revenues; social and economic spending on the local communities; and assessment of outcomes and impact.

Section 6 provides for participation of civil society. This is because the active participation of civil society in the EITI process is key to ensure that the EITI leads to greater accountability. Section 7 provides for the expectations for EITI supporting companies which are inter alia; to publicly declare support for the EITI Principles and, by promoting transparency throughout the extractive industries, help public debate and provide opportunities for sustainable development.

2.4. Conclusion

The oil and gas sector has over the years developed a well-structured and elaborate legal framework as showed above. This framework is what this paper sought to compare to the standard developed by the EITI.

The literature that has been written about the Oil and Gas Industry is vast. The above review is not conclusive as there is wide literature at the reader's disposal. However, the selected literature will guide rest of the discussion that follows in this paper.

CHAPTER THREE: RESEARCH METHODOLOGY

3.0. Methodology

3.1. Introduction

In seeking answers to the research problem, this section describes the research design the study population, sample size, research instruments, data collection procedures and data analysis and limitations of the study.

3.2. Geographical scope

The study focused on the areas and components around the Uganda-Tanzania oil pipe line project under the Ministry of Energy and mineral development. The study also included most of the other state and donor agencies that work with or under the oil pipeline project.

3.3. Content Scope

The study focused on analyzing and examining the EITI that have been passed and implemented by the oil and gas project and their feasibility on Uganda.

3.4. Time scope

The study covered the period of 2010 to 2021

3.5. Theoretical literature review

This study based its findings and analysis on the principal-agency theory. The principal-agency theory according to Chiappori and Salanie as cited by Basheka,⁹⁴ the underlying principle of the principal-agency theory is that there should be a clear understanding of the needs of the principal and ability of the agent to meet these needs competently. Principal must closely monitor agents' performance; create reward structures that reinforce desired performance. Indeed, when a procurement contract is well defined and planned, the principal and agents find it easy to meet needs of each other in an efficient way resulting into timely execution of the contract. The principal-agent theory can proudly be applied to this study with a case company or government as a principal and contractors or service providers or suppliers as agents. The theory becomes significant to the study as it highlights the need for robust contractual and negotiation requirements and specifications as well as the objective process of monitoring the feasibility of oil and gas projects. When contract requirements, team roles and responsibilities and KPIs are well defined, the principal and agents will find it easy to meet needs of each other

⁹⁴ Oluka, P & Basheka C, Determinants and constraints to effective procurement contract management in Uganda, a practitioner's perspective 2012

in an efficient way resulting into timely execution of the contract in predetermined performance level.⁹⁵

3.6. Research Design

The researcher used the qualitative design which includes interviews, structured questionnaires directed to specific groups of people especially those with reliable information that is important to the progress of this research. Data analysis through published documents and literature that is relevant to the topic in question was also used. The researcher used this design because it allowed the researcher to compare many different variables at the same time.⁹⁶

3.7. Target Population

This study was carried out on the Uganda-Tanzania oil pipeline project and the related partners on the project implementation. The study was carried out from specific organizations and ministries that are responsible for policy making in Uganda of which these policies have an effect of the political welfare of the country and in turn affect pertinent projects like those projects that require project financing.

The target population is meant to be specific to Ministry of Energy and Mineral Development of Uganda since oil and gas projects fall under this ministry. The researcher also looked at other government agencies that are key players in this project namely; the Ministry of Finance since some of the approval personnel for the finance of these projects fall under this ministry, Bank of Uganda is a key strategist to ensure that the money accessed for the projects will be paid back and Parliament of Uganda which is the legislative arm of the nation where policies are made which in turn can either positively or negatively affect the political atmosphere of the nation.

The researcher focused on this target group because they have their headquarters in Kampala and have reliable information that guided the researcher to ensure that the pertinent purpose of research is achieved.

3.8. Sample and its Determination

The sample size was based on specifications that are in line with the topic in question. The targeted population in the organizations identified above was specific to officials responsible

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

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

to the pertinent issues that are crucial to the success and upbringing of the research. Sampling was used because these samples allow a higher confidence level when seeking results.

3.9. Sampling Techniques

Since it is difficult to carry out research from the entire population, it is important to sample. Sampling is the process of selecting a suitable sample, or a representative part of a population for the purpose of determining parameters or characteristics of the whole population.⁹⁷

Purposeful sampling as a sampling technique was applied and used in conducting this research. It endeavors to categorize information that is relevant for in depth study. It further involves identifying and selecting individuals that are knowledgeable about or experienced with the choice of topic in question.

Convenience sampling was also applied in the study. This particular sampling procedure involves identifying and selecting respondents depending on their availability for study. Convenience sampling is an articulate approach to obtain a reasonable sample.

3.10. Data Collection Methods

In order to conduct the research in a qualitative manner, the data was obtained from key informant interviews with key and specific individuals from different organizations that have been highlighted. Different documents were also reviewed as part of the study.

3.10.1. Survey-research data collection method

The survey-research data collection method was also used and here the researcher selected a sample of respondents from a population and administered a standardized questionnaire to them. The questionnaires or survey can be a written document that is completed by the person being surveyed, an online questionnaire, or a face-to-face interview.

3.10.2. Questionnaire Survey

Scholars such as Kothari, (2004) have recommended structured guidelines for use of questionnaires as a tool for data collection. This method was used as one of the means of acquiring data from the sample population.

3.10.3. Interview Method

Structured questions constituted the interview guide while interviewing the intended respondents. Interviews are of importance for data collection because they allow the research

⁹⁷ Amin M, Social Science research concepts, methodology and analysis, Makerere University Kampala (2005)

to be controlled as to the construction and gathering of the data and is flexibility enough to allow issues that emerge during the dialogue and discussion to be probed and further analyzed.

3.10.4. Documentary Analysis

Relevant secondary data from publications, textbooks, journals, scholarly articles and reports on both local and international perspectives was used to back up and amplify the primary information gathered in the processes of finding reasonable solutions for the research problem in question. The use of documents helped the researcher to get comparative analysis from other instrumental writers in the field of study.

3.11. Data Analysis Plan

The study used qualitative data analysis. Data analysis is the process of bringing order, structure and meaning to the mass of collected data.

This involved and included brief descriptions, explanations, or instructions and can also be presented in prose tables. This kind of descriptive information, however is presented in an essay like-prose or even lists. The purpose of analyzing data is to obtain usable and useful information. The analysis may describe and summarize the data, identify relationships between variables, compare variables, identify the difference between variables and forecast outcomes.

3.12. Qualitative data analysis

Qualitative data analysis is usually based on an interpretative philosophy. This provides some form of processes and procedures whereby there is more from the qualitative data that have been collected into some form of explanation, understanding or interpretation of the people and situations being investigated.

This is to examine the meaningful and symbolic content of qualitative data. For example, analysis of interview data, the researcher will be attempting to identify any or all of; someone's interpretation of the world, why they have that point of view, how they came to that view and what they have been doing. This process of Qualitative data analysis usually involves two things; writing and identification of themes.

3.13. Sources of Data

The researcher collected data from both primary and secondary resources

Primary data: this was obtained through the use of structured questionnaires method which necessitated the administration the survey.

Secondary data: this was collected through review of various publications and reports that relate to the success of the study in question. These were both local and international publications.

3.14. Ethical considerations

The goal of ethics in this research is to ensure that no one is harmed or suffers adverse consequences from the research activities. The researcher's aim was to protect the rights of the respondents by: Ensuring that none of the respondents is named during the research or subsequent thesis, ensuring that the respondents are selected to participate without bias thus giving the respondents confidence.

The researcher endeavored to inform the respondents about the reasons and purpose of the research by obtaining an introductory letter from the academic registrar of Uganda Christian University. More so the researcher ably informed the respondents that consent was sought from management of the company before the commencement of research initiative.

CHAPTER FOUR: CHALLENGES ENCOUNTERED IN HARMONIZING THE LEGAL FRAMEWORK WITH THE EITI STANDARD.

4.0. Introduction.

The layout of the laws that govern the OGM in Uganda seem to be detailed and well elaborated. This is perfect to the extent that the standard set by EITI seems to fit perfectly into the laws of Uganda. However, there still remains a doubt of whether the two can be said to be in synch.

Uganda has been described by the oil industry press as Africa's 'hottest inland exploration frontier'. Exploration is taking place across the entire Albertine Rift in Uganda, with five out of nine oil-prospecting blocks established by the government currently allocated to companies for exploration purposes. Current estimates put the country's oil potential at around 2.5 billion barrels of recoverable reserves from the three blocks that have so far been drilled. Some analysts anticipate Uganda's Albertine Graben may hold more than 6 billion barrels of oil, placing Uganda among the foremost African oil producers. Given the volatility of oil prices, it is difficult to estimate Uganda's likely revenues from oil. Yet, if production goes ahead without hitches, the country's budget looks likely to receive a major windfall – potentially doubling Uganda's revenue base within six to ten years.

This boost to national income offers Uganda a unique and exciting chance to alleviate poverty and create broad-based development and improved standards of living across the country. But international experience points to challenges which are often faced by resource-rich developing countries in translating mineral wealth into peace and prosperity. Much has been written about the "resource curse". Developing countries that become reliant on oil and minerals can see a deepening of a range of political, economic and social challenges.

4.1. The paradox of plenty- resource curse

In trying to discuss the resource curse it is very important to understand term "oil curse". This is coined from the wider term "resource curse". It refers to the tendency of oil- rich (resource-rich) countries to have weaker economic performance than countries without oil (resource-poor) countries.⁹⁸Resource-poor countries are forced to innovate and attain economic viability. By contrast, resource-rich countries suffer the paradox of plenty and remain poor. In simple terms, the oil curse is a situation whereby abundance of tradable natural oil reserves paradoxically leads to economic stagnation, the death of other traditional and non-traditional

⁹⁸Michael L. Ross, *The oil curse: How Petroleum wealth shapes the Development of Nations*, 2012, Princeton University Press, p.13

exports such as agricultural and manufactured products, and conflicts over the allocation of the oil resources.

Common features have emerged of the oil curse which include increased chances of conflict in a country; the tendency for the real exchange rate to become overly appreciated; exposing the country to volatility, especially in commodity prices, with the attendant adverse impact on growth; environmental costs: Oil operations damage the environment and have adverse effects on the livelihoods of the communities around the production areas; the cash economy created by oil undermines those trying to work for longer-term and more sustainable development initiatives. People become disinterested in anything that does not deliver instant cash, with agriculture and industry as the prime casualties. The growth of oil cash culture therefore undermines real and sustainable development.⁹⁹

The usual explanation for this is the Dutch Disease, named for the hardships that befell the Netherlands after it found North Sea gas. When a country strikes hydrocarbons, a sudden inflow of dollar-denominated revenues often leads to a sharp appreciation in the domestic currency. That tends to make non-oil sectors like agriculture and manufacturing less competitive on world markets, thus leaving oil to dominate the economy. Jeffrey Sachs and Andrew Warner have provided that the hypothesis of the Dutch Disease syndrome is that countries with abundant natural resources tend to innovate at a slower pace than resource-poor ones.¹⁰⁰ The reason for this is over dependence on the easy money accruing from natural resources, which undermines the linkages between the various sectors of the economy that usually serve to keep the economy strong and healthy.

The key weakness of the Resource-Curse Argument is that it misses one key point, namely, that the real source of the curse is not the natural resource. It is the economic and political mismanagement. This arises from weak state capacity to use windfall revenues to steer the country to economic growth and development. It arises from weak laws, policies and institutions incapable of properly governing the oil-resource for long-term development and the inability to utilize the oil revenues to transform the national economy from primary commodity production to higher value-added industrial and information activities.

⁹⁹Arthur B, Hope K, Benson T, Escaping the Oil Curse and Making Poverty History: A Review of the Oil and Gas Policy and Legal Framework for Uganda, 2006, ACODE, Kampala, Policy Research Series No. 20, p.5.

¹⁰⁰See, Indra de Soysa, 2000. The Resource Curse: Are Civil Wars Driven by Rapacity or Paucity?, Journal on Greed and grievance: economic agendas in civil wars.

Indeed, for example, evidence shows that the link between oil and political violence is a result not of resource abundance *per se* but poor economic growth, high corruption and authoritarianism. By implication, resource abundance begets poor performers in some cases, and good performers in others. For example, the abundance of oil in Nigeria blocked, rather than promoted, economic transformation. Political instability for example in the Niger Delta, accrued as rival claimants to the political economy disagreed violently over the allocation of the oil resources. In other words, resource abundance was a curse rather than a blessing for Nigeria.

By contrast, countries such as Norway have benefited from the oil- resource abundance. Norway, for example, was one of the poorest countries in Europe by the time of its oil discovery. In the 1960s, Norway still lagged behind its Scandinavian neighbours in GDP per capita and other economic indicators. By the 1990s, Norway had overtaken Denmark and Sweden.¹⁰¹ Today, Norway is one of the world's richest and well-governed countries, with some of the best human development indicators. The paramount question that then arises is, how one explains the economic record of oil-rich Norway in comparison with oil-rich disasters such as Nigeria and what lessons of good practice can Uganda draw from both effective and ineffective performers.

There is a claim that Uganda has designed robust ownership structures and people-led laws and institutions to man the nascent petroleum industry before production starts, to avoid the so-called 'oil curse.' "We need to build human capacity and create institutions that can manage the resources right from the beginning," President Yoweri Museveni said during the East African Petroleum conference and exhibition in Kampala. "We even had to suspend licensing of oil companies until core staffs in petroleum geo-sciences were trained and the necessary institutions created."¹⁰² In order to ensure that the resource will be used to yield lasting benefits to the present and future generations, there is need for a sound regulatory environment that fosters transparency in oil revenue allocations, and since the EITI is acclaimed to have this antidote therefore the need to analyze its potency in this regard as far as Uganda is concerned.

¹⁰¹Hildegunn Kyvik Nordas and Ola Kvaloy, *Oil Related Producer Services and Productivity: the case of Norway*, 2000, London, Sweet and Maxwell, p.28

¹⁰²Ibrahim Kasita, *Uganda: Nation Positions Itself to Prevent Oil Curse*, the New Vision, 9 February 2011

4.2. Illicit Financial Flows

Over the last two decades, great strides have been made in terms of holding extractive industries accountable. More information than ever about revenue flows to governments from the oil gas and mining industries is now publicly available.¹⁰³ But new research suggests that such information disclosure, while important, is not by itself enough to hold companies to account, and address issues like Illicit financial flows.¹⁰⁴

While there is some evidence that Transparency in the extractives sector can contribute to greater accountability, the question of whether this leads to more accountability, or to broader governance, social and development outcomes remains largely unanswered. Moving forward, it is therefore considered critical to distinguish whether transparency is conceived as means to achieve a further end, or whether it is seen as an end in itself.¹⁰⁵

Issues of accountability relating to the extractives industries are global and longstanding. The theory of change in the transparency gospel is that through making information available, the public will be able to hold these companies more accountable for their actions, and diminish corruption and illicit financial flows.¹⁰⁶ As a result, “impact” tends to be measured in terms of compliance with standards or changes in procedures at the organisational or institutional level, rather than broader development or governance outcomes.

A recent study in Mozambique¹⁰⁷ questions this theory of change. The research explored why greater transparency of information has not necessarily led to greater social and political action for accountability. Like many African countries, Mozambique is experiencing massive outside investments in recently discovered natural resources, including rich deposits of natural gas and oil, as well as coal and other natural minerals.¹⁰⁸ Over the last decade, NGOs have done brave

¹⁰³ Gaventa J. (2019), Can transparency make extractive industries more accountable?, 8th February, [online] Available at; <https://www.ids.ac.uk/opinions/can-transparency-make-extractive-industries-more-accountable/> (Accessed; 29th August 2020), As demonstrated at the Global Assembly of Publish What You Pay held in Dakar, Senegal

¹⁰⁴ Ibid

¹⁰⁵ In other words, a clearer distinction needs to be made between short term outcomes (transparency), intermediate outcomes (e.g. participation and accountability), and long term outcomes (social and developmental gains).

¹⁰⁶ Julia VH. (2015), Theoretical Framework For Financial Flows In The Extractive Sector, May, [online] Available at; <https://www.colaboratorio.org/wp-content/uploads/2017/05/Marco-te%c3%b3rico-flujos-extractiva.pdf> (Accessed; 29th August 2020)

¹⁰⁷ Awortwi, N. & Nuvunga, A. (2019) Sound of One Hand Clapping: Information Disclosure for Social and Political Action for Accountability in Extractive Governance in Mozambique, IDS Working Paper 523, Brighton: IDS, [online] Available at; <https://opendocs.ids.ac.uk/opendocs/handle/20.500.12413/14305> (Accessed; 29th August 2020)

¹⁰⁸ Ibid

and often pioneering work to elicit information on the extractive industry, and to publish it in hard-hitting reports, widely reported in the press, and discussed at high-level stakeholder meetings.

Yet, neither these numerous investigative reports nor the EITI validation reports have inspired social and political action such as public protest or state prosecution.¹⁰⁹ Corruption and illicit financial flows continue, and despite the newfound mineral wealth, the country remains one of the poorest in Africa.

If information disclosure has not been enough to galvanise citizen and institutional action, then what possibly can? This paper therefore suggests that more than mere transparency should be done. Use the information intentionally to foster and promote citizen action, strengthen grassroots participation and voice on mining issues and improve links with other related civil society movements working on gender, climate and tax justice in the extractives field. It should now be widely recognised that transparency needs to be accompanied by measures to encourage uptake and use for accountability purposes.¹¹⁰

Coming out at a time where increasing push back and repression threaten the space for citizens¹¹¹ to speak the truth to power, this is a bold call and to that end, Gaventa (2019) suggests that new ways to communicate work be found to accommodate constituencies like rural youth. Use local framings like the Ogoni leaders and oil companies in the Niger Delta,¹¹² Build economic literacy at the local level, and build alliances as well because the civil society cannot do it alone, they need support mobilisation from below, and help to shape the larger political incentives that give teeth to voice. In a time of increasing threats against those who

¹⁰⁹ Awortwi, N. & Nuvunga, A (2019) Beyond Information Disclosure to Achieve Accountability in the Extractive Sector, February, Issue 163, [Online] Available at; https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/14304/IDS%20PolicyBriefing%20163_online.pdf?sequence=1&isAllowed=y (Accessed; 29th August 2020)

¹¹⁰ McGee, R. & Gaventa, J. (2010) Review of Impact and Effectiveness of Transparency and Accountability Initiatives: Synthesis report, 14-15 October, [online] Available at; <https://www.ids.ac.uk/download.php?file=files/dmfile/IETASynthesisReportMcGeeGaventaFinal28Oct2010.pdf> (Accessed 23rd August 2020)

¹¹¹ Hossain, N.; Khurana, N.; Mohmand, S.; Nazneen, S.; Oosterom, M.; Roberts, T.; Santos, R.; Shankland, A. and Schröder, P. (2018) What Does Closing Civic Space Mean for Development? A Literature Review and Proposed Conceptual Framework, IDS Working Paper 515, Brighton: IDS, [online] Available at; <https://opendocs.ids.ac.uk/opendocs/handle/20.500.12413/13962> (Accessed 23rd August 2020)

¹¹² Ogoni leaders use the framing to mideekor in the Ogoni struggle to hold the oil companies to account. Mideekor refers to a local labour practice where the owners of palm trees hire fields to palm wine tappers. The tappers keep the produce for the first four days for themselves, but the fifth is the landlord's mideekor. To renege on the mideekor is culturally unacceptable. Using this concept to explain the responsibilities of the oil companies to pay their mideekor to the local communities helped to build the movement.

use information to challenge powerful extractive companies, this work is more important than transparency alone.

A recent study produced by Global Financial Integrity (GFI)¹¹³ estimates illicit financial flows out of all developing countries at \$858 billion to \$1.06 trillion a year. Among developing countries, Africa presents the most analytical difficulties because countries with inadequate data account for nearly 37 percent of regional GDP. One thing is certain: while African countries have had to shoulder a heavy debt burden, a number of researchers¹¹⁴ have shown that sustained illicit outflows have turned the continent into a net creditor to the rest of the world.

Seminal research¹¹⁵ at GFI on the absorption of illicit funds show that while some of the private assets held outside their countries by developing country nationals may be legitimate, the bulk of such funds are certainly not. This is because estimates of illicit capital outflow provided by economic models such as the World Bank Residual model and the Trade Misinvoicing account for the bulk of deposits reported by banks to the Bank for International Settlements (BIS) and by offshore financial centers.

4.3. Conclusion

It can be deduced from the above discussion that the issue is not a disparity between the requirements of the EITI and the laws of Uganda but the outside projected issues that are capable of eating up the system without any respect to the laws in place.

¹¹³ Illicit Financial Flows From Africa Hidden Resource For Development www.gfip.org

¹¹⁴such as Ndikumana and Boyce (2008),

¹¹⁵In December 2008 Global Financial Integrity released its ground breaking analysis of Illicit Financial Flows from Developing Countries: 2002-2006 its estimated such flows at \$859 billion to \$1.06 trillion a year.

CHAPTER FIVE: FINDINGS, RECOMMENDATIONS AND CONCLUSION.

5.0. Introduction

This chapter presents conclusion of the study on the thesis above. It summarizes the observations, findings and discoveries made during the researcher's time of the study. It also provided recommendations to ensure that the fear of the external factors is expunged and confidence instilled in the laws we have.

5.1. Summary findings

a. Positive findings

From the study, the researcher was able to deduce on a number of findings in regards to the legal frame work of Uganda as far as the Oil and Gas sector is concerned. The researcher also made discoveries on the new framework that the EITI is adding to the already existing law and how the two interact.

First of all, the researcher noticed that Uganda has well laid out laws that govern Oil and gas. This process of producing Oil and Gas is in three stages; upstream, midstream and downstream. The Ugandan laws try to provide and cater for all these stages with statute law and it is well elaborate to envisage most of the important aspects of Oil and Gas like pollution, decommissioning to mention but a few.

Secondly, the structure of the Ugandan laws governing Oil and Gas is impressive. At the top is the constitution which is the supreme law of the land. Then the parliament and the relevant ministers have passed ample laws to manage the operations of this sector. Uganda has developed model agreements which intending contracting parties can access for their information regarding what terms are favourable and acceptable to the government and the citizens as well. There is also a framework laid down by the IFIs before they can fund oil companies to extract the minerals. Lastly, there is also the respect of international law concerning oil and gas.

The researcher was also been able to assess the standard set by the EITI and have observed that EITI is an organisation of countries that deal in Oil and Gas. It has a standard of 12 sections and two chapters which lays out what is expected for the sustainable use of the resource. Uganda joined the EITI in 2020 and therefore adopted the obligations expected thereunder.

The legal framework that governs oil and gas in Uganda and the standard given by the EITI are not mutually exclusive. They agree on many fronts but notably on the environment and

communities. They complement each other in achieving a clean and sustainable use of Oil and Gas. However, the researcher noted that the challenge arises when independent and external factors are brought into the picture. Issues like corruption, illicit financial flows and the lack of transparency, affect the ability to follow the known laws and set standards and in the long run, it might bring the birth of a resource curse.

b. Potential threats

In as much as there is quite a lot to commend Uganda upon, the researcher fears that the threats weigh slightly heavier. In study the researcher discovered that if the right things are not done, there is a possibility this could as well prove to be problematic for Ugandans.

Firstly, the threat of a resource curse is ever growing. As the researcher earlier discussed, a resource curse is the failure of a country to benefit from the rich natural resource because of many issues as the researcher will re-echo shortly. This mismanagement will see the resource curse become the ultimate damnation of Uganda's economy. If the country chooses to take on more loans because of the confidence in what the oil reserves could easily pay off, we stand a big chance of not ever benefitting from the resource. Continued mismanagement of a non-renewable resource will leave the country in a worse state than it found it when it finally depletes.

Secondly, there is the threat of the Dutch disease effect. This is where a country over invests and relies on one sector at the expense of other sectors. In the long run, the country depletes the resource and the other would have been sustainable sectors are affected.

The term Dutch disease was coined by The Economist magazine in 1977 when the publication analyzed a crisis that occurred in The Netherlands after the discovery of vast natural gas deposits in the North Sea in 1959. The newfound wealth and massive exports of oil caused the value of the Dutch guilder to rise sharply, making Dutch exports of all non-oil products less competitive on the world market. Unemployment rose from 1.1% to 5.1%, and capital investment in the country dropped.

Dutch disease became widely used in economic circles as a shorthand way of describing the paradoxical situation in which seemingly good news, such as the discovery of large oil reserves, negatively impacts a country's broader economy.

The name was coined out of the oil discovery which means that this effect is usually concerned with the discovery of Oil and Gas. Uganda has the opportunity to make right decisions so that the country does not take the same path.

Corruption is another threat that is imminent on the prosperity of the Oil and gas sector. Uganda is well known for having laws to combat corruption and there is no question about this. However, the query is raised on the implementation of this law. Uganda has suffered in the past with instances of corruption and embezzling of funds meant for different communities. It follows that with the amount of money that the Oil and Gas sector is capable of bringing to the economy, if the bad spirit of corruption continues to haunt the leaders of the country, there is no guarantee that this money will ever benefit the citizens of Uganda.

There is a threat of Illicit Financial Flows. The Organization for Economic Cooperation and Development (OECD) defines Illicit Financial Flows (IFFs) as a set of methods and practices aimed at transferring financial capital out of a country in contravention of national and international laws. This definition includes methods and practices whether merely illicit or illegal. With corruption ever looming around, there is a possibility that money embezzled from the oil and gas sector will not even be used for the development of the economy but rather sent to countries with tax havens in order to dodge taxation from the taxing authority.

It is important to note that the existence of weak political institutions in Uganda and the lack of political will highly contribute to illicit financial outflows. Most of the behaviours that support IFFs such as tax evasion, transfer pricing, drugs, among others flourish in the absence of a strong political will.

There is a present threat of poor implementation of the law. Uganda, as earlier hinted on has impressive laws that are elaborate and well structured. However, the implementation of this law has in the past proven to be futile. The rule of law is not a virtue that the Ugandan politics cherish and as such, there is fear that the implementation of laws concerning oil and gas might follow the same trend. The difference is that this mistake will have adverse effects on the population and the environment now, and many more generations to come.

The other threat is poor budget allocation. In the recent past, there has been a lot of criticism on how Uganda has allocated its resources in the face of pressing issues. Poor budgeting can be a fertile ground for the oil curse or the Dutch disease if it is not curbed. Budgeting for this

sector should be well planned out given the fact that in the coming years, this sector could as well fund the entire budget of the country.

The other threat is the relaying of information to the citizens. In a social contract, the leaders to whom the mandate has been given owe the citizens transparency and information delivery. The citizens should be able to understand what is going on in the oil and gas sector. It is important to note that this should not just be the releasing of technical reports which can be comprehended by a few educated citizens. The information must be communicated effectively to ensure that the communities comprehend and react to the information. Involvement in the making of certain decisions will bolster confidence in the leaders.

The aspect of long-term strategic planning is important and if it not considered, there is a threat of failure to optimally benefit from the resource. The country must be able to project its expected fruits from these ventures and what is best for the country. This will in essence save the country from catastrophic decisions and will secure the future of the development of the sector.

There is also a serious threat of the use of the decommissioning fund for other purposes other than that for which it is designated. The decommissioning fund is an amount of money set aside for the purpose of cleaning up and closing the business of oil drilling when the oil is done. It is a requirement that this money be set aside after before the commencement of the oil drilling to guarantee that the licensee will clean up after their work. This money is submitted to the government. If Uganda decides to utilise this money for other reasons and when it is decommissioning time it is not present, it will have diverse effects on the environment and the population that is supposed to use that land after the oil drilling is done.

There is also a fear that most of the work that is already done was done without obtaining consent from the locals. This consent should never be empty promises. It must be free, prior and informed consent that is to say that the licensee must first inform the local communities of everything going to be done so that the community can give their free consent. The aspect of compensation must also be strictly adhered to. It must be done prior to the taking over of the land.

5.2. Recommendations

Resource-dependent countries with poor socio-economic development often fail to optimally benefit from their natural resource wealth. These countries face slow economic growth and, in

some cases, become entangled in violent conflicts. For instance, Chad, the Democratic Republic of Congo, Guinea and Mauritania, whose natural exports contribute close to 90% of total exports-are also the countries with the lowest per capita income in the world; unaccountable and mismanaged institutions, coupled with the discovery of natural wealth, are believed to be the root cause of economic failure and conflicts. Some empirical evidence suggests a robust correlation-often described as the ‘resource curse’- between natural resource dependency and economic growth.

When citizens lack a sense of public ownership of state revenues, it is easier for governments to maintain secrecy over revenues and expenditures from extractives. Furthermore, when the extracting company pays taxes directly to the state, citizens have minimal oversight regarding the flow of revenue and expenditure. This lack of information and ownership towards resource revenue leads to an accountability deficit and spurs on the illicit moving of funds out of the extractives sector.

Several multi-stakeholder initiatives should be established to encourage public disclosure of information, apart from mandating this disclosure, these initiatives should aim to create platforms for debate and to empower civil society organisations to use the information and engage with the government for better transparency and accountability and ultimately improved development outcomes.

In theory, legislators can support the governance of extractive industries in a number of ways inter alia by; securing the public disclosure of extraction contracts, monitoring compliance with contracts and laws, amending and ratifying legislation on extractive sector management, monitoring the performance of government agencies responsible for managing the extractive sector, and informing and managing expectations of the constituents and representing constituents’ interests.

Furthermore, as the volume of publicly available data on extractive industries continues to grow, the role of the media and in particular investigative journalism in making sense of this wealth of information is increasingly recognised as key component of the evolving transparency and accountability agenda.

Lack of transparency and accountability coupled with Illicit Financial Flows leads to loss of what are often desperately needed resources to fund public initiatives or critical investments like in this time of the global pandemic. Collectively, for developing countries like in the East

African region, this often represents millions of dollars in lost or foregone tax revenues that could have otherwise been collected and used for supporting sustainable economic growth, creating jobs, reducing inequality, poverty, and addressing climate change among other things. With billions of dollars estimated to be illicitly leaving developing countries every year, this drain of public resources undermines the efforts of countries to mobilize more domestic resources in order to meet internationally agreed SDGs. Therefore, transparency ought to be emphasized in order to retain the funds being lost from the extractives sector.

5.3. Conclusion

The blessing of having a precious resource like Oil and Gas must be received with much care and used sparingly for the benefit of coming generations. There are many incidences around the world where countries which were blessed with oil have gone on to be the least developed because of the curse that it carries with it. Uganda must be ready to implement all the laws it has put in place to the dot so that sustainability is achieved in the process of developing our country.

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