

**ANALYSIS OF THE EFFICACY OF LOCAL CONTENT LEGAL REGIME IN  
ENHANCING 'BUY UGANDA, BUILD UGANDA' STRATEGY IN  
UGANDA'S OIL AND GAS SECTOR.**

**BY**

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**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN PARTIALFULFULMENT OF  
THE REQUIREMENTS FOR THE AWARD OF MASTER OF LAWS IN OIL AND GAS AT THE  
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**AUGUST, 2021**

**DECLARATION**

**I, Godfrey Himbaza**, do hereby declare that this research under the Topic; Analysis of the Efficacy of Local Content Legal Regime in Enhancing Buy Uganda, Build Uganda in the Oil and Gas Industry is entirely my original work, except where acknowledged, and it has never been submitted to any other university or any other institution of higher learning for the award of a Degree. I also certify that this dissertation was prepared by me specifically for the partial fulfilment for the degree of Masters of Laws in Oil and Gas of Uganda Christian University.

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**APPROVAL**

This is to certify that this Dissertation entitled; Analysis of the Efficacy of the Local Content Legal Regime in Enhancing Buy Uganda, Build Uganda Strategy in Uganda’s Oil and Gas Industry is under my supervision and now it’s ready for submission.

**SIGNATURE**.....

**NAME: Associate Professor George W.K.L Kasozi**

**DATE**.....

## **DEDICATION**

I wish to recognize my late father's contribution to my success, May He rest in eternal peace.

I dedicate this work to him.

## **ACKNOWLEDGEMENT**

I thank the Almighty God, the source of knowledge and wisdom for having seen me throughout my studies, having been able to fund my education and enabling me to undertake my research successfully.

I also wish to acknowledge my late dad Nestor B. Kalorero and my mother Irene Kalorero who tirelessly educated me right from nursery school until I achieved my lifetime dream of becoming a lawyer. I also dedicate it to my wife Pheona Akampurira Himbaza, who supported me in one way or the other in the course of this research, and to my daughters Marlene Uwamahoro and Marcella Uwayezu and my son Marvin Mushime who have always given me moral and spiritual support as well as their love, I cannot take the support it granted. May the God bless all of you.

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## LIST OF ACRONYMS

AG	-	Auditor General,
ASCM	-	Agreement on subsidies and countervailing measures
BUBU	-	Buy Uganda, Build Uganda policy
CSOs	-	Civil Society Organization
IFRI	-	French Institute for International Relations
IOC	-	International Oil Company
KPMG	-	Klynveld Peat Marwick Goerdeler
LCLR	-	Local Content legal Regime
LCP	-	Local Content Policy
MEMD	-	Ministry of Energy and Mineral Development
NC	-	National Content
NDPII	-	Second National Development Plan
NGO	-	Non-Governmental Organization
NOGP	-	National Oil and Gas Policy
NSD	-	National Supplier Database
PAU	-	Petroleum Authority of Uganda
UNOC	-	Uganda National Oil Company
WTO	-	World Trade Organization
PSA	-	Production Sharing Agreement

## **ABSTRACT**

Local Content in the wider scheme of Oil and Gas is imperative to empower local Ugandans technically, financially as well as skills acquisition and its ramification is socio economic transformation of the population and Uganda in general. Local content empowers or is a vehicle for empowering Ugandans through technical, financial and skills acquisition aspects the total sum of which is achievement of socio economic transformation. In line with the above, in September 2014, Uganda launched the Buy Uganda Build Uganda policy. Initially, the Local content legal regime was embedded in Uganda’s Model Production Sharing Agreements and later crystalized in the Upstream and Midstream laws and regulations, and the National Local Content Act (which is yet to be assented to.) Despite the seemingly robust legal framework, several factors impede the efficacy of the Local Content legal regime in enhancing Buy Uganda Build Uganda strategy in Uganda’s oil and gas sector. This study therefore delves into an analysis of the efficacy of the local content regime in enhancing the BUBU policy. The study endeavors to make sound recommendations in addressing these factors which will lead to success of the BUBU strategy in the Oil and Gas sector in order to achieve the overarching goal of BUBU and the overall economic Development of Uganda.

## CHAPTER ONE

### 1.0 INTRODUCTION

The discovery of commercially viable Oil and Gas deposits in the Albertine Graben has presented itself with serious prospects of a strong and lucrative petroleum industry in Uganda and has raised excitement not only in government but also amongst various individual entities and other stake holders including the international community on the opportunities that will be available to leverage the resources for generation of revenue, investment and a boost to private sector development. Specifically, this discovery has raised expectations amongst Ugandans about the potential to participate and benefit from the oil and Gas subsector at different levels within the petroleum value chain. Drawing from global experiences however, there is need to have a deliberate and sustained efforts to turn this desire and potential into a real opportunity for Ugandan citizens.

This study examined the implementation of local content legal Regime in the oil and gas industry in Uganda in enhancing the buy Uganda, build Uganda strategy. Many countries engaged in Oil and Gas production or mining are introducing requirements for citizens' participation commonly referred to as „local content“. <sup>1</sup> This is increasingly so in the developing world mainly in Africa, Asia and Latin America. Local content requirements are mainly in form of policy and regulatory measures that focus at increasing use of the locally available labour, technology and other resources in the Oil and Gas sector.

In the past 10 years, a number of countries including Kenya, Ghana and Uganda have discovered commercially viable quantities of hydrocarbon reserves. This has prompted the government to come up with regulatory and policy framework aimed at ensuring that these countries' local populations significantly benefit from the oil and gas sector. For example, Uganda formulated the Oil and Gas Revenue policy, the National Oil and Gas policy, the Petroleum (Exploration, Development and Production) Act, <sup>2</sup> ( the Upstream and Midstream Acts), the Local Content Regulations and Local Content Act. Kenya enacted the petroleum Act of Kenya and National Local Content Act of Kenya, and Nigerian Oil and Gas Content Development Act.

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<sup>1</sup> Collier. The political Economy of Natural Resources, Social Research, (2010) 777(4):1105-1132.

<sup>2</sup> Act no.4 of 2013 (Parliament of the Republic of Uganda)



This has made policy makers in such countries like Kenya, Uganda and Ghana to enact legislations and policies in order to obtain greatest benefits for their economies from the extractive industry of oil and gas which are exhaustible resources by designing appropriate policies to achieve the desired goals like encouraging use of local goods and services by companies involved in the industry, creating more employment opportunities for the local population, boosting the economic benefits of the oil and gas resource to the entire economy through strengthening inter sectorial linkages in the economy aimed at improving the economic development of these resource rich countries.

In doing so, the policy makers came up with a concept referred to as Local Content which in broad terms means the extent to which the output of the extractive sector generates further benefits to the economy beyond the direct contribution of its value added through links to other sectors.<sup>3</sup> This later led to the formulation of the Local Content policies that typically require companies to give preferential treatment to nationals of the country in which they operate in matters of employment and in the procurement of goods and services.<sup>4</sup> This results into technological transfer and also initiates the ability of the country to take charge of its own development. These policies are regarded as a form of productive development policies whose main goal is to strengthen the productive structure of a particular national economy<sup>5</sup> as a way of enhancing the social welfare of people in the oil and gas sector. These requirements are either embedded in contractual agreements between governments and international oil companies or are enacted legislatively. At times they are established in bidding rules as a pre-condition for signing contracts or embedded more indirectly in regulations and tax regimes through provision of incentives to the local industries or to other companies that support local participation.<sup>6</sup>

The Government has put in place various initiatives directed towards achieving the objectives of citizen participation in the industry in order to achieve lasting benefits not only for Ugandans but for the country as a whole. Examples of initiatives put in place include capacity building, employment of Ugandan citizens at different levels in the industry, procurement and use of locally produced goods and services, technological transfer and skills

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<sup>3</sup> Silvana, Michael Warner, Manzano Osmel. E and Anouti Yahya, Local Content Policies in the Oil and Gas sector. (the World Bank, Washington DC 2013) 1

<sup>4</sup> Melo & Andres Rodriguez Clare, Productive Development Policies and Supporting Institutions in America and the Caribbean, inter-American Development Bank Research Department Competitive Series Working Paper C 106, February 2006 P.5.

<sup>5</sup> Silvana, Michael Warner, Manzano Osmel & Anouti Yahya, local content policies in the Oil and Gas sector. (the World Bank, Washington D.C 2013) 1.

<sup>6</sup> Wan slaw lecture. The petroleum sector value chain in Silvana Tordo, Brandon S Tracy & Noora Arfa (eds) National Oil companies and value Chain (World Bank working paper No. 218, 2011) pp. 8-9.

development as well as local enterprise development, which in common terms is referred to as Local Content development. Uganda being amongst the countries with a relatively young Oil and Gas industry has adopted International Standards for local content development in terms of legal and policy framework development which will however require significant efforts and collaboration amongst the relevant stakeholders in order to achieve the desired effect.

Uganda has developed policy and legal frameworks to govern Local Content that is based on international standards. The study shall analyze the efficiency of the policy and legal framework that is already in place to govern Local Content, the various regulations within the petroleum value chain, the current Local Content Act that was recently passed by Parliament and awaiting Presidential assent.

## **1.1 Background to the Study**

The background to the study is presented in four perspectives: the historical, theoretical, conceptual and contextual.

### **1.1.1 Historical perspective**

Local content became a global concern in the 1970s as countries began forming their own national oil companies.<sup>7</sup> This explains why you cannot distance local content from welfare since all the policies are aimed at improving the living standards of people in the oil and gas industry. The development of local content has basically been a result of recognition that after years of Oil and Gas or mineral exploitation in many developing countries, little seems to be transferred to the citizens of these resource-rich countries in form of technology and employment. According to Lynch,<sup>8</sup> all these efforts are basically aimed at improving the social welfare of people in the oil and gas sector since the earnings that they will get from being employed and get market from their goods will generally improve the living standards of people in the oil and gas sector.

Uganda discovered commercially viable deposits of hydrocarbons in the Albertine Graben region in 2006.<sup>9</sup> The government of Uganda embarked on an ambitious development of its legal and policy frameworks aimed at facilitating coordinated exploitation

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<sup>7</sup> Grossman. The Theory of Domestic Local Content Protection and Content Preference (2004) 96”4 Quarterly Journal of Economics p. 583.

<sup>8</sup> Lynch M (2005) A Guide to Effective School of Leadership Theories:

<sup>9</sup> Alert I. Governance and Livelihoods in Uganda’s Oil-Rich Albertine Graben, 2013 at p. 6.

of oil and gas that had been discovered in the country.<sup>10</sup> In 2008, the National oil and gas policy,<sup>11</sup> was formulated, in 2009, the formulation of the National Local Content Policy, in 2012,<sup>12</sup> the Oil and Gas Revenue Management policy was launched, in 2012, the Petroleum (Exploration, Development and Production) Act,<sup>13</sup> the Petroleum (Refining, Conversion, Transmission and Midstream storage) both upstream and the midstream Act and the National Local Content Regulations and the National local content Act which is yet to be assented to by the President.

However prior to that, Uganda had entered into Production Sharing Agreements as well as model agreements and these include the 1992 PSA, then the 1999 model, 2012 Kanywataba and Exploration area PSAs with Tullow Oil Ltd and the latest which is the 2016 Production Sharing Model.<sup>14</sup>

As observed by Gelb et al,<sup>15</sup> in most developing countries, the discovery of oil and Gas resources has been classified both as a blessing and a curse.<sup>16</sup> The reasons for being a blessing are the fact that the extraction of oil and Gas generates significant flows of revenue to the host country. According to Hansen<sup>17</sup>, “history shows that natural resources especially Oil and Gas are not necessarily an engine for economic growth due to that fact that they intend to come with distortions that slow down economic development.” Such an economic blockage has been explained by the term “Resources Curse” as explained by Auty.<sup>18</sup> The Author expounds this concept to mean instances where developing countries have abundant extractable resources such as oil & gas, or minerals but still lags behind other nations economically.<sup>19</sup>

By the year 2012, Uganda had discovered 20 Oil Fields containing 64 wells of which 59 were productive, which is approximately 2.5 Million Barrels of which between 1 billion to

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<sup>10</sup> Auty, Richard & Jose Luis Evia, A Growth Collapse with Point Resources, Bolivia. In Resource Abundance and Economic Development, edited by Richard M. Auty. Oxford University press 2001.

<sup>11</sup> The Uganda National Oil and Gas policy of 2018.

<sup>12</sup> Uganda National Local Content Policy of 2009.

<sup>13</sup> Act no 4 of 2013 (Parliament of Uganda).

<sup>14</sup> Uganda's production sharing Agreement of 2016.

<sup>15</sup> Allen Gelb and Stephanie Majerowicz, Oil for Uganda? Or Ugandans? Can cash transfers prevent Resource curse? 2011.

<sup>16</sup> Allen Gelb and Stephanie Majerowicz oil for Uganda or Ugandans Can cash transfers prevent the resource curse, 2011. Centre for Global Development working paper p.261

<sup>17</sup> Hansen. The Political Economy of Local Content in Africa Extractives: Lessons from Three Africa Countries. Paper presented 2014 at page 46 Armode, Dansk Selskab for Stateskundskab, Vejle, Denmark. p.3

<sup>18</sup> Auty, R.M Social Sustainability in Mineral -Driven Development, Journal of International Development, 10:487-500.

<sup>19</sup> Richard Auty Sustaining Development in Mineral Economics: The Resources Curse Thesis (1993) London Routledge.

1.5 billion barrels were extractable and it was estimated that if the country extracted 100,000 barrels per day, the estimated deposits would be depleted within 30 years,<sup>20</sup> and the total estimated Oil Volume in Uganda is 6 Billion Barrels. It was therefore projected that if these resources are realized and utilized in a professional, prudent, sustainable and transparent manner, the potential for Uganda to become a middle income country may be realized.

Uganda is pursuing an export led growth together with prudent macroeconomic policy and structural transformation of the economy. Notably, Uganda is slowly transforming into an emerging economy with a high business and investment potential and a safe destination for investors. This is owed to the enabling investment climate created by government compared to the previous regimes. The Government of Uganda has shown commitment in addressing the regulatory and legislative reforms in order to simplify the economic environment that the private sector needs to grow.

### **1.1.2 Theoretical perspective**

The study was guided by the Relational Theory by Freeman and Phillips which has a root from the complex firm-environment relationships. As the term implies, interrelations between the two are the focus of the analysis of local content. Relational theory is further divided into four sub-groups of theories: these include business and society, stakeholder approach, corporate citizenship and social contract.

Business and society are proposed to mean „business in society“ in which local content emerges as a matter of interaction between the two entities. One of the measures of local content is the development of economic values in a society,<sup>21</sup> which also comes after providing markets for the locally made goods and services. Another is a person’s obligation to consider the effects of his decision and action on the whole social system. Stated in the form of a general relationship, social responsibilities of businessmen need to reflect the amount of social power they have through supporting and improving the welfare of the people in that sector.

Stakeholder approach has been developed as one of the strategies in improving the management of the firm. It is also said as a way to understand reality in order to manage the

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<sup>20</sup> The Parliamentarian (2012), Issue one

<sup>21</sup> Michael & Hansen. The Political Economy of Local Content in African Extractives. Lessons from Three African Countries, Paper Presented at 46. Armode I Denmark Selskabstatskundskab Okt , 23-24, Vejle , Denmark , p.3.

socially responsible behavior of a firm. Based on Garriga,<sup>22</sup> analysis stakeholder approach is both within the integrative and ethical theories, where the former emphasizes the integration of social demands and the latter focuses on the right thing to achieve a good society. These are supported by the work of Hansen,<sup>23</sup> where balancing the interests of the stakeholders is emphasized and the work of Freeman and Phillips considers fiduciary duties towards stakeholders of the firms respectively.<sup>24</sup>

Finally, the social contract theory refers to the fundamental issue of justifying the morality of economic activities in order to have a theoretical basis for analyzing social relations between corporation and society. Hence, local content is derived from the moral legitimacy the corporation achieves in the society and understanding about local content is contained in the justification of social actions that legitimize the behavior of the corporation which focuses on enhancing the BUBU in the oil and gas sector.

## **1.2 Problem Statement**

Local Content legal regime is supposed to enhance Buy Uganda Build Uganda strategy in Uganda's Oil and Gas industry in order to achieve socio economic transformation of Uganda. Factors such as poor enforcement mechanisms, pragmatism, lack of political, information asymmetry, challenging business environment will and other factors have negated the otherwise great policy, strategy and Law governing the Local content regime which would have given Ugandans an opportunity to meaningfully participate in Uganda's Oil and Gas sector and consequently resulting into economic development of Uganda. As a result, the opportunities availed under the Local Content legal regime have not been explored. This research therefore will underscore an analysis of the efficacy of Local Content legal regime in enhancing Buy Uganda Build Uganda strategy in Uganda's Oil and Gas sector to achieve the broader goals enshrined in the national Objective and Directive Principles of State Policy and the National Oil and Gas Policy of 2008.

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<sup>22</sup> Richard Auty Sustaining Development in Mineral Economics: The Resources Curse Thesis (1993) London Routledge

<sup>23</sup> Michael & Hansen. The Political Economy of Local Content in African Extractives. Lessons from Three African Countries, Paper Presented at 46. Armode I Denmark Selskabstatskundskab Okt , 23-24, Vejle , Denmark , p.3

<sup>24</sup> Michael & Hansen. The Political Economy of Local Content in African Extractives. Lessons from Three African Countries, Paper Presented at 46. Armode I Denmark Selskabstatskundskab Okt , 23-24, Vejle , Denmark , p.3

### **1.3 Purpose of the Study**

The purpose of the study is to analyze the efficacy of the local content legal regime in enhancing buy Uganda, build Uganda strategy in Uganda's oil and gas sector.

### **1.4 General Research Objective**

To analyze the efficacy of the Local Content legal regime in enhancing Buy Uganda Build Uganda strategy in Uganda's Oil and Gas sector.

#### **1.4.1 Specific research objectives**

- i) To analyze the laws, regulations and policies relating to Local Content in Uganda and examine how they enhance the Buy Uganda Build Uganda strategy in the Oil and Gas Sector.
- ii) To identify the challenges that affect the effective operation of the Local Content legal regime in enhancing the Buy Uganda Build Uganda strategy in the Oil and Gas sector.
- iii) To make a comparative analysis of Uganda's Local Content legal regime with other legal regimes of Oil and gas producing countries.
- iv) To make recommendations and suggest best ways of achieving effective utilization of the current legal regime in enhancing Buy Uganda Build Uganda strategy.

#### **1.4.2 Research questions**

- i) How effective is the current Local Content Legal Regime in enhancing Buy Uganda Build Uganda strategy.
- ii) What Challenges are faced in having an effective operation of the Local Content legal regime in enhancing Buy Uganda Build Uganda strategy.
- iii) How does Uganda's legal regime compare with other legal regimes of other Oil and Gas producing countries.
- iv) What recommendations should be implemented in having an effective local content legal regime

## **1.5 Research Hypotheses**

### **1.5.1 Scope of the study**

The scope of the study was divided into three perspectives; these include content, time and Geographical scope.

### **1.5.2 Content scope**

This study focused on examining the effectiveness of implementation of local content regulatory regime in the Oil and Gas sector in Uganda's oil and Gas sector in terms of enhancing welfare of Ugandans in the oil and gas sector. This was achieved by looking at various laws relating to National content and their implementations in areas of employment, service provision and procuring goods from locally available firms.

The study focused on the Upstream. Midstream, stages of Uganda's Oil and Gas industry basing on the fact that the regulations in place capture the big part of these stages in the industry. More so it is where most opportunities lie for the citizens of Uganda to participate fully through different entrepreneurial ventures that are sustainable to both the host government and different stakeholders in the industry.

### **1.5.3 Time scope**

The study considered a period of 10 years spanning from 2010 up to 2020, since most of the Policies, laws and regulations affecting Oil and Gas industry of Uganda have just come into effect with the most recent one which is the National Local Content Act 2019. Most of these laws were enacted within the time scope focused on by the research.

### **1.5.4 Geographical scope**

This study was carried out in Uganda since the research focused on Uganda's as a country in terms of assessing its oil and Gas industry. Uganda is found in East Africa neighboring Kenya in the East, Tanzania in the south and D.R. Congo in the west, South Sudan in the North and Rwanda in the south Western part of East Africa. It's located in the heart of Africa in the central sub-Saharan region of Africa. Its Oil and Gas fields are located at the border of Uganda and D.R. Congo.

## **1.6 Justification of the study**

To have an effective local content legal regime that enhances BUBU policy is a very important aspect to Uganda as a nation its citizens and the economy. The notion of local content ensures and enables people in the host country to get involved in the extractive industry and develop themselves economically through acquisition of sustainable wealth that comes with extraction of the resources.<sup>25</sup>

The need for the analysis of the effectiveness of the local content legal regime in enhancing the BUBU policy in oil and gas industry in Uganda is of vital significance towards the promotion and sustainable growth of the oil and gas sector of Uganda. With vast prospects of the industry expected to almost double the economy's GDP it is important to ensure that Local Content as an aspect of Oil and Gas industry gets significant attention especially with the need to ensure that citizen participation is achieved, a strategy that will bleed opportunity for vast employment and entrepreneurial opportunities to the citizens of Uganda, creation of a sufficient working environment for the other stakeholders like the IOCs all of which will result into enhancement of economic and social transformation in Uganda as a nation. This will be achieved through among other things, project linkages created from having an efficient Local Content laws and polities. This is what the study intends to assess.

The number one concern of local content regulatory regime in oil producing regions is employment, and the government's credibility often rides on its ability to create jobs. Although policies mainly refer to local content without specifying its location within the economy, it is common that the communities closest to and possibly most affected by petroleum and mining installations will also exert the most pressure for job creation and development of a domestic private sector. It is important for companies to agree with the local communities on quotas for employment and skill training.

This study provided a foundation for sharing knowledge and experience to generate common understanding of the potential benefits of local content policies and the conditions that lead to successful outcomes thus filling that gap. The information generated by the study provides a model to assess conditions under which domestic local content policy regime in BUBU policy enhancing for the Uganda, with valuable insights for the nations and International organizations.

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<sup>25</sup> Tordo Silvana, Michael, Manzano Osmole. E. and Anounti Yahya, Local Content Policies in Oil and Gas sector (the World Bank, Washington DC, 2013) 3



## **1.7 Significance of the study**

### **1.7.1 To the Researcher**

The study will help the researcher to articulate pertinent problems that are hindering the development of a perfect and plausible effective LCLR as a policy in Uganda especially in the Oil and Gas industry. With this study, the researcher will be able to add value to what has been put across in the research and be able to identify other key issues important to note and help the already existing policy aspects in place meant to develop a reasonable LCLR BUBU Policy, for example the effectiveness of local content legal regime in enhancing BUBU in Uganda's oil and gas sector in this research in question. This will help to create more pertinent ideas in years to come as the oil and Gas industry of Uganda keeps developing and growing.

### **1.7.2 To policy makers**

This study will help to recommend and illustrate practical solutions to policy makers. Through the extensive research carried out, policy makers will be able to learn new practical approaches pertaining to effectiveness of LCLR in enhancing the buy Uganda, build Uganda policy in the oil and gas industry and will also be able to further create amicable policy and regulatory instruments that will enhance and strengthen the local content concept in the Oil and Gas industry in question as other extractive industries aimed at enhancing buy Uganda, build Uganda which improves the welfare of people in the industry.

### **1.7.3 To students**

This study is of importance in that it will be used by students who would want to learn more about the issues concerning local content and BUBU policy in ensuring the improved social welfare of people in the oil and gas sector. Pertinent issues that will be discussed will not only be for oil and gas sector but the knowledge acquired will be for the other extractive industries at large. This study will further be used as a source of information from which students can refer in case of any serious issues pertaining the study in question.

## 1.8 Conceptual framework

They are two types of frameworks, the theoretical which deals with the ideal and real situation of the research problem and the conceptual framework which deals which how the research variable interacts to form the existing problem and upon that basis I will use the conceptual framework because it shows how the dependent, independent and intervening variables interacts which makes it easy to solve the research problem.

The conceptual framework identifies the variable in the study. Effective Local content regulatory regime is the independent variable whereas the buy Uganda, build Uganda policy is the dependent variable. Looking at this topic in question, it portrays that an effective local content legal regime in Uganda's Oil and Gas sector is dependent on how best this policy has been adopted to enhance buy Uganda, build Uganda policy. This is to ensure that issues relating to the effectiveness of the LCLR are best represented in the Oil and Gas industry in Uganda especially through the regulations in question since social welfare depends on the regulatory framework in place.

The regulatory regime is broken down into The petroleum ( Exploration , Development and Production ) Act , The Petroleum ( Refining, Conservation, Transmission and Midstream Storage ) Act, The Petroleum ( Exploration, Development and Production) ( National Content) Regulations, The Petroleum ( Refining , Conversion, Transmission and Midstream Storage) (National Content ) Regulations,<sup>26</sup> The National Local content Act , Access to Information Act and the National Oil and Gas policy. These will be reviewed and analyzed on how best they have been adopted and promulgated the local content as a key aspect in the oil and gas industry of Uganda there by demonstrating how effective this aspect is handled in Oil and Gas industry of Uganda at large when it comes to enhancing the buy Uganda, build Uganda policy improve the livelihood of people in the oil and gas industry.

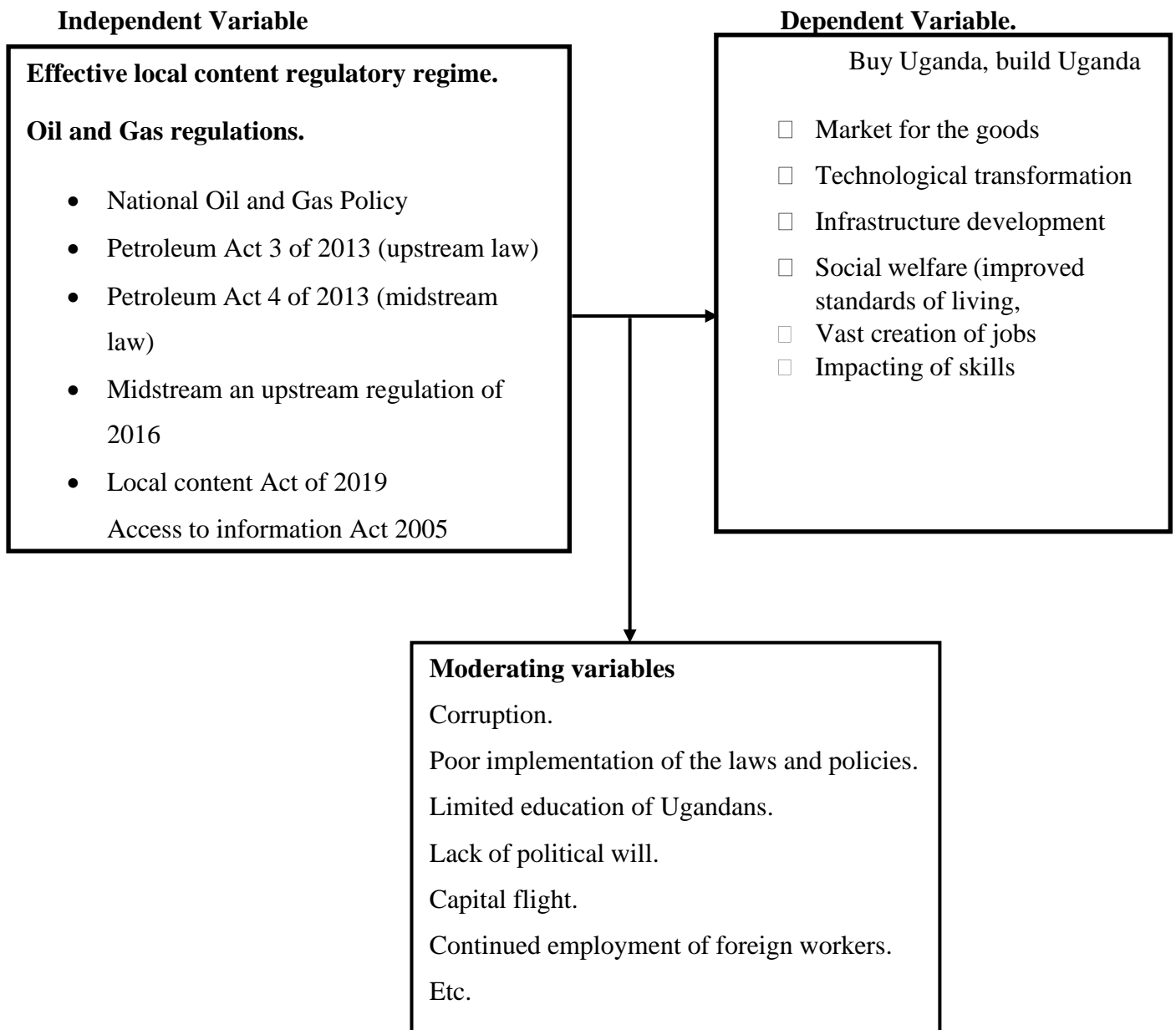
With good and effective LCLR framework, it's possible to have one best industrial practice especially where the monitoring and implementation of drivers for such policies are on right truck. This can lead to a transformed pertinent, economic, social and infrastructural development that is a key to ensuring that there is modern livelihood which is a desired aspect of various countries endowed with extractive industries like Uganda aimed at enhancing the social welfare of the people of Uganda.

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<sup>26</sup> The Petroleum (Refining, Conservation, Transmission and Midstream Storage) (National Content) Regulations, 2016

This is moderated by the intervening factors which include corruption, limited skills, poor implementation, lack of political will, capital flight etc.

**Figure 1: Showing conceptual framework**



## **1.9 Chapter synopsis**

### **1.9.1 Structure of the Research paper**

The study is divided into five chapters.

### **1.9.2 Chapter one - Introduction**

This chapter introduced the study, present an overview of the background, problem statement, justification Research Objectives and Questions, significance of the study, conceptual framework, chapter synopsis and the limitations of the study.

### **1.9.3 Chapter Two - Literature Review**

This section reviewed the existing literature explaining what is meant by local content, buy Uganda build Uganda policy ,the need for local content, the reasons in favour and against local content in enhancing buy Uganda build Uganda strategy in the oil and gas industry, looked the practical decisions and perceptives in the formation of local content policies, looked at the hindrance and challenges facing the effective implementation of local content legal regime in enhancing BUBU in the oil and gas industry of Uganda.

### **1.9.4 Chapter Three - Methodology**

This part looked at the research methodology, Research design, Study population, Research Instruments, Data sources, Way of analyzing data and Research, Ethical considerations and Limitations of the study.

### **1.9.5 Chapter Four – Legal Analysis, Comparative Analysis, Challenges and Recommendations.**

This chapter analyzed the Laws, Regulations and Policies in place and gave a critical overview of the different provisions and how effective they are in achieving the objective of Local Content development. The analysis identified gaps within the provisions, identified challenges that affect the effectiveness of the current legal regime in achieving the Local Content development objectives. The chapter goes further to make a comparative analysis between Uganda's local content regime and other countries i.e. those that are deemed to be success stories and those that are failed stories. The chapter then makes recommendations on how to bridge the gaps and achieve an effective local content regime. The chapter further analyses the questionnaires and the interview response rate, since part of the research was done in the field. It will present an analysis of the main findings of the study, including the

interpretation and the discussion of the findings thereof. This chapter looked at some of the best local content practices adopted by countries who are producing oil and gas.

#### **1.9.6 Chapter five - conclusion and Recommendation**

This section includes summaries and conclusions, recommendations as well as outlines areas for future research.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.1 Introduction

According to Hart,<sup>27</sup> literature review is “the selection of available documents on the topic which contain information, ideas, data and evidence written from a particular standpoint to fulfil certain aims or express certain views on the topic and the effective evaluation of these documents in relation to the research being proposed”.<sup>28</sup> This chapter therefore presents the theoretical framework of the research and review of relevant previous research. This chapter also handled the literature review basing on the objectives highlighted of which this was through reviewing scholarly work that is related to the topic in question, identifying the gaps there in that the research in question seeks to bridge. LC policies were further explained as to why they are needed and why they are important in enhancing social welfare of Ugandans in the oil and gas sector.

Reviewing literature involves the systematic identification, location and analysis of documents containing information related to the research problem being investigated. The activity of literature review involves location, reading and evaluating reports of research as well as reports of observation, discussions and opinions that are related to the individuals planned research project.<sup>29</sup>

Uganda as a country that is newly developing its Oil and Gas industry has the mandate to ensure that some of the policy measures in the Oil and Gas industry like LC that see the success of the industry at large are adopted and put in place. The topic in question that is meant to be handled by this study is meant to establish and portray how best the effectiveness of LC regulatory regime can be used to enhance social welfare in the oil and gas industry which is aimed at uplifting living standards of Ugandans in oil and gas sector.

Anna et al,<sup>30</sup> in their thesis stipulated that the oil and gas resource, like every other resource, is finite. Nations are increasingly becoming preoccupied with improving the

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<sup>27</sup> HART, C., *Doing a Literature Review: Releasing the Social Science Research Imagination*. London: Sage Publications 1998

<sup>28</sup> HART, C, *Doing a Literature Review: Releasing the Social Science Research Imagination*. London: Sage Publications 1998.

<sup>29</sup> Barifaijo, K., Basheka, B. and Onyu, J. (2010) *How to write a good Dissertation Thesis*, 1<sup>st</sup> Edition, The New Vision printing and publishing Company Limited, Kampala.

<sup>30</sup> Maira & Martini 2014 *Local Content policies and Corruption in the Oil and Gas sector*. U4 Anti-Corruption Resource Centre, September p. 6.

chances for local businesses to participate in the exploitation of resources, especially resources in the extractive industries like mining and Oil and Gas since it aims at enhancing the welfare of Ugandans in the oil and gas industry. This is because of a global belief that the resources in these industries drive economic growth and can help lift a nation out of poverty.<sup>31</sup> Tordo,<sup>32</sup> in the same view explains that in order to obtain benefits for their countries, policy makers usually design various policies to guard their nations interests often backed up with increasing local content with its main objective of enhancing social welfare of people in the oil and gas sector.<sup>33</sup> The writers however, advance very relevant ideas on the need to enhance social welfare of the population in Oil and Gas producing countries but did not address the “how”, which this research intends to explore.

The use of various strategies and performance standards by developed countries to influence economic growth and nature various local industries is a prodding trend.<sup>34</sup>

Ado,<sup>35</sup> stipulates that various nations such as Canada, in their automobile industry, Australia in their automobile and tobacco industries and several European countries in their automobile and electronics industries have employed the use of policies such as local content requirements, or export performance to their advantage.<sup>36</sup> Kazzazi et al in their publication stipulated that those countries like United Kingdom, Norway, Brazil, Malaysia and Trinidad and Tobago are often touted as local content successes in the Oil and Gas industry.<sup>37</sup>

They Continued to portray that the use of these policies and their proper implementation has benefited these nations and played a vital role in their industrial growth and economic development which has been an example to other oil producing and exporting entities to take positive approaches towards local content development so as to increase the benefits from Oil and Gas extraction aimed at enhancing the welfare of Ugandans in the oil and gas sector.

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<sup>31</sup> Esteves A. M. B, Coyne and A. Moreno. Local content Initiatives: Enhancing the Sub National Benefits of the Oil, Gas and the Mining Sectors. Briefing, Natural Resources Governance Institute for Science and Technology .2013, pp.1089-1009

<sup>32</sup> Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>33</sup> Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>34</sup> Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>35</sup> Ado Rabiui , Local Content Policy and the WTO Rules of Trade0Related Investment Measures ( TRIMS): The Pros and Cons, 2013. International Journal of Business and Management Studies pp.137-146.

<sup>36</sup> Ado Rabiui , Local Content Policy and the WTO Rules of Trade0Related Investment Measures ( TRIMS): The Pros and Cons, 2013. International Journal of Business and Management Studies pp. 137-146.

<sup>37</sup> Abolfazi Kazzazi& Behrouz Nouri. A Conceptual Model for Local Content Development in the Petroleum Industry 2012. 2 Management Science Letters. P. 2166.

However, these authors did not analyze the situation of developing countries like Uganda, which have discovered abundant resources but do not have the capacity to readily tap into these resources for the benefit of these communities. The authors did not make a distinction between the so called success stories and the poor African countries, given the economic gap that exists among the two categories of countries. However, there are lessons to learn from the said publications which may be used to help improve the social welfare of the poor Oils and Gas producing Countries.

## **2.2 The concept and meaning of local content**

The definition of local content has many dimensions and it varies between economies. Local content policies are concerned not only with an immediate increase in local content for example increasing the percentage of local employment in the petroleum sector.<sup>38</sup> However, according to Collier et al,<sup>39</sup> local content also captures actions that will lead to its long-term increase such as the provision of training in appropriate skills to the local labor force that will in turn improve the social and economic welfare of Ugandans in the oil and gas sector<sup>40</sup>. Note however, that such local content policies do not in any way lead to an automatic increase in levels of employment of the population and use of locally made materials and goods according to Frynas,<sup>41</sup> but if carried out appropriately, can create and enhance local capabilities that can be transferred to other sectors,<sup>42</sup> This includes the development of skills that are common to all sectors as well as the creation and support of cluster developments with other industries that have natural energy with the petroleum sector.<sup>43</sup>

According to Tordo,<sup>44</sup> local content is the added value brought to a host nation (regional and local areas in that country) through the activities of the Oil and Gas sector. This may be measured (by project, affiliate, or country aggregate) and undertaken through two main attributes that are; workforce development, through employment and training of local

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<sup>38</sup> Ugandan local content law, Columbia Centre for Sustainable Development and Investment a joint centre of Columbia Law School and The Earth Institute, Columbia University.

<sup>39</sup> Collier and Paul (2010) The Political Economy of Natural Resources, *Social Research* 77(4):1105-1132.

<sup>40</sup> Website source. World Bank .org./INTROGMC/Resources/9680821388310>accessed 11<sup>th</sup> March 2019

<sup>41</sup> Frynas, J.G (2005). The false Development Promise of Corporate Responsibility: Evidence from Multinational Oil companies, *International Oil companies, International Affairs*, 81(3):581-598.

<sup>42</sup> Esteves A.M, B. Coyne and A. Moreno. Local content Initiative Sub National Benefits of the Oil and Gas and Mining, Briefing. Natural Resources Governance Institute for Information Science and Technology, (2013) 1089-1099.

<sup>43</sup> Silvana, Michael Warner, Manzano Osmel, E & Anouti Yahya, Local Content Policies in the Oil and Gas sector (the World Bank, Washington D.C 2013) p.11.

<sup>44</sup> Tordo Silvana Warner, Manzano Osmel, E, and Yahya, Local Content Policies in the Oil and Gas sector (The World Bank, Washington DVC.2013) .



workforce; and investments in supplier development through developing and procuring supplies and services locally.<sup>45</sup> referred local content to jobs or significance that is created anywhere in the domestic economy as a result of the actions of an Oil and Gas company, or jobs that are created in the neighborhood of the oil production plant. Although policies mainly refer to local content without specifying its location within the economy, it is common that the communities closest to and possibly most affected by oil or gas installations will also exert the most pressure for jobs all of which is focused on enhancing social welfare of Ugandans in the oil and sector.

Local content policies are concerned not only with an immediate increase in local content (for example, increasing the percentage of local employment in the petroleum sector) but with actions that will lead to its longer term increase such as the provision of training in appropriate skills to the local labor force.<sup>46</sup> Such a policy does not lead to an automatic increase in local content but, if carried out appropriately, can create and enhance local capabilities that can be transferred to other sectors. This includes the development of skills that are common to all sectors, as well as the creation and support of cluster developments with other industries that have natural synergy with the petroleum sector.

There is general consensus that lack of specialized skills is a major obstacle to Africa's realization of its resource potentials. One instrument currently being adopted by most Oil and Gas resource-rich countries (both in and outside Africa) to deal with the skills problem and to enhance linkages between the Oil and Gas sector and other sectors of the economy is the formulation of local content policies,<sup>47</sup> Typically, local content policies require companies to give preferential treatment to nationals of the country in which they operate in matters of employment and in the procurement of goods and services. It is believed that this would result in technology transfer and facilitate the ability of the country to take charge of its own development. However, preferential treatment of nationals has been seen to be a violation of major international Law instruments eg the GATT, to mention but a few, which require treatment of foreign nationals in a similar manner as the nationals of a particular country.

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<sup>45</sup>Maira & Martini 2014 Local Content policies and Corruption in the Oil and Gas sector. U4 Anti-Corruption Resource Centre, September p. 6.

<sup>46</sup> Bacon. R. M, & Kojima. M. Issues in Estimating the Employment Generated by Energy Sector Activities, Washington DC. World Bank, Sustainable Energy Department.

<sup>47</sup> Hansen. W. The Political Economy of Local Content in African Extractives, Lessons from Three African Countries, Paper presented at 46 Arsmode I Dansk Selskab for Statskundskab Vejle, Denmark, p.3.

According to Nwapi,<sup>48</sup> local content policies come with certain trade-offs: on a critical note, their potential incompatibility with international trade agreements threatens their sustenance; they can also create unrealistic expectations capable of discouraging investment; and they are easily prone to corruption. This is in line with Hansen's,<sup>49</sup> argument that the local content implementation strategies are critical in developing countries because they have few local experts in the Oil and Gas sector, most of theirs are serving in public sector. In addition, skill shortages across the sector's value chain have become apparent. Therefore, it is important for these countries to develop more local experts in the Oil and Gas sector who will be capable of operating and maintaining the imminent gas facilities resulting from these new discoveries.

The World Bank report,<sup>50</sup> notes that Uganda may consider adopting a socialist approach to implementing local content policies by giving special consideration to the localities where the Oil and Gas and exploitation takes place aimed at boosting the welfare of people in the oil and gas sector. This approach may help to address wider socio-economic problems associated with Oil and Gas development especially in the Albertine Graben. The government may also consider adopting a regional approach, which enables to pull their resources together to jointly address the skills problem facing the country and thereby help one another. Given the enormous Oil and Gas skills gap in the country, it may help to avoid the imposition of stringent local content targets on Oil and Gas companies operating and, instead, adopt an incremental and compartmentalized approach that takes stock of what skills are available, in what compartments at any given time and set their local content targets accordingly. However, the idea of adopting a localized approach where only communities around the graben benefit from local content is not the solution to addressing the social economic problems faced by the country. Such communities account for less than a quarter of Uganda's population, hence it would be absurd for them to benefit at the expense of the bigger majority.

The local content policy appears to lean towards state participation with national content being relegated to a supplementary activity in the broad achievement of state participation. National participation in the Ugandan context is described as achievable through state

<sup>48</sup> Nwapi, C. E. (2011) A Survey of the Lecture on Local Content Policies in the Oil and Gas Industry in East Africa, Browser Download this Paper

<sup>49</sup> Hansen. The Political Economy of Local Content in African Extractives, Lessons from Three African Countries, Paper presented at 46 Arsmode I Dansk Selskab for Statskundskab Vejle, Denmark, p.3.

<sup>50</sup> World Bank Report (2014). Human Capital for the Oil and Gas and Minerals Industries, Science Technology and Skills for Development, March, 2014, page 1.

participation and promoting the use of indigenous materials, goods and services in Oil and Gas sector activities employment of Ugandans and transfer of skills and technology to the country (MOEMD, 2014),<sup>51</sup> targeting Ugandans as a way of improving their welfare.

According to the trade perspective, local content requirements essentially act as import quotas on specific goods and services when governments seek to create market demand via legislation action (UNCTAD, June 2013), Uganda petroleum (Exploration, Development & Production) Act 2013,<sup>52</sup> Section 125 expressly regulates local content and provides that licenses and their contractors and sub-contractors shall give preferences to goods made or available in Uganda and supplied by Uganda citizens and companies. The only exception to this provision is when the goods are not available in Uganda; in such cases they can be supplied by a foreign firm which has entered into joint venture with local firms

Gwayaka,<sup>53</sup> studied Local Content in Uganda and in his research objectives reviews the legal and policy regimes on local content in Uganda, highlighting gaps in the existing legal and policy regimes and recommended areas of reform, and finds that local content in Uganda's oil and gas sector broadly focuses on involving citizens in the sector. He highlighted the concept of citizen participation from the decision making perspective, training and capacity building transfer, employment and service provision, He states the fact that given the fact that Uganda's oil and Gas sector is still growing, there is need for exerting more deliberate efforts to ensure that citizens completely take part in the sector through exploitation of existing opportunities. Cunningham<sup>54</sup> says that citizen participation has been described as a focus on (a) Members of the community who have no formal source of power except their majority numbers, (b) the exercise of power by those at lower levels of the community and making decisions involving a significant number of community members. Rowe et al,<sup>55</sup> have argued that public participation must focus on getting ownership of projects and other forms of intervention through increased participation by residents as opposed to citizens. The above authors fall short of finding that local Ugandans do not have the technical expertise, knowledge and skills to even own these projects.

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<sup>51</sup> MOEMD (2014) National Oil and Gas Policy for Uganda, p. 15.

<sup>52</sup> Uganda's petroleum (Exploration, Development & Production) Act 2013 Section 125.

<sup>53</sup> Gwayaka, P.M (2014) "Local Content in Oil and Gas Sector: An Assessment of Uganda's legal and Policy Regimes. ACODE Policy Briefing Paper Series No. 28 of 2014

<sup>54</sup> Cunningham J.V, (1972) "Citizen Participation in Public Affairs" Public Admin. Review, Vol 32 Special Issue; Curriculum Essays on Citizens, Politics and Administration in Urban Neighborhoods pp. 589-602.

<sup>55</sup> Rowe, G & Frewer LJ (2005); "A Typology of Public Engagement Mechanisms" Science, Technology & Human Values pp. 251-290.

According to Gwayaka,<sup>56</sup> Uganda's capacity needs for the Oil and Gas sector are still lacking. Government has not done Training Needs Assessment or other forms of capacity needs assessment for the Oil and Gas sector. The only existing data is the study conducted by the joint partners involved in the sector. However, in his recommendations, he stated that "Parliament should pass a Law to provide for Local Content, a better definition of Ugandan Business entities, an independent authority to monitor compliance with national local content plans as well as monitor the development of national capacity among others". However, Gwayaka's publication was written when the Local Content Bill was not yet introduced. It has now been passed and sent to the President for assent. The research shall analyze the reforms introduced by the new Act.

Sen,<sup>57</sup> states that with the "recent confirmation and ongoing development of commercial oil and gas resources in Uganda, there is an urgent national interest to participate in and maximize the benefits from anticipated capital investments in the burgeoning industry". ... Further, that in preparation, "the government has developed an extensive policy and regulatory framework with the aim to extend the benefits of the Petroleum sector beyond its exhaustible contribution to the economy". It evaluates other legal and policy instruments but does not study the changes that the Local Content Act has introduced. She writes,<sup>58</sup> that an overview and assessment of local content requirements in Uganda's oil and Gas sector underscores the importance of bridging the gap between the existing supplier capabilities and the requirements of the industry. Estimates from a baseline survey suggest that the natural resource sector in Uganda can generate up to 150,000/= indirect and independent jobs if domestic supplier integration in Natural Resource value chain is realized.

Muheki,<sup>59</sup> analyses the extent to which Uganda's current legal framework promotes citizen participation in the Oil and Gas sector as the country transitions into an Oil producing country. It also highlights the gaps in the Laws and policies and makes recommendations. The article analyses the legal framework in place, to wit the National Oil and Gas Policy,<sup>60</sup> the Petroleum Acts,<sup>61</sup> and the Petroleum Local Content Regulations,<sup>62</sup> but does not make mention of the latest Act that was sent to the president for assent. She also does not mention

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<sup>56</sup> Ibid

<sup>57</sup> Sen,R.(2018), Enhancing Local Content in Uganda's Oil and Gas Industry WIDER Working Paper no 10/2018 United Nations University.

<sup>58</sup> Ibid p.10

<sup>59</sup> Muheki, R (2020); Local Content in Uganda's Oil and Gas Legal Framework: Developing Local Skills and Using Local Manpower? ALP Law Review Series Article no. 3/2020

<sup>60</sup> Oil and Gas Policy 20008

<sup>61</sup> The Upstream and Midstream Acts 2013

<sup>62</sup> The Upstream and Midstream Local Content Regulations 2016

other benefits of Local Content development like technological transfer and skills development, stoppage of capital flight; it does not highlight the benefits of procurement of Local Goods and Services, job creation. It concentrates on training, recommends small businesses to be ring fenced for Ugandans but this is not enough for economic empowerment. It won't benefit Ugandans as long as they remain with small scale jobs while large managerial and highly skilled jobs are left with foreigners.

Nseera,<sup>63</sup> cites the goal of the National Oil and Gas Policy as being “use of the country’s Oil and Gas resources towards Poverty eradication and creating lasting value to society”. It however doesn’t analyze the legal and policy regime on local content in Uganda. It states that the “most important channel through which the economy benefits are through forward and backward linkages”. That the evidence of linkage effect points to the potent problem of the repatriation of value added, which reduces the beneficial effects of Oil and Gas to the domestic economy.

## **2.3 The concept of LC and BUBU Policy in the oil and gas sector**

### **2.3.1 Services in the Oil and Gas Sector as an aspect of enhancing BUBU Policy in the oil and gas sector**

According to the World Bank<sup>64</sup> delivering local benefits to the communities where Oil and Gas companies operate is no longer an option. It is a commercial necessity which is increasingly mandated by law in many countries. In the new competitive landscape of diminishing supply and increasing demand for energy resources, companies in the Oil and Gas sector face rising expectations to do more than simply mitigate negative impacts, serve as sources of tax/royalty revenue and act as good neighbours since this is part of their corporate responsibility and also a requirement for local content policies aimed at uplifting living standards of Ugandans.

According to Hackenbruch et al,<sup>65</sup> the increasing Oil and Gas discoveries in any country offer significant opportunities to fast track economic development and ensure that public welfare improvements are delivered to their citizens. The Local Content policy is an

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<sup>63</sup> Nseera, E (2016) ; “Understanding the Prospective Local Content in the Petroleum Sector and the Potential Impact of High Energy Prices on Production Sectors and Household Welfare in Uganda”. African Development Bank Group Working Paper Series No. 242/2016.

<sup>64</sup> World Bank Report (2014). Human Capital for the Oil and Gas and Minerals Industries, Science Technology and Skills for Development, March, 2014, page 1.

<sup>65</sup> Hackenberg M and J.D. Pluses, 2011. Commercial Value from Sustainable Local Benefits in the Extractives Industries, Local Content BSR

approach that can be adopted by developing countries. These policies enable a country to capture the benefits of foreign direct investment by imposing conditions on foreign investors to ensure value addition in the country.<sup>66</sup> However, the author does not address how this can be achieved without violating International Agreements and protocols since most investors tend to look at local content policies as a bar to their use of quality and competent goods and services and knowledgeable workforce from abroad.

Local content policies can help domestic firms in developing countries integrate themselves into global economic networks. This is in agreement with the studies which show that in the 1990s, both local “productivity-enhancing entrepreneurship” and state support to local development helped East Asian firms to achieve significant positions in global economic networks<sup>67</sup>. Additionally, Loutites.<sup>68</sup> argued that LCPs can contribute to the productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms which will create employment opportunities for the people of Uganda and this in return will increase on the welfare of people participating in the oil and gas sector through improving their living standards. Other proponents observe that most advanced economies utilized industrial policies similar to LCPs to boost their domestic economy while in the early stages of their industrial development.

Nabatchi<sup>69</sup>, states that local content in the Oil and Gas sector in Uganda broadly focuses on involving citizens in the sector. This is through training and building capacity for citizens, technology transfer as well as employment and service provision. Given the fact that Uganda’s Oil and Gas sector is still growing, there is need for exerting more deliberate efforts to ensure that citizens competitively take part in the sector through exploitation of the existing opportunities. One of the ways has been through government providing for Ugandans to take part in the sector is through local content. Government is in the process of making policies and laws that will ensure citizens take part in the Oil and Gas sector. The author however, does not address other challenges that may hinder effective implementation of the said local content laws and policies. It is one thing to have a law and another this to have the law implemented to achieve the desired objectives. A good example is Nigeria,

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<sup>66</sup> Heum,P. (2008) Local content Development Experiences from Oil and Gas Activities in Norway , SNF Working Paper No .02 , 08 , Institute for Research in Economics and Business Administration.

<sup>67</sup> Esteves A. M. B, Coyne and A. Moreno. Local content Initiatives: Enhancing the Sub National Benefits of the Oil, Gas and the Mining Sectors. Briefing, Natural Resources Governance Institute for Science and Technology .2013, 1089-1009.

<sup>68</sup> Loutit J. J. Mandelbaum S. Szoke-Burke 2016. Emerging Practices in Community Development Agreements. Columbia Centre for sustainable Development.

<sup>69</sup> Tina Nabatchi, A Managers Guide to Evaluating Citizen Participation. Fostering Transparency and Democracy Series 2012 p. 212.

which has very good local content laws but other factors have hindered the local community from fully benefitting from the rich legal regime to achieve sustainable development. Issues to do with Corruption, civil wars, poor government commitment etc.

According to Sebowa,<sup>70</sup> local content in the Oil and Gas sector is a topic taking center stage. He expounded on the vast opportunities that exist and these include: the supply of foods and beverages, transportation, and joint ventures with foreign firms to supply needed equipment, among others. The Uganda investment authority (UIA) is also very engaged in building the capacity of the small and medium enterprises (SMEs) in the oil areas to be able to harness the existing opportunities and be competitive in this sector that requires international standards in the supplies and this will provide market for the goods of the people which in turn will improve their living standards. However, the author does not make an observation that most of the highly paying jobs in the oil and gas industry are highly technical and the local communities does not have these skills. Most especially services in the upstream like seismic prospective surveys, seismic data analysis and interpretation, well drilling ETC require high skills and technology which will take a long time for local nationalsto acquire. To that end, the ring fenced services are those that are not well paying as listed in his publication.

Cogan,<sup>71</sup> noted that citizen participation includes processes that provide for individuals in a community an opportunity to influence public decisions that affect them. The assertion can further be extended to include the process in which ordinary people take part whether on a voluntary or obligatory basis and whether acting alone or as part of a group with the goal of influencing a decision involving significant choices that will affect their community. It is therefore important to appreciate that citizen participation is a much broader concept that may include various democratic processes for a country. In Uganda's case, these may include a wide range of systems from electoral democracy, governance such as central or local government to group formation, role of voluntary associations and how different players in society are contributing to the Oil and Gas sector. However, the author did not observe that decision making in the Oil and Gas industry is at top level, For example where there are companies operating under a Joint Operating Agreement , decision making is made by the Joint Operating Committee which is composed of highly technical and skilled persons, who

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<sup>70</sup> Sebbowa. Local Content Policy in Uganda. Trends and Existing Vast Opportunities.

<sup>71</sup> Cogan A ..., Sharpe S & Hertzberg, J. Citizen Participation. In So, F. S, Hands, I., & Madewell, B. D (Eds.) the practice of state and Regional planning. Municipal Management Series, Chicago: American Planning Association.

may not be Ugandan nationals. Even during procurements for goods and services, the local community may not have a big say in decision making, hence making it a challenge.

### **3.4 Limitations to Participating in the Oil and Gas Sector**

According to Silvano et al,<sup>72</sup> the principal challenge to the use of local content policies rests on the misalignment between objectives and instruments. If a policy maker thinks that there is an externality, he/she should ensure that; there is indeed an externality and the instrument chosen corrects the externality. For example, if the labor force is not adequately trained to satisfy the requirements of the oil sector, the policy maker should first establish whether training would be sufficient or if the situation demands structural changes to the country's educational system. If training would overcome the shortfall, imposing minimum local employment targets on oil companies may not provide the optima outcome. Policies to support the training of nationals would be more closely related to the externality in question. Furthermore, as argued by Wallace,<sup>73</sup> when there is uncertainty about costs and benefits, price interventions tend to produce results closer to the optimal outcome than quantity regulations. Much as the authors are right on the need for training, the skills required in the Oil and Gas industry require long term training, which costs a lot of resources. Hence, there is always lack of government willingness to train personnel and more so even those who are trained, take long periods of time hence the benefits are not immediate.

International Monetary Fund 2005 noted that an abundance of Oil and Gas resources invariably raises the hopes and expectations of governments, citizens, local communities, and the petroleum companies that provide the essential services of exploration, extraction, and distribution. Governments hope for large and consistent revenues, citizens expect that their standards of living will be raised, local communities hope to see a quick recovery from poverty, and multinational companies expect high returns on the large-scale investments they are obliged to make. Other actors, rebels, insurgents, secessionists sometimes see the possibility of using the illicit control of petroleum resources and revenues to advance their own particular causes. Often, the high hopes and expectations of these various groups are tangled in problems of weak governance, social tensions, and corruption that further sow the

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<sup>72</sup> Tordo, Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>73</sup> Wallace A. 2014. Understanding Local Content Policies in Africa petroleum Sector. Published in the National Law Review, May 2016.



seeds of conflict. In this context, certain types of conflict over Oil and Gas resources are frequently and readily observable, especially in fragile states.

Grossman,<sup>74</sup> noted that local businesses that provide services to oil companies are currently necessitated to raise the required operating capital through commercial loans from local commercial banks under difficult financing terms. The lack of concessionary loans for equity financing of local businesses have made expansion of local businesses to match their foreign counter-part in provision of goods and services to the Oil and Gas sector a difficult undertaking. Much as Grossman was spot on, he ignored the other very important aspect of high interest rates of financial institutions, which make it very difficult for local companies to compete favorably with foreign companies.

Governments with access to large oil revenues that are disproportionate to other sources of revenue tend to rely heavily on their resource generated wealth and neglect to enforce taxation regimes, effectively eroding the fiscal link between the government and its populace. Since a central government reliant on extractive sector assets is less dependent on tax revenues from its citizens, it often demonstrates little initiative in providing social services.<sup>75</sup> In oil-based economies other productive sectors, such as agriculture, manufacturing, non-oil exports, and small to medium size enterprises are often overlooked as important components of a diversified and sustainable economy. In countries where political legitimacy is lacking, the central government may seek to maintain control over Oil and Gas generated wealth through corruption, abuses by military or police forces, or even through direct financing of conflict with political challengers according to UK Department for International Development, 2003.<sup>76</sup>

While the Oil and Gas discoveries put African countries on the precipice of economic prosperity capable of bringing broad public welfare improvements to their citizens, there is cause for concern. The regions where the discoveries have been made in the respective countries fall mostly within the arid and semi-arid part of the countries. This means that oil extraction in these countries is very likely to generate severe environmental problems for the surrounding local communities; in addition, a vast majority of the identified

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<sup>74</sup> Grossman, *The Theory of Domestic Content Protection and Content Preference* (2004) 96:4 *Quarterly Journal of Economics* p.583.

<sup>75</sup> Pendleton 2014. *Fueling poverty, Oil, War and Corruption*. p. 40.

<sup>76</sup> UK Department for International Development, 2003. *The Extractive Industries Transparency*. United Kingdom, Cambridge University Press.

oil fields are located in troubled regions and on territories under dispute within and between the countries according to World Bank Report of 2015.<sup>77</sup>

In Uganda, it has been reported that since the oil discovery several wealthy Ugandans have been scrambling to buy land around the exploration area and that exploration activities have already caused distortions in the customary land tenure system in the oil region, conflict, displacement and substantial migration into the region according to Uganda Land Alliance report.<sup>78</sup> These have led some opposition politicians in Uganda to warn that the oil discovery could become “a curse” rather than a blessing “if it leads to more conflict in the country.” The Economist has therefore cautioned against the risk of „Dutch Disease” in East Africa, In Kenya, most parts of the oil region have faced historical marginalization by successive governments. The struggle over scarce land and water resources in Kenya is spreading into oil, as local communities are already contesting the location of oil wells.

According to World Bank,<sup>79</sup> a nontrivial issue connected to local content policies is their compliance with international regulation. Both multilateral and regional negotiated agreements regulate trade between nations. The World Trade Organization oversees compliance with these rules. The most relevant agreements among WTO members with implications for LCPs include the General Agreement on Tariffs and Trade (GATT), the agreement on Trade-Related Investment Measures (TRIMs), the General Agreement on Trade in Services (GATS), GATT (General Agreement on Trade and Tariffs) and the agreement on Government Procurement (GPA). All these are extra ordinarily attached with strings behind and this can affect the effectiveness of a relevant local content policy in any country.

Andre,<sup>80</sup> noted that local content in Oil and Gas sector has become a slogan of sorts across many developing countries including Uganda. Different countries have made laws and policies to provide for local content where citizens can be employed, provide services or get a direct benefit from the sector. However, what many countries have not done is to increase citizen participation. There is often confusion when it comes to discussion of citizen participation as a concept and issues of local content. Whereas citizens can participate

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<sup>77</sup> World Bank 2015, A Practical Guide to increasing Local Procurement in West Africa. World Bank and Kaiser Economic Development Partners, February.

<sup>78</sup> Uganda Land Alliance. Land Grabbing and its effects on the Communities in the Oil -Rich Albertine Region of Uganda, The case of Hoima, Buliisa and Amuru. September 2011.

<sup>79</sup> World Bank (2014) Human Capital for Oil and Gas and Minerals Industries, Science Technology and skills for Africa's Development, March, 2014, p. 1.

<sup>80</sup> Andre. P.et al. (2006) Participation Publique . Principes de Internationaux pour une Meilleure Pratique, publication speciale Serie No 4 Fargo (ND) International Association for Impact.

through local content, this is rather one of the forms of participation and it is not conclusive. It would therefore be wrong to conclude that there is citizen participation just because you have local content law and policies.

Furthermore, the ACODE Policy Briefing Paper,<sup>81</sup> noted that there is a tendency to mix local content and citizen participation in Uganda. A Jot of communication tends to claim that there is promotion of citizen participation through local content, which is not the case. Many times, local content limits itself to employment of citizens, transfer of technology and service provision leaving out the most important aspect of citizen participation which is „participation in decision making“. From the many policy and legal documents in Uganda, there is actually local content as opposed to citizen participation.

The NOGP report,<sup>82</sup> noted that the upstream and midstream laws also require companies to submit to the Petroleum Authority a detailed program for recruitment and training of Ugandans every year for approval. What is not clear from the law is how the approved plans for training Ugandans will be followed through and whether there are any forms of punishment for companies that fail to meet their obligations under the approved plan or the plan submitted during the application for a license.

Government has not done training needs assessment (TNS) or other forms of capacity needs assessment for the Oil and Gas sector and the only existing data is the study conducted by the joint partners involved in the Oil and Gas sector. This means Uganda will have to rely on data provided by industrial players. The challenge with this data is it was gathered and analyzed in the lenses of an industrial player seeking to maximize profits and this may not necessarily reflect the needs of the country.<sup>83</sup>

## **2.5 Strategies to Implement Local Content regulatory regime and welfare of people**

Oil and Gas rich developing countries may consider adopting a localized approach to local content policy by giving special consideration to the localities where the Oil and Gas and exploitation takes place. This approach may help them to address wider socio-economic problems associated with Oil and Gas development. They may also consider adopting a regional approach, which would enable all the countries to pull their resources together to

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<sup>81</sup> ACODE Policy Series (2014)

<sup>82</sup> Maira & Martini 2014 Local Content policies and Corruption in the Oil and Gas sector. U4 Anti-Corruption Resource Centre, September p. 6.

<sup>83</sup> ACODE Policy Series (2014)

jointly address the skills problem facing the region and thereby help one another<sup>84</sup>. Given the enormous Oil and Gas skills gap in the region, it may help developing countries to avoid the imposition of stringent local content targets on Oil and Gas companies operating and, instead, adopt an incremental and compartmentalized approach that takes stock of what skills are available, in what compartments at any given time and set their local content targets accordingly.

According to Stiglitz<sup>85</sup>, promotion of linkage development is essential to enhance the contribution of the Oil and Gas sector to the macro economy. Linkage development can facilitate technology transfer and economic diversification. But even these measures will have only minimal positive impact if the potential for elite capture and corruption is not addressed through the injection of transparency and accountability measures into the local content policy design and implementation.

According to Norland et al,<sup>86</sup> stated that, one of the instruments currently being adopted by most Oil and Gas resource rich countries both in and outside Africa to deal with the skills problem and to enhance linkages between the Oil and Gas sector and the other sectors of the economy is the formulation of local content policies. Defined as the requirement that “a given percentage of domestic value added or domestic components be embodied in a specified final product”, local content policies are undertaken to enable countries to maximize the gains of foreign direct investment through the promotion of local participation in foreign direct investment and the use of local raw materials by investors. It is believed that this would result in technology transfer and facilitate the ability of a particular country to take charge of its own development.

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<sup>84</sup> Norland, Donald R (2003) Innovations of the Chad and Cameroon Pipeline project. Thinking Outside the Box, Mediterranean Quarterly 14, No 2(2003)pp :46-59

<sup>85</sup> Stiglitz (2004). We can cure Dutch Disease. The Guardian .com. August 17<sup>th</sup> 2005.

<sup>86</sup> Norland, Donald R (2003) Innovations of the Chad and Cameroon Pipeline project. Thinking Outside the Box, Mediterranean Quarterly 14, No 2(2003) pp 46-59.

## **2.6 Conclusion**

There are abundant sources of literature on Local Content Development but all the literature reviewed, none of them adequately answered the research questions in this study. Those that attempted to answer the questions did so inadequately hence leaving a knowledge gap that this research sought to fill. As the findings shall reveal, the research delved into solutions to the different challenges faced in the Oil and Gas industry as far as Local Content development is concerned.

## CHAPTER THREE

### METHODOLOGY

#### 3.0 Introduction

This section presents an overview of how the research was carried out. It describes the research design, the study population, sample size, research instruments, data collection procedures and data analysis and limitations of the study.

#### 3.1 Research Design

Research design is essentially a plan for determining the methods and procedures for collecting and analyzing the required information. A good research design should answer the research Questions as “unambiguously as possible.”<sup>87</sup> The main or general objective of the study was to Analyze of the efficacy of the local content legal regime in enhancing buy Uganda, build Uganda in Uganda’s oil and gas industry.

The research is a descriptive one because it had to explain, measure and analyze the efficacy of the Local Content Legal Regime in promoting Buy Uganda, Build Uganda Strategy in Uganda’s oil and gas industry. In doing so the Researcher analyzed different Laws, Regulations, and Policies discussing and giving legal perspectives on how LCLR enhances the BUBU strategy put into play in the industry at large. It is expected that the insights given will immeasurably add value to existing knowledge and build on how LCLF is implemented in the buy Uganda, build Uganda policy in question.<sup>88</sup>

The design that was chosen basing on the research type was a cross-sectional design type as the best method to answer the research questions. A cross-sectional design is one that involves collecting data from different sources that represent part of a whole to determine patterns.<sup>89</sup> This suited the purpose of this research because Oil and Gas industry is split into many different sub sectors to form a whole industry.

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<sup>87</sup> NYU (n.d), „What is research design“ <http://www.nyu.edu/classes/bkg/methods/005847chl.pdf> accessed on 12<sup>th</sup> September 2020 p. 9

<sup>88</sup> NYU (n.d), „What is research design“ <http://www.nyu.edu/classes/bkg/methods/005847chl.pdf> accessed on 12<sup>th</sup> September 2020 p. 1

<sup>89</sup> Alan Bryman & Emma Bell, Business Research Methods (Oxford University Press 2007) p.55

This study was based on qualitative design methods. Research is said to have used qualitative methods when data is not recorded numerically.<sup>90</sup> Qualitative data was collected as both primary and secondary data. Primary data was gathered using in-depth-one-on-one semi structured interviews and questionnaires as tools that can generate statistical and in- depth data<sup>91</sup>. This was directed to specific stakeholders in the Oil and Gas industry with reliable information that is significant in ensuring that the purpose of the research in question is achieved. Secondary data gathered was in the form of data collected by other researchers.

### **3.2 Target Population**

The target population for this study was the various stakeholders in the upstream and mid-stream sectors of the Oil and Gas industry of Uganda. This is because the LCLF in place target players in those sectors.

### **3.3 Sample and its Determination**

The study focused on the Oil and Gas Industry and Buy Uganda, Build Uganda in Uganda. Sample area for collecting data was Uganda particularly Kampala district. This is so because the major implementers of Local Content are situated in Kampala with their major headquarters. The sample for the secondary data was not limited to any part of the world. The primary sample comprised of the Petroleum Authority of Uganda as a regulatory body in areas of Oil and Gas and also the implementers of the LC regime in question, The National Contents office under the Ministry of Energy & Mineral Development as an office with experts towards the analysis of the trend of LC in the regulations affecting Oil and Gas in Uganda. The research focused on the Upstream and Midstream petroleum industry because these subsectors are direct targets of the local content regulatory regime in Question.

Because the design type was a cross-sectional one and required a cross-section of players in the sector, the subsample included a local Oil consultant company reason being that they have had a reasonable time in the Oil and Gas activities of which 5 questionnaires were distributed out of which two were attended to. Policy experts of which were the national content officers in the Ministry of Energy and Mineral Development of which the office had 3 officers who all responded accordingly.

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<sup>90</sup> Barifaijo, supra (note 31 )

<sup>91</sup> Amin, M.E, social science Research: Conception. Methodology and Analysis, (Makerere University, Kampala, Uganda, 2005)

The lawyers in the industry that have acquired knowledge and training in Oil and Gas studies were chosen in that they would be of help in the evaluation and giving legal perspective of how the BUBU policy in the local content regulatory regime affects the social welfare of people in the Oil and Gas in Uganda. The available data collection tools were utilized so as to come up with the desired goals and objectives of the study of which out of the 20 lawyers approached, 16 responded. The IOC's being of an integral part in the industry at large couldn't be left out in the sub sample and the methodology being purely qualitative, secondary data by some of the expert reports authored by the IOC's operating in the Oil and Gas industry of Uganda was used to contribute to the desired outcomes of the study in question putting in mind that their analysis were detailed and according to the timing of the regulations in question being newly enacted and also putting in mind the fact that the industry is in its take off stage, the analysis given in those expert reports is better placed to contribute on the evaluation of whether the issues in the regulatory regime captured are effective in enhancing the social welfare of Ugandans in Uganda's regulations in question. The rate of the response was further tabulated and showed in percentages as portrayed in Table 2 below.

**Table 1: The response rate by the respondents in percentages**

Respondents	No of Respondents	Rate of response in %
MEMD	3 of 3	100
Lawyers	16 of 20	80
Consultancy	2 of 5	40

### 3.4 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.<sup>92</sup>

Purposive stakeholder sampling and snowballing as sampling techniques were applied and used in conducting this research.

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<sup>92</sup> Barifaijo, supra (note 31)



A sampling procedure is said to be purposive when one's personal judgment is used to decide which individuals in the population are to be included in the study.<sup>93</sup> Usually these are those the researcher thinks best meet the purpose of the study. More so, a Purposive sample is a sample selected because the individuals have special qualifications of some sort, or because of prior evidence of representatives.<sup>94</sup> Units from a pre-specified group are purposively sought out and sampled at times due to their „privileged“ positions by the virtue of their offices. In other words, in purposive sampling, “strategic choices” are made about who, where and how to conduct the research.<sup>95</sup>

The specific kind of purposive sampling used in this research was stakeholder sampling. Stakeholder sampling involves identifying who the major stakeholders are, who are involved in designing, giving, receiving, or administering the program or service being evaluated, and who might otherwise be affected by it.<sup>96</sup> Purposive stakeholder sampling was used for this research because buy Uganda, build Uganda specifically targets the Oil and Gas industry and being such a closed loop industry and how such legislation can be used to enhance social welfare, strategic choices had to be made to select stakeholders whose operations are directly affected by the legislation. This sampling procedure is useful in the context of evaluation research and policy analysis.<sup>97</sup>

Snowball sampling is used where there are difficulties identifying and contacting members of the research population.<sup>98</sup> Even though it was easy to identify members of the population, there was difficulty in contacting them and I had to rely on the first few contacts to recommend and make introductions to other contacts.

### **3.5 Data Collection Methods**

In order to conduct the research in a qualitative manner, primary data was obtained from key informant interviews with key and specific individuals from different organizations that have been highlighted, document reviews were also used to collect secondary data as part of the study such as publications and reports both local and international that are in pertinent relation with the topic in study were used to back up the primary information and relate the

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<sup>93</sup> Tom Nsubuga & Paul Katamba, *Basic Research Simplified for the University Students* (1<sup>st</sup> edn, 2013) pg.88

<sup>94</sup> Tom Nsubuga & Paul Katamba, *Basic Research Simplified for the University Students* (1<sup>st</sup> edn, 2013) pg.88

<sup>95</sup> Tom Nsubuga & Paul Katamba, *Basic Research Simplified for the University Students* (1<sup>st</sup> edn, 2013) pg.88

<sup>96</sup> Ted Plays, „purposive sampling“ in Lisa M. Given, *The sage Encyclopedia of Qualitative Research Methods* (Vol 1&2 Sage Publications, inc. 2008) p.697

<sup>97</sup> Ted Plays, „purposive sampling“ in Lisa M. Given, *The sage Encyclopedia of Qualitative Research Methods* (Vol 1&2 Sage Publications, inc. 2008) p.697

<sup>98</sup> Nsubuga, *supra* (note 214) p 89

findings so as to come up with a reasonable solution for the research in question . The views given in such documents are useful to ensure that there is comparison with other authors in relation to the topic in question so as to have diverse atmosphere for new ideas and ensuring pertinent base for literature review.

Standardized questionnaires were administered of which these were written documents that were completed by the persons being surveyed and in some instances; face to face interviews were used. These methods were chosen because this data collection procedure allowed the flexibility to explore themes that dug deeper to answer the research question. The method also allowed new ideas to be brought up and explored during the interviews. Sample questionnaire is attached in Appendix 1.

### **3.6 Sources of Data**

The researcher collected data from both primary and secondary resources .Primary data: This was obtained by use of structured questionnaires and interviews methods which were utilized to administer the survey and to get the necessary information as were deemed the best tools to use while handling a qualitative study.

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

### **3.7 Ethical Considerations**

The goal of ethics in this research was to ensure that no one is harmed or suffers adverse consequences from the research activities.<sup>99</sup> The researcher in the conduct of the study aimed at protecting the rights of the respondents by; ensuring that the respondents privacy is maintained during the research or subsequent thesis, thus ensuring that the respondents selected to participate were without bias, of which it ensured that the research was handled and developed ethically as the researcher ensured the protection of the privacy of the individuals that participated in the study. This privacy protection must extend to all people's, regardless of age, religion, race. As such, the data obtained from the respondents was treated purely as academic and confidential for the safety, social and psychological well-being of the respondents and appropriate documentation was kept.

In addition, much as some of the ideas used by the researcher were his own, there was information read and that obtained from people interviewed about the topic. As such, the

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<sup>99</sup> Barifaijo, supra (note 31)

researcher was able to explain where he got information from by way of citation and use of quotation marks respectively. This helped the researcher to maintain credibility of the literature to avoid plagiarism.

### **3.8 Data Analysis**

Data analysis is the process of bringing order, structure and meaning to the mass of collected data. 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.<sup>100</sup>

Qualitative data analysis was used whereby there involved a move from the qualitative data that had been collected into some form of explanation, understanding or interpretation of the people and situations being investigated. Qualitative data analysis also involved identification and transcribing the qualitative findings into different themes. The themes were then edited, coded and arranged in different categories to generate useful conclusions and interpretations on the research objectives which were deduced for reporting in a narrative form.

### **3.9 Limitations**

There was a limitation of reliance on interview data. With the use of interviews, it was hard to control the respondent behavior because some of the interviewees were sensitive to some sections in the interview guide and the questionnaire as a whole. There were elements of item-non response as the answering process failed to proceed smoothly because the respondent lacked motivation or ability. Some respondents also gave responses such as; the questions are too difficult, not interesting and even some left some questions unanswered of which the researcher found somewhat unsatisfactory of the expected findings. In order to mitigate this limitation, the researcher endeavored to ensure that he provides a reliable explanation in relation to the questionnaires presented to the respondents of which this helped the respondents to fall in line with what the researcher expected from them as they gave their views and answers.

Limited information given to the researcher during the study was among the limitations the researcher faced while conducting research. Some of the respondents were hesitant to reveal as well as avail the researcher with information they believed to, be confidential. As a way of mitigating this limitation, the researcher explained in detail that the information given

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<sup>100</sup> Barifaijo, supra (note 31)

would be used purely for academic purposes. More so the researcher' used secondary sources as an alternative to the primary sources used. This was done by endeavoring to research and pinpoint sources that are current of which the researcher deemed important and plausible to bring out the desired goals of the research.

There was also a hindrance in the scheduling of the interviews with some of the respondents who had busy schedules, others were not even reachable as either they were not in the country or they were busy occupied with work that they had no time for response. In addition, some respondents had archaic requirements to approach their offices which became difficult for the researcher to attain information from them. This limitation was mitigated in a way that the researcher endeavored to stick to his method of snowball sampling through which the different stakeholders approached, recommended other respondents who helped to bridge the gap respectively especially where most of them had similar qualifications or were at the same level of ranking.

### **3.10 Conclusion**

The chapter is basically considered to be the prop of the research. This is so because it handles the issues of why is the research study undertaken, how the research problem was formulated, the different types of data that were collected, the particular method that has been used and why a particular method of analysis of data was used in order to come up with the different research findings.

## **CHAPTER FOUR**

### **ANALYSIS OF THE LAWS GOVERNING LOCAL CONTENT IN UGANDA'S OIL AND GAS INDUSTRY.**

#### **4.1 The Local Content Legal and policy framework in the petroleum industry**

##### **4.1.1 Introduction**

This chapter fulfilled the aspirations of the main objective of the study which was to analyze the efficacy of the Local Content Legal Framework in enhancing Buy Uganda, Build Uganda policy in the Oil and Gas industry of Uganda.

Uganda's Oil and Gas industry is advancing on a progressing perspective and with such, various policies and mandates have been put in place to help in the governing of the industry in question. In a bid to achieve this Uganda as a country through its Ministries Departments and Agencies and various other bodies came up with policy formulation and regulatory framework that would help in the governance of various key aspects of the Oil and Gas industry in question. An example is the regulatory framework that has been formulated to handle the issues concerning Local Content in the Oil and Gas industry, like those pertaining to how certain instincts of work, employment and training are related and dealt with in the industry at large. As already mentioned earlier in the introductory section, Local Content provisions used to be found in Production Sharing Agreements, but with the enactment of framework laws and regulations in the Upstream and Midstream sectors of the industry, Uganda developed a rich legal regime to govern the aspect of content development.

This chapter concentrated on those Laws, regulations and policies that have specifically provided for the LC and BUBU as an aspect i.e. how the concept there in will be portrayed and administered by different stakeholders in their respective capacities in the Oil and Gas industry of Uganda, the loopholes in the law and practical aspects of its implementation, challenges limitations and recommendation on how to bridge the gaps within the Laws and regulations and how to address other factors that hinder local content development.

The draft National Content policy explains what it means by Local Content and it explains thus that it refers to the share of labour, services and goods for the petroleum sector being provided from within the country and constitutes the added value to Uganda from these

activities.<sup>101</sup> It continues to provide that the Government of Uganda is committed to facilitating the development of a significant national participation in its petroleum sector of the benefit of the Ugandan economy, the petroleum sector itself and the society at large<sup>102</sup>.

Uganda's ambition is no different from many other Oil producing nations to see that such policy aspects like BUBU are deemed absolute in ensuring that the Oil and Gas industry is of benefit to the nation as a whole as a way of enhancing welfare of people in the oil and gas sector.

#### **4.1.2 Policy, Legal and Regulatory Framework aimed at enhancing BUBU Policy through local content regulatory regime.**

As had already highlighted, this chapter handled various policy and legal frameworks and specific regulations that highlight how effective Local Content regulatory regime enhances BUBU policy among the people in the Oil and Gas industry of Uganda . Specific policies and regulations to this regard discussed in this chapter were deemed fit for the purpose of achieving the objectives of the research in question. National Oil and Gas Policy,<sup>103</sup> National development plan 11,<sup>104</sup> were among the policies discussed, the regulatory framework included The Petroleum Act (upstream law),<sup>105</sup>The Petroleum Act (Midstream law),<sup>106</sup>Midstream (National content regulations)<sup>107</sup> and upstream (National content regulations),<sup>108</sup>The National Local content Act of 2019, Access to information Act 2005.

#### **4.1.3 Legal and Regulatory Framework**

In a bid to strengthen the policies and various concepts like Local Content in the Oil and Gas industry, Uganda as a country has ensured that the legal and regulatory framework is put in place as a baseline that will help govern different policy and legal aspects of Oil and Gas as an industry in question. The legal and regulatory framework that will be discussed below will show how the aspect of LC in the Oil and Gas industry is captured and manifested in these

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<sup>101</sup> Ministry of Energy and Mineral Development, National Content Policy for the Petroleum Substance in Uganda (February 2017) pg.1

<sup>102</sup> Ministry of Energy and Mineral Development, National Content Policy for the Petroleum Substance in Uganda (February 2017) pg.2

<sup>103</sup> Ministry of Energy and Mineral Development, National Oil and Gas Policy for Uganda (February 2008)

<sup>104</sup> Second National Development Plan, NDPII 2015/16-2019/20(June, 2015)

<sup>105</sup> The Petroleum (Exploration, Development and Production) Act, 2013

<sup>106</sup> The Petroleum (Refining, Conservation, Transmission and Midstream Storage) Act, 2013

<sup>107</sup> The Petroleum (Refining, Conservation, Transmission and Midstream Storage) (National Content) Regulations 2016

<sup>108</sup> The Petroleum (Refining, Conservation, Transmission and Midstream Storage) (National Content) Regulations 2016

Laws and regulations showing how effective LC regulatory regime in enhancing social welfare as a policy in the Oil and Gas industry of Uganda.

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

The PEDP Act in question is one of the key regulatory frameworks that have been formulated to uphold the promotion and development of Local Content as a policy concept in Oil and Gas industry of Uganda. Among its purposes, the Act stipulates that the purpose of this Act is to operationalize the National Oil and Gas policy of Uganda by supporting the development of state participation and national content in the petroleum industry in Uganda with its end goals of enhancing social welfare in Uganda's oil and gas industry<sup>109</sup>.

#### **4.1.5 Grant and Application of Rights**

The PEDP Act has various provisions that portray how Local Content will be handled in the Oil and Gas industry. When it comes to the issues pertaining application of rights, the PEDP Act is clear with the essence of granting these rights ensuring that these rights are given with a mandate to ensure that Local Content provisions are adhered to.

An example is the PEDP Act which lays down some of the conditions pertaining the application for a petroleum license that the application shall give or be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Uganda, and set out any other matter which the applicant wishes the Minister to consider.<sup>110</sup> More so on the same issue of the application for rights, the PEDP Act, is clear that an application for the grant of a petroleum production license shall be accompanied by the field development plan which shall contain particulars of the applicants proposals for the employment and training of citizens of Uganda, and the applicants proposals with respect to the procurement of goods and services from Uganda.<sup>111</sup> More so the PEDP Act in the same view stipulates that a petroleum production license shall not be granted to an applicant unless the applicant's proposals for the employment and training of

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<sup>109</sup> PEDP Act (note 248) S.1(f)

<sup>110</sup> PEDP Act (note 248) S.56 (3) (f)

<sup>111</sup> PEDP Act (note 248) S.7 (3) (f) and (i)

citizens of Uganda are satisfactory; and also that the applicants proposals with respect to the procurement of goods and services available in Uganda are satisfactory.<sup>112</sup>

The provisions discussed above are a good kick start to trigger the adoption and implementation of Local Content development as a policy and concept in Oil and Gas industry. This shows that the government of Uganda is readily supportive of this concept as it has portrayed through its regulations to give hope for Ugandan workforce that will benefit from the Oil and Gas industry especially through procurement and employment opportunities. However, what still needs to be cleared is that as much as these hallmarks are put in place, the question remains about what measures are there to ensure that first of all the Ugandan workforce needed for employment is readily available, and then the companies ready to provide procurement services are well equipped so that both the employment and the procurement sides are befitting the industry's demands.

This is a question that needs pertinent approach to back up the already established regulations that are upholding the concept of LC in question. According to Nabiruma, the Communications officer for Africa Institute for Energy Governance (AFIEGO), an NGO working with project affected persons (PAPS) in the oil region in an interview with Daily Monitor said that government should do much more in ensuring that Ugandans are ready and employable in the sector. She says although the policies and legal framework are in place, she wonders what government is doing on the ground.<sup>113</sup>

Oil and Gas are highly capital intensive, and the skills required are quite intensive, especially in the upstream where you need a highly trained workforce to provide services of for example seismic prospective surveys, seismic data analysis and interpretation, well drilling. Even the goods that are needed in the upstream sector are not readily available in Uganda. It therefore becomes imperative that these high tech goods and services are procured from developed countries with a history of oil and Gas production. This leaves Ugandans with low grade services like catering, cleaning, transport, clearing and forwarding etc which are not so well paying and beneficial. Indeed these are the services that are ring fenced under the Law.

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<sup>112</sup> PEDP Act (note 248) S.74 (1) (e) and (f)

<sup>113</sup> Jonathan Adengo, „Pain as Uganda waits for first Oil“ Daily Monitor (Kampala, 15 November 2017) 34



More so, these Local Content legal requirements may have a chilling effect on foreign investment, where investors find themselves being forced to utilize local goods and services from Ugandans which are not to the standard required by the licensees

### **Training and Employment**

The PEDP Act specifically provides for the training and employment of Ugandans and it thus provides that the licensee shall, within twelve months after the grant of a license, and on each subsequent anniversary of the grant, submit to the Authority for approval, a detailed program for recruitment and training of Ugandans.<sup>114</sup> That the program shall provide for the training and recruitment of Ugandans in all phases of petroleum activities and shall take into account gender, all these are directed at enhancing social welfare in Uganda's oil and gas sector, persons with disabilities and host communities.<sup>115</sup> Once the program has been approved in question, it shall not be varied without the permission of the Authority<sup>116</sup>. This is a good move for effective approach concerning LC as a concept in the Oil and Gas industry, the issue of having concern for all gender irrespectively is key to curb discrimination when it comes to BUBU implementation which might be a problem if there ought to be discrimination in these circumstances. The provisions in question are good, though the researcher stipulates that there ought to be tangible measures put in place so as to collate how the multinational organizations and their subcontractors in question ought to hid and adhere to what the law in question provides.

More so, Ugandans lack the adequate and necessary skills required in the upstream sector that may be required by the licensees. The Law does not make provision for Training Needs Assessment to identify the business needs, performance of gap analysis, assessment of training options as well as reporting training needs and recommendations. Without the said provisions, the law shall remain redundant and on paper.

Further still, the Oil and Gas sector is still relatively new in Uganda. For training to be able to deliver the desired effect, it will take a long time before the required skills are imparted to Ugandans. In that case, benefits of Local Content provisions shall be long term rather than short term.

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<sup>114</sup> PEDP Act (note 248) S.126 (1)

<sup>115</sup> PEDP Act (note 248) S.126 (2)

<sup>116</sup> PEDP Act (note 248) S.126 (4)

## Procurement of Goods and Services

The PEDP Act further provides for Local Content Policy aspirations and thus provides that the licensee, its contractors and subcontractors shall give preference to goods which are produced or available in Uganda and services which are rendered by Ugandan citizens and companies,<sup>117</sup> and these entities shall have capacity to add value to meet the health, safety and environment standards of the petroleum activities carried out by the licensee and be approved in accordance with criteria prescribed by the Minister by regulations,<sup>118</sup>

The licensee, its contractors and subcontractors shall also ensure that the entities are notified of the quality, health, safety and environment standards required by the licensee and be notified of the upcoming contracts as early as practicable.<sup>119</sup> Where the goods and services required by the contractor or licensee are not available in Uganda, they shall be provided by a company which has entered into a joint venture with a Ugandan company provided that the Ugandan company has a share capital of at 48% in the joint venture.<sup>120</sup>

In the same view, the Auditor General's report hinted on the issue of the requirement of at least 48% and stipulates that the share capital holding for Ugandans may be unrealistic.<sup>121</sup> The report continues to stipulate that Oil and Gas business is capital intensive. The report continues to state that according to experts in the industry and the Uganda Investment Authority, Uganda has limited local capacity and access to sufficient capital and this may hinder their capacity to undertake joint ventures with foreign global service providers.<sup>122</sup> The researcher found out that with such issues at hand, the government's intervention is key to ensure that the roles and aspirations of these regulations in question are dealt with in question.

Coupled with this is the high interest rates of commercial banks when the local companies are seeking for recapitalization. Most local companies cannot afford to get credit from financial institutions because of exorbitant interest rates. As such, Ugandan companies remain "small" and cannot in effect be able to enter into joint ventures with highly capitalized foreign companies.

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<sup>117</sup>PEDP Act (note 248) S.125 (1)

<sup>118</sup> PEDP Act (note 248) S.125(4)

<sup>119</sup> PEDP Act (note 248) S.125 (3)

<sup>120</sup>PEDP Act (note 248) S.125(2)

<sup>121</sup> AG report, supra (note 118) p.19

<sup>122</sup> AG report, supra (note 118) p.19

This requirement further has a negative effect on the licensee, because in case local companies do not have the necessary capital to make them compete, foreign companies in effect find themselves performing the majority of the contracts despite the facts that there are joint venture agreements with local companies in place. For instance in Joint Operating Agreements, where the participating partners are required to honour Cash Calls, if a co-venture is a local company without the necessary capital to contribute to the cash calls, this may result into default leading to unnecessary consequences.

### **Technology Transfer**

The PEDP Act further sets out provisions concerning Local Content and it hints on the issues concerning technology transfer. The Act stipulates that a licensee shall include a commitment by the licensee to maximize knowledge transfer to Ugandans and to establish in Uganda, management and technical capabilities and any necessary facilities for technical work, including the interpretation of data.<sup>123</sup> The issue of technology transfer required shall be a shared responsibility between the government and the licensee.<sup>124</sup> Oil and Gas industry is a high tech industry which necessitates that there is quite an experienced workforce that is meant to handle the activities in the industry in question. Such aspects being akin to the industry, the Laws and regulations have made it key that the issue of technology transfer is key and that's why this responsibility has been given to both the government and the licensee. The Local Content Legal Regime has demonstrated willingness of promoting this aspect.

The idea of shared responsibility is an appropriate move showing that the framers of the Laws and regulations in question had at heart some of these key aspects that need a collective approach knowing that at times stakeholders alone cannot be in position to uphold and implement what needs to be done on their own. This again hints on how the Government's role is a key aspect in ensuring that some of these portraits are handled in accordance to what the law says so as to have an effective implementation of BUBU as an aspect key to the Oil and Gas industry in Uganda.

However, the controversy of technological transfer as a local content policy is something that has been up for debate for years since the possibilities of infringements on copyrights or on intellectual property is very high. Among the issues highlighted on this part of the

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<sup>123</sup> PEDP Act (note 248) S.127 (7)

<sup>124</sup> PEDP Act (note 248) S.127 (4)

standardized questions was to assess whether LCR is incompatible with the international trade measures applicable to members of the World Trade Organization. According to the responses, it showed that there is little knowledge concerning how LC promotion interrelates with the procedures and aspects of WTO on employment, Training and procuring locally made goods in the oil and gas industry.

Cimino as earlier stipulated states that according to the WTO mentality, promotion of L.C and implementation of LC policies by use of technological transfer promotes unfair competition of which this is against the so-called economic scale and balancing of economic trends and infringes on patents and copyright laws internationally something that is generally agreed upon as a basic investment norm. This can be portrayed as a gist where you find that most expatriates are already qualified to the expense of the local citizens yet due regard is given to the local citizens of which WTO policies regard this as unfair. Most WTO instruments have “equal treatment provisions” which have been seen to be incompatible with local content provisions. Their argument is that this affects the domestic commerce of another state reason being that the WTO promotes the idea of one-member country to treat one another as they would their own nationals.<sup>125</sup>

As the literature had provided, the issue of having effective legal regulatory framework fronting the aspects of Local Content in the Oil and Gas industry is a pertinent move to ensure that such irregularities are taken care of if the welfare of people of people is to be catered for.

The other point that was highlighted in relation to the arguments against the use of Local Content is that it creates distortions, inefficiency and corruption which affects the extractive sector. The Oil and Gas sector being a capital-intensive industry requires that there ought to be a serious endeavor on how activities within the industry are held. With the urge to participate in the industry at large, there are at times occurrences of corruption tendencies by some officials who want to gain much from the oil proceeds in question. This is due to the fact that there are much cash inflows from the industry in question. To this end it has been recorded more often that countries endowed with the Oil resources or extractive mineral deposits have faced a vast number of economic breakdowns of which the notion has been termed as resource curse. This is usually due to overzealous individuals who expect more than what the industry can provide and end up creating an industrial imbalance and sectorial underdevelopment in areas that these industries operate. Having an efficient legal regulatory

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<sup>125</sup> Cimino, supra

regime as highlighted throughout the literature review relating to Oil and Gas that can ably deal with such instances is key towards the promotion of such aspects like Local Content the Oil and Gas industry of Uganda at large.

As portrayed in the discussions, the other issue that was hinted upon in relation to the arguments against the use of Local Content in enhancing social welfare through use technological transfer discourages investment and puts undue pressure on companies. When it comes to investment in the Oil and Gas industry, we look at monetary terms since the industry is capital intensive in terms of its capacity maintenance. It is on this basis that investors think and argue that with the promotion of Local Content, they cannot wait for the industry of the host country to develop. For example, taking Uganda's industry in question, it faces the problem of the lack of skills and minimal capacity development of both man power and the industrial base supposed to provide raw materials plus other service providers at large.

The other argument is that the promotion of Local Content through technological transfer comes with the issue of having stringent legislation meant to promote Local Content which is seen as a hindrance to investment by the IOC's and other service providers be it contractors and Subcontractors as the situation may be. Their argument supports a plan that ought to have a recognized and workable legislation for both the expatriates and the host citizens to have a workable environment in question if investment in the Oil and Gas industry is to be a success. The issue concerning LC is key in the extractive industries in any host country as this ensures that the host citizens are part and parcel of the industry which in the due end promotes economic and social transformation of the citizens and the country as a whole. The issue of hindering investments is minor where there are favorable and accurate regulations that promote a balance between what the investors and the local citizens both need at large.

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

These regulations are key to the upstream sector of the Oil and Gas industry in Uganda. They add up to the PEDP Act as already explained and they are key to the LC concept in the Oil and Gas industry of Uganda. The upstream regulations have key stipulated purposes streamlined for the promotion of Local Content in Oil and Gas industry of Uganda.

Regulation 3 portrays purpose of these regulations which is to promote the training and employment of Ugandans, transfer of knowledge and technology and the provision of goods and services by Ugandan companies, Ugandan citizens and registered entities, in petroleum activities.<sup>126</sup> More so the upstream regulations also among its purposes portrays necessity for the licensee, sub-contractors and the contractors to give priority to the sourcing of goods and services from Ugandan companies and registered entities,<sup>127</sup> also requires the provision of goods and services not in Uganda to be provided by a company that is in joint venture with a Ugandan company,<sup>128</sup> ensuring enterprise development through provision of support to Ugandan citizens and Ugandan companies,<sup>129</sup> and to promote cooperation between licenses, contractors, subcontractors and Ugandan universities, research institutions and technical institutions<sup>130</sup>. These provisions are a replica of the provisions set out in the PEDP Act

The purposes portrayed in the regulations as shown above indicates a willingness to develop Local Content What is important is to ensure that the stakeholders in the industry in question continue to do their part in accordance to what the law has put in place. This calls for collective approach amongst the stakeholders if vivid results are expected to be archived accordingly.

Important to note is that these upstream National Content (NC) regulations explain some key aspects that were left out by the PEDP Act as explained earlier and these key terms are key to understand how LC aspects will be dealt with among different entities.

Key to note is the definition of National Content which the regulations say that it means the level of use of Ugandan local expertise, goods and services, Ugandan companies, Ugandan citizens, registered entities, businesses and financing in petroleum activities.<sup>131</sup> The regulations continue to explain Local Content to mean the substantial combined value added or created in the Ugandan economy through the utilization of Ugandan human and material resources for the provision of goods and services to the petroleum industry in Uganda<sup>132</sup>.

Other key terms include registered entity which means business owned by Ugandan citizens registered under the Business Names Registration Act or the Partnership Act, 2010.<sup>133</sup>.A

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<sup>126</sup> Upstream NC regulation, supra (note 251) Reg. 3(a)

<sup>127</sup> Upstream NC regulation, supra (note 251) Reg. 3(b)

<sup>128</sup> Upstream NC regulation, supra (note 251) Reg. 3(c)

<sup>129</sup> Upstream NC regulation, supra (note 251) Reg. 3(e)

<sup>130</sup> Upstream NC regulation, supra (note 251) Reg. 3(f)

<sup>131</sup> Upstream NC regulation, supra (note 251) Reg. 4

<sup>132</sup> Upstream NC regulation, supra (note 251) Reg. 4

<sup>133</sup> Upstream NC regulation, supra (note 251) Reg. 4

Ugandan company is also among the key terms explained and it is explained as a company incorporated under the companies Act, 2012 and which provides value addition to Uganda, uses available local raw materials, employs at least 70% Ugandans, and is approved by the Authority under regulation 9(4).<sup>134</sup>.

These terms explained are key in ensuring that the business trends operating within the aspects of Local Content are well established and the foundations there in are upheld and appropriately demonstrated. For example, the issue of a Ugandan company having to employ 70% of Ugandans is a key issue advancing the Local Content objective and a sign to show that the regulations in place are on point to ensure that Ugandans benefit from the Oil and Gas industry in Uganda. This is vital that the stakeholders are acquainted with these aspects so as to have a streamlined Local Content monitoring and implementation as portrayed in the regulations affecting Oil and Gas industry in Uganda. .

The Upstream NC regulations continue to provide for Local Content measures and provisions as a move to endeavor that this process achieves a success in its bid to promote and sensitize Local Content measures in the Oil and Gas industry of Uganda.

First of all the regulations in question stipulates that as the licensee applies for rights, the minister shall consider NC when evaluating any license applications under the Act.<sup>135</sup> The regulations continue to provide thus that the licensee shall within 12 months after the grant of a license, submit a National Content program proposal to the Petroleum Authority for approval. The proposal among others will include; the employment and training of Ugandans, the required quality, health, safety and environmental standards for goods and services to be procured, transfer of technology, knowledge and skills to Ugandan companies, Ugandan citizens and registered entities, research and development in Uganda, procurement of goods and services obtainable in Uganda, local supplier development, partnership with Ugandan companies, Ugandan citizens and registered entities, plus any other information required by the Authority.<sup>136</sup>

If the Petroleum Authority is not satisfied with the NC program as submitted, the Authority shall return the NC program to the licensee with comments for improvement and the licensee shall make the necessary amendments to the program and re submit the program to the

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<sup>134</sup> Upstream NC regulation, supra (note 251) Reg.4

<sup>135</sup> Upstream NC regulation, supra (note 251) Reg. 6

<sup>136</sup>Upstream NC regulation, supra (note 251) Reg. 6

Authority.<sup>137</sup>The Authority will approve this program within 21 days and the licensee shall not amend or deviate from the approved program without the approval of the Authority.<sup>138</sup>

The provisions as stipulated above are key and show how committed the regulations are in promoting BUBU in the Oil and Gas industry of Uganda. what remains is to establish how ready the Ugandan stakeholders for example the companies are, to ensure that the IOC"s are able to handle these aspects of LC with the availability of a ready market and industrial base on the side of the local stakeholders that is Ugandan citizens, companies and registered entities. The fact is that Ugandan Companies do not have the capacity to provide the necessary goods and services especially required in the Upstream sector. Uganda shall continue to see Licensees sourcing these goods and services from abroad if something is not done in the right direction.

More so the issue of requirements seems to be quite a lot and in order to ensure that such provisions are upheld, the responsibility remains a task to the authority on how to endeavor to cater for accountability in relation to responsibilities accorded to the IOC"s and other multinational stakeholders showing how they go about these issues. Otherwise despite the regulations being in place, there ought to be need for transverse promotion and basic practical approach by both the authorities which monitor implementation of Local Content not forgetting the roles played by the different stakeholders that are directly affected by these regulations in question.

More so the upstream regulations under regulation 8 provides for the platform for coming up with a plan for giving preference for goods and services available in Uganda. Theregulations stipulate that the National Content Program submitted to the Petroleum Authority shall give a detailed plan on how the license shall give preference to goods that are locally manufactured or available in Uganda<sup>139</sup>, where the goods meet the quality and timeline for delivery and also showing how the Ugandan companies and registered entities are given preference during the bidding process for required services.<sup>140</sup>

This is a key aspect that preference is given to Ugandan companies and registered entities, however the regulations do not stipulate how these issues will be followed to the brim and more so the issue of quality and timeline delivery though key for business efficacy, some

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<sup>137</sup> Upstream NC regulation, supra (note 251) Reg. 7(3)

<sup>138</sup> Upstream NC regulation, supra (note 251) Reg. 7(4)

<sup>139</sup> Upstream NC regulation, supra (note 251) Reg. 8(a)

<sup>140</sup>Upstream NC regulation, supra (note 251) Reg. 8(b)



companies might use it as an escape route from shunning to use Ugandan companies (which) lack capacity in their activities which might become a disadvantage when it comes to BUBU implementation and promotion. These aspects though good' theoretically, the practical approach to them needs to be checked to ensure that there is a smooth operation of the law and full implementation thereof.

The upstream regulations continue to stipulate that priority should be given to Ugandan goods and services during procurement. Every licensee, contractor and subcontractor shall give preference to goods and services which are produced and are available in Uganda and services which are produced and are available in Uganda and services which are rendered by Ugandan citizens and companies.<sup>141</sup> The regulations continue to give an option that where the goods required by the license or contractor or subcontractor are not available in Uganda, the goods and services shall be provided by a company which has entered into a joint venture with a Ugandan Company of which the Ugandan company shall have a participating interest of at least 48% in the joint venture.<sup>142</sup>

A Ugandan company shall, before entering into a joint venture be approved by the Petroleum Authority and shall have the technical and financial competence and be able to deliver the goods and services in a timely manner, demonstrate capacity to transfer knowledge and technology to Ugandan citizens, and have experience in the provision of the required goods and services.<sup>143</sup> When the Ugandan company doesn't have the required quality, technical capacity or financial means, the licensee may put in place a suppliers' development program to be approved by the Petroleum Authority.<sup>144</sup> As portrayed by the regulation in question concerning procurement, it is a key aspect and step in the promotion and implementation of LC as an aspect of Oil and Gas industry. The Authority's approval of the company that will join a joint venture is a key aspect especially that this inhibits quality assurance since a lot is expected from the IOC's and their respective contractors and subcontractors, the same should be expected from the Ugandan companies and registered entities that seek to be part and parcel of the industries activities in question given that most Ugandan companies lack capacity as has been explained above,

More so as a way to promote BUBU, the upstream regulations under regulation 10 provide for some contracts to be exclusively provided by Ugandan citizens and companies and thus

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<sup>141</sup> Upstream NC regulation, supra (note 251) Reg. 9(1)

<sup>142</sup> Upstream NC regulation, supra (note 251) Reg. 9(3)

<sup>143</sup> Upstream NC regulation, supra (note 251) Reg. 9(4) (a,b,c)

<sup>144</sup> Upstream NC regulation, supra (note 251) Reg. 9(7)

the regulations require the licensee, operator, contractors and subcontractors to reserve the contracts for goods and services specified in the schedule to be supplied by Ugandan companies, Ugandan citizens and registered entities.<sup>145</sup> Some of the services include transportation, office supplies, fuel supply, land surveying, clearing and forwarding, communication and information, waste management among others.

In addition to this, the regulations require every licensee, operator, contractor and subcontractor to provide additional and timely information and reduce the size and complexity of the scope of works by unbundling of contracts and formulate work packages which are affordable by Ugandan companies, Ugandan citizens and registered entities.<sup>146</sup>

As provided, the regulations here demonstrated that it is key for the Licensee and other contractors there in to respect and be in accord to the service providers in question. This gives a vast opportunity for the local service providers to utilize the chances available of which all they need to do is to invent ways on how to make their work be of standard as required of the Oil and Gas industry in question. Much as this “ Ring fencing” provision is positive as far as local content development is concerned, the services ring fenced are low grade, low paying services compared to the high tech services like seismic data acquisition and interpretation, drilling services etc which are more paying.

The upstream regulations continue to provide for key approaches to Local Content and in so doing, regulation 11 provides for the National Supplier Database for petroleum activities that will be developed by the Petroleum Authority and a company shall not provide goods, works or services for petroleum activities unless it is in the national supplier database.<sup>147</sup> According to Ssekatawa, formal Director Legal and corporate affairs the Petroleum authority of Uganda (PAU) in his article stipulated that NSD is one of the tools for regulating the procurement of goods and services in the petroleum sub-sector.<sup>148</sup> PAU will ensure the government is aware of the experience and capabilities of the qualified Ugandan and foreign companies in the petroleum sub-sector. This will enhance transparency in the procurement

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<sup>145</sup> Upstream NC regulation, supra (note 251) Reg. 10(1)

<sup>146</sup> Upstream NC regulation, supra (note 251) Reg. 10(3)

<sup>147</sup> Upstream NC regulation, supra (note 251) Reg. 11(1&2)

<sup>148</sup> Ali Sekatawa, „National Suppliers database will foster local content in Oil Sector“ Daily Monitor (Kampala, 22 September 2017)

process and also provide a one-stop database for procurement for licensed oil companies thus shortening the procurement process.<sup>149</sup>

In the same view, Ssekataawa continued to say that once fully developed, the National Supplier Data base will provide an opportunity for a transparent and standardized procurement cycle, which will lead to increased competition and efficiency in the supply chain and enhanced visibility for Ugandan businesses. Areas like Norway, Malaysia, Brazil, Nigeria, run platforms of this nature.<sup>150</sup>

He further stipulated that as Uganda continues with the race to become an Oil producer, Local Content development will go a long way in contributing towards the achievement of the sustainable development goals by promoting fair, inclusive and sustainable economic growth and industrialization fostering innovation. It is also a massive opportunity for the youth to take advantage of the opportunities.<sup>151</sup>

As a way to continue upholding Local Content promotion in the petroleum subsector of Uganda, the regulations continue to make it a mandate to consider NC as a prerequisite for qualification for the bidding process by every licensee, contractor and subcontractor<sup>152</sup>. More so the licensee, contractor and subcontractor shall hold quarterly tender workshops to educate Ugandan citizens and companies about the procurement process, requirements, performance standards and lessons from previous bidding processes<sup>153</sup>. The regulations continue to stipulate that NC shall form part of the bid evaluation criteria and in all circumstances, NC shall be allocated at least ten percent of the total evaluation score, which shall be rated wholly or substantially on employment and training of Ugandan citizens, utilization of local goods and services and the proposals for technology transfer.<sup>154</sup>

The regulations stipulated herein are key to the promotion of Local Content as an aspect of Oil and Gas industry where by the provisions enlisted will make the IOC's take seriously the aspects of Local Content and in so doing, the request of having workshops will enable Ugandan citizens, companies and registered entities to be able to acquire skills from these

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<sup>149</sup> Ali Sekatawa, „National Suppliers database will foster local content in Oil Sector“ Daily Monitor (Kampala, 22 September 2017)

<sup>150</sup> Ali Sekatawa, „National Suppliers database will foster local content in Oil Sector“ Daily Monitor (Kampala, 22 September 2017)

<sup>151</sup> Ali Sekatawa, „National Suppliers database will foster local content in Oil Sector“ Daily Monitor (Kampala, 22 September 2017)

<sup>152</sup> Upstream NC regulation, supra Reg. 12(1)

<sup>153</sup> Upstream NC regulation, supra Reg. 12(2)

<sup>154</sup> Upstream NC regulation, supra Reg. 13(1) (a,b,&c)

multinational companies. This is a relevant aspect of promoting LC and social welfare of people in the industry like that of Uganda that is just in its initial stages. '

The upstream regulations in a bid to promote and establish Local Content in the Oil and Gas industry, recognizes the issue of employment of Ugandans, an example is regulation 15,<sup>155</sup> which is to the effect that all contracts whose total budget exceeds US\$ 1,000,000 and are to be executed in Uganda shall contain a labor clause mandating the use of a minimum percentage of Ugandan labor in specific categories as may be stipulated by the Authority. This demonstrates the mandate to ensure that the local labor force, business entities and companies of Uganda are given priority pertaining the opportunities in the Oil and Gas industry. .

More so the regulations provide for the employment and training of Ugandans and thus provide that the licensee shall develop and submit to the Authority for approval, a transparent policy and plan on training and employment of Ugandans, specifying the required minimum qualifications.<sup>156</sup> The policy shall ensure that Ugandan citizens are given priority for employment in any petroleum activity executed by the licensee and take into consideration the promotion of participation of specific groups including women, persons with disabilities and persons from different geographical areas or ethnic backgrounds.<sup>157</sup> In addition, the licensee shall give a detailed plan for recruitment and training of Ugandan citizens in petroleum activities.<sup>158</sup> This plan shall provide for the training of Ugandan citizens in all phases of petroleum activities.<sup>159</sup> The plan submitted by the licensee shall include an outline of the hiring and training needs of the licensee and the licensee's major contractors with a breakdown of the skills required; (ii) the activity-specific training requirements; and (iii) the anticipated expenditure to be made directly by the licensee in implementing the employment and training plan,<sup>160</sup> plus a time frame for employment opportunities for Ugandan citizens for each phase of the petroleum activity<sup>161</sup>.

The basics laid down for ensuring the training and employment of Ugandans as explained by the regulations in question are basic and they portray an effective approach to ensure that Local Content as an aspect of Oil and Gas industry is promoted and upheld in

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<sup>155</sup> Upstream NC regulation

<sup>156</sup> Upstream NC regulation, Reg. 16(1)

<sup>157</sup> Upstream NC regulation, Reg. 16(2)

<sup>158</sup> Upstream NC regulation, Reg. 17(1)

<sup>159</sup> Upstream NC regulation, (note 251) Reg. 17(2)

<sup>160</sup> Upstream NC regulation, supra (note 251) Reg. 17(3)

<sup>161</sup> Upstream NC regulation, supra (note 251) Reg. 17(3) a

Uganda's industry. The researcher found out that there is need for a proper verification and monitoring system that will endeavor to create a balanced interrelation between the Authority, the licensees and the people directly affected by the Local Content proceeds of which training and employment as pertinent activities are concerned. This can be evolved with reference to how other jurisdictions have been dealing with such pertinent aspects in the Oil and Gas industry at large. Much as the law embodies some positives as far as Local Content development is concerned, the benefits of training and skills acquisition are not shortterm given that there industry is highly technical. The fruits of the legal regime shall therefore not be realized in the short term as some people might expect.

The regulations also provide for the issue of Technology Transfer and thus provides that every licensee shall submit to the Authority for approval an annual plan, satisfactory to the Authority, setting out details and initiatives aimed at promoting the effective transfer of technology, technical know-how and skills relating to petroleum activities from the licensee to the Government of Uganda, Ugandan companies, Ugandan citizens and registered entities.<sup>162</sup>

The regulations continue to provide that the licensee shall support technology transfer by encouraging and facilitating the formation of joint ventures and partnerships and the development of technology licensing agreements between Ugandan companies, Ugandan citizens and registered entities and foreign contractors and service or supplier companies<sup>163</sup>. The agreements referred to shall be sustainable and shall meet the requirements of national content development to the satisfaction of the Authority.<sup>164</sup>

More so the regulations provide that a licensee shall organize in-country events and trade fairs aimed at establishing contact between international companies, Ugandan citizens and registered entities.<sup>165</sup> A licensee may, upon request by the Authority or on its own initiative, with the approval of the Authority, support the establishment and upgrading of any facility in Uganda for technical, vocational or commercial work and technology transfer.<sup>166</sup>

As stipulated by the regulations in question, the issue of technology transfer is a key and core thing in the Oil and Gas industry since the industry itself is high tech and capital intensive, which might be daunting for new companies to come on board. The requirements

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<sup>162</sup> Upstream NC regulation, supra (note 251) Reg. 23(1)

<sup>163</sup>Upstream NC regulation, supra (note 251) Reg. 23(4)

<sup>164</sup>Upstream NC regulation, supra (note 251) Reg. 23(5)

<sup>165</sup>Upstream NC regulation, supra (note 251) Reg. 23(7)

<sup>166</sup> Upstream NC regulation, (note 251) Reg. 23(8)

as stipulated by the regulations in a bid for ensuring that there is technology transfer is a key and creative approach seen as one of the best ways of ensuring that LC as an aspect of Oil and Gas industry is promoted and implemented more so in a country like Uganda that is just in its initial stages of developing its petroleum industry. The regulations continue to provide for issues of monitoring and enforcement issues and thus provide that a licensee shall submit to the Authority a quarterly national content performance report covering all its petroleum activities.<sup>167</sup>

The national content performance report shall specify, national content expenditure, on both a current and cumulative cost basis and shall set out; the employment achievement in terms of hours or days Worked by Ugandan Citizens and foreign workers and their status,<sup>168</sup> the Ugandan citizens trained and employed indicating particulars by name, job and level of training and employment,<sup>169</sup> the procurement achievement in terms of quality of locally manufactured materials and materials of foreign origin,<sup>170</sup> the names of Ugandan companies, Ugandan citizens and registered entities contracted, the contracts awarded, the value of each contract awarded and duration of the contract,<sup>171</sup> technology transfer initiatives, research and development programs and any training programs provided by the licensee<sup>172</sup>; and for any other relevant information required by the Authority.<sup>173</sup>

In doing so the regulations further provide that the Authority shall undertake regular assessment and verification of the national content performance report filed by a licensee in compliance with these regulations as may be considered appropriate by the Authority.<sup>174</sup> This is an important aspect as far as the issue of Local Content is concerned. It is so as the researcher found out that BUBU is one of the major interrelated aspects of Oil and Gas industry that lays a platform and foundation through which employment and skills acquisition is concerned as the industry dictates.

Uganda as a country is developing its petroleum industry which necessitates articulate monitoring of the activities therein so that the industry is of benefit to Uganda as a nation, not only to the economy but to the population at large. With the issue of monitoring and enforcement, there has to be vivid aspirations by the Petroleum Authority as a body given the

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<sup>167</sup>Upstream NC regulation, Reg. 25(1)

<sup>168</sup> Upstream NC regulation, Reg. 25(3)a

<sup>169</sup> Upstream NC regulation, Reg. 23(3)(b)

<sup>170</sup> Upstream NC regulation, Reg. 23(3)(c)

<sup>171</sup> Upstream NC regulation, Reg. 23(3)(d)

<sup>172</sup> Upstream NC regulation, Reg. 25(3)(e)

<sup>173</sup>Upstream NC regulation, Reg. 25(3)(f)

<sup>174</sup>Upstream NC regulation, Reg. 25(4)

mandate to monitor and enforce these issues of which a lot is expected from the Authority in ensuring that the issues in question are dealt with. In return it also means there is need for serious staffing and support of the Authority in order to perform its duties as laid down by the regulations in question.

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

This law governs the midstream activities in the Oil and Gas sector. Part VII of the Act<sup>175</sup> recognizes the issue of state participation and National content. The government of Uganda has a mandate to participate in midstream operations as prescribed by the Act of which the minister shall with the approval of cabinet specify the form of this participation.<sup>176</sup>

##### **Provision of Goods and Services as a way of enhancing BUBU Policy**

Section 53 provides for the provision of goods and services by Ugandan entrepreneurs. In so doing the Act stipulates that the license, its contractors and sub-contractors shall give priority to citizens of Uganda, and registered entities owned by Ugandans in the provision of goods and services.<sup>177</sup>

The entities in question shall have adequate resources and capacity to add value to the petroleum operations carried out by the license, of which they will be approved by the Authority upon criteria as prescribed by the minister as stipulated in the regulations<sup>178</sup>. More to that, the licensee is mandated to give priority to the purchase of local products and services from Ugandans wherever they are competitive in terms of quality and timely availability.<sup>179</sup> The same section gives a layout that where the goods are not available in Uganda, they shall, where possible be provided by a company which has entered into a joint venture with a Ugandan company.<sup>180</sup>

According to the provisions stipulated above, the aspect of Local Content is given a nice shot as per the topic in question is provided. If adhered to, there would be effective promotion and development of Local Content in the Oil and Gas industry. The problem arises only where some of the provisions are not clearly stipulated/left ambiguous for example the requirement for formation of joint ventures is not clearly prescribed in the Ugandan

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<sup>175</sup>Midstream Act, Supra

<sup>176</sup> Midstream Act Section 52(1&2)

<sup>177</sup>Midstream Act Section 53(1)

<sup>178</sup> Midstream Act Section 53(2) (a&b)

<sup>179</sup> Midstream Act Section 53(3)

<sup>180</sup> Midstream Act Section 53(4)

perspective. It needs to be clear from the onset so as to avoid issues where companies will just merge with other companies for the sake of procurement even when they don't have capacity to provide goods and services which might in the end result into loss to the nation and the local population if due regard is not given to the requirements prescribed. Section 53(5&6) of the Act<sup>181</sup> provides that the licensee is within sixty days after the end of each calendar year to portray what his or her achievements and those of his or her contractors and subcontractors have been in utilizing the Ugandan goods and services. Thereafter the Authority shall receive this report of which within 30 days the report will be submitted to the minister for it to be laid before parliament annually.

The researcher portrayed these provisions to be a good deal for Ugandan entities, companies and citizens. The licensee and its subsequent contractors and sub-contractors will at all costs ensure that there is feasible practice in accordance to the handling of Ugandan goods and services in respect to the demands of the provisions in question. The reporting mechanisms put in place is a positive development to ensure compliance. Further, the institutions involved in monitoring e.g. PAU, Ministry of Energy, Parliament etc are an indication that government is committed not only to have Laws in place but also to have the Laws implemented.

Punishment is prescribed for those who deviate and contravene subsections (1), (3) and (5) in that he or she is deemed to have committed an offence of which one is liable to a fine not exceeding one hundred currency points or imprisonment not exceeding three years or both.<sup>182</sup> The issue with this provision is on how clear and articulate will first the reports provided be i.e. those given to the Authority which hands them over to parliament. For effective monitoring of whether a licensee or contractor performed its obligations, there is need for a pertinent authority that handles monitoring of these issues which should be done hand in hand with the local entities who are to benefit from the whole process from the start. The Authority should be ready to hear out in case of any complaint so that these complaints can be taken up as a basis of valuation in order to come up with an efficient and competent procedure as a whole.

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<sup>181</sup> Midstream Act

<sup>182</sup> Midstream Act Section 53(7)



#### **4.1.8 The Petroleum (Refining, conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016 and the National Local Content Act of 2019**

The regulations explain what National content means i.e. the level of use of Ugandan local expertise, goods and services, Ugandan citizens, businesses and financing in midstream operations.<sup>183</sup>

Registered entities are also explained as businesses owned by Ugandan citizens registered under the Business Names Registration Act or the Partnership Act, 2010,<sup>184</sup> and in the National local content Act,<sup>185</sup> its defined as any company with a majority shareholders of citizens of any East African partner state. Technology transfer is explained to mean planned and unplanned activities and mechanisms aimed at maximizing knowledge and skills transfer to the government, registered entities and Ugandan citizens and the establishment in Uganda of management and technical capabilities and facilities for technical work by the licensees, operators, contractors and subcontractors.<sup>186</sup> More so the regulations explain a Ugandan company to mean a company incorporated under the Companies Act, and which provides value addition to Uganda, uses available local raw materials, employs at least 70% Ugandans;and is approved by the Authority under regulation I 0(3).<sup>187</sup>

These regulations apply to national content in midstream operations. The regulations stipulate that the application of national content is to be enforced by all parties licensee, contractor or subcontractor in all operations in the midstream,<sup>188</sup>

The purpose of the regulations is that there is need to ensure that there is adequate employment of Ugandan's, technology transfer and provision of goods and services by Ugandan companies and Ugandan citizens in midstream operations.<sup>189</sup>

More so amongst its provisions, the regulations require that the provision of goods and services not available in the country is to be made by a company that has entered into joint a venture with a Ugandan company, a registered entity or Ugandan citizens where possible.<sup>190</sup>

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<sup>183</sup> Midstream NC regulations, Reg 4

<sup>184</sup> Midstream NC regulations, Reg 4

<sup>185</sup> 2019

<sup>186</sup> Midstream NC regulations, Reg 4

<sup>187</sup>Midstream NC regulations, Reg 4

<sup>188</sup> Midstream NC regulations, Reg 2

<sup>189</sup> Midstream NC regulations, Reg 3(a)

<sup>190</sup> Midstream NC regulations, Reg 3(c)

The regulations continue to stipulate further their purpose that every licensee, contractor and subcontractor is to give priority of sourcing for goods and services from Ugandan companies, registered entities and Ugandan citizens where the goods and services are competitive in terms of quality and timely availability.<sup>191</sup>

As the regulations portray, it would be pertinent enough to ascertain what kind of quality of goods are required by the companies in question. What remains not clear is how these services concerning the issue of quality will be dealt with especially where services like foods and beverages are readily available in Uganda. If such issues are not accorded clarity, it might give a leeway to the IOC's to use this as an escape route to bring in the idea of capital flight through hiring and bringing in expatriates which might in the end compromise content development.

More so the regulations stipulate further that among the purposes highlighted there in is to ensure enterprise development through provisions of support to Ugandan companies, registered entities and Ugandan citizens<sup>192</sup>. More so to promote cooperation between licensees, contractors, subcontractors and Ugandan universities, research institutions and technical institutions.<sup>193</sup>

These provisions are key in portraying the government's role that it has to play in respect of development of an industrial capacity filled base within the citizens and the registered entities at large. Such issues like offering support to Ugandan companies should be one of the major aims of the government. Support in form of subsidies, tax holidays, loans from development banks like UDB to enhance their capacity to compete with foreign companies. More to that, cooperation with institutions through research will enable the stakeholders in the Oil and Gas industry to know the dos and don'ts of the industry especially establishing and understanding their strong and weak points in the industry. This kind of cooperation and establishment plus the government's involvement need to be caught up in the first place so as to ensure that there is no time lost in the whole process making the industry of relevance to the nation as a whole.

The regulations provide for National Content considerations during licensing phase. It provides that the Minister shall consider National Content when evaluating any license applications under the Act.<sup>194</sup> The licensee to that effect is required to submit a National

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<sup>191</sup> Midstream NC regulations, Reg 3(b)

<sup>192</sup> Midstream NC regulations, Reg 3(e)

<sup>193</sup> Midstream NC regulations, Reg 3(f)

<sup>194</sup> Midstream NC regulations, Reg 6

Content program in twelve months after the grant of the license, submit to the Authority for approval, a detailed National Content Program stating proposals for employment and training of Ugandans, requirements for health and safety, technology transfer and skills, research development in Uganda; procurement of goods and services obtainable in Uganda, local supplier development, support of educational institutions among others.<sup>195</sup>

This is important in that with the idea of considering Local Content during licensing, it becomes a key object of ensuring that what the regulations put across are adhered to. In so doing the mandate rests upon the government and the appointed responsible stakeholders to ensure that the licensees abide by their obligations under the regulations. Otherwise if the responsible stakeholders are not monitored, the concept of Local Content will just be seen on paper not in reality.

The regulations provide further that the authority will to this cause review the program and make amendments thereof,<sup>196</sup> and if not satisfied, it will make amendments thereof and return to the licensee for improvement within 21 days and the licensee shall in fourteen days make the amendments there to.<sup>197</sup>

This process is good and important towards the promotion of BUBU Policy in Uganda. However, it would be much better if the local companies and potential suppliers as the law provides are consulted, with the help of the authority in place that is meant to advocate for the rights of these companies and local suppliers so as to ensure that the policies like LC are implemented. For example, the consultations there in to amend the National Content program should be done hand in hand with the key local stake holders that are meant to benefit from this program in question.

The regulations further provide that where the licensee has fully gotten an approval from the authority towards the program in question, the license shall not amend or deviate from the program without the approval of the authority.<sup>198</sup> If the licensee has not heard from the authority as prescribed in the subsequent regulations, it will be deemed that the authority have approved the program; provided the license has proof of acknowledgment of receipt of

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<sup>195</sup> Midstream NC regulations, Reg 7(1)

<sup>196</sup> Midstream NC regulations, Reg 7(2)

<sup>197</sup> Midstream NC regulations, Reg 7(3)

<sup>198</sup> Midstream NC regulations, Reg 7(5)

the national content program by the authority. As discussed above, these subsections will apply to the person who has entered into an agreement with the Government.<sup>199</sup>

The plan given as prior explained per regulation 7 shall have the program and a detailed plan on how the licensee shall give preference to goods that are locally manufactured or available in Uganda i.e. where the goods meet the required quality and timeline for delivery; and also how the licensee and the subcontractor shall give preference to services offered by Ugandan companies, registered entities and Ugandan citizens, and how the licensee shall ensure that Ugandan companies and registered entities are given preference during the evaluation of bids for required services.<sup>200</sup> This is good but the issue of ensuring that consultation processes are brought on ground to the concerned local suppliers which is of paramount importance should be put into consideration. This is so due to the fact that when there is open discussion with the locals, then the service delivery required is improved and the whole process is simplified. What is quality to one might not be what is expected of the other in question so when there are consultations, it simplifies the business transactions.

Regulation 5 talks about the monitoring program of National Content. This cuts through having valuation audits done to ensure that the licensees and contractors have adhered to the regulations,<sup>201</sup> assisting Ugandan companies and registered entities to develop their capabilities and capacities to further the development of national content in midstream operations.<sup>202</sup> More so it goes further to the issue of organizing conferences and workshops, seminars and symposia, trainings, road shows and other means of public education to further the development of national content in midstream operations.<sup>203</sup>

Such provisions are important towards the promotion of BUBU policy of which this requires serious government intervention to ensure that the aspects here in portrayed are dealtwith. There should be serious deployment of manpower to ensure that corruption tendencies are curbed especially where some contractors or licensees might want to hide their deeds especially when they have not maintained the policies in question as provided. The pertinent issues of monitoring programs should be spearheaded more often to ensure that there is gratitude towards the strengthening of a platform for local citizen participation in the industry in question.

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<sup>199</sup>Midstream NC regulations, Reg 7(6)

<sup>200</sup>Midstream NC regulations, Reg 7(6)

<sup>201</sup> Midstream NC regulations, Reg 5(g)

<sup>202</sup> Midstream NC regulations, Reg 5(d)

<sup>203</sup> Midstream NC regulations, Reg 5(j)

Regulation 10 stipulates that the licensees, contractors and subcontractors shall give preference to goods and services which are produced and are available in Uganda, services which are rendered by Ugandan companies, registered entities and Ugandan citizens.<sup>204</sup>The regulations also further provide for an option where the goods and services are not readily available in Uganda for the contractors and subcontractors to form joint ventures with local companies in Uganda as determined by the Authority,<sup>205</sup> and the foreign companies shall demonstrate capacity to transfer knowledge and technology to Ugandan Citizens<sup>206</sup> and have experience in provision of the required goods and services<sup>207</sup>. Where the Ugandan company is unable to provide the services as required, the licensee is given ago ahead with the approval of the Authority, to procure goods and services from any other company within a period specified by the Authority.<sup>208</sup>

Here two issues arise, first of all, this seems to tighten the mandate of the IOC's or any other sub-contractors in that the element of delay likely to occur given the number of requirements given to the IOC's which might harden their relationships with the local companies in place.

Regulation 12 talks about the bidding process. The issue of the bidding process as laid out in the regulation is quite impressive as it requires the licensee, contractors and subcontractors to advertise the bidding process that includes the National Content in two National Newspapers of wide national circulation all the upcoming contracts at least one month before the procurement process starts.<sup>209</sup> In addition to that, the regulations in question provide thus that the licensee, the contractor and the subcontractor shall ensure that the bidding process includes National Content as one of the requirements for qualification.<sup>210</sup> The regulations also stipulate that the licensee, contractors and subcontractors are to give reasons as to why the unsuccessful bidders have not been successful and also in addition, the licensee, contractor and subcontractor may also hold tender workshops to educate prospective bidders on the procurement process, requirements and performance standards.<sup>211</sup> The regulations further stipulate that the licensee, contractor or subcontractor shall provide contract periods that shall permit other Ugandan companies, registered entities and Ugandan citizens to join the

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<sup>204</sup> Midstream NC regulations, Reg 10(1)

<sup>205</sup> Midstream NC regulations, Reg 10(2)

<sup>206</sup> Midstream NC regulations, Reg 10(3)(b)

<sup>207</sup> Midstream NC regulations, Reg 10(3)(c)

<sup>208</sup> Midstream NC regulations, Reg 10(4)

<sup>209</sup> Midstream NC regulations, Reg 12(2)

<sup>210</sup> Midstream NC regulations, Reg 12(1)

<sup>211</sup> Midstream NC regulations, Reg 12(3&4)

petroleum sector i.e. for capital intensive contracts, a maximum duration of five years and a low cost contract, a period of three years.<sup>212</sup>

This is a good deal for local entities in that it is a fair process to allow adequate time for Ugandan entities to stretch and be able to advance to the required standards. With such, there is a pertinent possibility that as the Ugandan companies grow and stretch their experiences; they can be able to compete even in other jurisdictions. As the regulations portrays, with the help of the Ugandan government through provision of proper funding, local companies can be able to gain capacity to provide the required goods and services.

Regulation 14 stipulates the need for the establishment of a tender information office where by the licensee, contractor or subcontractor is to establish such an office before carrying out any activity of the office shall provide information regarding the operations and procurement process respectively<sup>213</sup>. And to this effect the Authority may require the licensee, contractor or subcontractor to maintain a tender information office in a community in Uganda where the licensee has significant operations.<sup>214</sup> This is an important aspect towards Local Content promotion because it enables the local companies and citizens to get prior information about future opportunities hence promoting social-economic development in various communities where such activities will be taking place in reference to different licensees, contractors and subcontractors.

Section 14,<sup>215</sup> and Regulation 17 bring out the issue of employment of Ugandans which is another paramount aspect as far as content development is concerned. Licensees and contractors and subcontractors are required to submit to the Authority for approval a policy and plan on employment of Ugandans specifying the required minimum qualifications there to.<sup>216</sup> The policy referred to ensures that Ugandan Citizens are given priority for employment in any midstream operations executed by a licensee and also take into consideration the promotion or participation of specific groups inclusive of women, persons with disabilities and persons from different geographical areas or ethnic backgrounds.<sup>217</sup> This policy is good in as far as it is meant to eliminate discrimination in employment opportunities.

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<sup>212</sup> Midstream NC regulations, Reg 12(5) (a&b)

<sup>213</sup> Midstream NC regulations, Reg 14(1)

<sup>214</sup> Midstream NC regulations, Reg 14(2)

<sup>215</sup> National local content Act of 2019

<sup>216</sup> Midstream NC regulations, Reg 17(1)

<sup>217</sup> Midstream NC regulations, Reg 17(2) (a&b)

Oil and Gas industry in Uganda is a key economical aspect that is believed to bring a drastic and dynamic change in the country's social economic diversification and transformation. This automatically comes with the idea and expectation of people getting employed. As the regulation has put it, it is a good deal for consideration of Ugandan citizens by way of being given priority in employment as a way of promoting Local Content in the Oil and Gas industry in Uganda. However, the disadvantage is lack of adequate provision of required goods and services.

Regulations 18 and 19 provides that the licensee shall within twelve months after the grant of a licence and on each subsequent anniversary of that grant, submit to the authority for approval, a detailed plan for recruitment and training of Ugandans in midstream operations.<sup>218</sup> More so, the regulations in question stipulate that if Ugandans lack the required skills, the licensee or contractor shall ensure that there is training locally or elsewhere through attachment or other means approved by the Authority and the procedure for its execution shall be contained in the licensee's requirement and training plan.<sup>219</sup>

The program therein as stipulated show that there is a lot of work required by the Authority, licensees, contractors, and subcontractors in question. These two regulations are clear but what remains unclear is how tangible and practical these propositions will be handled especially after the handing over of the licence to the licensee. When it comes to the issue of imparting skills through training and education, Ugandans that have been trained or have qualified for the scholarship scheme are quite a few and more so the procedures required for one to qualify for such scholarships are quite ambiguous which does not favour the vast population of Ugandans who have the zeal to participate in the Oil and Gas industry but with limited opportunities.

Regulation 23 portrays the issue of technology transfer where the licensee, contractor or subcontractor shall issue a plan concerning the transfer of technology which will be an annual plan, satisfactory to the Authority, setting out details and initiatives aimed at promoting the effective transfer of technology, technical knowhow and skills relating to midstream operations from the licensee to Ugandan companies, registered entities and Ugandan

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<sup>218</sup> Midstream NC regulations, Reg 18(1)

<sup>219</sup> Midstream NC regulations, Reg 19(2)

citizens.<sup>220</sup> This plan shall not be deviated from by the licensee without the approval of the Authority.<sup>221</sup>

In support of this, the licensee shall encourage and facilitate the formation of jointventures, and partnerships and the development of technology licensing agreements between Ugandan companies, registered entities and Ugandan citizens and foreign contractors and service or supplier companies<sup>222</sup>. All these joint ventures shall be sustainable and shall meet the requirements of the national content plan to the satisfaction of the Authority.<sup>223</sup> Also in so doing, the licensee may upon request by the Authority or on its own initiative, with the approval of the Authority, support the establishment and upgrading of any facility in Uganda for technical, vocational and technology transfer.<sup>224</sup>

The issue of technology transfer is key and pertinent in the promotion of LC. It is significant to recall that the Oil and Gas industry is a capital-intensive industry and a lot of technical knowhow is required in relation to the activities related therein. The fact that Uganda is new to this industry, it is important and key to ensure that there are technology transfer to the upcoming companies those involved in service providing and other related activities in the sector at large depending on the phase respectively for example the Midstream phase.

The Authority needs to ensure that this process is taken up with key pertinent care so that the issue of technical skills acquisition is made relevant since this is an important aspect in the industry and if not taken care of, a lot of jobs and opportunities might be lost on the side of Ugandan citizens and entities which would not sound good to the sector at large.

Regulation 25 provides for the national content performance report which requires the licensee and the subsequent contractors to provide the national performance report that will show how the Ugandans are employed, trained and also show procurement provisions of quantity and tonnage of locally manufactured materials, the names of Ugandan companies, registered entities and Ugandan citizens contracted, technology transfer and research development plan<sup>225</sup>. This will be undertaken by a regular assessment by the Authority of the

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<sup>220</sup> Midstream NC regulations, Reg 23(1)

<sup>221</sup> Midstream NC regulations, Reg 23(3)

<sup>222</sup> Midstream NC regulations, Reg 23(4)

<sup>223</sup>Midstream NC regulations, Reg 23(5)

<sup>224</sup> Midstream NC regulations, Reg 23(6)

<sup>225</sup> Midstream NC regulations, Reg 25(3)



national content performance report filed by a licensee in compliance with these regulations as may be considered appropriate by the Authority.<sup>226</sup>

This is fundamental and appropriate towards LC promotion. since this process keeps the companies in check in regards to the various activities involved in the industry that require a lot of monitoring. With the national content performance report as a mandate, it will help in ensuring that the oil companies in place comply with what is stipulated within these regulations concerning LC aspects. To ensure that this is worked upon, the licensee shall during working hours, for purposes of assessment and verification, allow the Authority or an authorized officer, access to their facilities, documentation or information required for verification of national content compliance.<sup>227</sup>

In addition to the above, regulation 27 stipulate that the licensee shall communicate its national content policy targets to its contractors and shall ensure that its contractors and subcontractors comply with the licensee's national content policy.<sup>228</sup> Also the licensee shall allow the authority or an authorized officer access to their records for the purpose of assessment and verification of national content compliance reported to the licensee or the Authority by the contractor or subcontractor.<sup>229</sup>

As portrayed above, the provisions in the respective regulations are significant in ensuring that the commitments made by the Licensee, contractors and the subsequent contractors towards LCP promotion and implementation come to pass. The Authority and other relevant government bodies should ensure that these issues are put into consideration since this is one way of ensuring that the Ugandan citizens, registered entities take part effectively in the industry through the BUBU vehicle.

The issue of national supplier database is handled under regulation 30 and it provides thus that the authority is a key player to ensure that the companies recruited are of relevance. This is in consultation with the licensees, where the Authority has laid down the qualifications of the companies to provide services listed on the database.<sup>230</sup> The Authority shall continue to ensure that the companies and registered entities referred to have the necessary competence, qualifications, financial and technical capacity to undertake works

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<sup>226</sup> Midstream NC regulations, Reg 25(4)

<sup>227</sup> Midstream NC regulations, Reg 26

<sup>228</sup> Midstream NC regulations, Reg 27(1&2)

<sup>229</sup> Midstream NC regulations, Reg 28(3)

<sup>230</sup> Midstream NC regulations, Reg 30(5)

and provide goods through making enquires and carrying out investigations in any company or registered entity seeking to be registered in the national supplier database.<sup>231</sup>

The other key aspect highlighted is that the company that has qualified under this regulation shall remain on the national supplier database for maximum of three years and may re-apply to be included in the national supplier database.<sup>232</sup>

This perspective is good and important in the promotion of BUBU Policy. The fact of not involving local suppliers and citizens in the prequalification process is not favorable, however the consultation of licensees, is vital since it allows the authority to know what the licensees expect and know what quality of companies are to be included on the supplier database. This is a good move although the process is still not clear whether it will favor companies to the grass root level or it will only capture those that are more similar to the competing international firms. The other factor of companies shortlisted remaining on the national supplier database for three years is key since it will help the Ugandan companies on board to be able to learn and know the do's and don'ts of the industry through their three-year participatory activities there in as stipulated by each company. This makes it credible that by the time the companies are to reapply to be included on the database, they will have learnt key issues, values and aspects required of the Oil and Gas industry at large.

Regulation 32 talks about compliance with the regulations. The regulations in question stipulate that compliance is a must and prescribes the punishments there in for example a contractor who fails to comply with the requirements of these regulations commits an offence and is liable on conviction to a fine not exceeding one hundred currency points and an additional fifty currency points for each day on which the offence continues.<sup>233</sup> The regulations in question do not clearly define what amounts to currency point and how much that is equivalent to, but just refers to it to mean an assigned value in accordance to currency point in the Act. Such loopholes make the whole compliance difficult considering the fact that the punishment for noncompliance is not articulate enough to emphasize the issues therein. The IOC's and the subcontractors there in might end up differing from some important commitments where it is obvious that there are no elegant punishments and repercussions for differing some of these provisions.

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<sup>231</sup> Midstream NC regulations, Reg 30(7)

<sup>232</sup> Midstream NC regulations, Reg 30(10)

<sup>233</sup> Midstream NC regulations, Reg 32(2)

Such inconsistencies cannot be taken lightly. This again mandates the Authority to ensure that as they revise some of these provisions, they ensure that their role and mandate is well stipulated so that they may not end up being manipulated by the IOC's in question especially where there is misconduct and there are no reliable punitive measures to curb such inconsistencies. Compliance with the regulations in question is a collective responsibility of the Authority, the Licensee and its subsequent contractors plus the local Ugandan citizens those coming in through procurement and those who already have the skills to offer in the industry at large. If this is dealt with accordingly, it will enable smooth running of the LC aspirations as provided in the regulations in question.

#### **4.1.9 Access to Information Act, 2005**

The issue of having efficient information concerning the dealing and the procedures of LCRR in the Oil and Gas industry especially of Uganda is of paramount importance. This is so in that makes the aspect of national participation easy. Having lucrative and necessary information relating to LC is important since it creates a robust avenue to promote the concerns of the concept of LC in the Oil and Gas industry of Uganda. Having a probable platform for information dissemination is important in the Oil and Gas industry in regards to the promotion of LC policy in question. This section will discuss how the aspect of information dissension is handled or have been handled in the Oil and Gas industry of Uganda showing how best it relates to the promulgation of LC as a concept in the Industry in question.

This will be handled by reviewing the laws necessary for the handling information in Uganda in particular the Access to Information Act, 2005.<sup>234</sup>

The Constitution,<sup>235</sup> stipulates that Every Citizen has a right of .access to information in the possession of the state or any other organ or agency of the state except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to the privacy of any other person. More so the Constitution stipulates that parliament shall make laws prescribing the classes of information and the procedure for obtaining access to that information.<sup>236</sup>

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<sup>234</sup>Laws of Uganda

<sup>235</sup> The Constitution of the Republic of Uganda 1995 Article 41(1)

<sup>236</sup> The Constitution of the Republic of Uganda 1995 Article 41(2)

In this regard the parliament of Uganda enacted the Access to Information Act, 2005 of which its purpose is set out to include; promotion of an efficient, effective, transparent and accountable government; giving effect to Article 41 of the Constitution,<sup>237</sup> protection of whistle blowers, promotion of transparency and accountability in government by providing the public with timely, accessible and accurate information; and empowerment of the public to effectively scrutinize and participate in government decisions that affect them.<sup>238</sup> The purpose discussed is fundamental to democratic governance and accountability, in relation to the LC aspect as portrayed in this thesis in question. This is so in that where there is accountability, there is assurance that the stakeholders in this aspect will have a relative conducive platform in their kind of dealings especially when it comes to information disposal respectively.

With information being accessible, it creates room for stakeholders to know what is taking place and how they can be able to deal with these issues in question. It is on this very point that it is important to note that sound LC management can be achieved where citizens not only have access to accurate information, but also where they are able to participate in decisions that affect them.

Section 5,<sup>239</sup> of the Act restates the right of Access to Information in almost similar terms as Article 41 of the Constitution. The section obligates information officers to supply only accurate and up-to-date information. This is important and as far as LC promotion and implementation is regarded. It empowers the stakeholders in this sense to be able to penetrate the dictates of the industry, know what and how to deal with the industry in its respective stages respectively.

The Act further provides for proactive disclosure of information on the part of duty holders. Section 8,<sup>240</sup> to this aspect enjoins officers to publish a description of records automatically available to the public. Section 7,<sup>241</sup> also to this cause stipulates thus that it encourages publication of manuals of functions and index of records of public bodies.

Section 22,<sup>242</sup> of the Act provides for record keeping. Information officers are required to preserve records sought to be accessed under the Act until the request is met or where an

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<sup>237</sup> The Constitution of the Republic of Uganda 1995 Article 41(1)

<sup>238</sup> Access to Information Act, 2005 S.3

<sup>239</sup> Access to Information Act, 2005

<sup>240</sup> Access to Information Act, 2005

<sup>241</sup> Access to Information Act, 2005

<sup>242</sup> Access to Information Act, 2005

appeal is sought until all appeal procedures have been exhausted. Generally, the Act falls short of establishing a comprehensive record keeping and management system.

The Petroleum Act (upstream law),<sup>243</sup> also provides for the right to access information and stipulates thus that the public must get adequate information on petroleum activities,<sup>244</sup>

This study found that despite the fact that there are strong legal provisions for information dissemination and access to information, there is still a lot of information asymmetry in the sector. The Oil and Gas industry is by nature an industry where there is a lot of information withholding and confidentiality. Even Production Sharing Agreements that are signed between the state and International Oil Companies have strong confidentiality clauses. These provisions do not rhyme well with local content development. The state needs to do something to ensure that the local population is given free access to information and also participate in decision making in order to fully benefit from Local Content.

#### **4.2 Challenges towards implementation of buy Uganda, build Uganda in the oil and gas industry.**

In line with the 2<sup>nd</sup> objective of the research which is to identify the challenges affecting Local Content development in Uganda, and especially in light of the existing legal regime, to find out the challenges affecting the effective implementation of the legal regime in order to achieve success in the BUBU strategy, as already seen in Chapter 4.1.3.5, there is a very big challenge of lack of access to information in the Oil and Gas sector which the research found will impede the development of Local Content and the success of BUBU. The Oil and Gas industry is by its nature identified with a lot of information asymmetry and non-disclosure obligations by the stakeholders. It is incumbent on the public sector to ensure that they are not parties to instruments that deny Ugandans access to relevant information regarding petroleum activities, provided that such information is not exempted, by business confidentiality.

In regards to this, Edward Ssekika in his article on the oil in Uganda website stipulated that it is important for the government and the necessary stakeholders to ensure that issues

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<sup>243</sup> The Petroleum (Exploration, Development and Production) Act, 2013

<sup>244</sup> The Petroleum (Exploration, Development and Production) Act, 2013, S.151

and ideas to deal with Oil and Gas transactions are brought to light through transparency.<sup>245</sup> In his Article, he reported that a group of Civil society organizations (CSOs) working in areas of oil governance and transparency have implored government to end secrecy in the oil subsector. In a joint petition to the Parliamentary Committee on Commissions and Statutory Authorities and state enterprises(COSASE) that was investigating Shs.6bn oil cash pay outs to 42 government officials, the CSOs argue that the increased secrecy in the petroleum subsector is likely to trigger an oil curse.<sup>246</sup> They stated thus;

“We CSOs believe that inspite of the continuous assurance by government of Ugandaofficials that oil will not become a curse, the level of secrecy with which the government is transacting businesses with regard to oil and gas resources is the very definition of an oil curse”.

This was in accordance to their petition of Monday 27 February, 2017. The CSOs more so stipulated that unless the oil sector is not managed in the most transparent manner where the public sector officials look at themselves as servants of Ugandan citizens and trustees of the offices they occupy and the authority they hold, the oil and gas subsector will not benefit majority of the Ugandans.<sup>247</sup>

In another scenario, in November 2009, a case was brought before the Chief Magistrate’s court in Nakawa to seek order to access information held in the hands of the state. In this case, *Charles Mwangushya Mpagi & Izama Angelo vs. Attorney General*,<sup>248</sup> the applicants applied to the chief magistrate’s court in Nakawa for an order to force the government to disclose the oil production sharing agreements signed between the government and the oil companies in Uganda. This was the first case brought under the Access to Information Act.

However, the request was refused on the grounds that a clause in the PSAs provided for confidentiality about the agreements and mandated the consent of the multinational companies for disclosure.

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<sup>245</sup> Edward Ssekika, „CSOs Call for end of secrecy in Oil deals in a petition to parliament“ <http://www.oilinuganda.org/feature/civil-society/csos-call-forend-of-secrecy-in-oil-deals-in-a-petition-to-parliament.html> accessed 20 September 2020

<sup>246</sup> Edward Ssekika, „CSOs Call for end of secrecy in Oil deals in a petition to parliament“ <http://www.oilinuganda.org/feature/civil-society/csos-call-forend-of-secrecy-in-oil-deals-in-a-petition-to-parliament.html> accessed 20 September 2020

<sup>247</sup> Edward Ssekika, „CSOs Call for end of secrecy in Oil deals in a petition to parliament“ <http://www.oilinuganda.org/feature/civil-society/csos-call-forend-of-secrecy-in-oil-deals-in-a-petition-to-parliament.html> accessed 20 September 2020

<sup>248</sup> No.751 of 2009

Relating the above to Local Content in the Oil and Gas industry of Uganda, it makes the whole concept retarded since lack of information will stall the progress of the whole industry in question. For example, where stakeholders need information concerning the progress of the industry, and cannot access it, there occurs inconsistency and uncertainty in the whole concepts.

The other challenges that was established by the research is that the Oil and Gas industry is High Tech in nature. Most highly paying jobs are sourced from abroad, given that there are no service providers with readily available high technology goods e.g heavy duty pipes, drilling rigs, machinery ETC. Even legal services are sourced from abroad. For example the production Sharing Agreements signed between Uganda and IOCs are drafted and prepared in London. Legal services are not the services that are ring fenced for Ugandan service providers. It therefore remains a challenge to achieve the object of Local Content laws, regulations and policies if local suppliers are still lacking in capacity to provide the said Goods and services

Coupled with this is inadequate capacity and skills of Ugandan companies and local suppliers to meet tender requirements. The research discovered that in 2014, an Industrial Baseline Survey (IBS) was conducted by the joint venture partners comprising of CNOOC Uganda Ltd, TOTAL E & P Uganda and Tullow Uganda Operations Pty Ltd in preparation for the implement of the development phase of Uganda's Oil and Gas Project. The survey was undertaken through consultation within the Joint Venture Technical Teams, with Government counterparts and with a survey of the private sector in Uganda.<sup>249</sup>The survey assessed the quality of goods and services that would be required for the project as compared to the existing human and productive capacity of the Ugandan market. The survey was commissioned with an objective of promoting Local Content as much as possible during the development and production phase. The survey found the following challenges;

- (i) A Challenge in Human Resources in the number and level of certification of technicians to comply with Oil and Gas standards.
- (ii) Some companies were not able to absorb project demands while others lacked adequate capacity in terms of production volumes and standards.

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<sup>249</sup> Etienne Hamman (2014) "Planning for the Future: A Demand and Supply Study on the Oil and Gas sector in Uganda ; UNCTAD OILGASMINE Special Event 15-16 October 2014.

- (iii) There was still lack of information flow for the business community to have visibility and information about business opportunities and investment in technology and capacity.
- (iv) Many services were found to be difficult to be acquired locally given the high tech nature of these services for example, Oil/Water installation, Machinery and heavy equipment manufacturing, Engineering Consultancy, Oilfield equipment manufacturing, Mechanical Construction Services, Construction Steel Manufacturing, Drilling Services, and other services, the study found that they cannot be provided and or be made locally available. According to the Industrial Baseline Survey, out of a total manpower required, 15% are engineers, and managers, 60% are technicians and craftsmen, and 25% are people without any educational background. For Uganda to benefit more from local content, the government needs to train more engineers and technicians to benefit from the bigger percentages.

There was also a challenge in relation to difficulty to access the capital required to invest and develop activities Interest Rates in Uganda are extremely high making it nearly impossible for interested parties to develop businesses to be able to be competitive in bidding and procurement processes.

International Instruments and Agreements are also an impediment to Local Content Law enforcement. Some countries and IOCs look at Local Content Laws and Policies as contrary to international agreements and or instruments like the GATT which have provisions on “National treatment” requirements which provide that nationals of foreign countries which are signatories should be accorded the same treatment as that accorded by nationals in that respective country. Local Content Laws therefore are seen as an impediment to these international instrument provisions as they are seen to give preferential treatment to nationals of a particular nation.

Lack of political will threatens most Oils and Gas industries all over the world. An example is Khazakstan whose sector has vast potential as recoverable gas reserves are approved at the level of 3.9 trillion cubic meters, which is about 1.7% of the World’s Gas reserves.<sup>250</sup>Due to government’s lack of commitment, there has been laxity to embrace reform in Khazakstan despite the looming Eurasian Economic Union ( EAEU) common gas

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<sup>250</sup>Shaimerden C.(2020),Lack of Political Will Threatens Kazakhstan’s gas sector Reforms. GRATA INTERNATIONAL Nov 2020.



Market in 2025 that will require major Gas Reforms. Uganda has had a history of lack of will to reform certain critical sectors like Education, Health, Agriculture. No doubt that the Oil and Gas sector is going to be one of the most significant sectors that will bring in revenue to the country and transform the population. However, if the government does not continue with its commitment so far exhibited in the Oil and Gas sector, all the Laws and policies will remain on paper. The research therefor found this to be one of the most challenging aspects in Local Content development in the Oil and Gas sector.

Corruption is a major disease that affects almost every sector in the economy. Corruption is widespread and endemic in the Oil and Gas sector. The most common examples are bribery and sectarianism. Literature reveals that countries with abundant reserves of nonrenewable natural resources are more often cursed than blessed. This resource curse phenomenon is also known as the *paradox of plenty*. It means that resource rich countries are prone to suffer certain disadvantages, with poor or slow economic growth, have non democratic governments and experience civil war.

Corruption prevents resource revenues that benefit economic growth and social welfare. The resource curse effects are clear in the stark welfare gaps in two petroleum rich countries. Norway and Nigeria. Norway has managed its Oil and Gas reserves and revenues to benefit society and future generations. Nigeria has experienced negative economic growth despite its extensive Oil and Gas industry. Grand Corruption explains much of Nigeria's problems. One of the greatest threats to economic and political development of any nation is corruption. Corruption has been identified as one major obstacle militating against rapid growth and development of economies.

It undermines good governance, fundamentally distorts public policy, leads to the misappropriation of resources, harms the private sector, and private sector development and particularly hurts the poor.<sup>251</sup> Uganda's corruption index in 2020 was quoted by Transparency International to be at 27 points and ineffective Law enforcement was sighted as one of the reasons for the rise. Uganda was rated as no 145 out of 180 countries. According to the Monitor Newspaper.<sup>252</sup> in an article headed "*Corruption Index leaves Uganda in the Dark*" which stated that Uganda had declined in transparency standards and the story stated that Uganda has legislation and better accountability measures in place but implementation is

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<sup>251</sup> Donwa P.A et al (2015) , Corruption in the Oil and Gas Industry: Implication for Economic Growth. *European Scientific Journal August 2015 Edition Vol 11, no 22*

<sup>252</sup> The Daily Monitor, 31<sup>st</sup> Jan 2021.

lacking. with bribery being the biggest vice in the categories. If corruption is left unattended to, all the good laws and policies in place will be for nothing and we Uganda may go down the drain like Nigeria and the concept of Local Content will be rendered useless.

Poor education curriculum and no Training Needs Assessment. This study found out that Uganda has a very poor education curriculum especially as far as vocational education is concerned. The curriculum in Uganda is mainly theoretical and lacks emphasis on vocational training. Coupled with the above, the negative mindset of Ugandans as far as vocational jobs are concerned has led to a poor output of trained personnel. The Oil and Gas industry is a highly practical sector with most of the jobs requiring hands on expertise. Uganda has only one petroleum Institute in Kigumba only offering certificates and diplomas. In view of the above, there is a problem with finding adequate personnel in the companies that intend to bid for provision of goods and services, hence lacking the competitive edge. There is also no Training Needs Assessment done by government to ensure that the people receive the training that is required. If this remains the case, then there is going to remain a challenge of getting adequate work force for companies to be able to even pass through the evaluation stages of procurement.

There is also a global paradox of Local Content regulation in the Oil and Gas industry These regulations mostly target or blame IOCs but these companies cannot meet the high expectations of government and local suppliers on their own for three reasons.

- i) Oil and Gas companies are too large and rigid to make steps towards small and medium sized local suppliers. Oil majors and large independents are full of cumbersome internal rules and global processes targeting systematic compliance with financial and legal criteria.<sup>253</sup>
- ii) Contracts issued by IOCs include terms and conditions accumulated over decades of projects, specifically drastic conditions that only international suppliers can meet and from which local suppliers are *de facto* excluded.
- iii) Large capital projects require equipment with complex specifications that are difficult to produce in developing economies, for instance Oil and Gas operators only accept trucks with drastic safety protections and we cement for drilling must

<sup>253</sup> Watson J, (2021) Local Content in Norway-How to build Local Capacity <https://www.watsonpost.com/local-content-in-norway> (Accessed on 21<sup>st</sup> Aug. 2021)

have specific quality. It is the same for cranes and personal protection services (PPEs).

### **4.3 Progress towards the promotion of access to information**

Promotion of access to information is key as far as the concept of LC in that it cuts across to all stakeholders in their different capacities. It is important for the stakeholders to avail information so as to be able to promote the facets of LC as a concept in the Oil and Gas industry of Uganda.

As part of their promotion and ensuring that the oil and gas industry is developed, the PAU has been delighted to partner with the New Vision printing and publishing Corporation to publish a weekly pull out on the oil and gas sector in Uganda. This pull out which will run every Tuesday during 2018 will represent the PAU's contribution to building knowledge, especially among Ugandans, through increased and regular sharing of information on the sector.<sup>254</sup>

This effort which is also in fulfillment of the Petroleum Exploration, Development, Act 2013, should enable more informed participation in and inclusive development of the sector. Through this program, the planned activities in the sector, together with the roles, contributions and progress being made by different participants in the different pull outs during the year. The PAU welcomes this opportunity to continue building knowledge of the Ugandan society about the Oil and Gas sector. This is important since the industry is developing and activities are increasing in the country especially in the Albertine Graben where Oil and Gas resources were discovered, profile international business delegations visiting the country to explore areas of partnership and investment, and the high value contracts for provision of goods and services in the sector which are regularly advertised in the media.<sup>255</sup>

Associations such as Association of Uganda Oil and Gas Service Providers, which have been established and the existing ones such as the Uganda Chamber of Mines and Petroleum, are avenues for sharing information on the opportunities in the sector in a more efficient and effective manner.<sup>256</sup> This is important towards the promotion of the concept of Local Content

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<sup>254</sup> <http://www.paug.org.ug>

<sup>255</sup> <http://www.paug.org.ug>

<sup>256</sup> <http://www.paug.org.ug>

if the affected stakeholders are aware of the opportunities enabling them on how to strategize and be set and ready for the industry in question.

The PAU is also working with the licensed oil companies and their key sub- contractors to hold workshops where the details and quantities of the goods and services required for the different activities are presented to the entities registered on the NSD. This facilitates Ugandan entities to better appreciate the opportunities available and prepare themselves to participate in delivery of the required goods and services.<sup>257</sup>

Furthermore, there has been efforts by the Joint Venture Partners to address the issue of information pitfalls. According to the Industrial Baseline Survey findings and recommendations made by the Joint Venture partners,<sup>258</sup> comprising of CNOOC, TOTAL E &P and Tullow Oil(before its farm out), the partners decided to communicate better during the preparatory period. They decided to share information with local companies in respect of future manpower needs, future demand of equipment and raw materials demand explanations on oil and gas specifications for certain goods and services and project timelines. The partners decided to communicate through a variety of channels to be determined like large dedicated forum regular topical meetings focused on specific sectors (e.g. transportation, catering etc.) or dedicated website to update demand levels and project timelines when required.

#### **4.4 Policy framework**

The government of Uganda has done a great incite by formulating various policies, which have implications for LC development in the country. The researcher found out that reviewing these policies is key to ascertain the truth about the topic in question and create a need for a dedicated platform for future reference in ensuring that the aspect of LC is concentrated and captured with key brave lance in the Oil and Gas industry as it is a desire not only for Uganda but also other Oil producing countries when they access locally made products and services.

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<sup>257</sup> <http://www.paug.org.ug>

<sup>258</sup> Etienne H." Planning for the Future" Ibid p. 25

#### 4.4.1 National Oil and Gas Policy

The National oil and gas policy (NOGP) seeks to use the Country's Oil and Gas resources to contribute to early achievement of the goal of poverty eradication and to create lasting value to society. One of the ways to achieve this as a country has been to recognize the need to promote Local Content as a way to ensure that some of the goals of the policy in question are achieved. The Oil and Gas Policy is viewed as a tool that will see Oil and Gas industry be of value in the country at large.

The NOGP recognizes the need for national participation through employment, training and skills development and service provision in the sector as one of the key aspects in ensuring that Local Content promotion and implementation is adhered to in the Oil and Gas industry of Uganda.

The NOGP with its objectives thus seeks to ensure optimum national participation in Oil and Gas activities.<sup>259</sup> More so, it seeks to support strategies for development and maintenance of national expertise in the Oil and Gas sector.<sup>260</sup> Some of the strategies include; promotion of national participation in the Production Sharing Agreements, encouraging civil society to participate in the building of a productive, vibrant and transparent oil and gas sector, promotion of the employment of Ugandans in the Oil and Gas sector, promotion of transfer of skills and technology to the country, and to broaden the national education curriculum to prepare the necessary workforce for the growing oil and gas sector in the country.

The NOGP for Uganda recognizes that the benefit which the country obtains from its Oil and Gas resources, will depend on the extent of participation of its citizens and enterprises in the sector.<sup>261</sup> Being a foundation that has laid some of the strategies that are to be upheld in the Oil and Gas industry, it is evident that there is a commitment for adherence of these requirements by the Government of Uganda and other various stakeholders with of ensuring that Uganda avoids suffering from the „Oil Curse“.

The effort shown by the government of Uganda by formulation of the regulatory framework to monitor the issues and trends concerning Local Content in the Oil and Gas industry is key towards the promotion of these policy aspects. These aspects need to be upheld and understood by the stakeholders and be worked upon as per the provisions in those

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<sup>259</sup> NOGP for Uganda, supra (note 167) Objective 7

<sup>260</sup> NOGP for Uganda, supra (note 167) Objective 8

<sup>261</sup> Draft National Content Policy, supra p.22

regulations. This should be a collective bargaining with the government as a lead with other stakeholders that are directly in Local Content development.

The NOGP with its objectives thus seeks to ensure optimum national participation in Oil and Gas activities. More so, NOGP seeks to support strategies for development and maintenance of national expertise in the Oil and Gas sector. Some of the strategies include; promotion of national participation in the production sharing agreements, encourage civil society to participate in the building of a productive, vibrant and transparent oil and gas sector, promotion of the employment of Ugandans in the Oil and Gas sector, promotion of transfer of skills and technology to the country, and to broaden the national education curriculum to prepare the necessary workforce for the growing oil and gas sector in the country.

The NOGP for Uganda recognize that the benefit which the country obtains from its Oil and Gas resources, will depend on the extent of participation of its citizens and enterprises in the sector. Being a foundation that has laid some of the strategies that are to be upheld in the Oil and Gas industry, it is evident that there is need for adherence of these factors by the Government of Uganda with various stakeholders with a strategy to ensure that these aspects are adhered to.

The effort shown by the government of Uganda by formulation of the regulatory framework to monitor the issues and trends concerning Local Content \ in the Oil and Gas industry is key towards the promotion of these policy aspects. These aspects need to be understood by the stakeholders and be worked upon as per the provisions in those regulations. This should be a collective bargaining with the government as a lead with other stakeholders that are directly affected by these regulations hand in hand. The efficacy of the policy in place can only be achieved if there is if there is adherence to these issues by the stakeholders in question.

#### **4.4.2 The Buy Uganda Build Uganda Policy.**

The Buy Uganda Build Uganda Policy was approved by Cabinet in 2014 and its implementation strategy developed in 2016 with the objectives of promoting the consumption and use of locally manufactured goods and services and to provide capacity building programs for local suppliers of goods and services. Under its Article 2.3.3, the Policy provided that with the discovery of Oil and Gas, there was an opportunity for local

manufacturers and producers to supply the sector and that the Petroleum Acts (Upstream and Midstream) required contractors and sub-contractors to give preference to goods and services produced or available in Uganda and services rendered by Ugandan citizens or companies.

The policy had implementation strategies like taking stock of the local producers and improving their capacity to supply. Under capacity building, government was to provide training to the local suppliers of goods and services to enable them take advantage of the existing opportunities in procurement and supply competitiveness, ensuring compliance with standards and ensuring accessibility of information about products and services. This study is to find out whether the legal regime in place is sufficient to achieve the BUBU objectives as far as Local Content development is concerned.

#### **4.5 Local Content Implementation Frameworks in the Oil and Gas Industry of Uganda**

The discussion of the regulatory and policy framework concerning LC as a concept in the Oil and Gas industry of Uganda has demonstrated that Uganda as a country has this aspect at heart as far as the Oil and Gas industry is concerned. One of the questions that remain to be answered is how best this concept of LC will be captured in the industry at large, in regards to the stages that characterize the industry for example the midstream and upstream stages. The regulatory framework discussed had various aspects and expectations put across in relation to how the concept of LC should be and is expected to be handled so as to yield its objectives and purpose respectively. With such laid out platforms, the issue of how these procedures will be achieved is a question that cannot be left unanswered.

As demonstrated above, Uganda like most of developing countries in the field of Oil and Gas, has a relative policy framework in place meant to ensure that the whole BUBU concept is developed and attributed in place. The issue of how best these regulations protect the aspect of LC is an issue of debate, but in accordance with the researcher's point of view, the regulatory framework provided and explained in this chapter have demonstrated that all key aspects meant to promote LCLR have been clearly stipulated. What remains is the means the government and the relevant bodies responsible for the implementation framework have put in place to ensure that this concept of LCLR becomes practical rather than theoretical. The regulatory framework discussed in this chapter, gives the government and its responsible bodies like the PAU and the Ministry of Energy the key role of ensuring that this concept is dealt with accordingly.

The aspects of capacity building, technology transfer, training and employment of the locals, procurement of goods and services from the local business entities have been to the fore front in the regulatory and policy framework discussed in this chapter. More to that, the regulatory framework has made it clear the role the licensee has to play in order to ensure that LC as an aspect of Oil and Gas industry in Uganda is dealt with. For example, the licensee is expected to extend this mandate to the subsequent contractors and subcontractors so that accountability concerning LC prospects, is dealt with due diligence especially in instances where the license is expected to make regular reports capturing how best the concept of LC has been handled in the industry in question.

The ways in which these will be implemented is a matter of taking responsibility by different stakeholders as will be discussed below showing what progress has been made and who carries which responsibility towards the promotion and effective implementation of Local Content as a concept in the Oil and Gas industry of Uganda.

#### **4.6 Implementation Frameworks towards the Promotion of Local Content in terms of Buy Uganda, Build Uganda in the Oil and Gas Industry of Uganda**

The government of Uganda has the responsibility of ensuring that as the oil and gas industry is developing and is being developed, certain aspects like LC, that are of paramount importance in the industry in question are handled and dealt with in a way that is appropriate for the success of the industry in question.

The responsibility given to government is key and in the discussion, various aspects was handled including what so far has been done in place ensuring that Local Content is handled and portrayed in a lucrative manner, on the other hand the responsibilities accorded to different government ministries and stakeholders in ensuring that the, concept of LocalContent were also discussed by the researcher as a way of capturing the implementation procedures concerning LC in question.

##### **4.6.1 Progress**

There is an established national contents office at the PEPD of which this office has various officers. Of recent, interviews have been handled to boost this office. This shows how important the ministry of Energy have been ensuring that the aspect of BUBU is promoted and emphasis is put to implementation procedures in place.



#### **4.6.2 Capacity building**

According to the PAU website, development of skills a need and aspect towards the effective promotion of LC has been dealt with in different aspects in the oil and gas industry of Uganda. This has been through certification that will enable Ugandans to meet the stringent requirements for employment in the sector which is ongoing which has seen hundreds of Ugandans technicians to have international certification and are available in the country.

The numbers of certified technicians required for the sector are in thousands and certification in the country is therefore continuing. An example is cited where there has been a recent development relating to BUBU and technology transfer where in Total E&P Uganda with TASC (the assessment and skilling centre) is admitting residents and those who studied at institutions in Albertine region and in Districts along the Oil & Gas pipeline to the Total E&P welder training and certification programme<sup>262</sup>. This programme is designed to respond to the industry's needs through improved employability of craftsmen and crafts women in the Albertine region and districts along the Oil and Gas sector and related industries as coded welders through targeted training towards international certification<sup>263</sup>.

#### **4.7 Roles Played by different Stakeholders towards Implementation of LCLR in the Oil and Gas Industry of Uganda/Institutional Framework.**

The government of Uganda has endeavored to ensure that the aspect of LC in the oil and gas industry is given its due regard as have been envisaged in, the policy and regulatory frameworks discussed in this chapter in question. The concept of BUBU being broad, it is on this point that relevant implementers procedures and roles are highlighted to be able to have a related procedural approach while handling this aspect in question. The discussion will cut across government ministries in place, private sector, media, local communities and civil society organizations.

The researcher deemed it fit to elaborate the role played by these entities towards the promotion of BUBU in the oil and gas industry of Uganda since one role of one entity in one way or the other helps the other entity to achieve its goal which makes the whole concept of LC breed a meaning.

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<sup>262</sup> <http://tasc.co.ug/total-ep-welder-training-certification-program/>> accessed 23 September 2020

<sup>263</sup> <http://tasc.co.ug/total-ep-welder-training-certification-program/>> accessed 23 September 2020

#### **4.7.1 Ministry of Energy**

According to the draft National content policy of Uganda, the Ministry of Energy being the lead NC coordinating agency has various roles in place, to coordinate and provide overall guidance in the implementation of the policy, undertaking activities to disseminate and popularize policies, monitor progress of NC development in the oil and gas sector, prepare implementation status reports and submit to relevant organs and institutions. Submit NC legislation to cabinet and parliament.<sup>264</sup>

More so the role to promote LC cuts across other ministries for example the ministry of local government. This recognizes the role of local government in promoting government programs on national participation in the oil and gas sector within their jurisdiction. The role of the ministry towards the promotion of BUBU will be to participate in the implementation of the LC programmes, projects and plans. This is through the promotion of awareness on petroleum activities, operations, projects and opportunities within their jurisdiction. Also, participation in monitoring and evaluation of LC aspects and implementation within their jurisdictions.<sup>265</sup>

#### **4.7.2 Ministry of Education**

The Ministry of Education and sports is another industry key to the promotion and implementation aspects of BUBU in the oil and Gas industry of Uganda.<sup>266</sup> The ministry will deal with the promotion and development of relevant education curriculum within the participation of the private sector so as to meet the needs of current and emerging labor market. Strengthen the capacity of education and training institutions to provide the competencies required by the oil and gas industry and also, ensure quality control and assurance for training providers in the petroleum subsector.<sup>267</sup>

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<sup>264</sup>Ministry of Energy and Mineral Development, National Content Policy for the Petroleum Subsector in Uganda (February 2017) p. 36

<sup>265</sup> Ministry of Energy and Mineral Development, National Content Policy for the Petroleum Subsector in Uganda (February 2017) p. 36

<sup>266</sup> National Content Policy, supra (note 12) p. 37

<sup>267</sup> National Content Policy, supra (note 12) pg 39

### **4.7.3 Ministry of Gender**

The ministry of gender and labor and social development is responsible for the implementation policies related to gender, employment and social development.<sup>268</sup> the roles of the ministry in relation to BUBU promotion, is to ensure that employment guidelines in the oil and gas subsector are in line with the NC policy, ensure implementation of the occupational safety and health in the oil and gas industry, ensure that the aspects of gender are taken into consideration during the implementation of BUBU policy in the oil and gas industry of Uganda.<sup>269</sup>

### **4.7.4 Ministry of internal Affairs**

The ministry of internal affairs through the directorate of citizenship and immigration control is responsible for regulating the travel in and out of Uganda, for both Ugandan citizens and foreigners<sup>270</sup>. The roles of the ministry will be, to ensure that the work permit for the oil and gas sector are issued in line with the BUBU policy, monitor compliance with the immigration requirements of expatriates for the oil and gas subsector. Provide security for the oil and gas infrastructure.<sup>271</sup>

### **4.7.5 Uganda National Oil Company**

Uganda National Oil Company (UNOC) is mandated to manage Uganda's commercial aspects of petroleum activities and the participating interests of the state in petroleum agreements<sup>272</sup>. More to that, it is mandated to develop in depth- local expertise in the oil and gas subsector, promote and participate in joint venture initiatives in the oil and gas subsector, develop the capacity of Ugandan citizens and enterprises in the oil and gas subsector.<sup>273</sup> According to the UNOC website, the board of directors and executive management paid a courtesy visit to Bunyoro Kitara kingdom between 16th and 17th August 2018.

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<sup>268</sup> National Content Policy, supra (note 12) pg 39

<sup>269</sup> National Content Policy, supra (note 12) pg 39

<sup>270</sup> National Content Policy, supra (note 12) pg 39

<sup>271</sup> National Content Policy, supra (note 12) pg 39

<sup>272</sup> National Content Policy, supra (note 12) pg 42

<sup>273</sup> National Content Policy, supra (note 12) pg 42

Their visit was focused on the two cooperate strategic objectives; ensuring collaboration and communication with stakeholders, and promoting BUBU in the country's oil and gas sector. Among their specific objectives was to communicate opportunities in the oil and gas industry to enable participation of the kingdom. This allows the issue of LC to be held with strategic procedures e.g. ensuring that the key concerns raised by the stakeholders are handled and they are able to develop strategies of addressing them.<sup>274</sup>

#### **4.7.6 Private Sector**

The role of the private sector cannot be ignored. Vision 2040 program stipulates that the private sector is the engine of growth and development in Uganda.<sup>275</sup> The private sector includes the IOCs of which will work with the government and these will incorporate LC principles in all activities and operations, put in place plans for the promotion of LCLF, utilize the available local goods and services, promote and support technological advancement through research and development, provide funding for skills and supplier development programs.<sup>276</sup>

#### **4.7.7 Civil Society Organizations**

Civil society organizations have also a role to play in ensuring that LC is implemented.<sup>277</sup> Their role includes, promotion of advocacy mobilization and dialogue with communities, licensed companies and the government on aspects of BUBU. More to that civil societies are knee towards the creation of awareness and dissemination of information on available opportunities related to Oil and Gas activities. The CSOs are to hold the government and other stakeholders accountable with regard to NC in the country.<sup>278</sup>

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<sup>274</sup> <http://www.unoc.co.ug>

<sup>275</sup> National Content Policy, supra (note 12) p. 45

<sup>276</sup> National Content Policy, supra (note 12) p. 45

<sup>277</sup> National Content Policy, supra (note 12) p. 45

<sup>278</sup> National Content Policy, supra (note 12) p. 45

#### **4.7.8 Local Communities**

Local communities also have an important role to play towards the implementation of the LCLR in the oil and gas industry of Uganda. They have a primary responsibility to participate in the whole implementation process which is through learning, acquiring of skills, knowledge and capabilities to enhance their participation in the petroleum subsector and related sectors.<sup>279</sup> More so they can also participate through seeking and making use of the information related to the oil and gas subsector, participating in the provision of goods and services and human resources in the oil and gas industry.<sup>280</sup>

#### **4.7.9 Media**

Media is also crucial towards the implementation of the LC aspect in the oil and gas industry of Uganda.<sup>281</sup> This is through providing accurate and balanced information to the public on NC in the petroleum subsector in the country, increasing public awareness and involvement, transparency and accountability on matters pertaining to NC in the petroleum subsector, provision of feedback to the government in particular on any achievements, challenges and opportunities.<sup>282</sup>

### **4.8 A country comparative analysis of local content legal regimes.**

#### **4.8.1 Norway**

Norway is seen as one of the success stories in Local Content development. The Norwegian service and supply industry has seen annual revenues of US\$ 50 billion with over 1,250 active companies in the ecosystem. This created over 125,000 direct employment by the supply and service companies with over 26,000 stationed offshore. Oil companies have over 27,000 employees and near 100,000 jobs are created.<sup>283</sup> The Norwegian government has made its energy industry very competitive for both local and international companies without any local content requirements. Norway is the home to one of the world's largest sovereign wealth funds and when it comes to technological solutions in the offshore oil and gas industry,

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<sup>279</sup> National Content Policy, supra (note 12) p 46

<sup>280</sup> National Content Policy, supra (note 12) p46

<sup>281</sup> National Content Policy, supra (note 12) p.46

<sup>282</sup> National Content Policy, supra (note 12) p. 42

<sup>283</sup> Watson J, (2021) Local Content in Norway-How to build Local Capacity <https://www.watsonpost.com/local-content-in-norway> (Accessed on 21<sup>st</sup> Aug.2021)

Equinor takes the lead. Norway's local content strategy has been hailed as an example of good practice.

More so Norway is one of the countries that have utilized oil and gas revenues to boost other sectors in the economy and avoid the common disease called the *Dutch Disease*. All other economies in Norway are self-sufficient and do not necessarily rely on the petroleum sector for survival. This means there is sufficient job creation and retention in the country in different sectors of the economy and the economy is self-sufficient. This explains Norway's strategy to give aid to less developed countries, because they have sufficient resources to serve domestic needs.

In Norway, there is serious competitiveness by all the players. There is also a policy to have joint ventures in the industry but the government's strategy has been to make the joint ventures very competitive globally in terms of price, quality, delivery time and service because they perceive Oil and Gas industry to be a broad industry. The rationale behind this was to create and promote the establishment of local industry and this was achieved through cooperation with International Oil Companies. When foreign operators started entering Norwegian industry in the late 1970's, they were strongly encouraged to form research and development (R &D) partnerships and joint development programmes with Norwegian companies and institutions, thus engaging in local content growth. The competencies and technological expertise developed as a consequence of Norway's local content policy also strengthened its position within the international oil and gas industry. Local supply and service providers to oil activities have proved truly competitive by global standards.

Oversees firms' commitment to and strategies for technological transfers were made a crucial and determining factor in the licensing process by the Ministry of Petroleum and Energy once again putting local content programmes at the heart of investment. Government policy meant that Norwegian Oil and Gas supply companies developed leading class, state-of-the-art technologies and as a result, many IOCs have located part of their R&D chain in the country. The competencies and technology expertise developed as a consequence of Norway's local content policy has made local supply and service providers to oil and gas activities truly competitive by global standards.

#### 4.8.2 Nigeria

On the African continent, Nigeria is one of the biggest Oil and Gas producing countries. Nigeria has however had mixed fortunes in this sector for a number of years. It derives lots of revenue from the industry, yet it has continued to lag behind in terms of social welfare for the population. There is a lot of political instability, corruption and other factors that hinder socio economic development. The Nigeria National Oil Corporation (NNOC) was established in 1971 as a vehicle for the promotion of Nigeria's indigenization policy in the petroleum sector which later became the NNPC in 1977 after the National Oil Company merger with the Petroleum Industry in 1977. NNPC (Nigeria National Petroleum Corporation) flagged off the actual local content initiative through acquisition of interests in the operations of IOCs up to 70%. The challenge however is that despite the ever growing number of local oil service companies, their annual gross earnings still account for less than 5% of the sector's aggregate annual contracting budget. Even the local media has been denied the much desired opportunity to advertise the activities of the upstream companies in Nigeria. Most companies prefer to spend huge media budgets spending millions of dollars on foreign media like CNN, Upstream Journals and Magazines.

Despite the many challenges, with the efforts of the NNPC, a new crop of experienced Nigerian engineers, geologists and geophysicists has emerged. Some have incorporated private oil prospecting and oil services companies for example PETROK, which are classified as indigenous and able to compete. A good example is the Niger Dock, a leading indigenous company with diverse and complex expertise in deep water offshore activities with its notable success story being the construction of the Bonga Buoy, located in the Snake Island and the world's largest of its kind. Niger Dock has identified itself as a competent company capable of offering diverse complex petroleum services like full Engineering, Procurement and Construction (EPC) services, Offshore and Onshore fabrication, brownfield modifications, fabric maintenance, Ship building and repair, marine service, logistics and associated support services etc. However, lack of adequate funding has left them unable to compete at a higher level. Financial institutions in Nigeria are small and cannot finance huge projects thus calling for syndicated borrowing.

Nigeria created the Nigerian Content Support fund, to operate a free zone concept and provide working capital for local companies. Further, the Nigerian Content Intervention Fund managed by the Nigeria Content Development and Monitoring Board (NCMB) recently

approved a USD 150 Million expansion of the Nigeria Content Intervention Fund raising it from USD200 Million to USD 350 Million. It meant to finance ;

- i) Manufacturing in the Oil and Gas sector;
- ii) Assets acquisition; rigs, marine vessels etc.
- iii) Contract financing for Oil and Gas service providers and community contractors.
- iv) Contract or loan refinancing with Nigerian Banks.

The Nigerian Local Content Act 2010 was enacted as a further step in enhancement of Local Content development and among its most notable provisions is the enhancement of Technical and Vocational Education and Training(TVET) which it defined as a type of education which prepares an individual for the worlds of work. It is the systematic and orderly transmission of knowledge,skills,and values to develop a work force that is able to enhance productivity and sustain competitiveness in the global economy. It encompasses theability to accelerate economic growth, provide marketeable labour supply, minimize unemployment and underemployment, infuse technical knowledge and reduce poverty.<sup>284</sup>Much as Ugandan Laws provide for TVET, it is not as emphasized as it is in Nigeria.

Under the said Act,<sup>285</sup> There is a requirement that domestic products and services be given priority in commercial activities and project execution within the industry. Indegenous Nigerian companies are meant to be given exclusive consideration for the execution of oil and gas contracts and services where such companies demonstrate evidence of basic qualifications such as the ownership of equipment, the availability of Nigerian personnel andthe possession of capacity to execute projects on land and swampy areas. This compares to Ugandan content Laws which also have similar proviions.

There is also a provision that any operator that is bidding for any icence, permit or interest in the Nigerian oil and gas industry to be required to submit a content plan.This is also provided for in Uganda's Laws. The Act criminalises any omissions to comply with the content reuirements under the Law. The Laws are more or less similar to Ugandas although Uganda's Laws are yet to be tested given the fact that the industry is still young.

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<sup>284</sup> Man,G.P(2005); Building Human Resource High ways Through Vocationa Training.

<sup>285</sup> Section 3(2) Nigeria Local Content Act 2010



#### **4.9 Recommendations.**

This chapter highlighted and discussed the gist of the study in question. It was discussed in line with the main objective of the study which was to analyze the effectiveness of local content regulatory regime in enhancing the welfare of people in the Oil and Gas industry of Uganda and the 4<sup>th</sup> specific objective of making recommendations that need to be put in place for the Local Content legal regime to effectively enhance BUBU strategy. To achieve this aspect, various legal regulatory framework that provides for LCLR in Uganda was discussed accordingly, highlighting different aspects that portray BUBU as a policy and the aspects of Buy Uganda, Build Uganda in the Oil and Gas industry in Uganda.

The researcher found out that the regulatory framework in place is clear and efficient in regards to the aspects relating to BUBU as a policy aspect of Oil and Gas in Uganda as embodied within the regulatory regime and can be used to enhance the welfare of people in the sector. This the researcher bases on the clear; cut regulations that provide for aspects concerning how training of locals will be handled, issues to deal with employment, issues concerning procurement of goods and services plus what criteria will be followed while dealing with these aspects.

As a general view, the researcher noted that though the regulatory framework in place is fine, what was found missing in most of the regulations is for example a reconciliatory relationship between different stakeholders and this may hinder the benefits of welfare expected from the industry to the people i.e. the government, policy implementers, the multinationals and the local entities in place a need that will be dealt with in the next chapter.

To sum it up the regulatory framework governing the aspect of LC in the Oil and Gas industry of Uganda is perfect as it has all the necessary provisions meant to endeavor efficient promulgation of all the key aspects of LC as a policy aspect in Oil and Gas industry if the government can be successful in enhancing the welfare of people in the oil and gas industry

#### **4.10 Recommendations**

Various recommendations were discussed in line to explain how best the LC regulatory regime as an aspect of enhancing welfare of people in the Oil and Gas can be dealt with to ensure that its applicability in the industry is made more perfect to achieve its desired goals.

The recommendations cut across what the respondents thought would be good for the industry at large. Also, the researcher made his recommendations that he thought would best help the industry at large.

#### **4.10.1 Recommendations to the local stakeholders in Oil and Gas industry of Uganda in enhancing BUBU Policy in the oil and gas sector**

It is recommended by the researcher that the local companies established in Uganda that is all those who have the necessary products and the necessary skills meant to add value to the industry, should be able to learn how the industry works and operates in terms of acquiring the necessary skills and ensuring that they provide quality products necessary for the competition with other stakeholders at stake in question. In his words, Thakkar states that as the people wait for the IOC's and government to develop them, what have the sectors doneto develop their businesses to meet their requirements.<sup>286</sup>He continues to say that the blame cannot be put on the IOC's because when these companies go ahead to use local enterprises without qualifications, the IOC's reputation will be damaged.<sup>287</sup>

Thakkar further notes that companies must get out of their comfort zones and should instead sit back and try to know and understand what our mistakes were in for example a tender and ensure we correct them so that the next tender will be won by us.<sup>288</sup> This is aimed at ensuring that Ugandans or local participants benefits from the oil and gas industry.

He continues to say that because the Ugandan companies have a certain standard they are used to; it should not be a lee way that the IOC's should also do so. He says that Ugandan companies ought to raise their standards. He stipulated the issue of ensuring that local companies must learn to develop themselves to fit in with the rest of the world in this sector. He uses the phrase that

*“Ask not what the IOC s can do for you, ask what you can do for the JOC's”.*

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<sup>286</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 19

<sup>287</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 19

<sup>288</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 20

He concludes by saying that it is true that we are in the learning period, all stake holders need to come on board and embrace the role of each other to have a fruitful and emphatic industry at large.<sup>289</sup>

#### **4.10.2 Recommendations to the Government of Uganda**

The issue of funding the local suppliers is one pertinent issue that should be one of the governments key support area. The researcher recommended that this should be done to ensure that these suppliers are boosted up in their business. An example is given by Jeff Baitwa the three shipping CEO who stipulated that a fund around 200m to 300m U\$ is sufficient enough to boost the local based suppliers.<sup>290</sup> He continued to establish that such a fund would help local companies to borrow money at affordable rates to participate in the sector. In addition, the fund in question will help the companies to acquire loans at a low cost since the interest rates from other means are usually higher than when the government itself decides to fund these companies in question. This will allow many participants especially Ugandans to benefit from the oil and gas sector.

Baitwa continues to say that local service providers had played a big role in reducing exploration costs. For instance, he said the exploration cost would have been 50% more than it is today. For example, “a truck rent was U\$ 1,000 per day at the start, today it is U\$ 350 because there are now more local service providers.<sup>291</sup>

It is highly recommended that the government should take these issues seriously and put a way forward to ensure that there is clear funding and support given to the local enterprises that are to participate in the industry which will help them to boost their businesses and be able to compete with the international counterparts.

Government should make its role in the Oil and Gas industry key in all aspects. Taking an example of the countries discussed in relation to how best they have promoted and developed their LC aspect in the Oil and Gas industry that is Nigeria and Norway as have already been discussed, it is key to note that among these two countries, the government’s

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<sup>289</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 21

<sup>290</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 22

<sup>291</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 22

role in the Oil and Gas industry made it important to be some of the best examples when it comes to the issue of BUBU promotion in the Oil and Gas industry. It should be put into consideration that the industry is capital intensive and some of the best decisions are best made by the government especially where the resources are managed by the government on behalf of the people a case for Uganda as a country. This imposes a mandate on the government to ensure that the resource is beneficial to the masses in general which is through good decisions made which brings about good project linkages and inter sectorial development. The role the government has to play cannot be exhausted only to recommend that its role is very vital to see the industry become a success it should be with tangible benefits to the Ugandans from the oil and gas sector.

Government should also borrow some lessons from other oil and gas producing countries that have been considered as Local Content success stories. This is because they provide a benchmark on how to avoid the negative effects that are associated with resource rich countries and the famous concept of the *paradox of plenty*. Issues to do with Technical Education, empowerment of local companies, and financial support of local companies to gain capacity are some of the areas the government should look at.

#### **4.10.3 Recommendations to the Policy Implementers**

The petroleum authority of Uganda per se has a big mandate and role to achieve and is responsible for a lot of activities in regards to how the Oil companies and subsequent contractors and subcontractors deal with their work. There is need for serious staffing and where necessary create a big organization than the authority as it is known in question. This is through staffing and hiring pertinent people and staff to ensure that the technical aspects tending to the Ugandan companies, citizens and service providers are taken care of and the essence of BUBU in the country is absorbed and promoted there to in a manner that helps to improving the social and economic welfare of Ugandans in the oil and gas industry through improving their living standards.

The petroleum authority needs to always have massive sensitization programs concerning all stakeholders affected by the regulations in question. This should be done so as to stop keeping people in the dark towards their respective roles as envisaged in the regulations in place. Through this, seminars should be handled where all the stakeholders are on board which would help to bridge the gap of those who would be having issues not only to what is

in the regulations in question, but also to how they should relate with other stakeholders under the mandate provided by the Authority as the regulations provide in question. This would help to have a harmonious LC policy aspect Promotion in the Oil and Gas of Uganda. Credit is given to the Petroleum Authority of Uganda that has of recent launched a campaign whereby it has teamed up with media houses to always update the public on what is transcending in the Oil and Gas industry of Uganda. Such insights help to curb the queries in the industry at large.

#### **4.10.4 Recommendations to Oil Companies**

To make sure that the local content policy can work, Oil and Gas companies should provide clarity on their quantitative and qualitative needs in terms of manpower and procurement. The second step is to look at whether the country already has the capabilities necessary to respond to these needs. This will help to narrow down the potential for immediate local participation and identifying the gaps which will need to be filled overtime with specific programs. This approach has recently been used in Uganda CNOOC Uganda Limited. Total E& P Uganda and Tullow Uganda Operators Pty Limited have carried out an extensive “industrial Baseline Survey” and presented their results in a handbook which was published in May 2014.<sup>292</sup>

#### **4.10.5 Other Recommendations**

It is recommended that there is need to develop a collaboration approach which is important for governments to set up dialogue with oil and gas companies. Governments cannot see the full picture alone, in fact the oil and gas companies have a clear interest in becoming involved in the discussion and providing technical advice to public authorities as a way to ensure that the local content requirements will be fit for purpose and will not generate unbearable constraints for their business activities. A collaborative approach should therefore be built on this coverage of interests between the state and the private sector.

It is recommended that capacity building is one of the key developmental aspects as highlighted by the respondents that will make the aspect of BUBU pertinent in the Oil and Gas industry and how it ensures welfare of people in the oil industry. This can be done

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<sup>292</sup> CNOOC, TULLOW, TOTAL (2014): „Planning for the Future: a demand and supply study on the oil and gas sector in Uganda.”

through first of all sensitization of the masses plus effective communication of the opportunities available in the industry in question. this can also work hand in hand through ensuring that there is a boost of the educational institutions in Uganda that have ventured into massive training of the local citizens to acquire the skills required to be used in the Oil and Gas industry per se. In order to boost this cause, there is need for partnerships with some of the educational institutions that are already established so that the people with the zeal to acquire skills can use the opportunity and chance to participate in the industry through the skills acquisition process. This can help out to get certified courses that will be key for the promotion of BUBU in the industry since it will make the local citizens able to compete on international standards.

#### **4.10.6 Suggestions for Further Research**

Due to the limitation of time, the same study could be conducted few years from now. The content given above however much exhaustive cannot be said to be all that there is for the study in question. As the global aspects tend to keep changing especially with the aspects of Oil and Gas as an industry, there ought to be new features that are expected especially with how BUBU strategy and how such policies can be easily be managed and implemented in the LCLR as an aspect is dealt with. This makes it relevant to endeavor to do more research on the topic on a later stage so as to ensure that best practice are come up with industry in question.

### **FIELD DATA ANALYSIS**

#### **4.11 Introduction**

This chapter presents the research findings from the field. It also deals with data presentation, interpretation and discussion of the research findings on the research objectives. The research objectives that were the key for this study included the main objective which was, critically analysis the efficacy of local content legal regime in the Burgeoning Uganda's in the oil and gas sector in reference to buy Uganda, build Uganda policy. Specific objectives which included among others; to establish reasons for and against the implementation of local content policy on buy Uganda , build Uganda, strategy in the Oil and Gas Industry of Uganda, to ascertain the practical approaches necessary to enhance an effective Local content

legal regime and its contribution to buy Uganda, build Uganda policy in the Oil and Gas industry of Uganda, to determine factors that may hinder the effective implementation of buy Uganda, build Uganda policy in the local content and to suggest recommendations for the government of Uganda and all stakeholders involved in the Oil and Gas industry how best the aspect of local content policies can be used to enhance buy Uganda, build Uganda strategy provided in the legal regime in the Oil and Gas industry of Uganda can be implemented effectively.

The researcher presented the views of the respondents, analysis and discussion of the research findings in light of the literature reviewed in chapter two and also basing on the topic in question.

The methods, instruments of data collection and the nature of data was qualitative, as a result the findings were as well presented, analyzed, interpreted and discussed thematically or qualitatively in light of narrative and thematic presentation of the findings of the study.

The instruments administered to the respondents covered various aspects in relation to the literature review and in such deep and illustrative views were given in accordance to the requirements of the tools. Though some of the respondents found it hard to answer some of the questions, the views that were given were reasonable enough and accurate to the observation of the researcher and great addition of knowledge will be added to this field of study.

The instruments administered had various parts that were divided to ensure that the respondents give answers that are in line with the objectives of the study and the topic in question. Part one had standardized questions that required the respondents to give response on how they perceive the questions and phrases given to them in relation to how they understand the topic in question. The other part was of the interview guide of which required the respondents to answer different questions giving ideas and recommending pertinent strategies of which they thought best to bring out the objective of the topic and the research in question.

In this chapter, findings were discussed first then analyzed thereafter. This was done concurrently depending on which part is being handled in relation to what objective of the study being is handled at that particular time and each of the results were discussed, and analyzed separately.

Basing on the type of research method used and sampling techniques preferred by the researcher, the researcher came up with a population of 28 respondents out of which 28 questionnaires received, 21 were filled.

#### 4.11 Standardized Questions

These formed the first part of the questionnaire and they were meant for the respondents to stipulate and give their thoughts on what some highlighted instances in relation to BUBU meant to them. These were in form of where the respondents were to agree, disagree, strongly agree, strongly disagree, and to remain neutral. This depended on how the respondent perceived the questions and statements put across in relation to the topic in question.

#### 4.12 Arguments in favour of an effective local content legal regime in enhancing buy uganda build uganda policy

**Table 2: Showing arguments in favour of an effective Local Content legal regime in enhancing Buy Uganda, build Uganda policy.**

	Frequency	Percentage
Strongly Agree	6	28
Agree	11	53
Disagree		
Strongly disagree		!
Neutral	4	19
<b>Total</b>	<b>21</b>	<b>100</b>

**Source: Primary data 2021.**

Among the standardized questions administered, there was a part for assessing the arguments in favor of LCLR. This was in line with the specific objective which required to establish reasons for and against the implementation of local content legal regime in enhancing buy Uganda, build Uganda policy of Ugandans Oil and Gas Industry. The respondents were tasked to highlight what they thought mimed with the views they have in mind as regards to this matter in question.



**Table 2** above gave the general view of how the respondents reacted to the different aspects given in line with this matter. Among others the statements provided for included; BUBU enhances entrepreneurship and can contribute to poverty eradication, LC contributes to productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms, development of LCLR enables the country to develop its own technical skills to meet the demands of its industries which will in turn promote and enhance social welfare of Ugandans participating in Uganda's oil and gas sector.

From the table above it is revealed that 53% of the respondents strongly agreed to the arguments laid in favor of LC, 28% agreed to this effect, none of the respondents disagreed with the aspects provided, 19 %remained neutral to this cause. These results can be attributed to the fact that the points in contention were true in accordance to the aspect of LC as a policy issue of Oil and Gas industry in Question. This can be illustrated further on the graph below.

On the fact that effective LCLR enhances entrepreneurship and can contribute to poverty eradication as an argument in favor of LC, the researcher found out that various studies made show that with the promotion and creation of platforms for local content development, entrepreneurial skills are developed through capacity building and with skills enhancement. This comes along with high chances of employment and business establishments thus bring about improved rewards of living hence yielding to poverty eradication. This relates back what is provided in the literature review that with efficient legal regulatory framework promoting buy Uganda, build strategy, these aspects will have a pertinent effect in uplifting the lives of citizens if the implementation strategy works.

The other factor handled in favor of promotion of LC was the fact that LC contributes to productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms. The researcher stipulated that for such a layout to be pertinent, there is need to ensure that there is a good relationship built between the domestic firms and the foreign firms. One of the respondents emphasized that this issue needsto be promoted since Ugandan setting is still low in its standards and upbringing. This can be through the bond created from the good relations with the IOC's in place.

In his words, Baitwa, stated that there is need for government to create a mechanism to support those industries that have come up to have a place and to compete in the industry at large<sup>293</sup>. As had highlighted in the literature review, having a reliable legal regulatory framework fronting LC aspects would help a lot to bridge the gaps that would rather deter the progress of the industry in question and this will boost the buy Uganda, build Uganda policy.

The other point highlighted among the arguments in favour of LCLR is the fact that BUBU enables the country to develop its own technical skills to meet the demands of its industries. The issue of technical skill development is vital in the promotion of LCP in the Oil and Gas industry in that as the IOC's prepare to set off with their investments, there ought to be a reliable local industrial environment equipped with skills necessary to be used in the industry in question. The MEMD report on National Content stipulated that capacity building is key to have an industry growth with which skills enhancement will be promoted and acquired<sup>294</sup>. The report further stipulated that Capacity building and industrial diversity is essential if Uganda is to reap the benefits from huge endowments of Oil and Gas which will in turn enhance the social welfare of people in the oil and gas sector<sup>295</sup>.

The report further stipulated that the host government will require the share of national content to exceed what will result from the procurement of goods and services in an open market. The idea behind is to take advantage of the opportunity to pair as a way of boosting buy Uganda, build Uganda policy

Ugandans and Ugandan firms with leading international companies<sup>296</sup>. As International entities team up with Ugandan firms, issues concerning transfer of technology, capacity building, and skills enhancement will be dealt with clearly. As was highlighted in the literature review, the aspect of having in place an efficient legal regulatory framework on LC will be a sure way to ensure that such aspects concerning BUBU are dealt with due diligence.

The other factor that was highlighted when it comes to the factors that are in favor of LCRR development was whether the enhancement of LC can help domestic firms in developing countries to integrate themselves into global economic networks. Oil and Gas

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<sup>293</sup> The Uganda Chamber of Mines & Petroleum, *supra* (note 196) p. 13

<sup>294</sup> Ministry of Energy and Mineral Development, *Enhancing National Participation in the Oil and Gas Industry in Uganda (Final Report: The National Content Study in the Oil and Gas Sector in Uganda, September 2011)* p. 6

<sup>295</sup> Ministry of Energy and Mineral Development, *Enhancing National Participation in the Oil and Gas Industry in Uganda (Final Report: The National Content Study in the Oil and Gas Sector in Uganda, September 2011)* p. 6

<sup>296</sup> MEMD report on National Content, *Supra*

industry' is an international acknowledged industry due to its unique features like being capital intensive. Stakeholders involved in the industry cut across from local to international due to the various aspects involved therein. For the local firms in a host nation, promotion of LCLR and BUBU is less through which they are able to get in touch with their international counterparts.

In relation to the above discussion, among the LLRR aspects to note is that it comes various sensitization international and local program like key note conferences for example the 4th Oil and Gas BUBU conference that was held in Uganda which was hosted by Stanbic Bank at the Kampala Serena hotel in partnership with the Association of the Oil and Gas Service providers (AUGOS), and the Ministry of Energy.

The theme of the conference was “repositioning local service providers for the next phase of oil developments.” The conference was held to give industry players a platform to exchange ideas, gain insights into the sector, look into possible opportunities and examine the standards required for local suppliers within Uganda’s budding Oil and Gas sector. The AUGOS CEO Emmanuel Mugarura said the conference would give local providers the opportunity to network with the international Oil companies and discuss the ways to allow them to benefit more from the oil industry and all these were aimed at improving the living standards of people in the oil and gas industry.

With such avenues in place meant to promote LCLR in question, there is hope for Uganda as a country and its domestic firms to integrate with other global economic networks of which through such, a lot is learnt towards building the domestic firms into global economic networks. Just as highlighted in the literature review, such aspects need an efficient legal regulatory framework meant to support BUBU POLCY as an aspect of Oil and Gas industry, if some of these aspects are to be put into practice.

#### 4.13 Arguments against the use of LCLF in enhancing Buy Uganda, Build Uganda in the oil and gas sector.

**Table 3: Showing Arguments against use of LCLF in enhancing Buy Uganda, Build Uganda in the oil and gas sector.**

	Frequency	Percentage
Strongly Agree	1	4
Agree	4	20
Disagree	2	10
Strongly disagree	6	28
Neutral	8	38
Total	21	100

**Source: Primary data 2021**

Among the standardised questions administered, there was a part for assessing the arguments in favour of LCRR. This was in line with the specific objective which is to establish reasons for and against the implementation of the local content Legal Framework in enhancing Buy Uganda, Build Uganda in the Oil and Gas Industry of Uganda.

**Table 3** above displays a general assessment to this cause how the respondents reacted to this issue in question. Among the highlighted provisions to this effect included to assess whether LCRR is incompatible with the international trade measures applicable to members of the World Trade Organisation, that LCP creates distortions, inefficiency and corruption which affects the extractive sector, that BUBU policy under the L.CLR discourages investment and puts undue pressure on companies as arguments against the promotion of LCLF as an aspect of Oil and Gas respectively and it can lead to production of low quality where by the oil companies will shun local companies due to poor quality of locally made products..

From the table above, it was revealed that 4% of the respondents strongly agreed to the arguments against the use of LCLR in enhancing buy Uganda, build Uganda policy in the oil and gas industry, 20% agreed to this effect, 10% disagreed with the aspects provided, 28% strongly disagreed and 38% remained neutral to this cause. The results show that on this very

aspect, the respondents were not quite acquainted with the provisions fronted in question. This can be illustrated further using the line graph below.

**Figure 2: showing Arguments against the use of local content legal framework as a way of enhancing Buy Uganda, Build Uganda strategy in the oil and gas sector.**

**Source: Primary data 2021**

Among the issues highlighted on this part of the standardized questions was to assess whether LCLR is incompatible with the international trade measures applicable to members of the World Trade Organization. According to the responses, it showed that there is little knowledge concerning how LCP promotion interrelates with the procedures and aspects of WTO on employment, Training and procuring locally made goods in the oil and gas industry.

Cimino as earlier stipulated states that according to the WTO mentality, promotion of L.C and implementation of LC policies promotes unfair competition of which this is against the so-called economic scale and balancing of economic trends. This can be portrayed as a gist where you find that most expatriates are already qualified to the expense of the local citizens yet due regard is given to the local citizens of which WTO policies regard this as unfair. Their argument is that this affects the domestic commerce of another state reason being that the WTO promotes the idea of one-member country to treat one another as they would their own nationals<sup>297</sup>.

As the literature had provided, the issue of having effective legal regulatory framework fronting the aspects of LC in the Oil and Gas industry is a pertinent move to ensure that such irregularities are taken care of.

The other point that was highlighted in relation to the arguments against the use of BUBU was that LC creates distortions, inefficiency and corruption which affects the extractive sector. The Oil and Gas sector being a capital-intensive industry requires that there ought to be a serious endeavor on how activities within the industry are held. With the urge to participate in the industry at large, there are at times occurrences of corruption tendencies by some officials who want especially want to gain much from the oil proceeds in question. This is due to the fact that there are much cash inflows from the industry in question. To this end it has been recorded more often that countries endowed with the Oil resources or extractive mineral deposits have faced a vast number of economic breakdowns of which the notion has

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<sup>297</sup> Cimino, supra (note 113)

been termed as resource curse. This is usually due to overzealous individuals who expect more than what the industry can provide and end up creating an industrial imbalance and sectorial underdevelopment in areas that these industries operate. Having an efficient legal regime as highlighted throughout the literature review relating to Oil and Gas that can ably deal with such instances is key towards the promotion of such aspects like LC the Oil and Gas industry of Uganda at large and it will lead to the success of BUBU.

As portrayed in the discussions, the other issue that was hinted upon in relation to the arguments against the use of BUBU through LC was that LC it discourages investment and puts undue pressure on companies. When it comes to investment in the Oil and Gas industry, we look at monetary terms since the industry is capital intensive in terms of its capacity maintenance. It is on this basis that investors think and argue that with the promotion of LC to enhance Buy Uganda, Build Uganda policy, they cannot wait for the industry of the host country to develop. For example, taking Uganda's industry in question, it faces the problem of the lack of skills and minimal capacity development of both man power and the industrial base supposed to provide raw materials plus other service providers at large.

The other argument is that the promotion of LCLR and BUBU comes with the issue of having stringent legislation meant to promote LC of which this is seen as a hindrance to investment instances by the IOC's and other service providers be it contractors and Subcontractors as the situation may be in question. Their argument supports a plan that ought to have a recognised and workable legislation for both the expatriates and the host citizens to have a workable environment in question if investment in the Oil and Gas industry is to be a success. The issue concerning LC is key in the extractive industries in any host country as this ensures that the host citizens are part and parcel of the industry which in the due end promotes economic and social transformation of the citizens and the country as a whole. The issue of hindering investments is minor where there are favourable and accurate regulations that promote a balance between what the investors and the local citizens both need at large.

#### **4.14 Practical Decisions and Perceptions in the formulation of LC BUBU Policies**

This was the second part on the standardized questions as administered to the respondents respectively. This part handled one of the specific objectives which is to ascertain the practical approaches necessary to enhancing Buy Uganda, Build Uganda in the Oil and Gas industry of Uganda. The respondents were required to give their views on some of these

practical strategies that are meant to ensure that LC policies are properly formulated so as not to make regrettable mistakes for the entire stakeholders meant to benefit from the policies in question whereby the BUBU policy can be implemented, Among the practical perceptions highlighted included use of required targets, promoting project linkages in use of local skills and goods.

#### 4.15 Use of Required Targets

**Table 4: showing use of Required Targets**

	Frequency	Percentage
Strongly Agree	16	76
Agree	5	24
Disagree		
Strongly disagree		
Neutral		
Total	21	100

**Table 4** highlights the responses got from the respondents concerning the aspect of use of required targets as an aspect of ensuring that LCLR enhances BUBU policy in promotion and implementation is dealt with. 76% strongly agreed to the aspects provided in question, 24% also agreed to this matter in question. This shows that there was a vast knowledge on this aspect as demonstrated by the responses from the respondents in question. This will be demonstrated

**Source: Primary data 2021.**

As part of the practical decisions, the idea of use of required targets was highlighted as demonstrated above as a realistic incentive to ensure that BUBU policy promotion and implementation is dealt with. Required targets issue includes provisions like local skills development through training programs for local professionals in the Oil and Gas sector, the need to address the skills gap in technical and vocational education in the Oil and Gas sector, the need to involve companies in LCLR capability development through community investment programs which will facilitate the BUBU strategy.

With such issues, the researcher found out that it seems obvious that at times it requires individual agitation to acquire these skills and companies’ participation beyond illicit factors. What is hard at times is the cost of the education system in question not forgetting the lengthy

time period involved, the few institutions available to teach and transfer the knowledge in question. In addition to such issues, the issue of development through community investment programs in partnership with international agencies is an issue the government needs to take up and make it a priority in ensuring that such programs are dealt with which are aimed at enhancing the social welfare of Ugandans in Uganda's oil and gas sector

In support of these discussed issues, Christian Schnurre, the Country Director of GIZ in Uganda in his article in the New Vision entitled "National content without the necessary professional skills is a fallacy",<sup>298</sup> highlighted issues that support these ideas discussed. He stipulated that practical skills training is vital in a country where the current conversation focuses heavily on national content policy, particularly in regard to the Oil and Gas sector which is going into constructive phase soon. The fact that there will be many job opportunities in the sector, Christian stipulates that what is not keen is how many Ugandans will directly benefit from the job opportunities which are very critical in enhancing that Ugandans fully benefits from the oil and gas sector.<sup>299</sup>

In general, the country does not yet have enough professionally skilled workers whose qualifications meet the internationally recognized standards. Christian in his article continued to highlight on a professional program on going to ensure that there is professionalism in the activities transcending in the Oil and Gas sector.<sup>300</sup> He stipulates that at least over 1800 professional drivers of large commercial vehicles will be required in the Oil and Gas sector in the next 10 years. He stipulates this as a practical example where professional drivers are required in the sector in question. He says that in order to curb this necessity, they launched an initiative that is aimed at training at least 12 driver instructors and 800 drivers of large commercial vehicles. This program is meant to bridge the practical experience gap and as such they facilitate skilling programs which focus on practice along theory.<sup>301</sup> The project is funded by German's Federal Ministry for Economic Cooperation and Development, the British department for International Development and the Norwegian Agency for Development Cooperation.<sup>302</sup> As already highlighted in the literature review. it is pertinent

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<sup>298</sup> Christian Schnurre, "National Content Without the necessary professional skills is a fallacy" New Vision (Kampala, 16 September 2017)

<sup>299</sup> Christian Schnurre, "National Content Without the necessary professional skills is a fallacy" New Vision (Kampala, 16 September 2017)

<sup>300</sup> Christian Schnurre, "National Content Without the necessary professional skills is a fallacy" New Vision (Kampala, 16 September 2017)

<sup>301</sup> Christian Schnurre, "National Content Without the necessary professional skills is a fallacy" New Vision (Kampala, 16 September 2017)

<sup>302</sup> Christian Schnurre, "National Content Without the necessary professional skills is a fallacy" New Vision (Kampala, 16 September 2017)



that these aspects meant to promote LCLR have accredited platforms like sufficient legal regulatory framework meant to mend the implementation proceeds which is probable for the Oil and Gas industry in this case of Uganda as a country. This will automatically hind BUBU policy and its intended targets.

#### 4.16 Promoting Project Linkages as a way of BUBU policy through BUBU

**Table 5: Showing promoting Project Linkages**

	Frequency	. Percentage
Strongly Agree	12	57
Agree	6	28
Disagree	1	5
Strongly disagree		
Neutral	2	10
Total	21	100

**Table 5** displays how the respondents reacted to the issue concerning promotion of project linkages as one of the practical perceptions related to the formulation of LC policies and BUBU policies in the Oil and Gas industry. 57% of the respondents strongly agreed, 28% agreed, 5% disagreed, and 10% remained neutral. This shows that the respondents had mixed ideas relating to the provisions provided in relation to this aspect. However, their responses were important towards achieving the aim of the study in question. This is illustrated in the figure below.

#### 4.17 Percentage of Promoting Project Linkages

**Table 6: Showing the percentage of promoting project linkages of BUBU Policy**

	Frequency	Percentage
Strongly Agree	5	10
Agree	2	20
Disagree	4	10
Strongly disagree		40
Neutral	10	20
Total	21	100

**Source: Primary data 2021**

Among the practical strategies handled is the issue of promoting project linkages as shown above, as a way of ensuring that the intention of formulating LC as a way of enhancing BUBU strategy is archived effectively. Issues in support of this aspect ranged from the idea of local firms striving to improve their production standard and practices so as to meet the demands of foreign firms, enabling of economic diversification of the local economy among others. The need for the institutions and organizations on which industries depend on should be promoted to build socio-economic assets and infrastructure; regional countries should formulate policies to enhance the development of linkages between the Oil and Gas sector and the macro economy.

The researcher found out that the idea of project linkages is key in ensuring transitional and inter-sectorial development which promotes effective distribution of the resources in people among others sectors in question especially those which work hand in hand with the Oil and Gas industry. With such ideas, social economic development is key and probable which results into the transformation of different aspects of economic development. As already highlighted in the literature review, the government and key stakeholders should concentrate on the promotion of efficient and effective legal regulatory framework meant to conjure these matters important towards having an efficient LC legal regime that enhances buy Uganda build Uganda policy in the Oil and Gas industry of Uganda.

#### 4.18 The issue of reviewing, revising and amending the regulations

**Table 7: showing the issue of reviewing, revising and amending the regulatory regime.**

	Frequency	Percentage
Strongly Agree	5	23
Agree	2	10
Disagree	4	20
Strongly disagree		
Neutral	10	47
Total	21	100

**Source: Primary data 2021**

From the table above, it shows how the respondents reacted towards the issue of reviewing, revising and amending the regulations in question. According to the results it is revealed that 23 % of the respondents strongly agreed to the issue of reviewing and amending the regulations in question, 10% agreed, 20% disagreed, and 47% remained neutral concerning this issue. The results show that there was lack of knowledge concerning some of

these regulations as some of the regulations pertaining LC as an aspect of enhancing welfare of people in the Oil and Gas industry in Uganda are newly enacted.

**Source: Primary data 2021**

This was part three of the standardized questions and it required the respondents to give a deductive view to how they think the regulations and the legislations in place concerning LC can be amended, revised or reviewed, in relation to different sections and subsections of these regulations. This section handles one of the specific objectives of the study which is to suggest recommendations for the government of Uganda and all stakeholders involved in the Oil and Gas industry how best the aspect of local content policy can be used to enhance BUBU strategy as provided in the regulations affecting Oil and Gas industry of Uganda can be upheld effectively.

Relating to the earlier reviewed literature, having a pertinent legal regulatory framework handling LC policy issues in the Oil and Gas industry like that of Uganda, helps in the formulation of a streamlined process on how different stakeholders tend to handle the services meant to boost the wellbeing of the industry in question. Some of the services that fall in this category include services of car hire, land surveying, areas of security being some of aspects deemed crucial while dealing with LC policy aspects in question.

The researcher relating to the literature reviewed found out having an efficient regulatory framework like that dealing with LC and BUBU policy in the Oil and Gas industry in place, it is easier to deal with problems like capital flight relating to how such aspects are handled in the regulations in question.

According to Babafemi gave Nigeria's example of how took it upon itself to develop its LC legislation and developed the Nigerian Oil and Gas development law which was formed within the context of growth of Nigerian entrepreneurship and domestication of assets to fully realize Nigeria's strategic development goals.<sup>303</sup>

According to Babafemi continued to stipulate that the law in question brought about a number of achievements in the Nigerian industry in question and that as of 2013, it is said that LC development attracted Foreign Direct Investments worth over 500 million into the

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<sup>303</sup> Babafemi Oyewole, „Best practice for local content development strategy: The Nigerian experience (2015) ESP p.5

Nigerian economy.<sup>304</sup> An example of entrepreneurial development and technology transfer has been vividly seen where Lagos Deep Offshore Logistics (LADOL) invested over U\$ 100 million in transforming the swampland of A papa port axis in Lagos into a world class, one stop base for deep offshore logistics and created more than 1,000 skilled jobs.<sup>305</sup>

The Nigerian experience shows that effective design, implementation and monitoring of LC through BUBU development policy led to the amelioration of the structural effects of the mineral sector through increased value, increased employment generation, enhanced entrepreneurial development.

As have been highlighted through the literature discussed, having a reliable legal regulatory framework portraying policy aspect like BUBU which are key in the Oil and Gas industry is a paramount move towards having a plausible environment for policy implementation as shown by the Nigerian experience discussed above. :

**Table 8** Below shows some of the achievements scored by Nigeria in the lieu of having created an effective LC which enhances BUBU policy through its legislation.

**Table 8: Achievements by Nigeria due to BUBU and LCLR promotion**

<b>Achievements Item</b>	<b>Before Local Content</b>	<b>After Local Content</b>
Average Industry Spend	US\$* Billion	US\$20 Billion (\$4 billion locally)
Contribution to National Revenue	71%	80%
Contribution to Export earnings	90%	97%
Contribution to GDP	12%	25%
Local Value Added	10-15%	40%
Use of Workforce	More Expatriates	More Nigerians '

**Source: Confidential documents of Energy Synergy Partners (ESP) 2021**

<sup>304</sup> Babafemi Oyewole, „Best practice for local content development strategy: The Nigerian experience (2015) ESP p.11

<sup>305</sup> Babafemi Oyewole, „Best practice for local content development strategy: The Nigerian experience (2015) ESP

**Table 8** shows the trends of how Nigeria performed before and after creation of an effective LC legislation in place. For example, contribution of GDP grew from 12% to 25% after the implementation and adoption of an efficient LCLR policy. The workforce also envisaged more Nigerians in the employment vicinities after the adoption of LCLR effective policy. This was made possible due to an efficient LCLR in place.

#### **4.19 Interview Guide**

On the part of the interview guide, probe questions were structured in such a way to dig deep into what the respondents thought about some aspects put across in the interview guide as they were meant to achieve the goals and objectives of the study in question. The findings under this section will be discussed together with the analysis of these study findings in question.

This section cuts across the objectives of the study as had already highlighted and it is in consensus with the literature reviewed for the purposes of coming up with the desired goal of the study in question.

#### **4.20 Is the BUBU policy of Uganda’s Oil and Gas Industry effective in enhancing BUBU strategy?**

**Table 9:** showing whether the LCLF in enhancing Buy Uganda, Build Uganda strategy in the Oil and Gas Industry is effective

#### **Source: Primary Data 2021**

The table shows that the reactions made by the respondents in regard as to whether Uganda has an effective LCLR concerning BUBU in the Oil and Gas industry. On this issue, the response was positive from the respondents as those who agreed conveyed 72% while those who were not in agreement conveyed 28%. It was observed that though most of the respondents agreed to this fact, some had no clear insight as to what was in place especially the fact that some of the regulatory framework pertaining LC aspect promotion in Ugandan’s Oil industry is new.

The results discussed above have been further portrayed by figure 9 below.

### **Figure 8: showing whether the LCLR in Uganda's Oil and Gas Industry is effective**

Among the important issues portrayed was whether Uganda has an effective BUBU policy in its local content policies in the Oil and Gas industry. The regulatory framework in place breeds hope for having a platform that will portray an effective implementation of the policies like LC in place having in mind what other jurisdictions have done.

For those who opposed the fact that there is no effective local content legal regime in enhancing BUBU Policy in the Oil and Gas industry of Uganda based their arguments various instincts as some stipulated that there has been no sensitisation of the masses to be aware of such policies to enable the effective participation of the masses in question. One of the respondents asserted that; **“the efficacy in question as subjected to its implementation is not yet practical but as regards to the laws and policies in theory, the LCL regime is an nice one”**. This goes back to what was reviewed in the earlier literature hinting on the fact that having a pertinent reliable legal framework fronting various policy aspects of Oil and Gas industry like LCP and BUBU are the key element of having a balanced promulgation of the activities of the industry in question that will enhance social welfare of Ugandans in the oil and gas sector. Uganda as a country has a mandate to ensure that the issue of is handled with due diligence and care to ensure that the policies in place are seen to achieve their desired goals and reason for their formulation.

#### **4.21 Relevance of promoting LC policy in enhancing BUBU policy in the Oil and Gas Industry in Uganda**

On this issue, there were various responses from the respondents. The response was quite positive as various comments came through in support of this issue in question. A group of respondents had the idea that; *“it enhances participatory development of the indigenous community”* through which the local community is given chance to participate in different activities and settings of the industry in question. This enhances the promotion of the GDP of the economy as it controls issues like capital flight where the income that would be reverted back by expatriates, is kept within the circulation of the economy.

One of the respondents on this idea stipulated that; *“yes because promotion of LC and BUBU encourages local participation and prevents capital flight hence encouraging the economic transformation of the host country”* Nigeria is used as an example like had earlier

shown by the table 6,<sup>306</sup> which demonstrated how important promotion of LC is as it can show that on the issue of contribution to GDP, before the promotion of LC, the industry was only contributing 12% but after the promotion of LC, the contribution increased to 25% respectively, also the value added was 10-15% before the promotion of BUBU and after LC promotion, the value added came to 40%.<sup>307</sup> In addition to the above arguments, one of the respondents argued that *“it’s very important to develop BUBU policy in the Oil and Gas industry because locals must benefit from the industry through participation or else, some might be left out the opportunities in the industry at large which in turn promotes BUBU which improves the livelihood of people in the sector”*.

Other respondents gave their views to this cause in issue and stipulated that the promotion of LC is relevant in that; *“it will help in the development of countries technical skills hence promoting of technological skills transfer to the local population”*. This is essential for the activities involved in the industry at large as it promotes capacity building which enhances BUBU Policy.

The MEMD report on enhancing national participation in the Oil and Gas industry in the same view gives a highlight on the issue of capacity building and the idea of technology transfer and in the report, it is stipulated that;

*“The only way to succeed with a policy to enhance national BUBU and Local content is for all stakeholders to stay focused on and dedicated to capacity building in domestic firms and in people (local labour). That this is a deliberate undertaking of which capacity building is usually created through training, exercises and knowledge transfer of which all this requires engagement and commitment from politicians and civil servants at the national and local level, from oil companies and their global supply and service associations, schools and institutions for vocational training, universities and NGO’s”*.<sup>308</sup>

The report further stipulates that the mechanism of achieving national capacity building is through taking advantage of the interest of the foreign firms to participate in the Oil and Gas activities of the host country where the key determinant is to have foreign firms and investors agree to the task of national capacity building, to have them come up with measures to build

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<sup>306</sup>Oyewole, supra (note) pg.10 [Confidential documents of Energy Synergy Partners]

<sup>307</sup> Oyewole, supra (note) pg.10 [Confidential documents of Energy Synergy Partners]

<sup>308</sup> MEMD report on National Content, supra (note 53) p.15

local capacity, and to ensure they will collaborate with domestic business, education, training and research institutions to achieve the task.<sup>309</sup>

The views stipulated above reflects back to the literature reviewed in that with an effective legal regulatory framework fronting policy aspect like LCP in place, it is easy to promote such policy insights in the Oil and Gas industry like that of Uganda especially when relying on BUBU strategy.

#### **4.22 The disadvantages of having LC in the Oil and Gas Industry as a way of enhancing BUBU policy in the oil and gas sector**

This was another issue that the respondents were tasked with to evaluate whether there are any disadvantages of having LCLR in the Oil and Gas industry. It should be noted that there is always a good and bad side of everything. BUBU per se is a good perspective and baseline to allow the local citizens of the host country to participate fully in the sector in question, and also allows the indigenous companies to participate fully in the activities involved in the industry which at the onset breeds economic transformation in relation to the social life of the people and the development of the country at large.

*“With such developments, there comes some disadvantages. The respondents reacted to this issue in question and gave different views of which some believed and asserted that; “promoting of BUBU may bring about economic imbalance in the economy brought by sectorial imbalance where players in question may strive hard to attain what the industry wants in terms of standards which might deprive other sectors concentration”*

In addition to this, LCLR might also bring about unnecessary excitement in the industry among the participants trying to attain goals that are far beyond their capacity. Taking an example of Uganda as a country, the majority of the companies there in are still small and their technical knowhow is not yet adequately available to support the demands of the industry at large. This situation at hand will eventually make a hand full richer because they are the ones that can meet the standards in question.

Various responses were given by the respondents and one of them stipulated that

*“The mode of implementing LCP and BUBU strategy is wrong and emphasized that IOC’s should be compelled to incorporate local companies into their operations gradually”.*

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<sup>309</sup> MEMD report on National Content, supra (note 533) p.15



This will help to curb some of the disadvantages hinted earlier like production of inefficient goods in a hurry to satisfy the demands of the industry. The other issue hinted on by the respondents was that LC discourages fair competition as one of the respondents highlighted thus that; *“LCP and BUBU discourages fair competition which might lead to the discouraging of Foreign Direct Investment” hence distorting the intended benefits”*

Others thought that LC promotion might bring about hindrance of regional integration where the respondents believed that at times the procedure and purpose of LC is to promote the enthusiasm and opportunities of the prospects of the local and indigenous population hence barring other neighboring competitors from participation hence bringing about regional imbalance and TIT FOR TAT for the policy.

*“To those who thought and believe that there are no disadvantages of having BUBU in the Oil and Gas industry had their reasons and one of the respondents stipulated that; “witha focus on skills development, capacity building, and enterprise development, there are no baselines to refer to the promotion of LC regulatory regime as having any disadvantages”. Another respondent dissenting stipulated that; “No, it is important that locals participate in the industry”.*

As discussed above the need to analyze and uphold the role played by the legal regulatory framework portraying LC as a policy aspect of Oil and Gas industry in Uganda still remains pertinent since having an efficient legislation enables to transform sector aspects with ease.

#### **4.23 Hindrances likely to affect the implementation and promotion of BUBU policy through LCLR in Oil and Gas Industry**

This section is in line with one of the specific objectives which is to determine factors that may hinder the effective implementation of local content in regulations affecting Oil and Gas Industry of Uganda.

Hindrances could take various forms in regards to what one could like to refer to it. At most times these are short backs and challenges that usually deter or prohibit an effective progressive transformation of a project or process. LC implementation and promotion is a gradual process that comes with pertinent issues at hand that require stakeholder participation when it comes to the language understood and used in the Oil and Gas industry.

Among the most highlighted hindrances cited by the respondents was the issue of lack of skills, and the lack of proper training by the indigenous population and the companies at large. This renders the man power in Uganda inadequate in terms of skills acquisition that are needed to participate in the industry that is fast growing.

In addition to the above, the technological capacity of the Ugandan companies in this regard is still low and requires improvement and upgrading so as to meet the industries standards. On the issue of skills, a lot is being done by the government in question like establishing of training centres like the Kigumba institute, even some IOC"s have come on board to sponsor Ugandan students to acquire skills like the Tullow Scholarship Scheme funded by Tullow in association with British Council. One of the respondents stipulated that;

*"lack of capacity of local companies and manpower capacity can only be acquired gradually by operating alongside the oil companies".*

The other point hinted upon as a hindrance towards the implementation of LC is the issue of the National supplier database meant to make easy the work of identifying the potential players and suppliers that can play a big role in the Oil and Gas industry of Uganda at large. Another respondent observed that *"the requirements needed to be put on the database are too rigorous for some local companies to be able to participate fully in the industry"*. In doing so, not everyone can get onto the National supplier database (NSD) ruling out potential participants in the industry due to minor practicalities. It is also on record that one of the respondents explained that

*"This has to be with the criteria for prequalification of companies on the National supplier database which excludes many capable companies"*.

Such practical imbalances have made it a problem to stretch the promotion and implementation of BUBU in Uganda as a whole, a wakeup call for the responsible stakeholders to look into these issues of which if ignored, Uganda might lose out the bigger picture of promoting the industry as another source of economic boost and diversification of the country at large.

On the contrary, referring to the issue of National supplier database, the formal director legal and corporate affairs the Petroleum Authority of Uganda. Ssekakwa also stipulated this well that the NSD will enhance transparency in the procurement process and also provide a

one-stop database for procurement for licensed oil companies thus shortening the procurement process of which this will accordingly foster LC in the oil sector.<sup>310</sup>

However, the researcher found out that the idea of NSD is good and important as countries like Norway and Nigeria are using them but the fact remains that the process surrounding the admission and qualification to the NSD is not yet clear to ably encompass a great number of potential stakeholders in Uganda. As highlighted above, all these issues are best handled with an effective platform like an efficient legal regulatory framework meant to front policy aspects like the LC aspect in the Oil and Gas industry of Uganda.

Oil and Gas industry being capital intensive was another hindrance hinted on by the respondents that is likely to affect the promotion of BUBU in the Oil and Gas sector. One of the respondents stipulated that; *“Ugandan companies are small with limited capital to invest in Oil related businesses”*. The issue of lack of funds hinders the likely capable participants in the areas of interest in the industry to participate leading to monopoly tendencies among the few rich who are able to participate in the industry at large. The researcher found out that such instances can easily breed issues concerning corruption.

Concerning this aspect, the Ugandan local service providers in the Oil and Gas industry stipulated that the government ought to put up a fund to ensure that these suppliers are boosted up in their businesses. According to Baitwa, the Managing Director of Three ways shipping services ltd in his article highlighted in the Uganda chamber of Mines and Petroleum magazine<sup>311</sup>. Stipulated that a fund of around 200million to \$300million USD would be sufficient enough to boost the local based suppliers, and such a fund would help local companies to borrow money at affordable interests thus helping the local providers pave way in their move to ably provide for the industry in question. He continues to say that;

*“There can’t be local content, if you don’t have the means to participate. That’s why we are saying the means to participate have been undermined by the fact that those who have been participating, many of them are struggling and thus may not make a rebound for future work and hence limiting the social welfare of people in the oil and gas sector ”.*<sup>312</sup>

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<sup>310</sup> Ali Ssekatawa, „National Suppliers database will foster Local Content in Oil sector“ Daily Monitor (Uganda, 22 September 2019) <http://www.monitor.co.ug/opEd/commentary/National-suppliers-database-foster-local-content-oil-sector/689364-4106768-ep88w2/index.html> accessed 10<sup>th</sup> October 2020

<sup>311</sup> The Uganda Chamber of Mines & Petroleum

<sup>312</sup> The Uganda Chamber of Mines & Petroleum

The issues highlighted in the discussion above are relevant towards the promotion of an efficient LC policy framework in the Oil and Gas industry of Uganda as a whole. Having efficient platforms like legal regulatory frameworks portraying the aspects of BUBU as have highlighted in the literature reviewed is key for implementation attributes of these issues highlighted above.

#### **4.24 Practical implementation strategies in enhancing BUBU policy in the oil and gas industry**

As part of the interview guide, the respondents were tasked to highlight some of the practical strategies and approaches that can be adopted to ensure effectiveness of local content regulatory in enhancing social welfare of Ugandans in oil and gas industry of Uganda. This section is in line with one of the study objectives which is to ascertain the practical approaches necessary to enhance an effective Local content policy which enhances BUBU strategy in the Oil and Gas industry of Uganda.

This was meant to ensure whether the respondents recommend any practical approaches that can make the work of the regulations easier when it comes to the implementation of BUBU policy as a policy aspect as highlighted in the LCLR in the Oil and Gas industry in Uganda.

The respondents stipulated that there ought to be strategies adopted by the stakeholders if they are to ably participate and be efficient in the works and activities of the industry at large. Respondents pointed out various strategies that they thought would be best carried out to have an efficient atmosphere for LC implementation. Some of the major strategies were those concerning capacity building programs that one of the respondents referred to as "*practical oriented programs*" and according to his view, as a way of promoting the practical oriented programs, local's stakeholders should be taught the standards needed during for example bidding for services that are needed for the industry at large.

The other strategy that was highlighted by the respondents is the issue of sensitization of the local population on what basics are needed to fully compete and participate in the industry in question as another platform that can eligibly help in ensuring that BUBU policy under the LCLR as a policy achieves its desired goals. One of the respondents in support of this stipulated that; "*there is need of training and equipping local companies and streamlining the qualification processes to eliminate corruption which distorts the intended outcome of improving living standards of people in the oil and gas industry*".

Among the respondents, one hinted on the issue of staffing some of the authorities in the Oil and Gas industry at large as highlighted in the regulations in question. The respondent stipulated that;

*"there is need to strengthen the petroleum Authority of Uganda, in terms of staffing and funding" One of the respondents pointed out that "there is-need to strengthen the enforcement of regulations as well as putting in place stringent and punitive measures for companies that do not comply with the regulations".*

With such strategies at hand, all that can be said is that Ugandan Oil and Gas industry is still growing and a lot can be learnt from other successful jurisdictions. Strengthening of policies like LCLR is a move Uganda can keep working on through- strengthening her legal and regulatory frameworks that promote BUBU, as a way of boosting up the government's working relation with the different stakeholders in the Oil and Gas industry as a strategy meant to accredit the aspect of LCP as a policy aspect in the Oil and Gas industry.

#### **4.25 How to improve the laws, policies, regulations and implementation to ensure effective buy Uganda and build Uganda policy in the LCLR in Oil and Gas industry of Uganda**

Among the questions tasked by the respondents to answer included the issue of how best the regulations, policies and laws can be improved to ensure that there is an effective LC implementation as portrayed in the Oil and Gas industry in Uganda. This section is in line with the general objective which is to analyze the effectiveness of local content in the regulations affecting the Oil and Gas industry of Uganda.

Uganda being a new country in the Oil and Gas industry, one of its major tasks is to ensure that they learn and become acquainted with the prospects of the petroleum industry in question. This has to be done in a way that will ensure that the pertinent issues concerning the industry are well and are readily availed to the local participants and citizens of the country at large. This enables the industry at large to become a benefit to all other economies which brings about economic diversification which in turn improves social welfare of people in Uganda's oil and gas industry.

Uganda as a country has put in place and enacted regulations to handle issues of LC as an aspect of Oil and Gas industry. The respondents stipulated that the regulations and policies in place are clear and have sufficient provisions and pointed out the issue of implementation

as a barrier to these regulations in question. The respondents were tasked to give ways in which the regulatory framework can be improved upon to ensure that the welfare of the people is enhanced in Oil and Gas industry.

One of the respondents pointed out the issue of revising the laws in place so as to curb instances and practices that would best lay a foundation of effective LC practice in the Oil and Gas sector.

Other respondents hinted on the issue of learning from other jurisdictions that have had a successful LCLR under the BUBU strategy practice in question through ensuring that some of their practices are envisaged into the Ugandan perspective in question.

One of the respondents stipulated thus that; *“the regulations in question should be able to manage the public expectation and encourage interrelation with other sectors so as to have a balanced sectorial development with the industry in question”*. Other respondents gave their thoughts and one of them stipulated that since the regulations are readily available; *“there is need to ensure that the management of these regulatory frameworks is done with due diligence and endeavour to monitor the activities enshrined in the laws regulating LC are not violated by the IOC’s.”*

All the views given as discussed above are key towards ensuring that the legal regulatory framework handling LCLR as a policy aspect in the Oil and Gas industry put in place by the Ugandan government work towards sustaining the key industry prospects. As highlighted in the literature review, having an efficient legal regulatory framework is one of the best prospects that help to easily transform the working aspects of certain policies like LC policy as a policy aspect in the Oil and Gas industry like that of Uganda.

## **2.26 Role played by the regulatory regime in enhancing BUBU policy of Uganda in Oil and Gas Industry of Uganda**

This section is in line with the general objective which is to analyse the effectiveness of local content regulatory regime in enhancing BUBU in the Oil and Gas industry of Uganda.

Having a regulatory framework in an industry like Oil and Gas is crucial as it promotes synergy in the sector at large. Usually regulations help in governing the ways and conduct of the players in the industry in question. This makes the regulatory essential as they help to

bridge the gap between the stakeholders through dealing with how various aspects of their works is concerned.

The procedures, rules and aspects are streamlined to ensure that there is credible work done and also ensure that the stakeholders are ready to create a probable mechanism for the industry to work amicably.

Among the questions and tasks given to the respondents was to air out and scrutinize the role to be played by the regulatory regime towards ensuring the effective promotion of BUBU policy in the Oil and Gas industry of Uganda.

Various issues were pointed out by the respondents to what roles they think should be played by the regulatory regime towards ensuring the effective promotion of LC in the Oil and Gas industry. Of the major points highlighted, respondents hinted on the issue of ensuring that there is a lucrative mechanism for the stakeholders in question. In so doing, the regulations should emphasize that effective LC regulatory regime is upheld by the Oil companies. One of the respondents pointed out that;

*“The regulations should create a smooth way for many local companies to qualify for inclusion on database and emphasize training to increase their effectiveness which based on enhancing the social welfare of people participating in the oil and gas industry”.*

Another issue pointed out by the respondents in regards to what role should be played by the regulations is the issue of monitoring. One of the respondents on this issue pointed out that;

*“There ought to be monitoring of compliance and in so doing the regulatory regime should be able to provide for punishing entities not complying and rewarding those that are complying.”*

Having the laws in place is important as stipulated by Baitwa, the former Managing Director of Three ways Shipping services Ltd in his article highlighted in the Uganda chamber of Mines and Petroleum magazine, that the laws are important but there needs to be a strategy to keep some local service providers engaged, perhaps developing their capacity further.<sup>313</sup> Hence leading to the formulation of the National Local Content Act of 2012. He continued to say that

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<sup>313</sup> The Uganda Chamber of Mines & Petroleum

*“You may have the laws safeguarding you but have nothing to offer”*.<sup>314</sup>

As the literature kept portraying, the aspect of having an efficient legal regulatory framework of LC as a policy aspect of Oil and Gas industry of Uganda is paramount. These regulations have an important role to play in regards to the practicability of the implementation of policies embedded in this regulatory framework in question. With a vast number of issues at bay in the industry, the best negotiation and connection to the industry available is through having effective laws in place and ensure that these laws and regulations create an atmosphere that can be held practical when it comes to LC promotion and implementation in the Oil and Gas industry of Uganda.

#### **4.27 Conclusion**

This chapter discussed the findings and analyzed them as provided by the respondents in question. The major aim was to ensure that the findings rhymed with the objectives of the study in question which was demonstrated through the views that were discussed and analyzed as provided by the respondents.

The key mechanism that cut across this chapter was the aspect of having an efficient legal regulatory framework handling LC and BUBU as a policy aspect of Oil and Gas industry as a platform of ensuring that various key stipulations embedded within LC as a policy are handled clearly through the regulatory framework in place which in turn will ensure that the welfare of people is catered for in the oil and gas sector. This chapter in the same view with the literature reviewed emphasized the fact that with a reliable legal regulatory framework relating to LC it is probable that policy aspects within the Oil and Gas industry like LC will have a baseline to be able to accommodate different prospects expected of stakeholders in the industry at large.

The next chapter analyzed the regulatory framework of the LCLR in enhancing BUBU policy as an aspect in the Oil and Gas industry of Uganda in the oil and gas industry, a discussion that analyzed the regulations and policies in place that portray the BUBU policy aspect in the Oil and Gas industry of Uganda, concentration being on how most of the ideas discussed have been embedded in these regulations in question. This was meant to show how best the aspect of LC is implemented in the Ugandan Oil and Gas industry setting basing on the regulatory regime in question as the major gist of the study in question and this automatically improves the living standards of people participating in the oil and gas sector,

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<sup>314</sup> The Uganda Chamber of Mines & Petroleum



## CHAPTER FIVE

### SUMMARIES AND RECOMMENDATIONS

#### 5.1 Recommendations, Summary and Conclusion

This chapter fulfilled one of the aspirations of the objectives in question which is to suggest recommendations for the government of Uganda and all stakeholders involved in the Oil and Gas industry on the efficacy of the local content regulatory regime in enhancing social welfare of Ugandans in Oil and Gas industry of Uganda.

Uganda's discovery of Oil and Gas resources made it a pertinent and plausible sensation for the government and relevant stakeholders at large. One may wonder and ask why this is or was so especially with the already assured Oil deposits in the Albertine -Graben region where companies like Conoco and Total among many others are expected to lead and envisage the Oil and Gas production per the time line projected which has been roughly set for 2024 as a year when the first Oil will be produced is now not yet.

With such a background, the expectancy rate is high, people are anxious about what generally developmental changes will come with these new industrial developments. To take it on the researcher's view, it is true that Oil and Gas industry is a capital-intensive industry that is both in terms of investment and also the returns there to after the long years of investment. This has been true for a vast number of decades lest not when the Oil prices fluctuated a few years ago which saw the Oil industry worldwide shake a little bit. Also, the ever-increasing technological approaches like the hydrochloric fracturing that was adopted in the USA has seen the Oil and Gas industry change positions in terms of production by the major Oil producing countries which also affected the consumer's perspective per se.

These lessons about the Oil industries' traits are key to ensure that as Uganda ventures into its Oil and Gas production, it is aware of the industrial developmental programs so that its activities are made in relation to the recognized international Oil and Gas production standards.

One of the questions that has lingered in the minds of Ugandan citizens is how best the local citizens and other stakeholders of Uganda as an Oil and Gas producing Country will be able to benefit from the industry at large. This question as plain as it is, portrays a lot of factual issues that need to be answered as far as the Oil and Gas industry is concerned.

According to the researcher's findings, it was highlighted that developing countries with abundant extractable resources such as Oil minerals are found to lag behind in terms of economic development than the resource poor ones. Some of the reasons have been based to be due to over dependence on the easy money accruing from these resources hence undermining linkages between the various economic sectors<sup>315</sup>. This was said to be bleed corruption and deficit in public governance and sometimes led to situations of extreme institutional collapse and criminal conflicts which would in turn improving the living standards of people.

The fact is that if these issues concerning Oil and Gas are not handled with due diligence, the availability of the resource per se would end up depriving the citizens and the country's economic growth which would have been a must with the presence of such resources in their midst and hence reducing social welfare of the people from benefitting from oil and gas sector

Since the issues that usually affect and lag the Oil industry worldwide are more less the same, the concerns remain on how best the local citizens, companies, plus other registered entities are to benefit from industry at large.

Policy approaches were formulated in the Oil and Gas industry worldwide to ensure that this kind of muddle in the Oil and Gas industry would be dealt with and for all. The general policy approach that was basic for this research was

"The local content policy approach based on how effective Local Content legal regime in enhancing BUBU Policy in the Oil and Gas Industry of Uganda has portrayed" meant to ensure that the issue of how best the different stakeholders in the Oil and Gas industry in Uganda can benefit from the industry in question.

The Ugandan perspective for this cause has not been bad so far as the responsible ministries like the Ministry of Energy and Mineral Development have had a key pertinent role for this cause; first of all, among its key procedures include; ensuring that there is

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<sup>315</sup> Jeffrey D. Sachs, & Andrew M. Warner, „the big Push, Natural Resource Booms and Growth, „(1997) Journal of Development Economics p.59

capacity building, transfer of knowledge, continued work relationship with different stakeholders all of which are key aspects of LC as policy aspect in the Oil and Gas industry.

More so the Ministry helped put in place the National Content draft awaiting approval, the Ministry has also developed and adopted a register that is able to capture different sectors, regulations, security, human resource, land survey, car hire, and locally available construction materials.

As highlighted throughout the research in question, the Oil and Gas industry tends to be complex in areas where there are no sufficient policy aspects meant to ensure that there is streamlined flow of various aspects in the industry at large, the fact that Oil and Gas industry promotes various attributes like economic development, vast creation of jobs like demonstrated by the conceptual framework, is attributed through receptive policy aspects like LC policy aspect. The study showed that with an efficient BUBU policy in place, the Oil and Gas industry will definitely be of benefit to different stakeholders in the industry in question. However, the question has been how best the needs of these stakeholders can be dealt with as promulgated by the study in question.

In bridging this gap in question, the study thus demonstrated that with a relative and efficient legal regulatory framework, it is possible to have all pertinent policy requirements under one mechanism that will enable the stakeholders as highlighted to benefit through enhancing social welfare in Uganda's oil and gas sector hence bringing about economic transformation and development in the host country in question.

The regulatory framework analyzed in question has demonstrated how best the issue of BUBU policy as a policy aspect in the Oil and Gas industry of Uganda has been developed to ensure that the Ugandan citizens and other related stakeholders can benefit from the industry in question. It further demonstrated how best the LC aspect has been conceptually developed and demonstrates some of the best practices in the Oil and Gas industry.

With a best practice and approach, in place, there is a great potential for both companies and the host government to attain better results. Apart from development of resources, host countries can benefit through improved employment, higher levels of skills acquisition and greater economic activity. Companies can achieve lower costs, access to further development programs, and a strong long-term relationship with the host country. Ensuring success will involve the need to understand each other's priorities and goals and the willingness to remain flexible as to how to meet these needs.

## 5.2 Recommendations

Various recommendations were discussed in line to explain how best the LC regulatory regime as an aspect of enhancing welfare of people in the Oil and Gas can be dealt with to ensure that its applicability in the industry is made more perfect to achieve its desired goals. The recommendations cut across what the respondents thought would be good for the industry at large. Also, the researcher made his recommendations that he thought would best help the industry at „large.

### 5.2.1 Recommendations to the local stakeholders in Oil and Gas industry of Uganda in enhancing BUBU Policy in the oil and gas sector

It is recommended by the researcher that the local companies established in Uganda that is all those who have the necessary products and the necessary skills meant to add value to the industry, should be able to learn how the industry works and operates in terms of acquiring the necessary skills and ensuring that they provide quality products necessary for the competition with other stakeholders at stake in question. In his words, Thakkar states that as the people wait for the IOC"s and government to develop them, what have the sectors doneto develop their businesses to meet their requirements.<sup>316</sup>He continues to say that the blame cannot be put on the IOC"s because when these companies go ahead to use local enterprises without qualifications, the IOC"s reputation will be damaged.<sup>317</sup>

Thakkar further notes that companies must get out of their comfort zones and should instead sit back and try to know and understand what our mistakes were in for example a tender and ensure we correct them so that the next tender will be won by us.<sup>318</sup> This is aimed at ensuring that Ugandans or local participants benefits from the oil and gas industry.

He continues to say that because the Ugandan companies have a certain standard they are used to; it should not be a lee way that the IOC"s should also do so. He says that Ugandan companies ought to raise their standards. He stipulated the issue of ensuring that local

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<sup>316</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 19

<sup>317</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 19

<sup>318</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 20

companies must learn to develop themselves to fit in with the rest of the world in this sector. He uses the phrase that

*“Ask not what the IOC s can do for you, ask what you can do for the JOC’s”.*

He concludes by saying that it is true that we are in the learning period, all stake holders need to come on board and embrace the role of each other to have a fruitful and emphatic industry at large.<sup>319</sup>

## **5.2.2 Recommendations to the Government of Uganda**

The issue of funding the local suppliers is one pertinent issue that should be one of the governments key support area. The researcher recommended that this should be done to ensure that these suppliers are boosted up in their business. An example is given by Jeff Baitwa the three shipping CEO who stipulated that a fund around 200m to 300m U\$ is sufficient enough to boost the local based suppliers.<sup>320</sup> He continued to establish that such a fund would help local companies to borrow money at affordable rates to participate in the sector. In addition, the fund in question will help the companies to acquire loans at a low cost since the interest rates from other means are usually higher than when the government itself decides to fund these companies in question. This will allow many participants especially Ugandans to benefit from the oil and gas sector.

Baitwa continues to say that local service providers had played a big role in reducing exploration costs. For instance, he said the exploration cost would have been 50% more than it is today. For example, “a truck rent was U\$ 1,000 per day at the start, today it is U\$ 350 because there are now more local service providers.<sup>321</sup>

It is highly recommended that the government should take these issues seriously and put a way forward to ensure that there is clear funding and support given to the local enterprises that are to participate in the industry which will help them to boost their businesses and be able to compete with the international counterparts.

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<sup>319</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 21

<sup>320</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 22

<sup>321</sup> The Uganda Chamber of Mines & Petroleum, „A case for Local Content“ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2020 p. 22

Government should make its role in the Oil and Gas industry key in all aspects. Taking an example of the countries discussed in relation to how best they have promoted and developed their LC aspect in the Oil and Gas industry that is Nigeria and Norway as have already been discussed, it is key to note that among these two countries, the government's role in the Oil and Gas industry made it important to be some of the best examples when it comes to the issue of BUBU promotion in the Oil and Gas industry. It should be put into consideration that the industry is capital intensive and some of the best decisions are best made by the government especially where the resources are managed by the government on behalf of the people a case for Uganda as a country. This imposes a mandate on the government to ensure that the resource is beneficial to the masses in general which is through good decisions made which brings about good project linkages and inter sectorial development. The role the government has to play cannot be exhausted only to recommend that its role is very vital to see the industry become a success it should be with tangible benefits to the Ugandans from the oil and gas sector.

### **5.2.3 Recommendations to the Policy Implementers**

The petroleum authority of Uganda per se has a big mandate and role to achieve and is responsible for a lot of activities in regards to how the Oil companies and subsequent contractors and subcontractors deal with their work. There is need for serious staffing and where necessary create a big organization than the authority as it is known in question. This is through staffing and hiring pertinent people and staff to ensure that the technical aspects tending to the Ugandan companies, citizens and service providers are taken care of and the essence of BUBU in the country is absorbed and promoted there to in a manner that helps to improving the social and economic welfare of Ugandans in the oil and gas industry through improving their living standards.

The petroleum authority needs to always have massive sensitization programs concerning all stakeholders affected by the regulations in question. This should be done so as to stop keeping people in the dark towards their respective roles as envisaged in the regulations in place. Through this, seminars should be handled where all the stakeholders are on board which would help to bridge the gap of those who would be having issues not only to what is in the regulations in question, but also to how they should relate with other stakeholders under the mandate provided by the Authority as the regulations provide in question. This would help to have a harmonious LC policy aspect Promotion in the Oil and Gas of Uganda.

Credit is given to the Petroleum Authority of Uganda that has of recent launched a campaign whereby it has teamed up with media houses to always update the public on what is transcending in the Oil and Gas industry of Uganda. Such insights help to curb the queries in the industry at large.

#### **5.2.4 Recommendations to Oil Companies**

To make sure that the local content policy can work, Oil and Gas companies should provide clarity on their quantitative and qualitative needs in terms of manpower and procurement. The second step is to look at whether the country already has the capabilities necessary to respond to these needs. This will help to narrow down the potential for immediate local participation and identifying the gaps which will need to be filled overtime with specific programs. This approach has recently been used in Uganda CNOOC Uganda Limited. Total E& P Uganda and Tullow Uganda Operators Pty Limited have carried out an extensive “industrial Baseline Survey” and presented their results in a handbook which was published in May 2014.<sup>322</sup>

#### **5.2.5 Other Recommendations**

It is recommended that there is need to develop a collaboration approach which is important for governments to set up dialogue with oil and gas companies. Governments cannot see the full picture alone, in fact the oil and gas companies have a clear interest in becoming involved in the discussion and providing technical advice to public authorities as a way to ensure that the local content requirements will be fit for purpose and will not generate unbearable constraints for their business activities. A collaborative approach should therefore be built on this coverage of interests between the state and the private sector.

It is recommended that capacity building is one of the key developmental aspects as highlighted by the respondents that will make the aspect of BUBU pertinent in the Oil and Gas industry and how it ensures welfare of people in the oil industry. This can be done through first of all sensitization of the masses plus effective communication of the opportunities available in the industry in question. this can also work hand in hand through

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<sup>322</sup> CNOOC, TULLOW, TOTAL (2014): „Planning for the Future: a demand and supply study on the oil and gas sector in Uganda.”

ensuring that there is a boost of the educational institutions in Uganda that have ventured into massive training of the local citizens to acquire the skills required to be used in the Oil and Gas industry per se. In order to boost this cause, there is need for partnerships with some of the educational institutions that are already established so that the people with the zeal to acquire skills can use the opportunity and chance to participate in the industry through the skills acquisition process. This can help out to get certified courses that will be key for the promotion of BUBU in the industry since it will make the local citizens able to compete on international standards.

### **5.2.6 Suggestions for Further Research**

Due to the limitation of time, the same study could be conducted few years from now. The content given above however much exhaustive cannot be said to be all that there is for the study in question. As the global aspects tend to keep changing especially with the aspects of Oil and Gas as an industry, there ought to be new features that are expected especially with how BUBU strategy and how such policies can be easily be managed and implemented in the LCLR as an aspect is dealt with. This makes it relevant to endeavor to do more research on the topic on a later stage so as to ensure that best practices are come up with industry in question.



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## APPENDICES

### Appendix 1: Data collection questionnaire Uganda Christian University

Dear respondents,

This questionnaire is intended to facilitate the study on „,,ANALYSIS OF THE EFFICAY OF THE LOCAL CONTENT LEGAL FRAMEWORK IN ENHANCING BUY UGANDA, BUILD POLICY, the study is for academic purposes and is carried out in partial fulfilment of the requirements for the award of a Masters of Law Oil and Gas of Uganda Christian University as a respondent; your responses are highly important and will be treated with utmost confidentiality. Thank you very much for your valuable time.

To explain in brief, Local Content (LCLF) is a concept or policy that is used in various extractive sectors in Uganda in a strategy called buy Uganda, build Uganda oil and gas is among, and to put it simply, Local Content in procurement of local goods and services, while at the same time fostering the development of local skills, technology transfer, and the use of local manpower and local manufacturing.<sup>419</sup>

#### BACKGROUND INFORMATION

##### DATA

Please do provide the following information. Tick the appropriate category

L\_ Gender

Female \_\_\_\_\_ Male \_\_\_\_\_

#### 3. Highest level of education

Certificate	Diploma	Degree	Post	Others (Please
1	2	3	4	5

#### 4. Area of Participation

Civil	Public	Comm	Polic	Compa	Others specify



5. Working experience (Tick):

0-3 years	4-6 years	8 years and above

Use (x) or Tick (V) in the questionnaire boxes to indicate your preference/choice.

1	2	3	4	5
Strongly	Disagree	Neutral	Agree	Strongly

**PART I: THOSE IN FAVOUR FOR AND AGAINST LOCAL CONTENT IN ENHANCING BUY UGANDA, BUILD UGANDA POLICY IN THE OIL AND GAS INDUSRTY.**

<i>1: Strongly Disagree 2: Disagree 3: neutral 4: Agree 5: Strongly-</i>		V				
S	IN FAVOUR	1	2	3	4	5
1	Local content through BUBU policy enhances entrepreneurship and can contribute to poverty eradication	1	2	3	4	5
2	LC through BUBU strategy contributes to productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms	1	2	3	4	5
3	Development of Local Content enables the country to develop its own technical skills to meet the demands of its industries	1	2	3	4	5
4	Enhancement of BUBU policy can help domestic firms m developing countries to integrate themselves into global economic networks	1	2	3	4	5
5	BUBU policy contributes to the productivity and competitiveness of domestic firms through knowledge transfers from foreign firms	1	2	3	4	5
	ARGUMENTS AGAINST THE USE OF LOCAL CONTENT IN ENHANCING BUY UGANDA, BUILD UGANDA.					

1	LC is incompatible with the international trade measures applicable to members of the world Trade Organization	I	2	3	4	5
2	BUBU creates distortions, inefficiency and corruption which has affected the extractive sector	I	2	3	4	5
3	Encouraging BUBU and LC discourages investment and puts undue pressure on companies.	1	2	3	4	5
4	Local Content has made inadequate contribution to the local economic development,	I	2	3	4	5
5	Local content has limited technological Capacity to develop service capability through backward linkages and the speed	1	2	3	4	5

**PART II: PRACTICAL DECISIONS AND PERCEPTIONS IN THE FORMULATION OF LOCAL CONTENT LEGAL FRAMEWORK AND POLICIES IN ENHANCING BUY UGANDA, BUILD UGANDA IN THE OIL AND GAS INDUSTRY.**

<i>1: Strongly Disagree 2: Disagree 3: neutral 4: Agree 5:</i>		✓				
N	Use of Required Targets ' .....	1	2	3	4	5
1	local skills should be developed through training programs for training local professionals in the oil and gas	1	2	3	4	5
2	There is need to address the skills gap in technical and vocational education in the oil and gas industry	1	2	3	4	5
3	There is need to involve companies in local content capability development through community investment programs	1	2	3	4	5
N	Promoting project linkages					
1	Local firms should improve their production standard and practices to meet the demands of foreign firms					
2	There is need to Promote project linkage to enable economic diversification of the local economy					

3	institutions and organizations on which industries depend on should be promoted to build the socio- economic assets and infrastructure					
4	Regional countries should formulate a policy to enhance the development of linkages between the Oil and Gas					
5	Regional governments should provide a framework for the development and inter-country transfer of specialized					
N	Avoiding an elite capture and corruption					
1	Regulations should be formulated to uphold an effective Local content to stop such tendencies of corruption					
2	Government should Impose public disclosure requirements on companies bidding for oil and gas					
3	There is need to promote transparency by streamlining the oil bidding process to remove complex and unnecessary					

**PART III: RECOMMENDATIONS TO THE GOVERNMENT OF UGANDA AND STAKEHOLDERS TO ENSURE THE EFFECTIVENESS OF LC (this part of the questionnaire is meant for a specific cluster of interviewees’ e.g. lawyers and/or policy makers)**

<i>1: Strongly Disagree 2: Disagree 3: neutral 4: Agree 5: Strongly Agree</i>		T				
N	„Amend laws Z: AC?>■ A-A:“	1	2	3	4	5
1	Petroleum, Exploration, Development and Production Act (Upstream law) should be amended to ensure the effectiveness of local content	1	2	3	4	5
2	National Oil and Gas policy of Uganda should be revised to uphold and strengthen local content	1	2	3	4	5
3	Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act (Midstream Law) should be modified to incorporate local content	1	2	3	4	5

4	Petroleum (Exploration, Development and Production) (National content Regulations, 2016), National local Content Act of 2020 should streamline towards promotion of local content	1	2	3	4	5
5	The 1995 Constitution of Uganda should be reviewed to incorporate in aspects of local content in the Oil and Gas industry	1	2	3	4	5
6	Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016 L.C.P should be streamlined towards the promotion of National Local Content Act of 2019.					
N	Training					
1	There is need to train workers and enrich the Community especially those directly affected by local content policy	1	2	3	4	5
2	Government and other stakeholders should address the skills gap through technical and vocational education in the oil and gas industry!	1	2	3	4	5
3	Government should establish specialized technical institutions for training locals on oil and gas	1	2	3	4	5
4	Government should facilitate the stakeholders responsible for local content policy formulation	1	2	3	4	5

**Appendix ii: Interview guide**

Part one: Introduction of the researcher to the respondent!

I am **GODFREY HIMBAZA** a student of Masters of Law Oil and Gas of Uganda Christian University conducting an academic study on “on examining the Efficacy of the Local Content regulatory regime in enhancing social welfare of Ugandans in the oil and Gas Industry of Uganda”. Therefore, you being a participant in this industry I would like to interact with you on some key issues that might help me complete my study successful. I would like to thank you for your time in advance.

Title of the respondent.....

How long have you been in this industry?

**PART TWO: PROBE QUESTIONS ,**

Does Uganda have an effective local content legal framework in the Oil and Gas sector?

Yes

Is it relevant to promote buy Uganda, build Uganda policy as a local content in the Oil and Gas industry in Uganda? Why or why not?

Are there any disadvantages of having local content in the Oil and Gas industry? Please explain

What are the reasons for and against the implementation of local content legal framework in enhancing buy Uganda, build Uganda in the Oil and Gas industry of Uganda?

ii. What are the practical approaches available to ensure that local content regulatory regime in enhancing BUBU Policy in the oil and gas of Uganda?

iii. What are the factors that may hinder the effective implementation of local content policy in the Oil and Gas in Uganda?

What are the possible recommendations available to the government of Uganda and the different stakeholders in the Oil and Gas industry to ensure that local content as provided in the legal framework enhances BUBU in the Oil and Gas of Uganda is upheld?

What are some of the hindrances that are likely to affect the effective progress concerning the implementation of local content in the Oil and Gas Industry of Uganda? If any, verify please

What are the practical strategies and approaches that can be adopted to ensure effectiveness of BUBU policy in the oil and gas industry in Uganda?

What best practice would you suggest to the Ugandan legal framework to strengthen the aspect of BUBU in Oil and Gas Industry? .

Does Uganda have sufficient laws, policies and regulations to ensure the effectiveness of local content in Uganda's Oil and Gas sector?

Yes |

How can the laws, policies and regulations be improved upon to ensure an effective BUBU POLICY in Uganda's Oil and Gas Industry?

What role should the regulations play in ensuring a local content legal framework in enhancing buy Uganda, build Uganda in the Oil and Gas Industry of Uganda?

What recommendations would you make to the Government of Uganda and stakeholders to ensure the effective buy Uganda policy in the local content legal framework in enhancing buy Uganda, build Uganda strategy in the oil and gas industry?

**Appendix iii: Consent Form**

**UGANDA CHRISTIAN UNIVERSITY**

**P.O.BOX 4, Mukono**

**KAMPALA, P. OBOX, KAMPALA.**

Dear respondent,

I am **GODFREY HIMBAZA** of Uganda Christian University pursuing a Masters of Laws Oil and Gas and I am carrying out a study on analysing the efficacy of the Local Content legal framework in enhancing buy Uganda, build Uganda in the Oil and Gas Industry of Uganda. You have voluntarily consented to participate in the study and all the information you give will be kept confidential as requested. You are under no obligation to participate in the study, and refusal to participate will not affect you in any way.

The information collected from you will be coded so that it is not linked to your name and your identity will not be revealed at any time during the study. All data will be kept in a safe place and will not be shared with anybody and will not be used for any other purposes apart from that which the study is intended to achieve. You are free to ask any question about the study at any time if you need more clarification. For Respondent only;

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

I will be grateful for your positive response.

.....

**GODFREY HIMBAZA**

Tel.....

Email.....

Researcher