

**A LEGAL ANALYSIS ON THE ROLE OF THE UGANDA POLICE FORCE IN
PROTECTING UGANDA'S PETROLEUM SECTOR**

BY

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“The cost of obedience is nothing compared with the cost of disobedience”. - Anon

DECLARATION

I...*Igumira, Isaiah*.....Declare that this is my original work and has not been presented for a degree or any other academic ward in any university or institution of learning.

All the information in this dissertation is based upon my findings with great help from my supervisors.

Sign

Date:

APPROVAL

I confirm that the work reported in this research work was conducted by the candidate under my supervision

DR. BRIAN KALENGE

Sign:

Date:

ACKNOWLEDGEMENT

This Dissertation would not have been possible without the tireless efforts accorded to me by officials from various institutions namely; Uganda Police Force, Ministry of Energy and Mineral development, National Oil Company, National chamber of petroleum and minerals and people from Hoima District.

I am also grateful to comrades Abraham, Anthony, Michael and Julius (historically known as marines) for the support rendered to me.

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Lastly, I wish to recognize the last minute contribution to the Police Senior Command and Staff College- Bwebajja for their little but rather robust input.

DEDICATION

This Dissertation is dedicated to the memory of my grandparents Mr. and Mrs. Elikaana and Fridah Rwampara who believed in hard work and excellence.

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2. FRN VS Osahon (2006) 5NWLR part 973 page 361
3. Kiobel v. Royal Dutch Petroleum¹ (10-1491)
4. Ogoni vs Shell
5. The case of Klockner v Republic of Cameroon ICSID Case No. ARB/81/
6. The case of Shell vs Nigeria
7. The state vs Wouter Bouton 2005 SA 30/03 CC
8. Vilnes and others v. Norway Applications nos. 52806/09 and 22703/10

LIST OF ABBREVIATIONS

AFRICOM-	United States African Command
ICSAP-	Industrial Corporate Security Awareness Programs
IDP -	Internally Displaced Person
NISCO-	Nigeria Investigative and Security Company
NRM -	National Resistance Movement
PMCs-	Private Military Companies
PPD-	Presidential Policy Directive
PSC-	Private Security Company
SGI-	Security Governance Initiative
SIA-	Security Industry Authority
UPDF-	Uganda Peoples Defense Forces
UPF-	Uganda Police Force

ABSTRACT

The discovery of oil and gas in commercial quantities in Uganda has given the nation a hope that a great deal of the prevailing depressive economic hardships would be greatly mitigated. This can only materialize when the wealth from the natural resources such as oil and gas is well managed and also when and security is put in check in order to promote a well sustained economic development. The objective of the study was, to analyze the existing legal regime with respect to the role of Uganda Police in the petroleum industry in Uganda, to examine how the existing Legal regimes in respect to Petroleum sector in Uganda conforms to the international best practice and to make recommendations on existing legal regimes of petroleum sector in Uganda. To achieve this objective the study was a mixed method approach whereby both qualitative and quantitative data was collected. The quantitative instruments were use of questionnaires. The qualitative instruments were interview guides and document analysis. The study area included the Albertine region. The police headquarters were also used to get documentation and interview of senior police officers. The sample was collected to include police officers, community leaders, ministry of energy officials and the local population. The data collected from all sources were triangulated. This data together with lessons from other jurisdictions was used to make recommendations to the existing legal framework so as to improve the security position in the petroleum sector in Uganda.

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CHAPTER ONE

1.0. Introduction

Oil exploration activity on Lake Albert in Uganda, and the more recent increase in Exploration along Africa's east coast (including Mozambique, Namibia, Tanzania and Kenya), has led some commentators to cite East Africa as one of the world's most exciting oil frontiers. The discovery of commercially viable sources of oil in Lake Albert on Uganda's western border with the Democratic Republic of Congo (DRC) therefore forms part of a significant increase in exploration activity on the African continent.¹

As exploration and drilling activities move into increasingly remote and hostile locations, the need for continuous security increases.²

One of the most critical responsibilities of any modern state is the sustainance of an environment of peace, stability and security. In developing countries, state institutions are often fragile, shaky, and keenly contested amongst contending interests thereby making this core responsibility a challenge. Without security, not only do individuals find it difficult to engage in productive activities, states are bound to experience great difficulty in harnessing their human and material resources towards meaningful development.³

While protection of the oil industry would appear to be an economic issue, the instability in the oil sector has serious implications for the security of the nation.⁴

Therefore, the protection of this industry, its associated network and facilities is of utmost importance to a country. More importantly, a country's dependence on oil as the principal source of national revenue underscores the country's structure of instability, which makes the problem an

¹Wadhams N, 'Is East Africa the next frontier for oil?', Time, 10 March 2010, <http://www.time.com/time/business/article/0,8599,1970726,00.htm> as accessed on 25th February 2015

²Thales: Oil and gas industry towards Global security, A Holistic Security Risk management Approach.Pg 25

³T. Akindele, "Theory and Practice of Crises," (Lecture delivered at the National War College, Abuja, Nigeria, to Participants of Course 13, May 19, 2005), 34–35.

⁴Su Umosen, "Security Situation in the Niger Delta," (Brief to the CNS at NHQ, Abuja, Nigeria, November 18, 2005), 1.

urgent issue for research and policy attention as far as Uganda is concerned being that it is just a developing industry.

As defined by South African White Paper on Defense⁵, security is an all-encompassing condition in which individual citizens live in freedom, peace and safety, participate fully in the process of governance. Enjoy the protection of fundamental right, have access to resource and the basic necessities of life, and inhabit an environment which is not determined to their health and well-being. This definition presents that security cuts across all human existence.

One of the primary purposes of government of any nation is the provision of security. According to the Ugandan Constitution⁶, it is the responsibility of the government to “protect important natural resources, including land, water, wetlands, minerals, oil, fauna, and flora on behalf of the people of Uganda”. Moreover, the government is responsible for ensuring that “the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations of Ugandans”.⁷ To this end, the Ugandan Parliament is charged with enacting laws and regulations to guide natural resources exploration and production, and to manage natural resources revenues.

Following the renewed interest in Uganda’s oil sector in the 1980s, the Ugandan parliament adopted the Petroleum Exploration and Production Act Laws of Uganda in 1985. The 1985 Act aimed at regulating exploitation activities as well as at providing guidelines for granting exploration licenses. With the confirmation of a significant amount of commercially viable oil reserves in the Albertine Graben, the government realized that the oil sector required a comprehensive regulatory framework for efficient management. In 2008, the government approved the National Oil and Gas Policy (NOGP), which called for the establishment of an appropriate regulatory framework for “guiding the use of the county’s oil and gas resources in such a way that they contribute to early achievement of poverty eradication and create lasting value to society.”⁸

⁵ South Africa White paper defense 1996

⁶The 1995 Constitution of the Republic of Uganda

⁷Ugandan Ministry of Energy and Mineral Development, “Acts and Bills,” accessed January 12, 2017,<http://www.petroleum.go.ug/cgisys/suspendedpage.cgi?k=curnews&id=30>

⁸ Ugandan Ministry of Energy and Mineral Development, “Acts and Bills,” accessed January 12, 2017,<http://www.petroleum.go.ug/cgisys/suspendedpage.cgi?k=curnews&id=30>

In line with Uganda's legislative practice, the NOGP was operationalized by the enactment of the Petroleum (Exploration, Development and Production) Act 2013 (also known as the Upstream Act) and Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 (the Midstream Act).

The principal agency in Uganda for monitoring environmental impacts and for coordination of management and protection of the environment is the National Environmental Management Agency (NEMA)⁹. For each proposed oil investment, the company in question must produce an Environmental Impact Assessment (EIA), which NEMA must then make public, giving the affected community and other stakeholders the right to respond. In addition, on issues of national importance such as oil development, EIAs can be subject to public hearings, as it took place in Home in July 2008 over the location of the EPS,¹⁰.

The Uganda Police Force therefore works hand in hand to enforce environmental regulations which are one of its roles as far as the Oil sector is concerned. The Uganda Police Force directorate of oil and gas was established with the specific role of ensuring that the country's oil and gas resources are adequately safeguarded. Uganda Police Force appreciates the unique challenges presented in protecting natural resources and have responded by developing specific procedures within its overall policing standards.¹¹

1.1 History and Background of the Study

The hunt for oil in Uganda dates back to the early 1920's when significant oil exploration was done by E.J. Wayland, who was a government geologist who documented substantial amounts of hydrocarbons in the Albertine Graben. The Albertine Graben in which oil has been discovered in Uganda is located in the western part of the country, mainly in Masindi, Kibale and Hoima district around Lake Albert which forms the northern foremost part of the western arm of the East African Rift valley. It is situated at the Ugandan and Congo border further stretching to the border with Sudan.¹²

⁹ National Environmental Management Agency established by National Environmental Act Laws of Uganda

¹⁰International Alert :Harnessing for peace and development in Uganda investing in peace issue no.2 September 2009

¹¹www.upf.go.ug/directorate as accessed on 28th March 2017

¹²Donors Engagement in Uganda's Oil & Gas sector; An agenda Fraction a briefing by global Witness October 2011.

The security environment along Uganda's western border was poor in the late 1990s. The Congo Wars, which engulfed the border areas with the Democratic Republic of Congo. Jersey -registered Heritage Oil and Hardman Resources from Australia was the first oil company to carry out serious exploration work, conducting Uganda's first seismic survey in the Semliki area of Block 3 in 1998.¹³ Heritage received ample protection from the Uganda Police Force (UPF) and private security forces at their drilling sites, particularly the Ugandan subsidiary of Saracen International. After the 1999 Lusaka Accord was signed between warring countries in the region, the security situation improved but remained tense, with Ugandan rebels and a myriad of militia groups active in the eastern DRC.

In 2006, Uganda made its first commercially viable petroleum discovery. Since 2006, oil companies have drilled approximately 39 exploratory wells in western Uganda, only three of which were reportedly dry.¹⁴ Today, Uganda has an estimated reserve capacity of over two billion barrels and a potential flow rate of up to 350,000 barrels-a-day (over a 25-year period). These statistics place the country in the company of Equatorial Guinea, Gabon, and the Republic of Congo (although not in the company of Nigeria and Angola the reigning titans of African oil)¹⁵.

The recent discovery of commercial quantities of oil and gas resources in the Albertine Basin has raised the possibility of energy security and development benefits to Uganda.¹⁶ There is a gap in terms of state control in the Albertine region which has experienced the coming of refugees as a result of the war in DRC, which has had its own security problems in terms of crime, land conflicts that are also challenges to stability within the districts in this region.

According to International Alert Report¹⁷ there is an urgent need for policies to be enforced meant to prevent conflict regarding oil resources, conflict risks associated with oil have to date been overlooked. The report proposes a conflict-sensitive approach to developing the industry, any

¹³ 'Untapped oil frontier: Hunting elephants in East Africa', Cormark Securities Inc., 3 February 2011, 37

¹⁴Speech of the Minister of Energy and Mineral Development, Hon. Engineer Hilary Onok, to the Parliamentary Symposium on Oil and Gas Development, delivered on 18 June 2010

¹⁵Speech of the Minister of Energy and Mineral Development, Hon. Engineer Hilary Onok, to the Parliamentary Symposium on Oil and Gas Development, delivered on 18 June 2010

¹⁶Seeking benefits and avoiding conflicts: A community company assessment of Uganda's Hydrocarbon Industry.

¹⁷ International Alert Report of 2013.

future conflict related to oil can be avoided. Current estimates of the country's oil potential would put Uganda among the foremost of African oil producers.

Article 219¹⁸ provides for a national Security Council whose function is to inform and advise the president on matters relating to national security. The sixth schedule of the constitution of Uganda provides for functions and services for which government responsible among others is defense, security and maintenance of law and order.

1.2 Statement of the problem;

The oil and gas industry plays extremely important role in the economy and politics of Uganda. The budget of the state will largely be dependent on extraction of taxes and revenues coming from the export of oil and gas. The importance of the oil and gas industry for Uganda is explained in the Energy Strategy of Uganda¹⁹ for the Period of up to 2020: “Uganda possesses great energy and a powerful fuel and energy complex, which is the basis of economic development and the instrument of carrying the internal and external policy”.²⁰

The Constitution of the Republic of Uganda ²¹ provides in Article 211 the Uganda Police Force. Article 212 states the functions among others to preserve Law and Order.

Instability in the Oil rich region could be an obstacle to the government’s successful exploitation of the resource. For example, the Ugandan side of Lake Albert was once the site of rebel activity that resulted in a great deal of insecurity in the 1990s.²²

Section 4 of the Uganda Police Act²³ provides for Police functions among others maintaining security and enforcing the Laws within Uganda. Thus, the maintenance of country’s stability in producing oil is pertinent. This is to say that the Police secures environment making it conducive

¹⁸ The 1995 Constitution of the Republic of Uganda

¹⁹The Uganda Energy Strategy for 2020

²⁰ E. Debonair: Impact of oil and gas on Humans and security .(2008)

²¹The 1995 Constitution of the Republic of Uganda

²²Hovil and Werker; Portrait of a failed rebellion an Account of Rational suboptimal violence in western Uganda 2005

²³The 1994 Police Act Laws of Uganda (Amendment 2006)

and healthy for investment that comes with Oil. The effect of security challenges in oil and gas sector has the potential of affecting all other sectors of a country's economy. The possibility of armed conflict where the geographical limits of national responsibilities and obligations for security may be unclear in Uganda's petroleum Sector. Adding to security concerns is economically and strategically important in, environmentally sensitive areas.

It is important to mention, the existence of a Police oil unit Under the Oil and Gas Protection Directorate. The Unit was created to secure the Albertine Region.²⁴ The Unit will protect the oil wells and also have the capacity to do its own intelligence in the areas around the oil regime. In 2015, the Uganda Police Force tabled 20 billion shillings (approximately 8 million dollars) budget before Parliament to run the Oil and Gas Protection Directorate. This is in line with providing security in order to ensure stability in the Oil rich region.

This study is therefore, designed to establish the loopholes in the existing regulatory framework to support the new industry of the petroleum sector in Uganda. The Study will also make Legal recommendations to Uganda borrowing a leaf from other jurisdictions that have had successful petroleum industry.

1.3 General Objectives

To analyse the role of Uganda Police Force in the petroleum industry.

Specific Objectives

1. To analyze the existing legal regime with respect to the role of Uganda Police in the petroleum industry in Uganda.
2. To examine how security issues in the legal regime of Uganda conform to international best practices.
3. To make recommendations on security issues in the legal regime of petroleum sector of Uganda.

1.4 Research question

1. What are the Strengths and Weaknesses in the legal regime with respect to Uganda Police in Ugandan's petroleum industry?

²⁴ Oil in Uganda Wednesday 15th January 2014

2. How does Uganda police force secure the petroleum sector in order to conform to International best practices?
3. In which ways can the existing legal regimes of security in the petroleum sector of Uganda be amended to impact more on securing the petroleum sector?

1.5 Hypothesis

A detailed legal analysis on the role of Uganda Police Force was found by the researcher to be very important in developing and adapting to recommendations useful in protecting Uganda's petroleum sector.

1.6 Significance of the Study

This research shall be useful to law makers in a way to propose amendment to the law so as to improve impact on Security of workers in the oil industry, Citizens living around the Albertine region and Uganda as a Nation.

1.7 Justification of the Study

Given that there is so much excitement about oil exploitation in Uganda, there is likely to be insecurity issues related to the industry. Hence there is need for a suitable legal framework in place in anticipation of the possible insecurity. This study therefore seeks to fill this gap

1.8 Scope of the Study

1.8.1 Geographical Scope

The study took place in Kampala with emphasis of the oil operating areas in Western Uganda which is part of the Albertine Graben Region.

1.8.2 Content Scope

The research highlighted the laws, Statutes, and Acts of Parliament which govern the oil industry in Uganda.

The research looked at the level of Security in Uganda's Albertine region

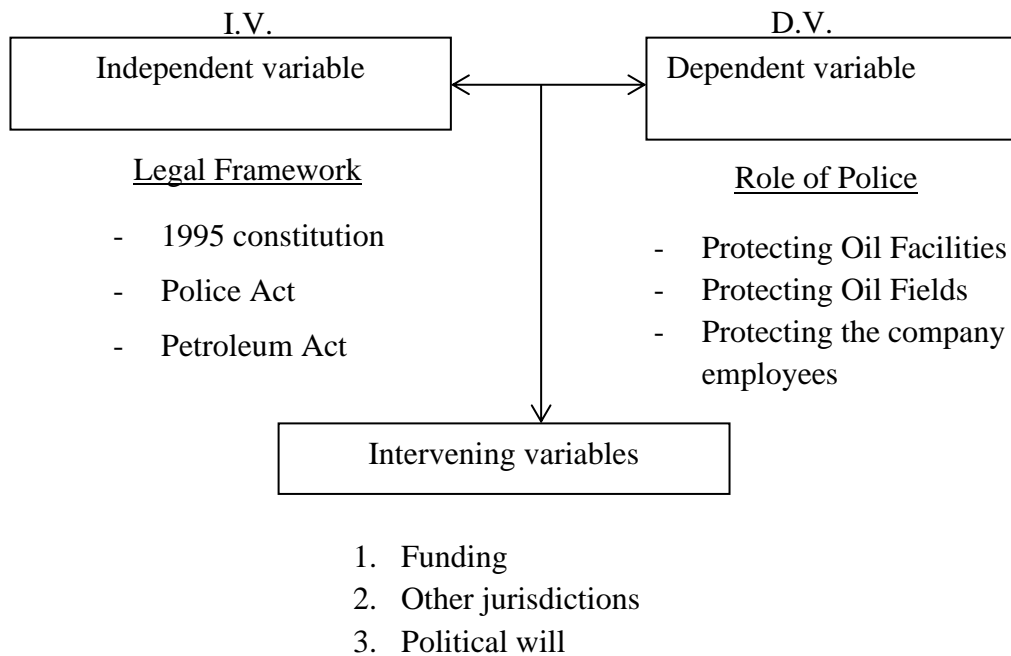
The research also looked at other jurisdictions to gauge the international best practices.

1.7.4 Theory of the Study.

This research was based on utilization normative theory of law, which states that laws should be crafted so as to produce the best consequences.²⁵

It is associated with great philosophers Jeremy Bentham and is championed by scholars who work in the law and economic tradition

1.7.5 Conceptual Framework



The frame work above shows that the role f Uganda Police Force is dependant on a good Legal Frame work i.e. 1995 constitution, Police Act and Petroleum Act.

However, there are other intervening variables which can influence the way the Police performs its duties. I.e. funding, other Jurisdiction and Political will.

1.8 Chapter Synopsis

The study was divided into six chapters.

²⁵Normative and Legal pluralism a global perspective by W Twining 2010.

Chapter one contained a brief introduction and background to the development of oil and gas in Uganda. The chapter contained the statement of the problem wherein the existing challenges that mandated a research in this area are pointed out.

Part three of this chapter contained the research questions, both the overall and specific objectives of the research and also highlighting the significance of the study.

Chapter two included review of related literature and review of the risk that is faced by Uganda Police Force in the petroleum region.

Chapter three was basically methodology.

Chapter Four was analysis and interpretation of the key findings which included diagrams and graphs, histograms, pie charts showing level of security in the oil sector, Security challenges, Local community involvement in acting as key informants to police, Level of insecurity faced by UPF, biggest beneficiaries of UPF in the region, role of the Ministry of energy and Mineral development.

Chapter five included Legal analysis on international best practice in African countries and Global world (Police force) in securing the petroleum sector. Chapter six included conclusion and recommendations both to the government and to the Uganda Police Force.

1.9 Conclusion

While discussing the aspects of security in the petroleum industry and the role the Uganda police Force plays in ensuring that, its pertinent to ascertain and analyze the international legal framework and relate their applicability to the infant industry in Uganda. Where the local regimes seem to be amiss, the international regimes act as a backup to fill the gap. This Introductory chapter will seek to unfold that aspect.

CHAPTER TWO: LITERATURE REVIEW

2.0 Introduction

In this chapter, the researcher critically analyzed the literature written by different scholars and authors and connected it to the objectives of the study. The study further majorly examined statutes legislated by parliament related to the study in order to pose effectively and efficiently the subject matter being investigated.

2.1 Review of Related Literature

According to Delphine Mark in his study of Uganda oil discovery; Natures blessing or curse in the making, understanding domestic stability risk of the newly discovered oil in Uganda, he found out that oil exploitation also brings in risks ranging from poor economic performance to internal instability. He noted that Oil could lead to violence. However, the study was based on economic and political studies and was not legal. The study did not specifically tackle the police force and it never took note of the people's voice by using quantitative means such as questionnaires and interviews.²⁶

According to Kathman and Shannon in their research on oil extraction and the potential for domestic instability in Uganda, the paper identified three potential sources of domestic instability stemming from oil exploration, increased urbanization unpredictability in tax revenues collection, and the formation of rebel groups. The paper concluded that government transparency is crucial in avoiding most of the pitfalls associated with oil extraction. However, the paper did not focus on internal security issues and was not a legal analysis²⁷.

Also, according to Gakii Victoria (Unpublished Research) on Risk management in the Oil and gas sector in Uganda, a legal and policy perspective, it found out that risk ranges from volatile commodity prices to increased health safety and environmental pressures. The research study did

²⁶ Delphine Mark, Uganda Oil discovery; Natures blessing or curse in the making. Understanding domestic stability risk of the newly discovered oil In Uganda. 25th October 2012.

²⁷ Jacob Kathman & Megan Shannon, Oil extraction and potential for domestic instability in Uganda Africa studies quarterly Vol. 12 issue 3 (2011)

not concentrate on security risk and also concentrated on the oil company Tullow Oil using only qualitative methods²⁸.

According to a study by Udi Edry et.al,²⁹ Security is a major concern for oil industry as new battlefield emerges. As cyber security continues to advance at an incredible pace, it is matched by the incessant efforts of hackers to mount perilous attacks against global corporations, government agencies and local industrial enterprises. This struggle can be seen in the realm of critical infrastructure in the oil and gas industry, which is gradually emerging as a new battlefield in the 'fifth domain of warfare'.³⁰

Attacks on the oil and gas industry are taking place more often as cyber-attackers gain confidence over time. The year 2014, witnessed more than 300 Norwegian oil and gas companies suffer from a cyber-attack via spear-phishing emails and Trojan horses. The attackers identified key personnel in the energy companies, sent them seemingly legitimate emails with attachments, which when opened, unleashed malware into the networks. This shows just how easy it is for an attacker to access and control networks and critical infrastructure.³¹In order to effectively safeguard the landscape, it is important to understand the motivation behind cyber-attacks in the oil and gas industry. Hackers and cyber-criminals are driven by various motives, including political and ideological beliefs, economic value, and related criminal activity spilling over to cyberspace, strategic gains, and other issues pertaining to national security. For example:

- Nation-states utilizing the cyber domain for surreptitious inter-state warfare and covert operations.
- Attacks driven by political and ideological beliefs (e.g., terrorist groups or "hacktivists") trying to inflict harm on organizations they oppose.
- Profit-motivated attacks against leading energy corporations for the purpose of extortion.
- Industry sabotage among competing companies.

²⁸ Risk management in oil and gas sector in Uganda; A legal and policy perspective by Victoria Gakii KIU 2013 unpublished research.

²⁹ Oil and gas Financial Journal; Cyber-attacks on the Rise.www.ogfj.com as assessed on 31st March 2017

³⁰Oil and gas Financial Journal; Cyber-attacks on the Rise.www.ogfj.com as assessed on 31st March 2017

³¹ibid

2.2 Review of the risk faced by Police in the petroleum Industry

Uganda is rich in natural resources and has policies with institutions that guide how these natural resources should be exploited and environmentally managed yet they continue to be degraded; putting at risk individual livelihood and the overall national socio-economic development. The discovered lucrative oil and gas reserves in Albertine region presents possibilities of having the government's revenue multiplied in twofold within the period of about ten years adding up to an estimation of 15 % of gross domestic product.³² Although discovery of oil in commercial quantities could be a blessing, there are associated severe security concerns that may come with it. Therefore, the Ugandan government through Uganda Police Defense Force needs to take into account measures to avoid insecurity as far as the oil rich region is concerned.

The present study examines what security problems could emerge as a result of oil and gas exploration in the Albertine rift valley region and what feasible pathways can be charted in order for Uganda oil exploration to be guarded in a strategic manner. Lessons are drawn from Botswana, where resource extraction is quoted to be exemplary with attribution to good governance and security systems, sound policies and well run institutions.³³

A good example of insecurity concerns is Nigeria's oil belt, which is the Niger Delta region, embroiled in resistance against the Nigerian state and the multinational oil companies. The region is generally restive, with pockets of insurrection and armed rebellion. Decades of oil exploitation, environmental degradation and state neglect has created an impoverished, marginalized and exploited citizenry which after more than two decades produced a resistance of which the youth has been a vanguard. A regime of state repression and corporate violence has further generated popular and criminal violence, lawlessness, illegal appropriations and insecurity. The Niger Delta is today a region of intense hostilities, violent confrontations and criminal violence. It is pervaded by a proliferation of arms and institutions and agencies of violence ranging from the Nigerian Armed Forces to community, ethnic and youth militias, armed gangs and networks, pirates, cultists and robbers. An economy of conflict has emerged characterized with an intense, violent and bloody struggle for the appropriation of oil resources and benefits from the oil economy and a thriving

³² World Bank 2010

³³ The African Economic Outlook 2012.

market of illegal trading and smuggling of arms, crude and refined oil. There are various estimates of the quantity of theft of crude oil stolen by or with the aid of armed gangs and militias. The Nigerian Economic Summit Group (NESG) estimates a daily theft of about 100,000 barrels of oil valued at about USD 2.8 million.³⁴

The emerging greed, corruption and distributive conflicts underpin numerous incidents of community disturbances and criminal violence in the oil region. Ibeanu (2002: 165) describes the situation as a ‘matrix of concentric circles of payoffs and rewards built on blackmail and violence’. According to him, the closer a person is to the center, the greater his/her capacity to blackmail oil companies and therefore the greater his/her payoff. In time, members of the raucous inner circle fade away in a whimper and silence as a new core of vocal community leaders emerge: more blackmail, more payoffs.³⁵

The Nigerian Constitution states that all minerals, oil, and gas belong to the federal government. Any extraction of these resources carried out independently of the government is illegal. However, in Nigeria oil has proved to be a resource that is susceptible to looters who tap oil pipelines and sell the oil they collect to refineries in Nigeria and neighboring countries in a process known as oil bunkering. This is a highly-organized operation in Nigeria’s Delta State and, although figures vary, by some estimates the sale of bunkered oil accounts for 10 percent of Nigeria’s daily production. Since the capital costs for the groups engaged in oil bunkering are very low (all oil infrastructure is installed by the Nigerian government and multinational oil companies), the profits are very high; estimated to be roughly \$2 million to \$3 million per day. While the lucrative nature of oil bunkering in Nigeria has not given rise by itself to secessionist movements, it has led to a good deal of conflict. In Delta State, conflicts between the oil bunkering cartels and the central government have been frequent and brutal. To further complicate matters, it is believed that local police and military personnel are themselves often a part of the illicit activities—either by participating directly or by accepting bribes to look the other way.

In November 2001, the Nigerian government, under President Olusegun Obasanjo, set up a Special Security Committee on Oil Producing Areas to address Nigeria’s many conflict-related problems

³⁴ The Economy of Conflict in the Oil Rich Niger Delta Region of Nigeria Subair & Adesanmi 2003

³⁵ The Economy of Conflict in the Oil Rich Niger Delta Region of Nigeria Subair & Adesanmi 2003

due to oil extraction. Oil bunkering is not the only oil-related concern for stability and prosperity in Nigeria. Other significant problems have included alleged government corruption and the collusion of multinational oil companies; widespread poverty, particularly in Delta State; and environmental degradation caused by oil extraction processes in the Niger Delta. These problems, coupled with the violence and revenue loss due to oil bunkering, paint a stark picture not only for Nigeria, but also for other countries with similar vulnerabilities.³⁶

According to a leaked internal financial data by the Guardian,³⁷ Shell is paying Nigerian security forces tens of millions of dollars a year to guard their installations and staff in the Niger delta, the oil giant also maintains a 1,200-strong internal police force in Nigeria, plus a network of plainclothes informants. According to the data, the world's largest company by revenue spent nearly \$1bn on worldwide security between 2007& 2009: if it were a country Shell would have the third highest security budget in Africa, after South Africa and Nigeria itself. According to Platform, a significant amount of Shell funding is channeled via senior military officials which provides "ample opportunities for corruption". US cables, released by Wiki Leaks in 2010, alleged that the company paid hundreds of thousands of pounds towards the deployment of 350 soldiers in the delta in 2003. According to the Article, across Africa oil, mining and Agro-industry companies regularly pay for the services of local security forces that have deplorable human rights records; sometimes as a contractual obligation. Which is an extremely unethical practice held over from the colonial era. Not only is it bad for local communities who are the primary victims of police and military predation it exposes foreign companies to lawsuits in multiple jurisdictions."

Alcock, R.N. in his book, "Police Instruction Book"³⁸ discussed very fundamental issues on crime prevention and detection. His work is in depth on the role of police in the prevention of crime, but failed to address to the minute detail of issues of enforcement of law.

In a society where economic opportunities are limited, the oil business can be the exception. The Role of police is pertinent in ensuring oil theft is curbed. In petroleum producing states that are

³⁶ Human Rights Watch. 2003. "The Warri Crisis: Fueling Violence." Energy Information Administration. 2003. "Nigeria Country Analysis Brief."

³⁷ The Guardian 19th August 2012 as assessed on 15th May 2017

³⁸ Alcock, R.N., Police Instruction Book, (Worth Publishers, New York, 2005), p. 18.

economically or politically marginalized, citizens may have a weak notion of collective responsibility. Actions for the public good are likely to be rare. For some, the goal may be survival; while for others, it may be wealth, motivated by the lucrative nature of the hydro-carbon market in an environment of limited economic opportunities. Of even more concern, the proceeds of crimes against the oil sector may provide the funds for other violent activity, including terrorism. In addition to funding campaigns of violence, crime in the oil sector reduces state revenue, further weakening reconstruction efforts and undermining government spending in fragile states. This produces a causal nexus, intensifying and perpetuating the criminalization of the oil industry.

Illicit and unrecorded crude oil trading occurs in several different ways, while it is an international industry, energy does not have a standardized measure. Domestic prices vary greatly and subsidies may create an artificially low price in some states; while conversely, tariffs result in high costs in others. This presents arbitrage opportunities and incentives for transnational smuggling and black market activity. Such structural discrepancies, and the lucrative opportunities they provide, have been characterized by academic criminologist, Nikos Passas, as “criminogenic asymmetries.”³⁹

Another form of oil theft that police help guard against is more complex and occurs through the mingling of ‘official’ and ‘unofficial’ oil. In effect, criminals extract a quantity of crude oil beyond the amount licensed for the well head. Subsequently, with the acquiescence, connivance and facilitation of corrupt officials and others along the oil supply chain, they transport the oil to its destination. The illicit component is then sold on the black market and can be highly lucrative for all those involved. Predominantly centered in Angola, Russia and Saudi Arabia, this insidious scheme – in addition to involving significant volumes of oil – has the virtue, for the perpetrators, of speed and simplicity. Indicative of this, one tanker captain in Iraq suggested the profits of one trip were equal to the value of the tanker.⁴⁰

Another best documented oil theft method is known as bunkering. In this context, the term refers to the direct theft of oil from ships and pipelines. Accordingly, bunkering is messier and more complex than previously discussed processes. The risk of interdiction and the level of capability

³⁹ Passas, N., Globalization, Criminogenic Asymmetries and Economic Crime, *European Journal of Law Reform*, 1999, Vol. 1 No. 4

⁴⁰ Williams, P., *Criminals, Militias, and Insurgents: Organized Crime in Iraq*, Strategic Studies Institute, U.S. Army War College, 2009, p.74

required to siphon oil from supply lines, requires a climate of instability. Accordingly, such operations are generally carried out by well-resourced organizations, such as insurgents in Iraq or Nigeria and drug cartels in Mexico.⁴¹

As this thesis is trying to see how best The Uganda police Defense Forces can protect the petroleum sector, the theft and illegal trading in refined petroleum products in Nigeria, sets a good example for this reason. All this began on a small scale in the late 1980s and has increased with increasing cost of the products small smuggling syndicates who break into the distribution pipelines of the Nigeria National Petroleum Company and particularly those of refined fuel from the Warri and Port Harcourt refineries to fuel depots. The fuel is siphoned into very large wooden canoes in the creeks and rivers and tanker trucks on land. The second form of the trade is the diversion of purchased and allocated refined petroleum products to the black market. This is undertaken by authorized marketers in collusion with smuggling syndicates. The theft of processed crude oil has underpinned the vandalization of pipelines. The Nigerian National Petroleum Corporation (NNPC) reported that there were 114 line breaks in Port Harcourt and Warri areas of its distribution network between April and May 2000 alone. The NNPC in collaboration with the Nigerian Police Force arrested about 589 persons and investigated 101 cases of pipeline vandalization between April 2000 and December 2001.⁴²

Attacks on oil and gas installations have become the weapon of choice for international terrorism, irrespective of the political system and social-financial boundary conditions of the society under attack, for example: (a) In Columbia the terrorist groups FARC and ELN have attacked the national pipeline Cano Limon-Covenas so many times over the past five years that it has become known as The Flute.⁴³ In 2004 Chechen terrorists have been able to blow up several pipelines in and around Moscow, Volgograd, Dagestan and Stavropol despite increased efforts by the Russian security forces.⁴⁴ In 2006 the Indian terrorist group ULFA staged several pipeline attacks in the

⁴¹ Ibid

⁴² The Economy of conflict In the oil rich region Niger Delta region of Nigeria; Augustine Ikelegbe University of Benin Nigeria.

⁴³ Oil, Terrorism and Drugs Intermingle in Colombia,” IAGS Energy Security Brief, August 5, 2003.

⁴⁴ Roman Kupchinsky, “Chechnya: Stolen Oil and Purchased Guns,” Radio Free Europe/Radio Liberty, October 25, 2005

oil-rich region of Assam.⁴⁵ Repeated acts of pipeline sabotage in Iraq cost the country just in the first two years since the invasion in March 2003 more than US\$10 billion in oil revenues.⁴⁶ In Mexico six simultaneous attacks by EPR terrorists against oil and gas pipelines on September 10, 2007 caused severe supply shortages, leading to the temporary closure of several factories.⁴⁷

A refinery represents the most valuable asset in the oil and gas fuel cycle: only its continuous operation ensures the national energy security. In many countries, the refining capacity is stretched to the limit, with little, if any, significant spare capacity. The large area covered by a refinery, its operational complexity, and the significant flow of people (staff and external subcontractors) and materials represent a major security challenge. This fact is usually acknowledged by facility management and national authorities by providing several layers of security around such a facility. The value of such increased security measures was clearly demonstrated in the foiled terrorist attack on the world's largest refinery in Abqaiq (Saudi Arabia) on February 24, 2006.⁴⁸

Terrorists in two explosives-laden vehicles were able to penetrate the first ring of security, wearing fake uniforms and driving in cars with Saudi oil company logos. However, they failed to penetrate the second ring of security and had to engage in an extended battle with the security forces. The foiled attack resulted in two dead attackers and two wounded guards but the refinery itself remained undamaged without interruption of its operation.⁴⁹

On the other hand, any activity in the oil and gas sector is subject to security risks caused by threats and vulnerabilities. This increasingly also applies to risks due to digital vulnerabilities. Unwanted incidents, both intentional and unintentional, can affect individuals, companies and society at large. Industrial automation, control and safety systems used in the oil and gas sector are to a large extent digitized and dependent on digital technology. Formerly, such systems were proprietary, while they are now to a large extent based on commercially available components, such as a PC with a Microsoft Windows operating system. That means that the known vulnerabilities of such

⁴⁵ Pipeline Sabotage Is Terrorist's Weapon of Choice," IAGS Energy Security Brief, March 28, 2005.

⁴⁶ Gal Luft, "Pipeline Sabotage is Terrorist's Weapon of Choice," IAGS Pipeline & Gas Journal, March 28, 2005

⁴⁷ Miguel Hernandez, "Mexican Rebels Claim Pipeline Attacks," Associated Press, September 11, 2007.

⁴⁸ Bombers Attempt Attack on Saudi Oil Facility," International Herald Tribune, February 24, 2006.

⁴⁹ Bombers Attempt Attack on Saudi Oil Facility," International Herald Tribune, February 24, 2006.

commercial standard products will also be exposed in the sector. Malicious codes are usually spread due to human error. An attachment in an email is opened, memory sticks are inserted, mobile phones are charged, laptops are connected to critical networks, etc. Mobile phones can also easily establish Internet connections. Users are tricked into revealing passwords, etc. Locating operations rooms onshore means that less attention may be paid and this increases the likelihood of both unintentional and intentional unwanted incidents. Human error is regarded as the greatest digital vulnerability in the sector. The top ten cyber security vulnerabilities; Lack of cyber security awareness and training among employees, Remote work during operations and maintenance, Using standard IT products with known vulnerabilities in the production environment, A limited cyber security culture among vendors, suppliers and contractor Insufficient separation of data networks, The use of mobile devices and storage units including smartphones, Data networks between on- and offshore facilities, Insufficient physical security of data rooms, cabinets, etc. Vulnerable software and Outdated and ageing control systems in facilities.⁵⁰

Gerber, S.B. and Schroeder, O, wrote on Criminal Investigation and Interrogation, Cincinnati, 1962⁵¹, where they elucidated on Investigation and Interrogation in the Maintenance of Law and Order and of curbing the rising tide of crime, yet their work has its short comings as most of the investigatory and interrogatory methods do not address the issues of Cyber Crime in the contemporary world especially sensitive sectors for example oil and gas.

2.3 Other Related Literature

According to Smith, Oil is unarguably the lifeblood of modern economy and it has now become the most essential commodity in the world. Hence, no nation today can survive without oil. He describes it as the “lifeblood of modern world”, adding that, “without oil, there would be no globalization, no plastic, little transport, and a worldwide landscape that few would recognize”

When we look at Security and Oil the sector, an experienced country like Iraq, being the world's fifth largest proven reserves of oil combined with some of the world's lowest production costs. This doesn't even take into consideration that some experts believe that Iraq's unexplored regions could contain even more oil wealth than imagined (perhaps up to as much as 100 billion barrels’

⁵⁰ Cyber security vulnerabilities for the oil and gas industry ;Lysne committee study 2015

⁵¹ Gerber, S.B. and Schroeder, O., Criminal Investigation and Interrogation, Cincinnati, p. 102

worth). The lure of such potential oil wealth helps explain why oil companies and private military companies wish to remain in Iraq. It also explains why Iraq is taking whatever steps it can toward providing its own hydrocarbon security forces. One of the most recent steps Iraq has announced in the oil patch has been the creation of an Iraqi oil police. This state unit was created in response to frequent armed attacks on Iraq's hydrocarbon sector.⁵²

The oil police's sole mission is to protect oil and gas fields. Within this context two observations can be made. First, the creation of a state unit specifically for the protection of oil and gas interests is an important symbolic act. It sends a message to the oil firms returning to Iraq that while Iraq is open for business, the state itself is taking a hands-on approach in protecting its most lucrative state-asset namely oil. Second, and perhaps more relevant, the creation of a police rather than military unit has its own significance. Unlike its more aggressive counterpart, a Police Force can be regarded as a civilian extension of state control. It exists to maintain order, protect, and if necessary enforce laws. It does not exist to openly wage warfare or otherwise actively engage in combat. However, there continues to be much pressure on Iraq's new protection unit as they struggle to become an efficient state security arm amid the prospect of further oil exploration. Future oil operations will require larger infrastructure that will need to be guarded, and the oil police are already struggling with present-day challenges. The oil police's 25,000 members are not enough to adequately defend up to 4,300 miles of gas and oil pipelines. Although that figure is being augmented by Iraq's army personnel, it is important that the oil police become an independent security unit known for its civil rather than military nature. Such efforts to ensure the existence of civilian hydrocarbon peacekeepers, separate from their military counterpart, elucidates the banning of private military contractors (PMCs) even further.

The goal of creating and sustaining an independent civilian protection unit is therefore paramount to ensuring that the oil sector remains in state hands; hydrocarbons represent 90% of Iraq's domestic energy supply and almost 100% of its state budget.⁵³

In Latin America Ecuador for example, oil firms have constructed a dual-layered security arrangement. While, Private Military Companies (PMCs) may be used by oil firms for personal

⁵² Journal of Energy Security ;Iraq's Oil Price www.eneserg.com as assessed on 1st April 2017

⁵³ Journal of Energy Security ;Iraq's Oil Price www.eneserg.com as assessed on 1st April 2017

protection and small-scale combat scenarios, such oil firms also employ the Ecuadoran state's armed forces for a larger scale and effectively militarization of oil fields and related assets (including surrounding areas populated by the local population). Domestic resistance to activities by oil firms is systemically suppressed by state military forces by establishing roadblocks and enforcing the interests of their commercial employers through, *inter alia*, intimidation and violence, while controlling the entry and exit of all persons from areas under their purview. In some cases, indigenous inhabitants have been driven from their homes as oil firms create their own *de facto* borders seen by some as a challenge to state sovereignty. Arrangements in Ecuador between oil companies and the Ecuadorian military are centralized under a general contract between the state and each oil company under the aegis of a document, entitled *Military Security Cooperation Agreement between the Ministry of Defense and the Oil Companies that Operate in Ecuador*. In it, the contract outlines “[...] the terms of collaboration and coordination of actions to guarantee the security of the oil installations and of the personnel that work in them.” The terms in the agreement, vague at best and open to interpretation, provide the formal framework that governs relations between oil firms and the state. This has resulted in oil firms in Ecuador taking over basic responsibilities for the armed forces traditionally governed by the state including providing fuel, food, living arrangements and medical care. Hence, state authority is eroded (with the assistance of the state) as commercial bodies usurp a central relationship between the state and its national military force.⁵⁴

Oil and gas is a major industry supporting the global economy as oil and gas still remain the primary sources of energy for industrialized and developing economies of the world. Unsurprisingly, the oil and gas industry is one of the most attractive targets for growing global terrorism and maritime piracy. While the threat of terrorism and sabotage attacks are across the supply chain of the oil and gas industry – from oil wells, transportation to refineries, the threat of piracy primarily concerns the oil tanker industry. Attacks similar to the maritime piracy of the Somali pirates might affect a single oil tanker and result in increased costs for oil transportation, which in turn might result in higher end prices for consumers. Any major terrorist attack or act of sabotage on production facilities like oil rigs, offshore platforms and refineries will result in loss or complete stoppage of production, which might take months to restart. The entire supply chain

⁵⁴ Journal of Energy Security ;Iraq's Oil Price www.eneserg.com as assessed on 1st April 2017

from oil wells and offshore platforms to pipelines, tankers and refineries can be affected by the following security threats: piracy, terrorism, insurgency, organized crime, civil protest, inter-state hostilities, and vandalism internal sabotage.⁵⁵

Private Security Companies (PSC) Share the same business structure as the PMCs and are also conditioned only to work for legitimate governments. PSC primarily do risk assessments, training of bodyguards and close personal protection. Their services are usually related to foreign diplomats, but can also include protection of economic interests like oil fields, pipes and embassies. PSCs often undertake crime prevention and restoration of public order. Employee, owner, recruitment and legal characteristics are shared with PMC.⁵⁶ Private Security Companies (PSC) are similar to private military companies, but provide defensive security services to protect individuals and property. Examples include DSL (part of Armour Group) from the UK and Wackenhut from the US. They are used by multinational companies in the mining and resource sector, and by international and humanitarian agencies in conflict and unstable areas.

Private security companies are in theory distinct from private military companies in that they are usually unarmed and are concerned with the protection of property and personnel, rather than having a military impact on a conflict in a given situation. However, this is a blurred line as some companies display characteristics of both kinds of companies by being involved in both security and PMC-related activities.⁵⁷

According to Mikal E. Herberg⁵⁸, in his research on Asia's Energy Insecurity, In the case of oil, most of Asia's imports inevitably come from politically turbulent and unstable regions such as the Persian Gulf, and are transported along potentially vulnerable sea-lanes and complex pipeline routes crossing several national borders. Al-though Asia has traditionally been largely self-sufficient in natural gas, much of its future supply is also likely to come from the Persian Gulf, Russia, and Central Asia. The events of September 11, 2001, the wars in Afghanistan and Iraq, and the war on terrorism have heightened Asia's sense of insecurity and vulnerability. Asia is increasingly worried about the risks of terrorist attacks on energy infrastructure and in key maritime transit points like the Strait of Malacca. More broadly, concerns are growing in Asia that

⁵⁵ <https://alsafinasecurity.ae/oil-and-gas-security/> as assessed on 1st May 2017

⁵⁶ Christiansen, 2010, p.8

⁵⁷ Ibid

⁵⁸ Asia's Energy Insecurity; cooperation or Conflict by Mikkal E. Herberg pg. 4

the aggressive U.S. response to the September 11 attacks risks further destabilizing the Persian Gulf and Central Asia and, consequently, increasing the risk of supply disruptions, worsening Islamic extremism, and generating greater political instability. China has added concerns that arise from its view of the United States as a long-term strategic competitor. The deeper extension of U.S. military power and influence in Central Asia and the Persian Gulf aggravates China's existing fears of U.S. hegemony and increases the sense of vulnerability from U.S. control over oil and gas flows to China.

As the traditional guarantor of stability in Asia, the United States has a major stake in how Asia addresses its energy insecurity and the resulting impacts on regional and global energy geopolitics. Energy needs will propel China and other countries in Asia to become major players in the world's oil and gas exporting regions and energy geo-politics. This is likely to fuel a much more complex web of diplomatic ties and alliances that could either complicate or complement the United States' own energy and security interests. For example, Asia's rapidly growing involvement in helping Iran develop its energy sector is already adding to U.S. frustrations in its efforts to isolate Iran. The same is true in Sudan. Moreover, Asia's energy needs are inexorably drawing Russia back into Asia as a key strategic and commercial player. The long-term implications for U.S. interests in Asia and future U.S.-Russian relations are only beginning to emerge.⁵⁹

In the case of oil and security in Sudan and South Sudan At the international, regional, national, state, and community levels, it is possible to trace how oil exploration, extraction, and exploitation have contributed to insecurity, both directly and indirectly. More rarely, these activities have temporarily improved security, often through patronage or subornation. At the same time, security levels have an impact on oil production, as fighting provokes shutdowns or, more subtly, deters future investment. Given this problematic and multi-level political, economic, and military context, the question remains: what does the oil in Sudan and South Sudan mean for the human security of communities living in the oil areas? The dismal history of oil-related local insecurity and human suffering in the Muglad and Melut basins has already been extensively documented. During Sudan's second civil war and even afterwards, local communities were often disregarded, displaced, killed, denied employment and access to natural resources, made vulnerable to armed

⁵⁹ Ibid

groups seeking to attack or protect the oilfields, and exposed to oil related environmental degradation.⁶⁰

An unpublished UN Mission in Sudan briefing paper of November 2006 begins: “Nearly two years after the signing of the Comprehensive Peace Agreement, Southern Sudanese continue to be driven from their homes and their land by oil development. The helicopter gunships, Antonov bombers and mounted horsemen are no longer the tools of displacement. Instead, a different set of tactics is being employed to ensure the removal of communities seen as being in the way of ‘development’”

All in all, security risks remain high in South Sudan. While the conflict that began in 2013 was driven by multiple ethnic and resource-related dynamics, the ultimate prize at the elite level remains control of a state apparatus that allows access to lavish oil rents—and the fact that these are smaller than they once were will only render the competition fiercer. The IGAD-mediated agreement signed in August 2015 is fragile, and the admirable aspirations it includes for improved⁶¹ oil management lack robust enforcement mechanisms. It therefore seems certain that the oil areas will remain a central bone of contention, whether politically or militarily.⁶²

South Sudan’s new oil-related legislation is strong, and well in line with inter-national best practice in these areas of security, according to both legal advisers and NGO activists (Global Witness, 2012; Savage, 2013). It is very general, however. There were efforts to expand on these with appropriate regulations, but in this respect the government did not ‘hit the ground running’. Efforts to require the companies to adopt up-to-date and comprehensive management systems have made little progress (MPM, 2013).

Part vii of the Petroleum Exploration Development and production act⁶³ provides for supplies in the event of war, threat of war or other crisis. It states that Subject to Article 26 of the Constitution, in case of war, threat of war, natural disaster or other extraordinary crisis, the Minister may, with the approval of Cabinet, direct a licensee to place petroleum at the disposal of the State. In this section there is a loophole. Major light should have been shed in order to In-cooperate security concerns as far as war is concerned. Supplying and transportation is an important step in the

⁶⁰ Fields of Control: Oil and Insecurity in Sudan and South Sudan pg 48

⁶¹ Small Arms Survey HSBA Working paper 40.

⁶² Ibid

⁶³ Section 121 of the Petroleum Exploration Development and Production Act Laws of Uganda 2013

process, so queries like what security measures to take when and if there is a crisis in the oil region or how to involve the police in rescue missions and the like have to be addressed also.

As far as training and technology transfer in section 126 and 127 of the Petroleum Exploration Development and Production Act respectively emphasis should have been placed on training of Police in dealing with insecurity in the oil region and how best to curb concerns basing on international best practices.

CHAPTER THREE: METHODOLOGY

3.0 Introduction

The methodology adopted is broadly for objective and purpose of the research. The research will basically employ its data using documentary analysis and interviews. The results of this was compiled and enriched with other relevant authorities ranging from statutes, case law and other legal articles.

3.1 Legal Context and research setting

3.1.1 Study design

The research design was mixed combining both qualitative and quantitative methods, its a logical sequence that connects the empirical data to a study's initial research questions and ultimately to its conclusions. Therefore, the research design of a study is defined as a set of guidelines and instructions to be followed in addressing the problems. This research aims to analyze topic.⁶⁴

⁶⁴Case Study research; Designs and methods, Robert K Yin (1994)

The researcher was to capture a research which is qualitative in nature. Further the research study was Library and Internet based with interviews conducted. The reasons for this research design were because the type of results wanted as far as the role of Uganda police Force will involve interaction.

3.1.2 Area of Study

The area of study will be Uganda. This is because the Petroleum region with oil reserves is in Albertine region of Uganda. Further the researcher will make reference to other jurisdiction. The researcher will also refer to Uganda Police Force to find out role they play in maintaining security in the Albertine Region.

3.1.3 Population and sample population

The population included officials from (Uganda Police Force, petroleum companies, Ministry of energy and community leaders and other members of the community. According to the Morgan table I used the least number of people since it's a new with few experts

The total population of this was 110 officials circulated and only 88 were returned filled

Using Krejcie, R, V. Morgan table sample size estimation table (see appendix) a sample population of about 88 officials were required.

However, to manual retrieval issues the researcher distributed 100 questionnaires of which 88 questionnaires were received and well filled. The others were not well filled after sorting was done.

The sample size and technique will be as in Table below

No.		Population	Sample Size
1	Uganda Police Force		22
2	Ministry of Energy		22
3	Oil Companies		22
4	Community leaders		22

	Total	110	88
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3.2 Sampling and Sampling Techniques

The researcher was also to use purposive sampling to get to the experts, as this enables the researcher to get to knowledgeable respondents in the field of oil and gas. The researcher was also to use the stratified sampling to get a representation from all the four categories of officers.

3.3 Data Collection Strategy /Methods

Qualitative research.

The study was mainly qualitative in nature. The qualitative method comprises many attributes; most importantly is that the qualitative method will be used to analyze policies, laws, Acts of Parliament, Bills and reports and these are mainly considered as secondary data.

Krishna swami⁶⁵ defines secondary data as sources which have been collected and compiled for another purposes. It consists of readily available documents already compiled policies, laws, Acts of Parliament, Bills and reports whose data may be used by researcher for their studies

Advantages of secondary data are:

This data is available, can be secured quickly and easily.

Quantitative research.

Creswell argues that the quantitative approach is most appropriate when the problem is to identify factors that influence an outcome like in our case effects of existing laws, understanding if the law is being applied; and to seek for possible solutions.⁶⁶

3.4 Instruments of data collection

3.4.1 Interviewing

This was a face to face conversation between the researcher and the respondent; the following categories participated in the interviews local communities, local leaders, police officers, civil society, human resource experts, legal experts and ministry of energy officials. Interviews included those with key information in the research topic such as Key Security Experts, Top Personnel's from Uganda police Force, Key experts from the Ministry of Energy, Managers of

⁶⁵Krishna Swami (2002:203)

⁶⁶ Research design; Qualitative, quantitative and mixed methods by Creswell (2003)

International Oil companies, and community leaders who had a chance to involve themselves in issues dealing with managing and advising on security in Albertine region.

Literature from the internet, libraries and reform proposal on Security in Oil and gas region of Uganda was viewed. Journals were also used.

Introductory letters was sought to enable contact with respondents and informants.

3.4.2 Questionnaires

The questionnaire used to collect both numerical and in depth data on the entire three research question using both closed and open ended questions. This is because questionnaire can generate statistical data using closed ended questions and in depth data using semi structured and open-ended questions Amin,⁶⁷.

The open ended and semi structured questions collected qualitative, in depth information on all the three research questions; this is the agreement with Mugenda and Mugenda,⁶⁸ whose state semi structured and open ended questions provides for greater depths of response. Open-ended questions will be valuable to discover what the respondent really feels. They provide the researcher with richer material, examples of his concerns and valuable quotes to illustrate the findings. The results will thus be more interesting.

During the administration of the questionnaire

1. The respondents were requested to answer completely all the parts of the questionnaire.
2. The researcher emphasized the retrieval of the entire questionnaire from the respondent after a period of ten days from the distribution day.

After the collection of the entire questionnaire they were checked if all the questions had been answered by the respondent.

3.4.3 Documentary Review checklist

The advantage of using documents and Laws is that they were stable and could be reviewed

⁶⁷ Amin, M.E. (2005). *Social Science Research: Conception, Methodology and Analysis*. Uganda, Kampala, Makerere University.

⁶⁸ Mugenda, O. & Mugenda, A, G. (1999). *Research Methods: Qualitative and Quantitative Approaches*. Nairobi: Africa Center for Technology Studies.

repeatedly. Therefore, there was need to collect all available documents as stated.

3.5 Data Analysis Plan

Qualitative data was done manually by the researcher. Qualitative data was analyzed by thematic content analysis. Codes were utilized in assigning units of meaning to the descriptive or inferential information compiled during the study. The tape-recorded interviews will be transcribed verbatim. The researcher listed transcripts to avoid omissions or distortions of meaning. The topics will be subsequently assigned labels or codes where the labels will be used according to terms they represented.

Statistical procedures will be utilized to interpret and analyze the quantitative data to determine the results.

Quantitative data was analyzed by thematic content analysis. Codes were utilized in assigning units of meaning to the descriptive or inferential information compiled during the study. The tape-recorded interviews were transcribed verbatim. The researcher listed transcripts to avoid omissions or distortions of meaning. The topics were be subsequently assigned labels or codes where the labels will be used according to terms they represented.

3.6 Ethics Consideration

To ensure that ethics is practiced in the course of the study as well as utmost confidentiality for the respondent and the data, the following will be done,

- 1) An introduction letter will be obtained from the university to solicit approval to conduct the study from respective respondents.
- 2) The respondents will be explained to the intention of the study and will be requested to sign the informed consent Forms.
- 3) Researchers mentioned in the study will be acknowledging within the text;
- 4) Finding will be presented in a generalized manner.

3.7 Limitations of the Study

1. *Extraneous variables* which was beyond the researcher's control such as respondents' honesty, personal biases and uncontrolled setting of the study and also respondents unwillingness to release Countries top Security data , policies and other information that could

jeopardize the security of the states. This will be overcome by coding the research and not revealing the respondents identity.

2. *Attrition/Mortality*: Not all interview guide questions may be answered neither completely answered nor even retrieved back due to circumstances on the part of the respondents such as confidentiality issue. This will be overcome by issuing more questionnaires than required to the respondents.

3.8 Conclusion

In conclusion, The researcher further enhanced his data collection strategy by incorporating questionnaires, this is due the fact that the quantitative approach is most appropriate when the problem is to identify factors that influence an outcome like in our case effects of existing laws, understanding if the law is being applied; and to seek for possible solutions. Also to find out whether the Police Force of Uganda is enforcing such laws.

CHAPTER FOUR

ANALYSIS AND INTERPRETATION OF FINDINGS

4.0 Introduction

The researcher used the Krejcie & Morgan 1970 table for determining sample size from a given population. Basing on 110 population size a sample size of 88 officials was chosen by the researcher. However to manage retrieval issues the researcher distributed 100 questionnaires. After sorting it was found out that some were wrongly filled of which 88 questionnaires received were well filled.

4.1 The existing Legal Regime concerning Security in Uganda's petroleum sector is well managed.

Table 1:

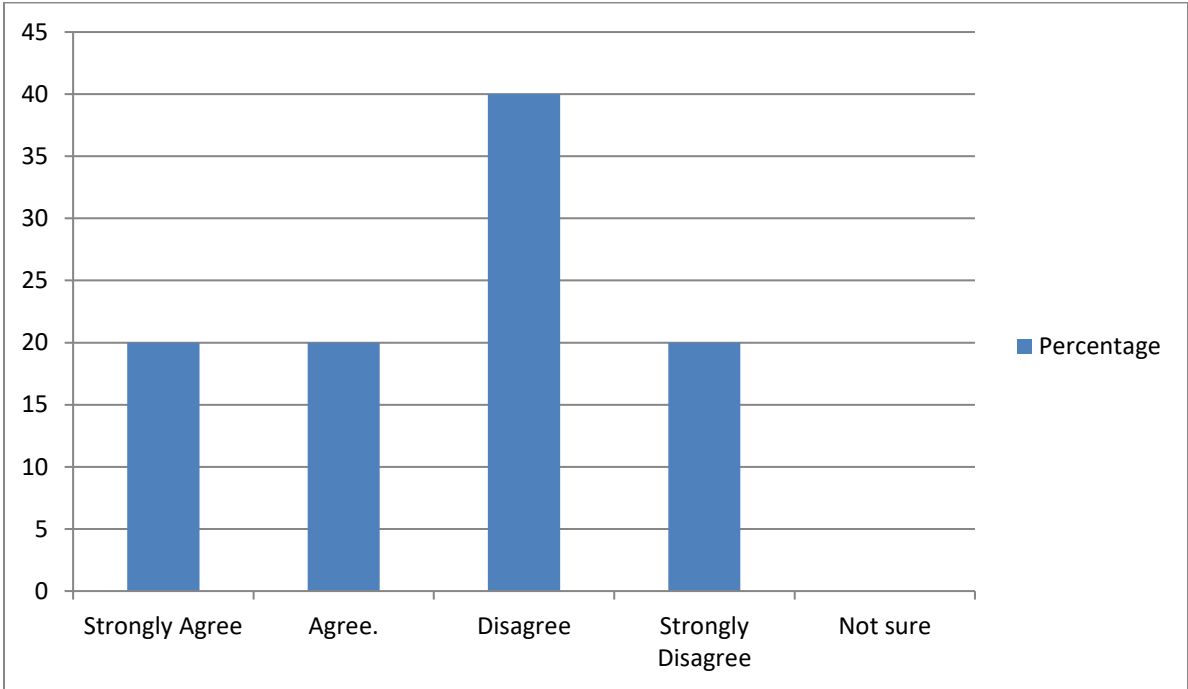
	Frequency	Percentage
Strongly Agree	18	20
Agree.	18	20
Disagree	34	40
Strongly Disagree	18	20
Not sure	-	-

Total	88	100
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Source: Primary Data 2017

From the table above it is revealed that 40% of the respondents disagree to the fact that the existing legal regime concerning security is well managed in Uganda while 20% of the respondents strongly agree and match with those who agree at 20%.

Figure 1:



Source: Primary Data 2017

Uganda has many policies and laws with sectorial links to petroleum. The process of development of these policies, bills and laws has been consultative at the National level. The National Constitution⁶⁹ is the supreme law in Uganda and provides guidance against which a regulatory framework for natural resource management may be developed. Although the constitution does not explicitly mention sharing of natural resource revenue, it makes reference to sustainable utilization of the natural resource base for the benefit of both present and future generations.

⁶⁹ The 1995 Constitution of the Republic of Uganda

Objective xiii of the Constitution provides for protection of natural resources. Chapter twelve of the Constitution also provides for defense and National Security.

According to the National Oil and Gas Policy ⁷⁰the Albertine Graben which is the principal area with the potential for petroleum production in the country is shared between Uganda and the Democratic Republic of Congo. An agreement of cooperation for the Exploration of Hydrocarbons and exploitation of common fields'' was signed between the government of the republic of Uganda and the Executive council of the Republic of then Zaire in 1990.⁷¹

The policy recognizes among other things that unitization method used in determining how oil and gas fields falling across borders or boundaries are shared, is well established internationally and used in several parts of the world. This policy shall support the implementation of the Agreement of cooperation, and the application of unitization as a basis for sharing any oil and gas fields falling across any borders. The policy also supports a review of the agreement of cooperation with a view of bringing it in line with the current and future requirements of the oil and gas sector. The policy also promotes trans-boundary cooperation based on existing foreign policy principles and agreements, and compliments the program, projects and protocols formulated under the International Conference on the Great Lakes Region aimed at transforming the region from tensions, hostilities and underdevelopment to security, stability and prosperity.⁷²

The National oil policy mandates the ministry of energy to be the supervisory body of the oil sector

The 20% and 40% who strongly disagreed and disagreed respectively make it 60% of respondents who say that the oil industry has not been well managed ,this quantitative data is in agreement with qualitative data from Interviewer No 1 from the ministry of energy who had this to say,

“The rating of the oil companies has been generally low because this oil companies had been previously given a target of having oil production by 2015 but now according to the present schedule the earliest Uganda can have oil productions is 2022”.

⁷⁰ The National Oil and gas Policy of Uganda 2008.

⁷¹ 78 *ibid.*

⁷² *Ibid.*

4.2 There is sufficient Security in the oil and gas sector in Uganda

Table 2:

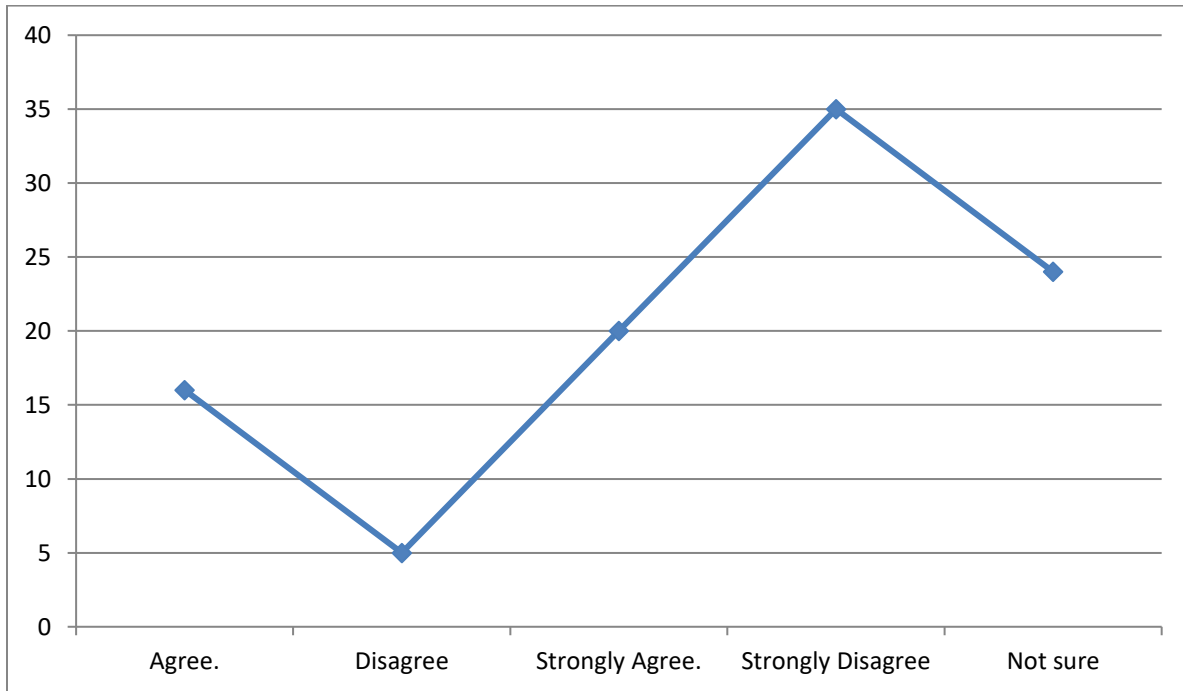
	Frequency	Percentage
Agree.	14	16
Disagree	5	5
Strongly Agree.	17	20
Strongly Disagree	31	35
Not sure	21	24
Total	88	100

Source: Primary Data 2017

From the table above, it was revealed that majority 35% of the respondents strongly disagreed that there is sufficient security in the petroleum rich region in Uganda. 24% of some of the people were not sure this being that apart from some people being completely ignorant of the laws regulating the oil sector they also don't know the types of oil crimes that exist. For example cybercrimes and other white collar crimes.

This can further be illustrated on a line graph as shown below

Figure 2: showing lack of confidence of sufficiency of security in the petroleum region



Source: Primary Data 2017

According to an interview from top Uganda Police Force officials, Security Awareness and Sensitization is of importance. Uganda Police Force should invest time and resources on an Information Security Awareness Program. To help safeguard company assets, employees must have the knowledge to understand the significance of their actions. A Security Awareness Program should designate responsibility for security training, clarify why security is important, identify who should attend Security Awareness Training, explain employee responsibilities, discuss existing security controls being taken to protect personnel and assets, and serve as a forum to discuss security questions. Security awareness education should include "new hire" orientations, multi-media campaigns, and ongoing refresher activities. Incentive programs may also be utilized to booster awareness and training efforts. Comprehensive security awareness programs will include both physical and cyber security initiatives

The study revealed that the oil sector in Uganda lacks adequate security. According to some respondents this is due to lack of locally trained experts in combating oil related crimes some of which are of high sophistication including cyber oil crime. Some of the key informants strongly agreed that the training of Uganda Police Force soldiers in some of these specific crimes might benefit the country intensely. Training involving countries of higher experience in this sector is of utmost gain to Uganda.

According to qualitative data gathered from a key informant interviewed from a top International Oil Company, the same way training to improve Local Content of Uganda's Local capacity like it is seen in other countries for example in the case of **Vilnes and others V. Norway**⁷³ on Professional training, The applicants pointed out that in addition to having satisfactory knowledge and equipment to stay under water, professional divers needed to perform numerous duties such as welding, localization, installation, dismantling and guiding of equipment, and so on. Despite the varied and demanding work, the Lossius Report stated that there was no organized training of North Sea divers in the first years of the petroleum industry. The Labour Inspection Authority's only requirement for professional divers was an approved medical certificate. The same vain needs to be reflected in our Police officers training not only to reflect the need of local content but securing the region that is of utmost interest to the country.

The 35% and 5% who strongly disagreed and disagreed respectively make it 40% majority of respondents who say that the there is insufficient security in the oil and gas sector in Uganda. ,this quantitative data is in agreement with qualitative data from Interviewer No 2 from the Local Community leaders who had this to Say,

“From the time of discovery of oil there has been insecurity issues some related to land and some robberies because some natives and some people believed to have come from cross border most especially Congo have targeted people working in this oil companies thinking they have a lot of money with them at all times.”

This qualitative data and quantitative data and the case of Vilnes and others against Norway point to the fact that there is need for professional training of police forces to deal with this insecurity issues.

⁷³ VILNES AND OTHERS v. NORWAY Applications nos. [52806/09](#) and [22703/10](#)

4.3 Local community has been involved in ensuring security by acting as key informants to Police force

Table 3:

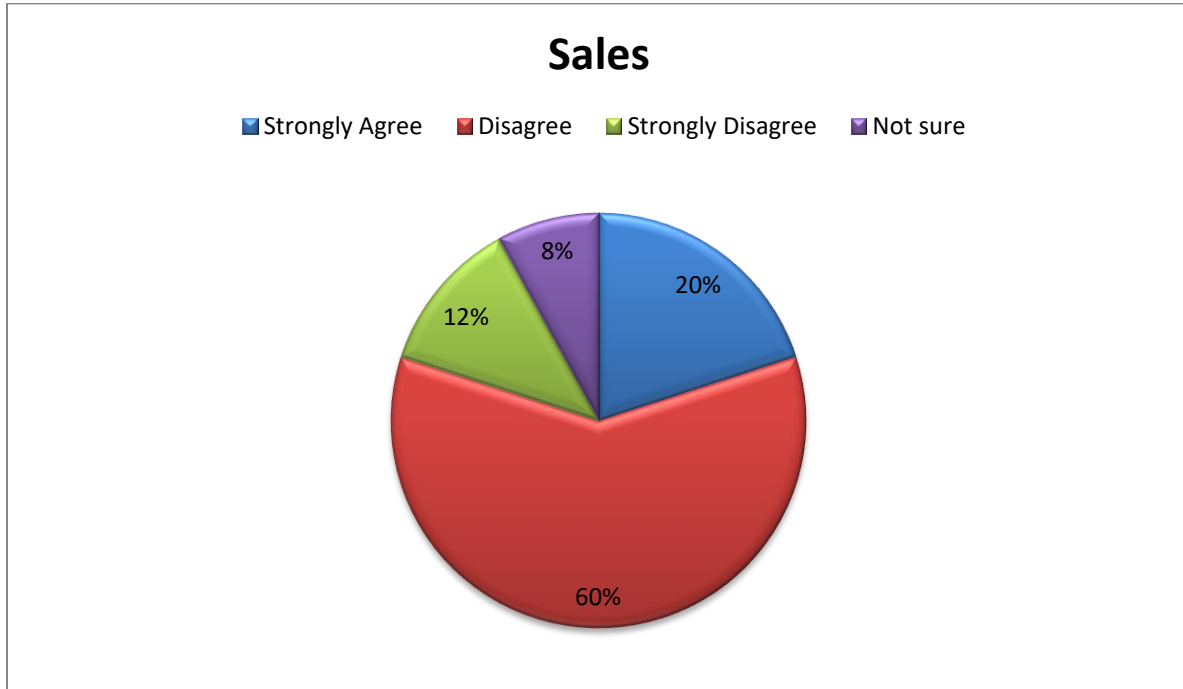
	Frequency	Percentage
Strongly Agree	18	20
Agree.	0	0
Disagree	53	60
Strongly Disagree	10	12
Not sure	7	8
Total	88	100

Source: Primary Data 2017

From the table above, 60% of the respondents strongly disagreed that the local communities play an important role of acting as key informants to police on suspecting crime. This is shows the level of ignorance of the local population about security in the oil region.

The information above can further be illustrated on a pie chart as shown below.

Figure 3: showing views on local communities being key informants to police Force as far as security in the petroleum region in Uganda is concerned.



Source: Primary Data 2017

According to key interviewed source from the Ministry of Energy and Mineral Development, Government needs to encourage the need to sensitize the community on the importance of security in the petroleum region. Security in the Energy Sector means rich economy in the future. Massive sensitization on types of oil thefts including oil bunkering, and other installation thefts that can be noticed at a glance. This being a new industry not much is known by the common man especially in the Albertine region. This can be done by Massive campaigns sensitizing the community on the need to be alert the police officers in case they suspect oil installation and pipelines are being tampered with and the like.

The existing laws do not necessarily favor this point because first and foremost the Petroleum Exploration Development and Production Act has not secured a section in the act to stipulating oil crimes. There is a lot to be done as far as legislators are concerned to amend the oil laws to criminalize the various oil crimes and put hefty penalty for such crimes.

The increase in Army personnel and Police Force deployment in the Lake Albert region may only serve to enflame the social grievances of local populations towards the oil industry.

The 12% and 60% who strongly disagreed and disagreed respectively make it 72% majority of respondents who say that the local community has not been involved in ensuring security by acting as key informants to police force. , this quantitative data is in agreement with qualitative data from Interviewer No 3 from the Police Force who had this to Say,

“The Local community has not to a great extent been helpful in timely reporting of criminal cases against oil company officials company facilities and land issues because many times the natives are involved in this crime and therefore they cover up the crimes.”

4.4 Table showing the sources of insecurity faced by Uganda Police Force in securing the petroleum region

What are the sources of insecurity faced by Uganda police Force in the oil region?	Frequency	Percentage
Unstable border region of the eastern DRC	28	32
Ugandan military’s presence in Somalia	21	24
Uganda’s deployment of officers in Sudan	14	16
Inadequacy of the Police Act in relation to oil and gas related crimes	18	20
Others	7	8
Total	88	100

Source: Primary data 2017

From the table above 32% of the respondents said that unstable border region of eastern DRC was the biggest challenge faced by Uganda Police Force in the oil industry.

While Uganda and the Democratic Republic of Congo have signed agreements on joint exploration of Lake Albert and territory along the border, these have not materialized into any substantial action. Instead, a number of security incidents involving oil have taken place. In 2007, following a string of Heritage and Tullow oil discoveries, tensions flared between the Ugandan and Congolese military on the border over territory. In August, Congolese soldiers killed British geologist Carl Nefdt, who was working for a Heritage contractor, in a dispute over whether the exploration team was conducting seismic work on the Congolese side of Lake Albert. Another example is the recent incident where three police security personnel were killed by the DRC security along the Albertine waters an incident that sparked the heads of Uganda and Democratic Republic of Congo states to meet at the border and assure the public of maximum security.

According to an interview with a security expert done by the researcher, oil and gas resources on one side of the lake can be extracted from the other side, making it probable that there will be some dispute between the two countries, if close cooperation is not established from the outset.

Uganda and the DRC have a history of tense relations, however there has been a rapprochement between the two countries necessitated by the ongoing insurgencies in the DRC, which involve two groups with origins in Uganda: The Lord's Resistance Army (LRA) and the Alliance of Democratic Forces (ADF-NALU). In 2005 Uganda was ordered to pay damages to the Democratic Republic of Congo by the International Courts of Justice (ICJ) for violating article 2(4) of the UN charter and for various violations of humanitarian and International Human Rights law, including plundering natural resources in the DRC. When the recent purchase of fighter jets by Uganda is set against this backdrop, it does appear that Uganda is preparing to defend its own valuable natural resources in the event of any future dispute.⁷⁴

Inadequate security measures can cause catastrophes to human safety and significant soil and ground water contamination. Security has always been and continues to be a priority across the petroleum industry from the field to the gas station. Huge operations are run daily and they must be carried out without interference despite the circumstances. Accidents in delivering and

⁷⁴ <http://thinksecurityafrica.org/oilgas/oil-and-gas-in-uganda/> as accessed on 23rd January 2015.

unloading a wrong fuel type to a gas station can cause devastation for businesses, ruin reputations and cause significant revenue losses.⁷⁵

There is need for close partnerships in police force working together to combat oil crimes as was the case in **Pemex et al vs Big Star Gathering Ltd L.L.P et al**⁷⁶. Pemex cases offer valuable lessons especially when it comes to showing the importance of cross-border law-enforcement cooperation. In June 2010, US court filings state, Mexican customs officials informed the US Immigration and Customs Enforcement (ICE) division of the Department of Homeland Security that they had discovered dozens of Mexican companies that appeared to be conspiring with US firms to export stolen petroleum products across the border. Thereafter, US and Mexican police created strong partnerships, and American courts built on prior actions taken on the Mexican side. Mexico filed charges against over 140 individuals involved in theft between 2000 and 2009. Mexican customs agents were jailed for allowing tanker trucks of stolen condensate to pass through checkpoints and into the United States with fraudulent export documents. Dozens of tanker trucks were seized. The initial intelligence also came from Mexico.

In conclusion, it is clear that from quantitative data showing cross border issues was a major concern at 32% and borrowing from the case of Pemex et al vs. Big Star Gathering Ltd LLP et al⁷⁷ and interviewer No 3 from Police Force there is need for police to be trained to handle sophisticated cross border security issues.

⁷⁵ Safety and security in any environment:

<http://www.abloy.com/Abloy/abloyCOM/Brochure%20downloads/PEU%20Catalogues/8808801.pdf>

⁷⁶ Case No. 4:11 cv -02019

⁷⁷ Ibid

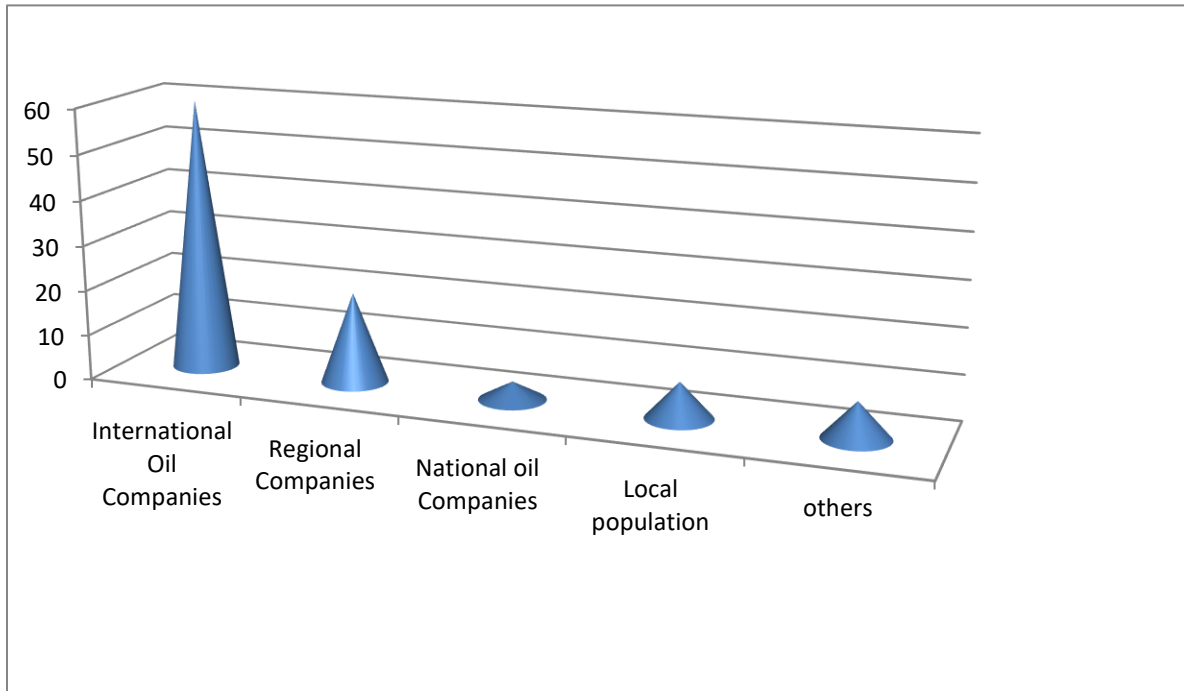
4.5 Table: Showing the biggest beneficiaries of Uganda Police Force presence in the oil region.

	Frequency	Percentage
International Oil Companies	53	60
Regional Companies	18	20
National Companies	3	4
Local population	7	8
others	7	8
Total	88	100

Source: Primary Data 2017

From the above table 60% of the respondents said that international companies were the biggest beneficiaries of police being in the oil region.

Figure 4: Showing the biggest beneficiaries of presence of Uganda Police Force in oil region



Source: Primary Data 2017

According to Neal Adams, Petroleum products play an important role in our national economy, national security. As such, security has always been and continues to be a priority across the petroleum industry.⁷⁸

The contracts Platform has obtained no clauses covering security provision. There is no public agreement setting out the relationship between the oil companies and the Uganda Police Forces. Thus, it is unclear what promises and guarantees the Ugandan government has made to ensure security and what rights the oil companies have been awarded.⁷⁹

The extraction of oil in the Albertine Graben risks sparking local conflicts as infrastructure is developed, communities are displaced and, money and people flow into the area creating social tensions and pressure on resources.

⁷⁸ Terrorism and Oil” by Neal Adams, Pennwell Publications.

⁷⁹ Contracts Curse: Uganda’s oil agreements place profits before people February 2010.

The Ugandan Government has substantially increased troop numbers in the oil region and established a special police Oil and Gas Operations Unit to guard the area.

The three oil companies have also hired security firms to guard their installations.

There is also a risk that communities or armed groups could seek to benefit directly from the sector through ‘bunkering’ (theft from pipelines), illegal refining, extortion and other illegal and environmentally and socially damaging activities.

State security forces, oil companies and private security contractors can also become directly involved in human rights violations connected with extractive industries. Oil companies can also stoke conflicts in more indirect ways, for example by recruiting from one ethnic group, or by paying off local armed groups in order to maintain security. To help avoid these problems, contracts and laws can commit companies to the respect and protection of human rights. For example, multinational corporations have promised to engage responsible security agents or to provide adequate education, health clinics and housing to local communities.

The laws do not specifically refer to human rights. Nor do they bind the companies to any specific standards. There is nothing identifying limits or requirements of private military security companies hired by the licensees in either law. This is of serious concern given the well-documented militarization of the oil region and a company’s obligation under this legislation to provide security for the facilities (Clause 143.1 of the Upstream Law, Section 66 of the Mid-Stream Law).

The quantitative data which shows that the biggest beneficiaries of Uganda police force presence is the International oil companies at 60% was correlated with interviewer no 4 from one of the International Oil Companies who had this to say,

“The presence of Uganda Police Force has been very helpful in securing our facilities and properties which have been a target by many wrong elements for a long period of time.”

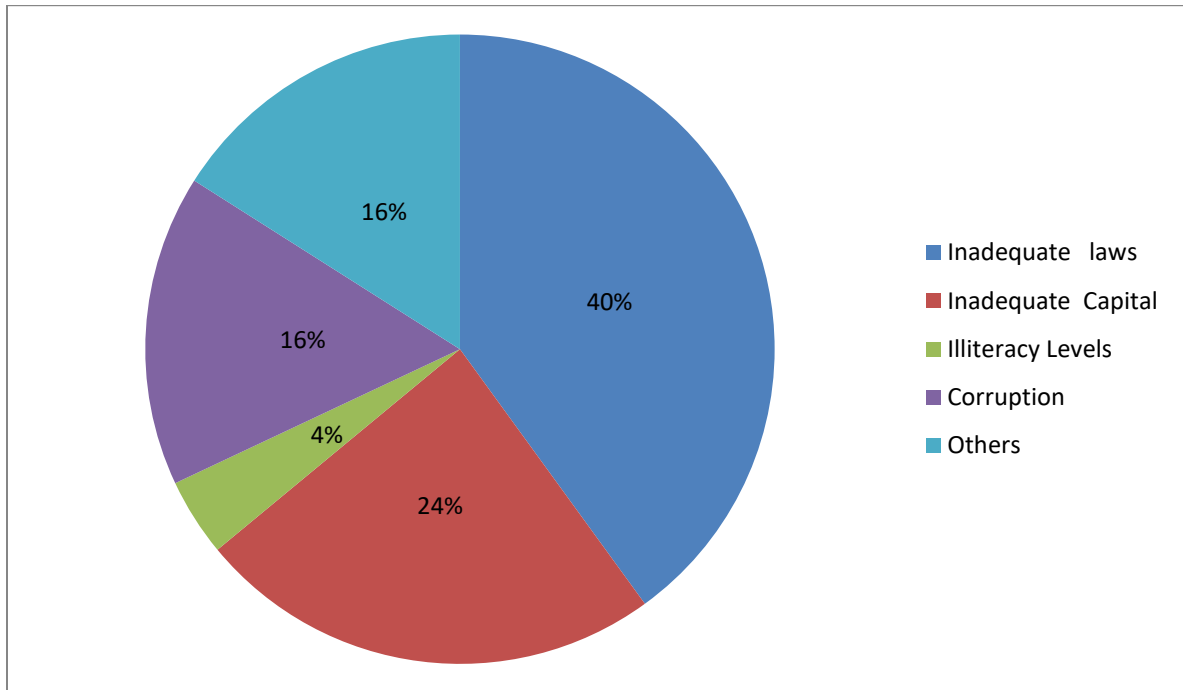
4.6 Table 5: showing challenges of poor security in the Petroleum sector

	Frequency	Percentage
Inadequate laws	35	40
Inadequate Capital	21	24
Illiteracy Levels	4	4
Corruption	14	16
Others	14	16
Total	88	100

Source: Primary Data 2017

From the table above 40% of the respondents said that security in the petroleum sector of Uganda is hindered mainly by inadequate laws. This is the main reason why we are carrying out this research to address the legal framework of security concerns by Uganda Police Force in the oil, gas and other related Mineral regions. 16% of other respondents said that corruption scandals will be an insecurity in itself. Therefore, they expect Uganda Police Force to be efficient enough to handle such incidents of criminal and civil in nature.

Figure 5: showing challenges of security in the petroleum sector of Uganda



For example, the Public is skeptical about the unavailability of the Production Sharing Agreements (PSA) between the International Oil Companies and the Government. The unanswered question remains why are the agreements confidential yet the government holds in trust the oil resource on behalf of the people?

The quantitative data showing that 40% of the respondents believe that inadequate laws are the source of poor security was collaborated with interviewer no. 5 from the Local Community Leader who had this to say,

“Insecurity has been caused by a few individuals who as local leaders we often arrest them and hand them to police but they often get out on bail and the same people come to terrorize the community. I think the law on bail should be revised by the concerned stake holders”

Source: Primary Data 2017

4.7 Table: showing strategies the ministry of Energy and mineral Development has put in place for security in the petroleum rich region of Uganda

What strategies has ministry of energy and mineral resources put in place to ensure security in the oil region of Uganda?	Frequency	Percentage
Monitoring by private security companies instead of Uganda Police Force	53	60
Sensitization programmes on security	10	12
Developing policies and trends from International best practice	18	20
Guidelines on the importance of security	7	8
No strategies	-	0
Total	88	100

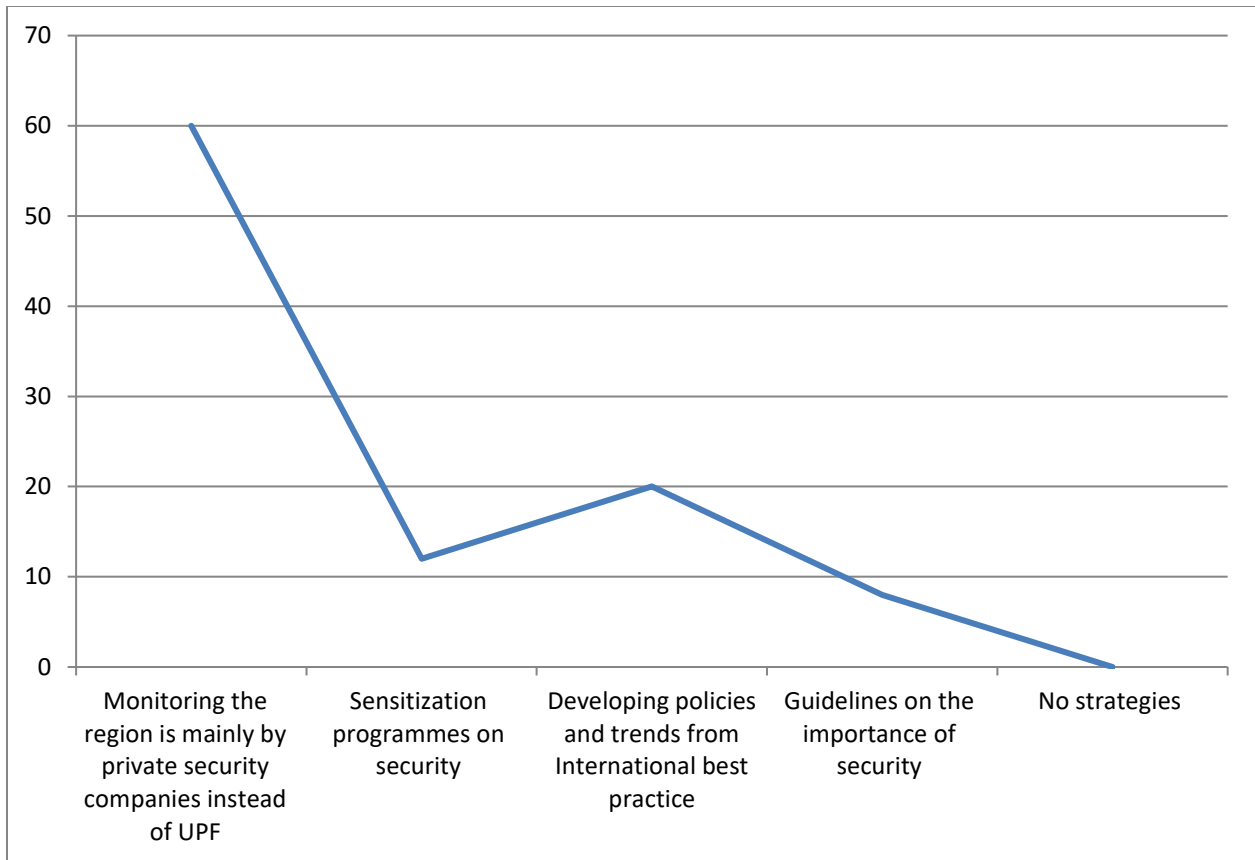
Source: Primary data 2017

According to the data in table above, 60% of the respondents said that monitoring the region is mainly by private security companies instead of Uganda Police Force. This is mostly by International Oil Companies. There is need for the two to work in close cooperation like it has been seen in other Countries who choose that to be a strategy on enhancing tight security like we discovered in the Literature review in the international best practices aspect.

In the case of **Elf Nigeria v Sillo (1994)**⁸⁰ incidents have led to strained relations between the host communities of the Niger Delta and the multi-national oil companies, as individuals and communities have had to resort to litigation to obtain compensation. What does the law say on such matters?

⁸⁰ Elf Nigeria Vs Sillo (1994) 6 NWLR (Part 350)258

Figure 6: Line graph showing how ministry of energy intend to monitor Oil facilities



Source: Primary data 2017

The quantitative data shows that the biggest strategy of the ministry of energy and mineral development has been to encourage monitoring security facilities by use of private security companies at 60% of the respondents this can be collaborated by qualitative data from interviewer no .6 from the International Oil Company who had this to say,

“We have found it more secure to use security companies on a contractual basis whereby the companies we contract will bare our losses in case of theft, however we encourage the Uganda Police Force to be well involved in the general monitoring of the security situation especially along the borders because the security companies we use are not mandated to provide security beyond our premises”

4.8 Table: showing strategies the government has put in place to improve security in the petroleum region.

What strategies has government put in place to improve security in the petroleum region?	Frequency	Percentage
Recruitment of professional police officers	53	60
Continuous Training of Police Officers	10	12
Monitoring the oil companies on local content.	18	20
Developing policies to protect local content.	7	8
Others.	-	0
Total	88	100

Source: Primary data 2017

According to the data in table above, 60% of the respondents said that Recruitment of professional police officers is being done by government.

According to top official interview from Uganda Police Force, this should be done only to synchronize the already skills that Uganda Police Force officers have with that of oil security experts from other well to do countries who have best international practices and are willing to share with Ugandan state to ensure that the petroleum region managed.

Oil and gas private security forces are facing now new unconventional opponents such as terrorists (international and national), activists, pressure groups, single issue zealots, disgruntled employees, or criminals, whether white collar, cyber hackers, organized or opportunists.⁸¹ These threats may

⁸¹ Thales , oil and Gas Industry Towards Global Security, A holistic Security Risk Management Approach, available at www.thalesgroup.com/security-services accessed 28th may 2015.

come from insider activity, external action, or insiders colluding with external adversaries. These opponents use different attacks including car suicide bombing, mortar rain, rocket propelled grenade, Improvised Explosive Devices (IED), ambushes, hostages, hijacking, kidnapping, computer hacking, information warfare, and so on. The attacks can be complex and coordinated and can exploit a combination of physical, logical (information technology), environmental, organizational and human weaknesses.

The American Petroleum Institute in collaboration with the Homeland Security have come up with different security guidelines in the Petroleum industry. In these guidelines, they've proposed security measures to apply towards the Refineries, liquid petroleum pipelines, petroleum products distribution and marketing, oil and natural gas production operations, marine transportation and cyber information protection.⁸²

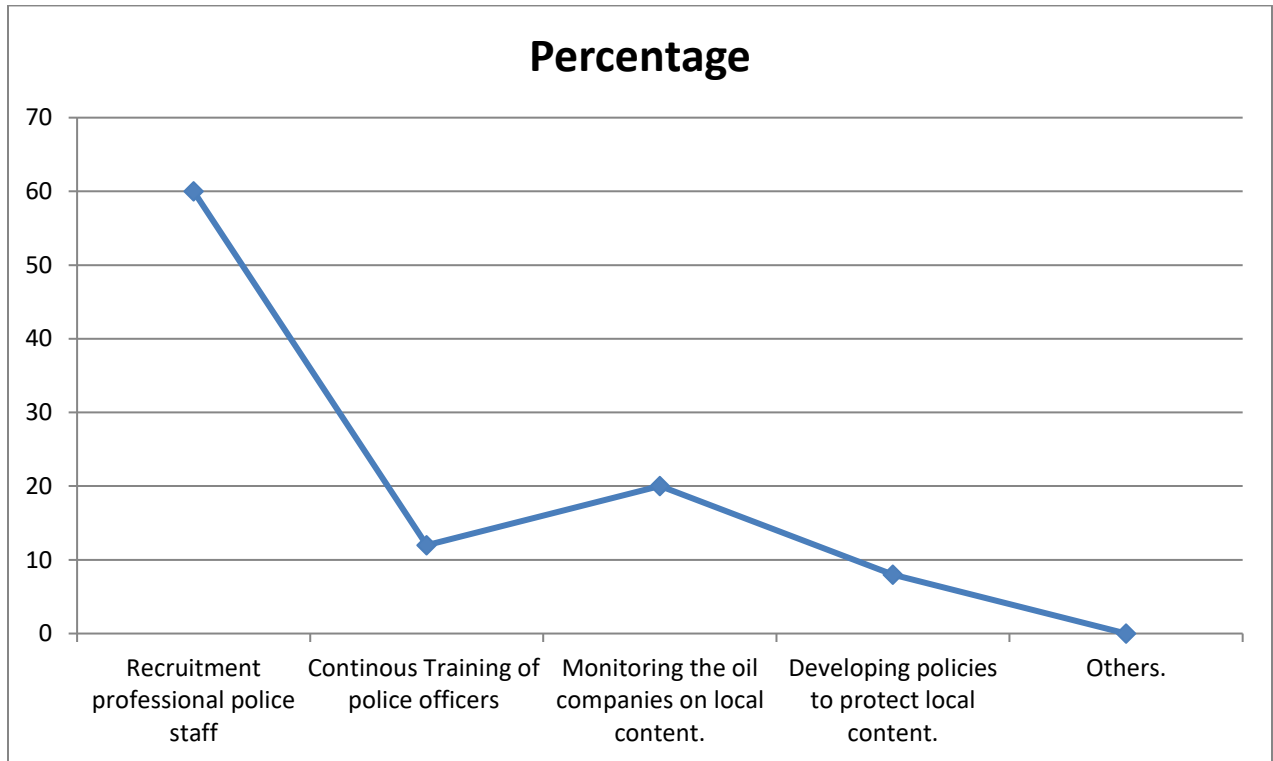
The foundation of a security management systems approach is to identify and analyze security threats and vulnerabilities, and to evaluate the adequacy of counter measures provided to mitigate the threats. Security Vulnerability Assessment (SVA) is a management tool that is flexible and adaptable to a wide range of applications and can be used to assist management in identifying and prioritizing security risks and determining the appropriate type and level of protection required at the local asset level.⁸³

For example, in Albertine region the Uganda Police Force can rely on information brought by local “Wananchi” through community policing forum.

⁸² American Petroleum Institute, April 2005, Security Guidelines for the Petroleum Industry, Homeland Security Advisory System. 3rd Edition, API Publishing Services, 1220 L Street, N.W., Washington, D.C. 20005.

⁸³ Ibid pg 2.

Figure 7: A line graph showing Security strategy Uganda Police Force can adopt to ensure smooth operation in Oil and Gas industry.



Source: Primary data 2017

As a result of oil theft insecurity repercussions like oil spillage are bound to take place therefore the case of **Shell Petroleum Development Co Nag Ltd V Farah**⁸⁴ where the Court of Appeal considered this provision in the Petroleum Act, in awarding compensation to the Respondents who suffered injury and damage as a result of oil spill.

4.9 What strategies do you recommend to improve the existing legal framework?

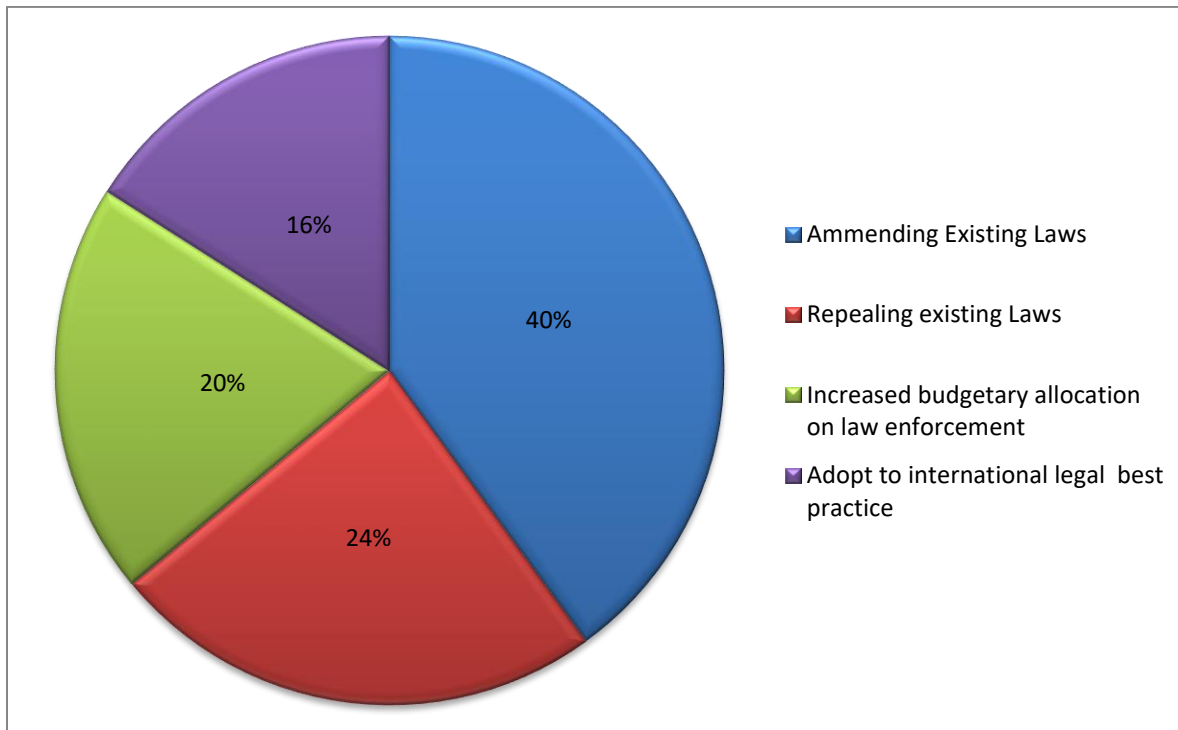
⁸⁴ 1995) 3 N.W.L.R. (Part 382) 48,

Table 8: Showing strategies recommended to improve the existing legal framework

	Frequency	Percentage
Amending existing Laws	35	40
Repealing the existing Laws	21	24
Increasing budgetary allocation on enforcement of Laws	14	20
Benchmarking international legal best practice	14	16
Total	88	100

Source: Primary Data 2017

Figure 8:



Source: Primary Data 2017

Quantitative data shows that majority 40% recommended amending existing laws, this is in agreement with qualitative data from interviewer number 7 from the Ministry of Energy who had this to say,

“The budgetary allocation for security in the oil region is limited and that’s why there are many cross-border insecurity issues affecting the oil region. Uganda Police force does not have the required capacity in terms of equipment to monitor security across the borders”

4.9 Legal, policy and institutional framework regarding the role of UPF in Securing Uganda’s petroleum region.

The upstream laws and midstream laws

A look at Uganda’s upstream laws⁸⁵ on petroleum sector reveals a rather confusing and shallow provision on security content that will be a challenge for legal practitioners and those engaged in security issues in the oil and gas sector.

Currently the upstream and midstream laws are silent on human rights and there are no set parameters or codes of practice guiding military, police or private security firms in the oil region with respect to human rights. Oil companies are however duty-bound to provide for their own security detail under Sections 143 and 66 of the Upstream and Midstream laws respectively.

Meaning there is a gap in terms of guidelines on security, the Uganda Police Force needs to arise in terms of legislation. The Uganda Police Act should come in to provide for detailed security plan for the Albertine region as far as the oil in Uganda is concerned.

The above analysis demonstrates that Uganda’s oil and gas laws fall short of protecting and promoting fundamental and other human rights and freedoms enshrined in the country’s constitutional framework. If Uganda does not provide protection for the local man just because of its rich resource this will go against set objectives by the Constitution.

⁸⁵ Petroleum (Exploration and Development) Act, 2013

Provision of security through Police force in the energy sector, is integral to local business opportunities through the provision of goods and services by local small business enterprises as and key to the realization of the desired sustainable economic development in the country.

DOWNSTREAM

Petroleum Supply Act

Petroleum Supply Act ⁸⁶ provides for the supervision and monitoring, the importation, exportation, transportation, processing, supply, storage, distribution and marketing of petroleum products; to provide for the establishment of the Minister responsible for the petroleum sector as the regulatory authority, to provide for the licensing and control of activities and installations, for the safety and protection of public health and the environment in petroleum supply operations and installations; to encourage and protect fair competition in the petroleum supply market; to repeal certain related laws; and to provide for connected matters.

This Act should also emphasise the need for security in installations and pipelines in terms of petroleum operations in the petroleum region of Uganda.

Storage and transportation. Getting oil from the field (well) to the refinery and from there to the service station requires a complex transportation and storage system. The potential of sabotage for trucks and storages is also high. Therefore, vehicles and storages must be protected against any sort of attack in order to avoid damage or disruption to the supply chain. Protecting the cargo and the equipment are of great importance. This is where Uganda Police Force will be needed most as far as ensuring security in this downstream sector especially if they receive state of the art Training from security experts from countries that have managed security concerns.

Anti-terrorism Act Laws of Uganda

According to some respondents from interviews in the Uganda Police Force offices, terrorism appeared the most common oil crime that most officers admitted to be a big challenge in the petroleum region since most were not conversant with cyber oil crimes since from the discussions in the research we have seen different kinds of oil crimes. With the experience of Allied

⁸⁶ Petroleum supply Act 2003,Laws of Uganda.

Democratic Forces in the oil rich region Uganda police defense forces have had a quite a challenge in combating this group which is believed to be a constant disruption to the commercial activities in the oil rich Albertine region.

The question as to whether the current Anti-Terrorism Act Laws of Uganda⁸⁷ does provide for content in combating oil crime as far as the new industry is concerned is of concern for the research. Part III of the act provides for the offence of terrorism section 7 paras 2) b) A person commits an act of terrorism who, for purposes of influencing the Government or intimidating the public or a section of the public and for a political, religious, social or economic aim, indiscriminately without due regard to the safety of others or property, carries out all or any of the following acts—among others direct involvement or complicity in the murder, kidnapping, maiming or attack, whether actual, attempted or threatened, on a person or groups of persons, in public or private institutions. From this analysis, there is great need for amendments of this act by legislators in order to include oil crimes and give an active role to the police force in combating such crimes.

The Police Act

Section 4 of the Police Act Laws of Uganda⁸⁸ provides for functions of the police force which include; to protect the life, property and other rights of the individual; to maintain security within Uganda; to enforce the laws of Uganda; to ensure public safety and order; to prevent and detect crime in the society; subject to section 9, to perform the services of a military force; and to perform any other functions assigned to it under this Act. Subject to section 6(1) (c), a member of the force is authorised to carry arms in the performance of his or her duties. No person shall arrest, detain or institute criminal proceedings except as is provided for under a written law or the Constitution.

Article 211 of the Constitution⁸⁹ provides for Uganda Police Force which shall be nationalistic, patriotic, professional, disciplined competent and productive; and its members shall be citizens of Uganda of good character. Article 211 provides for functions of Uganda Police Force among others to cooperate with civilian authority and other security organs established under the constitution and with the population generally.

⁸⁷ Anti-Terrorism Act of UGANDA 2002

⁸⁸ Police Act Cap 303 Laws of Uganda

⁸⁹ 1995 Constitution of Republic of Uganda

The Directorate of Oil and gas

There exists a directorate of oil and gas⁹⁰. It was established with the specific role of ensuring that the country's oil and gas resources are adequately safeguarded. Uganda Police Force appreciate the unique challenges presented in protecting natural resources and have responded by developing specific procedures within its overall policing standards.

The Directorate of Counterterrorism

There also exists a directorate of Counter terrorism⁹¹ under Uganda Police Force. The counter terrorism directorate is the lead Ugandan law enforcement entity charged with investigating, disrupting and responding to terrorist incidents in Uganda.

According to comments from respondents in an interview in the police force offices, there should be close cooperation between the directorate of oil and the directorate of counterterrorism as far as oil crimes are concerned in Uganda's energy sector. Oil theft provides billions for terrorists and drug cartels. The future of the developing industry is in threat stemming from vast experiences of terror attacks in the oil facilities in countries like Nigeria which can attest to such situations. Uganda must learn from such mistakes and develop stringent laws to cater for such situations.

The Uganda Police Force should play a major role in combating the following oil security threat categories:

- (a) Border Insecurity - covers a wide range of threats including all those that may involve breaching or attempting to breach Uganda's Borders as far as Congo is concerned in the Uganda's energy region e.g. oil smuggling, covert or overt invasions that may lead to oil theft or things at installations.
- (b) Internal Insecurity- with the Natural resource comes threats encompassing from terrorism, insurgency and political instability arising from such sources. Tensions about oil wealth may also Lead to internal security
- (c) External Insecurity - threats from countries bordering the Albertine region in this description encompass any activity by a foreign force that negatively affects Uganda's territory, interests and her peoples for which UPF has clear role to play.

⁹⁰ Police Act Cap 303 Laws of Uganda

⁹¹ Police Act cap 303 Laws of Uganda

(d) Technological capability of other countries – With the rise of cyber oil crimes this becomes a threat it accounts for the possible development of nuclear, biological, chemical and information technology or any other technical development that might be turned into a threat to Uganda’s security. Uganda Police Force have to be trained on International best practice on how to combat such oil cybercrimes which are done out of technology that only the outside world is aware of.

To perform its roles, the Uganda Police Force must have a clear set objective that is conducting defense Diplomacy. The growth of ties within the region, principally with members of the East African Community (EAC), more so in this case when we talk of the petroleum we see the Albertine region. The bordering country Congo is to be encouraged as a means of promoting broader understanding between the region’s police Forces. Although it is envisaged that with time, there will be a high degree of military integration, it is anticipated that this will take the form of exchange of observers, conducting joint military exercises and joint training. The intention will be to improve the effectiveness of the existing activities and efforts in all these areas in order to promote the desired integration.

There is also the, The Eastern Africa Standby Force (EASF), a regional (10 Member States) organization whose mandate is to enhance peace and security in the Eastern Africa region. This can also come in to strengthen the role of Uganda Police Force in securing the petroleum region.

CHAPTER FIVE

International Best Practices

5.1 Introduction

For Africa and the Global world, the production and supply of energy resources such as crude oil, natural gas, uranium, coal, biomass, biofuels and other renewables are an important source of employment, rents, taxes, royalties and profits. This sector brings in several tens of billions of dollars of revenue annually. The production and delivery of such resources, however, depend on critical infrastructures such as pipelines, refineries, processing plants, terminals, rigs, electrical energy pylons, substations, pump stations, vessels, and tankers. These infrastructures have been attacked by terrorists, insurgents, vandals and saboteurs, all of whom see them as targets against which to register their grievances and extract concessions from the state. Incidents of terrorism, insurgency, kidnapping, destruction, sabotage, and human casualties suffered in the oil and gas sectors in Africa and the Global World which makes security of utmost importance and which is the reason for this research.

It is of importance that we look at International best practice in this chapter in order to find out what other countries with vast experience in Oil industry are practicing when it comes to Police Forces securing the sector. More especially as we look at the Uganda Police Force and try to advise on how best to ensure security, what strategies and techniques can they borrow from other countries. Most importantly the Legal analysis of those countries and what Uganda can adopt in order to amend the current laws and policies and the role played by other governments in creation of legal framework for security by International companies.

5.2 Legal analysis on international best practice on Ghana Police Force in securing the petroleum sector

The newly enacted Petroleum (Exploration and Production) Act⁹² is the main legislation that regulates the grant of license for upstream oil and gas activities, and regulates the exploration, development and production of petroleum in Ghana. The Act, in line with the Constitution, provides that petroleum existing in its natural state within Ghana is the property of Ghana and is vested in the President on behalf of the people of Ghana. The Act also permits the Minister of Energy to grant rights and enter into agreements for the exploration and production of oil and gas subject to the ratification of such rights or agreements by Parliament. The Act further mandates

⁹² PEPA laws of Nigeria Act 2016 (919)

the Minister of Energy and the Ghana National Petroleum Corporation to develop regulations on safe construction, health and safety, product standard, reference maps for oil blocks, competitive bidding and terms and conditions of petroleum agreements.

The Petroleum (Local Content and Local Participation) Regulations⁹³ were passed in July 2013 to, among other things, ‘promote the use of local expertise, goods and services, businesses and financing in the petroleum industry value chain and their retention in the country’. The Act focuses on ensuring maximum participation of indigenous Ghanaians, increase local capacity and also safeguard the interest of foreign participants in the oil and gas sector.

The Act applies to contractors, subcontractors, service providers, licensees and allied entities in the petroleum sector. The Act provides minimum thresholds for indigenous equity participation in petroleum activities.

A key provision under the Regulations is the requirement of 5 per cent indigenous participation in petroleum agreements. This is, however, subject to negotiation and the approval of the Minister of Energy. Service providers in the sector must have a minimum of 10 per cent Ghanaian ownership. Other provisions include the requirement for approval of local content plans, which must at the minimum include sub-plans on employment and training, research and development, technology transfer, legal and financial services. In respect of legal services, operators are required to use the services of only Ghanaian lawyers or law firms for legal services required in Ghana. The oil companies are required to submit regular reports on their levels of compliance to the local content committee, which is set up to oversee the implementation of the regulations and to ensure measurable and continuous growth in local content in the petroleum sector.

The Ghana Police Service setup the Marine Police Unit which handles piracy cases and associated crimes from the oil and gas industry. Personnel of the unit are usually taken through specialized training in swimming, karate, weapon handling, surveillance and observation and patrol rescue operations.

⁹³ Petroleum (Local Content and Local Participation) Regulations 2013 (LI 2204)

According to a report by Ghana web,⁹⁴ when Ghana was anticipating in 2010, drawing her first oil in the yuletide, the Police administration geared to ensure that security related issues were decisively dealt with. Consequently, it is in the process of establishing a Marine Police Unit to extend police structures and facilities to remote areas within the oil and gas zones in the Western Region to address all security concerns that arise in the sector. It was noted that the police administration would construct a swimming pool for training personnel under the unit. Police administration had developed a five-year Strategic National Policing Plan, which sought to set targets and goals for the service and prescribe the conduct of personnel. The Plan aimed at developing a professionally competent Police Service through systematic recruitment of qualified and regular training of staff to establish integrity and fairness in dealing with the public. The strategic plan is also to equip the entire service with adequate infrastructure, accommodation, logistics and funds to enhance its operations.

In a report by Global Times⁹⁵ Ghana Navy and the Marine Police Unit of the Ghana Police Service was urged to communicate and share essential security information to combat maritime crime and protect Ghana's petroleum installations. The report stated that Police Marine training school would train and sharpen the skills of police personnel on maritime security. The Navy, would defend the territorial waters of the country against external aggression while the Police Marine Unit would arrest and prosecute criminals arrested on the high seas. United States government and the United States African Command (AFRICOM) was commended for providing funding for the construction of the two-story block for the school. Police Marine School would become a mini-university for training of police personnel in Ghana and the West African sub-region. The oil exploration had its associated security implications hence the re-activation of the Police Marine Unit to beef up maritime security. The school also offers first class maritime training to police personnel to sharpen their skills to combat illegal human trafficking, narcotic smuggling, toxic waste disposal as well as any other threat posed to oil and gas installations. Police Marine Unit would collaborate with all the necessary state agencies to enhance security on Ghanaian waters, adding that it would also serve as a deterrent to criminals

⁹⁴ Ghana police service gearing up for oil and gas sector; <http://www.ghanaweb.com/Ghana> as accessed on 1st June 2017

⁹⁵ Ghana Vows measures against piracy threats to oil and gas Industry Source: Xinhua Published: 2013-3-23 14:20:57 as accessed on 1st June 2017

In line with Ghana's commitment to promote regional security, the country has participated in several ECOWAS, AU and UN Peacekeeping missions in Africa.⁹⁶ While the motive for this involvement has been to ensure peace and security of all countries in the region there have been other benefits to the country and some of its citizens over the years. Before a state participates in a peacekeeping mission, a decision is made either at the (sub) regional (ECOWAS, AU) or the international (UN) level to send troops to a conflict area. When the request is sent through the Ministry of Foreign Affairs to the Ministry of Defense (MOD), the MOD advises government on the capability of the country's Armed Forces to deploy.

Due to Ghana's commitment to international protocols, it is always ready to assist in any way possible so far as it does not compromise on the country's national security. Before committing troops to international peacekeeping, an internal threat assessment is done to ensure that the absence of the troops on the ground will not affect national security. As recent African conflicts have been intra-state, the Armed Forces and the Ghana Police Service conduct their own assessment on whether the absence of the forces will have an adverse effect on the country, in terms of quelling any internal conflict and preventing any major national security crisis. Once this assessment has been done, the process of selecting and training the forces for their peacekeeping or enforcement duties in the war affected country begins.⁹⁷

The main beneficiaries of Ghana's regional security involvement have been the Ghana Armed Forces and the Ghana Police Service whose officers participate in peace missions. Peacekeeping has also brought direct benefit to Ghana as funds from the peacekeeping account are used for national projects.⁹⁸ Other benefits of Ghana's involvement in (sub) regional security are discussed below.

According to Ghana Police Force handbook preamble, Personnel are reminded of the vision of the Service – “To be a world-class Police Service capable of delivering planned, democratic, protective and peaceful services up to standards of international best practice” and encouraged to

⁹⁶ ECOMOG in Liberia and Sierra Leone, UNMIL and UNAMSIL in Liberia and Sierra Leone respectively, AU Mission in Sudan (AMIS), UNAMIR in Rwanda, etc.

⁹⁷ Ghana regional security policy; costs benefits and consistency by Emmah Barikorang KAIPTC Paper No. 20, September 2007

⁹⁸ www.bbc.co.uk Accessed on 1st June 2017.

strive at all times to uphold the law in a courteous, fair, firm and impartial manner in order to win public confidence.⁹⁹The police is made by the Inspector-General of Police under powers vested in him by the 1992 Constitution and the Police Service Act¹⁰⁰. It is intended to serve as a quick reference for Police personnel in their day-to-day duties to enhance their competences and ensure efficient service delivery to the public. It has been made very handy to fit in the pocket and personnel are encouraged to carry a copy whilst on duty.¹⁰¹

According to a 2015 review on African affairs At the U.S.-Africa Leaders' Summit in August 2014, President Obama launched the Security Governance Initiative (SGI), a multi-year effort with \$65 million in initial funding between the United States and partner countries to improve security sector governance and capacity to address threats. SGI partners with countries to undertake strategic and institutional reforms required for governments to tackle key security challenges. Together with six current partners – Ghana, Kenya, Mali, Niger, Nigeria, and Tunisia. Security Governance Initiative made making great strides to focus on shared security priorities and enhance security sector management. Each of the six countries demonstrates partnership with the United States, expressed a desire to strengthen its security sector, and committed to the core elements of the initiative. Security Governance Initiative's central objective is to enable partner countries to develop and enhance policies, institutional structures, systems, and processes that allow them to more efficiently, effectively, and responsibly deliver security and justice to their citizens. Security Governance Initiative is not a tactical-level training and equipping program, but rather focuses on supporting partner country efforts to improve the management, oversight, accountability, and sustainability of security sector institutions. Security Governance Initiative uses Presidential Policy Directive 23 on Security Sector Assistance (PPD-23) as a policy framework to ensure transparency and coordination across the U.S. government, and to help partner countries not only build sustainable capacity to address common security challenges, but also to promote universal values such as good governance. In line with PPD-23, Security Governance Initiative is also designed to share information, expertise, and lessons learned within the U.S. government and beyond to improve other ongoing and potential future security sector assistance.¹⁰²

⁹⁹ Ghana Police service handbook May 2010 Accra pg. 6

¹⁰⁰ Police Service Act of 1970 Cap 350 Laws of Ghana

¹⁰¹ Ibid pg. 6

¹⁰² Security Governance Initiative: 2015 a report by African Bureau affairs March 2nd 2016.

The Security Governance Initiative approach is based on the recognition that sustainable solutions to security sector challenges must come from within the country. Security Governance Initiative launches a dialogue between the U.S. government and partner countries to share experiences and sound practices, and identify opportunities to tackle urgent and emerging security challenges, while endorsing principles of good governance.¹⁰³

- Security Governance Initiative applies a comprehensive, whole-of-government approach, focusing on the systems, processes, and institutions that reinforce democratic security sector governance.
- Security Governance Initiative conducts joint analyses, shares data, and agrees on goals with partner countries.
- Security Governance Initiative regularly measures and evaluates progress through consultation and dialogue with security sector stakeholders in partner countries.
- Security Governance Initiative matches targeted investments for example oil industry, with willing partners to strengthen military and civilian institutions.
- Security Governance Initiative consults with a broad audience, including civil society, international donor partners and other non-governmental organizations (NGOs), to ensure a thorough understanding of issues and efforts to address security sector governance challenges.

The Government of Ghana (GOG) has signaled its commitment to the Security Governance Initiative process, principles, and partnership, by conducting frank conversations about security sector governance, and proactively organizing inter-ministerial working groups to support the implementation of SGI activities. Security Governance Initiative consultations prompted senior inter-ministerial dialogue on critical security governance challenges, sparking candid analysis of interagency processes, responsibilities, and gaps. This yielded an unexpected Security Governance Initiative focus area for Ghana – cyber security and cybercrime. Ghana ranks second in Africa in the number of web-based crimes occurring each year, and many victims are in the United States. The Government of Ghana also relies more extensively than many countries in Africa on electronic

¹⁰³ *ibid*

financial transactions, which if not properly secured are vulnerable to attack. At the Government of Ghana's request, Security Governance Initiative will partner with Ghana to develop clearer authorities to prevent, investigate, and prosecute cybercrime.

Reflecting our Literature review from our previous chapter two, Ghana also faces a variety of maritime security and land border management challenges. Offshore, threats undermine safety in its coastal waters as well as hurt prospects for economic development, including piracy, terrorism, oil bunkering (theft), narcotics trafficking, illegal fishing, and environmental degradation. Onshore, enhancing border management is necessary in order to address porous land borders that allow Transnational Criminal Organizations to engage in drug and human trafficking, bulk cash smuggling, and the illicit flow of small arms and light weapons, all of which threatens the safety of the populations around the borders and legitimate trade and commerce. Established in 2002, the Ghana Maritime Authority provides an opportunity for SGI to support improved coordination across Ghanaian agencies responsible for various aspects of maritime security. Similarly, SGI helps the GOG improve land border management by supporting the establishment of an interagency border management group to clearly define the roles, responsibilities, and legal authorities needed to empower border security agencies to ensure appropriate oversight, enforcement, and accountability.¹⁰⁴

There is also the Association of Oil Marketing Companies (AOMCs) which is working in cooperation with the National Petroleum Authority (NPA), Ministry of Energy, Ministry of Finance and National Security to deal with illegal offshore and onshore oil Petroleum Black Market dealers to save the country and protect the interest of Oil Marketing Companies (OMC)

5.3 Legal analysis on international best practice in Algeria Police Force in securing the petroleum sector

The oil and gas sector remains most at risk from security threats in Algeria. Terrorist groups continue to target strategic infrastructure and Western interests while social unrest amongst local

¹⁰⁴ Security Governance Initiative: 2015 a report by African Bureau affairs March 2nd 2016.

communities in energy producing areas is on the rise. BMI's Crime and Security Risk Index highlights the severity of this threat, placing Algeria seventh from bottom out of 19 MENA states for Terrorism and Political Violence Risk with a well below average score of 20.5 out of 100. The influence of Islamic State (IS) in Algeria is growing and al-Qaida in the Islamic Maghreb (AQIM) remains active in the country, both targeting Western interests, strategic infrastructure and the Algerian military. Recent attacks demonstrate the success of terrorist groups in Algeria. Algeria's militarization has exacerbated the already growing social unrest and has increased the risk of radicalization among impoverished local communities. Oil and gas companies face a difficult operating environment and are reliant on the Algerian military's capabilities to protect their assets.

Britain is working alongside Algerian forces on counter-terrorism as part of a joint security partnership a joint security compact – including access to UK intelligence and the deployment of a limited number of British soldiers – comes in the wake of the attack on an Algerian natural gas plant that left 37 foreigners dead, including up to six Britons. The oil and gas sectors account for 70% of the national budget, mainly in the southern Algerian desert, and the In Animas plant accounts for 6-7% of Algeria's reserves of gas. The energy sector was not targeted during the Algerian civil war which broke out in 1992. But the new terrorist groupings see even the heavily guarded plants as legitimate targets.

Algeria is a rich country which continues to highly prioritize safety and security solutions, and U.S. firms have had considerable ongoing success in the oil sector. In addition, Algeria police has recently demonstrated over the past 2-3 years a tangible affinity for American solutions across the board. Opportunities in safety and security in Algeria fall into the following prime categories: (a) Monitoring and protecting its expansive borders with its longtime rival neighbor Morocco, and Mauritania, Mali, Niger, Libya and Tunisia; (b) Protecting thousands of miles of oil and natural gas pipelines and oil/gas fields and facilities throughout remote desert areas; (c) Protecting government buildings, infrastructure and major entry points into the country such as airports and seaports, (d) Cyber monitoring/interception technologies have also become of sustained interest to a variety of Algerian Government agencies.¹⁰⁵

¹⁰⁵ Algeria; Safety and security best practice industry prospects, Algeria country commercial Guide last published 11/17/16.

Algeria police force security international best practice;

- Border surveillance and inspection technologies,
- Infrastructure protection solutions for seaports, airports, border crossings, security and safety agencies such as the police, and buildings,
- Oil and gas pipeline security solutions,
- Unmanned Air Vehicles (UAVs),
- Cyber security monitoring and interception solutions,
- Comprehensive Radio communication systems,

5.4 Legal analysis on international best practice in Nigeria Police Force in securing the petroleum sector

Oil crime in Nigeria has a value chain that involves both state and non-state players, extending beyond the territorial boundaries of Nigeria. The multi-dimensional nature of the challenge facing the authorities has impaired Nigeria's ability to tackle this problem effectively. Due to the inevitably clandestine nature of the crimes, the specific players and scope of their operations are difficult to decipher.¹⁰⁶

Nigeria's regulatory effort to curb this oil crime menace includes the following measures.

1. The Petroleum Production and Distribution (Anti Sabotage) Act,¹⁰⁷ making it an offence to obstruct, prevent or interfere with the production and distribution of petroleum products. Such activities are subject to a term of imprisonment not exceeding 21 years.¹⁰⁸
2. The Petroleum Act,¹⁰⁹ criminalizes interference with, and obstruction of, the holder of a license or lease granted under the Act. Such activities are subject to a fine not exceeding N200 (approximately \$1.5 US) or to a term of imprisonment for period not exceeding six months (or both).¹¹⁰ The stipulated penalty is paltry and does not accord with modern day reality, being inconsistent with the scope of the crime sought to be deterred. This contributes to the impunity

¹⁰⁶ Christiana Katsouris and Aaron Sayne, "Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil", September 2013, <http://www.chathamhouse.org/nigeriaoils> [Accessed April 16, 2014].

¹⁰⁷ Laws of the Federation of Nigeria 2004 CAP P13.

¹⁰⁸ Laws of the Federation of Nigeria 2004 CAP P13

¹⁰⁹ Laws of the Federation of Nigeria 2004 CAP P10.

¹¹⁰ Laws of the Federation of Nigeria 2004 CAP P10 s.13(1).

with which the regulation is flouted. Section 13(2) of the Petroleum Act also criminalizes the construction and operation of a refinery in Nigeria without the requisite license. Prospecting for Petroleum, winning or working any petroleum on any land in Nigeria without first obtaining an oil exploration or prospecting license is also prohibited. Any infraction is punishable with a fine not exceeding N2,000 (approximately \$15) on conviction.

Due to the increasing spate of oil crime and its social, economic and environmental cost to the nation, in order to deter prospective offenders, on March 27, 2013, during the course of its inauguration, the Senate Joint Committee on the Petroleum Industry Bill advocated the introduction of the death penalty for pipeline vandals and oil thieves. This was opposed on the basis that oil thieves are essentially a product of Nigeria's "decadent" economic system. It was argued that Nigeria should focus on "cure" rather than "punishment".¹¹¹ However, on February 20, 2013, the senate unanimously prescribed the death penalty for any person engaged in acts of terrorism in Nigeria and that any person or body corporate who knowingly and willingly assisted, facilitated, or organized the activities of persons engaged in terrorism would be liable on conviction to a maximum penalty of life imprisonment.¹¹²

It remains to be seen how soon the enactment will be implemented in the light of the fact that perpetrators of terrorism brazenly threaten the government and that negotiating with these groups appears to have been the preferred mode of tackling terrorism by the Nigerian Government.¹¹³ Regrettably, environmental and religious terrorists regularly threaten the government without fear of reprisal. Boko Haram, for example, has often shunned governments' overtures to negotiate with it, intensifying its bombing of public places and the kidnapping of young girls from schools.

¹¹¹ LEDAP oppose death penalty for crude oil thieves" *Premium Times*, March 29, 2013.

¹¹² This constitutes an amendment to the Terrorism (Prevention) Act 2011.

¹¹³ In 2007, senators visited terrorists in their camps in the Niger Delta to appeal to the occupants to renounce violence and kidnapping, assuring them of the government's willingness to work with them to ensure peace in the Niger Delta. The government subsequently launched its amnesty programme, through which ex-militants been paid allowances/sponsorship to study abroad and offered employment/skills- acquisition in exchange for their arms. See Collins Edomaru, "When the Senate Relocated to Niger Delta Creeks" *This Day*, November 4, 2007. p. 11. Similarly, in 2013, the government expressed its willingness to negotiate with the Boko Haram Sect, a militant Islamist group that had been ravaging northern Nigeria, killing over 1,000 people, burning down villages, kidnapping over 300 young girls and killing young children (schools being burnt and various targets bombed). see Konye Obaji Ori "Nigeria Ready to Negotiate with Terrorist Group" February 19, 2013. See "NEMA Releases List of Abuja Bomb Blast Victims" *The Punch*, April 17, 2014.

3. The Nigeria Extractive Industry Transparency Initiative (NEITI) Act 2007, aims at providing a framework for transparency and accountability in the reporting and disclosure by all extractive industry participants of revenue due to, or paid by, the Federal Government. The NEITI Act has not, however, transform the lack of transparency in earnings from crude oil, which determines money accruable to host communities under the principle of derivation. The former Governor of Central Bank of Nigeria accused the NNPC of not remitting \$49.8 billion (approximately N8 Trillion) to the federation account between 2012 and July 2013, constituting 76 per cent of crude oil earnings for the period.¹¹⁴ He has since been suspended from office and replaced without conclusive findings being made with regard to the accusation made against NNPC.

4. The Economic and Financial Crimes Commission (Establishment etc.) Act, ¹¹⁵establishing the Economic and Financial Crimes Commission, an agency tasked with the responsibility of co-ordination/enforcement of all economic/financial crime laws, the adoption of measures to eradicate the commission of economic/financial crime and the examination/investigation of all reported cases of economic/financial crime, with a view to identifying individual, corporate Bodies or groups involved in such matters. It is also to adopt measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic/financial crime-related offences or the properties/values corresponding to such proceeds.¹¹⁶

Various oil producing states have initiated a Petroleum Pipeline Monitoring Committee to combat oil crime and the hoarding of petroleum products. With the exception of occasionally burning tankers, equipment and crude oil/derivatives illegally obtained, prosecution of oil thieves has been insignificant. Special tribunals to hear, and deal with, cases of oil crime more efficiently should be set up. Convicted offenders should be punitively sanctioned to deter would-be offenders.

Existing oil crime regulatory laws should be amended in order to make the fines payable by offenders more stringent and in accordance with modern-day economic realities. Stricter enforcement of laws through the prosecution of offenders, tracking and seizing of proceeds from illegally traded oil will limit the impunity with which criminals currently engage in the vandalism

¹¹⁴ Oketola, "Missing Oil Revenue, Crude Theft Threaten Nigerian Economy".

¹¹⁵ Laws of the Federation of Nigeria 2004 CAP E1.

¹¹⁶ Laws of the Federation of Nigeria 2004 CAP E1 s.6.

of pipelines and also in the trading of illegal crude oil. Electronic bills of lading should also be introduced to curb the ease with which manual or paper bills of lading are manipulated to cover up illegally obtained crude oil.

Nigeria faces a variety of complex internal and external security challenges. While the Government of Nigeria is focused on defeating Boko Haram in the North East, it is also grappling with conflicts in the South East and Middle Belt in which Oil and gas sector is the most affected. Corruption has long diverted resources away from development and governance and fueled instability and violent extremism. The new government is working to stem the illicit flow of resources out of the security sector in order to maximize the resources available to fight insecurity and to enhance public confidence in the government. Discussions over the next few months will identify specific focus areas for SGI in Nigeria in order to improve the efficiency, effectiveness, and accountability of Nigerian security services¹¹⁷

While prominently stationed on the streets of Lagos and throughout the Niger Delta, the Nigerian police are often unable to enforce law and order. To a significant extent, the police themselves are engaged in criminal activities – particularly corruption and extortion - and are often feared rather than respected throughout society. This is particularly true of its elite, armed force, the Mobile Police, whose nick-name ‘Kill and Go’ gives a clear indication of many people’s continuing perceptions of its tactics, although some observers suggest considerable recent improvement in Police-community relations.¹¹⁸

The Nigerian armed forces are still used extensively for internal security purposes, particularly in the oil-rich Niger Delta. Like the police force, the armed forces command little respect and trust among the public, but are widely feared for their coercive capabilities. In the Delta, soldiers and navy personnel are extensively deployed on the streets as well as in the protection of oil resources and installations. The continuing conflict in the Delta is highly complex, involving

¹¹⁷ Security Governance Initiative :2015 a report by African Bureau affairs March 2nd 2016

¹¹⁸ Human Rights Watch (2003) Nigeria: Renewed Crackdown on Freedom of Expression (New York); Human Rights Watch (1999) The Price of Oil- Corporate Responsibility and Human Rights Violations in Nigeria’s Oil-Producing Communities (New York)

Numerous actors and agendas, and often presented in terms of ‘resource control’. Perhaps best described as a low-level insurgency, the situation has remained highly conflictual and violent with an average death toll estimated at approximately 1,000 people a year.¹¹⁹

While there is a long tradition of employing so-called ‘mai-guards’ as watchmen in Nigeria, the first company providing uniformed guards was Nigeria Investigation and Security Company (NISCO), founded in 1965 and still in business. A steady growth occurred during the 1970s and 1980s, while the expansion of the sector gained renewed force following the inauguration of the Fourth Republic in 1999, which ended Nigeria’s ‘pariah status’ and brought a new wave of foreign investment and business to the country. A relatively recent and controversial development is the arrival of international security companies, most notably Outsourcing Services Ltd. OSL started operations in 2002, as part of the South African company Gray Security, which was subsequently bought by Securicor and is now part of the newly-merged global security company Group4Securicor. Other international companies are also increasingly involved in Nigeria, most notably in the fields of risk analysis and consultancy.

As insecurity continues to increase, so does the demand for private security services and many transnational companies now employ expatriate risk consultants from companies like Control Risks International and Armor Group, in addition to their own in-house security staff and commercial PSC guards. International companies, such as OSL/Group4Securior, also offer extensive risk analysis and consultancy services, embedded in their overall security service to clients.

Kiobel v. Royal Dutch Petroleum¹²⁰ (10-1491) Petitioner Esther Kiobel, representing a group of individuals from the Ogoni region in Nigeria, filed a class action lawsuit against Respondents, the Royal Dutch Petroleum Co., Shell Transport and Trading Company PLC, and Shell Petroleum Development Company of Nigeria, LTD (“Royal Dutch”) under the Alien Tort Statute (“ATS”). The ATS grants jurisdiction to some federal courts for certain violations of international law. Petitioners allege that Royal Dutch aided the Nigerian government in committing various acts of

¹¹⁹ G. Gore and D. Pratten (2003) ‘The Politics of Plunder; The Rhetoric of Order and Disorder in Southern Nigeria’, *African Affairs*102(407), pp. 211-240; J.G. Frynas (2001) ‘Corporate and State Responses to Anti-Oil Protests in the Niger African Affairs102(407), pp. 211-240; J.G. Frynas (2001) ‘Corporate and State Responses to Anti-Oil Protests in the Niger African AffairsDelta’, *African Affairs*100(398), pp.27-54.*African Affairs*100(398), pp.27-54

¹²⁰ *Kiobel v. Royal Dutch Petroleum*¹²⁰ (10-1491)

violence against protestors of the oil exploration projects in the Ogoni region. Petitioners claim that they have standing to sue under the ATS because the history, text, and purpose of the statute support the application of the ATS to actions in foreign countries. Petitioner also contends that previous court decisions interpreted the ATS to extend beyond U.S. territory. In response, Royal Dutch argues that the ATS is not an exception to the presumption that U.S. law does not apply extraterritorially, and should not be applicable to actions outside of the U.S. The Court's decision in this case will clarify the reach of the U.S. federal courts' jurisdiction over certain extraterritorial tort claims.

The case of Shell vs Nigeria where The Anglo-Dutch oil giant argued the case should be heard in Nigeria, pointing out it involves its Nigerian subsidiary SPDC, which runs a joint venture with the government, and Nigerian plaintiffs. Under Nigerian law, the company is not required to pay compensation for spills caused by sabotage or theft. The oil firm insists the areas in question have been heavily impacted by crude oil theft, pipeline sabotage, and illegal refining, citing these factors as primary sources of pollution across the Niger Delta.

The judge found that the Nigerian Oil Pipelines Act does not hold pipeline operators responsible for damage caused by oil theft but he identified exceptions, for example if a company did not install surveillance or anti-tampering equipment, or if it knew the time and location of a planned attack by criminals and decided not to inform the police.

This is a highly significant judgment. For years, Shell has argued that they are only legally liable for oil spills that are caused by operational failure of their pipelines and that they have no liability for the devastation caused by bunkered [stolen] oil. This judgment entirely undermines that defense and states in clear terms that Shell does have potential liability if it fails to take reasonable steps to protect its pipelines.

Supreme Court in the case of **FRN VS Osahon (2006) 5NWLR part 973 page 361** stated clearly the position of the law with respect to Police powers of prosecution. "It should be noted that the Nigeria Police Force as an organisation has the highest number of lawyers in its establishment who are currently undertaking prosecution as provided in the ACJ ACT 2015

The case of Klockner v Republic of Cameroon ICSID Case No. ARB/81/ where the tribunal noted that the role of international law is both complementary in the sense of filling the lacuna that might exist in the contracting state's law) and corrective i.e. overrides the contracting host state laws in event of conflict between the two.

The case of Nigerian "Spy Police" vs ExxonMobil, insecurity in Nigeria's oil industry has helped push crude prices to record highs, the case poses a thorny legal and political tangle for ExxonMobil and other petroleum multinationals in Nigeria, the world's seventh-largest oil exporter and fifth-largest source of U.S. imports. Like other oil companies in Nigeria, ExxonMobil depends on police and military protection in the swampy oil-producing delta, where gangs of activists, ethnic militants and thugs frequently attack installations, sabotage facilities and take workers hostage in a bid to extort company payoffs. Yet companies fear being linked with the numerous killings, rapes and other rights abuses blamed on Nigeria's notoriously heavy-handed security forces, some units of which have been nicknamed Kill and Go by residents. In 1999, troops gunned down as many as 1,000 people in the oil-producing town of Odi, apparently in retaliation for the slaying of police force members.

Nigeria's police force outlines the force's structure but does not mention the existence of the thousands of spy police protecting the oil industry or uncounted others deployed to foreign and domestic banks and other firms.

The security of the oil industry is vital for the Nigerian economy. In recent years, this situation has become progressively more unstable and the operations of the oil companies more insecure. The conflicts in the Delta are numerous and complex, involving multiple political and economic agendas and actors. The oil companies, and their installations and employees, are at the center of these conflicts for a number of reasons. Oil production has sometimes caused environmental damage and social dislocation, leading to protest and discontent among the effected local communities who reap few benefits and whose share of oil-based revenues has for decades been eroded by the federal government. With such instances in place, the role played by police has been rendered very vital in ensuring that there is peace accorded to both parties that is those affected and those who are responsible for these effects as the Oil industry is concerned. Instances have happened where the role of police has been put to test where the police has failed to uplift their required mandate of ensuring peace and protection but instead has been used by Oil Companies to help out in uncouth and malicious activities which for the case of Nigeria as an example resulted

into human rights violations, a lesson Uganda as a country especially the Police and other security agencies in question ought to understand and learn the dynamics of the Oil and Gas industry not to repeat similar mistakes. This can be elaborated using the case of **Ogoni vs Shell** where the Ogoni an ethnic group in Nigeria situated in the Niger Delta of southern Nigeria. For the Ogoni, and the people of Nigeria, Oil and Oil companies have brought poverty, environmental devastation and wide spread, severe human rights abuses of which all these activities destroyed the Ogoni's way of living. The Ogoni peacefully rejected some of the activities in their region that were being carried out by Shell, as the Ogoni peaceful movement grew, so did the Nigerians government and shell's brutal campaign against the Ogoni. In early 1993, shell requested military support to build a pipeline through Ogoni. When plaintiff Kogbara was crying over the resulting bulldozing of her crops, she was shot by Nigerian troops and lost an arm as a result. In a separate incident later that year, plaintiff Uebari N-ah was shot and killed by soldiers near a Shell flow station; the soldiers were requested by and later compensated by Shell. Shells involvement was in a way that it had continued close relationship with the Nigerian military regime during the early 1990s. The oil company requested an increase in security and provided monetary and logistical support to the Nigerian police. Shell frequently called upon the Nigerian Police for "security operations" that often amounted to raids and terror campaigns against the Ogoni. With such incidents, beginning of 1996, the Center for Constitutional human rights, Earth Rights International and other human rights attorneys brought a series of cases to hold shell accountable for human rights violations in Nigeria including summary execution, crimes against humanity, torture, inhuman treatment and arbitrary arrest and detention. The cases were brought under various statutes like the Alien Tort statute, a 1789 statute giving non- Us citizens the right to file suits in U.S courts for international human rights violations, and the torture Victim Protection Act, which allows individuals to seek damages in the U.S for torture or extra judicial killing, regardless of where the violations take place. The United States District court for the Southern District of New York set a trial date of March 27, 2009. On the eve of the trial, the lawsuits were settled for \$15.5 million in what is being hailed as a milestone moment in the movement towards corporate accountability and human rights.

Over the years, the activities and practices of the oil companies have also contributed to inter-communal conflict, as payments for land rent, compensations or other company benefits such as development programmers and social funds have become spoils to be fought over. Excluded from access to oil wealth, attacks on the companies and their property have become a prime source of

income – for example through crude oil theft and intentional pipeline damage in order to get subsequent contracts for the repair and guarding of pipelines, or in order to receive compensation for oil spills. Moreover, the oil companies are targeted because of their perceived direct connections to and collusion with the Nigerian state, and they are often seen as the main point of pressure through which an unresponsive government might be influenced.

As the security situation in the Niger Delta has worsened over the past decade, the companies have also integrated armed components of the public police directly into their operations. These range from armed officers of the Nigerian Police Force, who also act as dog handlers in many operations, to the more heavily armed, paramilitary MoPol. Again, the numbers are considerable, with Shell utilising approximately 600 Police and MoPol officers in its operations. Unlike the Spy police, the oil companies do not have direct control over these police forces. While operational authority is in the hands of a senior company security official and police officers are instructed to comply with the oil company's 'guidelines for the use of force' or 'code of conduct', the Police have their own commanders and supervisors and receive their orders within this line of command.

Increasingly, the oil companies are supplementing their use of public security forces with the services of PSCs. Many companies utilize a combination of Spy and PSCs for guarding, and there is also an expanding use of security consultants from global firms such as Control Risks International, Armor Group, and Group4Securicor, who are embedded in the companies' security structures. The most extensive PSC involvement in Nigeria's oil sector is OSL's contract with Chevron Nigeria Ltd. (CNL), Chevron contract in October 2002, replacing a number of local companies that had previously provided manned guarding alongside the Spy police. While the initial contract was for guarding at CNL's headquarters in Lagos, the two logistical bases in Port Harcourt and Warri, as well as the operational base in Escravos, OSL's engagement with Chevron has since expanded significantly beyond more traditional guarding activities. One of Group4Securicor's biggest contracts on the African continent.

The Nigerian National Petroleum Corp. pledged to coordinate with the national police force on ways to address what the oil company said were "incessant attacks" on oil and natural gas installations in the country.¹²¹ The attacks on oil and gas facilities are taking a toll on the national

¹²¹ Nigeria oil Company working with security forces by Daniel J.graeber www.upi.com as assessed on 1st June 2017

budget with massive shortfalls in revenue as well huge losses in petroleum products, environmental degradation, refineries shutdown and loss of lives.

The years of unrest in the Niger Delta limited crude production which only recovered following the 2009 amnesty programme initiated by the Federal Government. Prior to the amnesty, the unrest in the country's oil producing belt threw up criminal gangs and militants attacking oil facilities, with the main targets being to blow up pipelines.¹²²

Although the unrest has been reduced, criminality – largely induced by crude theft – remains widespread. Millions of barrels of oil and condensate are stolen in the country each day. Hijackers of tankers in the Gulf of Guinea have raided ships, siphoning fuel cargo and diverting the stolen product to the lucrative black market.

The personnel and the facilities that make up the oil and gas industry in the Niger Delta as well as the civilian population require security. Nigeria's economy depends on it. In order to make the region more secure, the federal government needs to strengthen the Joint Military Task Force (JTF), improve on the gains of the amnesty programme and prosecute sponsors of criminal activities. The Joint Military Task Force (JTF) has the mandate of securing the Niger Delta, particularly oil facilities in the region. The military outfit has been stretched thin by the daunting task of securing and policing the region. There is the need to make the JTF more efficient by deploying more men to the task force, ensuring that the men undergo the state of the art training in combating the peculiar challenges that the region is known for and ensure that they have the modern equipment.¹²³

5.5 Legal analysis on international best practice in Tunisia Police force in the petroleum sector

The Government of Tunisia (Government of Tunisia) has expressed a strong interest in working on security sector reform issues through Security Governance Initiative. Since the Arab Spring uprising in 2011, Tunisia has been working to institutionalize its new democracy. However, the Government of Tunisia faces several security governance challenges as it works to counter its

¹²² <http://africaoilgasreport.com/2013/01/opinion/the-return-of-oil-industry-kidnappers/> as accessed 14th February 2015.

¹²³ Ibid.

many threats. The three Security Governance Initiative focus areas in Tunisia address shared security interests. As in Kenya and Ghana, porous borders have facilitated the flow of armed groups, weapons, and illicit trade into Tunisia, contributing to Tunisia's growing terrorist challenge. Under Security Governance Initiative the U.S. government will partner with the Government of Tunisia to improve Border Management by enhancing coordination among the various ministries with responsibilities for border control. By improving police policies and procedures, especially with respect to community engagement, SGI will help the GOT build public support for its security forces, by enhancing their legitimacy and improving transparency, all of which are crucial to ensuring citizen security.

Security Governance Initiative will work with the Government of Tunisia to strengthen the judiciary and law enforcement agencies as legitimate democratic institutions and to help address key drivers of radicalization. This SGI partnership will facilitate a strategic approach to address these issues and identify Tunisian-led solutions to their most pressing security sector governance concerns.

South Africa

South African Petroleum Industry Association (SAPIA) has broadened its environmental scope to include health, safety and security. This integrated approach is essential in ensuring sustainability of operations by minimizing risk to people, environment, assets and reputation. In addition to this SAPIA members face an array of non-technical risks. The oil industry remains unshielded by the local and global socio-economic challenges. Fuel remains a high value commodity. The industry's security challenges include fuel theft, vehicle hijackings, ATM bombings, armed robberies, piracy, and potential terrorist's threats, organized syndicates involved in bulk theft, strikes and social unrest among others.

South African Petroleum Industry Association's focus has been two-fold. An internal focus which includes joint security risk assessments to proactively address potential risks and threats as well as the use of leading security technologies to address some of our security challenges. The external focus is working with industry bodies, government and other stakeholders towards holistically addressing key security challenges such as hijacking and organized crime. SAPIA has taken many steps to prevent crime, such as establishing the health, safety, security and environment committee, security sub-committee and refinery managers' safety committee whose main focus is to address

security issues and manage crime fighting projects. The industry has also united with government, the business sector, and representative associations to fight crime and make South Africa a safer country. SAPIA maintains an active, industry-wide security and crime prevention program aimed at maximizing the security and well-being of customers, employees, service station forecourts and assets.

The petroleum industry has implemented a number of initiatives to further minimize crime, such as improved cash-handling procedures by retailers and enhanced service station design which includes the addition of bullet-proof glass, panic buttons and closed circuit television systems at forecourts. Service station staff members are being empowered through specialized training programs in the areas of robbery prevention and survival techniques. Staff members also receive regular information about crime pertinent to their operations in the form of newsletters and alerts. In addition, close liaison is being maintained with the South African Police Service (SAPS) to ensure a full investigation into every crime and to incorporate the findings into enhanced security measures.

The South African Police Services (SAPS) is the national police force and the principal law-enforcement agency of the Republic of South Africa.

The Private Security industry in South Africa is regulated by the Private Security Industry Regulatory Authority (PSIRA). Due to a robust and encouraging regulation, South Africa's Private Security industry boasts of about 9,320 registered companies and more than 400,000 Private Security Guards. In terms of ownership of Private Security Company in South Africa, a recent amendment stipulates that "51% ownership of a Security Company must vest in South African citizens". Also, the process, cost of getting the required license and paper work is not as cumbersome and expensive as it is in other African Countries like Nigeria so Uganda should take a cue from the aforementioned best practices.

5.6 International Case Studies

The United Kingdom

The UK faces a number of potential threats to its national infrastructure. As a key industry sector, responsible for the fuel supply on which much of industry and society depend, the downstream oil industry is subject to threats posed by cyber-attack, espionage and terrorism, as well as flooding,

storms and other natural hazards. UKPIA United Kingdom Petroleum Industry Association and its member companies work closely with the Police and Fire and Rescue Services, the Home Office, other Government Departments and the Environment Agency to mitigate against these threats.

The Emergency Preparedness Offshore Liaison (EPOL) Group was established in 1995 by individuals from various Oil and Gas Operators in Aberdeen, supported by Grampian Police (now part of Police Scotland) and the Maritime & Coast Guard Agency (MCA). The work of EPOL Group relates specifically to the Offshore Oil & Gas Industry in the Northern North Sea (including West of Shetland) sector of the United Kingdom Continental Shelf - north of 55.5 degrees (the body of water which normally falls under Police Scotland jurisdiction). Although guidance produced by EPOL Group is considered to be good practice and as such, is shared with other UK Police Forces with offshore responsibilities through the UK Police Offshore Energy Group (UKPOEG), it should not be assumed that EPOL Group procedures will automatically apply in other areas of the UKCS or beyond.¹²⁴

In the United Kingdom, the process of registering and running a Private Security Company is seamless and very straightforward. The UK Security Industry Authority (SIA) grants two types of licenses: The Frontline and non-frontline. The license costs about £220 (about fifty thousand naira) for a three-year license. There is no proviso that you must be a UK citizen before you can be a director of a Private Security Company in the UK. You are good to go so long you are legally resident and you don't have a criminal background. Sequel to undergoing stipulated training, acquiring either the front line or non-frontline license and registering/incorporating your company, you are entitled to run a Security company. Of course, in many European countries and America, one can have a company incorporated within 48 hours and costs as low as £15 in the United Kingdom.

Ireland

Oil is at the core of societal and economic well-being and will remain so in the medium term until such time as we develop alternatives. The downstream oil market in Ireland is fully privatized, liberalized and deregulated.

¹²⁴ <https://www.epolgroup.co.uk/about-us/> as accessed on 1st June 2017

The Private Security Authority (PSA) in Ireland which was established pursuant to the Private Security Services Act 2004 is the statutory body with responsibility for licensing and regulating the private security industry in Ireland. The PSA issues two types of licenses:

(1) Contractor Licenses: required by companies, partnerships and sole traders providing security services in the Republic of Ireland and

(2) Individual Licenses (Employee Licenses): required by all those working in the security sector within the state whether employed by a licensed contractor or directly by a business as in house security personnel. Licenses are issued for a period of two years.

New entrants to the security industry (those without a turnover in licensable sectors) only pay the administration fee of €1,000 whereas an employee license is categorized into (a) Door Supervisor (licensed premises) license which costs €130 and (b) Security Guard (static) license which costs €80. A combined license (Applied for at the same time) costs €190.

Conclusion

Security is quite a risk which is often, quantitatively, represented as any event that compromises the assets, operations and objectives of for example an organization or at this juncture of this research, the economy of a nation. The Uganda Police Force has a clear role to play as far security in the petroleum region is concerned. But with these being a new industry it is paramount that International best practice be the Centre stage at which Uganda begins the road to secure the oil, gas and other related mineral rich regions of Uganda.

CHAPTER SIX

6.0 Conclusion

This study is unique and its contribution to knowledge is that though many countries have had studies on legal regime on role of Local Police Force in ensuring security in petroleum regions the findings both qualitative and quantitative have shown that the security of the oil environment is very dynamic with ever changing threats hence creating a need for sustainable military capability and combat readiness. The security environment is comprised of five strategic areas that need to be well attended to by the Uganda Police Force i.e. border insecurity, internal insecurity, external

insecurity, and technological capability of other countries which if overlooked may undermine the effectiveness of Uganda's security Capability as we looked through in our interpretation chapter.

Security encompasses freedom from fear, intimidation and other pressures or threats, real or potential, from whatever source, that would undermine the basic rights, welfare and property of the people of Uganda, the territorial integrity of the state, or the proper functioning of the systems of governance. Without security and tranquility, national issues become less relevant to the individual who focuses increasingly upon survival. At its extreme, the citizens feel unprotected from both internal and external threats limiting their ability to support and contribute to national development efforts. The diverse security threats in the oil sector and dilemmas that Uganda faces require diverse responses.

This study is unique and its contribution to knowledge in that it shows that **UgandaPolice Force** needs to develop a security policy based on an assessment of the factors that threaten security interests in the oil region. For example, the instabilities in DRC and CAR continue to prolong the existence of armed groups like ADF and LRA which pose a security threat to Uganda and the Petroleum Region.

6.1 Recommendation to the Directorate of oil and gas in Uganda Police Force

1. The Directorate of Oil and gas in Uganda Police Force should be equipped with skilled personnel to detect the white-collar crimes that occur usually in the oil and gas industry which is quite a challenge to ordinary personnel.
2. To Equip the Cyber unit with capacity to protect the various technical operations from hacking which is a global challenge that can easily destabilize the operations in the oil and gas Installations.
3. To prepare skilled man-power with capacity to investigate any incidents that are criminal in nature that could have arisen in the oil and gas industry in the course of operations.

6.2 Recommendations on Operation and Security Strategy

In order to counter the increasing security threat to the oil and gas industry worldwide it is recommended to engage in a proactive global two-pronged initiative, combining aspects of

security strategy and operational security. This is a clear role for which UPF should put in place in order to ensure security in the petroleum region of Uganda.

Security Strategy

Terrorists are likely to deploy increasingly sophisticated modes of attack, including: (a) Synchronized attacks on several components of the oil and gas fuel cycle; (b) Hostile acts against security forces responding to the emergency. Therefore, security of the oil and gas fuel cycle, from the front end of exploration to the back end of supply and distribution, will have to be considered a national strategic issue. A possible way forward could be the application of the Concept of Integrated Physical Protection, consisting of:

1. State-of-the-art technical and operational countermeasures, enabling the management to reduce the probability of success of a terror attack;
2. Increased emphasis on Corporate Security Culture, thereby strengthening corporate resilience to the consequences of a terror attack and minimizing the insider threat;
3. Continuous Security Training at all levels in order to reduce the probability for a terror attack to happen and to reduce downtime after a terror attack;
4. Regular Threat and Risk assessment in order to identify, qualify and quantify risks and countermeasures in a changing environment;
5. Evaluation and update of strategies and countermeasures based on risk analyses by considering the cost benefit factor;
6. Strengthen the cooperation with related government security agencies and first responders.

Operational Security

Major efforts are currently underway to strengthen assessment and countermeasure capabilities and thereby minimize security risks in the petroleum region:

- a) Technological Developments: Integrated 3D-Vulnerability Assessment using advanced geographical information systems and combining satellite monitoring data with ground-based data sets; Real-time information using seismic sensing alarms for instant notification of rapid-response

teams; Deployment of UAV equipped with automatic weapons; Unmanned helicopters capable of image processing; Fortification of pipelines with external carbon fiber wrap

b) Training and Policy by UPF: Implementation of Industrial corporate security awareness programs (ICSAP) to develop a security culture and policy. Security training for all personnel, security strategies for human resource management and administration. Insider identification strategies and cooperation with First responder (drills and training). Contingency planning, crisis and disaster management on all levels. Global communication and marketing of security as a preventive tool.¹²⁵

It's important to note that Training should be on oil and gas and other related minerals.

6.1 General Recommendation to the Ugandan Government

1. Government should be able to highlight the roles of Uganda police force in the oil and gas sector.
2. Government should give adequate facilitation to Uganda Police Force to safeguard the Oil and gas region the pipelines the installations to avoid terror attacks

3. As Training the UPF personnel takes place it should not only be on oil and gas

6.2 The following recommendations are made with regard to legal, policy and institutional framework regarding security in the petroleum sector in Uganda

There is need to:

Review the Ugandan legal and policy framework on oil exploration to incorporate and realize security principles on natural resources management as espoused under the new Constitution of Uganda.

Further, the Petroleum (Exploration and Production) Act must be amended to reflect the dynamics of the recent security concerns that may arise in the sector and that may affect the roles of UPF in putting up a security strategy in the petroleum region.

¹²⁵ Security Risks to the Oil and Gas Industry: Terrorist Capabilities Strategic Insights, Volume VII, Issue 1 (February 2008) by Friedrich Steinhäusler,

In terms of policy reforms, there is need to adopt a clear Security framework. Borrowing from Ghana establishing a Marine Police Unit to extend police structures and facilities to remote areas within the oil and gas zones in the Western Region to address all security concerns that might arise in the sector. Police administration was holding discussions for the establishment of a Marine Police Training School to train personnel for the proposed Petroleum and Maritime Police Unit. Central government should devolve the management of oil resources to the county government without limiting or watering down its sovereignty on natural resources. Further, it is incumbent to institute a policy framework geared at ensuring optimum regulation the country's oil and gas resources contribute to early achievement of poverty eradication and create lasting value to society.

The Ghana police service has a clear mandate of ensuring security within the country in order that all persons within Ghana can go about their work in peace. When oil was discovered, the police developed a strategy to contribute to ensuring peace and security within the region and provide patrols in support of the Navy within Ghana's territorial waters.¹²⁶

In reviewing the legal, institutional and policy framework for oil exploration, efforts should be made to draw input from both the private sector and oil exploration and production stakeholders, the community and public in general and civil society to ensure the final product is inclusive and futuristic in aiming for and facilitating success in ensuring security in the oil exploration areas that will benefit all the stakeholders involved. For example, Borrowing from South African Law, Uganda should have adopted a Private security industry Authority of Uganda.

Other Recommendations

Uganda Police Force should be obliged under the contracts or the law to undertake regular risk based due diligence to ensure that their activities do not fund conflict or human rights abuses and to actively participate in conflict mitigation and resolution programs where instances occur.

¹²⁶Governance of the petroleum sector in an emerging Development Economy by Kwaku Appiah Adu

Companies should be required to commit funds in advance, or through indemnity, to compensate victims of human rights violations.

Refineries may be a target of terrorism or sabotage and therefore sites must be extremely secure while allowing effective daily operations and maintenance. It is important to prevent any unauthorized access.¹²⁷

Oil and gas pipelines, globally have been a favored target of terrorists, militant groups and organized crime. Uganda should learn from other countries mistakes so as to be ready for such experiences in the future of this sector. For example, In Colombia, rebels have bombed the Cano Limon Oil pipeline and other pipelines over 950 times since 1993.¹²⁸In 1996, London police foiled a plot by the Irish republican Army to bomb gas pipelines and other utilities across the city.¹²⁹Militants in Nigeria have repeatedly attacked pipelines and related facilities including the simultaneous bombings of three oil pipelines in May 2007.¹³⁰

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¹²⁷ Ibid.

¹²⁸ Government Accountability office (GAO), Security Assistance: Efforts to secure Colombia's Cano Limon Covenas oil pipeline have reduced Attacks, but challenges remain GAO-05-971 September 2005, p.15

¹²⁹ Presidents Commission on critical Infrastructure protection, Critical Foundation: Protecting America's Infrastructure, Washington DC October 1997

¹³⁰ Katherine Houreld, 'Militants say 3 Nigeria pipelines bombed, Associated press, May 8 2007

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**BACKGROUND INFORMATION ABOUT THE RESPONDENTS FOR THE
UGANDAN COMMUNITY/AUTHORITIES**

Sir/Madam

I am ISIAH IGUMIRA a student of Uganda Christian University currently carrying out a research on “Legal analysis on the role of the Uganda Police Force in protecting Uganda petroleum sector. “Your insight in this area will greatly be of significant importance in addressing the security issues as far as the petroleum sector is concerned. Therefore the information rendered is for study purposes and remains confidential. I will be grateful for your participation.

Thank you.

Appendix I:
QUESTIONNAIRE
RESEARCH INSTRUMENTS

Section A. face sheet Profile of the respondents

Background information

What is your profession?

1. Police officer
2. Community leader
3. Others

How long have you worked in your profession?

1. 1-2 years

2. 2-3
3. 4-5 Above 5

What is your education level?

1. Below degree
2. Degree
3. Others

QUESTIONS

Indicate the extent to which you agree or disagree with the following related to role of Uganda Police Force in the legal framework below; 1=agree; 2=strongly agree; 3=Disagree; 4=strongly disagree; 5=not sure

- a) Is the existing Legal regime concerning security in Uganda's Oil and gas sector well managed? _____
- b) Is the Petroleum Exploration, Development & Production Act sufficient in ensuring security in the petroleum sector in Uganda? _____
- c) Is the National Oil and gas Policy of Uganda Relevant to cater for security in Uganda's Petroleum sector? _____
- d) Is the Petroleum and Supply Act efficient in ensuring security in Uganda's petroleum sector? _____
- e) Is the Constitution of Uganda bench marking security concerns? _____
- f) Is the National Environmental Act sufficient in promoting security in petroleum sector of Uganda ? _____
- g) Is there sufficient security in the oil and gas sector? _____
- h) What Security challenges does the Oil Security Face?

- i) What Security Challenges does the community face?

- j) What security Challenges does the employees in the Oil sector face?

- k) How can the existing Legal framework be improved to ensure efficient security in the oil and gas sector?

l) What are the outstanding issues on the role of UPF in ensuring security in the petroleum sector?

m) What recommendations do you make to solve the above problems?

- Amend the Laws
- Facilitate the Police
- Train the workers/Community
- Others

INTERVIEW GUIDE

1. In your opinion what is the role and strategies of the Uganda Police Force in ensuring Security in the petroleum sector?

2. What are some of the sources of insecurity faced by UPF in ensuring security in the Albertine region?

3. What International Best Practice would you suggest to the Ugandan legal framework to strengthen internal security issues?

4. What Recommendations would you make to ascertain the security level of the petroleum sector in Uganda?

Appendix II: Table for Determining Sample Size from a Given Population

N	S	N	S	N	S	N	S	N	S
10	10	100	80	280	162	800	260	2800	338
15	14	110	86	290	165	850	265	3000	341
20	19	120	92	300	169	900	269	3500	246
25	24	130	97	320	175	950	274	4000	351
30	28	140	103	340	181	1000	278	4500	351
35	32	150	108	360	186	1100	285	5000	357
40	36	160	113	380	181	1200	291	6000	361
45	40	180	118	400	196	1300	297	7000	364
50	44	190	123	420	201	1400	302	8000	367
55	48	200	127	440	205	1500	306	9000	368
60	52	210	132	460	210	1600	310	10000	373
65	56	220	136	480	214	1700	313	15000	375
70	59	230	140	500	217	1800	317	20000	377
75	63	240	144	550	225	1900	320	30000	379
80	66	250	148	600	234	2000	322	40000	380
85	70	260	152	650	242	2200	327	50000	381
90	73	270	155	700	248	2400	331	75000	382
95	76	270	159	750	256	2600	335	100000	384

Note: “N” is population size

“S” is sample size.

Source: (Krejcie & Morgan, 1970)

**APPENDIX III
INFORMED CONSENT**

I am giving my consent to be part of the research study of **Mr. Isaiah Igumira** that will focus on

**“A LEGAL ANALYSIS ON THE ROLE OF THE UGANDA POLICE FORCE IN
PROTECTING UGANDA’S PETROLEUM SECTOR”**

I shall be assured of privacy, anonymity and confidentiality and that I will be given the option to refuse participation and right to withdraw my participation anytime.

I have been informed that the research is voluntary and that the results will be given to me if I ask for it.

Initials: _____

Date: _____

APPENDIX IV

Introduction letter