

**EXAMINE THE EFFICACY OF LOCAL CONTENT REGULATORY REGIME  
IN ENHANCING SOCIAL WELFARE OF PEOPLE IN THE OIL AND GAS  
SECTOR**

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**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW IN PARTIAL  
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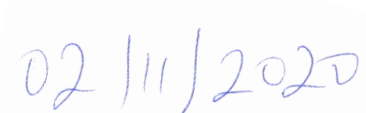
**OCTOBER, 2020**

**DECLARATION**

**I, KAKUNGULU EASTUS**, do hereby declare that this research report entitled examine of the efficacy of Uganda’s local content regulatory regime in enhancing social welfare of Ugandans in the oil and gas industry is entirely my original work, except where acknowledged, and it has never been submitted to any other university or any other institution of higher learning for the award of a Degree. I also certify that this dissertation was prepared by me specifically for the partial fulfilment for the degree of masters of law in oil and gas of Uganda Christian University.

**SIGNATURE**.....

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**DATE**.....

## APPROVAL

This is to certify that this Dissertation entitled Examine the Efficacy of the Local content Regulatory Regime in enhancing the social welfare of Ugandans in the oil and gas sector has been done under my supervision and now it's ready for submission.

SIGNATURE.....

NAME. RUTARO ROBERT.

DATE.....

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## **DEDICATION**

This dissertation is dedicated to my parents Mr. Kakungulu Cesar and Mrs. Kakungulu Norah.

I am humbled to also dedicate this dissertation to my lovely s to whom has brought joy and aspiration in my life, I cannot forget my siblings my four sisters, Immy, Vicky, Resty , Noel, Voila, Judith and my brothers Jonah and Aaron Baawa who' have tirelessly supported me morally emotionally and have always believed in what I strive for. I thank God for this my family that has been such an Integral part of my life and for having seen me through my studies.

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I extend my deep appreciation to my supervisor Mr. Rutaro Robert, a lecturer of Faculty of Law Uganda Christian University for his full support, guidance and advice provided during the study that made it possible for me to successfully complete this report and convenience he offered to since you were also a call away. May the Almighty God bless you with whatever your heart desires.

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May Almighty Lord bless you abundantly.

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## LIST OF ACRONYMS

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

## **LIST OF AUTHORITIES**

The Petroleum (Exploration, Development and Production) Act, 2013 The Petroleum (Refining, Conservation, transmission and Midstream Storage) Act, 2013 The Petroleum (Refining, Conversation, Transmission and Midstream Storage) (National Content) Regulations, 2016

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

National local content Act, 2019

Access to information Act 2005

Uganda local content Act, 2019 ,

The Constitution of the Republic of Uganda 1995

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## ABSTRACT

Local content and welfare of people in the oil and gas sector has always been a long-term objective for most resource endowed nation as a strategy of optimizing on their economic benefit from the resources trickle down to the people of that particular country where the resource has been discovered. This is aimed at ensuring social and economic transformation of the people in the oil and gas sector. In recent years, many countries entering into oil and gas production agreements have incorporated local content provisions in their laws and regulations aimed at ensuring the welfare of people within the oil and gas sector that the state and countries reap more from the resource as a way of enhancing social welfare of Ugandans in the oil and gas industry.

This has been a response to the historical paradox of plenty which is always associated with a resource curse that has been evident in most resource rich countries in Africa, Asia and in the Latin America where countries have faced both economic and political instabilities due to mismanagement of the countries resources through massive corruption from the top to the bottom where it has only been those that wheel the powers who have been able to benefit from the minerals leaving the rest of the people in absolute poverty. This explains political instabilities in this resource prone countries since the industry in most countries failed to cater for the welfare of the Ugandans in form of employment and skills by the international oil companies.

This thesis stipulates that Uganda like the rest of other nations can become prone to the paradox of plenty if the issues to do with the welfare of people is not adequately dealt with since its rich extractive industries couples with huge quantities of minerals oil and gas inclusive. It needed to come up with an effective local content policies, regulations and laws that must ensure that the rest of the economy receives trickle-down effect of the oil and gas benefit effectively so that scores and seeds of discontent among Ugandans can be minimized through enhancing the welfare of Ugandans in the oil and gas industry.

This paper concludes that the local content regulatory regime is effective in enhancing social welfare of Ugandans in the oil and gas sector. However, the implementation strategies and balancing the local content policies and investments to avoid those policies that may hinder the growth of the oil sector, For example the absence of skilled manpower, technologies and inadequate locally quality goods which is a legal requirement and this will effectively have an advance impact on the social welfare of people in the oil and gas sector.

## CHAPTER ONE.

### GENERAL INTRODUCTION.

#### 1.1 Introduction.

This study examined the implementation of local content legal Regime in the oil and gas in Uganda in ensuring the welfare of the Ugandans through creation of employment and skilling Ugandans in the oil and gas sector. Many countries engaged in Oil and Gas production or mining are introducing requirements for participation commonly referred to as ‘local content’<sup>1</sup>, This is increasingly so in the developing world mainly in Africa, Asia and Latin America. Local content requirements are mainly in form of policy and regulatory measures that focus at increasing use of the locally available labour, technology and other resources in the Oil and Gas sector. The focus is on transfer of technology by companies engaged in the extractive resource sector to the native people of a particular nation with a hope of assuring them income, employment and ultimately sustainable development and all these aimed at enhancing social welfare in the oil and gas sector.

In the past 10 years, a number of countries including Kenya, Ghana and Uganda have discovered commercially viable quantities hydrocarbons reserves. This has prompted the government to come up with regulatory and policy framework aimed at ensuring that these countries local population significantly benefits from the oil and gas sector. For example, Uganda formulated the Oil and Gas Revenue policy of 2012, the National Oil and Gas policy of 2009, the petroleum (Exploration, Development and Production) Act 2013<sup>2</sup> and the upstream and Midstream Acts, the National Local Content Regulation of 2016 and Local content Act of 2019. Kenya enacted the petroleum Act of Kenya and National local content Act of Kenya, finally Nigerian Oil and Gas Sector Content Development Act of 2010.

This has made policy makers in such countries like Kenya, Uganda and Ghana to enact legislations and policies in order to obtain greatest benefits for their economies from the extraction industry of oil and gas from exhaustible resources by designing appropriate policies to achieve the desired goals like creating more employment opportunities for the local population, boosting the economic benefits of the oil and gas resource to the entire economy

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

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



through strengthening inter sectorial linkages in the economy aimed at improving the economic development of these resource prone countries.

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

## **1.2 The concept and meaning of local content.**

The definition of local content has many dimensions and it varies between economies. Local content policies are concerned not only with an immediate increase in local content for example increasing the percentage of local employment in the petroleum sector<sup>7</sup>. However, according to Collier and Paul,<sup>8</sup> local content also captures actions that will lead to its long-term increase such as the provision of training in appropriate skills to the local labour force that will in turn improve the social and economic welfare of Ugandans in the oil and gas sector<sup>9</sup>. Note however, that such local content policies do not in any way lead to an automatic increase in levels of employment of the population and use of locally made materials and goods according

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

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

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

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

<sup>7</sup> Ugandan local content law, Columbia Centre for Sustainable Development and Investment a joint centre of Columbia Law School and The Earth Institute, Columbia University.

<sup>8</sup> Collier and Paul (2010) The Political Economy of Natural Resources, social Research 77(4):1105-1132.

<sup>9</sup> Website source. World Bank .org./ INTROGMC/ Resources/9680821388310>accessed 11<sup>th</sup> March 2019

to Frynas J.G.<sup>10</sup> but if carried out appropriately, can create and enhance local capabilities that can be transferred to other sectors.<sup>11</sup> This includes the development of skills that are common to all sectors as well as the creation and support of cluster developments with other industries that have natural energy with the petroleum sector<sup>12</sup>.

### **1.3 Background of the study.**

The presentation of the background was based on Amin<sup>13</sup> who put emphasis on discussing the historical, theoretical, conceptual and the contextual background.

#### **1.3.1 Historical Background.**

Local content has integrated itself into the international oil sector in ways that four decades ago would have seemed quite unlikely due to the hegemony of neoliberal economics Cimino, Gary, Hoffbauer & Schott,<sup>14</sup>. Local content in the Oil and Gas sector evolved from Brazil, Mexico, Chile, Oman, Kazakhstan and Indonesia. Major oil sector conferences such as the Global! Local Content Summit and the Global Local Content Council's 'NOCs and Governments Summit compete to attract delegates from government agencies and multinational corporations willing to pay thousands of dollars per person in registration fees so they can learn about the latest trends according to Cogan, Sharpe and Hertzberg.<sup>15</sup>.

Local content became a global concern in the 1970s as countries began forming their own national oil companies see Grossman.<sup>16</sup>. The development of local content has basically been a result of recognition that after years of Oil and Gas or mineral exploitation in many developing countries, little seems to be transferred to the citizens of these resource-rich countries in form of technology and employment see Matthews and Lynch,<sup>17</sup>.

Many citizens of resource-rich countries especially in the developing world tend to be mere spectators yet local content must focus on helping enhancing welfare of citizens participating in the oil and gas sector. This trend continues to exist in spite of the fact that

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<sup>10</sup>Frynas, J.G (2005). The false Development Promise of Corporate Responsibility: Evidence from Multinational Oil companies, *international Oil companies, International Affairs*, 81(3):581-598.

<sup>11</sup> Esteves A.M, B. Coyne and A. Moreno. Local content Initiative Sub national Benefits of the Oil and Gas and Mining, Briefing. Natural Resources Governance Institute for Information Science and Technology, (2013) 1089-1099.

<sup>12</sup>Silvana, Michael Warner, Manzano Osmel, E & Anouti Yahya, Local Content Policies in the Oil and Gas sector (the World Bank, Washington D.C 2013) 1.

<sup>13</sup> Amin E. *Analysing Social Research*, Kampala: Makerere University Printers, 2005.

<sup>14</sup> Cimino, Gary Clyde Hoffbauer & Jeffrey J Schott. A proposed Code to Discipline Local Content Requirements. Peterson Institute for International Economics Policy, Brief NoPB14-6, P. 1.

<sup>15</sup> Cogan A ..., Sharpe S & Hertzberg, J. Citizen Participation. In So, F. S, Hands, L., & Madewell, B. D (Eds.) *the practice of state and Regional planning*. Municipal Management Series, Chicago: American Planning Association.

<sup>16</sup> Grossman. *The Theory of Domestic Local Content Protection and Content Preference* (2004) 96<sup>th</sup>4 Quarterly Journal of Economics page 583.

<sup>17</sup>Grossman. *The Theory of Domestic Local Content Protection and Content Preference* (2004) 96<sup>th</sup>4 Quarterly Journal of Economics page 583.

many mining and petroleum companies in the developing world are given incentives such as tax holidays with a hope that they will be able to exploit the resource, provide employment for the natives and develop infrastructure which would enable the economy to develop which will in turn improve people living standards.

Uganda is not exception to the observation that many citizens of resource-rich countries especially in the developing world are mere spectators. After the announcement of commercially viable quantities of petroleum in the country, there was excitement about the developments that the new resource would bring according to Muhwezi, <sup>18</sup>. Ugandans have been excited at the potential for development, improvement of household incomes and general living standards once petroleum revenues start, flowing. However, it is not always as rosy as it looks. All these efforts are focused on enhancing living standards of Ugandans in the sector. Uganda needs stringent macro and micro economic policies to enable the economy sustain the negative impacts that petroleum might have on the economy<sup>19</sup>.

Uganda discovered commercially viable deposits of hydrocarbons in the Albertine Graben region in 2006.<sup>20</sup> The government of Uganda embarked on an ambitious development of its legal and policy frameworks aimed at facilitating coordinated exploitation of oil and gas that had been discovered in the country.<sup>21</sup> In 2008, the National oil and gas policy<sup>22</sup> was formulated, in 2009, the formulation of the National Local Content Policy,<sup>23</sup> in 2012, the oil and gas Revenue management policy was launched, in 2012, the Petroleum (Exploration, Development and Production) Act<sup>24</sup>, the Petroleum (Refining, Conversion, Transmission and Midstream storage) both upstream and the midstream Act and the National local content Regulation Regulations of 2016 and the National local content Act of 2019.

However, prior to that, Uganda had entered into production sharing Agreements and these include the 1999 model, 2012 model and the latest which is the 2016 production sharing Model<sup>25</sup>.

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<sup>18</sup>Muhwezi, et.al, crafting an Oil Revenue -sharing Mechanism for Uganda. (A Comparative Analysis Policy Research Series, No 30, 2009 Kampala)

<sup>19</sup>Muhwezi, et.al, crafting an Oil Revenue -sharing Mechanism for Uganda. (A Comparative Analysis Policy Research Series, No 30, 2009 Kampala)

<sup>20</sup>Alert I. Governance and Livelihoods in Uganda's Oil-Rich Albertine Graben, 2013 at page 6.

<sup>21</sup>Auty, Richard & Jose Luis Evia, A Growth Collapse with Point Resources, Bolivia. In Resource Abundance and Economic Development, edited by Richard M. Auty. Oxford University press 2001.

<sup>22</sup>The Uganda National Oil and Gas policy of 2018.

<sup>23</sup>Uganda National Local content Policy of 2009.

<sup>24</sup>Act no 4 of 2013 (Parliament of Uganda).

<sup>25</sup>Uganda's production sharing Agreement of 2016.

As observed by Allen Gelb and Stephanie.<sup>26</sup>, in most developing countries, the discovery of oil and Gas resources has been classified as both as a blessing and a curse<sup>27</sup>. The reasons for being a blessing are the fact that the extraction of oil and Gas generates significant flows of revenue to the host country. According to Hansen,<sup>28</sup> History shows that natural resources especially Oil and Gas are not necessary an engine for economic growth due to that fact that they intend to come with distortions that slow down economic development. Such an economic blockage has been explained by the term resources curse as explained by Auty.R.M.<sup>29</sup> The Author expounds this concept to mean instances where developing countries that abundant extractable resources such as oil or minerals but still lags behind other nations economically<sup>30</sup>.

### **1.3.2 Theoretical perceptive.**

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

Business and society are proposed to mean ‘business in society’ in which local content emerges as a matter of interaction between the two entities. One of the measures of local content is the development of economic values in a society.<sup>31</sup> Another is a person’s obligation to consider the effects of his decision and action on the whole social system. Stated in the form of a general relationship, social responsibilities of businessmen need to reflect the amount of social power they have through supporting and improving the welfare of the people in that sector.

Stakeholder approach has been developed as one of the strategies in improving the management of the firm. It is also said as a way to understand reality in order to manage the socially responsible behaviour of a firm. Based on Garriga analysis, stakeholder approach is both within the integrative and ethical theories, where the former emphasizes the integration of social demands and the latter focuses on the right thing to achieve a good society. These are supported by the work of Mitchel, Agle and Wood. Where balances among the interests of the

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<sup>26</sup> Allen Gelb and Stephanie Majerowics, Oil for Uganda? Or Ugandans? Can cash transfers prevent Resource curse? 2011.

<sup>27</sup> Allen Gelb and Stephanie Majerowicz oil for Uganda or Ugandans Can cash transfers prevent the resource curse , 2011. Centre for Global Development working paper 261

<sup>28</sup> Hansen. The Political Economy of Local Content in Africa Extractives: Lessons from Three Africa Countries. Paper presented 2014 at page 46 Armode, Dansk Selskab for Stateskundskab, Vejle, Denmark. P3.

<sup>29</sup>Auty, R.M Social Sustainability in Mineral -Driven Development, Journal of International Development, 10:487-500.

<sup>30</sup> Richard Auty Sustaining Development in Mineral Economics: The Resources Curse Thesis (1993) London Routledge.

<sup>31</sup> Michael & Hansen. The Political Economy of Local Content in African Extractives. Lessons from Three African Countries, Paper Presented at 46. Armode I Denmark Selskabstaskundskab ,Okt , 23-24, Vejle , Denmark , pg.3.

stakeholders are the emphases: and the work of Freeman and Phillips considers fiduciary duties towards stakeholders of the firms, respectively.

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

A National content study in the Oil and Gas sector in Uganda commissioned by Government in 2011 put the share of national content during the then on-going exploration phase at around 15% overall and showed that Uganda needs to adopt several measures in order to successfully promote national content according to MEMO, 2011. Most Ugandans are likely to be employed only for casual jobs due to a lack of necessary qualifications, thus limiting the benefits that can accrue to them from the sector according to International Alert, 2013. Furthermore, emerging industry and media reports are calling for the revision of the national content provisions in the Petroleum Act and Production Sharing Agreements (PSAs) citing inadequacies and contradictions relating to procurements of local goods and ownership of local firms.

A number of established and nascent petroleum and mineral producing countries have adopted or are considering the adoption of policies aimed to obtain the greatest benefits for their economies from the extraction of these exhaustible resources<sup>32</sup>. One important theme of such policies is the so-called local content created by the sector, the extent to which the output of the extractive sector generates further benefits to the economy beyond the direct contribution of its value-added, through its links to other sectors.<sup>33</sup>

The main rationale behind this theory is to prevent chances of resource curse which is a common phenomenon in many developing countries such as Nigeria, Venezuela, Iraq, South Sudan and many other countries according to Anderson & Browne A.J<sup>34</sup> this is done through

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<sup>32</sup>32 Maria & Martin. Local Content Policies and Corruption in the Oil and Gas Sector.U4 Ant-Corruption Resource Centre, September 2014 p.g.6.

<sup>33</sup> Michael & Hansen. The Political Economy of Local Content in African Extractives. Lessons from Three African Countries, Paper Presented at 46. Armode I Denmark Selskabstaskundskab ,Okt , 23-24, Vejle , Denmark , pg.3.

<sup>34</sup> Anderson & Browne AJ. The politics of Oil in East Africa 5:2, Journal of East African Studies 395.8.

impacting knowledge and skills, providing employment to the local power and helping their communities<sup>35</sup>

Resource curse theory<sup>36</sup> is widely analysed and explained by the Dutch disease phenomenon which refers to the fact those countries with abundant resources tend to innovate at a slower pace than the resource poor ones<sup>37</sup> due to corruption and bad governance in these countries. These countries are full of political instabilities and economic crisis which is associated with poverty even though these countries are rich in resources since they fail to address the social welfare problem of their citizens since the local content policies are aimed at improving the living standards of people especially those participating in the oil and gas sector..

The reasons for this are over dependence on the easy money accruing from the natural resources,<sup>38</sup> which undermines the linkages between the various sectors of the economy that usually serve to keep the economy strong and healthy. Many authors for example Michael Warner<sup>39</sup> and Silvana Tordo with Brandon's Tracy and Nouri Arfra<sup>40</sup>, have extended it to be a problem that often gives rise to corruption and deficit in public governance and sometimes leads to situations of extreme institutional collapse and civil conflicts. This is caused by discontent among the citizens of these countries when they feel that they have not benefited from the country's resources and this explains the increasing instabilities in resource rich countries like Angola, Nigeria and Liberia that are full of civil unrests.

This backdrop is a major concern not only for governments, international institutions and civil society, but also for the extracting companies, which seek to secure their investments by building long lasting partnerships with the host countries and ensuring that the welfare of the citizens of those states and countries is catered in their living standards through creation of employment opportunities, skilling them through education and training and purchasing locally made products from citizens as a way of enhancing their living standards through empowering them economically.

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<sup>35</sup> Marie Claire Aoun and Carole Mathieu, Local Content Strategies in Oil and Gas Sector. However, to maximize benefits to Host Communities (2015) the French institute of international relations page 3.

<sup>36</sup> Peter Megillah Gwayaka, local content in oil and gas, an assessment of Uganda's legal and policy Regimes (A code policy, Briefing paper series No 28 2014, Kampala) 2

<sup>37</sup> Jeffrey D Sachs & Andrew M. Warner, the big push, Natural Resources Booms and Growth, (1997) of Development Economics 59.

<sup>38</sup> Jeffrey D Sachs & Andrew M. Warner, the big push, Natural Resources Booms and Growth, (1997) of Development Economics 59.

<sup>39</sup> Local content in procurement. Creating local jobs and competitive Domestic Industries in supply chain (Sheffield, Greenleaf Publishing 2011.)

<sup>40</sup> National Companies and value creation (world Bank working paper no 218, 2011) page 8

In order to ensure that resources actually generate benefits for the local economy, there is a need in particular for the creation of productive sectorial linkages in the economy aimed at lifting all vital sectors of economy together to avoid the lagging behind of sectors for example education and agriculture which are crucial to the growth of the economy through the promotion of local content strategies in the country. There has been adoption of local content development policy referred to as content requirement.<sup>41</sup>This has made local content to become a priority strategy. This has been achieved through enactment of more stringent legal provisions and following the advice of international institutions issuing recommendations and Oil and Gas companies making commitments to review and improve their practice.<sup>42</sup>

Uganda's situation is no different from the rest of the developing extractive industries in other areas around the world for example Ghana and Nigeria.<sup>43</sup>Uganda is also prone to political corruption and lack of transparency which in most cases a product of bad governance and impunity of leaders and it ranks Uganda as one of the most corrupt countries in the world.<sup>44</sup>Uganda needs stringent macro and micro economic policies to enable the economy sustain the negative impacts that petroleum might have on the economy<sup>45</sup>.

Several African countries have adopted the LC policies i.e. most notably Angola, Nigeria and Ghana. Uganda also in it is bid to enhance LC measures in the Oil and Gas industry, adopted the National Oil and Gas Policy<sup>46</sup> which is in place to ensure optimum national participation in oil and gas activities<sup>47</sup>. Among it is strategies is the promotion of the participation of the countries 'entrepreneurs in providing goods and services to the sub sector as a way of optimizing the contribution of oil and gas activities to the overall development of the country through promotion of employment of Ugandans in the oil and gas sector and also promotion of technology transfer of the country.<sup>48</sup> Aimed at ensuring the social welfare of the people.

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<sup>41</sup> Marie-Claire Aoun and Carole Mathieu. Local Content strategies in Oil and Gas sector. How to maximize Benefits to Host Communities, The French Institute for International Relations pg.4

<sup>42</sup> Ado Rabi, local content policy and WTO Rules of Trade Related Investment Measures (TRIMS): The Pros and Cons, (2013) International Journal of Business and Management Studies 137-146.

<sup>43</sup>Maira& Martini 2014 Local Content policies and Corruption in the Oil and Gas sector. U4 Anti-corruption Resource Centre, September pg. 6.

<sup>44</sup> Report of Transparency international of 2018.

<sup>45</sup>Muhwezi, et.al, crafting an Oil Revenue -sharing Mechanism for Uganda. (A Comparative Analysis Policy Research Series, No 30, 2009 Kampala)

<sup>46</sup>Ministry of Energy and Mineral Development, National Oil and Gas policy for Uganda. (February, 2008)

<sup>47</sup>Ibid Objective 7.

<sup>48</sup>Oil and Gas policy, supra (note 16) viii.

### 1.3.3 Conceptual perceptive.

The spate of major Oil and Gas discoveries in Uganda in recent years has seen much talk. As the Oil and Gas sector ramps up in the country, the government has striven to create local content policies to benefit local people and the local economy according to the independent, October 2013. Additionally, in an environment of falling prices, lack of skilled labour and poor infrastructure, local content laws and policies affect this nascent sector in the country. The challenge, as always, is to create the right balance to promote investment but at the same time develop the local economy and share the wealth created through improving the welfare of people in the oil and gas sector. MOEMD<sup>49</sup>.

Uganda government has in place the 'National Oil and Gas Policy NOGP. Secondly, the country has in place the upstream and midstream laws to govern and regulate the Oil and Gas sectors but the downstream bill is still being considered by parliament according to Megillah.<sup>50</sup> It is important for these laws and policies to provide for citizen participation and safeguard citizen's roles in the Oil and Gas sector. However, the challenge for Uganda today is how to create effective local content laws and policies that work for all stakeholders in the Oil and Gas sector and which promotes development of the country as a whole.

Oil and Gas companies in the Albertine Graben work to maximize participation of local businesses within supply chain to ensure the Oil and Gas sector creates positive impacts on the economies and lives of local communities aimed at improving the welfare of people in the oil and gas industry. Through local content policy the companies are committed to local sourcing of goods, services and expertise to build up local through education, knowledge and skills transfer so that local people can benefit from development of natural resources. This study therefore examines the effective of the local content regulatory regime in enhancing the welfare of people in Uganda's oil and gas sector.

Local content in Oil and Gas sector in Uganda broadly focuses on involving citizens in the sector. This is through training and building capacity for citizens, technology transfer in addition to employment and service provision. The development of the Oil and Gas sector will result into significant opportunities in other sectors. It is necessary to use these opportunities and the investments therein to create as much value as possible in the country through national

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<sup>49</sup> MOEMD, National Oil and Gas policy for Uganda, pg. 15.

<sup>50</sup>Peter Megillah Gwayaka, Local Content in Oil and Gas, An assessment of Uganda's Legal and Policy Regimes (A code policy Briefing paper series No.28, 2014, Kampala 2.



participation. This can be through shareholding in licences and provision of goods and services by the country's business community. It is therefore necessary for the country's private sector to acquire and develop the skills necessary to participate in this sector according to the National Oil and Gas policy for Uganda, 2014. In order to effectively improve the social welfare of people in the oil and gas industry

A National content study in the Oil and Gas sector in Uganda commissioned by Government in 2011 put the share of national content during the then on-going exploration phase at around 15% overall and showed that Uganda needs to adopt several measures in order to successfully promote national content MEMO. Most Ugandans are likely to be employed only for casual jobs due to a lack of necessary qualifications, thus limiting the benefits that can accrue to them from the sector (International Alert, 2013). Furthermore, emerging industry and media reports are calling for the revision of the national content provisions in the Petroleum Act and Production Sharing Agreements (PSAs) citing inadequacies and contradictions relating to procurements of local goods and ownership of local firms.

The researcher looked at how local content policies can help in reducing the level of employment in the country and also ensuring that Uganda certainly benefits from its newly discovered resource of oil and gas especially the ordinary Ugandans to enhance the welfare of Ugandans.

#### **1.3.4 Contextual perceptive.**

Local content is going to be looked at in terms of employment opportunities for the Ugandans, skilling of Ugandans, buying Ugandans goods and also building infrastructures for Ugandan population and this will help the country to attain highest levels of economic development and growth among ordinary citizens of the country. An assessment of the role of the regulations to effectively uphold local content as an aspect of Oil and Gas industry for example, the practical citizen participation and involvement in the Oil and Gas industry in Uganda is still lacking.

#### **1.4 Problem Statement.**

The Local Content Regulatory Regime was put in place to address issues of undesirable social welfare of Ugandans caused by unemployment, limited technological transfer, limited markets for goods, limited local participation in big infrastructure projects and limited skills

among the people of Uganda has failed to effectively improve the social welfare of Ugandans in this sector.

However, despite the development and adoption of local content policies by the government aimed at enhancing social welfare of people in the oil and gas sector. L.C is aimed at uplifting the living standards of people through training them by equipping them with skills which are crucial to working in the sector, provision of employment opportunities to citizens, provision of market to locally made products and transfer of technology. All these efforts put up by the government to improve the social welfare of people by adopting local content policies, many Ugandans have not had their welfare enhanced due inadequate employment, limited market for the raw materials, Transfer of skills and technologies in the country, involving local companies in provision of services to the oil industries and this has kept Uganda's living standards very low.

The research looked at how the efficacy of these L.C.P policies have been in addressing the social welfare of Ugandans in the oil and gas sector and why this problem has continued to exist despite having local content policies and laws in place. For example, Concerns have been raised on whether the oil sector can provide employment for citizens, use locally produced goods and services as well as exploit local resources to transfer technology that can kick start other sectors of the economy. According to the Independent<sup>51</sup>. The debate has tended to be around local content and how it will be utilised by the sector. The capacities needed here are basically the need to provide capital, skills and knowledge as well as technology. ‘The fact that most of the skills and technology are provided by foreign companies makes it a challenge to government with regard to stakeholder involvement in implementation of local content in Uganda. Thus, the basis for this research in question is to analysis h effective the local content regulatory regime in enhancing the welfare of Ugandans in the oil and gas sector especially those depicting LC as aspect.

### **1.5 General Objective of the study.**

The main objective of the study was to examine the effectiveness of local content regulatory regime in enhancing social welfare of Ugandans in the Oil and Gas industry.

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<sup>51</sup> Trending issues in Uganda’s oil and gas sector. The independent 23<sup>rd</sup> Thursday October 2013.

### **1.5.1 Specific Objective of the Study.**

- i. To establish reasons for and against the implementation of the Local Content Regulatory regime in ensuring welfare of Ugandans in oil and gas industry.
- ii. To ascertain the practical implementation strategies adopted to enhance an effective local content Regulatory regime in enhancing social welfare of people in Uganda's Oil and Gas Industry.
- iii. To determine factors that may hinder the effective implementation of local content regulatory regime in enhancing social welfare of people in Uganda's Oil and Gas Industry.
- iv. To establish the effectiveness of L.C regulatory regime in providing employment and skills to Ugandans in ensuring the social welfare of Ugandans in the oil and gas sector.

### **1.6 Research questions.**

- i. What are the reasons for and against the implementation of local content in regulatory regime in the Oil and Gas industry of Uganda?
- ii. What are the factors that may hinder the effective implementation of local content regulatory regime in the Oil and Gas as a way of enhancing social welfare of people in the oil and gas sector?
- iii. What are the possible recommendations available to the government of Uganda and the different stakeholders in the Oil and Gas industry to ensure that local content regulatory regime in enhancing social welfare of people in the Oil and Gas of Uganda?
- IV. What are the effective ways of ensuring provision of employments and skills to enhance social welfare in Uganda's oil and gas sector?

### **1.7 Scope of the study.**

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

#### **1.7.1 Content scope.**

This study focused on examining the effectiveness of implementation local content regulatory regime in the Oil and Gas sector in Uganda's oil and Gas sector in terms of

enhancing welfare of Ugandans in the oil and gas sector. The study will assess the effectiveness of LC regulatory regime in enhancing welfare of Ugandans in oil and gas industry by looking at various laws relating to National content and their implementations in areas of employment and procuring goods from locally available firms.

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

### **1.7.2 Time scope.**

The study considered a period of 10 years spanning from 2009 up to 2019, the time period from 2020 when the discovery of commercially viable quantities of Oil and Gas reservoirs up to since most of the regulations affecting Oil and Gas industry of Uganda have just come into effect with the most recent one which is the National Local Content Regulations of 2019.

### **1.7.3 Geographical scope.**

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

### **1.8 Justification of the study.**

To have an effective local content regulatory regime that enhance social welfare of Ugandans is a very important aspect to Uganda as a nation, it is citizen and the economy. The notion of local content ensures and enables people in the host country to get involved in an extractive industry because of use to the industry and develop themselves economically through the sustainable wealth that comes and is provided by the industry in question<sup>52</sup>.

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<sup>52</sup>Tordo Silvana, Michael, Manzano Osmole. E. and Anounti Yahya, Local Content Policies in Oil and Gas sector (the World Bank, Washington DC,2013) 3

The need for the analysis of the effectiveness of the local content regulatory regime in enhancing the welfare of Ugandans in oil and gas industry in Uganda is of vital significance towards the promotion and sustainable growth of the oil and gas sector of Uganda. With vast prospects of the industry expected to almost double the economy's GDP. It is important to ensure that LC as an aspect of Oil and Gas industry has an efficient platform especially that which will ensure that citizen participation is key, a strategy that will bleed opportunity for vast employment and entrepreneurial opportunities to the citizens of Uganda, creation of Uganda, creation of a sufficient working environment for the other stakeholders like the IOCs all of which will end up promoting economic and social transmission in Uganda as a nation. This is through the project linkages created from having an efficient LC policy and this the reason why these regulations reviewed in this study in question.

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

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

### **1.9 Operational Definition of Terms and Concepts**

- i. Implementation: refers to the actual execution of the planned activities according to Morgan
- ii. Local Content: is the development of local skills, Oil and Gas technology transfer and use of local manpower and local manufacturing. It can also be defined as building a local (national) workforce that is skilled and building a competitive supplier base Oil and Gas.

## **1.10 Significance of the Study.**

### **1.10.1 To the Researcher.**

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

### **1.10.2 To policy makers.**

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

### **1.10.3 To students.**

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

### **1.11. Conceptual framework.**

The conceptual framework identifies the variable in the study. Effective Local content regulatory regime is the independent variable whereas the social welfare is the dependent variable.

Looking at this topic in question, it portrays that an effective local content regulatory regime in Uganda's Oil and Gas sector will be independent on how best this policy has been adopted to enhance the social welfare of the people. This is to ensure that issues relating to the effectiveness of the LC regulatory regime are best represented in the Oil and Gas industry in Uganda especially through the regulations in question since social welfare depends on the regulatory framework in place.

The regulatory regime is broken down into The petroleum ( Exploration , Development and Production ) Act 2013, The Petroleum ( Refining, Conservation, Transmission and Midstream Storage ) Act 2013, The Petroleum ( Exploration, Development and Production) ( National Content) Regulations, 2016, The Petroleum ( Refining , Conservation, Transmission and Midstream Storage) (National Content ) Regulations , 2016<sup>53</sup>, The National Local content Act of 2019, Access to Information Act , 2005 and the National oil and gas policy 2009. These will be reviewed and analysed on how best they have been adopted and promulgated the local content as a key aspect in the oil and gas industry of Uganda there by demonstrating how effective this aspect is handled in oil and Gas industry of Uganda at large when it comes to enhancing the welfare of people in the oil and gas industry.

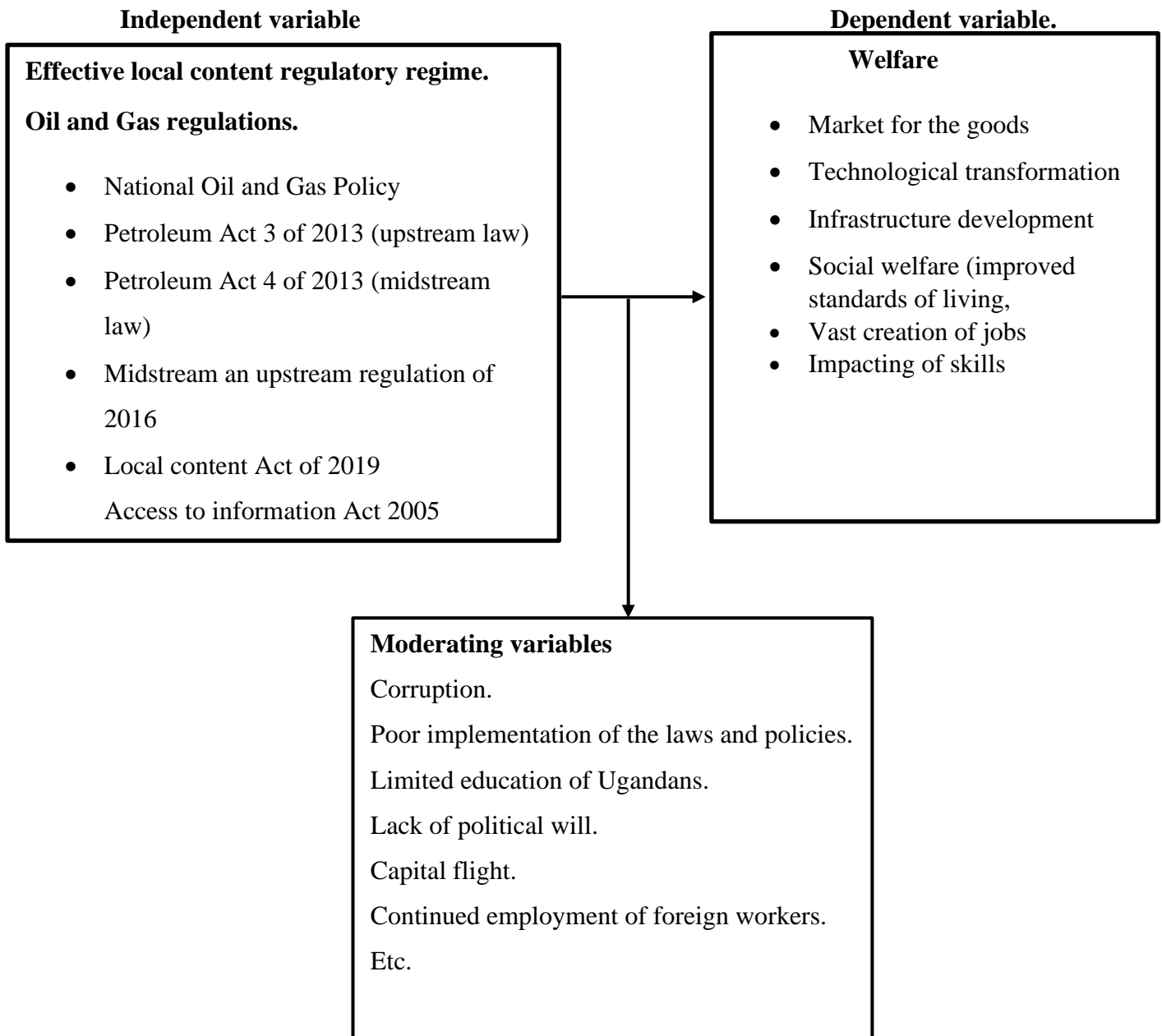
With good and effective LC regulatory framework. It's possible to have one best industrial practice especially where the monitoring and implementation drivers for such policies are on right truck. This can lead to a transformed pertinent economic, social and infrastructural development that is a key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

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

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<sup>53</sup>The Petroleum (Refining, Conservation, Transmission and Midstream Storage) (National Content) Regulations, 2016

**7Figure 1 showing conceptual framework.**





## **2.1 Chapter synopsis.**

### **Structure of the Research paper.**

The study is divided into seven chapters.

#### **2.1.1 Chapter one. Introduction.**

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

#### **2.1.2 Chapter Two. Literature Review.**

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

#### **2.1.3 Chapter Three. Methodology.**

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

#### **2.1.4 Chapter Four. Data analysis and presentation**

This chapter analysed and discuss the questionnaires and the interview response rate, it will present an analysis of the main findings of the study, including the interpretation and the discussion of the findings thereof.

#### **2.1.5 Chapter five. Analysis of the local content regulatory regime enhancing welfare of people in the Oil and Gas of Uganda.**

This chapter gave a detailed analysis of how content in the regulations in question highlighted is portrayed in relation to the literature reviewed so as to portray and show how effective these regulations are and will be in ensuring that the concept, policy and welfare of people in question is dealt with in the Oil and Gas industry of Uganda. In so doing best LC

practices will be highlighted looking at how some of the countries that have managed to keep up some of the best practices from the which conclusions and recommendations will be drawn there from where the application of local content has been successful in enhancing welfare of people in Uganda's oil and gas industry.

#### **2.1.6 Chapter Six. Best Local Content Practices used in enhancing welfare of people in the Oil and Gas Industry.**

This chapter looked at some of the best local content practices adopted by countries who are producing oil and gas. The researcher aimed at those countries who have tried and have practiced the adoption of the LC as a policy aspect in the Oil and Gas industry and most especially embracing the fact of using the policy aspect in its approach while dealing with LC policy aspects especially using the legal and institutional framework to effectively deal with issues related to local content and social welfare of people in the industry.

#### **2.1.7 Chapter Seven. Conclusion and Recommendation.**

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

## CHAPTER TWO.

### LITERATURE REVIEW

#### 2.0 Introduction

This chapter handled the literature review basing on the objectives highlighted of which this was through reviewing scholarly work that is related to the topic in question, identifying the gaps there in that the research in question seeks to bridge. LC policies were further explained as to why they are needed and why they are important. The' objectives of the study were handled separately and were identified as the discussion flowed.

Uganda as a country that is newly developing its Oil and Gas industry has the mandate to ensure that some of the policy measurements in the Oil and Gas industry like LC that see the success of the industry at large are adopted and put in place. The topic in question that is meant to be handled by this study is meant to establish and portray how best the effectiveness of LC regulatory regime is handled in Uganda's Oil and Gas industry with the emphasis of analysing how effective this aspect is in enhancing welfare of people in the industry.

According to Hart<sup>54</sup>, literature review is “the selection of available documents on the topic which contain information, ideas, data and evidence written from a particular standpoint to fulfil certain aims or express certain views on the topic and the effective evaluation of these documents in relation to the research being proposed” by Hart.<sup>55</sup> This chapter therefore presents the theoretical framework of the research and review of relevant previous research.

Reviewing literature involves the systematic identification, location and analysis of documents containing information related to the research problem being investigated. The activity of literature review involves location, reading and evaluating reports of research as well as reports of observation, discussions and opinions that are related to the individuals planned research project.<sup>56</sup>

Anna and Mary in their thesis stipulated that the oil and gas resource, like every other resource, is finite. Nations are increasingly becoming preoccupied with improving the chances for local businesses to participate in the exploitation of resources, especially resources in the

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<sup>54</sup> HART, C., *Doing a Literature Review: Releasing the Social Science Research Imagination*. London: Sage Publications 1998

<sup>55</sup> HART, C., *Doing a Literature Review: Releasing the Social Science Research Imagination*. London: Sage Publications 1998.

<sup>56</sup>Barifaijo, K., Basheka, B. and Oonyu, J. (2010) *How to write a good Dissertation Thesis*, 1<sup>st</sup> Edition, The New Vision printing and publishing Company Limited, Kampala.

extractive industries like mining and Oil and Gas since it aims at enhancing the welfare of Ugandans in the oil and gas industry. This is because of a global belief that the resources in these industries drive economic growth and can help lift a nation out of poverty.<sup>57</sup> Tordo<sup>58</sup> in the same view explains that in order to obtain benefits for their countries, policy makers usually design various policies to guard their nations interests often backed up with increasing local content.<sup>59</sup>

The use of various strategies and performance standards by developed countries to influence economic growth and nature various local industries is a prodding trend.<sup>60</sup> Ado<sup>61</sup> in his article stipulates that various nations such as Canada, in their automobile industry, Australia in their automobile and tobacco industries and several European countries in their automobile and electronics industries have employed the use of policies such as local content requirements, or export performance to their advantages.<sup>62</sup> Kazzazi and Nouri in their stipulated thus that countries like United Kingdom, Norway, Brazil, Malaysia and Trinidad and Tobago are often touted as local content successes in the Oil and Gas industry.<sup>63</sup>

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

According to Tordo<sup>64</sup> He defines local content as the added value brought to a host nation (regional and local areas in that country) through the activities of the Oil and Gas sector. This may be measured (by project, affiliate, or country aggregate) and undertaken through two main

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<sup>57</sup> Esteves A. M. B, Coyne and A. Moreno. Local content Initiatives: Enhancing the Sub National Benefits of the Oil, Gas and the Mining Sectors. Briefing, Natural Resources Governance Institute for Science and Technology .2013, 1089-1009

<sup>58</sup>Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>59</sup>Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>60</sup>Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>61</sup> Ado Rabiui , Local Content Policy and the WTO Rules of Trade0Related Investment Measures ( TRIMS): The Pros and Cons, 2013. International Journal of Business and Management Studies 137-146.

<sup>62</sup> Ado Rabiui , Local Content Policy and the WTO Rules of Trade0Related Investment Measures ( TRIMS): The Pros and Cons, 2013. International Journal of Business and Management Studies 137-146.

<sup>63</sup>AbolfaziKazzazi& Behrouz Nouri. A Conceptual Model for Local Content Development in the Petroleum Industry 2012. 2 Management Science Letters. page 2166,

<sup>64</sup>Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

attributes that's; workforce development, through employment and training of local workforce; and investments in supplier development through developing and procuring supplies and services locally.<sup>65</sup> referred local content to jobs or significance that is created anywhere in the domestic economy as a result of the actions of an Oil and Gas company, or jobs that are created in the neighbourhood of the oil production plant. Although policies mainly refer to local content without specifying its location within the economy, it is common that the communities closest to and possibly most affected by oil or gas installations will also exert the most pressure for jobs all of which is focussed on enhancing social welfare of Ugandans in the oil and sector.

Local content policies are concerned not only with an immediate increase in local content (for example, increasing the percentage of local employment in the petroleum sector) but with actions that will lead to its longer term increase such as the provision of training in appropriate skills to the local labour force.<sup>66</sup> Such a policy does not lead to an automatic increase in local content but, if carried out appropriately, can create and enhance local capabilities that can be transferred to other sectors. This includes the development of skills that are common to all sectors, as well as the creation and support of cluster developments with other industries that have natural synergy with the petroleum sector.

There is general consensus that lack of specialized skills is a major obstacle to Africa's realization of its resource potentials. One instrument currently being adopted by most Oil and Gas resource-rich countries (both in and outside Africa) to deal with the skills problem and to enhance linkages between the Oil and Gas sector and other sectors of the economy is the formulation of local content policies<sup>67</sup>. Typically, local content policies require companies to give preferential treatment to nationals of the country in which they operate in matters of employment and in the procurement of goods and services. It is believed that this would result in technology transfer and facilitate the ability of the country to take charge of its own development.

According to Nwapi<sup>68</sup> local content policies come with certain trade-offs: on a critical note, their potential incompatibility with international trade agreements threatens their

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<sup>65</sup>Maira& Martini 2014 Local Content policies and Corruption in the Oil and Gas sector. U4 Anti-corruption Resource Centre, September pg. 6.

<sup>66</sup>Bacon. R. M, &Kojima.M. Issues in Estimating the Employment Generated by Energy Sector Activities, Washington DC. World Bank, Sustainable Energy Department.

<sup>67</sup> Hansen. The Political Economy of Local Content in African Extractives, Lessons from Three African Countries, Paper presented at 46 Arsmode I Dansk Selsksb for StatskundskabVejle, Denmark, pg.3.

<sup>68</sup>Nwapi, C, E. (2011) A Survey of the Lecture on Local Content Policies in the Oil and Gas Industry in East Africa, Browser Download this Paper.

sustenance; they can also create unrealistic expectations capable of discouraging investment; and they are easily prone to corruption. This is in line with Hansen <sup>69</sup> argument that the local content implementation strategies are critical in developing countries because they have few local experts in the Oil and Gas sector, most of theirs are serving in public sector. In addition, skill shortages across the sector's value chain have become apparent. Therefore, it is important for these countries to develop more local experts in the Oil and Gas sector who will be capable of operating and maintaining the imminent gas facilities resulting from these new discoveries.

The World Bank report <sup>70</sup> notes that, Uganda may consider adopting a socialist approach to implementing local content policies by giving special consideration to the localities where the Oil and Gas and exploitation takes place aimed at boosting the welfare of people in the oil and gas sector. This approach may help to address wider socioeconomic problems associated with Oil and Gas development especially in the Albertine Graben. The government may also consider adopting a regional approach, which enables to pull their resources together to jointly address the skills problem facing the country and thereby help one another. Given the enormous Oil and Gas skills gap in the country, it may help to avoid the imposition of stringent local content targets on Oil and Gas companies operating and, instead, adopt an incremental and compartmentalized approach that takes stock of what skills are available, in what compartments at any given time and set their local content targets accordingly.

The local content policy appears to lean towards state participation with national content being relegated to a supplementary activity in the broad achievement of state participation. National participation in the Ugandan context is described as achievable through state participation and promoting the use of indigenous materials, goods and services in Oil and Gas sector activities employment of Ugandans and transfer of skills and technology to the country (MOEMD, 2014)<sup>71</sup> targeting Ugandans as a way of improving their welfare. According to the trade perspective, local content requirements essentially act as import quotas on specific goods and services when governments seek create market demand via legislation action (UNCTAD, June 2013), Uganda petroleum (Exploration, Development & Production ) Act 2013<sup>72</sup> Section 125 expressly regulates local content and provides that licences and their contractors and sub-contractors shall give preferences to goods made or available in Uganda

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<sup>69</sup> Hansen. The Political Economy of Local Content in African Extractives, Lessons from Three African Countries, Paper presented at 46 Arsmode I Dansk Selskab for StatskundskabVejle, Denmark, pg.3.

<sup>70</sup> World Bank Report (2014). Human Capital for the Oil and Gas and Minerals Industries, Science Technology and Skills for Development, March, 2014, page 1.

<sup>71</sup> MOEMD (2014) National Oil and Gas Policy for Uganda, page 15.

<sup>72</sup>Ugandas petroleum (Exploration, Development & Production) Act 2013 Section 125.

and supplied by Uganda citizens and companies. The only exception to this provision is when the goods are not available in Uganda; in such cases they can be supplied by a foreign firm which has entered into joint venture with local firms.

This chapter purposely review's and provides a critique of the available literature on effective implementation of local content legal regime in Uganda's oil and Gas sector. The literature has been reviewed on the basis of study objectives. This chapter further presented the identified research gap, which the study sought to address. The literature reviewed was extracted from journals, textbooks, working papers, newsletters and internet websites.

## **Local content legal and Regulatory framework**

### **2.1 Services in the Oil and Gas Sector as an aspect of enhancing social welfare in the oil and gas sector.**

According to the World Bank <sup>73</sup> delivering local benefits to the communities where Oil and Gas companies operate is no longer an option. It is a commercial necessity which is increasingly mandated by law in many countries. In the new competitive landscape of diminishing supply and increasing demand for energy resources, companies in the Oil and Gas sector face rising expectations to do more than simply mitigate negative impacts, serve as sources of tax/royalty revenue and act as good neighbours.

According to Hackenbruch and Pluess , <sup>74</sup> they state that the increasing Oil and Gas findings in any country offer significant opportunities to fast track economic development and ensure that public welfare improvements are delivered to their citizens. The Local Content policy is an approach that can be adopted by developing countries. These policies enable a country to capture the benefits of foreign direct investment by imposing conditions on foreign investors to ensure value addition in the country.<sup>75</sup>

Local content policies can help domestic firms in developing countries integrate themselves into global economic networks. This is in agreement with the studies which show that in the 1990s, both local “productivity-enhancing entrepreneurship” and state support to local development helped East Asian firms to achieve significant positions in global economic

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<sup>73</sup> World Bank Report 2014). Human Capital for the Oil and Gas and Minerals Industries, Science Technology and Skills for Development, March, 2014, page 1.

<sup>74</sup> Hackenberg M and J.D. Pluses, 2011. Commercial Value from Sustainable Local Benefits in the Extractives Industries, Local Content BSR.

<sup>75</sup>Heum,P. ( 2008) Local content Development Experiences from Oil and Gas Activities in Norway , SNF Working Paper No .02 , 08 , Institute for Research in Economics and Business Administration.

networks.<sup>76</sup> Additionally, Loutites<sup>77</sup> argued that LCPs can contribute to the productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms and this in return will increase on the welfare of people participating in the oil and gas sector through improving their living standards. Other proponents observe that most advanced economies utilized industrial policies similar to LCPs to boost their domestic economy while in the early stages of their industrial development.

Nabatchi<sup>78</sup> states that local content in the Oil and Gas sector in Uganda broadly focuses on involving citizens in the sector. This is through training and building capacity for citizens, technology transfer as well as employment and service provision. Given the fact that Uganda's Oil and Gas sector is still growing, there is need for exerting more deliberate efforts to ensure that citizens competitively take part in the sector through exploitation of the existing opportunities. One of the ways has been through government providing for Ugandans to take part in the sector is through local content. Government is in the process of making policies and laws that will ensure citizens take part in the Oil and Gas sector. This policy briefing paper tackles the present but is also futuristic and analyses the different policy and legal provisions and how they will contribute to delineation of local content in the Oil and Gas sector as well as identifying gaps that need to be addressed if achieving social welfare of people in the oil and gas sector.

According to Sebbowa<sup>79</sup> local content in the Oil and Gas sector is a topic taking Centre stage. He expounded on the vast opportunities that exist and these include: the supply of food and beverages, transportation, and joint ventures with foreign firms to supply needed equipment, among others. The Uganda investment authority (UIA) is also very engaged in building the capacity of the small and medium enterprises (SMEs) in the oil areas to be able to harness the existing opportunities and be competitive in this sector that requires international standards in the supplies.

According to Cogan<sup>80</sup> noted that citizen participation includes processes that provide for individuals in a community an opportunity to influence public decisions that affect them.

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<sup>76</sup> Esteves A. M. B, Coyne and A. Moreno. Local content Initiatives: Enhancing the Sub National Benefits of the Oil, Gas and the Mining Sectors. Briefing, Natural Resources Governance Institute for Science and Technology .2013, 1089-1009.

<sup>77</sup> Loutit J. J, Mandelbaum S, Szoke-Burke 2016. Emerging Practices in Community Development Agreements. Columbia Centre for sustainable Development.

<sup>78</sup> Tina Nabatchi, A Managers Guide to Evaluating Citizen Participation. Fostering Transparency and Democracy Series 2012. Page 212.

<sup>79</sup>Sebbowa. Local Content Policy in Uganda. Trends and Existing Vast Opportunities.

<sup>80</sup> Cogan A ..., Sharpe S & Hertzberg, J. Citizen Participation. In So, F. S, Hands, L., & Madewell, B. D (Eds.) the practice of state and Regional planning. Municipal Management Series, Chicago: American Planning Association.



The assertion can further be extended to include the process in which ordinary people take part whether on a voluntary or obligatory basis and whether acting alone or as part of a group with the goal of influencing a decision involving significant choices that will affect their community. It is therefore important to appreciate that citizen participation is a much broader concept that may include various democratic processes for a country. In Uganda's case, these may include a wide range of systems from electoral democracy, governance such as central or local government to group formation, role of voluntary associations and how different players in society are contributing to the Oil and Gas sector.

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

According to Silvano and Tordo <sup>81</sup> the principal challenge to the use of local content policies rests on the misalignment between objectives and instruments. If a policy maker thinks that there is an externality, he/she should ensure that; there is indeed an externality and the instrument chosen corrects the externality. For example, if the labour force is not adequately trained to satisfy the requirements of the oil sector, the policy maker should first establish whether training would be sufficient or if the situation demands structural changes to the country's educational system. If training would overcome the shortfall, imposing minimum local employment targets on oil companies may not provide the optimal outcome. Policies to support the training of nationals would be more closely related to the externality in question. Furthermore, as argued by Wallace <sup>82</sup> when there is uncertainty about costs and benefits, price interventions tend to produce results closer to the optimal result than quantity regulations.

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

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<sup>81</sup>Tordo, Silvana Warner, Manzano Osmel, E, and Yahya, Local Content Policies in the Oil and Gas sector (The World Bank, Washington DVC.2013) 1.

<sup>82</sup>Wallace A. 2014. Understanding Local Content Policies in Africa petroleum Sector. Published in the National Law Review, May 2016.

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

Grossman<sup>83</sup> noted that local businesses that provide services to oil companies are currently necessitated to raise the required operating capital through commercial loans from local commercial banks under difficult financing terms. The lack of concessionary loans for equity financing of local businesses have made expansion of local businesses to match their foreign counter-part in provision of goods and services to the Oil and Gas sector a difficult undertaking.

Governments with access to large oil revenues that are disproportionate to other sources of revenue tend to rely heavily on their resource generated wealth and neglect to enforce taxation regimes, effectively eroding the fiscal link between the government and its populace. Since a central government reliant on extractive sector assets is less dependent on tax revenues from its citizens, it often demonstrates little initiative in providing social services<sup>84</sup>. In oil-based economies other productive sectors, such as agriculture, manufacturing, non-oil exports, and small to medium size enterprises are often overlooked as important components of a diversified and sustainable economy. In countries where political legitimacy is lacking, the central government may seek to maintain control over Oil and Gas generated wealth through corruption, abuses by military or police forces, or even through direct financing of conflict with political challengers according to UK Department for International Development, 2003<sup>85</sup>.

While the Oil and Gas discoveries put African countries on the precipice of economic prosperity capable of bringing broad public welfare improvements to their citizens, there is cause for concern. The regions where the discoveries have been made in the respective countries fall mostly within the arid and semi-arid part of the countries. This means that oil extraction in these countries is very likely to generate severe environmental problems for the surrounding local communities, in addition, a vast majority of the identified oil fields are located in troubled regions and on territories under dispute within and between the countries according to World Bank Report of 2015<sup>86</sup>

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<sup>83</sup> Grossman, The Theory of Domestic Content Protection and Content Preference (2004) 96:4 Quarterly Journal of Economics pg.583.

<sup>84</sup> Pendleton 2014. Fueling poverty Oil, War and Corruption. Pg. 40.

<sup>85</sup>UK Department for International Development, 2003. The Extractive Industries Transparency. United Kingdom, Cambridge University Press.

<sup>86</sup> World Bank 2015, A Practical Guide to increasing Local Procurement in West Africa. World Bank and Kaiser Economic Development Partners, February.

In Uganda, it has been reported that since the oil discovery several wealthy Ugandans have been scrambling to buy land around the exploration area and that exploration activities have already caused distortions in the customary land tenure system in the oil region, conflict, displacement and substantial migration into the region according to Uganda Land Alliance, 2011<sup>87</sup>. These have led some opposition politicians in Uganda to warn that the oil discovery could become “a curse” rather than a blessing “if it leads to more conflict in the country.” The Economist has therefore cautioned against the risk of “Dutch Disease” in East Africa, In Kenya, most parts of the oil region have faced historical marginalization by successive governments. The struggle over scarce land and water resources in Kenya is spreading into oil, as local communities are already contesting the location of oil wells (Wallace, 2014).

According to World Bank <sup>88</sup> a nontrivial issue connected to local content policies is their compliance with international regulation. Both multilateral and regional negotiated agreements regulate trade between nations. The World Trade Organization oversees compliance with these rules. The most relevant agreements among WTO members with implications for LCPs include the General Agreement on Tariffs and Trade (GATT), the agreement on Trade-Related Investment Measures (TRIMs), the General Agreement on Trade in Services (GATS), and the agreement on Government Procurement (GPA). All these are extra ordinary attached with strings behind and this can affect the effectiveness of a relevant local content policy in any country.

Andre <sup>89</sup> noted that local content in Oil and Gas sector has become a slogan of sorts across many developing countries including Uganda. Different countries have made laws and policies to provide for local content where citizens can be employed, provide services or get a direct benefit from the sector. However, what many countries have not done is to increase citizen participation. There is often confusion when it comes to discussion of citizen participation as a concept and issues of local content. Whereas citizens can participate through local content, this is rather one of the forms of participation and it is not conclusive. It would therefore be wrong to conclude that there is citizen participation just because you have local content law and policies.

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<sup>87</sup> Uganda Land Alliance. Land Grabbing and its effects on the Communities in the Oil -Rich Albertine Region of Uganda, The case of Hoima, Buliisa and Amuru. September 2011.

<sup>88</sup> World Bank (2014) Human Capital for Oil and Gas and Minerals Industries, Science Technology and skills for Africa’s Development, March, 2014, page 1.

<sup>89</sup> Andre. P.et al.(2006) ParticipationPublique . Principles of Internationaux pour uneMeilleurePratique, publication speciale Serie No 4 Fargo (ND) International Association for Impact.

Furthermore, the ACODE Policy Briefing Paper<sup>90</sup> noted that there is a tendency to mix local content and citizen participation in Uganda. A Jot of communication tends to claim that there is promotion of citizen participation through local content, which is not the case. Many times, local content limits itself to employment of citizens, transfer of technology and service provision leaving out the most important aspect of citizen participation which is ‘participation in decision making’. From the many policy and legal documents in Uganda, there is actually local content as opposed to citizen participation.

The NOGP report<sup>91</sup> noted that the upstream and midstream laws also require companies to submit to the Petroleum Authority a detailed programme for recruitment and training of Ugandans every year for approval. What is not clear from the law is how the approved plans for training Ugandans will be followed through and whether there are any forms of punishment for companies that fail to meet their obligations under the approved plan or the plan submitted during the application for a license.

Government has not done training needs assessment (TNS) or other forms of capacity needs assessment for the Oil and Gas sector and the only existing data is the study conducted by the joint partners involved in the Oil and Gas sector. This means Uganda will have to rely on data provided by industrial players. The challenge with this data is it was gathered and analysed in the lenses of an industrial player seeking to maximize profits and this may not necessarily reflect the needs of the country<sup>92</sup>.

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

Oil and Gas rich developing countries may consider adopting a localist approach to local content policy by giving special consideration to the localities where the Oil and Gas and exploitation takes place. This approach may help them to address wider socio-economic problems associated with Oil and Gas development. They may also consider adopting a regional approach, which would enable all the countries to pull their resources together to jointly address the skills problem facing the region and thereby help one another.<sup>93</sup>. Given the enormous Oil and Gas skills gap in the region, it may help developing countries to avoid the imposition of stringent local content targets on Oil and Gas companies operating and, instead,

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<sup>90</sup>ACODE Policy Series (2014)

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<sup>92</sup>ACODE Policy Series (2014)

<sup>93</sup> Norland, Donald R (2003) Innovations of the Chad and Cameroon Pipeline project. Thinking Outside the Box, Mediterranean Quarterly 14, No 2(2003):46-59.

adopt an incremental and compartmentalized approach that takes stock of what skills are available, in what compartments at any given time and set their local content targets accordingly.

According to Stiglitz<sup>94</sup> promotion of linkage development is essential to enhance the contribution of the Oil and Gas sector to the macro economy. Linkage development can facilitate technology transfer and economic diversification. But even these measures will have only minimal positive impact if the potential for elite capture and corruption is not addressed through the injection of transparency and accountability measures into the local content policy design and implementation.

According to Norland & Donald<sup>95</sup> stated that, one of the instruments currently being adopted by most Oil and Gas resource rich countries both in and outside Africa to deal with the skills problem and to enhance linkages between the Oil and Gas sector and the other sectors of the economy is the formulation of local content policies. Defined as the requirement that “a given percentage of domestic value added or domestic components be embodied in a specified final product”, local content policies are undertaken to enable countries to maximize the gains of foreign direct investment through the promotion of local participation in foreign direct investment and the use of local raw materials by investors. It is believed that this would result in technology transfer and facilitate the ability of a particular country to take charge of its own development.

Policy level initiatives are needed in developing countries dependent on extractive industries to address the potential causes of resource related conflicts. One major study looking into the broader issues surrounding these concerns was the World Bank Group’s report, “Extractive Industries and Sustainable Development; An Evaluation of World Bank Group Experience.”<sup>96</sup>. Although the World Bank found that most of its projects financing investment in extractive industries (oil, gas, and mining) were successful in terms of increased production, increased private investment, and improved productivity, there was not sufficient “attention to the developmental needs of the poorly performing resource abundant countries,” and the

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<sup>94</sup>Stiglitz (2004). We can cure Dutch Disease. The Guardian .com. August 17<sup>th</sup> 2005.

<sup>95</sup>Norland, Donald R (2003) Innovations of the Chad and Cameroon Pipeline project. Thinking Outside the Box, Mediterranean Quarterly 14, No 2(2003):46-59.

<sup>96</sup>Liebhenthal, Andre, Wegner (2003) Extractive Industries and Sustainable Development, An Evaluation of World Bank Group Experience, Washington, DC., World Bank 2003. Pg. 60.

challenge remained to develop “strategies for transforming resource endowments into sustainable development.”

According to Collier and Paul<sup>97</sup> non-governmental organizations working on issues such as good governance, community participation, or the environment can play a key role in promoting transparency, environmental best practices, and general local content. Timely support for fledgling host country NGOs working in these issue areas can help to promote dialogue in resource abundant developing countries. To that end, USAID’s community Action Investment Program (CAIP) creates and strengthens participatory mechanisms to alleviate sources of potential conflict, including issues such as the extension of gas pipelines, in select communities of the five Central Asian republics of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

In many developing countries, environment and health ministries are understaffed and notably weak in relation to other elements of the state, such as finance and interior ministries. The strengthening of environment and health ministries, and related government agencies that advocate regulations to protect the public interest, can help to address citizen concerns about the impact of Oil and Gas extraction and therefore reduce prospects for conflict as this promote local content in a long run<sup>98</sup>. Business for Social Responsibility membership organizations should be incorporated to help companies develop policies that respect ethical values, communities, and the environment. BSR provides information, tools, training and advisory services to make local content an integral part of business operations and strategies. A non-profit organization, BSR promotes cross sector collaboration and contributes to global efforts to advance the field of local content<sup>99</sup>.

In Chad, NGOs participated throughout the development of the petroleum revenue management plan for the Chad-Cameroon Pipeline Project, as well as during construction of the pipeline itself, NGO pressure led the World Bank to condition financial support for the project, with the plan and negotiation process helping to build additional layers of oversight into the pipeline’s construction, including the creation of the International Advisory Group and the External Compliance Monitoring Group. In addition to setting up a petroleum revenue management plan to channel revenue generated by the new Chad-Cameroon Pipeline, the

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<sup>97</sup> Collier and Paul (2003) *Natural Resources, Development and Conflict: Channels of Causation and Policy Interventions* page 50.

<sup>98</sup> Auty, Richard & Jose Louis Evia, 2001, *A Growth Collapse with Point Resources, Bolivia*. in *Resource Abundance and ECONOMIC Development*, ed by Richard M. Auty , Oxford University press.

<sup>99</sup> Clark & Henry (1999) *Oil for Nothing, Multinational Corporation, Environment Destruction, Death and Impunity in the Niger Delta*. Page 145.

World Bank has also added several mechanisms to Chad's Oil Fund designed to increase accountability, transparency, and public involvement to ensure effective local content.

Uganda government has in place the National Oil and Gas Policy (NOGP) and the National local Content Act of 2019. Secondly, the country has in place the upstream and midstream laws to govern and regulate the Oil and Gas sectors but the downstream bill is still being considered by parliament. It is important for these laws and policies to provide for citizen participation and safeguard citizens' roles in the Oil and Gas sector.

The NOGP recognizes the need for national participation through employment, training and skills development and service provision in the sector. Under objective 7 of the NOGP; government seeks to ensure optimum national participation in Oil and Gas activities. Similarly, objective 8 of the NOGP seeks to support strategies for development and maintenance of national expertise in the Oil and Gas sector. Participation of citizens in the Oil and Gas sector in Uganda requires capacity building and training of citizens to work in the sector (Megillah, 2014)<sup>100</sup>. Training needs to focus on building capacity for direct employment in the sector and for services auxiliary to the sector. There is also need to build capacity for other sectors to avoid reliance on the Oil and Gas sector.

According to the ACODE Policy Briefing Paper, the Uganda Petroleum Institute, Kigumba (UPIK) was created as a response to the various capacity need for the Oil and Gas sector. UP IK is expected to train Ugandans in the different skills to be able to provide labour for the Oil and Gas sector. According to UPIK's strategic plan 2014-19, a Sector Skills Council (SSC) consisting of sector players for the Oil and Gas sector will be created, the SCC will be mandated in assisting UPIK in reviewing different courses and curricula to modify and fit them to the sector needs and demands.

### **What are local content policies?**

Silvana portrayed that LC as a policy in the Oil and Gas industry is said to have originated from the North Sea early in the 1970's and took the form of import restrictions and creation of national Oil companies.<sup>34</sup> Ever since, LC has evolved from focusing on increased local content in a particular industry to trickling down benefits to other sectors of the economy aimed at enhancing social welfare of Ugandans in the oil and gas industry<sup>35</sup>

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<sup>100</sup>Peter Megillah Gwayaka, Local Content in Oil and Gas, An assessment of Uganda's Legal and Policy Regimes (A code policy Briefing paper series No.28, 2014, Kampala 2.

Ado stipulated further that researchers and industry players have various definitions for local content, largely depending on the industry and the context in which it is being referred.<sup>36</sup> Local content expert Michael Warner defines local content as the “composite value contributed to the national economy from the purchase on bought- in goods and services”<sup>101</sup>Ado in his view described LC as the quantum, percentage or proportion of inputs (Labour, materials and parts) derived from the domestic economy and utilized in the production process for the purpose of adding value to the local economy.<sup>38</sup>

Heum and Oshana<sup>102</sup> in their study jointly commissioned by the Nigerian and Norwegian governments explored viable policy approaches to a Nigerian Local Content and defined local content as value addition activities taking place in Nigeria.<sup>39</sup> Their research concluded that, it is more important that local content is seen in terms of the value added in the host country; to the local staff, the local materials, and local services and facilities, than in terms of the ownership or location of a company performing those value-added services.<sup>40</sup> In support of this argument, Kazzazi &Nouri stipulated that building capacity of the local people is more sustainable in the long run than quantifying the level of ownership, as this equips the people to do more for themselves.<sup>41</sup>

According to Kazzazi &Nouri<sup>103</sup> in their study further explained and based their findings on the development of a conceptual model designed to help understand the concept of local content and its development in the Oil and Gas sector. This model is based on a set of factors related to each other that is local policies, local infrastructure, local environment and local capability that are aimed to ensure the development and promotion of petroleum industry if both factors are given a related consideration to build up a strong and perfect local content policy to the emphasis of a lucrative petroleum industry and other related extractive industries.<sup>42</sup> In their study, Kazzazi &Nouri stipulated that Local legislations and regulations were also found to have a causal effect on the capabilities of local companies, on education, on skills and expertise development, research and development capabilities and on technology and know-how transfer capabilities.<sup>43</sup> This is key and relevant to the study since the research tends to give an analytical view of how best the aspect of LC as envisaged in the regulatory regime

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<sup>101</sup> Michael Warner, *Local Content in Procurement, Creating Local Jobs and Competitive Domestic Industries in Supply Chains* (Shelford: Greenleaf Publishing 2011)

<sup>102</sup> Per Heum , Christian Quale , Jan Erik Karlsen , Moses Kragha&George Osahon , *Enhancement of Local Content in the Upstream Oil and Gas Industry in Nigeria* (Bergen , Stavanger , Lagos : SNF-Project No 4246-report No 25-03, Institute for Research in Economics and Business Administration 2003).v

<sup>103</sup>AbolfaziKazzai& Behrouz Nouri. *A Conceptual Model for Local Content Development in the Petroleum Industry 2012*. 2 Management Science Letters. page 2166,



Oil and Gas industry of Uganda is handled in a way that ensures that welfare of people in the oil and gas industry are catered for. !

According to Gwayaka's<sup>104</sup> views are in consensus of the above highlighted views, and in his article, he stipulated that local content in the Oil and Gas sector in Uganda broadly focuses on the involving citizens in the sector through training and building capacity for citizens, technology transfer, and employment and service provision.:

Various views on how to approach the development of LC have been discussed of which most of the definitions agreed that successful development of local content results in some form of value addition to the country. An analysis of how effective LC regulatory regime enhances welfare of people in the Oil and Gas industry of Uganda is fundamental since these regulations and legislations have some causal effects on some important aspects of LC as a policy aspect in question and the way they affect citizens in the oil and gas industry.

### **2.3.1 Why local content? Perceived benefited of local content regulatory regime in enhancing welfare of people in the oil and gas sector.**

According to Marie and Carole in their article discussed the fact that the promotion of the local content can actually contribute to the reversing of the "*resource curse*" when robust collaborate strategies are put in place. They further suggest that this comes with the implementation of the local content policies that would help have a strategized local content implementation in the host country.<sup>105</sup>

Dobbs stipulated that the number one policy that is expected of local content is social and economic benefits to the host countries. Dobbs continued to portray that the Oil and Gas industry should be able to have a stimulating effect on economic growth and development if they are sufficiently integrated within the domestic economy. Dobbs explained that this can be done by capturing locally as much as possible of what the Oil and Gas companies spend to carry out their activities. It is estimated that 40-80% of these companies' revenues are spent on procurement of goods and services.<sup>106</sup>

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<sup>104</sup>Peter Megillah Gwayaka, Local Content in Oil and Gas, An assessment of Uganda's Legal and Policy Regimes (A code policy Briefing paper series No.28, 2014, Kampala 2.

<sup>105</sup> Marie-Claire Aoun and Carole Mathieu. Local Content strategies in Oil and Gas sector. How to maximize Benefits to Host Communities, The French Institute for International Relations pg.4

<sup>106</sup> Richard Dobbs et al Reverse the Curse, Maximizing the Potential of Resource Driven Economies (Mckinsey Global Institute, December 2013) page 13.

According to Marie and Carole<sup>107</sup> in the same view stipulated that local content ventures as discussed by Dobbs create a backward linkage which means that Oil and Gas companies ought to procure goods and services from local people to perform their activities. Marie and Carole also in their article provides that local content encourages the forward linkage which is the move that for example the product produced should be used as an input for another sector before the processed good is exported. A typical example would be the oil refined in the country where it is produced before it is transported overseas.

According to Tordo in his article portrayed that Oil and Gas industry being a capital-intensive industry does not provide many employment opportunities as compared to other industries and consequently, the rationale behind adopting local content policies is to create links that enable the profits of the resource to flow to other sectors.<sup>108</sup>

In the same view, Hirschman identifies three types of sector links the industry could create; backward links, which create demand for the output of one industry to be used as input for another industry; forward links, which supply the output of an industry as input for another; and financial links, which are taxes paid by the industry to the government and can be saved or spent on other goods and services. Therefore, an increase in the output on one industry can have ripple effects on other industries through an increase in demand for products, or an increase in its output.<sup>109</sup>

Establishing what LC policies are and why the need for LC as an aspect in the Oil and Gas industry has been demonstrated to be vital and paramount to convey pertinent aspects for example promotion of value addition to the economy and the promotion of project linkages as a way of sustenance of the economies dealing in Oil and Gas projects. As the research is being conducted, such attributes will be put in consideration while analysing how effective LC regulatory regime in enhancing social welfare of people is as envisaged in the Oil and Gas industry of Uganda.

### **2.3.2 Arguments for and against Local Content as a way of enhancing social welfare in the oil and gas sector.**

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<sup>107</sup> Marie-Claire Aoun and Carole Mathieu. Local Content strategies in Oil and Gas sector. How to maximize Benefits to Host Communities, The French Institute for International Relations pg.4

<sup>108</sup>Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

<sup>109</sup> Albert Hirschman, the Strategy of Economic Development. 2013. Page 60.

This section dealt with one of the objectives of the study in question which is to establish reasons for and against the implementation of local content in regulations affecting Oil and Gas Industry of Uganda. This section discussed the scholarly work pertaining this objective in question citing the gaps that exist there through the scholarly. Work discussed.

### **2.3.3 Arguments in favour as a way of enhancing social welfare in the oil and gas sector.**

There are several arguments in favour of LC as an aspect of Oil and Gas industry.

Tordo and Yahya in their book stipulated that LC can help to correct market failures,<sup>110</sup> which can arise when there is a distortion that keeps the market from allocating resources efficiently and adjusting to a steady state, with the result that domestic' industries cannot gain the necessary technology and capacity to compete on the open market without outside intervention and protection.<sup>51</sup> Usually market fails from a domestic view because the domestic market lacks the necessary skills to serve the industry resulting into inefficient allocation of resources in the market. LC can help to correct and verify this market failure through the requirement of companies to invest in the domestic market of which such requirements help to ensure that skills are developed and those available are ready to meet the demands of the market.

Alisa and Kevin in their article stipulated that development and 'enhancement of LC enables the country to develop its own technical skills to meet the demands of its industries. They continue to stipulate that this enhances entrepreneurship which can contribute to poverty eradication.<sup>52</sup> However the issue of enhancing local regulations and legislations to uphold the aspects of LC in totality is left out yet with effective legislation in place regards such aspects like LC would easily bring various incentives in relation to LC together without compromise.

According to Gereffi in his article as portrayed in Stallings stipulated that encouragement and the enhancement of LC can help domestic firms in developing countries to integrate themselves into global economic networks. As a confirmation. Gereffi continued to portray that studies in 1990's showed that both local productivities, enhancing entrepreneurship and state support to local development helped East African firms to achieve significant positions in global economic networks.<sup>53</sup> Though this is true, the aspect of analysing the importance of

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<sup>110</sup>Tordo Silvana Warner, Manzano Osmel , E, and Yahya , Local Content Policies in the Oil and Gas sector ( The World Bank, Washington DVC.2013) 1.

local regulations that portrays LC as a policy aspect as vividly endowed in the regulation in question is a gap that was not hinted on. It should be put to notice that LC policy promotion envisages various aspects as already explained. With an effective regulatory framework regards aspect would be key to handle various aspects at ago.

According to Morrissey, technology transfer is an assurance with the promotion of LC since it contributes to the productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms.<sup>54</sup>In the same view, Whitfield observed that most advanced economies utilized industrial policies similar to LC to boost their domestic economy while in their early stages of their industrial development.<sup>55</sup> However these two proponents did not focus on the fact that these policies need tactical vehicles like an effective legal regulatory framework to ensure that all concerned stakeholders are able to benefit from these policies like LC in question.

Dani Rodrick stipulated that developing of new industries usually require an encouragement and push from governments. He continued to say that form of encouragement can be in form of subsidies, loans infrastructure and other kinds of support yet on the actual reality, most times government assistance is hidden.<sup>56</sup>In the same view, top economist Chang stipulated that developing countries should not kick away the ladder which they had used to climb to the top of economic development.<sup>57</sup> However much their studies are not tackling the legal aspects of their views like having in place regulations that uphold the aspects of LC as a platform for ensuring effective public-government relations concerning various projects like upcoming industries.

According to Michael Warner in his book portrayed that protection of infant industries is one of the most important arguments given for introducing local content, requirements into various industries.<sup>111</sup>Warner continued to support his position arguing that local industries in developing countries are not as mature as their multinational counterparts who may have been in the industry longer and probably enjoyed economies of scale<sup>112</sup>

.He continued to stipulate that therefore these domestic companies are given some sort of shield to enable them catch up and compete effectively with their international

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<sup>111</sup> Michael Warner, *Local Content in Procurement, Creating Local Jobs and Competitive Domestic Industries in Supply Chains* (Shelford: Greenleaf Publishing 2011)

<sup>112</sup> Michael Warner, *Local Content in Procurement, Creating Local Jobs and Competitive Domestic Industries in Supply Chains* (Shelford: Greenleaf Publishing 2011)

competitions.<sup>60</sup>Tordo in support of Warner's views portray that as such, LC enables them to partner with bigger companies and learn from them, as is evident in Norway's Model.<sup>61</sup> However this is true, these two fail to tackle the aspect of how important the role of regulations to effectively uphold LC is, towards ensuring that some of these aspects are upheld positively.

#### **2.3.4 Arguments against the use of LC regulatory regime in enhancing welfare of people in the oil and gas industry.**

According to Cimino and Schott stipulated that one of the pertinent arguments against LC is its potential incompatibility with the international trade measures applicable to members of the world Trade Organisation.<sup>113</sup>They Particularly mention the Agreement on trade related investment measures, the General Agreement on Tariff and trade and the Agreement on subsidies and countervailing measures (ASCM) as some of the agreements ' that endorse "national treatment" principle that obliges member countries to treat one another as they would their own nationals.<sup>114</sup>

According to Cimino and Schott continue to argue that there are some limited expectations for least developed countries in application of this rule with regard to ASCM, for example, domestic subsidies violate WTO rules only when they adversely affect the domestic commerce of another WTO member state.<sup>115</sup>Furthermore, Cimino and Schott portrayed that this has led to some scholars to suggest that countries should instead of using traditional LC policies, make use of subsidies to support their own domestic firms on a time- limited basis.<sup>116</sup> However the paper failed to recognize how important the regulatory framework put in place to promote LC can be in trying to come up with reasonable solutions to ensure that policies like LC are not in conflict with other international recognized regulatory frameworks.

According to Rodrick in the same argued that even though LC breach the international trade and investment principles, they are an essential part of the "policy" space that developing countries ought to be allowed to pursue their economic development goals.<sup>117</sup> In support of this view, Lee noted that "fair trade" in the sense of a "level playing field" does not necessarily

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<sup>113</sup> Cimino, Gary Clyde Hoffbauer & Jeffrey J. Schott A Proposed Code to Discipline in Local Content Requirement, Peterson Institute for International Economics Policy, Brief No PB14-6, February.pg. 6.

<sup>114</sup>Michael Warner, Local Content in Procurement, Creating Local Jobs and Competitive Domestic Industries in Supply Chains (Shelford: Greenleaf Publishing 2011)

<sup>115</sup> Cimino, Gary Clyde Hoffbauer & Jeffrey J. Schott A Proposed Code to Discipline in Local Content Requirement, Peterson Institute for International Economics Policy, Brief No PB14-6, February.pg. 6.

<sup>116</sup> Cimino, Gary Clyde Hoffbauer & Jeffrey J. Schott A Proposed Code to Discipline in Local Content Requirement, Peterson Institute for International Economics Policy, Brief No PB14-6, February.pg. 6.

<sup>117</sup> YS Lee, Reclaiming Development in the World Trade System, 2<sup>nd</sup> Ed (Forthcoming) (Cambridge: Cambridge University Press, 2016) at page 462-463.

mean applying the same set of trade rules and conditions to every nation, but also means recognizing that some countries are so disadvantaged that they need “ reasonable accommodation” under the international trade system. However, in their work, they haven’t portrayed the importance of having sufficient regulatory framework to endeavour to harness and control these issues practically.

According to Stanislaw stipulated that LC is said to be a poor instrument for addressing the inadequate contribution of the extractive sector to local economic development, for it creates distortions, inefficiency and corruption.<sup>118</sup> Stanislaw continued to say that inefficiency for instance may be as a result of technological strangeness which is the ability of the rest of the economy to develop service capability through backward linkages and the speed at which such capability can be created.<sup>119</sup>

According to Stanislaw further portrayed that such problems can be dealt with through a well-designed local content framework that takes into account the socio-political and economic climate in which it is to be applied.<sup>120</sup> However much this is true, the discussion failed to recognize that such problems can be curbed through having a relevant legal regulatory framework that handles aspects concerning LC regulatory regime putting in place measures of dealing with these highlighted mishaps.

## **2.4 Practical decisions and perceptions in the formulation of Local Content policies as an aspect of enhancing social welfare of people in the oil and gas industry.**

This section handles one of the objectives in question which is to ascertain the practical approaches necessary to enhance an effective Local content regulatory regime and the aspects of welfare of people Oil and Gas industry of Uganda.

### **2.4.1 Use of Required Targets**

According to Chinyere and Benjamin provided that one of the major issues with LCP is that local skills availability has frequently lagged behind the industry needs.<sup>121</sup> They continued to

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<sup>118</sup> Stanislaw Lech, The Petroleum Sector Value Chain in SalvanaTordo , Brandon S Tracy & Noora Arfra (eds)National Oil Companies and Value Chain, World Bank Working Paper No 218, 2011, pg9.

<sup>119</sup> Stanislaw Lech, The Petroleum Sector Value Chain in SalvanaTordo , Brandon S Tracy & Noora Arfra (eds)National Oil Companies and Value Chain, World Bank Working Paper No 218, 2011, pg9.

<sup>120</sup> Stanislaw Lech, The Petroleum Sector Value Chain in SalvanaTordo , Brandon S Tracy & Noora Arfra (eds)National Oil Companies and Value Chain, World Bank Working Paper No 218, 2011, pg9.

<sup>121</sup> Chinyere Shirley Ayonmike&Benjamin Chukwumaijem Okeke, The Nigerian Local Content Act and its Implementation on Technical and Vocational Education and Training (TVET) and the Nationals Economy, (2015).3:1 International Journal of Education learning & Development Page 30.

stipulate that many Oil and Gas companies use this as a pretext for not meeting local content directives. Chinyere and Benjamin further stated that imposing stringent conditions regarding the use of local labour and local procurement cannot therefore achieve the best outcome.<sup>72</sup> In the same view, Chinyere and Benjamin continued to specify that it may not be the best way to address the capacity problem as it incorrectly assumes that the requisite skills are available. Their argument stipulated that that local content works best to create value where the necessary technical and vocational skills are available and, in that way, enhancing social welfare of Ugandans through improving their living standards<sup>122</sup>

According to Pan Ford portrayed that Ghana as a best example of a new Oil and Gas producing country that has shown strong commitment to skills development that Uganda can learn from. The situation in Ghana was worse the base of which was comprised of unskilled workers employed in activities that required little technology.<sup>123</sup> In 2013, Tullow Oil led the jubilee partners to set up a US\$ 15 million state of the art training Centre at the Takoradi polytechnic, Ghana. This was a private initiative aimed at addressing the skills gap in technical and vocational education in the Oil and Gas industry.<sup>124</sup> In Kenya, Tullow has in collaboration with Africa Oil corporation, established a polytechnic in Lawdar to provide Oil and Gas training to Kenyans.<sup>125</sup>

Promoting of mandatory targets, as an incremental approach to promote local content overtime may not be the best approach, but as a country continues to invest in training local professionals, the level of local content required of companies can be increased gradually in proportion to a reasonably projected increase in the availability of qualified local professionals and firms to take up the opportunities. The scholar's views portrayed above are articulate however their research did not portray that with a pertinent regulatory framework in place to enhance the social welfare of the people in the extractive industry of Uganda particularly oil and gas sector. It becomes easy to have an effective LC regulatory regime to cut across and balance the sectors in question.

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<sup>122</sup> Chinyere Shirley Ayonmike&Benjamin Chukwumaijem Okeke, The Nigerian Local Content Act and its Implementation on Technical and Vocational Education and Training (TVET) and the Nationals Economy, (2015).3:1 International Journal of Education learning & Development Page 30.

<sup>123</sup> Kwamina, Panford. An Exploratory Survey of Petroleum Skills and Training in Ghana (2014) 60:3. Africa today page 62.

<sup>124</sup> Jim Play foot& Phil Andrews, Education and Training for Oil and Gas Industry: Case Studies in Partnership and Collaboration -Takoradi Polytechnic and the Ghanaian Energy Industry, An Education, Industry Partnership to Build an Energy Workforce for Ghana (San Diego Elsevier Inc, 2014) page 59-70.

<sup>125</sup> Kenya Civil Society Platform Oil and Gas, Setting the Agenda for the Development of Kenya's Oil and Gas Resources – The perspective of the Civil Society, July 2014, page 40.

## 2.4.2 Promoting project linkages

Warner in his study portrays that there is always an assumption concerning the design and the implementation of most local content policies in developing countries that the capture of economic benefits from the presence of foreign investors can come only through employment generation and the participation of local firms which in turn will improve the social welfare of Ugandans in the oil and gas sector.<sup>126</sup>

According to Warner continued to portray that most times inadequate attention is paid to the potential benefits that could come from project linkages or what is referred to as off-project strategies.<sup>127</sup> He explained off- project strategies as the involvement of companies in local content capability development outside of a particular employment, supplier or subcontractor contract, such as through community investment programs.<sup>128</sup> Morrissey in the same view defined three basic types of linkages; (i) through relating with employment, (ii) those relating to demand for inputs from local supplies, and (iii) those relating to supply of inputs to local producers.<sup>129</sup>

Regarding employment, linkages occur through the provision of training that firms provide for their workers, as such training can benefit local firms if the workers later move to work for local firms.<sup>130</sup> Labour turnover is thus regarded as significant factor in linkage development between the oil sector and the non-oil sectors. However, the gap left out is that necessitates a strategic form of regulations that can easily bring a vast number of people on board so as to have an effective LC in the Oil and Gas industry. On the other hand, inputs from local suppliers carry linkage potentials because in the effort to meet the demands of foreign firms, local firms improve their production standard and practices. Similarly, when foreign firms supply inputs to local producers, some technology is implanted in it that it benefits local producers.<sup>131</sup>

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<sup>126</sup> Michael Warner Community Content, The Interface of Community Investment Programs with Local content Practices in the Oil and Gas Development Sector, Policy Brief Note 9, 20072, 2017.

<sup>127</sup> Michael Warner Community Content, The Interface of Community Investment Programs with Local content Practices in the Oil and Gas Development Sector, Policy Brief Note 9, 20072, 2017.

<sup>128</sup> Michael Warner, Local Content in Procurement, Creating Local Jobs and Competitive Domestic Industries in Supply Chains (Shelford: Greenleaf Publishing 2011)

<sup>129</sup> Oliver, Morrissey, FDI in Sub-Saharan Africa, Few Linkages, Fewer Spillovers (2012) 21:1 European Journal of Development Research 21.

<sup>130</sup> Oliver, Morrissey, FDI in Sub-Saharan Africa, Few Linkages, Fewer Spillovers (2012) 21:1 European Journal of Development Research 21.

<sup>131</sup> Adeolu O Adewuyi & Ademola Oyejide, Determinants of Background Linkages of Oil and Gas Industry in the Nigerian Economy, (2012) page 37 Resource Policy 456.



According to Klueh stipulated further that Promotion of project linkage is critical to the economic diversification of the local economy. As the IMF pointed out, the development of specific activities in the Oil sector cannot be undertaken without reference to the other sectors.<sup>83</sup> the link between the oil sector and the non-oil sectors, such as agriculture, tourism and finance, may be viewed as associated.<sup>132</sup>Some economic activities outside the oil sector can provide inputs to the growth of the oil industry. Uganda's Oil and Gas Industry has the potential to boost the non -oil sectors and for these sectors in tum to boost the Oil and Gas industry. LCP can contribute towards enhancing the positive aspects of this symbolic relationship.

According to Jenkins stipulated that there is need for strengthening of the environment for linkage development. This requires promoting the growth and capacity development of institutions and organizations that help to build the socio- economic assets and infrastructure on which industries depend.<sup>133</sup> These institutions include educational institutions and vocational training institutes, credit providing institutions, cooperatives and other small business associates, entrepreneurship organizations, relevant government agencies and departments such as company registries and tax offices.<sup>134</sup> All these initiatives will in the end enhance social welfare of the people who will be benefitting from the direct and indirect participation in the oil and gas industry.

The views aired by the scholars concerning this matter are good but what was not handled is the aspect of considering legal regulatory framework that promotes the effective regulatory framework of LC as one of the platforms to handle such issues as a way of promoting social welfare in the Oil and Gas industry.

### **2.4.3 A Regional Approach**

According to Lalbahadur argued that it is a critical challenge for most African countries to design the LCP that reflects their peculiar development needs. According to Lalbahadur continued to stipulate that it has been suggested that since there is an acute shortage of specialized extractive sector skills in most African countries, acting individually by independent African Countries cannot achieve much with the policy and that a regional approach would be more effective as a way of enhancing welfare of Ugandans in the oil and

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<sup>132</sup>Adeolu O Adewuyi& Ademola Oyejide, Determinants of Background Linkages of Oil and Gas Industry in the Nigerian Economy, (2012) page 37 Resource Policy 456.

<sup>133</sup> Ben Jenkins et al, Business Linkages, Lesions, Opportunities and Challenges, International Finance Corporation, International Business Leaders Forum and the Kennedy School of Government, Harvard university page 2 007 page 10.

<sup>134</sup> Ben Jenkins et al, Business Linkages, Lesions, Opportunities and Challenges, International Finance Corporation, International Business Leaders Forum and the Kennedy School of Government, Harvard university page 2007 page 10.

gas sector.<sup>135</sup> Lalbahadur argued that while the promotion of technology and skills transfer is one way to address the skills crisis in Africa, another possible way is a “more stringent focused African strategy”.<sup>136</sup>

A regional approach to LCPs may take the form of regional governments providing a framework for the development and inter-country transfer of specialized skills. The East African community could model such an initiative for East African countries. A country would be better positioned to draw resources from its immediate neighbours than from more remote countries.

According to Lalbahadur continued to portray that in this case, sub regional frameworks are more effective than a general continent- wide framework. In order for it to be effective, regional approach must include mechanisms to promote interaction among companies, professional associations and policy-makers in the extractive sector so as to facilitate regional mobility of labour. It may also take the form technical partnerships among the various regional countries to promote the exchange of technical experts in the oil and gas sector.<sup>137</sup>

According to Petey in a similar view gave an example of Kenya’s role that as a regional hub for East African crude oil and petroleum products, may be more significant than its potential position as an Oil and Gas producer.<sup>138</sup> This belief stems from the fact that Kenya’s oil reserves are estimated at about 600 million barrels, suggesting that even if new discoveries are made, Kenya still remains a small oil producer.<sup>139</sup> Petey argued that it may therefore make economic sense for Kenya to share oil facilities, such as pipelines, within its neighbours. Such cooperation would open opportunities for a regional local content development.

Regional approach as a practical tactic as discussed by the scholars is a key and basic method for Uganda and the various major stake holders in Oil and Gas industry. However, what was not hinted upon is the fact that the aspect of regional approach can be well represented through an efficient legal and regulatory framework representing various aspects of Oil and Gas industry in this case of welfare aspect of people in the oil and gas sector.

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<sup>135</sup> Aditi Lalbahadur A Approach to National Development Priorities in Mozambique? 20 March, 2013, South African Institute of International Affairs. Page 361.

<sup>136</sup> Aditi Lalbahadur A Approach to National Development Priorities in Mozambique? 20 March, 2013, South African Institute of International Affairs. Page 361.

<sup>137</sup> Aditi Lalbahadur A Approach to National Development Priorities in Mozambique? 20 March, 2013, South African Institute of International Affairs. Page 361.

<sup>138</sup> Luke Patey , Kenya , AN African Oil Upstart in Transition, Oxford Institute for Energy Studies ,WPM 532014 page 14.

<sup>139</sup> Luke Patey , Kenya , AN African Oil Upstart in Transition, Oxford Institute for Energy Studies ,WPM 532014 page 14.

#### 2.4.4 Avoiding the elite capture and corruption.

According to Global witness' article portrayed that it is practice that in most extractive industries, there is a tendency of the top elites to be most and more involved in the affairs of the industry.<sup>140</sup> This is so in a way for example that the top elites can converge with the multinational oil companies to participate in the bidding and acquiring of licenses in one way or the other in accordance to what laws and regulations in different jurisdictions provide.<sup>141</sup> This has brought about corruption tendencies which has been hard to capture especially where few elites disguise themselves in the foregoing businesses leaving out the rest of the issues untaken care of.<sup>142</sup>

Global Witness in its article argued further that corruption damages a country's business reputation and puts foreign business at the risk of violating the extra territorial anti-bribery laws of their home countries.<sup>143</sup> Global witness further explained that this behaviour has been highlighted in the Nigerian and Angolan local content laws where a number of indigenous companies in both countries have either been assigned shares in Oil licenses or became pre-qualified to bid for shares in such licenses even through the beneficial owners of the companies are a matter of top secret or are identical with some public officials.<sup>144</sup> Global witness further stipulated that corruption associated LCPs is even more damaging than one-off payments for contracts because it means revenues can be stolen from state continuously and in a way that is much more difficult for an audit to detect and this would automatically lower the welfare of people in the oil and gas industry<sup>145</sup>

Hansen in the same view argued that the real problem is that ruling elites have little incentive to support linkage development for domestic economic enterprises if they are without much political importance for survival of the ruling elites. Hansen continued to argue that instead, mulling elites protect and engage with domestic entrepreneurs who have already captured local content markets, because this is where rents can be extracted from entrepreneurs in support of elite political survival strategies.<sup>146</sup>

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<sup>140</sup> Global Witness, Blue Print for Prosperity: How South Sudan's New Laws Hold the Key tom Transparent and Accountable in the Oi and Gas Sector. 14<sup>th</sup> April 2017.

<sup>141</sup> Global Witness, Blue Print for Prosperity: How South Sudan's New Laws Hold the Key tom Transparent and Accountable in the Oi and Gas Sector. 14<sup>th</sup> April 2017.

<sup>142</sup> Global Witness, Blue Print for Prosperity: How South Sudan's New Laws Hold the Key tom Transparent and Accountable in the Oil and Gas Sector. 14<sup>th</sup> April 2017.

<sup>143</sup> Global Witness, Blue Print for Prosperity: How South Sudan's New Laws Hold the Key tom Transparent and Accountable in the Oil and Gas Sector. 14<sup>th</sup> April 2017.

<sup>144</sup> Global Witness, Blue Print for Prosperity: How South Sudan's New Laws Hold the Key tom Transparent and Accountable in the Oil and Gas Sector. 14<sup>th</sup> April 2017.

<sup>145</sup> Global Witness, Blue Print for Prosperity: How South Sudan's New Laws Hold the Key tom Transparent and Accountable in the Oil and Gas Sector. 14<sup>th</sup> April 2017.

<sup>146</sup>Hansen. The Political Economy of Local Content in African Extractives, Lessons from Three African Countries, Paper presented at 46 Arsmode I Dansk Selsksb for StatskundskabVejle, Denmark, pg.3.

As discussed above, these tendencies kill the zeal of a nation's potential to utilize its resources for the benefit of its citizens, as already identified. Efficacy LC regulatory regime as an aspect of the Oil and Gas industry fronts citizen participation in the activities there in so as to bring about economic, social and political transformation and this prevents the improvement of the citizen's living standards in the sector hence increased poverty amongst the population. The scholars were on point concerning this matter, however what was not tackled is the aspect of how important the legal regulatory framework that promotes LC as an aspect of Oil and Gas LC can be used to handle such tendencies for example through stringent penalties like cancellation of licenses or tenders that would have been got through such corrupt tendencies as described and this aimed at improving the living standards of people in the sector through social and economic transformation.

According to Nwapi in the same view highlighted some other mechanisms that can promote transparency to include the streamlining of the oil bidding process to remove complex and unnecessary bottlenecks that make compliance with the requirements cumbersome and that promote opacity, and government publication of names of companies bidding for licenses as well as their beneficial owners and shareholding structure.<sup>147</sup>

## **2.5 Factors that may hinder the effective implementation of local content in Uganda's regulatory regime in enhancing the social welfare of Ugandans in the Oil and Gas Industry.**

This section highlights one of the objectives of this study in question which is to determine factors that may hinder the effective implementation of local content regulatory regime in enhancing the welfare of the people in Uganda's Oil and Gas Industry.

According to Balouga in his article cited Nigeria as an example of a country with over four decades' experience in oil and gas exploration and production activities and proven recoverable reserves of about 37 billion barrels, and yet her inability to use the resource wealth as a means for national development and poverty reduction has perhaps been the greatest challenge facing successive administrations.<sup>100</sup> Balouga continued to argue that these challenges have made Nigeria a country far behind in development that the countries like

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<sup>147</sup>Nwapi, C. E. (2011) A Survey of the Lecture on Local Content Policies in the Oil and Gas Industry in East Africa, Browser Download this Paper.

Norway, Brazil and Indonesia which started their exploration proceeds when Nigeria had recorded strategic efforts to grow LC in this strategic industry. <sup>148</sup>

Using Nigeria's example, the researcher found it necessary to highlight some of the challenges that are likely to hinder the implementation of LC in the regulations affecting Oil and Gas industry in Uganda.

### **2.5.1 Lack of funds**

According to Balouga highlighted lack of funds as one of the major challenges that has made the implementation of LC difficult. It is well known that Oil and Gas industry is a capital-intensive industry and there is a lot of investment in terms of money required for some of the activities to go forth smoothly. Most local based service providers within a host country like Uganda finds it a challenge that even though they can bid for the services in question, they are ruled out on the issue with funds in question this in itself is aimed at improving living standards of people in that sector.

According to Balouga in his article stipulates that this has been one of the prior challenges facing the Nigerian LC development. <sup>149</sup>Balouga continued to argue that despite the ever growing number of local service providers, despite the enormous investment in human capital by the Nigerian National Petroleum Corporation and some of its joint venture partners over the years, producing a new crop of highly competent and experienced Nigerian engineers, geologists, geophysicists, their inability to get a share of action at upstream has been due to dearth of funds. <sup>150</sup>

The challenge of lack of funds is further highlighted in the Ugandan Oil and Gas industry setting as pinpointed by Baitwa the Managing Director of Three ways Shipping services ltd as highlighted in the Uganda chamber of Mines and Petroleum magazine<sup>104</sup>where he stipulated that the challenge faced by the Ugandan companies is both financial and technical for example if a Ugandan supplier has the financing, they might not meet the technical requirements and vice versa of which he concludes saying that joint ventures with the foreign companies might be the way to go. <sup>151</sup>

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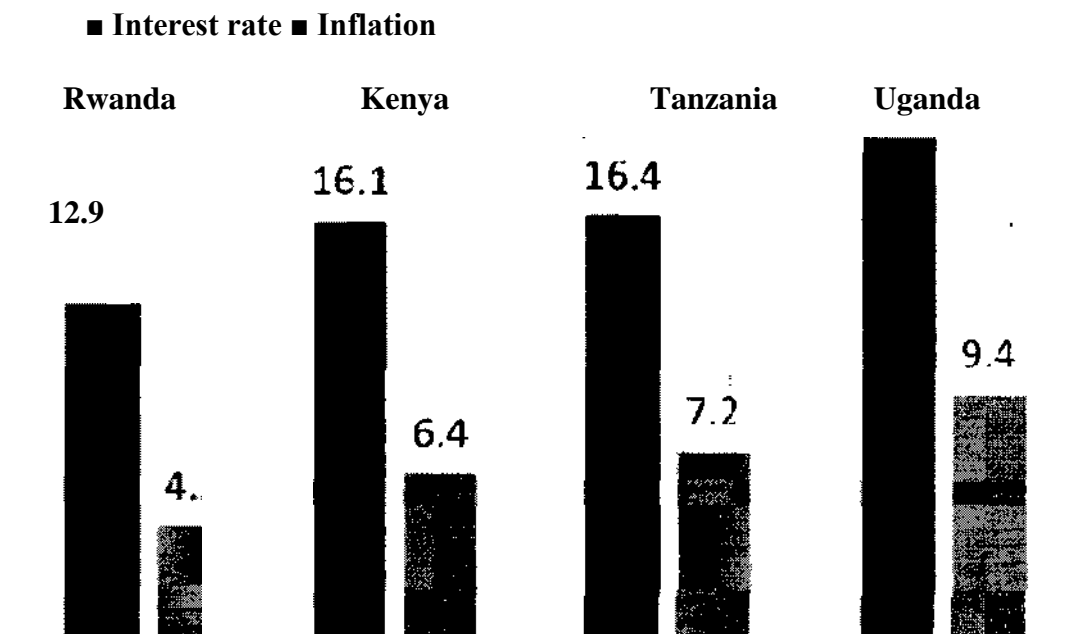
<sup>148</sup> Jean Balouga, Nigeria: Challenges and Prospects (2012) International Association for Energy Economics page 23.

<sup>149</sup> Jean Balouga, Nigeria: Challenges and Prospects (2012) International Association for Energy Economics page 23.

<sup>150</sup> Jean Balouga, Nigeria: Challenges and Prospects (2012) International Association for Energy Economics page 23.

<sup>151</sup> The Uganda Chamber of Mines & Petroleum, A Case for Local Content (April, 2016) 15 (1)

In addition to the above, the report<sup>152</sup> on the national content study in the Oil and Gas sector in Uganda stipulated thus that the access to finance is a major barrier for the development of Ugandan industry. The report continues to show that the interest rate, although on a declining trend, is still very high also by an East African standard (Figure 2). The report further stipulated that an even greater challenge for many companies will be to have access to the financial market at all.<sup>153</sup> The report continued to provide thus that in reality, a financial market to support long-term investments appears to be almost non-existent. For the majority companies, the use of short-term grey-market loan with skyrocketing terms seems to be the only available possibility. In addition to that the, report stipulated that the lack of acceptable collaterals is one of the main hurdles.<sup>154</sup>



Source: Private Sector Foundation Uganda (2010)

Figure 2. Interest and Inflation rates within East African Countries as of March 2010.

<sup>152</sup> MEMD, Enhancing the National Participation in the Oil and Gas Industry in Uganda (Final Report on the National Content Study in the Oil and Gas Sector in Uganda 2011).

<sup>153</sup> MEMD, Enhancing the National Participation in the Oil and Gas Industry in Uganda (Final Report on the National Content Study in the Oil and Gas Sector in Uganda 2011).

<sup>154</sup> MEMD, Enhancing the National Participation in the Oil and Gas Industry in Uganda (Final Report on the National Content Study in the Oil and Gas Sector in Uganda 2011).

The scholarly work described above is clear, however these studies did not tackle the need for an effective legal regulatory framework dealing with LC that is meant to ably provide for ways how these obvious challenges like lack of funds can be dealt with.

### **2.5.2 Capital flight**

According to Balouga stipulated that one of the major challenges that have hindered smooth implementation of LC regulatory regime proceeds in most extractive industries is the issue of Capital Flight. According to Balouga, one of the challenges faced by Nigeria during its Oil and Gas production is the issue of capital flight.<sup>155</sup> The reason is that over 90% of the yearly industry expenditure escape the domestic economy as capital flight. Despite the ever-growing number of local service companies, the latter's annual gross earning still account less than 5% of the sectors aggregate annual contracting budget.<sup>156</sup>

According to Balouga continued to specify that even the local media has been deprived the much-desired opportunity to advertise the activities of upstream companies in Nigeria. Some of these huge companies for example the Nigeria LNG prefer to spend huge media budgets running into millions of dollars on foreign media like CNN, upstream journals and magazines. They hardly spend 20% of such annual budget on Nigeria media.<sup>111</sup>

Such challenges like capital flight is so vital and a trigger to enhance an efficient process of ensuring that the legislation governing LC in Uganda is balanced to support the stakeholders in the sector at large. As lessons learnt from other jurisdictions, Uganda is no better to not fall into prey of such hindrances.

The scholarly work discussed in this regard failed to recognize that having an effective legislation portraying pertinent local content provisions is key towards ensuring that strategic efforts are put in place through a balanced LC policy regulatory framework in the industry at large if the social welfare of people is to be achieved.

### **2.5.3 Perpetual delays**

The Oil and Gas industry is quite lengthy within the oil production process and other related activities. This has made it hard for some qualified local players to ably play in the

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<sup>155</sup> Jean Balouga, Nigeria: Challenges and Prospects (2012) International Association for Energy Economics page 23.

<sup>156</sup> Jean Balouga, Nigeria: Challenges and Prospects (2012) International Association for Energy Economics page 23. The Uganda Chamber of Mines & Petroleum, A Case for Local Content (April, 2016) 15 (1)

industry hence becoming one of the major hindrances towards an effective promotion of local content in the Oil and Gas industry as such delays usually affect businesses at large.

According to Baitwa , the Managing Director of Three ways Shipping services ltd in his article portrayed in UCMP magazine on local content,<sup>157</sup> he stipulated that the means to participate as local suppliers in the Oil industry has been greatly undermined or affected by the delays that have happened and for that matter, many who are hanging on are struggling and may not make a rebound for future business.<sup>158</sup>

He continued to say that local suppliers are losing credit worthiness and that there could be no basis to going back to the bank where there is no deal or business to come back to. With such, the participation of Ugandan companies becomes minimal than what people have been craving for. In most cases when the process that have been holding the whole process to progress are dealt away with, Baitwa continues to say that the oil companies would want to move quickly because they need to regain the lost time and this would be a perfect time to tell you that they will simply go ahead with those who will be ready and at most times those ready are the big boys with big money who are mostly foreign suppliers.<sup>159</sup> However, the paper did not focus on the need for having an effective legal regulatory framework aimed at enhancing social welfare of participants in oil and gas sector which would ensure that such insufficiencies are dealt with.

#### **2.5.4 Inefficient Legislation**

One of the most apprehensive ways of having an efficient policy programmed that a country can have or promote is through having an effective and efficient legislation or regulatory framework that enables the promotion of the aspirations of the government at large.- With paramount and efficient regulation and legislation, there is vast communication between different stakeholders pertaining the policies in question. This is more less those who are directly affected by the policies at large. Relating this with the Oil and Gas Industry, the issue of LC is paramount as discussed earlier as it ensures that there is value addition to the host nation through the activities of the Oil and Gas industry despite the passing of National local content Act<sup>160</sup>.

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<sup>157</sup> The Uganda Chamber of Mines & Petroleum, A Case for Local Content (April, 2016) 15 (1)

<sup>158</sup> The Uganda Chamber of Mines & Petroleum, A Case for Local Content (April, 2016) 15 (1)

<sup>159</sup> The Uganda Chamber of Mines & Petroleum, A Case for Local Content (April, 2016) 15 (1)

<sup>160</sup> 2019



In order to have pertinent results as per the LC requirements, the researcher found out that having an effective legislation and policies governing LC in question is a paramount requirement that will enable reliable results for the industry in question.

Uganda has several legislations concerning the governance of the LC of which one of them is the Petroleum (EPD) Act,<sup>161</sup> an Act meant to operationalize the National Oil and Gas policy of Uganda.<sup>116</sup> The National Local Content Act of 2019. The Act has various provisions that relate with LC of which some have been found to be irregular for example Section 125(2)<sup>n7</sup> which stipulates that where the goods and services required by the contractor or licensee are not available in Uganda, they shall be provided by a company which has entered into a joint venture with a Ugandan company provided that the Ugandan company has a share capital of at least 48% in the joint venture. The Attorney General (AG) in his report shed more light pertaining this issue and stipulated that this has been seen as very difficult to archive as the requirement of at least 48% share capital holding for Ugandans has been rendered unrealistic due to the fact that Oil and Gas business is capital intensive.<sup>118</sup>

Furthermore, the AG report put it that according to experts in the industry and the Uganda investment authority, Uganda has limited local capacity and access to sufficient capital and this may hinder their capacity to undertake joint ventures with foreign global service providers which makes it difficult to implement the requirements' meant to enhance LC.<sup>119</sup> The report further highlighted the fact that the Act does not define what constitutes a “Ugandan company” or “citizen” in terms of national content realization. In relation to what the companies Act stipulates, it portrays that a Ugandan company is one registered in Uganda, regardless of its ownership or control. This means that although a Ugandan registered company has foreign ownership, it may still be regarded as a Ugandan supplier in compliance with the requirement of the petroleum Act to use Ugandan companies.<sup>120</sup>

The review made by the AG report of the National Content reports, it was established that oil companies to a large extent procure from companies that are wholly foreign-owned. In 2013, CNOOC, TUOP and TEP had procurements (value) from international companies (wholly/ majority foreign owned contractors/suppliers) constituting of 70%, 73% and 74%, respectively. The companies were typically registered as Ugandan companies yet they had foreign ownership.<sup>121</sup> With such instances at hand a lot of potential value addition that would

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<sup>161</sup> Act 4 of 2013 (parliament of the Republic of Uganda).

be embraced by local entities has been lost to the foreign companies on point of mere technicalities in the regulation in place. However, the report did not give enough emphasis on the aspect of the need for an effective legal regulatory framework concerning LC as a key towards ensuring that such issues are dealt with. Table below shows some of the companies that were majorly and majority foreign and were termed and operating as local.

**Table 1: Foreign companies registered in Uganda termed as ‘local’**

<b>Company</b>	<b>Ownership</b>
Baker Hughes EHO ltd	100% Foreign
Caslon Wagonlit travel	1 00% Foreign
Halliburton International Inc. Uganda	100% Foreign
Oil and Gas Exploration Co.	100% Foreign
Schlumberger Oil field Eastern ltd	100% Foreign
Yanjing Uganda Co	100% Foreign
ZTE Uganda	100% Foreign
Total Uganda	100% Foreign
Orange Uganda	100% Foreign
Saracen Uganda ltd	34% Ugandan
CETs Optimus Logistics	40% Ugandan

Source: Review of National Content reports for TEP and CNOOC for 2013

### **2.5.5 Unrealistic Expectations of local content in enhancing social welfare.**

Kinyondo stipulated that many citizens of most host countries endowed with the Oil and Gas resources have unrealistic expectations of the benefits to be received in the future from the petroleum sector of which this could bring instability to the country when confronted with reality.<sup>162</sup> More so Kinyondo continued to state that for example, most Tanzanian companies have limited professional capabilities and that they would not be able to deliver in accordance with the demand from the IOC’s, due to the lack of quality. This was highlighted as one of the main hindrances.<sup>123</sup>

Still referring to the Tanzanian sector, Kinyondo continues to state that SME’s (Small and Medium Enterprises) and farming sectors suffer from low expertise and skills, which disqualify them from the high-end markets that would be generated by the Gas sector. More so that the lack of a capable, prepared environment would prevent local companies from being able to compete with international companies.<sup>124</sup>

Uganda is no more different from Tanzania, the AG in his article with UCMP<sup>125</sup> gives more light on the unrealistic expectations that come up with the excitement of Oil and Gas as

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<sup>162</sup> Abel Kinyondo&Espen Villager, Local Content Requirements in the Petroleum sector Tanzania. A thorny road from inception to implementation (CMI Working Paper Number 6, 2016, Repoa Working Paper Number 16-4 page 19.

an industry. In his response, the AG portrayed that the problem that is facing effective promotion and implementation of LCRR in Uganda is that though the local companies the majority, have failed to match international firms. The AG continued to say that the local people had no base to participate in the industry where their services were limited to services like food, hotel services and water.<sup>126</sup>

The question laid upon was whether the local people were prepared enough to be able to participate in the industry that is whether they are ready to tap in the opportunities in the sector.<sup>163</sup>In relation to what has been discussed above, unrealistic expectations are one thing that retards the promotion of the LCRR in the Oil and Gas industry in that at most times, the host countries are not prepared to meet the demands of the industry especially in terms of skills required and the service provider standards.

However, the scholarly work reviewed did not provide for the realization of having a detailed legal regulatory framework pertaining the L.C regulatory regime as an aspect of enhancing social welfare of Ugandans in the Oil and Gas industry which would be crucial in enhancing the welfare of the people in the oil and gas industry.

## **2.6 Conclusion**

In nutshell, Local content regulatory regime requires companies to give preferential treatment to nationals of the country in which they operate in. It was revealed through the literature review, that the government has not done training needs assessment and the only existing data was conducted by the joint partners which is very critical in providing training, employment and market for the locally produced goods as a way of enhancing social welfare of Ugandans. As a researcher I do believe that doing a needs assessment will help the government fore see the needs of the sector and see how much it can enhance Ugandans social welfare through effective local content regulatory regime and in the end it will enhance the social welfare of people in the oil and gas sector.

This chapter has discussed most aspects of the objectives as highlighted in question ensuring that it gives light to what aspects are required and expected of the whole study in question. The way the Oil and Gas industry of Uganda is handled is very vital especially when it is comes to dealing with policy aspects and regulatory framework aimed at enhancing the social welfare of

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<sup>163</sup> The Uganda Chamber of Mines & Petroleum.

Ugandans in the oil and gas industry. These can range from one policy to another but in this case the main focus is on LC as an aspect endowed in the Oil and Gas industry meant to ensure that the Oil and Gas industry not only benefits the local citizens as a whole but also to ensure that there is economic development to the nation as a whole. These aspects can be registered in areas of skilling Ugandans, employment and buying locally produced goods by international oil companies which are very critical in improving the welfare of Ugandans participating in the oil and gas sector.

The discussions held above cut across various aspects which are key and vital in ensuring that Oil and Gas industry of Uganda flourishes especially with the transformation of various policy aspects like the LC aspect in question. The main concern was how best these aspects can be conjured in a reasonable approachable manner like having a reasonable legal regulatory framework meant to ensure that policies like LC in question produce a realistic venture which can help to enhance the welfare of people within the sector. This will breed controversy on how best these policy aspects can be dealt with between various stakeholders in the industry in question. However, studies have not come out clearly to address this impasse, a gap the researcher seeks to close in this study.

## CHAPTER THREE

### METHODOLOGY

#### 3.0 Introduction

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

#### 3.1 Research Design

Research design is essentially a plan for determining the methods and procedures for collecting and analysing the required information. A good research design should answer the research Question as “unambiguously as possible”<sup>164</sup>. The research question for this study an inquiry as to examine the effectiveness of the local content regulatory regime in enhancing social welfare in Uganda’s oil and gas industry. The main objective of the study was to examine the effectiveness of local content regulatory regime in enhancing social welfare of Ugandans in the Oil and Gas industry.

The research is a descriptive one so as to explain and measure the efficacy of LC regulatory regime in enhancing social welfare of people in the oil and gas sector. In doing so the Researcher analysed different regulations, discussing and giving legal perspectives on how LC provided in the regulatory regime is put into play in the industry at large. It is expected that the insights given will add immeasurably to knowledge and build the nature of how LC is implemented in the regulatory framework in question.<sup>165</sup>

The design that was chosen basing on the research type was a cross-sectional design type at the best method to answer the question. A cross-sectional design is one that involve collecting data from different sources that represent part of a whole to determine patterns.<sup>166</sup> This suited the purpose of this research because Oil and Gas' industry is split into many different sections to form a whole industry.

This study was based on qualitative design methods. Research is said to have used qualitative methods when data is not recorded numerically.<sup>167</sup> Qualitative data was

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<sup>164</sup> NYU (n.d), ‘What is research design’ <http://www.nyu.edu/classes/bkg/methods/005847chl.pdf> accessed on 12<sup>th</sup> September 2019 pg. 9

<sup>165</sup> NYU (n.d), ‘What is research design’ <http://www.nyu.edu/classes/bkg/methods/005847chl.pdf> accessed on 12<sup>th</sup> September 2019 pg 1

<sup>166</sup> Alan Bryman & Emma Bell, Business Research Methods (Oxford University Press 2007) pg.55

<sup>167</sup> Barifajjo, Supra (note 101)

collected as both primary and secondary data. Primary data was gathered using in-depth-one-on-one semi structured interviews and questionnaires as tools that can generate statistical and in-depth data<sup>168</sup>. This was directed to specific stakeholders in the Oil and Gas industry with reliable information that is significant in ensuring that the purpose of the research in question is achieved. Secondary data gathered was in the form of data collected by other researchers.

### **3.2 Target Population**

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

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

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

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

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<sup>168</sup> Amin, M.E, social science Research: Conception. Methodology and Analysis, (Makerere University, Kampala, Uganda, 2005)

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

**Table 2: The response rate by the respondents in percentages.**

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

### 3.4 Sampling Techniques

Since it is difficult to carry out research from the entire population, it is important to sample. Sampling is the process of selecting a suitable sample, or a representative part of a population for the purpose of determining parameters or characteristics of the whole population.<sup>169</sup>

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

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<sup>169</sup> Barifaijo, Supra (note 101)



A sampling procedure is said to be purposive when one's Personal judgment is used to decide which individuals in the population are to be included in the study.<sup>170</sup> Usually these are those researcher thinks best meet the purpose of the study. More so, a Purposive sample is a sample selected because the individuals have special qualifications of some sort, or because of prior evidence of representatives.<sup>171</sup> Units from a pre-specified group are purposively sought out and sampled at times due to their 'privileged' positions by the virtue of their offices. In other words, in purposive sampling, "strategic choices" are made about who, where and how to conduct the research.<sup>172</sup>

The specific kind of purposive sampling used in this research was stakeholder sampling. Stakeholder sampling involves identifying who the major stakeholders are who are involved in designing, giving, receiving, or administering the program or service being evaluated, and who might otherwise be affected by it.<sup>173</sup> Purposive stakeholder sampling was used for this research because LC legislations specifically targets the Oil and Gas industry and being such a closed loop industry and how such legislation can be used to enhance social welfare, strategic choices had to be made to select stakeholders whose operations are directly affected by the legislation. This sampling procedure is useful in the context of evaluation research and policy analysis.<sup>174</sup>

Snowball sampling is used where there are difficulties identifying and contacting members of the research population.<sup>175</sup> Even though it was easy to identify members of the population, there was difficulty in contacting them and I had to rely on the first few contacts to recommend and make introductions to other contacts.

### **3.5 Data Collection Methods**

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

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<sup>170</sup> Tom Nsubuga & Paul Katamba, Basic Research Simplified for the University Students (1<sup>st</sup> edn, 2013) pg.88

<sup>171</sup> Tom Nsubuga & Paul Katamba, Basic Research Simplified for the University Students (1<sup>st</sup> edn, 2013) pg.88

<sup>172</sup> Tom Nsubuga & Paul Katamba, Basic Research Simplified for the University Students (1<sup>st</sup> edn, 2013) pg.88

<sup>173</sup> Ted Plays, 'purposive sampling' in Lisa M. Given, The sage Encyclopedia of Qualitative Research Methods (Vol 1&2 Sage Publications, inc, 2008) pg.697

<sup>174</sup> Ted Plays, 'purposive sampling' in Lisa M. Given, The sage Encyclopedia of Qualitative Research Methods (Vol 1&2 Sage Publications, inc, 2008) pg.697

<sup>175</sup> Nsubuga, supra (note 214) pg 89

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

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

### **3.6 Sources of Data**

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

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

### **3.7 Ethical Considerations**

The goal of ethics in this research was to ensure that no one is harmed or suffers adverse consequences from the research activities.<sup>176</sup> The researcher in the conduct of the study aimed at protecting the rights of the respondents by; ensuring that the respondents privacy is maintained during the research or subsequent thesis, thus ensuring that the respondents selected to participate were without bias, of which it ensured that the research was handled and developed ethically as the researcher ensured the protection of the privacy of the individuals that participated in the study. This privacy protection must extend to all people's, regardless of age, religion, race. As such, the data obtained from the respondents was treated purely as academic and confidential for the safety,

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<sup>176</sup> Barifaijo, Supra (note 101)

social and psychological well-being of the respondents and appropriate documentation was kept.

In addition, much as some of the ideas used by the researcher were his own, there was information read and that obtained from people interviewed about the topic. As such, the researcher was able to explain where he got information from by way of citation and use of quotation marks respectively. This helped the researcher to maintain credibility of the literature to avoid plagiarism.

### **3.8 Data Analysis**

Data analysis is the process of bringing order, structure and meaning to the mass of collected data. The purpose of analysing data is to obtain usable and useful information. The analysis may describe and summarise the data, identify relationships between variables, compare variables, identify the difference between variables and forecast outcomes.<sup>177</sup>

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

### **3.9 Limitations**

There was a limitation of reliance on interview data. With the use of interviews, it was hard to control the respondent behaviour because some of the interviewees were sensitive to some sections in the interview guide and the questionnaire as a whole. There were elements of item-non response as the answering process failed to proceed smoothly because the respondent lacked motivation or ability. Some respondents also gave responses such as; the questions are too difficult, not interesting and even some left some questions unanswered of which the researcher found somewhat unsatisfactory of the expected findings. In order to mitigate this limitation, the researcher endeavoured to

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<sup>177</sup> Barifaijo, Supra (note 101)

ensure that he provides a reliable explanation in relation to the questionnaires presented to the respondents of which this helped the respondents to fall in line with what the researcher expected from them as they gave their views and answers.

Limited information given to the researcher during the study was among the limitations the researcher faced while conducting research. Some of the respondents were hesitant to reveal as well as avail the researcher with information they believed to, be confidential. As a way of mitigating this limitation, the researcher explained in detail that the information given would be used purely for academic purposes. More so the researcher' used secondary sources as an alternative to the primary sources used. This was done by endeavouring to research and pinpoint sources that are current of which the researcher deemed important and plausible to bring out the desired goals of the research.

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

### **3.10 Chapter conclusion.**

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

## **CHAPTER FOUR:**

### **DATA ANALYSIS**

#### **4.0 Introduction**

This chapter presents the research findings from the field. It also deals with data presentation, interpretation and discussion of the research findings on the research objectives. The research objectives that were key for this study included the main objective which was to analyse the efficacy of local content regulatory regime in enhancing social welfare of Ugandans in the oil and gas sector.

specific objectives which included among others; to establish reasons for and against the implementation of local content regulatory regime in enhancing social welfare of people in the Oil and Gas Industry of Uganda, to ascertain the practical approaches necessary to enhance an effective Local content aspect in regulatory regime affecting social welfare in the Oil and Gas industry of Uganda, to determine factors that may hinder the effective implementation of local content regulatory regime in enhancing welfare of people in the Oil and Gas Industry of Uganda and to suggest recommendations for the government of Uganda and all stakeholders involved in the Oil and Gas industry how best the aspect of local content as provided in the regulatory regime in the Oil and Gas industry of Uganda can be upheld effectively.

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

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

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

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

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

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

#### **4.1 Standardised Questions**

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

## 4.2. Arguments in favour of an effective Local Content regulatory regime and Does local content enhance social welfare

**Table 3: showing arguments in favour of an effective Local Content regulatory regime in enhancing social welfare**

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

Source: Primary data 2020.

Among the standardised questions administered, there was a part for assessing the arguments in favour of LC. This was in line with the specific objective which required to establish reasons for and against the implementation of local content regulatory regime in enhancing social welfare of Ugandans Oil and Gas Industry. The respondents were tasked to highlight what they thought mimed with the views they have in mind as regards to this matter in question.

**Table 3** above gave the general view of how the respondents reacted to the different aspects given in line with this matter. Among others the statements provided for included; LC enhances entrepreneurship and can contribute to poverty eradication, LC contributes to productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms, development of LC enables the country to develop its own technical skills to meet the demands of its industries which will in turn promote and enhance social welfare of Ugandans participating in Uganda's oil and gas sector.

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

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

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

In his words, Baitwa, the Managing Director of Three ways Shipping services ltd in his article highlighted in the Uganda chamber of Mines and Petroleum magazine stipulated that there is need for government to create a mechanism to support those industries that have come up to have a place and to compete in the industry at large.<sup>178</sup> As had highlighted in the literature review, having a reliable legal regulatory framework fronting LC aspects would help a lot to bridge the gaps that would rather deter the progress of the industry in question.

The other point highlighted among the arguments in favour of LCP is the fact that LCP enables the country to develop its own technical skills to meet the demands of its industries. The issue of technical skill development is vital in the promotion of LCP in the Oil and Gas | industry in that as the IOC's prepare to set off with their investments, there ought to be a reliable local industrial environment equipped with skills necessary to be used in the industry in question. The MEMD report on National Content stipulated

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<sup>178</sup> The Uganda Chamber of Mines & Petroleum, supra (note 196) pg 13



that capacity building is key to have an industry growth with which skills enhancement will be promoted and acquired.<sup>179</sup> The report further stipulated that Capacity building and industrial diversity is essential if Uganda is to reap the benefits from huge endowments of Oil and Gas which will in turn enhance the social welfare of people in the oil and gas sector<sup>180</sup>

The report further stipulated that the host government will require the share of national content to exceed what will result from the procurement of goods and services in an open market. The idea behind is to take advantage of the opportunity to pair

Ugandans and Ugandan firms with leading international companies.<sup>181</sup>As International entities team up with Ugandan firms, issues concerning transfer of technology, capacity building, and skills enhancement will be dealt with clearly. As was highlighted in the literature review, the aspect of having in place an efficient legal regulatory framework on LC will be a lee way to ensure that such aspects concerning LC are dealt with due diligence.

The other factor that was highlighted when it comes to the factors that are in favour of LCRR development was whether the enhancement of LC can help domestic firms in developing countries to integrate themselves into global economic networks. Oil and Gas industry' is an international acknowledged industry due to its unique features like being capital intensive. Stakeholders involved in the industry cut across from local to international due to the various aspects involved therein. For the local firms in a host nation, promotion of LC is less through which they are able to get in touch with their international counterparts.

In relation to the above discussion, among the LCRR aspects to note is that it comes various sensitisation international and local programmes like key note conferences for example the 4th Oil and Gas LCP conference that was held in Uganda which was hosted by Stanbic Bank at the Kampala Serena hotel in partnership with the Association of the Oil and Gas Service providers (AUGOS), and the Ministry of Energy. <sup>146</sup>

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<sup>179</sup> Ministry of Energy and Mineral Development, Enhancing National Participation in the Oil and Gas Industry in Uganda (Final Report: The National Content Study in the Oil and Gas Sector in Uganda, September 2011) pg 6

<sup>180</sup> Ministry of Energy and Mineral Development, Enhancing National Participation in the Oil and Gas Industry in Uganda (Final Report: The National Content Study in the Oil and Gas Sector in Uganda, September 2011) pg 6

<sup>181</sup> MEND report on National Content, Supra (note

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

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

#### **4.2.1 Arguments against the use of LC in enhancing social welfare in Uganda’s oil and gas sector.**

**4.1.2 Table 4: showing Arguments against use of LC regulatory regime in enhancing social welfare of Ugandans in the oil and gas sector.**

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

Source: Primary data 2020

Among the standardised questions administered, there was a part for assessing the arguments in favour of LCRR. This was in line with the specific objective which is to establish

reasons for and against the implementation of local content regulatory regime in enhancing social welfare in the Oil and Gas Industry of Uganda.

Table 4 above displays a general assessment to this cause how the respondents reacted to this issue in question. Among the highlighted provisions to this effect included to assess whether LCRR is incompatible with the international trade measures applicable to members of the World Trade Organisation, that LCP creates distortions, inefficiency and corruption which affects the extractive sector, that LC discourages investment and puts undue pressure on companies as arguments against the promotion of LCP as an aspect of Oil and Gas respectively.

From the table above, it was revealed that 4% of the respondents strongly agreed to the arguments against the use of LCP, 20% agreed to this effect, 10% disagreed with the aspects provided, 28% strongly disagreed and 38% remained neutral to this cause. The results show that on this very aspect, the respondents were not quite acquainted with the provisions fronted in question. This can be illustrated further using the line graph below. **Figure 4: showing Arguments against the use of local content as a way of enhancing social welfare of people in the oil and gas sector.**

Source: Primary data 2020

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

Cimino as earlier stipulated states that according to the WTO mentality, promotion of LC and implementation of LC policies promotes unfair competition of which this is against the so-called economic scale and balancing of economic trends. This can be portrayed as a gist where you find that most expatriates are already qualified to the expense of the local citizens yet due regard is given to the local citizens of which WTO policies regard this as unfair. Their argument is that this affects the domestic commerce of another state reason being that the WTO promotes the idea of one-member country to treat one another as they would their own nationals.<sup>182</sup>

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<sup>182</sup> Cimino, Supra (note 168)

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

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

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

The other argument is that the promotion of LC comes with the issue of having stringent legislation meant to promote LC of which this is seen as a hindrance to investment instances by the IOC's and other service providers be it contractors and Subcontractors as the situation may be in question. Their argument supports a plan that ought to have a recognised and workable legislation for both the expatriates and the host citizens to have a workable environment in question if investment in the Oil and Gas industry is to be a success. The issue concerning LC

is key in the extractive industries in any host country as this ensures that the host citizens are part and parcel of the industry which in the due end promotes economic and social transformation of the citizens and the country as a whole. The issue of hindering investments is minor where there are favourable and accurate regulations that promote a balance between what the investors and the local citizens both need at large.

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

This was the second part on the standardised questions as administered to the respondents respectively. This part handled one of the specific objectives which is to ascertain the practical approaches necessary to enhance an effective Local content aspect in regulations affecting Oil and Gas industry of Uganda. The respondents were required to give their views on some of these practical strategies that are meant to ensure that LC policies are properly formulated so as not to make regrettable mistakes for the entire stakeholders meant to benefit from the policies in question. Among the practical perceptions highlighted included use of required targets, promoting project linkages.

#### 4.2.2.1 Use of Required Targets Table 5: showing use of Required Targets

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

Table 5 highlights the responses got from the respondents concerning the aspect of use of required targets as an aspect of ensuring that LC regulatory regime promotion and implementation is dealt with. 76% strongly agreed to the aspects provided in question, 24% also agreed to this matter in question. This shows that there was a vast knowledge on this aspect as demonstrated by the responses from the respondents in question. This will be demonstrated

#### **Source: Primary data 2020**

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

With such issues, the researcher found out that it seems obvious that at times it requires individual agitation to acquire these skills and companies' participation beyond illicit factors. What is hard at times is the cost of the education system in question not forgetting the lengthy time period involved, the few institutions available to teach and transfer the knowledge in question. In addition to such issues, the issue of development through community investment programmes in partnership with international agencies is an issue the government needs to take up and make it a priority in ensuring that such programmes are dealt with which are aimed at enhancing the social welfare of Ugandans in Uganda's oil and gas sector

In support of these discussed issues, Christian Schnurre, the Country Director of GIZ in Uganda in his article in the New Vision entitled "National content without the necessary

professionally skills is a fallacy”<sup>183</sup> highlighted issues that support these ideas discussed. He stipulated that practical skills training is vital in a country where the current conversation focuses heavily on national content policy, particularly in regard to the Oil and Gas sector which is going into constructive phase soon. The fact that there will be many job opportunities in the sector, Christian stipulates that what is not keen is how many Ugandans will directly benefit from the job opportunities which is very critical in enhancing that Ugandans fully benefits from the oil and gas sector<sup>184</sup>

In general, the country does not yet have enough professionally skilled workers whose qualifications meet the internationally recognised standards. Christian in his article continued to highlight on a professional programme on going to ensure that there is professionalism in the activities transcending in the Oil and Gas sector.<sup>185</sup> He stipulates that at least over 1800 professional drivers of large commercial vehicles will be required in the Oil and Gas sector in the next 10 years. He stipulates this as a practical example where professional drivers are required in the sector in question. He says that in order to curb this necessity, they launched an initiative that is aimed at training at least 12 driver instructors and 800 drivers of large commercial vehicles. This programme is meant to bridge the practical experience gap and as such they facilitate skilling programmes which focus on practice along theory.<sup>186</sup> The project is funded by German’s Federal Ministry for Economic Cooperation and Development, the British department for International Development and the Norwegian Agency for Development Cooperation.<sup>187</sup> As already highlighted in the literature review. it is pertinent that these aspects meant to promote LC have accredited platforms like sufficient legal regulatory framework meant to mend the implementation proceeds which is probable for the Oil and Gas industry in this case of Uganda as a country.

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<sup>183</sup> Christian Schnurre, “National Content Without the necessary professional skills is a fallacy” New Vision (Kampala, 16 September 2017)

<sup>184</sup> Christian Schnurre, “National Content Without the necessary professional skills is a fallacy” New Vision (Kampala, 16 September 2017)

<sup>185</sup> Christian Schnurre, “National Content Without the necessary professional skills is a fallacy” New Vision (Kampala, 16 September 2017)

<sup>186</sup> Christian Schnurre, “National Content Without the necessary professional skills is a fallacy” New Vision (Kampala, 16 September 2017)

<sup>187</sup> Christian Schnurre, “National Content Without the necessary professional skills is a fallacy” New Vision (Kampala, 16 September 2017)

#### 4.2.2.2 Promoting Project Linkages as a way of enhancing welfare of people.

**Table 5: showing promoting Project Linkages**

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

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

#### **Percentage of Promoting Project Linkages**

**Table 6: showing the percentage of promoting project linkages**

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

**Source: Primary data 2020**

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



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

#### 4.2.3 The issue of reviewing, revising and amending the regulations.

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

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

Source: Primary data 2019

From the table above, it shows how the respondents reacted towards the issue of reviewing, revising and amending the regulations in question. According to the results it is revealed that 23 % of the respondents strongly agreed to the issue of reviewing and amending the regulations in question, 10% agreed, 20% disagreed, and 47% remained neutral concerning this issue. The results show that there was lack of knowledge concerning some of these regulations as some of the regulations pertaining LC as an aspect of enhancing welfare of people in the Oil and Gas industry in Uganda are newly enacted.

#### **Source: Primary data 2019**

This was part three of the standardised questions and it required the respondents to give a deductive view to how they think the regulations and the legislations in place concerning LC can be amended, revised or reviewed, in relation to different sections and subsections of these regulations. This section handles one of the specific objectives of the study which is to suggest recommendations for the government of Uganda and all stakeholders involved in the Oil and

Gas industry how best the aspect of local content as provided in the regulations affecting Oil and Gas industry of Uganda can be upheld effectively.

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

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

According to Babafemi gave Nigeria's example of how took it upon itself to develop its LC legislation and developed the Nigerian Oil and Gas development law which was formed within the context of growth of Nigerian entrepreneurship and domestication of assets to fully realise Nigeria's strategic development goals.<sup>188</sup>

According to Babafemi continued to stipulate that the law in question brought about a number of achievements in the Nigerian industry in question and that as of 2013, it is said that LC development attracted Foreign Direct Investments worth over 500 million into the Nigerian economy.<sup>189</sup> An example of entrepreneurial development and technology transfer has been vividly seen where Lagos Deep Offshore Logistics (LADOL) invested over US\$ 100 million in transforming the swampland of Apapa port axis in Lagos into a world class, one stop base for deep offshore logistics and created more than 1,000 skilled jobs.<sup>190</sup>

The Nigerian experience shows that effective design, implementation and monitoring of LC development policy led to the amelioration of the structural effects of the mineral sector through increased value, increased employment generation, enhanced entrepreneurial development.

As have been highlighted through the literature discussed, having a reliable legal regulatory framework portraying policy aspect like LC which are key in the Oil and Gas industry is a

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<sup>188</sup> Babafemi Oyewole, 'Best practice for local content development strategy: The Nigerian experience (2015) ESP pg.5

<sup>189</sup> Babafemi Oyewole, 'Best practice for local content development strategy: The Nigerian experience (2015) ESP pg.11

<sup>190</sup> Babafemi Oyewole, 'Best practice for local content development strategy: The Nigerian experience (2015) ESP

paramount move towards having a plausible environment for policy implementation as shown by the Nigerian experience discussed above.

Table 7 below shows some of the achievements scored by Nigeria in the lieu of having created an effective LC policy through its legislation.

Table 8: Achievements by Nigeria due to LC promotion.

<b>Achievements Item</b>	<b>Before</b>	<b>After</b>
<b>Average Industry Spend</b>	<b>US\$* Billion</b>	<b>US\$20 Billion (\$4 billion locally)</b>
<b>Contribution to National Revenue</b>	<b>71%</b>	<b>80%</b>
<b>Contribution to Export earnings</b>	<b>90%</b>	<b>97%</b>
<b>Contribution to GDP</b>	<b>12%</b>	<b>25%</b>
<b>Local Value Added</b>	<b>10-15%</b>	<b>40%</b>
<b>Use of Workforce</b>	<b>More Expatriates</b>	<b>More Nigerians '</b>

Source: Confidential documents of Energy Synergy Partners (ESP) 2015

Table 7 shows the trends of how Nigeria performed before and after creation of an effective LC legislation in place. For example, contribution of GDP grew from 12% to 25% after the implementation and adoption of an efficient LC policy. The workforce also envisaged more Nigerians in the employment vicinities after the adoption of LC effective policy. This was made possible due to an efficient LC regulatory framework in place.

### 4.3 Interview Guide.

On the part of the interview guide, probe questions were structured in such a way to dig deep into what the respondents thought about some aspects put across in the interview guide as they were meant to achieve the goals and objectives of the study in question. The findings under this section will be discussed together with the analysis of these study findings in question.

This section cuts across the objectives of the study as had already highlighted and it is in consensus with the literature reviewed for the purposes of coming up with the desired goal of the study in question.

	Frequency	Percentage
Yes	15	72
No	6	28
Total	21	100

#### 4.3.1 Is the LC policy of Uganda’s Oil and Gas Industry effective in enhancing social welfare?

Table 9: showing whether the LC regulatory regime in enhancing social welfare of Ugandans in the Oil and Gas Industry is effective

Source: Primary Data 2020

The table shows that the reactions made by the respondents in regard as to whether Uganda has an effective LC regulatory regime concerning the Oil and Gas industry. On this issue, the response was positive from the respondents as those who agreed conveyed 72% while those who were not in agreement conveyed 28%. It was observed that though most of the respondents agreed to this fact, some had no clear insight as to what was in place especially the fact that some of the regulatory framework pertaining LC aspect promotion in Ugandan’s Oil industry is new.

The results discussed above have been further portrayed by figure 9 below.

#### Figure 8: showing whether the LC regime in Uganda’s Oil and Gas Industry is effective

Among the important issues portrayed was whether Uganda has an effective LC policy in the Oil and Gas industry. The regulatory framework in place breeds hope for having a platform that will portray an effective implementation of the policies like LC in place having in mind what other jurisdictions have done.

For those who opposed the fact that there is no effective local content regulatory regime in the Oil and Gas industry of Uganda based their arguments various instincts as some stipulated that there has been no sensitisation of the masses to be aware of such policies to enable the effective participation of the masses in question. One of the respondents asserted that; **“the efficacy in question as subjected to its implementation is not yet practical but as regards to the laws and policies in theory, the LC regulatory regime is a nice one”**. This goes back to what was reviewed in the earlier literature hinting on the fact that having a pertinent reliable regulatory framework fronting various policy aspects of Oil and Gas industry like LC is a key

element of having a balanced promulgation of the activities of the industry in question that will enhance social welfare of Ugandans in the oil and gas sector.. Uganda as a country has a mandate to ensure that the issue of is handled with due diligence and care to ensure that the policies in place are seen to achieve their desired goals and reason for their formulation.

#### **4.3.2 Relevance of promoting LC policy in the Oil and Gas Industry in Uganda -**

On this issue, there were various responses from the respondents. The response was quite positive as various comments came through in support of this issue in question. A group of respondents had the idea that; *“it enhances participatory development of the indigenous community”* through which the local community is given chance to participate in different activities and settings of the industry in question. This enhances the promotion of the GDP of the economy as it controls issues like capital flight where the income that would be reverted back by expatriates, is kept within the circulation of the economy.

One of the respondents on this idea stipulated that; *“yes because promotion of LC encourages local participation and prevents capital flight hence encouraging the economic transformation of the host country”* Nigeria is used as an example like had earlier shown by the table 6<sup>191</sup> which demonstrated how important promotion of LC is as it can show that on the issue of contribution to GDP, before the promotion of LC, the industry was only contributing 12% but after the promotion of LC, the contribution increased to 25% respectively, also the value added was 10-15% before the promotion of LC and after LC promotion, the value added came to 40% .<sup>192</sup>In addition to the above arguments, one of the respondents argued that *“it’s very important to develop LC in the Oil and Gas industry because locals must benefit from the industry through participation or else, some might be left out the opportunities in the industry at large which in turn promotes social welfare through improving livelihood of people in the sector”*.

Other respondents gave their views to this cause in issue and stipulated that the promotion of LC is relevant in that; *“it will help in the development of countries technical skills hence promoting of technological skills transfer to the local population”*. This is essential for the activities involved in the industry at large as it promotes capacity building.

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<sup>191</sup> Oyewole, supra (note) pg.10 [Confidential documents of Energy Synergy Partners]

<sup>192</sup> Oyewole, supra (note) pg.10 [Confidential documents of Energy Synergy Partners]

The MEMD report on enhancing national participation in the Oil and Gas industry in the same view gives a highlight on the issue of capacity building and the idea of technology transfer and in the report, it is stipulated that;

*“The only way to succeed with a policy to enhance national content is for all stakeholders to stay focused on and dedicated to capacity building in domestic firms and in people (local labour). That this is a deliberate undertaking of which capacity building is usually created through training, exercises and knowledge transfer of which all this requires engagement and commitment from politicians and civil servants at the national and local level, from oil companies and their global supply and service associations, schools and institutions for vocational training, universities and NGO’s”.*<sup>193</sup>

The report further stipulates that the mechanism of achieving national capacity building is through taking advantage of the interest of the foreign firms to participate in the Oil and Gas activities of the host country where the key determinant is to have foreign firms and investors agree to the task of national capacity building, to have them come up with measures to build local capacity, and to ensure they will collaborate with domestic business, education, training and research institutions to achieve the task.<sup>194</sup>

The views stipulated above reflects back to the literature reviewed in that with an effective legal regulatory framework fronting policy aspect like LC in place, it is easy to promote such policy insights in the Oil and Gas industry like that of Uganda.

#### **4.3.3 The disadvantages of having LC in the Oil and Gas Industry as a way of enhancing social welfare in the oil and gas sector.**

This was another issue that the respondents were tasked with to evaluate whether there are any disadvantages of having LC in the Oil and Gas industry. It should be noted that there is always a good and bad side of everything. LC per se is a good perspective and baseline to allow the local citizens of the host country to participate fully in the sector in question, and also allows the indigenous companies to participate fully in the activities involved in the industry which at the onset breeds economic transformation in relation to the social life of the people and the development of the country at large.

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<sup>193</sup> MEMD report on National Content, supra (note 143) pg.11

<sup>194</sup> MEMD report on National Content, supra (note 143) pg.11

*With such developments, there comes some disadvantages. The respondents reacted to this issue in question and gave different views of which some believed and asserted that; “promoting of LC may bring about economic imbalance in the economy brought by sectorial imbalance where players in question may strive hard to attain what the industry wants in terms of standards which might deprive other sectors concentration”*

In addition to this, LC regulatory regime might also bring about unnecessary excitement in the industry among the participants trying to attain goals that are far beyond their capacity. Taking an example of Uganda as a country, the majority of the companies there in are still small and their technical knowhow is not yet adequately available to support the demands of the industry at large. This situation at hand will eventually make a hand full richer because they are the ones that can meet the standards in question.

Various responses were given by the respondents and one of them stipulated that

*“The mode of implementing LC regulatory regime is wrong and emphasised that IOC’s should be compelled to incorporate local companies into their operations gradually”.*

This will help to curb some of the disadvantages hinted earlier like production of inefficient goods in a hurry to satisfy the demands of the industry. The other issue hinted on by the respondents was that LC discourages fair competition as one of the respondents highlighted thus that; *“LC regulatory regime discourages fair competition which might lead to the discouraging of Foreign Direct Investment”.*

Others thought that LC promotion might bring about hindrance of regional integration where the respondents believed that at times the procedure and purpose of LC is to promote the enthusiasm and opportunities of the prospects of the local and indigenous population hence barring other neighbouring competitors from participation hence bringing about regional imbalance.

*To those who thought and believe that there are no disadvantages of having LC in the Oil and Gas industry had their reasons and one of the respondents stipulated that; “with a focus on skills development, capacity building, and enterprise development, there are no baselines to refer to the promotion of LC regulatory regime as having any disadvantages”. Another respondent dissenting stipulated that; “No, it is important that locals participate in the industry”.*

As discussed above the need to analyse and uphold the role played by the legal regulatory framework portraying LC as a policy aspect of Oil and Gas industry in Uganda still remains pertinent since having an efficient legislation enables to transform sector aspects with ease.

#### **4.3.4 Hindrances likely to affect the promotion of LC in Oil and Gas Industry.**

This section is in line with one of the specific objectives which is to determine factors that may hinder the effective implementation of local content in regulations affecting Oil and Gas Industry of Uganda.

Hindrances could take various forms in regards to what one could like to refer to it. At most times these are short backs and challenges that usually deter or prohibit an effective progressive transformation of a project or process. LC implementation and promotion is a gradual process that comes with pertinent issues at hand that require stakeholder participation when it comes to the language understood and used in the Oil and Gas industry.

Among the most highlighted hindrances cited by the respondents was the issue of lack of skills, and the lack of proper training by the indigenous population and the companies at large. This renders the man power in Uganda inadequate in terms of skills acquisition that are needed to participate in the industry that is fast growing.

In addition to the above, the technological capacity of the Ugandan companies in this regard is still low and requires improvement and upgrading so as to meet the industries standards. On the issue of skills, a lot is being done by the government in question like establishing of training centres like the Kigumba institute, even some IOC's have come on board to sponsor Ugandan students to acquire skills like the Tullow Scholarship Scheme funded by Tullow in association with British Council. One of the respondents stipulated that; *"lack of capacity of local companies and manpower capacity can only be acquired gradually by operating alongside the oil companies"*.

The other point hinted upon as a hindrance towards the implementation of LC is the issue of the National supplier database meant to make easy the work of identifying the potential players and suppliers that can play a big role in the Oil and Gas industry of Uganda at large. One of the respondents stipulated that *"the requirements needed to be put on the database are too rigorous for some local companies to be able to participate fully in the industry"*. In doing so, not everyone can get onto the National supplier database (NSD) ruling out potential



participants in the industry due to minor practicalities. One of the respondents responded thus that;

*“This has to be with the criteria for prequalification of companies on the National supplier database which excludes many capable companies”.*

Such practical imbalances have made it a problem to stretch the promotion and implementation of LC in Uganda as a whole, a wakeup call for the responsible stakeholders to look into these issues of which if ignored, Uganda might lose out the bigger picture of promoting the industry as another source of economic boost and diversification of the country at large.

On the contrary, referring to the issue of National supplier database, the formal director legal and corporate affairs the Petroleum Authority of Uganda. Ssekatawa Also stipulated thus in an article in the daily monitor that the NSD will enhance transparency in the procurement process and also provide a one-stop database for procurement for licensed oil companies thus shortening the procurement process of which this will accordingly foster LC in the oil sector.<sup>195</sup>

However, the researcher found out that the idea of NSD is good and important as countries like Norway and Nigeria are using them but the fact remains that the process surrounding the admission and qualification to the NSD is not yet clear to ably encompass a great number of potential stakeholders in Uganda. As highlighted above, all these issues are best handled with an effective platform like an efficient legal regulatory framework meant to front policy aspects like the LC aspect in the Oil and Gas industry of Uganda.

Oil and Gas industry being capital intensive was another hindrance hinted on by the respondents that is likely to affect the promotion of LC in the Oil and Gas sector. One of the respondents stipulated that; *“Ugandan companies are small with limited capital to invest in Oil related businesses”*. The issue of lack of funds hinders the likely capable participants in the areas of interest in the industry to participate leading to monopoly tendencies among the few rich who are able to participate in the industry at large. The researcher found out that such instances can easily breed issues concerning corruption.

Concerning this aspect, the Ugandan local service providers in the Oil and Gas industry stipulated that the government ought to put up a fund to ensure that these suppliers are boosted up in their businesses. Jeff Baitwa the Managing Director of Three ways shipping services ltd

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<sup>195</sup> Ali Ssekatawa, ‘National Suppliers database will foster Local Content in Oil sector’ Daily Monitor (Uganda, 22 September 2019) <http://www.monitor.co.ug/opEd/commentary/National-suppliers-database-foster-local-content-oil-sector/689364-4106768-ep88w2/index.html> accessed 10<sup>th</sup> October 2019

in his article highlighted in the Uganda chamber of Mines and Petroleum magazine.<sup>196</sup> Stipulated that a fund of around 200million to 300million U\$ would be sufficient enough to boost the local based suppliers, and such a fund would help local companies to borrow money at affordable interests thus helping the local providers pave way in their move to ably provide for the industry in question. He continues to say that;

*“There can’t be local content, if you don’t have the means to participate. That’s why we are saying the means to participate have been undermined by the fact that those who have been participating, many of them are struggling and thus may not make a rebound for future work”.*<sup>197</sup>

The issues highlighted in the discussion above are relevant towards the promotion of an efficient LC policy framework in the Oil and Gas industry of Uganda as a whole. Having efficient platforms like legal regulatory frameworks portraying the aspects of LC as have highlighted in the literature reviewed is key for implementation attributes of these issues highlighted above.

#### **4.3.5 Practical strategies in enhancing social welfare in the oil and gas industry.**

As part of the interview guide, the respondents were tasked to highlight some of the practical strategies and approaches that can be adopted to ensure effectiveness of local content regulatory in enhancing social welfare of Ugandans in oil and gas industry of Uganda. This section is in line with one of the study objectives which is to ascertain the practical approaches necessary to enhance an effective Local content regulatory regime as aspect of enhancing social welfare in the Oil and Gas industry of Uganda.

This was meant to ensure whether the respondents recommend any practical approaches that can make the work of the regulations easier when it comes to the implementation of LC as a policy aspect as highlighted in the regulations affecting Oil and Gas industry in Uganda.

The respondents stipulated that there ought to be strategies adopted by the stakeholders if they are to ably participate and be efficient in the works and activities of the industry at large. Respondents pointed out various strategies that they thought would be best carried out to have an efficient atmosphere for LC implementation. Some of the major strategies were those concerning capacity building programmes that one of the respondents referred to as *“practical oriented programmes”* and according to his view, as a way of promoting the practical oriented

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<sup>196</sup> The Uganda Chamber of Mines & Petroleum

<sup>197</sup> The Uganda Chamber of Mines & Petroleum

programmes, locals stakeholders should be taught the standards needed during for example bidding for services that are needed for the industry at large.

The other strategy that was highlighted by the respondents is the issue of sensitisation of the local population on what basics are needed to fully compete and participate in the industry in question as another platform that can eligibly help in ensuring that LC as a policy achieves its desired goals. One of the respondents in support of this stipulated that; *“there is need of training and equipping local companies and streamlining the qualification processes to eliminate corruption”*.

Among the respondents, one hinted on the issue of staffing some of the authorities responsible for policy formulation so as to be able to have a probable LC implementation in the Oil and Gas industry at large as highlighted in the regulations in question. The respondent stipulated that;

*“there is need to strengthen the petroleum Authority of Uganda, in terms of staffing and funding”* One of the respondents pointed out that *“there is-need to strengthen the enforcement of regulations as well as putting in place stringent and punitive measures for companies that do not comply with the regulations”*.

With such strategies at hand, all that can be said is that Ugandan Oil and Gas industry is still growing and a lot can be learnt from other successful jurisdictions. Strengthening of policies like LC is a move Uganda can keep working on through- strengthening her legal and regulatory frameworks that promote LC, as a way of boosting up the government’s working relation with the different stakeholders in the Oil and Gas industry as a strategy meant to accredit the aspect of LC as a policy aspect in the Oil and Gas industry.

#### **4.3.6 How to improve the laws, policies and regulations to ensure effective LC in Oil and Gas industry of Uganda as a way of enhancing social welfare in Uganda’s oil and gas sector.**

Among the questions tasked by the respondents to answer included the issue of how best the regulations, policies and laws can be improved to ensure that there is an effective LC implementation as portrayed in the regulations affecting Oil and Gas industry in Uganda. This section is in line with the general objective which is to analyse the effectiveness of local content in the regulations affecting the Oil and Gas industry of Uganda.

Uganda being a new country in the Oil and Gas industry, one of its major tasks is to ensure that they learn and become acquainted with the prospects of the petroleum industry in question. This has to be done in a way that will ensure that the pertinent issues concerning the industry are well and are readily availed to the local participants and citizens of the country at large. This enables the industry at large to become a benefit to all other economies which brings about economic diversification which in turn improves social welfare of people in Uganda's oil and gas industry.

Uganda as a country has put in place and enacted regulations to handle issues of LC as an aspect of Oil and Gas industry. The respondents stipulated that the regulations and policies in place are clear and have sufficient provisions and pointed out the issue of implementation as a barrier to these regulations in question. The respondents were tasked to give ways in which the regulatory framework can be improved upon to ensure that the welfare of the people is enhanced in Oil and Gas industry.

One of the respondents pointed out the issue of revising the laws in place so as to curb instances and practices that would best lay a foundation of effective LC practice in the Oil and Gas sector.

Other respondents hinted on the issue of learning from other jurisdictions that have had a successful LC practice in question through ensuring that some of their practices are envisaged into the Ugandan perspective in question.

*One of the respondents stipulated thus that; "the regulations in question should be able to manage the public expectation and encourage interrelation with other sectors so as to have a balanced sectorial development with the industry in question". Other respondents gave their thoughts and one of them stipulated that since the regulations are readily available; "there is need to ensure that the management of these regulatory frameworks is done with due diligence and endeavour to monitor the activities enshrined in the laws regulating LC are not violated by the IOC's."*

All the views given as discussed above are key towards ensuring that the legal regulatory framework handling LC as a policy aspect in the Oil and Gas industry put in place by the Ugandan government work towards sustaining the key industry prospects. As highlighted in the literature review, having an efficient legal regulatory framework is one of the best prospects that help to easily transform the working aspects of certain polices like LC policy as a policy aspect in the Oil and Gas industry like that of Uganda.

#### **4.3.7 Role played by the regulatory regime in enhancing social welfare of Uganda in Oil and Gas Industry of Uganda.**

This section is in line with the general objective which is to analyse the effectiveness of local content regulatory regime in enhancing social welfare in Ugandans in the Oil and Gas industry of Uganda.

Having a regulatory framework in an industry like Oil and Gas is crucial as it promotes synergy in the sector at large. Usually regulations help in governing the ways and conduct of the players in the industry in question. This makes the regulatory essential as they help to bridge the gap between the stakeholders through dealing with how various aspects of their works is concerned.

The procedures, rules and aspects are streamlined to ensure that there is credible work done and also ensure that the stakeholders are ready to create a probable mechanism for the industry to work amicably.

Among the questions and tasks given to the respondents was to air out and scrutinise the role to be played by the regulatory regime towards ensuring the effective promotion of LC in the Oil and Gas industry of Uganda. !

Various issues were pointed out by the respondents to what roles they think should be played by the regulatory regime towards ensuring the effective promotion of LC in the Oil and Gas industry. Of the major points highlighted, respondents hinted on the issue of ensuring that there is a lucrative mechanism for the stakeholders in question. In so doing, the regulations should emphasise that effective LC regulatory regime is upheld by the Oil companies. One of the respondents pointed out that;

*“The regulations should create a smooth way for many local companies to qualify for inclusion on database and emphasise training to increase their effectiveness which based on enhancing the social welfare of people participating in the oil and gas industry”.*

Another issue pointed out by the respondents in regards to what role should be played by the regulations is the issue of monitoring. One of the respondents on this issue pointed out that;

*“There ought to be monitoring of compliance and in so doing the regulatory regime should be able to provide for punishing entities not complying and rewarding those that are complying.”*

Having the laws in place is important as stipulated by Baitwa, the former Managing Director of Three ways Shipping services ltd in his article highlighted in the Uganda chamber of Mines and Petroleum magazine, that the laws are important but there needs to be a strategy

to keep some local service providers engaged, perhaps developing their capacity further.<sup>198</sup> Hence leading to the formulation of the National Local Content Act of 2012. He continued to say that

*“You may have the laws safeguarding you but have nothing to offer”*<sup>199</sup>

As the literature kept portraying, the aspect of having an efficient legal regulatory framework of LC as a policy aspect of Oil and Gas industry of Uganda is paramount. These regulations have an important role to play in regards to the practicability of the implementation of policies embedded in these regulations in question. With a vast number of issues at bay in the industry, the best negotiation and connection to the industry available is through having effective laws in place and ensure that these laws and regulations create an atmosphere that can be held practical when it comes to LC promotion and implementation in the Oil and Gas industry of Uganda.

#### **4.4 Chapter conclusion.**

This chapter discussed the findings and analysed them as provided by the respondents in question. The major aim was to ensure that the findings rhymed with the objectives of the study in question which was demonstrated through the views that were discussed and analysed as provided by the respondents.

The key mechanism that cut across this chapter was the aspect of having an efficient legal regulatory framework handling LC as a policy aspect of Oil and Gas industry as a platform of ensuring that various key stipulations embedded within LC as a policy are handled clearly through the regulatory framework in place. This chapter in the same view with the literature reviewed emphasised the fact that with a reliable legal regulatory framework relating to LC it is probable that policy aspects within the Oil and Gas industry like LC will have a baseline to be able to accommodate different prospects expected of stakeholders in the industry at large.

The next chapter analysed the regulatory framework of the LC aspect in the Oil and Gas industry of Uganda which enhances social welfare of people in the oil and gas industry, a discussion that analysed the regulations and policies in place that portray the LC policy aspect in the Oil and Gas industry of Uganda, concentration being on how most of the ideas discussed have been embedded in these regulations in question. This was meant to show how best the aspect of LC is implemented in the Ugandan Oil and Gas industry setting basing on the

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<sup>198</sup> The Uganda Chamber of Mines & Petroleum

<sup>199</sup> The Uganda Chamber of Mines & Petroleum

regulatory regime in question as the major gist of the study in question and this automatically improves the living standards of people participating in the oil and gas sector,

## **CHAPTER FIVE:**

### **ANALYSIS OF THE L.C REGULATORY REGIME THAT ENHANCES SOCIAL WELFARE IN THE OIL AND GAS SECTOR.**

#### **ASPECT IN THE OIL AND GAS INDUSTRY OF UGANDA**

##### **5.0 Introduction**

This chapter fulfilled the aspirations of the main objective of the, study which was to examine the effectiveness of local content regulatory in enhancing social welfare in the Oil and Gas industry of Uganda.

Uganda's Oil and Gas industry is advancing on a progressing perspective and with such, various polices and mandates have been put in place to help in the governing of the industry in question. In a bid to achieve this Uganda as a country through its Ministries and various bodies came up with policy formulation and regulatory frame work that would help in the governance of various key aspects of the Oil and Gas industry in question. An example is the regulatory framework that has been formulated to handle the issues concerning LC in the Oil and Gas industry, like those pertaining to how certain instincts of work, employment and training are related and dealt with in the industry at large.

This chapter concentrated on those regulations and policies that have specifically provided for the LC as an aspect i.e. how the concept there in will be portrayed and administered by different stakeholders in their respective capacities in the Oil and Gas industry of Uganda.

The draft National Content policy explains what it means by LC and it explains thus that it refers to the share of labour, services and goods for the petroleum sector being provided from within the country and constitutes the added value to Uganda from these activities.<sup>200</sup> It continues to say that the Government of Uganda is committed to facilitating the development of a significant national participation in its petroleum sector of the benefit of the Ugandan economy, the petroleum sector itself and the society at large.<sup>201</sup>

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<sup>200</sup> Ministry of Energy and Mineral Development, National Content Policy For the Petroleum Substance in Uganda (February 2017) pg.1

<sup>201</sup> Ministry of Energy and Mineral Development, National Content Policy for the Petroleum Substance in Uganda (February 2017) pg.2



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

### **5.1 Policy, Legal and Regulatory Framework aimed at enhancing welfare of people through local content regulatory regime.**

As had already highlighted, this chapter handled various policy frameworks and specific regulations that highlight how effective LC regulatory regime provisions and aspirations in enhancing welfare of people in the Oil and Gas industry of Uganda showing how these aspects of LC and welfare in question are handled towards ensuring that the aspirations of this concept of LC are handled and dealt with due diligence so as to meet the aspirations of the government and different stakeholders in question.

Specific policies and regulations to this regard discussed in this chapter were redeemed fit for the purpose of achieving the objectives of the research in question. National Oil and Gas Policy<sup>202</sup>, National development plan 11<sup>203</sup> were among the policies discussed, the regulatory framework included The Petroleum Act (upstream law)<sup>204</sup>, The Petroleum Act (Midstream law)<sup>205</sup>, Midstream (National content regulations)<sup>206</sup> and upstream (National content regulations)<sup>207</sup>, The National Local content Act of 2019, Access to information Act 2005.

### **5.2 Legal and Regulatory Framework**

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

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<sup>202</sup> Ministry of Energy and Mineral Development, National Oil and Gas Policy for Uganda (February 2008)

<sup>203</sup> Second National Development Plan, NDPII 2015/16-2019/20(June, 2015)

<sup>204</sup> The Petroleum (Exploration, Development and Production) Act, 2013

<sup>205</sup> The Petroleum (Refining, Conservation, Transmission and Midstream Storage) Act, 2013

<sup>206</sup> The Petroleum (Refining, Conservation, Transmission and Midstream Storage) (National Content) Regulations 2016

<sup>207</sup> The Petroleum (Refining, Conservation, Transmission and Midstream Storage) (National Content) Regulations 2016

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

The PEDP Act in question is one of the key regulatory frameworks that have been formulated to uphold the promoting of LC as a policy concept in Oil and Gas industry of Uganda. Among its purposes, the Act stipulates that the purpose of this Act is to operationalize the National Oil and Gas policy of Uganda by supporting the development of state participation and national content in the petroleum industry in Uganda with its end goals of enhancing social welfare in Uganda's oil and gas industry<sup>208</sup>

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

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

For example, the PEDP Act gives some. Of the conditions pertaining the application for a petroleum licence that the application shall give or be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Uganda, and set out any other matter which the applicant wishes the Minister to consider.<sup>209</sup> More so on the same issue of the application of rights, the PEDP Act, is clear that an application for the grant of a petroleum production licence shall be accompanied by the field development plan which shall contain particulars of the applicants proposals for the employment and training of citizens of Uganda, and the applicants proposals with respect to the procurement of goods and services from Uganda.<sup>210</sup> More so the PEDP Act in the same view stipulates that a petroleum production licence shall not be granted to an applicant unless the applicant's proposals for the employment and training of citizens of Uganda are satisfactory; and also that the applicants proposals with respect to the procurement of goods and services available in Uganda are satisfactory.<sup>211</sup>

The provisions discussed above are a good kick start to trigger the adoption and implementation of LC as a policy and concept in Oil and Gas industry. This shows that the government of Uganda is readily supportive of this concept as it has portrayed through its regulations to ally hope for Ugandan workforce that will benefit from the Oil and Gas industry

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<sup>208</sup> PEDP Act (note 248) S.1(f)

<sup>209</sup> PEDP Act (note 248) S.56 (3) (f)

<sup>210</sup> PEDP Act (note 248) S.7 (3) (f) and (i)

<sup>211</sup> PEDP Act (note 248) S.74 (1) (e) and (f)

especially through procurement and employment opportunities. However much, what still needs to be cleared is that as much as these hallmarks are put in place, the question remains about what measures are there to ensure that first of all the Ugandan workforce needed for employment is readily available, and then the companies ready to provide procurement services are well equipped so that both the employment and the procurement sides are befitting the industry's demands.

This is a question that needs pertinent approach to back up the already established regulations that are upholding the concept of LC in question. According to Nabiruma, the Communications officer for Africa Institute for Energy Governance (AFIEGO), an NGO working with project affected persons (PAPS) in the oil region in an interview with *Daily Monitor* said that government should do much more in ensuring that Ugandans are ready and employable in the sector. She says although the policies and legal framework are in place, she wonders what government is doing on the ground.<sup>212</sup>

#### **5.2.1.2 Training and Employment**

The PEDP Act specifically provides for the training and employment of Ugandans aspect and it thus provides that the licensee shall, within twelve months after the grant of a licence, and on each subsequent anniversary of the grant, submit to the Authority for approval, a detailed programme for recruitment and training of Ugandans.<sup>213</sup> That the programme shall provide for the training and recruitment of Ugandans in all phases of petroleum activities and shall take into account gender, all these are directed at enhancing social welfare in Uganda's oil and gas sector.

Equity, persons with disabilities and host communities.<sup>214</sup> Once the programme has been approved in question, it shall not be varied without the permission of the Authority.<sup>215</sup> This is a good move for effective approach concerning LC as a concept in the Oil and Gas industry, the issue of having concern for all gender irrespectively is key to curb discrimination when it comes to LC implementation which might be a problem if there ought to be discrimination in these circumstances. The provisions in question are good, though the researcher stipulates that there ought to be tangible measures put in place so as to collate how the multinational

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<sup>212</sup> Johnthan Adengo, 'Pain as Uganda waits for first Oil' *Daily Monitor* (Kampala, 15 November 2017) 34

<sup>213</sup> PEDP Act (note 248) S.126 (1)

<sup>214</sup> PEDP Act (note 248) S.126 (2)

<sup>215</sup> PEDP Act (note 248) S.126 (4)

organisations and their subcontractors in question ought to hide and adhere to what the law in question provides.

### **5.2.1.3 Procurement of Goods and Services**

The PEDP Act continues to provide for LC aspirations and thus provides that the licensee, its contractors and subcontractors shall give preference to goods which are produced or available in Uganda and services which are rendered by Ugandan citizens and companies<sup>216</sup> and these entities shall have capacity to add value to meet the health, safety and environment standards of the petroleum activities carried out by the licensee and be approved in accordance with criteria prescribed by the Minister by regulations.<sup>217</sup>

The license, its contractors and subcontractors shall also ensure that the entities are notified of the quality, health, safety and environment standards required by the licensee and be notified of the upcoming contracts as early as practicable.<sup>218</sup> Where the goods and services required by the contractor or licensee are not available in Uganda, they shall be provided by a company which has entered into a joint venture with a Ugandan company provided that the Ugandan company has a share capital of at 48% in the joint venture.<sup>219</sup>

In the same view, the Auditor General's report hinted on the issue of the requirement of at least 48% and stipulates that the share capital holding for Ugandans may be unrealistic.<sup>220</sup> The report continues to stipulate that Oil and Gas business is capital intensive. The report continues to state that according to experts in the industry and the Uganda Investment Authority, Uganda has limited local capacity and access to sufficient capital and this may hinder their capacity to undertake joint ventures with foreign global service providers.<sup>221</sup> The researcher found out that with such issues at hand, the governments intervention is key to ensure that the roles and aspirations of these regulations in! Question are dealt with in question.

### **5.2.1.4 Technology Transfer**

The PEDP Act continues to portray and establish provisions concerning LC and it hints on the issues concerning technology transfer. The Act stipulates that a licence shall include a commitment by the licensee to maximise knowledge transfer to Ugandans and to establish in

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<sup>216</sup> PEDP Act (note 248) S.125 (1)

<sup>217</sup> PEDP Act (note 248) S.125(4)

<sup>218</sup> PEDP Act (note 248) S.125 (3)

<sup>219</sup> PEDP Act (note 248) S.125(2)

<sup>220</sup> AG report, Supra (note 118) pg.19

<sup>221</sup> AG report, Supra (note 118) pg.19

Uganda, management and technical capabilities and any necessary facilities for technical work, including the interpretation of data.<sup>222</sup> The issue of technology transfer required shall be a shared responsibility between the government and the licensee.<sup>223</sup> Oil and Gas industry is a high tech industry which necessitates that there is quiet an experienced workforce that is meant to handle the activities in the industry in question. Such aspects being keen to the industry, the regulations have made it key that the issue of technology transfer is key and that's why this responsibility has been given to both the government and the licensee. The LCRR on board have shown the intentions of promoting this aspect.

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

However , the controversial of technological as a local content policy is something that has been up for debate for years since the possibilities of infringes on copyrights or o intellectual property is very high. Among the issues highlighted on this part of the standardised questions was to assess whether LCRR is incompatible with the international trade measures applicable to members of the World ^trade Organisation. According to the responses, it showed that there is little knowledge concerning how LCP promotion interrelates with the procedures and aspects of WTO on employment, Training and procuring locally made goods in the oil and gas industry.

Cimino as earlier stipulated states that according to the WTO mentality, promotion of L.C and implementation of LC policies by use of technological transfer promotes unfair competition of which this is against the so-called economic scale and balancing of economic trends and infringes on patents and copyright laws internationally something that is generally agreed upon as a basic investment norm. This can be portrayed as a gist where you find that most expatriates are already qualified to the expense of the local citizens yet due regard is given to the local citizens of which WTO policies regard this as unfair. Their argument is that this affects the domestic commerce of another state reason being that the WTO promotes the idea of one-member country to treat one another as they would their own nationals.<sup>224</sup>

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<sup>222</sup> PEDP Act (note 248) S.127 (7)

<sup>223</sup> PEDP Act (note 248) S.127 (4)

<sup>224</sup> Cimino, Supra (note 168)

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

The other point that was highlighted in relation to the arguments against the use of LC was that LC creates distortions, inefficiency and corruption which affects the extractive sector. The Oil and Gas sector being a capital-intensive industry requires that there ought to be a serious endeavour on how activities within the industry are held. With the urge to participate in the industry at large, there are at times occurrences of corruption tendencies by some officials who want especially want to gain much from the oil proceeds in question. This is due to the fact that there are much cash inflows from the industry in question.

To this end it has been recorded more often that countries endowed with the Oil resources or extractive mineral deposits have faced a vast number of economic breakdowns of which the notion has been termed as resource curse. This is usually due to overzealous individuals who expect more than what the industry can provide and end up creating an industrial imbalance and sectorial underdevelopment in areas that these industries operate. Having an efficient legal regulatory regime as highlighted throughout the literature review relating to Oil and Gas that can ably deal with such instances is key towards the promotion of such aspects like LC the Oil and Gas industry of Uganda at large.

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

The other argument is that the promotion of LCP through technological transfer comes with the issue of having stringent legislation meant to promote LCP of which this is seen as a hindrance to investment instances by the IOC's and other service providers be it contractors and Subcontractors as the situation may be in question. Their argument supports a plan that ought to have a recognised and workable legislation for both the expatriates and the host citizens

to have a workable environment in question if investment in the Oil and Gas industry is to be a success. The issue concerning LC is key in the extractive industries in any host country as this ensures that the host citizens are part and parcel of the industry which in the due end promotes economic and social transformation of the citizens and the country as a whole. The issue of hindering investments is minor where there are favourable and accurate regulations that promote a balance between what the investors and the local citizens both need at large.

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

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

Regulation 3 portrays purpose of these regulations which is to promote the training and employment of Ugandans, transfer of knowledge and technology and the provision of goods and services by Ugandan companies, Ugandan citizens and registered entities, in petroleum activities.<sup>225</sup> More so the upstream regulations also among its purposes portrays necessity for the licensee, subcontractors and the contractors to give priority to the sourcing of goods and services from Ugandan companies and registered entities<sup>226</sup>, also requires the provision of goods and services not in Uganda to be provided by a company that is in joint venture with a Ugandan company<sup>227</sup>, ensuring enterprise development through provision of support to Ugandan citizens and Ugandan companies<sup>228</sup>, and to promote cooperation between licenses, contractors, subcontractors and Ugandan universities, research institutions and technical institutions.<sup>229</sup>

The purposes portrayed in the regulations as show above portray LC itself, it is good that the regulations in place have in mind the most pertinent aspects concerning LC as a concept in the Oil and Gas industry. What is important is to ensure that the stakeholders in the industry in question continue to do their part in accordance to what the law has put in place. This calls for

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<sup>225</sup> Upstream NC regulation, supra(note 251) Reg. 3(a)

<sup>226</sup> Upstream NC regulation, supra(note 251) Reg. 3(b)

<sup>227</sup> Upstream NC regulation, supra(note 251) Reg. 3(c)

<sup>228</sup> Upstream NC regulation, supra(note 251) Reg. 3(e)

<sup>229</sup> Upstream NC regulation, supra(note 251) Reg. 3(f)

collective approach amongst the stakeholders if vivid results are expected to be archived accordingly.

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

Key to note is the definition of national content which means the level of use of Ugandan local expertise, goods and services, Ugandan companies, Ugandan citizens, registered entities, businesses and financing in petroleum activities<sup>230</sup> The regulations continue to explain LC to mean the substantial combined value added or created in the Ugandan economy through the utilisation of Ugandan human and material resources for the provision of goods and services to the petroleum industry in Uganda.<sup>231</sup>

Other key terms include registered entity which means business owned by Ugandan citizens registered under the Business Names Registration Act or the Partnership Act, 2010.<sup>232</sup> Ugandan company is also among the key terms explained and it is explained as a company incorporated under the companies Act, 2012 and which provides value addition to Uganda, uses available local raw materials, employs at least 70% Ugandans, and is approved by the Authority under regulation 9(4).<sup>233</sup>

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

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

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<sup>230</sup> Upstream NC regulation, supra(note 251) Reg. 4

<sup>231</sup> Upstream NC regulation, supra(note 251) Reg. 4

<sup>232</sup> Upstream NC regulation, supra(note 251) Reg. 4

<sup>233</sup> Upstream NC regulation, supra(note 251) Reg



First of all the regulations in question stipulates that as the licensee applies for rights, the minister shall consider NC when evaluating any licence applications under the Act<sup>234</sup> The regulations continue to provide thus that the licensee shall within 12 months after the grant of a license, submit a national content program proposal to the Petroleum Authority for approval. The proposal among others will include; the employment and training of Ugandans, the required quality, health, safety and environmental standards for goods and services to be procured, transfer of technology, knowledge and skills to Ugandan companies, Ugandan citizens and registered entities, research and development in Uganda, procurement of goods and services obtainable in Uganda, local supplier development, partnership with Ugandan companies, Ugandan citizens and registered entities, plus any other information required by the Authority.<sup>235</sup>

If the Petroleum Authority is not satisfied with the NC programme as submitted, the Authority shall return the NC programme to the licensee with comments for improvement and the licensee shall make the necessary amendments to the programme and re submit the programme to the Authority<sup>236</sup>.

The Authority will approve this programme within 21 days and the licensee shall not amend or deviate from the approved programme without the approval of the Authority.<sup>237</sup>

The provisions as stipulated above are key and show how committed the regulations are in promoting LC in the Oil and Gas industry of Uganda. what remains is to establish how ready the Ugandan stakeholders for example the companies are, to ensure that the IOC's are able to handle these aspects of LC with the availability of a ready market and industrial base on the side of the local stakeholders that is Ugandan citizens, companies and registered entities.

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

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<sup>234</sup> Upstream NC regulation, supra(note 251) Reg. 6

<sup>235</sup> Upstream NC regulation, supra(note 251) Reg. 6

<sup>236</sup> Upstream NC regulation, supra(note 251) Reg. 7(3)

<sup>237</sup> Upstream NC regulation, supra(note 251) Reg. 7(4)

the roles played by the different stakeholders that are directly affected by these regulations in question.

More so the upstream regulations under **regulation 8** provides for the platform for coming up with a plan for giving preference for goods and services available in Uganda. The regulations stipulate that the national content programme submitted to the Petroleum Authority shall give a detailed plan on how the license shall give preference to goods that are locally manufactured or available in Uganda<sup>238</sup>, where the goods meet the quality and timeline for delivery and also showing how the Ugandan companies and registered entities are given preference during the bidding process for required services.<sup>239</sup>

This is a key aspect that preference is given to Ugandan companies and registered entities, however the regulations have not stipulated how these issues will be followed to the brim and more so the issue of quality and timeline delivery though key for business efficacy, it is not clear as some companies might use it as an escape route from shunning to use Ugandan companies in their activities which might become a disadvantage when it comes to LC implementation and promotion. These aspects though good' theoretically, the practical approach of it needs to be checked and ensure that there is a smooth operation of these issues in question.

The upstream regulations continue to stipulate that priority should be given to Ugandan goods and services during procurement. Every licence, contractor and subcontractor shall give preference to goods and services which are produced and are available in Uganda and services which are produced and are available in Uganda and services which are rendered by Ugandan citizens and companies.<sup>240</sup>The regulations continue to give an option that where the goods required by the license or contractor or subcontractor are not available in Uganda, the goods and services shall be provided by a company which has entered into a joint venture with a Ugandan Company of which the Ugandan company shall have a participating interest of at least 48% in the joint venture.<sup>241</sup>

A Ugandan company shall, before entering into a joint venture be approved by the Petroleum Authority and shall have the technical and financial competence and be able to deliver the goods and services in a timely manner, demonstrate capacity to transfer knowledge

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<sup>238</sup> Upstream NC regulation, supra(note 251) Reg. 8(a)

<sup>239</sup> Upstream NC regulation, supra(note 251) Reg. 8(b)

<sup>240</sup> Upstream NC regulation, supra(note 251) Reg. 9(1)

<sup>241</sup> Upstream NC regulation, supra(note 251) Reg. 9(3)

and technology to Ugandan citizens, and have experience in the provision of the required goods and services.<sup>242</sup> When the Ugandan company doesn't have the required quality, technical capacity or financial means, the licensee may put in place a suppliers' development program to be approved by the Petroleum Authority.<sup>243</sup> As portrayed by the regulation in question concerning procurement, it is a key aspect and step in the promotion and implementation of LC as an aspect of Oil and Gas industry. The Authority's approval of the company that will join a joint venture is a key aspect especially that this inhibits quality assurance since a lot is expected from the IOC's and their respective contractors and subcontractors, the same should be expected from the Ugandan companies and registered entities that seek to be part and parcel of the industries activities in question.

More so as a way to promote LC, the upstream regulations under regulation 10 provide for some contracts to be exclusively provided by Ugandan citizens and companies and thus the regulations require the licensee, operator, contractors and subcontractors to reserve the contracts for goods and services specified in the schedule to be supplied by Ugandan companies, Ugandan citizens and registered entities.<sup>244</sup> Some of the services include transportation, office supplies, fuel supply, land surveying, clearing and forwarding, communication and information, waste management among others.

In addition to this, the regulations require every licensee, operator, contractor and subcontractor to provide additional and timely information and reduce the size and complexity of the scope of works by unbundling of contracts and formulate work packages which are affordable by Ugandan companies, Ugandan citizens and registered entities.<sup>245</sup>

As provided, the regulations here demonstrated that it is key for the Licence and other contractors there in to respect and be in accord to the service providers in question. This gives a vast opportunity for the local service providers to utilise the chances available of which all they need to do is to invent ways on how to make their work be of standard as required of the Oil and Gas industry in question.

The upstream regulations continue to provide for key approaches to LC and in so doing, regulation 11 provides for the national supplier database for petroleum activities that will be developed by the Petroleum Authority and a company shall not provide goods, works or

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<sup>242</sup> Upstream NC regulation, supra(note 251) Reg. 9(4) (a,b,c)

<sup>243</sup> Upstream NC regulation, supra(note 251) Reg. 9(7)

<sup>244</sup> Upstream NC regulation, supra(note 251) Reg. 10(1)

<sup>245</sup> Upstream NC regulation, supra(note 251) Reg. 10(3)

services for petroleum activities unless it is in the national supplier database.<sup>246</sup> According to Ssekatawa, formal Director Legal and corporate affairs the Petroleum authority of Uganda (PAU) in his article stipulated that NSD is one of the tools for regulating the procurement of goods and services in the petroleum sub-sector.<sup>247</sup> PAU will ensure the government is aware of the experience and capabilities of the qualified Ugandan and foreign companies in the petroleum sub-sector. This will enhance transparency in the procurement process and also provide a one-stop database for procurement for licensed oil companies thus shortening the procurement process.<sup>248</sup>

In the same view, sakaatwa continued to say that once fully developed, the NSD will provide an opportunity for a transparent and standardised procurement cycle, which will lead to increased competition and efficiency in the supply chain and enhanced visibility for Ugandan businesses. Areas like Norway, Malaysia, Brazil, Nigeria, run platforms of this nature.<sup>249</sup>

He further stipulated that as Uganda continues with the race to become an Oil producer, LC development will go a long way in contributing towards the achievement of the sustainable development goals by promoting fair, inclusive and sustainable economic growth and industrialisation fostering innovation. It is also a massive opportunity for the youth to take advantage of the opportunities.<sup>250</sup>

As a way to continue upholding LC promotion in the petroleum subsector of Uganda, the regulations continue to make it a mandate to consider NC as a prerequisite for qualification for the bidding process by every licensee, contractor and subcontractor.<sup>251</sup> More so the licensee, contractor and subcontractor shall hold quarterly tender workshops to educate Ugandan citizens and companies about the procurement process, requirements, performance standards and lessons from previous bidding processes.<sup>252</sup> The regulations continue to stipulate that NC shall form part of the bid evaluation criteria and in all circumstances, NC shall be allocated at least ten percent of the total evaluation score, which shall be rated wholly or substantially on

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<sup>246</sup> Upstream NC regulation, supra (note 251) Reg. 11(1&2)

<sup>247</sup> Ali Sekatawa, 'National Suppliers database will foster local content in Oil Sector' Daily Monitor (Kampala, 22 September 2017)

<sup>248</sup> Ali Sekatawa, 'National Suppliers database will foster local content in Oil Sector' Daily Monitor (Kampala, 22 September 2017)

<sup>249</sup> Ali Sekatawa, 'National Suppliers database will foster local content in Oil Sector' Daily Monitor (Kampala, 22 September 2017)

<sup>250</sup> Ali Sekatawa, 'National Suppliers database will foster local content in Oil Sector' Daily Monitor (Kampala, 22 September 2017)

<sup>251</sup> Upstream NC regulation, supra (note 251) Reg. 12(1)

<sup>252</sup> Upstream NC regulation, supra (note 251) Reg. 12(2)

employment and training of Ugandan citizens, utilisation of local goods and services and the proposals for technology transfer.<sup>253</sup>

The regulations stipulated herein are key to the promotion of LCP as an aspect of Oil and Gas industry where by the provisions enlisted will make the IOC's take seriously the aspects of LC and in so doing, the request of having workshops will enable Ugandan citizens, companies and registered entities to be able to acquire skills from these multinational companies. This is a relevant aspect of promoting LC and social welfare of people in the industry like that of Uganda that is just in its initial stages.

The upstream regulations in a bid to promote and establish LC aspect as used in the Oil and Gas industry, recognises the issue of employment of Ugandans, an example is regulation 15<sup>254</sup> which is to the effect that all contracts whose total budget exceeds US\$ 1,000,000 and are to be executed in Uganda shall contain a labour clause mandating the use of a minimum percentage of Ugandan labour in specific categories as may be stipulated by the Authority. This demonstrates the mandate to ensure that the local labour, force, business entities and companies of Uganda are given priority pertaining the opportunities in the Oil and Gas industry.

More so the regulations provide for the employment and training of Ugandans and thus provide that the licensee shall develop and submit to the Authority for approval, a transparent policy and plan on training and employment of Ugandans, specifying the required minimum qualifications.<sup>255</sup> The policy shall ensure that Ugandan citizens are given priority for employment in any petroleum activity executed by the licensee and take into consideration the promotion of participation of specific groups including women, persons with disabilities and persons from different geographical areas or ethnic backgrounds.<sup>256</sup> In addition, the licensee shall give a detailed plan for recruitment and training of Ugandan citizens in petroleum activities.<sup>257</sup> This plan shall provide for the training of Ugandan citizens in all phases of petroleum activities.<sup>258</sup> The plan submitted by the licensee shall include an outline of the hiring and training needs of the licensee and the licensee's major contractors with a breakdown of the skills required; (ii) the activity-specific training requirements; and (iii) the anticipated

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<sup>253</sup> Upstream NC regulation, supra(note 251) Reg. 13(1) (a,b,&c)

<sup>254</sup> Upstream NC regulation, (note 251)

<sup>255</sup> Upstream NC regulation, (note 251) Reg. 16(1)

<sup>256</sup> Upstream NC regulation, (note 251) Reg. 16(2)

<sup>257</sup> Upstream NC regulation, (note 251) Reg. 17(1)

<sup>258</sup> Upstream NC regulation, (note 251) Reg. 17(2)

expenditure to be made directly by the licensee in implementing the employment and training plan;<sup>259</sup> plus a time frame for employment opportunities for Ugandan citizens for each phase of the petroleum activity.<sup>260</sup>

The basics laid down for ensuring the training and employment of Ugandans as explained by the regulations in question are basic and they portray an effective approach to ensure that LC as an aspect of Oil and Gas industry is promoted and upheld in Uganda's industry. The researcher found out that there is need for a proper verification and monitoring system that will endeavour to create a balanced interrelation between the Authority, the licensees and the people directly affected by the LC proceeds of which training and employment as pertinent activities are concerned. This can be evolved with reference to how other jurisdictions have been dealing with such pertinent aspects in the Oil and Gas industry at large.

The regulations also provide for the issue of technology transfer and thus provides that every licensee shall submit to the Authority for approval an annual plan, satisfactory to the Authority, setting out details and initiatives aimed at promoting the effective transfer of technology, technical know-how and skills relating to petroleum activities from the licensee to the Government of Uganda, Ugandan companies, Ugandan citizens and registered entities<sup>261</sup>.

The regulations continue to provide that the licensee shall support technology transfer by encouraging and facilitating the formation of joint ventures and partnerships and the development of technology licensing agreements between Ugandan companies, Ugandan citizens and registered entities and foreign contractors and service or supplier companies.<sup>262</sup> The agreements referred to shall be sustainable and shall meet the requirements of national content development to the satisfaction of the Authority.<sup>263</sup>

More so the regulations provide thus that a licensee shall organise in-country events and trade fairs aimed at establishing contact between international companies, Ugandan citizens and registered entities.<sup>264</sup> A licensee may, upon request by the Authority or on its own initiative, with the approval of the Authority, support the establishment and upgrading of any facility in Uganda for technical, vocational or commercial work and technology transfer.<sup>265</sup>

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<sup>259</sup> Upstream NC regulation, supra(note 251) Reg. 17(3)

<sup>260</sup> Upstream NC regulation, supra(note 251) Reg. 17(3)a

<sup>261</sup> Upstream NC regulation, supra(note 251) Reg. 23(1)

<sup>262</sup> Upstream NC regulation, supra(note 251) Reg. 23(4)

<sup>263</sup> Upstream NC regulation, supra(note 251) Reg. 23(5)

<sup>264</sup> Upstream NC regulation, supra(note 251) Reg. 23(7)

<sup>265</sup> Upstream NC regulation, (note 251) Reg. 23(8)

As stipulated by the regulations in question, the issue of technology transfer is a key and core thing in the Oil and Gas industry since the industry itself is high tech and capital intensive, which might be daunting for new companies to come on board. The requirements as stipulated by the regulations in a bid for ensuring that there is technology transfer is a key and creative approach seen as one of the best ways of ensuring that LC as an aspect of Oil and Gas industry is promoted and implemented more so in a country like Uganda that is just in its initial stages of developing its petroleum industry. The regulations continue to provide for issues of monitoring and enforcement issues and thus provide that a licensee shall submit to the Authority a quarterly national content performance report covering all its petroleum activities.<sup>266</sup>

The national content performance report shall specify, national content expenditure, on both a current and cumulative cost basis and shall set out; the employment achievement in terms of hours or days Worked by Ugandan Citizens and foreign workers and their status,<sup>267</sup> the Ugandan citizens trained and employed indicating particulars by name, job and level of training and employment,<sup>268</sup>the procurement achievement in terms of quality of locally manufactured materials and materials of foreign origin,<sup>269</sup> the names of Ugandan companies, Ugandan citizens and registered entities contracted, the contracts awarded, the value of each contract awarded and duration of the contract,<sup>270</sup>technology transfer initiatives, research and development programs and any training programs provided by the licensee,<sup>271</sup> and for any other relevant information required by the Authority.<sup>272</sup>

In doing so the regulations further provide that the Authority shall undertake regular assessment and verification of the national content performance report filed by a licensee in compliance with these regulations as may be considered appropriate by the Authority.<sup>273</sup>This is an important aspect as per the issue of LC is concerned. It is so as the researcher found out that LC is one of the major interrelated aspects of Oil and Gas industry that lays a platform and foundation through which employment and skills acquisition is concerned as the industry dictates.

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<sup>266</sup> Upstream NC regulation, (note 250) Reg. 25(1)

<sup>267</sup>Upstream NC regulation, (note 250) Reg. 25(3)a

<sup>268</sup> Upstream NC regulation, (note 250) Reg. 23(3)(b)

<sup>269</sup> Upstream NC regulation, (note 250) Reg. 23(3)(c)

<sup>270</sup> Upstream NC regulation, (note 250) Reg. 23(3)(d)

<sup>271</sup> Upstream NC regulation, note 250) Reg. 25(3)(e)

<sup>272</sup> Upstream NC regulation, Reg. 25(3)(f)

<sup>273</sup>Upstream NC regulation, supra(note 250) Reg. 25(4)

Uganda as a country is developing its petroleum industry which necessitates articulate monitoring of the activities there in so that the industry is of benefit to Uganda as a nation, not only to the economy but to the population at large. With the issue of monitoring and enforcement, there has to be vivid aspirations by the Petroleum Authority as a body given the mandate to monitor and enforce these issues of which a lot is expected from the Authority in ensuring that the issues in question are dealt with. In return it also means there is need for serious staffing and support of the Authority in order to perform its duties as laid down by the regulations in question.

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

Part VII of the Act<sup>274</sup> recognises the issue of state participation and National content. The government of Uganda has a mandate to participate in midstream operations as prescribed by the Act of which the minister shall with the approval of cabinet specify the form of this participation.<sup>275</sup>

#### **5.2.3.1 Provision of Goods and Services as a way of enhancing social welfare of Ugandans.**

More so section 53 talks about the provision of goods and services by Ugandan entrepreneurs. In so doing the Act stipulates thus that the license, its contractors and sub-contractors shall give priority to citizens of Uganda, and registered entities owned by Ugandans in the provision of goods and services.<sup>276</sup>

The entities in question shall have adequate resources and capacity to add value to the petroleum operations carried out by the license, of which they will be approved by the Authority upon criteria as prescribed by the minister as stipulated in the regulations.<sup>277</sup> More to that, the licensee is mandated to give priority to the purchase of local products and services from Ugandans wherever they are competitive in terms of quality and timely availability.<sup>278</sup> The same section gives a layout that where the goods are not available in Uganda, they shall, where possible be provided by a company which has entered into a joint venture with a Ugandan company.<sup>279</sup>

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<sup>274</sup> Midstream Act, Supra (note170)

<sup>275</sup> Midstream Act Section 52(1&2)

<sup>276</sup> Midstream Act Section 53(1)

<sup>277</sup> Midstream Act Section 53(2) (a&b)

<sup>278</sup> Midstream Act Section 53(3)

<sup>279</sup> Midstream Act Section 53(4)



According to the provisions stipulated above, the issue of LC is given a nice shot as per the topic in question is provided. If adhered to there, would be effective promotion and transformation of LC as an aspect of Oil and Gas industry. The problem would only arise where some of the issues highlighted are not clearly stipulated for example the issue of the joint venture is not clearly prescribed in the Ugandan perspective. It needs to be clear from the onset so as to avoid issues where companies will just merge with other companies for the sake of procurement which might bring loss to the nation and the local beneficiaries if due regard is not necessarily prescribed section 53(5&6) of the Act<sup>280</sup> provides that the licensee is within sixty days after the end of each calendar year to portray what his or her achievements and those of his or her contractors and subcontractors have been in utilising the Ugandan goods. Thereafter the Authority shall receive this report of which within 30 days the report will be submitted to the minister for it to be laid before parliament annually.

The researcher portrayed these provisions to be a good deal for Ugandan entities, companies and citizens. The licensee and its subsequent contractors and sub-contractors will at all costs ensure that there is feasible practice in accordance to the handling of Ugandan goods and services in respect to the demands of the provisions in question.

Punishment is prescribed for those who deviate and contravene subsections (1), (3) and (5) in that he or she is deemed to have committed an offence of which one is liable to a fine not exceeding one hundred currency points or imprisonment not exceeding three years or both.<sup>281</sup> The issue with this provision is on how clear and articulate will first the reports provided be i.e. those given to the Authority which hands them over to parliament. For effective monitoring of whether a licensee or contractor performed its obligations, there is need for a pertinent authority that handles monitoring of these issues which should be done hand in hand with the local entities who are to benefit from the whole process from the start. The Authority should be ready to hear out in case of any complaint so that these complaints can be taken up as a basis of valuation in order to come up with an efficient and competent procedure as a whole.

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<sup>280</sup> Midstream Act

<sup>281</sup> Midstream Act Section 53(7)

### **5.2.3.2 Training and Employment**

Section 54(1) of the Act<sup>282</sup> talks about the training and employment of Ugandan's. The Act in so doing stipulates that the licensee shall provide the training and employment programme to the Authority, twelve months after the issue of the licence.

This provision though good, the researcher found it not satisfactory per se. The researcher looked at the situation where time as a limiting factor per the programmes of the IOC' S, not forgetting the kind of money invested in those programmes which is likely not to wait for those busy training to be employed. The researcher thinks that the better deal would be that the licensee brings on a plan of training Ugandans and pertinent employment first of all to those who have qualifications however small they are and then to train those that would be required and needed as the industry grows from stage to stage. This shows commitment rather than generalising training and employment programme. The Authority should ensure that on issues of employment, they are strict and no compromise should be given to companies who deviate from what they state in accordance to the programmes and plans submitted prior.

The Authority is given mandate with approval of the minister to provide guidelines to the licensees in regard to the training and recruitment of Ugandans in midstream operations. The training is to provide for the training of Ugandans in all phases of midstream operations.<sup>283</sup> The Authority will also be responsible to approve educational scholarships which will be varied with the permission of the Authority.

### **5.2.3.3 Training and Technology Transfer**

Section 55 talks about the issue of training and technology transfer where a licensee shall include a clearly defined training programme for the local employees of the license, which may be carried out in or outside Uganda and may include scholarships and other financial support for education. The licensee in relation to this section is required to include a commitment by the license to maximise knowledge and skills transfer to Ugandans and to establish in Uganda, management and technical capabilities and any necessary facilities for technical work.

According to the research done, the researcher found out that technology transfer is a big deal for Uganda as a country and its citizens who will participate in the Oil and Gas industry. Oil and Gas is not only a monetary characterised industry, but is also a technical knowhow

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<sup>282</sup> Midstream Act Section

<sup>283</sup> Midstream Act Section 54(3&4)

industry. Since Uganda is new to the industry, it is key for the Oil companies and their subsequent contractors to ensure that they handle this issue with all due diligence so that there is benefit to both Ugandans and the companies at large.

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

The regulations explain what National content means i.e. the level of use of Ugandan local expertise, goods and services, Ugandan citizens, businesses and financing in midstream operations.<sup>284</sup>

Registered entities are also explained as businesses owned by Ugandan citizens registered under the Business Names Registration Act or the Partnership Act, 2010.<sup>285</sup> And in the National local content<sup>286</sup> Act its defined as any company with a majority shareholders of citizens of any East African partner state Technology transfer is explained to mean planned and unplanned activities and mechanisms aimed at maximising knowledge and skills transfer to the government, registered entities and Ugandan citizens and the establishment in Uganda of management and technical capabilities and facilities for technical work by the licensees, operators, contractors and subcontractors.<sup>287</sup> More so the regulations explain the Ugandan company to mean a company incorporated under the companies Act, 2012 and which; provides value addition to Uganda, uses available local raw materials, employs at least 70% Ugandans; and is approved by the Authority under regulation I 0(3).<sup>288</sup>

These regulations apply to national content in midstream operations. The regulations stipulate that the application of national content is to be by all either licensee, contractor or subcontractor in all operations of midstream.<sup>289</sup>

The purpose of the regulations in question is portrayed as provided that there is need to ensure that there is adequate employment of Ugandan's, technology transfer and provisions of goods and services by Ugandan companies and Ugandan citizens in midstream operations.<sup>290</sup>

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<sup>284</sup> Midstream NC regulations, Reg 4

<sup>285</sup> Midstream NC regulations, Reg 4

<sup>286</sup> National local content Act of 2019

<sup>287</sup> Midstream NC regulations, Reg 4

<sup>288</sup> Midstream NC regulations, Reg 4

<sup>289</sup> Midstream NC regulations, Reg 2

<sup>290</sup> Midstream NC regulations, Reg 3(a)

More so amongst its requirements, the regulations require that the provision of goods and services not available in the country are to be provided by a company that has entered into joint venture with a Ugandan company, a registered entity or Ugandan citizens where possible.<sup>291</sup>

The regulations continue to stipulate further their purpose that every licensee, contractor and subcontractor is to give priority of sourcing of goods and services from Ugandan companies, registered entities and Ugandan citizens where the goods and services are competitive in terms of quality and timely availability.<sup>292</sup>

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

More so the regulations stipulate further that among the purposes highlighted there in is to ensure enterprise development through provisions of support to Ugandan companies, registered entities and Ugandan citizens.<sup>293</sup> More so to promote cooperation between licensees, contractors, subcontractors and Ugandan universities, research institutions and technical institutions.<sup>294</sup>

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

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<sup>291</sup> Midstream NC regulations, Reg 3(c)

<sup>292</sup> Midstream NC regulations, Reg 3(b)

<sup>293</sup> Midstream NC regulations, Reg 3(e)

<sup>294</sup> Midstream NC regulations, Reg 3(f)

The regulations provide for the option of National Content during licensing. It provides that the Minister shall consider National Content when evaluating any license application under the Act.<sup>295</sup> The licensee to that effect is required to submit national content programme in twelve months after the grant of the license, submit to the Authority for approval, a detailed national content programme stating proposals for; employment and training Ugandans, requirements for health and safety, technology transfer and skills, research development in Uganda; procurement of goods and services obtainable in Uganda, local supplier development, support of educational institutions among others.<sup>296</sup>

This is important in that with the idea of considering LC during licensing, it becomes a key object of ensuring that what the regulations put across are adhered to. In so doing the mandate rests upon the government and the appointed responsible stakeholders to ensure that the licensees abide by their promises. Otherwise if the responsible stakeholders are not reliable with some of these concepts, then the issue of LC will just be a written issue than being practical.

More so the regulations continue to provide thus that the authority will to this cause review the programme and make amendments thereof<sup>297</sup> and if not satisfied there to will make amendments thereof and return to the licensee for improvement within 21 days and the licensee shall in fourteen days make the amendments there to.<sup>298</sup>

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

The regulations further provide that where the licensee has fully gotten an approval from the authority towards the programme in question, the license shall not amend or deviate from

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<sup>295</sup> Midstream NC regulations, Reg 6

<sup>296</sup> Midstream NC regulations, Reg 7(1)

<sup>297</sup> Midstream NC regulations, Reg 7(2)

<sup>298</sup> Midstream NC regulations, Reg 7(3)

the programme without the approval of the authority.<sup>299</sup> If the licensee has not heard from the authority as prescribed in the subsequent regulations, it will be deemed that the authority have approved the programme; provided the license has proof of acknowledgment of receipt of the national content programme by the authority.<sup>263</sup> As discussed above, these subsections will apply to the person who has entered into an agreement with the Government.<sup>300</sup>

The plan given as prior explained per regulation 7 shall have the programme and a detailed plan on how the license shall give preference to goods that are locally manufactured or available in Uganda i.e. where the goods meet the required quality and timeline for delivery; and also how the license and the subcontractor shall give preference to services offered by Ugandan companies, registered entities and Ugandan citizens, and how the license shall ensure that Ugandan companies and registered entities are given preference during the evaluation of bids for required services.<sup>301</sup> This is good however the issue of ensuring that consultation processes are brought on ground to the concerned local suppliers which is of paramount importance should be put into consideration. This is so due to the fact that when there is open discussion with the locals, then the service delivery required is improved and the whole process is simplified. What is quality to one might not be what is expected of the other in question so when there are consultations, it simplifies the business transactions.

Regulation 5 talks about the monitoring programme of National Content. This cuts through having valuation audits done to ensure that the licensees and contractors have adhered to the regulations,<sup>302</sup> assisting Ugandan companies and registered entities to develop their capabilities and capacities to further the development of national content in midstream operations.<sup>303</sup> More so it goes further to the issue of organising conferences and workshops, seminars and symposia, trainings, road shows and other means of public education to further the development of national content in midstream operations.<sup>304</sup>

Such provisions are important towards the promotion of LC of which this requires serious government intervention to ensure that the aspects here in portrayed are dealt with. There should be serious deployment of manpower to ensure that corruption tendencies are curbed especially where some contractors or licensees might want to hide their deeds especially when they have not maintained the policies in question as provided. The pertinent issues of

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<sup>299</sup>Midstream NC regulations, Reg 7(5)

<sup>300</sup> Midstream NC regulations, Reg 7(6)

<sup>301</sup> Midstream NC regulations, Reg 8

<sup>302</sup> Midstream NC regulations, Reg 5(g)

<sup>303</sup> Midstream NC regulations, Reg 5(d)

<sup>304</sup> Midstream NC regulations, Reg 5(j)

monitoring programmes should be spearheaded more often to ensure that there is gratitude towards the strengthening of a platform for local citizen participation in the industry in question.

**Regulation 10** stipulates that the licensing contractors and subcontractors shall give preference to goods and services which are produced and are available in Uganda services which are rendered by Ugandan companies registered entity and Ugandan citizens.<sup>305</sup>The regulations also further provide for an option where the goods and services are not in Uganda for the contractors and subcontractors to form joint ventures with companies in Uganda as determined by the Authority<sup>306</sup>and the Ugandan companies shall demonstrate capacity to transfer knowledge and technology to Ugandan Citizens<sup>307</sup> and have experience in provision of the required goods and services<sup>308</sup> Where the Ugandan company is unable to provide the services as required, the licensee is given ago ahead with the approval of the Authority, to procure goods and services from any other company within a period specified by the Authority.<sup>309</sup>

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

The other issue is the element of implementation referring to the various elements required of industry as portrayed by the regulations taking in mind of the various licensees, contractors and subcontractors in relation as to whether the Authority will vigorously manage to monitor and ensure that the requirements there in are dealt with. The other problem hinted on by local business people is that Oil Companies have a tendency of hiding behind the standards veil to deny them work. Ben Mugasha, Director of Bemuga Forwarders Limited, one of the biggest local logistics services companies in the oil and gas sector, says he has on several occasions lost opportunities to international companies even when his company met all the *requirements to do the job*. He narrates

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<sup>305</sup> Midstream NC regulations, Reg 10(1)

<sup>306</sup> Midstream NC regulations, Reg 10(2)

<sup>307</sup> Midstream NC regulations, Reg 10(3)(b)

<sup>308</sup> Midstream NC regulations, Reg 10(3)(c)

<sup>309</sup> Midstream NC regulations, Reg 10(4)

*“Spent \$220,000 (580 million shillings) on training crane operators but the deal was instead awarded to an international player by one of the oil companies”. All this is done to malign local players; he argues.<sup>310</sup>*

However much the regulatory framework is good pertaining the regulatory process, the issues highlighted above stand out to be handled and revised so as to ensure that there is transparency in the regulatory framework a key aspect the Ugandan business men and local suppliers are looking to as an entry port to be able to participate in the Ugandan Oil and Gas industry.

Regulation 12 talks about the bidding process. The issue of the bidding process as laid out in the regulation is quite impressive as it requires the licensee, contractors and subcontractors to advertise the bidding process that includes the National Content in two National Newspapers of wide national circulation all the upcoming contracts at least one month before the procurement process starts.<sup>311</sup> In addition to that, the regulations in question provide thus that the licensee, the contractor and the subcontractor shall ensure that the bidding process includes National Content as one of the requirements for qualification.<sup>312</sup> The regulations also stipulate that the licensee, contractors and subcontractors are to give reasons as to why the unsuccessful bidders have not been successful and also in addition, the licensee, contractor and subcontractor may also hold tender workshops to educate prospective bidders on the procurement process, requirements and performance standards.<sup>313</sup> The regulations further stipulate that the licensee, contractor or subcontractor shall provide contract periods that shall permit other Ugandan companies, registered entities and Ugandan citizens to join the petroleum sector i.e. for capital intensive contracts, a maximum duration of five years and a low cost contract, a period of three years.<sup>314</sup>

This shows a good deal for local entities in that it is a fair process to allow Ugandan entities to stretch and be able to advance to the required standards of the Oil and Gas industry. With such, there is pertinent possibilities that as the Ugandan companies grow and stretch their experiences, they can be able to compete even in other jurisdictions. As the regulation portrays, with the help of the Ugandan government through ensuring that there is proper funding to meet

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<sup>310</sup> Oil in Uganda, ‘Local Content: Hoima Businessman defies the odds’ (2014)<http://www.oilinuganda.org> accessed on 4 September 2019

<sup>311</sup> Midstream NC regulations, Reg 12(2)

<sup>312</sup> Midstream NC regulations, Reg 12(1)

<sup>313</sup> Midstream NC regulations, Reg 12(3&4)

<sup>314</sup> Midstream NC regulations, Reg 12(5) (a&b)



the forms and the producers as required, then this is a good move for LC promotion in Uganda's Oil and Gas sector.

Regulation 14 stipulates of the issue concerning the establishment of tender information offices where by the licensee, contractor or subcontractor is to establish such an office before carrying out any activity of which such an office will provide information regarding the operations and procurement respectively.<sup>315</sup> And to this effect the Authority may require the licensee, contractor or subcontractor to maintain a tender information office in a community in Uganda where the licensee has significant operations.<sup>316</sup> This is an important aspect towards LC promotion which will enable the local companies and citizens to curb the opportunities in time other than waiting for the big moves of which also this brings services closer to the community hence promoting social-economic development in various communities where such activities will be taking place in reference to different licensees, contractors and subcontractors.

Section 14<sup>317</sup> and Regulation 17 brings out the issue of employment of Ugandans, which is another paramount aspect that is be mandated by the licensee and contractors and subcontractors where they are required to submit to the Authority for approval a policy and plan on employment of Ugandans specifying the required minimum qualifications there to.<sup>318</sup> The policy referred ensures that Ugandan Citizens are given priority for employment in any midstream operation executed by a licensee and also take into consideration the promotion of participation of specific group's inclusive women, persons with disabilities and persons from different geographical areas or ethnic backgrounds.<sup>319</sup>

Oil and Gas industry in Uganda is a key economical aspect that is believed to bring a drastic and dynamic change in the country's social economic diversification and transformation. This automatically comes with the idea and expectation of people getting employed. As the regulations has put it, it is a good deal for consideration of Ugandan citizens through being given priority while providing employment as a way of promoting LC in the Oil and Gas industry of Uganda. However, what is required here is skills, of which Ugandans have to come out and participate in being skilled be it the practical and the theoretical skills required.

This issue grows to consider what it costs for one to acquire this skill, and how the government of Uganda will abide by its regulations to ensure that in reality there are

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<sup>315</sup> Midstream NC regulations, Reg 14(1)

<sup>316</sup> Midstream NC regulations, Reg 14(2)

<sup>317</sup> National local content Act of 2019

<sup>318</sup> Midstream NC regulations, Reg 17(1)

<sup>319</sup> Midstream NC regulations, Reg 17(2) (a&b)

employment opportunities created for the people with the skills required. This again is a mandate to those who can afford education and practical skills acquisition and also to the government to play its role and endeavour to provide skills training and education for its citizens in order to benefit from the industry at large.

**Regulations 18 and 19** specifically portray the issue of plan for training of Ugandans and also the implementation of the plan for recruitment and training of Ugandans. In so doing, the licensee shall within twelve months after the grant of a licence and on each subsequent anniversary of that grant, submit to the authority for approval, a detailed plan for recruitment and training of Ugandans in midstream operations.<sup>320</sup> More so; the regulations in question stipulate that if the Ugandans lack the required skills, the licensee or contractor shall ensure that there is training locally or elsewhere through attachment or other means approved by the Authority and the procedure for its execution shall be contained in the licensee requirement and training plan.<sup>321</sup>

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

Those who have managed to acquire the skills personally, it has come with a serious cost which means most of the people having the zeal to participate, would be left out due to the expensive nature attached to some of the key courses to equip the Ugandans so that they get a chance of participating ably in the Industry at large. All this comes back to the implementation programmes done by the Authority to ensure that they engage the government to involve heavily in these activities so that there is admirable returns from the industry through the LC promotion as a key driver to ensure that the participatory nature of Ugandans is increased

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<sup>320</sup> Midstream NC regulations, Reg 18(1)

<sup>321</sup> Midstream NC regulations, Reg 19(2)

which in the end will boost social economic stability in the country with various Ugandans participating in the Industry in Question.

**Regulation 23** portrays the issue of technology transfer where the licensee, contractor or subcontractor shall issue a plan concerning the transfer of technology which will be an annual plan, satisfactory to the Authority, setting out details and initiatives aimed at promoting the effective transfer of technology, technical knowhow and skills relating to midstream operations from the licensee to Ugandan companies, registered entities and Ugandan citizens.<sup>322</sup> This plan shall not be deviated from by the licensee without the approval of the Authority.<sup>323</sup>

In support of this, the licensee shall encourage and facilitate the formation of joint ventures, and partnerships and the development of technology licensing agreements between Ugandan companies, registered entities and Ugandan citizens and foreign contractors and service or supplier companies.<sup>324</sup> All these joint ventures shall be sustainable and shall meet the requirements of the national content plan to the satisfaction of the Authority.<sup>325</sup> Also in so doing, the licensee may upon request by the Authority or on its own initiative, with the approval of the Authority, support the establishment and upgrading of any facility in Uganda for technical, vocational and technology transfer.<sup>326</sup>

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

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

**Regulation 25** provides for the national content performance report which requires the licensee and the subsequent contractors to provide the national performance report that will

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<sup>322</sup> Midstream NC regulations, Reg 23(1)

<sup>323</sup> Midstream NC regulations, Reg 23(3)

<sup>324</sup> Midstream NC regulations, Reg 23(4)

<sup>325</sup> Midstream NC regulations, Reg 23(5)

<sup>326</sup> Midstream NC regulations, Reg 23(6)

show how the Ugandans are employed, trained and also show procurement provisions of quantity and tonnage of locally manufactured materials, the names of Ugandan companies, registered entities and Ugandan citizens contracted, technology transfer and research development plan.<sup>327</sup> This will be undertaken by a regular assessment by the Authority of the national content performance report filed by a licensee in compliance with these regulations as may be considered appropriate by the Authority.<sup>328</sup>

This is fundamental and appropriate towards LC promotion. since this process keeps the companies in check in regards to the various activities involved in the industry that require a lot of monitoring. With the national content performance report as a mandate, it will help in ensuring that the oil companies in place comply with what is stipulated within these regulations concerning LC aspects. To ensure that this is worked upon, the licensee shall during working hours, for purposes of assessment and verification, allow the Authority or an authorised officer, access to their facilities, documentation or information required for verification of national content compliance.<sup>329</sup>

In addition to the above, regulation 27 stipulate that the licensee shall communicate its national content policy targets to its contractors and shall ensure that its contractors and subcontractors comply with the licensee's national content policy.<sup>330</sup> Also the licensee shall allow the authority or an authorised officer access to their records for the purpose of assessment and verification of national content compliance reported to the licensee or the Authority by the contractor or subcontractor.<sup>331</sup>

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

The issue of national supplier database is handled under **regulation 30** and it provides thus that the authority is a key player to ensure that the companies recruited are of relevance. This is in consultation with the licensees, where the Authority has laid down the qualifications of

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<sup>327</sup> Midstream NC regulations, Reg 25(3)

<sup>328</sup> Midstream NC regulations, Reg 25(4)

<sup>329</sup> Midstream NC regulations, Reg 26

<sup>330</sup> Midstream NC regulations, Reg 27(1&2)

<sup>331</sup> Midstream NC regulations, Reg 28(3)

the companies to provide services listed on the database.<sup>332</sup> The Authority shall continue to ensure that the companies and registered entities referred to have the necessary competence, qualifications, financial and technical capacity to undertake works and provide goods through making enquires and carrying out investigations in any company or registered entity seeking to be registered in the national supplier database.<sup>333</sup> •

The other key aspect highlighted is that the company that has qualified under this regulation shall remain on the national supplier database for maximum of three years and may re-apply to be included in the national supplier database.<sup>334</sup>

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

**Regulation 32** talks about compliance with the regulations. The regulations in question stipulate that compliance is a must and prescribes the punishments there in for example a contractor who fails to comply with the requirements of these regulations commits an offence and is liable on conviction to a fine not exceeding one hundred currency points and an additional fifty currency points for each day on which the offence continues.<sup>335</sup> The regulations in question do not clearly define what amounts to currency point and how much that is equivalent to, but just refers to it to mean an assigned value in accordance to currency point in the Act. Such loopholes make the whole compliance difficult considering the fact that the punishment for noncompliance is not articulate enough to emphasise the issues there in. The IOC's and the subcontractors there in might end up differing from some important

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<sup>332</sup> Midstream NC regulations, Reg 30(5)

<sup>333</sup> Midstream NC regulations, Reg 30(7)

<sup>334</sup> Midstream NC regulations, Reg 30(10)

<sup>335</sup> Midstream NC regulations, Reg 32(2)

commitments where it is obvious that there are • no elegant punishments and repercussions for differing some of these provisions.

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

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

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

This will be handled by reviewing the laws necessary for the handling information in Uganda in particular the Access to Information Act, 2005<sup>336</sup>

The Constitution<sup>337</sup> stipulates that Every Citizen has a right of .access to information in the possession of the state or any other organ or agency of the state except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to the privacy of any other person.

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<sup>336</sup> Laws of Uganda

<sup>337</sup> The Constitution of the Republic of Uganda 1995 Article 41(1)

More so the Constitution stipulates that parliament shall make laws prescribing the classes of information and the procedure for obtaining access to that information.<sup>338</sup>

In this regard the parliament of Uganda enacted the Access to Information Act, 2005 of which its purpose is set out to include; promotion of an efficient, effective, transparent and accountable government; giving effect to Article 41 of the Constitution<sup>339</sup>; protection of whistle blowers, promotion of transparency and accountability in government by providing the public with timely, accessible and accurate information; and empowerment of the public to effectively scrutinise and participate in government decisions that affect them.<sup>340</sup> The purpose discussed is fundamental to democratic governance and accountability, in relation to the LC aspect as portrayed in this thesis in question. This is so in that where there is accountability, there is assurance that the stakeholders in this aspect will have a relative conducive platform in their kind of dealings especially when it comes to information disposal respectively.

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

**Section 5<sup>341</sup>** of the Act restates the right of Access to Information in almost similar terms as Article 41 of the Constitution. The section obligates information officers to supply only accurate and up-to-date information. This is important and as far as LC promotion and implementation is regarded. It empowers the stakeholders in this sense to be able to penetrate the dictates of the industry, know what and how to deal with the industry in its respective stages respectively.

The Act further provides for proactive disclosure of information on the part of duty holders. **Section 8<sup>342</sup>** to this aspect enjoins officers to publish a description of records automatically available to the public. **Section 7<sup>343</sup>** also to this cause stipulates thus that it encourages publication of manuals of functions and index of records of public bodies.

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<sup>338</sup> The Constitution of the Republic of Uganda 1995 Article 41(2)

<sup>339</sup> The Constitution of the Republic of Uganda 1995 Article 41(1)

<sup>340</sup> Access to Information Act, 2005 S.3

<sup>341</sup> Access to Information Act, 2005

<sup>342</sup> Access to Information Act, 2005

<sup>343</sup> Access to Information Act, 2005

**Section 22**<sup>344</sup> of the Act provides for record keeping. Information officers are required to preserve records sought to be accessed under the Act until the request is met or where an appeal is sought until all appeal procedures have been exhausted. Generally, the Act falls short of establishing a comprehensive record keeping and management system.

The Petroleum Act (upstream law)<sup>345</sup> also provides for the right to access information and stipulates thus that the public must get information on petroleum activities.<sup>346</sup>

#### **5.2.5.1 Hindrance towards implementation**

It is incumbent on public sector officials; in particular a minister to ensure that they are not parties to instruments that deny Ugandans access to relevant information regarding petroleum activities, provided that such information is not exempted, by business confidentiality.

In regards to this, Edward Ssekika in his article on the oil in Uganda website stipulated that it is important for the government and the necessary stakeholders to ensure that issues and ideas to deal with Oil and Gas transactions are brought to light through transparency.<sup>347</sup> In his Article, he reported that a group of Civil society organisations (CSOs) working in areas of oil governance and transparency have implored government to end secrecy in the oil subsector. In a joint petition to the parliamentary committee on commission of statutory Authorities and state enterprises that was investigating Shs.6bn oil cash pay outs to 42 government officials, the CSOs argue that the increased secrecy in the petroleum subsector is likely to trigger an oil curse.<sup>348</sup> They stated thus

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

This was in accordance to their petition as of Monday 27 February, 2017. The CSOs more so stipulated that unless the oil sector is not managed in the most transparent manner where the public sector officials look at themselves as servants of Ugandan citizens and trustees of the

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<sup>344</sup> Access to Information Act, 2005

<sup>345</sup> The Petroleum (Exploration, Development and Production) Act, 2013

<sup>346</sup> The Petroleum (Exploration, Development and Production) Act, 2013, S.151

<sup>347</sup> Edward Ssekika, 'CSOs Call for end of secrecy in Oil deals in a petition to parliament' <http://www.oilinuganda.org/feature/civil-society/csos-call-forend-of-secrecy-in-oil-deals-in-a-petition-to-parliament.html> accessed 20 September 2019

<sup>348</sup> Edward Ssekika, 'CSOs Call for end of secrecy in Oil deals in a petition to parliament' <http://www.oilinuganda.org/feature/civil-society/csos-call-forend-of-secrecy-in-oil-deals-in-a-petition-to-parliament.html> accessed 20 September 2019



offices they occupy and the authority they hold, the oil and gas subsector will not benefit majority of the Ugandans.<sup>349</sup>

In another scenario, in November 2009, a case was brought before the chief magistrate's court in Nakawa to access information held in the hands of the state. In this case, Charles Mwangunya Mpagi & Izama Angelo vs. Attorney General,<sup>350</sup> the applicants applied to the chief magistrate's court in Nakawa for an order to force the government to disclose the oil production sharing agreements signed between the government and the oil companies in Uganda. This was the first case brought under the Access to Information Act.

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

Relating this with the aspect of LC in the Oil and Gas industry of Uganda, it makes the whole concept retarded since lack of information will stall the progress of the whole industry in question. For example, where stakeholders need information concerning the progress of the industry, and cannot access it, there occurs inconsistency in the. Whole concepts in question.

#### **5.2.5.2 Progress towards the promotion of Access to Information**

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

As part of their promotion and ensuring that the oil and gas industry is developed, the PAU has been delighted to partner with the New Vision printing and publishing Corporation to publish a weekly pull out on the oil and gas sector in Uganda. This pull out which will run every Tuesday during 2018 will represent the PAU's contribution to building knowledge, especially among Ugandans, through increased and regular sharing of information on the sector.<sup>351</sup>

This effort which is also in fulfilment of the Petroleum Exploration, Development, Act 2013, should enable more informed participation in and inclusive development of the sector.

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<sup>349</sup> Edward Ssekika, 'CSOs Call for end of secrecy in Oil deals in a petition to parliament' <http://www.oilinuganda.org/feature/civil-society/csos-call-forend-of-secrecy-in-oil-deals-in-a-petition-to-parliament.html> accessed 20 September 2019

<sup>350</sup> No.751 of 2009

<sup>351</sup> <http://www.paug.og.ug>

Through this programme, the planned activities in the sector, together with the roles, contributions and progress being made by different participants in the different pull outs during the year. The PAU welcomes this opportunity to continue building knowledge of the Ugandan society about the Oil and Gas sector. This is important since the industry is developing and activities are increasing in the country especially in the Albertine Graben where Oil and Gas resources were discovered, profile international business delegations visiting the country to explore areas of partnership and investment, and the high value contracts for provision of goods and services in the sector which are regularly advertised in the media.<sup>352</sup>

Associations such as Association of Uganda Oil and Gas Service Providers, which have been established and the existing ones such as the Uganda chamber of mines and petroleum, are being promoted avenues for sharing information on the opportunities in the sector in a more efficient and effective manner.<sup>353</sup> This is important towards the promotion of the concept of LC if the affected stakeholders are aware of the opportunities enabling them on how to strategies and be set and ready for the industry in question.

The PAU is also working with the licensed oil companies and their key sub- contractors to hold workshops where the details and quantities of the goods and services required for the different activities are presented to the entities registered on the NSD. This facilitates Ugandan entities to better appreciate the opportunities available and prepare themselves to participate in delivery of the required goods and services.<sup>354</sup>

### **5.3 Policy Framework**

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

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<sup>352</sup> <http://www.paug.og.ug>

<sup>353</sup> <http://www.paug.og.ug>

<sup>354</sup> <http://www.paug.og.ug>

### 5.3.1 National Oil and Gas Policy

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

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

The NOGP with its objectives thus seeks to ensure optimum national participation in Oil and Gas activities.<sup>355</sup> More so, NOGP seeks to support strategies for development and maintenance of national expertise in the Oil and Gas sector.<sup>356</sup> Some of the strategies include; promotion of national participation in the production sharing agreements, encourage civil society to participate in the building of a productive, vibrant and transparent oil and gas sector, promotion of the employment of Ugandans in the Oil and Gas sector, promotion of transfer of skills and technology to the country, and to broaden the national education curriculum to prepare the necessary workforce for the growing oil and gas sector in the country.

The NOGP for Uganda recognise that the benefit which the country obtains from its Oil and Gas resources, will depend on the extent of participation of its citizens and enterprises in the sector.<sup>357</sup> Being a foundation that has laid some of the strategies that are to be upheld in the Oil and Gas industry, it is evident that there is need for adherence of these factors by the Government of Uganda with various stakeholders with a strategy to ensure that these aspects are adhered to.

The effort shown by the government of Uganda by formulation of the regulatory framework to monitor the issues and trends concerning LC in the Oil and Gas industry is key towards the promotion of these policy aspects. These aspects need to be upheld and understood by the stakeholders and be worked upon as per the provisions in those regulations. This should be a collective bargaining with the government as a lead with other stakeholders that are directly the NOGP recognise the need for national participation through employment, training

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<sup>355</sup> NOGP for Uganda, supra(note 167) Objective 7

<sup>356</sup> NOGP for Uganda, supra(note 167) Objective 8

<sup>357</sup> Draft National Content Policy, supra (note 165) pg.22

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### **5.3.2 Second National Development Plan (NDPII)**

The Oil and Gas subsector is one of the development priorities in the NDPII and among the major planned investment priorities intensified in the plan. The NDPII stipulates that the Government will focus efforts on adding value to the subsector through investing in major Oil and Gas infrastructure, such as the refinery and associated pipelines.<sup>358</sup> Also investment in transport structure to support the activities carried out in the Oil and Gas industry are key

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<sup>358</sup> Second National Development Plan, pg xxvii

aspects highlighted by the NDPII for example creation of strategic roads to support exploitation of Oil and Gas.<sup>359</sup> The NDPII highlights some of the challenges faced by the industry in question like inadequate infrastructure to support the upstream activities, excitement and high expectations from the general public; lack of skilled manpower both in private and public sectors plus low institutional preparedness among others<sup>360</sup>

Despite all these challenges, the NDPII recognises the need to exploit the multitude of opportunities in the upstream, midstream and downstream subsectors of the petroleum sector to effectively create wealth and generate more employment opportunities over the next five years.<sup>361</sup> NDPII continues to recognise that the Oil and Gas subsector has great potential for contributing to economic growth and poverty alleviation through use of Oil and Gas for local consumption/ generation of electricity and employment generation.<sup>362</sup> NDPII further stipulated that the policy, legal and institutional framework governing the sector has been strengthened, national participation has increased and infrastructure has been developed. NDPII still recognises that a lot more needs to be done to overcome the challenges faced by the industry at large.<sup>363</sup>

NDPII stipulates thus that the sub-sector has targeted to increase Oil and Petroleum related wealth by establishing refining and distribution infrastructure. NDPII further stipulates that developments in the Oil and Gas sub-sector have great potential of creating employment and generating wealth to Ugandans.<sup>364</sup>

NDPII stipulated also that in order to fully exploit the country's Oil and Gas potential, the subsectors, focus areas for the next five years include; strengthening the policy, legal, regulatory and institutional framework, national content development and capacity building among others.<sup>365</sup>

As portrayed by the NDPII the issue of Oil and Gas as a sector is among the major developmental sectors that will keenly see economic transformation in Uganda's structural sectors. The key point highlighted that the Oil and Gas subsector will lead to diverse economic transformation of the population through wealth creation and employment opportunities to the people is important.

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<sup>359</sup> Second National Development Plan, pg xxv

<sup>360</sup> Second National Development Plan, pg 58

<sup>361</sup> Second National Development Plan,

<sup>362</sup> Second National Development Plan,pg 109

<sup>363</sup> Second National Development Plan,

<sup>364</sup> Second National Development Plan, pg 165

<sup>365</sup> Second National Development Plan,

These are some of the aspects that the Government of Uganda ought to take into consideration by putting in place strategies that will endeavour that the population benefits from the Oil and Gas industry in question.

As highlighted by NDPII, the necessary legal and policy framework has been strengthened. This concerns the relevant stakeholders to ensure that the various policy concerns of the Oil and Gas industry like LC are dealt with in relation to the legal regulatory framework present. This calls for different stakeholders in the Oil and Gas industry of Uganda to ensure that the legal base presented is handled with a variant manner to ensure that the objectives of these policies like LC live to be achieved.

As reflected throughout the study in question, having an effective legal regulatory framework fronting policy aspect like LC in the Oil and Gas is an important aspect that if adhered to, pertinent aspects discussed by the NDPII can easily be achieved.

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

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

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

discussed in this chapter, gives the government and its responsible bodies like the PAU and the Ministry of Energy the key role of ensuring that this concept is dealt with accordingly.

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

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

#### **5.4.1 Implementation Frameworks towards the Promotion of LC in the Oil and Gas Industry of Uganda.**

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

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

##### **5.4.1.1 Progress**

There is an established national contents office at the PEPD of which this office has various officers. Of recent, interviews have been handled to boost this office. This shows how

important the ministry of Energy have been ensuring that the aspect of LC is promoted and emphasis is put to implementation procedures in place.

#### **5.4.1.2 Capacity building**

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

The numbers of certified technicians required for the sector are in thousands and certification in the country is therefore continuing. An example is cited where there has been a recent development relating to LC and technology transfer where in Total E&P Uganda with TASC (the assessment and skilling centre) is admitting residents and those who studied at institutions in Albertine region and in Districts along the Oil & Gas pipeline to the Total E&P welder training and certification programme.<sup>366</sup> This programme is designed to respond to the industry's needs through improved employability of craftsmen and crafts women in the Albertine region and districts along the Oil and Gas sector and related industries as coded welders through targeted training towards international certification.<sup>367</sup>

### **5.5 Infrastructure Development**

As part of infrastructure development, there has been the construction of the 91 km tarmac road from Hoima town via Buseruka to Kaiso Tonya to support Oil and Gas activities has made the previously hard to reach areas within the rift valley easily accessible, and therefore schools in kaiso Tonya are now more attractive, especially for retention of teachers. More so Tullow Oil upgraded the kyehoro and Kaiso primary schools in Kaiso Tonya with new infrastructures such as classroom blocks for 21 classes, water sanitation facilities, classroom furniture and textbooks for pupils in 2012/2013.<sup>368</sup>

#### **5.5.1. Training**

As part of capacity vocational training in relation to the training of Ugandans to meet their skills, various government initiatives have been put in place, for example the Uganda

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<sup>366</sup> <http://tasc.co.ug/total-ep-welder-training-certification-program/>> accessed 23 September 2019

<sup>367</sup> <http://tasc.co.ug/total-ep-welder-training-certification-program/>> accessed 23 September 2019

<sup>368</sup> Gloria Sedikari, 'Oil activities boost education sector' Daily Monitor (Kampala, 7 March 2018) [www.monitor.oc.ug](http://www.monitor.oc.ug)



Petroleum Institute Kigumba (UPIK) established of which this institute is proposed to be a Centre of excellence. The Ministry of Education is taking lead in this area. UPIK is slated to be re-equipped and become elevated to a fully-fledged university offering a number of courses related to the oil industry.<sup>369</sup>

### **5.5.2 Roles Played by different Stakeholders towards Implementation of LC in the Oil and Gas Industry of Uganda.**

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

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

### **5.5.3 Ministry of Energy**

According to the draft National content policy of Uganda, the Ministry of Energy being the lead NC coordinating agency has various roles in place, to coordinate and provide overall guidance in the implementation of the policy, undertaking activities to disseminate and popularise policies, monitor progress of NC development in the oil and gas sector, prepare implementation status reports and submit to relevant organs and institutions. Submit NC legislation to cabinet and parliament.<sup>370</sup>

More so the role to promote LC cuts across other ministries for example the ministry of local government. This recognises the role of local government in promoting government programmes on national participation in the oil and gas sector within their jurisdiction. The role of the ministry towards the promotion of LC will be to participate in the implementation of the LC programmes, projects and plans. This is through the promotion of awareness on

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<sup>369</sup> <http://www.paug.go.ug>

<sup>370</sup> Ministry of Energy and Mineral Development, National Content Policy For the Petroleum Subsector in Uganda (February 2017) pg 36

petroleum activities, operations, projects and opportunities within their jurisdiction. Also, participation in monitoring and evaluation of LC aspects and implementation within their jurisdictions.<sup>371</sup>

### **5.5.3 Ministry of Education**

The Ministry of Education and sports is another industry key to the promotion and implementation aspects of LC in the oil and Gas industry of Uganda.<sup>372</sup> The ministry will deal with the promotion and development of relevant education curriculum within the participation of the private sector so as to meet the needs of current and emerging labour market. Strengthen the capacity of education and training institutions to provide the competencies required by the oil and gas industry and also, ensure quality control and assurance for training providers in the petroleum subsector.<sup>373</sup>

### **5.5.4 Ministry of Gender**

The ministry of gender and labour and social development is responsible for the implementation policies related to gender, employment and social development.<sup>374</sup> the roles of the ministry in relation to LC promotion, is to ensure that employment guidelines in the oil and gas subsector are in line with the NC policy, ensure implementation of the occupational safety and health in the oil and gas industry, ensure that the aspects of gender are taken into consideration during the implementation of LC in the oil and gas industry of Uganda.<sup>375</sup>

### **5.5.5 Ministry of internal Affairs**

The ministry of internal affairs through the directorate of citizenship and immigration control is responsible for regulating the travel in and out of Uganda, for both Ugandan citizens and foreigners.<sup>376</sup> The roles of the ministry will be, to ensure that the work permit for the oil and gas sector are issued in line with the LC policy, monitor compliance with the immigration requirements of expatriates for the oil and gas subsector. Provide security for the oil and gas infrastructure.<sup>377</sup>

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<sup>371</sup> Ministry of Energy and Mineral Development, National Content Policy For the Petroleum Subsector in Uganda (February 2017) pg 36

<sup>372</sup> National Content Policy, supra (not33) pg 37

<sup>373</sup> National Content Policy, supra (not33) pg 39

<sup>374</sup> National Content Policy, supra (not33) pg 39

<sup>375</sup> National Content Policy, supra (not33) pg 39

<sup>376</sup> National Content Policy, supra (not33) pg 39

<sup>377</sup> National Content Policy, supra (not33) pg 39

### **5.5.6 Uganda National Oil Company**

Uganda National Oil Company (UNOC) is mandated to manage Uganda's commercial aspects of petroleum activities and the participating interests of the state in petroleum agreements.<sup>378</sup> More to that, it is mandated to develop in depth- local expertise in the oil and gas subsector, promote and participate in joint venture initiatives in the oil and gas subsector, develop the capacity of Ugandan citizens and enterprises in the oil and gas subsector.<sup>379</sup> According to the UNOC website, the board of directors and executive management paid a courtesy visit to Bunyoro Kitara kingdom between 16<sup>th</sup> and 17<sup>th</sup> August 2018.

Their visit was focused on the two cooperate strategic objectives; ensuring collaboration and communication with stakeholders, and promoting LC in the country's oil and gas sector. Among their specific objectives was to communicate opportunities in the oil and gas industry to enable participation of the kingdom. This allows the issue of LC to be held with strategic procedures e.g. ensuring that the key concerns raised by the stakeholders are handled and they are able to develop strategies of addressing them.<sup>380</sup>

### **5.5.7 Private Sector**

The role of the private sector cannot be ignored. Vision 2040 programme stipulates that the private sector is the engine of growth and development in Uganda.<sup>381</sup> The private sector includes the IOCs of which will work with the government and these will incorporate LC principles in all activities and operations, put in place plans for the promotion of LC, utilise the available local goods and services, promote and support<sup>1</sup> technological advancement through research and development, provide funding for skills and supplier development programmes.<sup>382</sup>

### **5.5.8 Civil Society Organisations**

Civil society organisations have also a role to play in ensuring that LC is implemented.<sup>383</sup> Their role includes, promotion of advocacy mobilisation and dialogue with communities, licensed companies and the government on aspects of LC. More to that civil societies are kee towards the creation of awareness and dissemination of information on available opportunities

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<sup>378</sup> National Content Policy, supra (not33) pg 42

<sup>379</sup> National Content Policy, supra (not33) pg 42

<sup>380</sup> <http://www.unoc.co.ug>

<sup>381</sup> National Content Policy, supra (not33) pg 45

<sup>382</sup> National Content Policy, supra (not33) pg 45

<sup>383</sup> National Content Policy, supra (not33) pg 45

related to Oil and Gas activities. The CSOs are to hold the government and other stakeholders accountable with regard to NC in the country.<sup>384</sup>

### **5.5.9 Local Communities**

Local communities also have an important role to play towards the implementation of the LC in the oil and gas industry of Uganda. They have a primary responsibility to participate in the whole implementation process which is through learning, acquiring of skills, knowledge and capabilities to enhance their participation in the petroleum subsector and related sectors.<sup>385</sup> More so they can also participate through seeking and making use of the information related to the oil and gas subsector, participating in the provision of goods and services and human resources in the oil and gas industry.<sup>386</sup>

### **5.5.10 Media**

Media is also crucial towards the implementation of the LC aspect in the oil and gas industry of Uganda.<sup>387</sup> This is through providing accurate and balanced information to the public on NC in the petroleum subsector in the country, increasing public awareness and involvement, transparency and accountability on matters pertaining to NC in the petroleum subsector, provision of feedback to the government in particular on any achievements, challenges and opportunities.<sup>388</sup>

## **5.6 Conclusion**

This chapter highlighted and discussed the gist of the study in question. It was discussed in line with main objective of the study which was to analyse the effectiveness of local content regulatory regime in enhancing the welfare of people in the Oil and Gas industry of Uganda. To achieve this aspect, various legal regulatory framework that provides for LC in Uganda was discussed accordingly, highlighting different aspects that portray LC as a policy and the aspects of welfare of people in the Oil and Gas industry in Uganda.

The researcher found out that the regulatory framework in place is clear and efficient in regards to the aspects relating to LC as a policy aspect of Oil and Gas in Uganda as embodied within the regulatory regime and can be used to enhance the welfare of people in the sector.

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<sup>384</sup> National Content Policy, supra (not33) pg 45

<sup>385</sup> National Content Policy, supra (not33) pg 46

<sup>386</sup> National Content Policy, supra (not33) pg 46

<sup>387</sup> National Content Policy, supra (not33) pg 46

<sup>388</sup> National Content Policy, supra (not33) pg 42

This the researcher bases on the clear; cut regulations that provide for aspects concerning how training of locals will be handled, issues to deal with employment, issues concerning procurement of goods and services plus what criteria will be followed while dealing with these aspects.

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

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

## **CHAPTER SIX:**

### **BEST LOCAL CONTENT PRACTICES IN THE OIL AND GAS INDUSTRY**

#### **6.0 Introduction**

The element of comparing what other Oil producing countries have in place in regards to the promotion and implementation of LC was found key by the researcher as a move to ensure that Uganda as a country learns and creates an atmosphere that will favour its Oil and Gas industry. This section fulfilled the aspirations of the main objective of the study which was to analyse the effectiveness of local content regulatory regime in enhancing welfare of people in the Oil and Gas industry of Uganda.

This is in regard starting with the fundamental aspects of ensuring that the Ugandan citizens, the registered entities and companies have a dependable result in the industry at large. Having in mind the topic in question and having discussed the legal and regulatory framework that professes LC in the Oil and Gas industry, the researcher found it necessary to explore and relate what has been rendered as some of the best LC practices in the Oil and Gas industry in the world. The researcher chose Norway and Nigeria as some of the countries through which their systems have been ranked among the best in the world in regards to promotion and implementation of the efficacy of the LC regulatory regime as an aspect of Oil and Gas industry and at the same time ensuring the social welfare of people in the industry.

It is on this platform that this section will handle these two countries independently, showing how best they have managed their LC policy and there by relating to how best the Ugandan Oil and Gas industry can benefit in tightening and strengthening its LC policy in question given that the necessary regulatory framework as had already been discussed is in place.

#### **6.1 Norway**

Norway is one of the petroleum provinces from which lessons are drawn concerning how best LC can be developed to bring viable results within the areas endowed and blessed with the Oil and Gas resources and also a country that ensures that the welfare of its citizen is kept in a proper shape.

It is said that exploration for Oil and Gas offshore Norway started in the mid-1960, and the first field came on- stream in 1971. For the last 20 years Norway has been a major producer of Oil and Gas on the world scene. Oil production stayed at roughly 3.0 million barrels per day

in the first years of the new century. However, Oil, production has peaked and was 2.8 million barrels a day in 2006, while natural gas production is increasing.<sup>389</sup> Commercial discoveries of Oil and Gas and the investments made to exploit these resources gradually attracted the interest of domestic businesses, whereas Norwegian authorities increasingly appreciated the participation of local industry. Thus, while Oil and Gas activities expanded in Norway, industrial competence and capabilities to operate in the Oil industry were developed locally and in simple terms this was referred to as “local content development.”<sup>390</sup>

As the Norwegian authorities appreciated the local industry participation, this led to Norway possessing one fully operating Norwegian based Oil company, Statoil Hydro, with documented operational skills at a high level from the Norwegian continental shelf.<sup>391</sup> This company proved to be a giant on the domestic scene producing 1.9 million barrels of petroleum a day, which made it to rank among the largest in; the world.<sup>392</sup> Statoil Hydro specialises in offshore petroleum activities and is the largest operator on the world scene in this area. Currently Statoil Hydro is present in almost 40 countries and has on stream operations in and outside Norway.<sup>393</sup> The base of the company is majorly Norway as 68 percent of the company’s proven resources are on the Norwegian IDI shelf. It has a goal of being a strategic global player and to increase its revenues from upstream activities in foreign petroleum provinces significantly in the years to come.

In relation to the above, the concern by the Norwegian authorities to ensure the success of her local industry participation in the Oil and Gas industry explains best why Statoil Hydro is one of the best Oil producing companies in the world being a company developed and groomed in Norway. This serves a good example to the Ugandan government to ensure that they put serious efforts via monitoring and empowering the local industry service providers within the Oil and Gas industry under the umbrella of LC development. With such platforms, the aspect of LC within the Ugandan Oil and Gas industry will be a success story.

Norway in her bid to promote LC in the Oil and Gas Industry, ensured that the industrial competence of the local supply and service providers to the oil activities is proven truly

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<sup>389</sup> Per Heum, ‘Local Content Development: experience from oil and Gas activities in Norway’ (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 1

<sup>390</sup> Per Heum, ‘Local Content Development: experience from oil and Gas activities in Norway’ (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 1

<sup>391</sup> Per Heum, ‘Local Content Development: experience from oil and Gas activities in Norway’ (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 1

<sup>392</sup> Heum, supra (note 430) pg 1

<sup>393</sup> Per Heum, ‘Local Content Development: experience from oil and Gas activities in Norway’ (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 2

competitive by international standards. By this trend, it has been shown that the supply and service providers based in Norway serve markets and operate business almost all over the world.<sup>394</sup> For example in terms of significant share of foreign sales, in 2005 the supply and service providers based in Norway had 46 percent of their sales to companies operating petroleum activities in other parts of the world than Norway. This share has increased from 29 percent in 1995.<sup>395</sup> This indicates that LC development in connection with upstream Oil and Gas in Norway has succeeded in building industrial competences and capabilities which is competitive by international standards. This is by some referred to as the success of the Norwegian Model.<sup>396</sup>

Norway model cannot be said to be a one answer to how institutions, politics and business relations should be organised to guarantee industrial success. In fact, their ways to achieve success is no way different from other areas endowed with the resources have done or attempted. Never the less, Norway is still one of few exceptions when it comes to really being successful in this respect.<sup>397</sup>

One of the essential baselines that have been highlighted as a leeway for success in LC development for Norway's side as a country is to stay dedicated to the fundamental task, which involved enhancing the domestic knowledge base through arrangements that allow for a dynamic industrial and technological development that gradually expands domestic competences and capabilities to competitive levels.<sup>398</sup>

One of the major principles that made Norway a success is its institutional structure where the government through its new revised law in 1972, started to engage in the activities in the industry. This was after the commercial discovery of Ekofisk which was the first commercial discovery. With such, Norwegian companies like Statoil Oil Company based in Norway was built, this was an integral part of this task to ensure industrial competence relevant to offshore Oil and Gas to be developed in Norway. Other Norwegian based Oil companies, Norsk

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<sup>394</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 2

<sup>395</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 2

<sup>396</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 3

<sup>397</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 4

<sup>398</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 4



Hydro (which used to be 51% state owned) and Saga (which was 100% privately owned). All these companies had a lot to play and prove to be the best for the Norwegian society.<sup>399</sup> In 1998, Saga merged with Norsk Hydro. In 2007, the oil activities of Norsk Hydro merged with Statoil, to create Statoil Hydro. Thus, today there is only one major Norwegian based oil company, Statoil Hydro, in which the Norwegian state holds 67 percent of the shares. Furthermore, Norway in her bid to promote the aspect of LC in the Oil and Gas industry found it important that the concessionary system for handing out licences to Oil Companies to be open to any qualified Oil Company, also the foreign.

This process also included aspects of bidding, for instance as to how the oil companies will go about to enhance LC.<sup>400</sup> This shows how fluent the government was in ensuring fair competition within both its local service providers and the international competitors. With such aspects in place it would be easy for the aspect of technology transfer to be put into practice as an aspect of LC of which these are some of the aspects that have made Norwegian companies like Statoil Hydro to be one of the best Oil companies in the world. Norway in ensuring her success in relation to the implementation of LC, she adopted various Policies and policy instruments to enhance local content as will be discussed.

First of all the division of labour between business and government, the organisation of the different roles of the state, allowed politics to be conducted in transparency way and business to be conducted apart from politics.<sup>401</sup> More so the strong tradition in Norway for not accepting corruption among civil servants and business people further assured this separation of business from politics as it supported the task of business to operate efficiently by economic standards. In addition, Norway has been generally open to foreign direct investments.

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Furthermore, politicians implemented policies that opened the possibility of domestic firms to break into the supply chains. This meant some protectionist measures working in favour of Norwegian firms. Foreign firms were not excluded but measures were enforced to enhance the competitiveness of domestic firms. Legally, Norway came up with paragraphs and interpretations to ensure that Norwegian companies should have a fair opportunity to

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<sup>399</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 5

<sup>400</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 5

<sup>401</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 8

<sup>402</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 8

participate. For example, among its regulations; it had a provision that the Ministry should be informed about the firms listed on the oil company's bidders list before a tender was opened, and that the ministry could require that specific Norwegian firms were included on the list.<sup>403</sup> The ministry however could not exclude foreign firms from the list. The ministry further could be informed about to whom the company wanted to award the job before the contract was signed. The ministry used to have the authority to change this decision. Such a rejection of a final choice forwarded by an oil company, only occurred once in 1982.

Of the various policies, the government encouraged foreign Oil Companies to become technical assistants for the Norwegian Oil Companies, so that the Norwegian Oil Companies could learn the business from experienced organisations and personnel. Furthermore, Joint ventures, or cooperate agreements, in engineering were encouraged, allowing Norwegian firms to learn and build industrial capacity in strategic important area for further industrial involvement. This technology transfer has probably been crucial for the industrial positions that have been achieved.<sup>404</sup>

State oil and other Norwegian Oil companies started, and the foreign Oil companies adopted the practice of informing domestic industry on plans and solutions for future field development projects, allowing domestic firms to prepare themselves for jobs that would come. In this way, domestic firms benefited relative to foreign firms, as the latter would have shorter time for such preparation.<sup>405</sup>

In addition, the Oil companies were encouraged to enter into research and development projects with Norwegian universities and research institutions. This was part of the LC plan that was discussed when negotiating the concessions, and the Oil companies adhered to this request. These research and development programmes meant that the Norwegian knowledge base with regard to offshore Oil and Gas was enlarged and deepened. It was enlarged in the sense that universities and to some extent the whole system of education were included. It was deepened in the sense that it also included scientific research, and not only development projects. This has probably been important for the ability of the Norwegian business to adjust

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<sup>403</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 9

<sup>404</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 9

<sup>405</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 10

to new challenges, rising from Oil prices fluctuations, field development in deep water and smaller petroleum fields.<sup>406</sup>

Besides promoting LC development through the participation of local industry, the government, as already mentioned, also negotiated with the Oil companies through the concessionary procedures to enter into research cooperation with universities and applied institutions. In this way, the relevant knowledge base was expanded and consequently, higher education was given a direction that allowed the Oil industry to recruit well educated people with relevant educational background.<sup>407</sup>

Uganda as a country has a lot to learn from Norway as a country that has done much towards its LC promotion in the Oil and Gas industry. As discussed above, it shows how much the Government of Norway was able to ensure that the aspect of LC is dealt with from the onset which made the local based Norwegian companies to be able to compete on international standards for example the Statoil Hydro Oil company where the government owns up to at least 67 percent of shares.

## 6.2 Nigeria

Nigeria like many other countries is blessed with Oil and Gas resources. Since the 1950's till date, the Oil and Gas industry has continued to serve as the main stay of the Nigerian economy.<sup>408</sup> The industry has widely been acknowledged as the nation's livewire in relation to its role and significance to the nation.<sup>409</sup> It has reported that an estimated US\$ 8 billion is spent annually on servicing operations within the industry and this figure was projected to hit US\$ 15 billion within the next few years.<sup>410</sup> Regrettably, despite these huge sums of money spent in serving the industry, only very little proportion of the accruable profit has been relatively available to indigenous Oil servicing firms or spent in developing industrial base. Majority of the amounts was reported to have been paid to foreign firms for services such as Engineering, fabrication of which this resulted into capital flight as the profits from the contracts were

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<sup>406</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 9

<sup>407</sup> Per Heum, 'Local Content Development: experience from oil and Gas activities in Norway' (2008) SNF Working paper No. 02/08, institute for Research in Economics and Business Administration. Pg 12

<sup>408</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management 3.

<sup>409</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management 3.

<sup>410</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management pg3.

repatriated abroad, where most of the equipment are manufactured thus providing employment opportunities for citizens of other countries and in most cases developed countries.<sup>411</sup>

According to experts, the main reason for this was attributed to the problem with LC looking at a situation where most of the service contracts in the Oil and Gas industry were awarded to foreign firms because local indigenous firms allegedly lacked the requisite skills, technical expertise, man power and production capacity and capability to compete favourably.

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Historically, Nigeria have had a very little share of the country's Oil wealth and this created an urgent need to reverse this trend in the wake of her return to democracy in 1999.<sup>413</sup> To address this accordingly, the Federal government of Nigeria in the early 2000 introduced the LC policy in the Oil and Gas industry, christened 'Nigerian Content'. It was primarily aimed at enhancing increased participation of local indigenous firms and was targeted as a tool for transforming the industry through the development of in-country capacity and indigenous capabilities in manpower development, facilities and infrastructure towards ensuring higher participation of local indigenous companies actively in the industry.<sup>414</sup> It was also aimed at reforming the industry into becoming the economic hub for promoting higher SME's participation, job creation, base for industrial growth; as well as for checking capital flight from the country.

The crucial need for this policy was re-emphasised when the speaker of Nigeria's House of Representatives was quoted in the media; "*it is important to note that while the Oil and Gas industry clearly dominates the Nigerian economy, a successful LC policy must be a part of a comprehensive industrial and economic growth strategy for Nigeria as a whole... it should include both a plan for domestic capacity building and infrastructure development to broaden the national industrial base.*"<sup>415</sup> According to Ihua, studies have been made linking entrepreneurship with economic growth, as well as associating the pace of entrepreneurship development with government policy and through this, researchers focused on what have been termed as "entrepreneurial

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<sup>411</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management 3.

<sup>412</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management 3.

<sup>413</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management 3.

<sup>414</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management 3.

<sup>415</sup> Ugwushi Bellema Ihua, 'Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience' (2010) Vol.5, No.5 International Journal of Business and Management 3.

endowments” referring to certain factors that influence the willingness in individuals to engage in entrepreneurial activities and businesses start-ups.<sup>416</sup>

While these factors include the availability of legal and institutional frameworks, organised markets, skilled manpower, experienced entrepreneurs and the personal possession of certain skills, traits and motivation, none the less, the availability of a favourable government policy was also identified as crucial and a critical factor for entrepreneurial development. Similarly, it was expected that the policy would promote higher participation of small medium sized firms within the industry and subsequently enhance value addition to the nation.<sup>417</sup>

Basing on such insights as put across by researchers; Nigeria has endeavoured to polish its policy and legal framework concerning the promotion of LC in relation to its Oil and Gas industry. It is from such insights that the researcher highlights lessons that Uganda as a nation can learn and make pertinent choices and decisions relating to the promotion of the aspect of LC in the Oil and Gas industry of Uganda.

As already discussed, Nigeria had lots of issues pertaining how Oil and Gas industry was being dealt with and in order to deal away with some of these issues like capital flight, a LC policy was introduced into the Nigerian Oil and Gas industry in 2003. This was meant to in this way, greater proportion of work would be done in Nigeria with active participation of all sectors of the economy and ultimately Nigeria would be positioned as the hub for service delivery within the West Africa sub region and beyond.<sup>418</sup>

Due to this determination, results are already manifesting, so far in less than six years of the introduction of the Nigerian content policy, reports show that there is an astronomical growth of over 400 percent in local capacity utilisation in the Oil and Gas industry; engineering man hours performance has increased from a mere 250,000 mhrs to over 3,500,000 mhrs per annum across over 20 international and local engineering companies established in Nigeria.<sup>419</sup> In addition over US\$ 50 million was invested between 2006 and 2008, also the in country

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<sup>416</sup> Ugwushi Bellema Ihua, ‘Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience’ (2010) Vol.5, No.5 International Journal of Business and Management pg4

<sup>417</sup> Ugwushi Bellema Ihua, ‘Local Content Policy and SMEs Sector Promotion: The Nigerian Oil Industry Experience’ (2010) Vol.5, No.5 International Journal of Business and Management pg4

<sup>418</sup> Bakare Adewale Stephen, ‘Local Content Policy in Oil Sector and the Capacity Utilisation in Nigerian Manufacturing Industry’ (2011) 1(6) Business and Management Review <http://www.businessjournalz.org/bmr> accessed on 19<sup>th</sup> September 2019 pg8

<sup>419</sup> Bakare Adewale Stephen, ‘Local Content Policy in Oil Sector and the Capacity Utilisation in Nigerian Manufacturing Industry’ (2011) 1(6) Business and Management Review <http://www.businessjournalz.org/bmr> accessed on 19<sup>th</sup> September 2019 pg83

fabrication capacity increased from 12,000 tons to over 100,000 tons per annum performed by globally certified Nigerian Fabrication yards.<sup>420</sup>

Quoting Henry Okolo, vice chairman/ chief Executive Officer of Dorman Long Nigeria limited and chairman of the fabrication group of Nigeria, with the industry's expenditure budget projected at over US\$ 12 billion per annum over the next five years, if more than 10 percent of this amount was domesticated, Nigeria would be on a high speed of economy recovery and growth.<sup>390</sup> He said

*"Our experience indicates that every US\$ 1 billion local fabrication and construction work will create 50,000 new jobs per annum."*

By implication a full implementation of the Oil industry LC policy is expected to generate more than 500,000 new jobs for Nigeria annually.<sup>421</sup>

The Government of Nigeria as already discussed made it pertinent to ensure that the promotion of LC in Nigeria was eminent for example new efforts were made beginning with Obasanjo administrations where these renewed efforts were aimed at making a difference in the appalling state of Nigerian content.<sup>422</sup>

This was evident through for example the privatisation of the Niger dock and repositioning of the Nigerian petroleum development company (NPDC) an arm of Nigerian National Petroleum Corporation (NNPC).<sup>423</sup> The Nigerian governments effort to refurbish and strengthen the Nigerian Content have already started to produce success stories for example the privatisation of Niger dock as reported proved the company's capability as a serious player in emerging deep water offshore activities with its success story in constructing the Bonga Bouy (the world's largest).<sup>424</sup> More so due to the continued approach of the Nigerian government to ensure that Nigerian Content becomes a success, investment in Nigeria's Oil industry was increased and the reports show that it had grown up to about US\$ 18 billion annually and this investment trend was expected to grow beyond 2012.<sup>425</sup> This fund was timely

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<sup>420</sup> Bakare Adewale Stephen, 'Local Content Policy in Oil Sector and the Capacity Utilisation in Nigerian Manufacturing Industry' (2011) 1(6) Business and Management Review <http://www.businessjournalz.org/bmr> accessed on 19<sup>th</sup> September 2019 pg84

<sup>421</sup> Bakare Adewale Stephen, 'Local Content Policy in Oil Sector and the Capacity Utilisation in Nigerian Manufacturing Industry' (2011) 1(6) Business and Management Review <http://www.businessjournalz.org/bmr> accessed on 19<sup>th</sup> September 2019 pg84

<sup>422</sup> Jean Balouga, 'Nigeria Local Content: Challenges and Prospects' (2012) international Association For Energy Economics pg24

<sup>423</sup> Jean Balouga, 'Nigeria Local Content: Challenges and Prospects' (2012) international Association For Energy Economics pg24

<sup>424</sup> Jean Balouga, 'Nigeria Local Content: Challenges and Prospects' (2012) international Association For Energy Economics pg24

<sup>425</sup> Jean Balouga, 'Nigeria Local Content: Challenges and Prospects' (2012) international Association For Energy Economics pg24

and was designed to operate a free zone concept and provide working capital for local companies, there by bringing down the cost of funds.<sup>426</sup>

As the promulgation of ensuring that the LC aspect in the Nigerian Oil and Gas industry continues to flourish, the government's most outstanding effort so far has been the development of a unique blue print for the successful implementation of a Nigerian Content policy in the Oil and Gas industry. This policy is referred to as the Nigerian Oil and Gas Development Law 2010.<sup>427</sup>

The long-formulated bill was of recent formulated into law and is now referred to as the Nigerian Oil and Gas industry Content Development Act. KPMG took time to review the Act and various important essential aspects have been highlighted showing how best this law in place handles some of the pertinent issues meant to ensure that the aspect of LC is handled and dealt with accordingly.

According to KPMG's report, the Nigerian Oil and Gas industry Content development Act ("the Act) is designed to enhance the level of participation of Nigerians and Nigerian companies in the country's Oil and Gas industry.<sup>428</sup>.

With the promulgation of the Act, the government has clearly established its intention to increase indigenous participation in the industry in terms of human, material and economic resources. The report further stipulates that Act is expected to significantly change the current business and operating structure in the Nigerian Oil and Gas industry, particularly for the international Oil service companies.<sup>429</sup> Key definitions provided by the Act includes Nigerian Content that is defined to mean the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through deliberate utilisation of Nigerian human, material resources and services in the Nigerian Oil and Gas industry".<sup>430</sup> The Act defines a Nigerian company as "a company formed and registered in Nigeria in accordance with the provisions of companies and allied Masters Act with not less than 51% equity shares by Nigerians"<sup>431</sup>

According to the review made by KPMG, various issues discussed are those which were thought fit to show how the Act in question demonstrates one of the best LC practices in the

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<sup>426</sup> Jean Balouga, 'Nigeria Local Content: Challenges and Prospects' (2012) international Association For Energy Economics pg25

<sup>427</sup> Jean Balouga, 'Nigeria Local Content: Challenges and Prospects' (2012) international Association For Energy Economics pg24

<sup>428</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>429</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>430</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>431</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

Oil and Gas industry worldwide. This would be a platform through which other jurisdictions like Uganda can learn and adopt some of these highlighted indicators so as to come up with an appropriate procedure and policy framework as regards to LC promotion and implementation.

Among the key aspects of the Act highlighted in this regard is the establishment of the National Content Development and monitoring Board (the board) to monitor, coordinate and implement the provisions of the Act, and the Nigerian Content consultative forum to provide the platform for information sharing.<sup>432</sup> This is a key aspect as far as monitoring and implementation is concerned since the aspect of LC needs serious monitoring especially due to lots of activities in the industry like the Oil and Gas industry where different companies have different activities and yet all these are being run at the same time. This is key because keeping the activities in the industry unmonitored can lead to diverse damages for example capital flight which ends up affecting the social and economic welfare of the country and its citizens.

According to the revision done by KPMG, the Act provides for the requirement of paying 1% of total contract sum awarded in the upstream sector into the Nigerian Content Development Fund (NCDF).<sup>433</sup> This is key as it will enable the government to upgrade its financial capability as it looks forward to support upcoming local business entities in the Oil and Gas industry. More to the provisions, as portrayed by KPMG shows that it is stipulated that all fabrication and welding activities are to be done in the country.<sup>434</sup>

This is a direct employment opportunity for the locals which best shows how important the aspect of LC in the Nigerian Oil and Gas industry has been take-in care of respectively a lesson Uganda can draw from in ensuring that the Oil and Gas industry becomes of value to the nation and the citizens there of.

Some of the serious issues that are affecting the promotion and upholding of LC have been handled in the Act in question for example the issue pertaining the avoiding of capital flight, the Act provides that all operators, contractors and sub-contractors shall maintain bank accounts in Nigeria in which it shall retain a minimum of 10 percent of its total revenue accruing from its Nigerian operations.<sup>435</sup> This is vital in ensuring that there is economic stability in Nigeria especially from its Oil and Gas activities. ,

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<sup>432</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>433</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>434</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>435</sup> KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019



As highlighted by KPMG, the Act also tackles the issue of technology transfer through the submission of a programme of planned initiatives aimed at promoting the effective transfer of technologies from the operator and alliance partners to Nigerian individuals and companies.<sup>436</sup> This is key in ensuring that such skills are adopted by the local citizens in the industry at large which helps to bridge the gap of skilled manpower in the industry at large.

When it comes to issues of legal services, these will be catered for by the Nigerian legal practitioners whose offices are located in Nigeria. This also applies to the insurance services to be handled in. more to that, the Act also requires. that every six months to be a report on insurance, research development plan, legal services plan, financial services plan, and a report on insurance.<sup>437</sup>

This kind of arrangement shows how serious Nigeria is willing and capable of ensuring that it benefits from its LC promotion termed as Nigerian Content. With the legal services being handled here, it is enough to say that most pertinent and crucial services to be handled within the Oil and Gas industry will be handled with ease without any doubt since the local legal practitioners are well aware what is best and key for their Country and the citizens at large as far as the Oil and Gas industry is concerned.

Punitive measures have been also stipulated in the Act as highlighted by KPMG and in so doing it is provided that that if it happens that a company in question fails to comply with the provisions of the Act i.e. it commits an offence and is liable, upon conviction it faces a fine of 5% of the project sum or cancellation of the project.<sup>438</sup> The punishment in question is self-explanatory and it demonstrates how serious Nigerian government is in ensuring that the aspect of LC is promoted and upheld in the Oil and Gas industry since it is one of it sustaining economic boost of the nation. This is good for the upcoming and the existing local entrepreneurs who have ventured in the industry at large.

KPMG in its review stipulates that the Act tackles the issue concerning implementation of the law as provided and this role as per the Act has been highlighted to be part of the role of the Nigerian Content Development and Monitoring board (“the board). The board is to develop procedures that will guide, monitor, coordinate and implement the provisions of the Act, and organise various activities to facilitate its implementation.<sup>439</sup> In so doing, the board shall

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<sup>436</sup> KPMG, ‘Nigeria Oil and Gas Industry Content Development Act, 2010’, <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>437</sup> KPMG, ‘Nigeria Oil and Gas Industry Content Development Act, 2010’, <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>438</sup> KPMG, ‘Nigeria Oil and Gas Industry Content Development Act, 2010’, <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

<sup>439</sup> KPMG, ‘Nigeria Oil and Gas Industry Content Development Act, 2010’, <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019

conduct workshops, conferences, seminars, symposia and any other public forum considered as appropriate for the benefit of operators, contractors, the public and other stakeholders to enhance the implementation of the provisions of this Act.<sup>440</sup>

This is a strategic and important aspect as far as LC promotion is concerned, it is one thing to have the policy and the laws and it is the other to have ways of endeavouring to implement what has been formulated. Nigeria's approach is basic and key for the upcoming countries in the field of Oil and Gas as an industry like Uganda, the reason it was chose as a reference on how best the LC aspect in the Oil and Gas industry can be dealt with accordingly.

### **6.3 Conclusion**

The two nations referred to above that is Norway and Nigeria demonstrated that having an efficient regulatory framework portraying LC in the Oil and Gas industry is paramount towards achieving desired results that are a result of having an efficient LC as a policy in Oil and Gas industry. Both countries demonstrated the importance of government's role towards ensuring that LC as an aspect of Oil and Gas industry is promoted. The two countries LC aspects flourished with the help of their governments and they became one of the best referrals in the world concerning how best the aspects of LC as a policy aspect in the Oil and Gas industry can be dealt with. This serves a lesson for Uganda as a country endowed with

Oil and Gas resources not to undermine the role that the government is to play to ensure that the industry is well built with pertinent concepts and aspects like LC promotion and implementation being at the fore front in question through well-established regulatory and policy framework as demonstrated by the two areas highlighted' that is Nigeria and Norway respectively. Various scholarly materials in relation to this chapter were referred to, though the ones highlighted in this chapter best fit the researcher's purpose for this research so as to bring out the picture intended by the researcher in question, and also be able to draw decisive conclusions and recommendations in question.

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KPMG, 'Nigeria Oil and Gas Industry Content Development Act, 2010', <http://www.ng.kpmg.com> accessed 18<sup>th</sup> September 2019<sup>440</sup>

## **CHAPTER SEVEN:**

### **SUMMARIES AND RECOMMENDATION**

#### **7.1 RECOMMENDATIONS, Summary and Conclusion**

This chapter fulfilled one of the aspirations of the objectives in question which is to suggest recommendations for the government of Uganda and all stakeholders involved in the Oil and Gas industry on the efficacy of the local content regulatory regime in enhancing social welfare of Ugandans in Oil and Gas industry of Uganda.

Uganda's discovery of Oil and Gas resources made it a pertinent and plausible sensation for the government and relevant stakeholders at large. One may wonder and ask why this is or was so especially with the already assured Oil deposits in the Albertine -Graben region where companies like Conoco and Total among many others are expected to lead and envisage the Oil and Gas production per the time line projected which has been roughly set for 2020 as a year when the first Oil will be produced is now not yet.

With such a background, the expectancy rate is high, people are anxious about what generally developmental changes will come with these new industrial developments. To take it on the researchers view, it is true that Oil and Gas industry is a capital-intensive industry that is both in terms of investment and also the returns there to after the long years of investment. This has been true for a vast number of decades lest not when the Oil prices fluctuated a few years ago which saw the Oil industry worldwide shake a little bit. Also, the ever-increasing technological approaches like the hydrochloric fracturing that was adopted in the USA has seen the Oil and Gas industry change positions in terms of production by the major Oil producing countries which also affected the consumers perspective per se.

These lessons about the Oil industries' traits are key to ensure that as Uganda ventures into its Oil and Gas production, it is aware of the industrial developmental programmes so that its activities are made in relation to the recognised international Oil and Gas production standards.

One of the questions that has lingered in the minds of Ugandan citizens is how best the local citizens and other stakeholders of Uganda as an Oil and Gas producing Country will be able to benefit from the industry at large. This question as plain as it is, portrays a lot of factual issues that need to be answered as far as the Oil and Gas industry is concerned.

According to the researcher's findings, it was highlighted that developing countries with abundant extractable resources such as Oil minerals are found to lag behind in terms of economic development than the resource poor ones. Some of the reasons have been based to be due to over dependence on the easy money accruing from these resources hence undermining linkages between the various economic sectors.<sup>441</sup> This was said to be bleed corruption and deficit in public governance and sometimes led to situations of extreme institutional collapse and criminal conflicts which would in turn improving the living standards of people.

The fact is that if these issues concerning Oil and Gas are not handled with due diligence, the availability of the resource per se would end up depriving the citizens and the country's economic growth which would have been a must with the presence of such resources in their midst and hence reducing social welfare of the people from benefitting from oil and gas sector. Since the issues that usually affect and lag the Oil industry worldwide are more less the same, the concerns remain on how best the local citizens, companies, plus other registered entities are to benefit from industry at large.

Policy approaches were formulated in the Oil and Gas industry worldwide to ensure that this kind of muddle in the Oil and Gas industry would be dealt with and for all. The general policy approach that was basic for this research was

*“The local content policy approach based on how effective Local Content regulatory regime in enhancing social welfare of Ugandans in the Oil and Gas Industry of Uganda has portrayed”*

Meant to ensure that the issue of how best the different stakeholders in the Oil and Gas industry in Uganda can benefit from the industry in question.

The Ugandan perspective for this cause has not been bad so far as the responsible ministries like the Ministry of Energy and Mineral Development have had a key pertinent concentration for this cause; first of all, among its key procedures include; ensuring that there is capacity building, transfer of knowledge, continual work relationship with different stakeholders. All of which are key aspects of LC as policy aspect in the Oil and Gas industry.

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<sup>441</sup> Jeffrey D. Sachs, & Andrew M. Warner, 'the big Push, Natural Resource Booms and Growth, '(1997) Journal of Development Economics 59

More so the Ministry has in place the National Content draft developed awaiting approval, the Ministry has also developed and adopted a register that is able to capture different sectors, regulations, security, human resource, land survey, car hire, and locally available construction materials.

As highlighted throughout the research in question, the Oil and Gas industry tends to be complex in areas where there are no sufficient policy aspects meant to ensure that there is streamlined flow of various aspects in the industry at large, The fact that Oil and Gas industry promotes various attributes like economic development, vast creation of jobs like demonstrated by the conceptual framework, is attributed through receptive policy aspects like LC policy aspect. The study showed that with an efficient LC policy in place, the Oil and Gas industry will definitely be of benefit to different stake holders in the industry in question. However, the question has been how best the needs of these stakeholders can be dealt with as promulgated by the study in question.

In bridging this gap in question, the study thus demonstrated that with a relative and efficient legal regulatory framework, it is possible to have all pertinent policy requirements under one mechanism that will enable the stakeholders as highlighted to benefit through enhancing social welfare in Uganda's oil and gas sector hence bringing about economic transformation and development in the host country in question.

The regulatory framework analysed in question has demonstrated how best the issue of LC as a policy aspect in the Oil and Gas industry of Uganda has been developed to ensure that the Ugandan citizens and other related stakeholders can benefit from the industry in question. It further demonstrated how best the LC aspect has been conceptually developed and demonstrates some of the best practices in the Oil and Gas industry.

With a best practice and approach, in place, there is a great potential for both companies and the host government to attain better results. Apart from development of resources, host countries can benefit through improved employment, higher levels of skills acquisition and greater economic activity. Companies can achieve lower costs, access to further development programs, and a strong long-term relationship with the host country. Ensuring success will involve the need to understand each other's priorities and goals and the willingness to remain flexible as to how to meet these needs.

## **7.2 Recommendations.**

Various recommendations were discussed in line to explain how best the LC regulatory regime as an aspect of enhancing welfare of people in the Oil and Gas can be dealt with to ensure that its applicability in the industry is made more perfect to achieve its desired goals. The recommendations cut across what the respondents thought would be good for the industry at large. Also, the researcher made his recommendations that he thought would best help the industry at 'large.

### **7.2.1 Recommendations to the local stakeholders in Oil and Gas industry of Uganda in enhancing social welfare in the oil and gas sector.**

It is recommended by the researcher that the local companies established in Uganda that is all those who have the necessary products and the necessary skills meant to add value to the industry, should be able to learn how the industry works and operates in terms of acquiring the necessary skills and ensuring that they provide quality products necessary for the competition with other stakeholders at stake in question. In his words, Sam Thakkar the advisor UHY Thakkar & Associates Certified Public Accountants CEO also an advisor to the UCMP in his article as envisaged in the UCMP magazine, stipulates that as the people wait for the IOC's and government to develop them, what have the sectors done to develop their businesses to meet their requirements.<sup>442</sup> He continues to say that the blame cannot be put on the IOC's because when these companies go ahead to use local enterprises without qualifications, the IOC's reputation will be damaged.<sup>443</sup>

Thakkar stipulates that companies must get out of their comfort zones and should instead sit back and try to know and understand what our mistakes were in for example a tender and ensure we correct them so that the next tender will be won by us.<sup>444</sup> This is aimed at ensuring that Ugandans or local participants benefit from the oil and gas industry.

He continues to say that because the Ugandan companies have a certain standard they are used to, it should not be a lee way that the IOC's should also do so. He says that Ugandan companies ought to raise their standards. He stipulated the issue of ensuring that local companies must

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<sup>442</sup> The Uganda Chamber of Mines & Petroleum, 'A case for Local Content' (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2019 pg 19

<sup>443</sup> The Uganda Chamber of Mines & Petroleum, 'A case for Local Content' (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2019 pg 19

<sup>444</sup> The Uganda Chamber of Mines & Petroleum, 'A case for Local Content' (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2019 pg 20

learn to develop themselves to fit in with the rest of the world in this sector. He uses the phrase that

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

He concludes by saying that it is true that we are in the learning period, all stake holders need to come on board and embrace the role of each other to have a fruitful and emphatic industry at large.<sup>445</sup>

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

The issue of funding the local suppliers is one pertinent issue that should be one of the governments key support area. The researcher recommended that this should be done to ensure that these suppliers are boosted up in their business. An example is given by Jeff Baitwa the three shipping CEO who stipulated that a fund around 200m to 300m U\$ is sufficient enough to boost the local based suppliers.<sup>446</sup> He continued to establish that such a fund would help local companies to borrow money at affordable rates to participate in the sector. In addition, the fund in question will help the companies to acquire loans at a low cost since the interest rates from other means are usually higher than when the government itself decides to fund these companies in question. This will allow many participants especially Ugandans to benefit from the oil and gas sector.

Baitwa continues to say that local service providers had played a big role in reducing exploration costs. For instance, he said the exploration cost would have been 50% more than it is today. For example, “a truck rent was U\$ 1,000 per day at the start, today it is U\$ 350 because there are now more local service providers.<sup>447</sup>

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

Government should make its role in the Oil and Gas industry key in all aspects. Taking an example of the countries discussed in relation to how best they have promoted and developed

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<sup>445</sup>The Uganda Chamber of Mines & Petroleum, ‘A case for Local Content’ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2019 pg 21

<sup>446</sup> The Uganda Chamber of Mines & Petroleum, ‘A case for Local Content’ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2019 pg 22

<sup>447</sup> The Uganda Chamber of Mines & Petroleum, ‘A case for Local Content’ (April, 2016) 15(1) <http://ww.ucmp.ug> accessed on 12<sup>th</sup> September 2019 pg 22

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

### **7.2.3 Recommendations to the Policy Implementers**

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

The petroleum authority needs to always have massive sensitisation programmes concerning all stakeholders affected by the regulations in question. This should be done so as to stop keeping people in the dark towards their respective roles as envisaged in the regulations in place. Through this, seminars should be handled where all the stakeholders are on board which would help to bridge the gap of those who would be having issues not only to what is in the regulations in question, but also to how they should relate with other stakeholders under the mandate provided by the Authority as the regulations provide in question. This would help to have a harmonious LC policy aspect Promotion in the Oil and Gas of Uganda. Credit is given to the Petroleum Authority of Uganda that has of recent launched a campaign whereby it has teamed up with media houses to always update the public on what is transcending in the Oil and Gas industry of Uganda. Such insights help to curb the queries in the industry at large.



#### **7.2.4 Recommendations to Oil Companies**

To make sure that the local content policy can work, Oil and Gas companies should provide clarity on their quantitative and qualitative needs in terms of manpower and procurement. The second step is to look at whether the country already has the capabilities necessary to respond to these needs. This will help to narrow down the potential for immediate local participation and identifying the gaps which will need to be filled overtime with specific programmes. This approach has recently been used in Uganda CNOOC Uganda Limited, Total E& P Uganda and Tullow Uganda Operators pty Limited have carried out an extensive “industrial Baseline Survey” and presented their results in a handbook which was published in May 2014.<sup>448</sup>

#### **7.2.5 Other Recommendations1**

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

It is recommended that capacity building is one of the key developmental aspects as highlighted by the respondents that will make the aspect of LC pertinent in the Oil and Gas industry and how it ensures welfare of people in the oil industry. This can be done through first of all sensitisation of the masses plus effective communication of the opportunities available in the industry in question. this can also work hand in hand through ensuring that there is a boost of the educational institutions in Uganda that have ventured into massive training of the local citizens to acquire the skills required to be used in the Oil and Gas industry per se. In order to boost this cause, there is need for partnerships with some of the educational institutions that are already established so that the people with the zeal to acquire skills can use the opportunity and chance to participate in the industry through the skills acquisition process. This can help out to get certified courses that will be key for the promotion of LC in the industry since it will make the local citizens able to compete on international standards.

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<sup>448</sup> CNOOC, TULLOW, TOTAL (2014): ‘Planning for the Future: a demand and supply study on the oil and gas sector in Uganda.’

### **7.3 Suggestions for Further Research**

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

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## APPENDIX 1: DATA COLLECTION QUESTIONNAIRE UGANDA CHRISTIAN UNIVERSITY

Dear respondents,

This questionnaire is intended to facilitate the study on “EXAMINE THE EFFICACY OF THE UGANDAS LOCAL CONTENT REGULATORY REGIME IN ENHANCING SOCIAL WEFARE OF UGANDANS IN THE OIL AND GAS INDUSTRY. The study is for academic purposes and is carried out in partial fulfilment of the requirements for the award of a Masters of Law Oil and Gas of Uganda Christian University As a respondent; your responses are highly important and will be treated with utmost confidentiality. Thank you very much for your valuable time.

To explain in brief, Local Content (LCRR) is a concept or policy that is used in various extractive sectors of which oil and gas is among, and to put it simply, Local Content means securing direct and indirect opportunities for employment and procurement of local goods and services, while at the same time fostering the development of local skills, technology transfer, and the use of local manpower and local manufacturing.<sup>419</sup> (Majorly it ensures that the skilled labour force has representation and are able to work in the industry in question, then the unskilled labour force are given opportunity through training and other available avenues to ensure that they are of use and can benefit from the available activities in the sector in question and then it also ensures that various local industrial players are given chance to fully participate in the industry in accordance with the services that can be provided by the local companies in question).

### SECTION A: BACKGROUND INFORMATION

#### BIO DATA

Please do provide the following information. Tick the appropriate category

L\_ Gender \_\_\_\_\_

Female

Male

2. Age Group: (Tick)

Below 20 years	20-29 years	30-39 years	40-49 years	50 years and above
1	2	3	4	5

3. Highest level of education

Certificate	Diploma	Degree	Post	Others (Please
1	2	3	4	5

4. Area of Participation

Civil	Public	Comm	Polic	Compa	Others specify

5. Working experience (Tick):

0-3 years	4-6 years	8 years and above

Use (x) or Tick (V) in the questionnaire boxes to indicate your preference/choice.

1	2	3	4	5
Strongly	Disag	Neutral	Agree	Strongly

**PART I: ARGUMENTS FOR AND AGAINST LOCAL CONTENT IN ENHANCING SOCIAL WELFARE OF UGANDANS IN THE OIL AND GAS INDUSTRY.**

<i>1: Strongly Disagree 2: Disagree 3: neutral 4: Agree 5: Strongly-</i>		V				
S	ARGUMENTS IN FAVOUR	1	2	3	4	5
1	Local content enhances entrepreneurship and can contribute to poverty eradication	1	2	3	4	5
2	LC contributes to productivity and competitiveness of domestic firms through knowledge transfers that take place from foreign firms to domestic firms	1	2	3	4	5
3	Development of Local Content enables the country to develop its own technical skills to meet the demands of its industries	1	2	3	4	5
4	Enhancement of Local Content can help domestic firms in developing countries to integrate themselves into global economic networks	1	2	3	4	5
5	LC contributes to the productivity and competitiveness of domestic firms through knowledge transfers from foreign firms	1	2	3	4	5
	ARGUMENTS AGAINST THE USE OF LOCAL CONTENT IN ENHANCING SOCIAL WELFARE					
1	LC is incompatible with the international trade measures applicable to members of the world Trade Organization	I	2	3	4	5
2	LC creates distortions, inefficiency and corruption which has affected the extractive sector	I	2	3	4	5
3	Encouraging local content discourages investment and puts undue pressure on companies.	1	2	3	4	5
4	Local Content has made inadequate contribution to the local economic development,	I	2	3	4	5
5	Local content has limited technological Capacity to develop	1	2	3	4	5

service capability through backward linkages and the speed					
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**PART II: PRACTICAL DECISIONS AND PERCEPTIONS IN THE FORMULATION OF LOCAL CONTENT POLICIES IN ENHANCING SOICILA WELFARE OF UGANDANS IN THE OIL AND GAS INDUSTRY.**

<i>1: Strongly Disagree 2: Disagree 3: neutral 4: Agree 5: Strongly</i>		✓				
N	Use of Required Targets ' .....	1	2	3	4	5
1	local skills should be developed through training programs for training local professionals in the oil and gas sector <sup>j</sup>	1	2	3	4	5
2	There is need to address the skills gap in technical and vocational education in the oil and gas industry	1	2	3	4	5
3	There is need to involve companies in local content capability development through community investment programs	1	2	3	4	5
N	Promoting project linkages					
1	local firms should improve their production standard and practices to meet the demands of foreign firms					
2	There is need to Promote project linkage to enable economic diversification of the local economy					
3	institutions and organizations on which industries depend on should be promoted to build the socio- economic assets and infrastructure					
4	Regional countries should formulate a policy to enhance the development of linkages between the Oil and Gas					
5	Regional governments should provide a framework for the development and inter-country transfer of specialized					
N	Avoiding an elite capture and corruption					
1	Regulations should be formulated to uphold an effective Local content to stop such tendencies of corruption					
2	Government should Impose public disclosure requirements on companies bidding for oil and gas contracts					
3	There is need to promote transparency by streamlining the oil bidding process to remove complex and unnecessary					



**PART III: RECOMMENDATIONS TO THE GOVERNMENT OF UGANDA AND STAKEHOLDERS TO ENSURE THE EFFECTIVENESS OF LC (this part of the questionnaire is meant for a specific cluster of interviewees' e.g. lawyers and/or policy makers)**

<i>1: Strongly Disagree 2: Disagree 3: neutral 4: Agree 5: Strongly Agree</i>		<i>T</i>				
<i>N</i>	<i>'Amend laws Z: AC?&gt;■ A-A:'</i>	1	2	3	4	5
1	Petroleum, Exploration, Development and Production Act (Upstream law) should be amended to ensure the effectiveness of local content	1	2	3	4	5
2	National Oil and Gas policy of Uganda should be revised to uphold and strengthen local content	1	2	3	4	5
3	Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act (Midstream Law) should be modified to incorporate local content	1	2	3	4	5
4	Petroleum (Exploration, Development and Production) (National content Regulations, 2016), National local Content Act of 2020 should streamline towards promotion of local content	1	2	3	4	5
5	The 1995 Constitution of Uganda should be reviewed to incorporate in aspects of local content in the Oil and Gas industry	1	2	3	4	5
6	Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content) Regulations, 2016 L.C.P should be streamlined towards the promotion of National Local Content Act of 2019.					
<i>N</i>	<i>Training</i>					
1	There is need to train workers and enrich the Community especially those directly affected by local content policy	1	2	3	4	5
2	Government and other stakeholders should address the skills gap through technical and vocational education in the oil and gas industry!	1	2	3	4	5

3	Government should establish specialized technical institutions for training locals on oil and gas	1	2	3	4	5
4	Government should facilitate the stakeholders responsible for local content policy formulation	1	2	3	4	5



## **APPENDIX II: INTERVIEW GUIDE**

Part one: Introduction of the researcher to the respondent!

I am KAUNGULU EASTUS a student of Masters of Law Oil and Gas of Uganda Christian University conducting an academic study on “on examining the Efficacy of the Local Content regulatory regime in enhancing social welfare of Ugandans in the oil And Gas Industry of Uganda”. Therefore, you being a participant in this industry I would like to interact with you on some key issues that might help me complete my study successful. I would like to thank you for your time in advance.

Title of the respondent.....

How long have you been in this industry?.....

### **PART TWO: PROBE QUESTIONS**

Does Uganda have an effective local content regime in the Oil and Gas industry?

Yes

No

Is it relevant to promote local content in the Oil and Gas industry in Uganda? Why or why not?

Are there any disadvantages of having local content in the Oil and Gas industry? Please explain

What are the reasons for and against the implementation of local content regulatory regime in enhancing social welfare of Ugandans in the Oil and Gas industry of Uganda?

ii. What are the practical approaches available to ensure that local content regulatory regime in enhancing social welfare in the oil and gas of Uganda?

iii. What are the factors that may hinder the effective implementation of local content policy in the Oil and Gas in Uganda?

What are the possible recommendations available to the government of Uganda and the different stakeholders in the Oil and Gas industry to ensure that local content as provided in the regulations affecting Oil and Gas of Uganda is upheld?

What are some of the hindrances that are likely to affect the effective progress concerning the implementation of local content in the Oil and Gas Industry of Uganda? If any, verify please

What are the practical strategies and approaches that can be adopted to ensure effectiveness of local content in the regulations affecting oil and gas industry in Uganda?

What best practice would you suggest to the Ugandan legal framework to strengthen the aspect of local content in Oil and Gas Industry?

Does Uganda have sufficient laws, policies and regulations to ensure the effectiveness of local content in Uganda's Oil and Gas sector?

Yes | No

How can the laws, policies and regulations be improved upon to ensure an effective local content in Uganda's Oil and Gas Industry?

What role should the regulations play in ensuring an effective local content in the Oil and Gas Industry of Uganda?

What recommendations would you make to the Government of Uganda and stakeholders to ensure the effectiveness of local content regulatory regime in the oil and gas industry?

### **APPENDIX III:**

#### **Consent Form**

UGANDA CHRISTIAN UNIVERSITY  
INSTITUTE OF PETROLEUM STUDIES,  
KAMPALA, P.OBOX, KAMPALA.

Dear respondent,

I am Kakungulu Eastus of Uganda Christian University pursuing a Masters of Laws Oil and Gas and I am carrying out a study on analysing the efficacy of the Local Content regulatory regime in the Oil and Gas Industry of Uganda. You have voluntarily consented to participate in the study and all the information you give will be kept confidential as requested. You are under no obligation to participate in the study, and refusal to participate will not affect you in any way.

The information collected from you will be coded so that it is not linked to your name and your identity will not be revealed at any time during the study. All data will be kept in a safe place and will not be shared with anybody and will not be used for any other purposes apart from that which the study is intended to achieve. You are free to ask any question about the study at any time if you need more clarification. For Respondent only;

The topic and its objectives have been fully explained to me, and I have understood and voluntarily agreed and consented to participate in the study.

I will be grateful for your positive response.

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Kakungulu Eastus.  
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Researcher